

# Case Study in State Price Transparency Bills: Oregon

Oregon was one of 44 states to receive a failing grade on the Catalyst for Payment Reform and HCI3's [Report Card on State Price Transparency Laws](#), in March 2014. This session, state senators proposed two bills aimed at price transparency: SB900, which passed and SB891, which died upon committee adjournment. A few states have mounted similar efforts to either SB900 or SB891. Oregon provides us with a unique case study since it is the only state legislature to set forth *both* types of initiatives in the same legislative term. While SB900 is a step in the right direction, SB891 would have achieved greater price transparency.

## Bill Provisions

In August 2015, [SB900](#) passed Oregon's Senate with little opposition.[\[1\]](#) The bill requires the Department of Consumer and Business Services to post the median prices paid by private and government insurers for the 50 most common inpatient and 100 most common outpatient procedures. The required price information will be available to the public in an online all payer, all claims database (APCD), operated by the Oregon Health Authority. SB900 does not financially burden hospitals or insurers|instead it places the financial burden on the Oregon state government. The Oregon Health Authority is obligated to establish and maintain a database that is limited to the extent that money is (1) specifically appropriated to the agency and (2) beyond an appropriation, to public donations, gifts, and grants received for the purpose of creating and maintaining the database. SB900 specifically appropriated \$238,276 to the Authority, for the biennium beginning July 1, 2015. SB900 became effective August 12, 2015 and will amend and add sections to Oregon Revised Statutes (ORS) [442.466](#) and [442.993](#).

[SB891](#), a more extensive transparency bill than SB900, died upon committee adjournment. That bill would have required certain licensed health care facilities to publish their contracted rates with insurers to the public for the top 100 most common inpatient procedures and 100 most common outpatient procedures. Such price information is currently only available to insurance plan members. The information would have been made available to the public, at large, and would have been published on providers' websites, directly in facilities, or directly to patients (if requested).

### **Political Support and Opposition to SB891**

Both SB900 and SB891 were rooted in politically diverse sponsorship.[\[2\]](#) In the end, however, lobbying seems to have derailed SB891. Primary opposition came from the Oregon Association of Hospitals and Health Systems, insurers, and Senator Laurie Monnes Anderson [D] (a primary SB900 sponsor). Opposition to SB891 by providers and insurers was based largely on its (1) direct conflict with the non-disclosure provisions contained in many provider-plan contracts and (2) placement of the financial burden of collection and publishing the price information at issue on the health care systems.

According to an article published in Oregon's health law news source, [The Lund Report](#), Senator Steiner Hayward, in response to health care facilities' and Senator Monnes Anderson's opposition, crafted a compromise bill. In the draft compromise bill, insurers—as opposed to providers, as the original bill provided—would bear the financial burden and responsibility for publishing price information. Former opponent Monnes Anderson accepted the compromise plan and was reportedly “all set to move [on the bill].” But, according to news reports, compromise efforts were stymied when Senate President Peter Courtney [D], “halted [SB891] following closed-door negotiations with influential [health care system and insurance company] lobbyists.”

At the end of the day, successful lobbying seems to have derailed SB891—for now. According to [The Lund Report](#), Senator Steiner Hayward has indicated that she will continue to propose SB891-like initiatives in future sessions.

### **What SB891 Could Have Achieved**

Although SB900 is a step toward price transparency, SB891 would have achieved a greater amount of transparency and would have provided Oregonians with more useful price information. SB891 would have provided consumers with actual contracted prices for common procedures, would have put the onus on health care providers or insurance companies, and would have been more easily accessible to consumers—all features that would have helped Oregonians financially plan their health care.

Primarily, whereas SB891 would have required that health care facilities publish actual contracted rates for their most common procedures, SB900 only provides consumers with the median prices paid by private and government insurers in the state. There are two issues inherent in this requirement: (1) that the data is not broken up into any meaningful categories for consumers and (2) the lack of usefulness of median reimbursement rates. First, data would be more accessible by consumers if it were broken up into reimbursement rates by category (e.g., by geographic region, by types of hospital or provider, by specialty, etc.). Secondly, median reimbursement rates only present consumers with the physical midpoint of all rates paid.[\[3\]](#) Median rates do not provide consumers with (i) the actual reimbursement rates|(ii) the highest or lowest reimbursement rates in a given area (a range)|(iii) the most frequent price in a given area (the mode)|or even (iv) the average of all reimbursement rates in a given area. Although a range, mode, or average of the data—alone—would not provide consumers with the data required to make informed health care choices, each would be an improvement on median reimbursement rates. Overall, SB891 would have provided consumers with the

most relevant data: actual reimbursement rates for common procedures, categorized by health care providers.

Next, whereas SB891 requires the Oregon state government to collect and publish health care data, SB900 would have put the financial and functional burdens on health care providers, or—if the compromise bill, resulting from Senators Steiner Hayward and Monnes Anderson's negotiation, had come to fruition—would have required insurance companies to provide their claims data. Since Oregon insurance companies already provide their insureds with the price and claims data required under SB891 requiring health insurers to make the data available to all Oregonians would have been a minor administrative burden. Alternatively, if the compromise bill had not been achieved, and the SB891 onus remained on health care providers, gag clauses and administrative burdens (especially on non-profit entities) would have arisen. Instead, SB900 requires that the already financially strained Oregon state government shoulder the cost of creating and maintaining a statewide ACPD.

Finally, SB891 would have required that actual contracted rates be posted on health care providers' websites, in their facilities, and available to patients directly, upon request. Under SB900, the Oregon Health Authority must establish and maintain an ACPD website. Although a government-run website is better than not having one at all, publishing actual contracted rates on health care providers' websites and in their facilities would be more likely to reach consumers. Having all of the price information on websites and in facilities where consumers already visit would increase accessibility and provide consumers with more tailored, provider-specific information.

SB900 is a step toward making health care price data publicly available in Oregon. Had SB891 not been defeated by successful lobbying efforts, it would have provided Oregon consumers with relevant, useful health care price data|would have placed the

administrative burden on entities that already have access to the requisite data and that have more resources than the government|and would have made the data available on websites and in facilities that consumers already frequent.

## **Conclusion**

SB900, like the other states' APCD legislation discussed in our [APCD Issue Brief](#), is an important step towards price transparency. SB891, despite not being passed, was a formidable effort and would have exponentially advanced price transparency in Oregon. We will continue monitoring state price transparency initiatives, and we look forward to seeing whether Oregon—or any other states—mount SB891-like initiatives in the future.

[\[1\]](#) Upon the third Senate reading and vote, SB900 passed with a vote of: 27 Yea, 3 Nay, and no abstentions.

[\[2\]](#) SB900 primary sponsors included: Senator Jeff Kruse [R], Representative John Lively [D], Representative Cedric Hayden [R], Senator Laurie Monnes Anderson [D], Representative John Davis [R], Senator Alan Bates [D] Representative Bill Kennemer [R], and Senator Tim Knopp [R]. SB900 cosponsors included: Senator Elizabeth Johnson [D] and Representative Brian Clem [D]. On the other hand, SB891 was primarily sponsored by Senator Elizabeth Steiner Hayward [D] and cosponsored by Senator Brian Boquist [R].

[\[3\]](#) A median, however, may not even represent an actual reimbursement rate. If there are an even number of reimbursement rates, the median could be the average of the two midpoints.