

Enrolled
House Bill 3076

Sponsored by Representative SALINAS; Representatives GREENLICK, KENY-GUYER, NOSSE, PRUSAK, SCHOUTEN, WILDE, Senators FAGAN, MANNING JR, MONNES ANDERSON

CHAPTER

AN ACT

Relating to hospitals; creating new provisions; and amending ORS 442.200 and 646.639.

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

SECTION 1. As used in sections 1 to 7 of this 2019 Act:

- (1) "Adjust" means to reduce a patient's cost by a specified percentage.
- (2) "Community benefit" has the meaning given that term in ORS 442.200.
- (3) "Gross charges" means a hospital's full, established price for medical care that the hospital consistently and uniformly charges patients before applying any contractual allowance, discounts or deductions.
- (4)(a) "Hospital" has the meaning given that term in ORS 442.015, excluding any campus of the Oregon State Hospital, a hospital operated by the United States Department of Veterans Affairs Veterans Health Administration or any other hospital operated by the federal government.
- (b) "Hospital" includes only hospitals located in this state.
- (5) "Hospital-affiliated clinic" or "affiliated clinic" means a facility located in this state that provides outpatient health services and that is operated under the common control or ownership of a hospital.
- (6) "Household" means:
 - (a)(A) A single individual; or
 - (B) Spouses, domestic partners, or a parent and child under 18 years of age, living together; and
 - (b) Other individuals for whom a single individual, spouse, domestic partner or parent is financially responsible.
- (7) "Medically necessary" means:
 - (a) Necessary to prevent, diagnose or treat an illness, injury, condition or disease, or the symptoms of an illness, injury, condition or disease; and
 - (b) Meeting accepted standards of medicine.
- (8) "Nonprofit" means:
 - (a) Organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or
 - (b) Organized and operated as described under section 501(c) of the Internal Revenue Code as defined in ORS 305.842.
- (9) "Patient's cost" means the portion of charges billed to a patient for care received at a hospital or a hospital-affiliated clinic that are not reimbursed by insurance or a publicly

funded health care program, taking into account the requirements of section 501(r)(5) of the Internal Revenue Code that:

- (a) Prohibit a nonprofit hospital from billing gross charges; and
- (b) Limit amounts charged for emergency or other medically necessary care, to a patient who qualifies under the nonprofit hospital's financial assistance policy, to no more than amounts generally billed to a patient who has insurance that reimburses all or a portion of the cost of the care.

(10) "Social determinants of health" means the social, economic and environmental conditions in which people are born, grow, work, live and age, shaped by the distribution of money, power and resources at local, national and global levels, institutional bias, discrimination, racism and other factors.

SECTION 2. A nonprofit hospital's written financial assistance policy described in section 9, chapter 50, Oregon Laws 2018, must:

- (1) Provide for adjusting a patient's costs as follows:
 - (a) For a patient whose household income is not more than 200 percent of the federal poverty guidelines, by 100 percent; and
 - (b) For a patient whose household income is more than 200 percent of the federal poverty guidelines and not more than 400 percent of the federal poverty guidelines, the hospital shall adopt a policy establishing an adjustment based on a sliding scale;
- (2) Apply to all of the hospital's nonprofit affiliated clinics;
- (3) Be translated into each language spoken by the lesser of 1,000 people or five percent of the population that resides in the nonprofit hospital's service area;
- (4) Ensure that interpreter services are available to translate the policy into languages other than those described in subsection (3) of this section; and
- (5) Apply to all medically necessary services or supplies.

