

House Bill 2700

Sponsored by Representatives ROSENBAUM, TOMEI, NOLAN, Senators BROWN, MONNES ANDERSON, DEVLIN; Representatives BARKER, BARNHART, BERGER, BEYER, BONAMICI, BOONE, BUCKLEY, CANNON, CLEM, COWAN, DINGFELDER, C EDWARDS, D EDWARDS, GALIZIO, GELSER, GREENLICK, HOLVEY, KOMP, KOTEK, MERKLEY, READ, RILEY, ROBLAN, SCHAUFLEER, SHIELDS, WITT, Senators AVAKIAN, BATES, BURDICK, MONROE, PROZANSKI, WALKER, WESTLUND

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 **as introduced**.

Requires health benefit plan to include coverage of contraception.
Requires hospitals to inform victims of sexual assault about emergency contraception and treatment options and to provide emergency contraception upon request by victim.
Requires Department of Human Services to develop informational materials.
Prohibits public body from interfering with consenting individual's access to contraception.

A BILL FOR AN ACT

1 Relating to contraception; creating new provisions; and amending ORS 750.055 and 750.333.

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

3 **SECTION 1. The Legislative Assembly declares that:**

4 (1) **It is the public policy of this state that all Oregonians' right to freedom from unrea-**
5 **sonable government intrusion into their private lives, and specifically the right of consenting**
6 **individuals to obtain and use methods of contraception without interference by governmental**
7 **entities, shall be safeguarded; and**

8 (2) **The laws of this state must be interpreted and construed to recognize and protect**
9 **these rights.**

10 **SECTION 2. Section 3 of this 2007 Act is added to and made a part of the Insurance Code.**

11 **SECTION 3. (1) A health benefit plan as defined in ORS 743.730 or a prescription drug**
12 **plan shall provide payment, coverage or reimbursement for:**

13 (a) **Prescription contraceptives; and**

14 (b) **Outpatient consultations, examinations, procedures and medical services that are**
15 **necessary to prescribe, dispense, deliver, distribute, administer or remove a prescription**
16 **contraceptive.**

17 (2) **The coverage required by subsection (1) of this section may be subject to provisions**
18 **of the health benefit plan that apply equally to other prescription drugs covered by the plan,**
19 **including but not limited to required copayments, deductibles and coinsurance.**

20 (3) **As used in this section, "contraceptive" means a drug or device approved by the**
21 **United States Food and Drug Administration to prevent pregnancy.**

22 (4) **This section is exempt from the provisions of ORS 743.700.**

23 **SECTION 4. As used in this section and section 5 of this 2007 Act:**

24 (1) **"Care to a victim of sexual assault" means a medical examination, procedure or ser-**
25 **vice provided by a licensed medical provider to a victim of sexual assault following an alleged**
26 **sexual assault.**

27 **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 (2) "Emergency contraception" means the use of a drug or device that is approved by the
2 United States Food and Drug Administration to prevent pregnancy after sexual intercourse.

3 (3) "Hospital" has the meaning given that term in ORS 442.015, excluding institutions
4 described in ORS 441.065.

5 (4) "Sexual assault" means any unwanted sexual contact as defined in ORS 163.305.

6 (5) "Victim of sexual assault" means a person who alleges sexual assault, or is alleged
7 to have been sexually assaulted, and who presents as a patient following the alleged sexual
8 assault.

9 **SECTION 5.** (1) A hospital providing care to a female victim of sexual assault shall:

10 (a) Provide the victim with unbiased, medically and factually accurate written and oral
11 information about emergency contraception;

12 (b) Orally inform the victim of her option to be provided emergency contraception at the
13 hospital; and

14 (c) If requested by the victim and if not medically contraindicated, provide the victim
15 with emergency contraception immediately at the hospital, notwithstanding section 2, chap-
16 ter 789, Oregon Laws 2003.

17 (2)(a) In collaboration with victim advocates, other interested parties and nonprofit or-
18 ganizations that provide intervention and support services to victims of sexual assault and
19 their families, the Department of Human Services shall develop, prepare and produce infor-
20 mational materials relating to emergency contraception for the prevention of pregnancy in
21 victims of sexual assault for distribution to and use in all hospital emergency departments
22 in the state, in quantities sufficient to comply with the requirements of this section.

23 (b) The Director of Human Services, in collaboration with community sexual assault
24 programs and other relevant stakeholders, may approve informational materials developed,
25 prepared and produced by other entities for the purposes of paragraph (a) of this subsection.

