

Retainer Medical Practices

This Act defines a medical retainer practice and sets criteria for becoming a certified medical retainer practice.

Submitted as:

Oregon

[SB 86 \(Enrolled\)](#)

Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] An Act relating to retainer medical practices; and declaring an
2 emergency.

3
4 Section 2. [Definitions.]

5 (1) “Control” means the possession, directly or indirectly, of the power to direct or cause the
6 direction of the management and policies of a person, whether through the ownership of voting
7 stock, by contract or otherwise. A person who is the owner of 10 percent or more ownership interest
8 in a retainer medical practice or applicant for a certificate to operate a retainer medical practice is
9 presumed to have control.

10 (2) “Primary care” means outpatient, non-specialty medical services or the coordination of
11 health care for the purpose of:

12 (A) Promoting or maintaining mental and physical health and wellness; and

13 (B) Diagnosis, treatment or management of acute or chronic conditions caused by
14 disease, injury or illness.

15 (3) “Provider” means a health care professional licensed or certified under [insert citation]
16 who provides primary care in the ordinary course of business or practice of a profession.

17 (4) “Retainer medical agreement” means a written agreement between a retainer medical
18 practice and a patient or a legal representative or guardian of a patient specifying a defined and
19 predetermined set of primary care services to be provided in consideration for a retainer medical fee.

20 (5) “Retainer medical fee” means any fee paid to a retainer medical practice pursuant to a
21 medical retainer agreement.

22 (6) “Retainer medical practice” means a provider, a group of providers or a person that
23 employs or contracts with a provider or a group of providers to provide services under the terms of a
24 retainer medical agreement.

25
26 Section 3. [*Requirements for retainer medical practices.*]

27 (a) A retainer medical practice must be certified by the [insert appropriate agency]. To
28 qualify to become a certified retainer medical practice or to renew a certificate, the practice:

29 (1) May not have or have ever had a certificate of authority to transact insurance in
30 this state.

31 (2) May not be or have ever been licensed, certified or otherwise authorized in this
32 state or any other state to act as an insurer, managed care organization, health care service contractor
33 or similar entity.

34 (b) May not be controlled by an entity described in paragraph (a) or (b) of this subsection.

1 (c) A certified retainer medical practice:

2 (1) Must provide only primary care and must limit the scope of services provided or
3 the number of patients served to an amount that is within the capacity of the practice to provide
4 in a timely manner;

5 (2) May not bill an insurer, a self-insured plan or the state medical assistance program
6 for a service provided by the practice to a patient pursuant to a retainer medical agreement;

7 (3) Must be financially responsible and have the necessary business experience or
8 expertise to operate the practice;

9 (4) Must give the written disclosures described in subsection (d) of this section;

10 (5) May not use or disseminate misleading, deceptive or false statements in
11 marketing, advertising, promotional, sales or informational materials regarding the practice or in
12 communications with patients or prospective patients;

13 (6) May not engage in dishonest, fraudulent or illegal conduct in any business or
14 profession; and

15 (7) May not discriminate based on race, religion, gender, sexual identity, sexual
16 preference or health status.

17 (d) A certified retainer medical practice must make the following written information
18 available to prospective patients by prominently disclosing, in the manner prescribed by the
19 department by rule, in marketing materials and retainer medical agreements:

20 (1) That the practice is not insurance;

21 (2) That the practice provides only the limited scope of primary care services
22 specified in the retainer medical agreement;

23 (3) That a patient must pay for all services not specified in the retainer medical
24 agreement; and

25 (4) Any other disclosures required by the department by rule.

26 (e) The department may by written order deny, suspend or revoke a retainer medical practice
27 certificate or may refuse to renew a retainer medical practice certificate if the department finds that:

28 (1) The retainer medical practice does not meet the criteria in subsections (c) to (d) of
29 this section;

30 (2) The retainer medical practice has provided false, misleading, incomplete or
31 inaccurate information in the application for a certificate or renewal of a certificate;

32 (3) The retainer medical practice provides medical services through a provider whose
33 license to provide the medical services offered on behalf of the retainer medical practice is revoked;

34 (4) The authority of the retainer medical practice to operate a retainer medical
35 practice or similar practice in another jurisdiction is denied, suspended, revoked or not renewed;

36 (5) The retainer medical practice, a person who has control over the retainer medical
37 practice or a health care provider providing services on behalf of the retainer medical practice is
38 charged with a felony or misdemeanor involving dishonesty; or

39 (6) The retainer medical practice fails to comply with subsection (g) of this section.