SECTION 3. Section 2 of this 2019 Act is amended to read:

Sec. 2. A nonprofit hospital's written financial assistance policy described in section 9, chapter 50, Oregon Laws 2018, must:

- (1) Provide for adjusting a patient's costs as follows:
 - (a) For a patient whose household income is not more than 200 percent of the federal poverty guidelines, by 100 percent; *[and]*
 - (b) For a patient whose household income is more than 200 percent of the federal poverty guidelines and not more than ~~400~~ **300** percent of the federal poverty guidelines, *[the hospital shall adopt a policy establishing an adjustment based on a sliding scale]* **by a minimum of 75 percent;**
 - (c) **For a patient whose household income is more than 300 percent of the federal poverty guidelines and not more than 350 percent of the federal poverty guidelines, by a minimum of 50 percent; and**
 - (d) **For a patient whose household income is more than 350 percent of the federal poverty guidelines and not more than 400 percent of the federal poverty guidelines, by a minimum of 25 percent;**

- (2) Apply to all of the hospital's nonprofit affiliated clinics;
- (3) Be translated into each language spoken by the lesser of 1,000 people or five percent of the population that resides in the nonprofit hospital's service area;
- (4) Ensure that interpreter services are available to translate the policy into languages other than those described in subsection (3) of this section; and
- (5) Apply to all medically necessary services or supplies.

SECTION 4. (1) **As used in this section:**

- (a) "Debt collector" has the meaning give that term in ORS 646.639.
- (b) "Financial assistance" means the written financial assistance policy described in section 9, chapter 50, Oregon Laws 2018.
- (c) "Medical debt" means an amount owed by a patient to a hospital or a nonprofit hospital-affiliated clinic for medically necessary services or supplies.

(2) A hospital and a nonprofit hospital-affiliated clinic shall post its financial assistance policy in the manner described in section 9 (3)(c), chapter 50, Oregon Laws 2018.

(3) Upon the request of a patient or an individual who is authorized to act on behalf of a patient, a hospital or hospital-affiliated clinic shall conduct a screening to determine if the patient qualifies for:

(a) Financial assistance under the hospital's financial assistance policy; or

(b) The state medical assistance program.

(4) Before transferring an unpaid charge for services to a debt collector or referring an unpaid charge for collection, a hospital or hospital-affiliated clinic shall:

(a) Conduct a screening to determine if the patient qualifies for financial assistance as described in section 2 (1)(a) of this 2019 Act, if applicable; and

(b) Provide a copy of its financial assistance policy to the patient along with an application for financial assistance.

(5) A hospital or nonprofit hospital-affiliated clinic may conduct the screening described in subsections (3) and (4) of this section using commercially available services, software or online tools.

(6) As a condition for providing financial assistance, a hospital may require a patient to:

(a) Respond to requests from the patient's primary insurer as necessary for the insurer to adjudicate a claim for reimbursement of the cost of services; and

(b) Provide information concerning any potential third party liability for the cost of services including but not limited to:

(A) Information about the coordination of benefits between insurers that cover the patient's care;

(B) Accident reports; and

(C) The patient's workers' compensation claims or benefits.

(7) If a patient qualifies for financial assistance under section 2 (1)(a) of this 2019 Act, a hospital, nonprofit hospital-affiliated clinic or other debt collector may not charge interest on the patient's medical debt.

(8)(a) Except as provided in paragraph (b) of this subsection, the interest that a hospital, nonprofit hospital-affiliated clinic or other debt collector may charge on a medical debt owed by a patient who does not qualify for financial assistance under section 2 (1)(a) of this 2019 Act may not exceed the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the week preceding the date when the patient was first billed, except that the interest may not be less than two percent per annum or more than five percent per annum.

(b) Upon entry of a judgment against a patient described in paragraph (a) of this subsection, a hospital, nonprofit hospital-affiliated clinic or other debt collector may increase the interest charged on a medical debt up to the amount specified in ORS 82.010.

(9) A hospital, hospital-affiliated clinic or other debt collector may not attempt to collect a medical debt from a patient's child or other family member who is not financially responsible for the debt under ORS chapter 108.

(10) It is an unlawful collection practice under ORS 646.639 for a hospital, hospital-affiliated clinic or other debt collector to collect or attempt to collect a medical debt in a manner that the hospital, hospital-affiliated clinic or other debt collector knows, or after exercising reasonable diligence would know, is in violation of this section.

SECTION 5. A nonprofit hospital shall post to the hospital's website the following information regarding its community health needs assessment conducted in accordance with section 501(r)(3) of the Internal Revenue Code:

(1) A description of the health care needs identified in the hospital's community health needs assessment;

(2) The three-year strategy developed to address the health care needs of the community;

(3) Annual progress on the implementation of the strategy; and

(4) Opportunities for public participation in the assessment and development of the strategy.