26 (c) All informational materials must:

27 (A) Be clearly written and easily understood in a culturally competent manner; and

28 (B) Contain an explanation of emergency contraception, including its use, safety and ef-
29 fectiveness in preventing pregnancy.

30 (3) The department shall respond to complaints of violations of section 6 of this 2007 Act
31 in accordance with ORS 441.057.

32 (4) The department shall incorporate the requirements of this section in rules adopted
33 pursuant to ORS 441.055 that prescribe the care to be given to patients at hospitals.

34 (5) The director shall adopt rules necessary to carry out the provisions of this section.

35 (6) Information required to be provided under subsection (1) of this section is medically
36 and factually accurate if the information is verified or supported by the weight of research
37 conducted in compliance with accepted scientific methods and based upon:

38 (a) Reports in peer-reviewed journals; or

39 (b) Information that leading professional organizations, such as the American College of
40 Obstetricians and Gynecologists, and agencies with expertise in the field recognize as accu-
41 rate and objective.

42 **SECTION 6.** The Department of Human Services may impose a civil penalty against a
43 hospital for each violation of the rules adopted under section 5 of this 2007 Act. A civil pen-
44 alty imposed under this section may not exceed \$1,000 for each violation upon inspection or
45 each substantiated complaint filed.

1 **SECTION 7.** (1) A public body as defined in ORS 174.109 or, except as provided in ORS
2 435.225, an officer, employee or agent of a public body may not:

3 (a) Deprive a consenting individual of the right to obtain and use safe and effective
4 methods of contraception; or

5 (b) Interfere with or restrict, in the regulation or provision of benefits, facilities, services
6 or information, the right of consenting individuals to obtain and use safe and effective
7 methods of contraception.

8 (2) Nothing in this section is intended to prevent the application of laws, rules, ordi-
9 nances or taxes that affect the method or manner of sales or distribution of contraceptive
10 devices, provided the laws, rules, ordinances or taxes are designed to promote public health
11 and safety and do not unreasonably burden public access to contraception.

12 (3) As used in this section:

13 (a) “Contraception” means the use of any process, device or method to prevent preg-
14 nancy, including steroidal, chemical, physical or barrier, natural or permanent methods for
15 preventing the union of an ovum with the spermatozoon, or preventing the subsequent im-
16 plantation of the fertilized ovum in the uterus, and includes all postcoital methods, drugs or
17 devices approved by the United States Food and Drug Administration to prevent pregnancy.

18 (b) “Pregnancy” is the period of time from implantation of a fertilized ovum in the uterus
19 to delivery. A woman shall be presumed pregnant if she is premenopausal and exhibits signs
20 of pregnancy, including missed menses, until disproved by a laboratory test or until delivery.

21 **SECTION 8.** ORS 750.055 is amended to read:

22 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
23 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

24 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
25 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
26 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
27 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992.

28 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
29 including ORS 732.582.

30 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
31 to 733.780.

32 (d) ORS chapter 734.

33 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
34 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.412, 743.472,
35 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to
36 743.552, 743.556, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.691, 743.693, 743.694, 743.697,
37 743.699, 743.701, 743.706 to 743.712, 743.721, 743.722, 743.726, 743.727, 743.728, 743.729, 743.793,
38 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857,
39 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.866 and 743.868 **and section 3 of this 2007**
40 **Act.**

41 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

42 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
43 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

44 (h) ORS 743.714, except in the case of group practice health maintenance organizations that are
45 federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is re-

1 referred by a physician associated with a group practice health maintenance organization.

2 (i) ORS 735.600 to 735.650.

3 (j) ORS 743.680 to 743.689.

4 (k) ORS 744.700 to 744.740.

5 (L) ORS 743.730 to 743.773.

6 (m) ORS 731.485, except in the case of a group practice health maintenance organization that
7 is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns
8 and operates an in-house drug outlet.

9 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

10 (3) Any for-profit health care service contractor organized under the laws of any other state that
11 is not governed by the insurance laws of the other state is subject to all requirements of ORS
12 chapter 732.

13 (4) The Director of the Department of Consumer and Business Services may, after notice and
14 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
15 and 750.045 that are deemed necessary for the proper administration of these provisions.