40 (f) With respect to a certified retainer medical practice or a retainer medical practice
41 operating without a certificate, the department is authorized to:

42 (1) Investigate;

43 (2) Subpoena documents and records related to the business of the practice; and

44 (3) Take any actions authorized by the Insurance Code that are necessary to
45 administer and enforce this section.

46 (g) A retainer medical practice subject to an investigation under subsection (e) of this
47 section must:

48 (1) Within five business days, respond to inquiries in the form and manner specified
49 by the department; and

1 (2) Reimburse the expenses incurred by the department in conducting the
2 investigation.

3 (h) A retainer medical practice may contest any order made under subsection (e) of this
4 section in accordance with [insert citation].

5 (i) A certificate issued under subsection (a) of this section is effective for one year or for a
6 longer period as prescribed by the department by rule.

7 (j) The department may adopt rules necessary or appropriate to implement the provisions
8 of this section.

9
10 Section 4. [*Notifications by certified retainer medical practices.*]

11 (a) A certified retainer medical practice shall:

12 (1) Notify the [insert appropriate state agency] immediately whenever:

13 (i) The license of a provider who has provided services on behalf of the
14 practice is denied, suspended, revoked or not renewed in this state or in any other jurisdiction; or

15 (ii) The authority of the practice to operate in another jurisdiction is denied,
16 suspended, revoked or not renewed.

17 (2) Notify the department no later than 30 days after any change to the name, address
18 or contact information that is provided in the application for certification under this Act.

19
20 Section 5. [*Exceptions.*]

21 The requirements of this Act shall not apply to any of the following to the extent of the
22 subject matter of the exemption:

23 (1) A bail bondsman, other than a corporate surety and its agents.

24 (2) A fraternal benefit society that has maintained lodges in this state and other states for 50
25 years prior to [insert year], and for which a certificate of authority was not required on that date.

26 (3) A religious organization providing insurance benefits only to its employees, if the
27 organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal
28 Revenue Code on September 13, 1975.

29 (4) Public bodies, as defined in [insert citation], that either individually or jointly establish a
30 self-insurance program for tort liability in accordance with [insert citation].

31 (5) Public bodies, as defined in [insert citations], that either individually or jointly establish a
32 self-insurance program for property damage in accordance with [insert citation].

33 (6) Cities, counties, school districts, community college districts, community college service
34 districts or districts, as defined in [insert citation], that either individually or jointly insure for health
35 insurance coverage, excluding disability insurance, their employees or retired employees, or their
36 dependents, or students engaged in school activities, or combination of employees and dependents,
37 with or without employee or student contributions, if all of the following conditions are met:

38 (a) The individual or jointly self-insured program meets the following minimum
39 requirements:

40 (A) In the case of a school district, community college district or community college
41 service district, the number of covered employees and dependents and retired employees and
42 dependents aggregates at least 500 individuals;

43 (B) In the case of an individual public body program other than a school district,
44 community college district or community college service district, the number of covered employees
45 and dependents and retired employees and dependents aggregates at least 500 individuals; and

46 (C) In the case of a joint program of two or more public bodies, the number of
47 covered employees and dependents and retired employees and dependents aggregates at least 1,000
48 individuals;

1 (b) The individual or jointly self-insured health insurance program includes all
2 coverages and benefits required of group health insurance policies under [insert citation];

3 (c) The individual or jointly self-insured program must have program documents that
4 define program benefits and administration;

5 (d) Enrollees must be provided copies of summary plan descriptions including:

6 (A) Written general information about services provided, access to services, charges
7 and scheduling applicable to each enrollee's coverage;

8 (B) The program's grievance and appeal process; and

9 (C) Other group health plan enrollee rights, disclosure or written procedure
10 requirements established under [insert citation];

11 (e) The financial administration of an individual or jointly self-insured program must
12 include the following requirements:

13 (A) Program contributions and reserves must be held in separate accounts and
14 used for the exclusive benefit of the program;

15 (B) The program must maintain adequate reserves. Reserves may be invested
16 in accordance with the provisions of [insert citation]. Reserve adequacy must be calculated annually
17 with proper actuarial calculations including the following:

18 (i) Known claims, paid and outstanding;

19 (ii) A history of incurred but not reported claims;

20 (iii) Claims handling expenses;

21 (iv) Unearned contributions; and

22 (v) A claims trend factor; and

23 (C) The program must maintain adequate reinsurance against the risk of
24 economic loss in accordance with the provisions of [insert citation] unless the program has received
25 written approval for an alternative arrangement for protection against economic loss from the
26 Director of the [insert appropriate state agency];