SECTION 6. (1) Every two years, the Oregon Health Authority shall establish a community benefit spending floor as provided in this section based on objective data and criteria, including but not limited to the following:

(a) Historical and current expenditures on community benefits by the hospital and the hospital's affiliated clinics.

(b) Community needs identified in the community needs assessment conducted by the hospital in accordance with section 501(r)(3) of the Internal Revenue Code, and community health assessments and community health improvement plans of coordinated care organizations that serve the same geographic area served by the hospital and the hospital's affiliated clinics, in accordance with ORS 414.627 and 414.629.

(c) The hospital's need to expand the health care workforce.

(d) The overall financial position of the hospital and the hospital's affiliated clinics based on audited financial statements and other objective data.

(e) The demographics of the population in the areas served by the hospital and the hospital's affiliated clinics.

(f) The spending on the social determinants of health by the hospital or the hospital's affiliated clinics.

(g) Taxes paid by the hospital and the hospital's payments, in lieu of taxes, paid to:

(A) A local government;

(B) The state; or

(C) The United States government.

(h) Criteria governing the manner in which the authority will consider input received from the general public under subsection (2)(c) of this section.

(i) The hospital's obligations and commitments, as reported to the Internal Revenue Service, to:

(A) Fund, support or provide health professions education; and

(B) Fund health research.

(j) For the Oregon Health and Science University hospital, its obligation to carry out the public purposes and missions specified in ORS 353.030.

(2) In establishing the community benefit spending floors under subsection (1) of this section, the authority shall:

(a) Consult with representatives of hospitals;

(b) Provide an opportunity for hospitals and hospital-affiliated clinics to respond to any findings;

(c) Solicit and consider comments from the general public; and

(d) Consult with or solicit advice from one or more individuals with expertise in the economics of health care.

(3) The authority shall adopt by rule alternative methodologies for hospitals and hospital-affiliated clinics to report data and to apply the community benefit spending floors, including but not limited to:

(a) By each individual hospital and all of the hospital's nonprofit affiliated clinics;

(b) By a hospital and a group of the hospital's nonprofit affiliated clinics; and

(c) By all hospitals that are under common ownership and control and all of the hospitals' nonprofit affiliated clinics.

(4) Each hospital shall be provided the opportunity to select the applicable methodology from those adopted by the authority by rule under subsection (3) of this section.

(5) The authority may adopt rules necessary to carry out the provisions of this section.

SECTION 7. (1) As used in this section, "health care facility" has the meaning given that term in ORS 442.015, excluding long term care facilities.

(2) A hospital shall report annually to the Oregon Health Authority the following information regarding all health care facilities and affiliated clinics that are owned in part or in full by the hospital or operating under the same brand as the hospital:

- (a) The address of each health care facility and affiliated clinic;
- (b) Whether the hospital's financial assistance policy, developed under section 2 of this 2019 Act, is posted in the health care facility and affiliated clinic and available to patients of the facility and affiliated clinic; and
- (c) Whether the hospital is a nonprofit entity and whether the hospital's nonprofit status applies to the hospital's affiliated clinics.

(3) The authority shall prescribe the form and manner for reporting the information described in subsection (2) of this section.

(4) A hospital that fails to file a timely report, as prescribed by the authority, may be subject to a civil penalty not to exceed \$500 per day. Civil penalties shall be imposed as provided in ORS 183.745.

SECTION 8. Section 9 of this 2019 Act is added to and made a part of the Insurance Code.

SECTION 9. An insurer offering a policy or certificate of health insurance may not prohibit a hospital, as a condition of reimbursing a claim for hospital services, from paying or waiving all or a portion of a copayment or deductible owed by an insured under the policy or certificate.

SECTION 10. ORS 442.200 is amended to read:

442.200. As used in this section and ORS 442.205:

(1) "Charity care" means free or discounted health services provided to persons who cannot afford to pay and from whom a hospital has no expectation of payment. "Charity care" does not include bad debt, contractual allowances or discounts for quick payment.

