

**A-Engrossed**  
**Senate Bill 889**

Ordered by the Senate June 11  
Including Senate Amendments dated June 11

Sponsored by COMMITTEE ON HEALTH CARE

**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.

Establishes Health Care Cost Growth Benchmark program to control growth of health care expenditures in this state. Establishes Health Care Cost Growth Benchmark Implementation Committee to recommend to Oregon Health Policy Board specifications for program. Requires board to adopt final plan and **Oregon Health Authority and Department of Consumer and Business Services to implement program [to extent of board's statutory authority], except for provisions regarding imposition of performance improvement action plans or other escalating enforcement actions when provider or payer fails to remain at or below benchmark.** Requires report, by [November] **September** 15, 2020, to [Legislative Assembly on plan and legislative changes needed to fully implement plan] **Oregon Health Policy Board for approval, and to interim committees of Legislative Assembly related to health, on committee's recommendations and legislative concept for enforcement provisions.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to containing the cost of health care; and declaring an emergency.

3       Whereas there is a need to enhance transparency and accountability in health care costs; and

4       Whereas health care spending in Oregon has historically outpaced inflation and Oregon's economic growth; and

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6       Whereas it is in the best interest of Oregonians to recognize that public and private health care spending needs to drive greater access to high quality care at lower cost; and

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8       Whereas population health and prices can be measured and reported and used to pay for the value rather than the volume of health care; and

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10       Whereas the state is committed to reducing the total cost of health care for all Oregonians; and

11       Whereas the establishment, monitoring and implementation of an annual health care cost growth benchmark is an appropriate means to achieve the goal of improved health care quality at reduced cost; and

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13       Whereas with the passage of House Bill 3650 (2011) and Senate Bill 1580 (2012), Oregon established cost containment and payment reform for the state medical assistance program; and

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15       Whereas with the 2017 renewal by the Centers for Medicare and Medicaid Services of Oregon's demonstration project under section 1115 of the Social Security Act, Oregon has committed to a target cap in the rate of cost growth for the medical assistance program until at least June 30, 2022; and

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20       Whereas target caps for the rate of cost growth are currently in place for the health care coverage of one-third of Oregonians; and

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22       Whereas the Task Force on Health Care Cost Review, created by Senate Bill 419 (2017), recog-

**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 nized the importance of aligning cost growth containment efforts with work being done to promote  
2 better health quality and health outcomes, including Senate Bill 440 (2015), which initiated the de-  
3 velopment of a strategic plan to collect and use health outcome and quality data, Senate Bill 231  
4 (2015) and Senate Bill 934 (2017), which established minimum targets for medical expenditures on  
5 primary care, and House Bill 4005 (2018), which established price reporting requirements for pre-  
6 scription drugs; and

7 Whereas the task force also recognized the value of and need for establishing an annual health  
8 care cost growth benchmark for all payers and provider types, measuring and reporting on the total  
9 cost of health care in Oregon and analyzing and reporting performance relative to established cost  
10 growth target caps; now, therefore,

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

12 **SECTION 1. As used in this section and section 2 of this 2019 Act:**

13 (1) **“Health care” means items, services and supplies intended to improve or maintain**  
14 **human function or treat or ameliorate pain, disease, condition or injury, including but not**  
15 **limited to the following types of services:**

- 16 (a) **Medical;**
- 17 (b) **Behavioral;**
- 18 (c) **Substance use disorder;**
- 19 (d) **Mental health;**
- 20 (e) **Surgical;**
- 21 (f) **Optometric;**
- 22 (g) **Dental;**
- 23 (h) **Podiatric;**
- 24 (i) **Chiropractic;**
- 25 (j) **Psychiatric;**
- 26 (k) **Pharmaceutical;**
- 27 (L) **Therapeutic;**
- 28 (m) **Preventive;**
- 29 (n) **Rehabilitative;**
- 30 (o) **Supportive; or**
- 31 (p) **Geriatric.**

32 (2) **“Health care cost growth” means the annual percentage change in total health**  
33 **expenditures in this state.**