27 (f) The individual or jointly self-insured program must have sufficient personnel to
28 service the employee benefit program or must contract with a third party administrator licensed
29 under [insert citation] as a third party administrator to provide such services;

30 (g) The individual or jointly self-insured program shall be subject to assessment in
31 accordance with [insert citation] and former enrollees shall be eligible for portability coverage in
32 accordance with [insert citation];

33 (h) The public body, or the program administrator in the case of a joint insurance
34 program of two or more public bodies, files with the Director of the [insert appropriate state agency]
35 copies of all documents creating and governing the program, all forms used to communicate the
36 coverage to beneficiaries, the schedule of payments established to support the program and,
37 annually, a financial report showing the total incurred cost of the program for the preceding year. A
38 copy of the annual audit required by [insert citation] may be used to satisfy the financial report filing
39 requirement; and

40 (i) Each public body in a joint insurance program is liable only to its own
41 employees and no others for benefits under the program in the event, and to the extent, that no
42 further funds, including funds from insurance policies obtained by the pool, are available in the joint
43 insurance pool.

44 (7) All ambulance services.

45 (8) A person providing any of the services described in this subsection. The exemption under
46 this subsection does not apply to an authorized insurer providing such services under an insurance
47 policy. This subsection applies to the following services:

48 (a) Towing service.

1 (b) Emergency road service, which means adjustment, repair or replacement of the
2 equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be
3 operated under its own power.

4 (c) Transportation and arrangements for the transportation of human remains,
5 including all necessary and appropriate preparations for and actual transportation provided to return
6 a decedent's remains from the decedent's place of death to a location designated by a person with
7 valid legal authority under [insert citation].

8 (9)(a) A person described in this subsection who, in an agreement to lease or to finance the
9 purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in
10 paragraph

11 (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft
12 or other occurrence, as specified in the agreement. The exemption established in this subsection
13 applies to the following persons:

14 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle
15 retail installment contract.

16 (B) The lessor of the motor vehicle.

17 (C) The lender who finances the purchase of the motor vehicle.

18 (D) The assignee of a person described in this paragraph.

19 (c) The amount waived pursuant to the agreement shall be the difference, or portion thereof,
20 between the amount received by the seller, lessor, lender or assignee, as applicable, that represents
21 the actual cash value of the motor vehicle at the date of loss, and the amount owed under
22 the agreement.

23 (10) A self-insurance program for tort liability or property damage that is established by two
24 or more affordable housing entities and that complies with the same requirements that public bodies
25 must meet under [insert citation]. As used in this subsection:

26 (a) "Affordable housing" means housing projects in which some of the dwelling units
27 may be purchased or rented, with or without government assistance, on a basis that is affordable to
28 individuals of low income.

29 (b) "Affordable housing entity" means any of the following:

30 (A) A housing authority created under the laws of this state or another
31 jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a
32 legal entity created to conduct a self-insurance program for housing authorities that complies with
33 [insert citation].

34 (B) A nonprofit corporation that is engaged in providing affordable housing.

35 (C) A partnership or limited liability company that is engaged in providing
36 affordable housing and that is affiliated with a housing authority described in subparagraph (A) of
37 this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the
38 housing authority or nonprofit corporation:

39 (i) Has, or has the right to acquire, a financial or ownership interest in
40 the partnership or limited liability company;

41 (ii) Has the power to direct the management or policies of the
42 partnership or limited liability company;

43 (iii) Has entered into a contract to lease, manage or operate the
44 affordable housing owned by the partnership or limited liability company; or

45 (iv) Has any other material relationship with the partnership or limited
46 liability company.

1 (11) A community-based health care initiative approved by the Administrator of the [insert
2 appropriate state agency] operating a community-based health care improvement program approved
3 by the administrator.

4 (12) Except as provided in sections this Act, a person certified by the [insert appropriate state
5 agency] to operate a retainer medical practice.

6
7 Section 6. [*Marketing materials by a retainer medical practice.*]

8 A retainer medical practice certified by the [insert appropriate state agency] under this Act or
9 a retainer medical practice applying for a certificate or the renewal of a certificate is permitted to
10 exhaust the practice's supply of marketing materials created prior to the effective date of this Act.

11
12 Section 7. [*Severability.*] Insert severability clause.

13
14 Section 8. [*Repealer.*] Insert repealer clause.

15
16 Section 9. [*Effective Date.*] Insert effective date.