(2) "Community benefit" means a program or activity that provides treatment or promotes health and healing, **addresses health disparities or addresses the social determinants of health** in response to an identified community need. "Community benefit" includes:

- (a) Charity care;
- (b) Losses related to Medicaid, [Medicare,] State Children's Health Insurance Program or other publicly funded health care program shortfalls **other than Medicare**;
- (c) Community health improvement services;
- (d) Research;
- (e) Financial and in-kind contributions to the community; and
- (f) Community building activities affecting health in the community.

(3) **"Social determinants of health" has the meaning given that term in section 1 of this 2019 Act.**

SECTION 11. ORS 646.639, as amended by section 1, chapter 79, Oregon Laws 2018, is amended to read:

646.639. (1) As used in this section and ORS 646A.670:

(a) "Charged-off debt" means a debt that a creditor treats as a loss or expense and not as an asset.

(b) "Consumer" means a natural person who purchases or acquires property, services or credit for personal, family or household purposes.

(c) "Consumer transaction" means a transaction between a consumer and a person that sells, leases or provides property, services or credit to consumers.

(d) "Credit" means a right that a creditor grants to a consumer to defer payment of a debt, to incur a debt and defer payment of the debt, or to purchase or acquire property or services and defer payment for the property or services.

(e) "Creditor" means a person that, in the ordinary course of the person's business, engages in consumer transactions that result in a consumer owing a debt to the person.

(f) "Debt" means an obligation or alleged obligation that arises out of a consumer transaction.

(g)(A) “Debt buyer” means a person that regularly engages in the business of purchasing charged-off debt for the purpose of collecting the charged-off debt or hiring another person to collect or bring legal action to collect the charged-off debt.

(B) “Debt buyer” does not include a person that acquires charged-off debt as an incidental part of acquiring a portfolio of debt that is predominantly not charged-off debt.

(h) “Debt collector” means a person that by direct or indirect action, conduct or practice collects or attempts to collect a debt owed, or alleged to be owed, to a creditor or debt buyer.

(i) “Debtor” means a consumer who owes or allegedly owes a debt, including a consumer who owes an amount that differs from the amount that a debt collector attempts to collect or that a debt buyer purchased or attempts to collect.

(j) “Legal action” means a lawsuit, mediation, arbitration or any other proceeding in any court, including a small claims court.

(k) “Original creditor” means the last entity that extended credit to a consumer to purchase goods or services, to lease goods or as a loan of moneys.

(L) “Person” means an individual, corporation, trust, partnership, incorporated or unincorporated association or any other legal entity.

(2) A debt collector engages in an unlawful collection practice if the debt collector, while collecting or attempting to collect a debt, does any of the following:

(a) Uses or threatens to use force or violence to cause physical harm to a debtor or to the debtor’s family or property.

(b) Threatens arrest or criminal prosecution.

(c) Threatens to seize, attach or sell a debtor’s property if doing so requires a court order and the debt collector does not disclose that seizing, attaching or selling the debtor’s property requires prior court proceedings.

(d) Uses profane, obscene or abusive language in communicating with a debtor or the debtor’s family.

(e) Communicates with a debtor or any member of the debtor’s family repeatedly or continuously or at times known to be inconvenient to the debtor or any member of the debtor’s family and with intent to harass or annoy the debtor or any member of the debtor’s family.

(f) Communicates or threatens to communicate with a debtor’s employer concerning the nature or existence of the debt.

(g) Communicates without a debtor’s permission or threatens to communicate with the debtor at the debtor’s place of employment if the place of employment is other than the debtor’s residence, except that the debt collector may:

(A) Write to the debtor at the debtor’s place of employment if a home address is not reasonably available and if the envelope does not reveal that the communication is from a debt collector other than the person that provided the goods, services or credit from which the debt arose.