34 (3) **“Health care cost growth benchmark” means the target percentage for health care**  
35 **cost growth.**

36 (4) **“Health care entity” means a payer or a provider.**

37 (5) **“Health insurance” has the meaning given that term in ORS 731.162.**

38 (6) **“Net cost of private health insurance” means the difference between health insurance**  
39 **premiums received by a payer and the claims for the cost of health care paid by the payer**  
40 **under a policy or certificate of health insurance.**

41 (7) **“Payer” means:**

42 (a) **An insurer offering a policy or certificate of health insurance or a health benefit plan**  
43 **as defined in ORS 743B.005;**

44 (b) **A publicly funded health care program, including but not limited to Medicaid, Medi-**  
45 **care and the State Children’s Health Insurance Program;**

1 (c) A third party administrator; and

2 (d) Any other public or private entity, other than an individual, that pays or reimburses  
3 the cost for the provision of health care.

4 (8) "Provider" means an individual, organization or business entity that provides health  
5 care.

6 (9) "Total health expenditures" means all health care expenditures in this state by public  
7 and private sources, including:

8 (a) All payments on providers' claims for reimbursement of the cost of health care pro-  
9 vided;

10 (b) All payments to providers other than payments described in paragraph (a) of this  
11 subsection;

12 (c) All cost-sharing paid by residents of this state, including but not limited to  
13 copayments, deductibles and coinsurance; and

14 (d) The net cost of private health insurance.

15 **SECTION 2.** (1) The Legislative Assembly intends to establish a health care cost growth  
16 benchmark, for all providers and payers, to:

17 (a) Support accountability for the total cost of health care across all providers and  
18 payers, both public and private;

19 (b) Build on the state's existing efforts around health care payment reform and con-  
20 tainment of health care costs; and

21 (c) Ensure the long-term affordability and financial sustainability of the health care  
22 system in this state.

23 (2) The Health Care Cost Growth Benchmark program is established. The program shall  
24 be administered by the Oregon Health Authority in collaboration with the Department of  
25 Consumer and Business Services, subject to the oversight of the Oregon Health Policy Board.  
26 The program shall establish a health care cost growth benchmark for increases in total  
27 health expenditures and shall review and modify the benchmark on a periodic basis.

28 (3) The health care cost growth benchmark must:

29 (a) Promote a predictable and sustainable rate of growth for total health expenditures  
30 as measured by an economic indicator adopted by the board, such as the rate of increase in  
31 this state's economy or of the personal income of residents of this state;

32 (b) Apply to all providers and payers in the health care system in this state;

33 (c) Use established economic indicators; and

34 (d) Be measurable on a per capita basis, statewide basis and health care entity basis.

35 (4) The program shall establish a methodology for calculating health care cost growth:

36 (a) Statewide;

37 (b) For each provider and payer, taking into account the health status of the patients  
38 of the provider or the beneficiary of the payer; and

39 (c) Per capita.

40 (5) The program shall establish requirements for providers and payers to report data and  
41 other information necessary to calculate health care cost growth under subsection (4) of this  
42 section.

43 (6) Annually, the program shall:

44 (a) Hold public hearings on the growth in total health expenditures in relation to the  
45 health care cost growth in the previous calendar year;

1 (b) Publish a report on health care costs and spending trends that includes:

2 (A) Factors impacting costs and spending; and

3 (B) Recommendations for strategies to improve the efficiency of the health care system;  
4 and

5 (c) For providers and payers for which health care cost growth in the previous calendar  
6 year exceeded the health care cost growth benchmark:

7 (A) Analyze the cause for exceeding the health care cost growth benchmark; and

8 (B) If appropriate, require the provider or payer to undertake a performance improve-  
9 ment action plan.

10 **SECTION 3.** (1) The Health Care Cost Growth Benchmark Implementation Committee is  
11 established under the direction of the Oregon Health Policy Board.