(B) Telephone a debtor’s place of employment without informing any other person of the nature of the call or identifying the caller as a debt collector but only if the debt collector in good faith has made an unsuccessful attempt to telephone the debtor at the debtor’s residence during the day or during the evening between the hours of 6 p.m. and 9 p.m. The debt collector may not contact the debtor at the debtor’s place of employment more frequently than once each business week and may not telephone the debtor at the debtor’s place of employment if the debtor notifies the debt collector not to telephone at the debtor’s place of employment or if the debt collector knows or has reason to know that the debtor’s employer prohibits the debtor from receiving such communication. For the purposes of this subparagraph, any language in any agreement, contract or instrument that creates or is evidence of the debt and that purports to authorize telephone calls at the debtor’s place of employment does not give permission to the debt collector to call the debtor at the debtor’s place of employment.

(h) Communicates with a debtor in writing without clearly identifying the name of the debt collector, the name of the person, if any, for whom the debt collector is attempting to collect the debt and the debt collector’s business address, on all initial communications. In subsequent commu-

nications involving multiple accounts, the debt collector may eliminate the name of the person, if any, for whom the debt collector is attempting to collect the debt and substitute the term “various” in place of the person’s name.

(i) Communicates with a debtor orally without disclosing to the debtor, within 30 seconds after beginning the communication, the name of the individual who is initiating the communication and the true purpose of the communication.

(j) Conceals the true purpose of the communication so as to cause any expense to a debtor in the form of long distance telephone calls, telegram fees, additional charges for wireless communication or other charges the debtor might incur by using a medium of communication.

(k) Attempts or threatens to enforce a right or remedy while knowing or having reason to know that the right or remedy does not exist, or threatens to take any action that the debt collector in the regular course of business does not take.

(L) Uses any form of communication that simulates legal or judicial process or that appears to be authorized, issued or approved by a governmental agency, governmental official or an attorney at law if the corresponding governmental agency, governmental official or attorney at law has not in fact authorized or approved the communication.

(m) Represents that an existing debt may be increased by the addition of attorney fees, investigation fees or any other fees or charges if the fees or charges may not legally be added to the existing debt.

(n) Collects or attempts to collect interest or other charges or fees that exceed the actual debt unless the agreement, contract or instrument that creates the debt expressly authorizes, or a law expressly allows, the interest or other charges or fees.

(o) Threatens to assign or sell a debtor’s account and misrepresents or implies that the debtor would lose any defense to the debt or would be subjected to harsh, vindictive or abusive collection tactics.

(p) Uses the seal or letterhead of a public official or a public agency, as those terms are defined in ORS 171.725.

(q) Collects or attempts to collect any debt that the debt collector knows, or after exercising reasonable diligence would know, arises from medical expenses that qualify for reimbursement under the Oregon Health Plan or under Medicaid, except that:

(A) The debt collector does not engage in an unlawful collection practice if the debt collector can produce an affidavit or certificate from the original creditor that shows that the original creditor complied with Oregon Health Authority rules barring payments for services that Medicaid fee-for-service plans or contracted health care plans cover; and

(B) For purposes of this paragraph, a prepaid managed care health services organization, a coordinated care organization or a public body, as defined in ORS 174.109, or an agent or assignee of the organization or public body, is not a debt collector if the organization or public body seeks to collect a debt that arises under ORS 416.540.

(r) Files a legal action to collect or files a legal action to attempt to collect a debt if the debt collector knows, or after exercising reasonable diligence would know, that an applicable statute of limitations bars the collection or the collection attempt.

(s) Knowingly collects any amount, including any interest fee, charge or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law.

(t) Collects or attempts to collect a debt if the debt collector is a debt buyer, or is acting on a debt buyer’s behalf, and collects or attempts to collect purchased debt before providing to a debtor, within 30 days after the date of the debtor’s request, all of the documents listed in subsection (4)(b) of this section.

(u) Collects or attempts to collect a debt without complying with the requirements of section 4 of this 2019 Act.

(3) A debt collector engages in an unlawful collection practice if the debt collector, by use of any direct or indirect action, conduct or practice, enforces or attempts to enforce an obligation made void and unenforceable by the provisions of ORS 759.720 (3) to (5).

(4) A debt buyer or debt collector acting on behalf of a debt buyer engages in an unlawful collection practice if the debt buyer or debt collector:

(a) Files legal action against a debtor or files legal action to attempt to collect a debt if the debt buyer or debt collector knows or after exercising reasonable diligence would know that an applicable statute of limitations bars the legal action to collect or the legal action to attempt to collect the debt;

(b) Brings a legal action against a debtor or otherwise brings a legal action to attempt to collect a debt without possessing business records that satisfy the requirements of ORS 40.460 (6), or of ORS 24.115, if the record is a foreign judgment, that establish the nature and the amount of the debt and that include:

(A) The original creditor's name, written as the original creditor used the name in dealings with the debtor;

(B) The name and address of the debtor;

(C) The name, address and telephone number of the person that owns the debt and a statement as to whether the person is a debt buyer;

(D) The last four digits of the original creditor's account number for the debt, if the original creditor's account number for the debt had four or more digits;

(E) A detailed and itemized statement of:

(i) The amount the debtor last paid on the debt, if the debtor made a payment, and the date of the payment;

(ii) The amount and date of the debtor's last payment on the debt before the debtor defaulted or before the debt became charged-off debt;

(iii) The balance due on the debt on the date on which the debt became charged-off debt;

(iv) The amount and rate of interest, any fees and any charges that the original creditor imposed, if the debt buyer or debt collector knows the amount, rate, fee or charge;

(v) The amount and rate of interest, any fees and any charges that the debt buyer or any previous owner of the debt imposed, if the debt buyer or debt collector knows the amount, rate, fee or charge;

(vi) The attorney fees the debt buyer or debt collector seeks, if the debt buyer or debt collector expects to recover attorney fees; and

(vii) Any other fee, cost or charge the debt buyer seeks to recover;

(F) Evidence that the debt buyer and only the debt buyer owns the debt;

(G) The date on which the debt buyer purchased the debt; and

(H) A copy of the agreement between the original creditor and the debtor that is either:

(i) The contract or other writing the debtor signed that created and is evidence of the original debt; or

(ii) A copy of the most recent monthly statement that shows a purchase transaction or balance transfer or the debtor's last payment, if the debtor made a payment, if the debt is a credit card debt or other debt for which a contract or other writing that is evidence of the debt does not exist;

(c) Fails to provide to a debtor, after the debt buyer or debt collector receives payment in cash or the debtor requests the receipt, a receipt that:

(A) Shows the name of the creditor or creditors for whom the debt buyer or debt collector received the payment and, if the creditor is not the original creditor, the account number that the original creditor assigned; and

(B) States clearly whether the debt buyer or debt collector accepts the payment as payment in full or as a full and final compromise of the debt and, if not, the balance remaining on the debt after the payment;

(d) Collects or attempts to collect a debt before providing, in response to a debtor's request, the documents required under paragraph (b) of this subsection. A debt buyer or a debt collector that

acts on the debt buyer's behalf does not engage in an unlawful collection practice under this paragraph if the debt buyer or debt collector collects or attempts to collect a debt after providing the required documents to the debtor; or

(e) Uses any direct or indirect action, conduct or practice to violate a provision of this section or ORS 646A.670.

(5) A debt collector is not acting on a debt buyer's behalf, and is not subject to the duties to which a debt buyer is subject under this section and ORS 646A.670, if the debt collector collects or attempts to collect a debt on behalf of an owner that retains a direct interest in the debt or if the debt is not a debt that a debt buyer purchased.

SECTION 12. No later than December 31, 2022, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to health on the implementation of sections 1 to 7 of this 2019 Act and the amendments to ORS 442.200 by section 10 of this 2019 Act.

SECTION 13. Section 4 of this 2019 Act applies to charges for services performed on or after the effective date of this 2019 Act.

SECTION 14. Section 6 of this 2019 Act and the amendments to section 2 of this 2019 Act by section 3 of this 2019 Act become operative on January 1, 2021.

Passed by House May 20, 2019

Received by Governor:

Repassed by House June 18, 2019

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2019

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 17, 2019

Filed in Office of Secretary of State:

.....M.,....., 2019

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Peter Courtney, President of Senate

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Bev Clarno, Secretary of State