12 (2) The membership of the committee consists of the following:

13 (a) The Director of the Oregon Health Authority or the director's designee;

14 (b) The Director of the Department of Consumer and Business Services or the director's  
15 designee;

16 (c) An expert in health care financing and administration appointed by the Director of  
17 the Oregon Health Authority;

18 (d) An expert in health economics appointed by the Director of the Oregon Health Au-  
19 thority;

20 (e) At least one insurance broker appointed by the Director of the Department of Con-  
21 sumer and Business Services; and

22 (f) No more than 13 members appointed by the Governor to represent:

23 (A) The Health Insurance Exchange Advisory Committee created under ORS 741.004;

24 (B) The division of the Oregon Department of Administrative Services that serves as the  
25 department's office of economic analysis;

26 (C) The Oregon Health Leadership Council;

27 (D) Health care systems or urban hospitals;

28 (E) Rural hospitals;

29 (F) Consumers;

30 (G) Members of the business community that purchase health insurance for their em-  
31 ployees;

32 (H) Licensed and certified health care professionals; and

33 (I) The insurance industry.

34 (3) The committee shall design an implementation plan, in accordance with section 4 of  
35 this 2019 Act, for the Health Care Cost Growth Benchmark program established in section  
36 2 of this 2019 Act.

37 (4) A majority of the members of the committee constitutes a quorum for the transaction  
38 of business.

39 (5) Official action by the committee requires the approval of a majority of the members  
40 of the committee.

41 (6) The Governor shall select one member to serve as chairperson.

42 (7) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
43 ment to become immediately effective.

44 (8) The committee shall meet at times and places specified by the call of the chairperson  
45 or of a majority of the members of the committee.

1 (9) The committee may adopt rules necessary for the operation of the committee.

2 (10) The Oregon Health Authority shall provide staff support to the committee.

3 (11)(a) Members of the committee, other than members representing consumers, are not  
4 entitled to compensation or reimbursement for expenses and serve as volunteers on the  
5 committee.

6 (b) Members representing consumers are not entitled to compensation but may be reim-  
7 bursed from funds available to the authority for actual and necessary travel and other ex-  
8 penses incurred by the members in the performance of official duties in the manner and  
9 amount provided in ORS 292.495.

10 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist  
11 the committee in the performance of the duties of the committee and, to the extent per-  
12 mitted by laws relating to confidentiality, to furnish information and advice that the mem-  
13 bers of the committee consider necessary to perform their duties.

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

15 (a) "Health care" has the meaning given that term in section 1 of this 2019 Act.

16 (b) "Health care cost growth" has the meaning given that term in section 1 of this 2019  
17 Act.

18 (c) "Health care cost growth benchmark" has the meaning given that term in section 1  
19 of this 2019 Act.

20 (d) "Health care entity" has the meaning given that term in section 1 of this 2019 Act.

21 (e) "Health insurance" has the meaning given that term in ORS 731.162.

22 (f) "Payer" has the meaning given that term in section 1 of this 2019 Act.

23 (g) "Provider" has the meaning given that term in section 1 of this 2019 Act.

24 (h) "Total health expenditures" has the meaning given that term in section 1 of this 2019  
25 Act.

26 (2) The Health Care Cost Growth Benchmark Implementation Committee, in designing  
27 the implementation plan for the Health Care Cost Growth Benchmark program, shall:

28 (a) Recommend the governance structure for the program.

29 (b) Recommend a methodology to establish the health care cost growth benchmark and  
30 the economic indicators to be used in establishing the benchmark.

31 (c) Establish the initial benchmark and specify the frequency and manner in which the  
32 benchmark should be reevaluated and updated.

33 (d) Identify the data that providers and payers shall report for the program to be able  
34 to:

35 (A) Measure the benchmark;

36 (B) Validate the benchmark; and

37 (C) Identify the health care cost growth of an institutional provider or provider group  
38 and of providers that are part of the institutional provider or provider group.

39 (e)(A) Determine the technical assistance and support necessary to support providers and  
40 payers working to remain at or below the health care cost growth benchmark; and

41 (B) Identify opportunities to leverage existing public and private financial resources, or  
42 alternative funding, to provide the technical assistance and support.

43 (f) Recommend approaches for measuring the quality of care that account for patient  
44 health status.

45 (g) Seek to align the approaches for measuring the quality of care under paragraph (f)

1 of this subsection with the outcome and quality measures adopted by the Health Plan Quality  
2 Metrics Committee.

3 (h) Identify opportunities for lowering costs, improving the quality of care and improving  
4 the efficiency of the health care system by using innovative payment models for all payers,  
5 including payment models that do not use a per-claim basis for payments.

6 (i) Recommend a system for identifying:

7 (A) Unjustified variations in prices or in health care cost growth; and

8 (B) The factors that contribute to the unjustified variations.

9 (j) Identify providers and payers that are required to report.

10 (k) Recommend accountability and enforcement processes, which may be phased in over  
11 time, including:

12 (A) Measures to ensure compliance with reporting requirements;

13 (B) Procedures for imposing a performance improvement action plan or other escalating  
14 enforcement actions when a provider or payer fails to remain at or below the benchmark;  
15 and

16 (C) Measures to enforce compliance with the health care cost growth benchmark in  
17 programs administered by the Oregon Health Authority and the Department of Consumer  
18 and Business Services, including but not limited to:

19 (i) The medical assistance program;

20 (ii) Medical, dental, vision and other health care benefit plans offered by the Public  
21 Employees' Benefit Board;

22 (iii) Medical, dental, vision and other health care benefit plans offered by the Oregon  
23 Educators Benefit Board;

24 (iv) Insurance offered through the health insurance exchange; and

25 (v) The review of health insurance premium rates by the department.

26 (L) Make recommendations regarding the reporting of data collected by the Health Care  
27 Cost Growth Benchmark program, including recommendations for:

28 (A) Publication of an annual health care cost trends report and analyses on the statewide  
29 health care cost growth benchmark, total health expenditures and spending by each type of  
30 health care entity;

31 (B) Elements to be included in the annual health care cost trends report, such as:

32 (i) Services provided, sorted by provider organization;

33 (ii) Services paid for, sorted by the type of payer;

34 (iii) Variations in cost trends, sorted by category of service; and

35 (iv) Affordability of health care, based on prices, insurance premiums and types of pay-  
36 ment;

37 (C) Frequency and format of public hearings conducted in accordance with section 2 (6)(a)  
38 of this 2019 Act;

39 (D) Publication of recommendations for policies and strategies for achieving the health  
40 care cost growth benchmark;

41 (E) Publication of performance improvement action plans and other enforcement actions;  
42 and

43 (F) Reporting to the Legislative Assembly.

44 (m) Establish an implementation timeline and the phases of implementation that may  
45 include the establishment of the initial health care cost growth benchmark under paragraph

1 (c) of this subsection in 2021, with reporting, enforcement and penalties beginning in 2022.

2 **SECTION 5.** (1) No later than September 15, 2020, the Health Care Cost Growth  
3 Benchmark Implementation Committee shall report to the Oregon Health Policy Board for  
4 approval, and to the interim committees of the Legislative Assembly related to health, the  
5 committee's recommendations under section 4 of this 2019 Act. The report shall include a  
6 legislative concept for carrying out the provisions of section 4 (2)(k)(B) of this 2019 Act re-  
7 garding the imposition of performance improvement action plans or other escalating  
8 enforcement actions when a provider or payer fails to remain at or below the health care  
9 cost growth benchmark.

10 (2) The Oregon Health Authority and the Department of Consumer and Business Services  
11 shall implement the recommendations of the committee, except for the provisions in the  
12 legislative concept described in subsection (1) of this section, upon approval by the board.

13 **SECTION 6.** Sections 3, 4 and 5 of this 2019 Act are repealed on January 2, 2022.

14 **SECTION 7.** In addition to and not in lieu of any other appropriation, there is appropri-  
15 ated to the Oregon Health Authority, for the biennium beginning July 1, 2019, out of the  
16 General Fund, the amount of \$993,797, which may be expended for carrying out sections 1 to  
17 4 of this 2019 Act.

18 **SECTION 8.** This 2019 Act being necessary for the immediate preservation of the public  
19 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect  
20 on its passage.

21