16 **SECTION 9.** ORS 750.055, as amended by section 7, chapter 137, Oregon Laws 2003, section 3,
17 chapter 263, Oregon Laws 2003, sections 501 and 502, chapter 22, Oregon Laws 2005, sections 5 and
18 6, chapter 255, Oregon Laws 2005, and section 5, chapter 418, Oregon Laws 2005, is amended to
19 read:

20 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
21 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

22 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
23 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
24 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
25 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992.

26 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
27 including ORS 732.582.

28 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
29 to 733.780.

30 (d) ORS chapter 734.

31 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
32 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.412, 743.472,
33 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to
34 743.552, 743.556, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.691, 743.693, 743.694, 743.697,
35 743.699, 743.701, 743.706 to 743.712, 743.721, 743.722, 743.727, 743.728, 743.729, 743.793, 743.804,
36 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
37 743.859, 743.861, 743.862, 743.863, 743.864, 743.866 and 743.868 **and section 3 of this 2007 Act.**

38 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

39 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
40 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

41 (h) ORS 743.714, except in the case of group practice health maintenance organizations that are
42 federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is re-
43 ferred by a physician associated with a group practice health maintenance organization.

44 (i) ORS 735.600 to 735.650.

45 (j) ORS 743.680 to 743.689.

1 (k) ORS 744.700 to 744.740.

2 (L) ORS 743.730 to 743.773.

3 (m) ORS 731.485, except in the case of a group practice health maintenance organization that
4 is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns
5 and operates an in-house drug outlet.

6 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

7 (3) Any for-profit health care service contractor organized under the laws of any other state that
8 is not governed by the insurance laws of the other state is subject to all requirements of ORS
9 chapter 732.

10 (4) The Director of the Department of Consumer and Business Services may, after notice and
11 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
12 and 750.045 that are deemed necessary for the proper administration of these provisions.

13 **SECTION 10.** ORS 750.333 is amended to read:

14 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
15 tiple employer welfare arrangement:

16 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
17 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
18 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

19 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

20 (c) ORS chapter 734.

21 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

22 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
23 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
24 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
25 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
26 743.864.

27 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
28 743.717, 743.718, 743.719, 743.721, 743.722, 743.725 and 743.726 **and section 3 of this 2007 Act.**
29 Multiple employer welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the
30 sections referred to in this paragraph only as provided in ORS 743.730 to 743.773.

31 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
32 ance consultants, and ORS 744.700 to 744.740.

33 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

34 (i) ORS 731.592 and 731.594.

35 (2) For the purposes of this section:

36 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

37 (b) References to certificates of authority shall be considered references to certificates of mul-
38 tiple employer welfare arrangement.

39 (c) Contributions shall be considered premiums.

40 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
41 transaction of health insurance.

42 **SECTION 11.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, is
43 amended to read:

44 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
45 tiple employer welfare arrangement:

1 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
 2 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
 3 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

4 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

5 (c) ORS chapter 734.

6 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

7 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
 8 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
 9 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
 10 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
 11 743.864.

12 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
 13 743.717, 743.718, 743.719, 743.721, 743.722 and 743.725 **and section 3 of this 2007 Act**. Multiple
 14 employer welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the sections
 15 referred to in this paragraph only as provided in ORS 743.730 to 743.773.

16 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
 17 ance consultants, and ORS 744.700 to 744.740.

18 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

19 (i) ORS 731.592 and 731.594.

20 (2) For the purposes of this section:

21 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

22 (b) References to certificates of authority shall be considered references to certificates of mul-
 23 tiple employer welfare arrangement.

24 (c) Contributions shall be considered premiums.

25 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
 26 transaction of health insurance.

27 **SECTION 12.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section
 28 3, chapter 446, Oregon Laws 2003, and section 6, chapter 418, Oregon Laws 2005, is amended to
 29 read:

30 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
 31 tiple employer welfare arrangement:

32 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
 33 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
 34 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

35 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

36 (c) ORS chapter 734.

37 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

38 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
 39 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
 40 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
 41 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
 42 743.864.

43 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
 44 743.717, 743.718, 743.719, 743.721 and 743.722 **and section 3 of this 2007 Act**. Multiple employer
 45 welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the sections referred to

1 in this paragraph only as provided in ORS 743.730 to 743.773.

2 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
3 ance consultants, and ORS 744.700 to 744.740.

4 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

5 (i) ORS 731.592 and 731.594.

6 (2) For the purposes of this section:

7 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

8 (b) References to certificates of authority shall be considered references to certificates of mul-
9 tiple employer welfare arrangement.

10 (c) Contributions shall be considered premiums.

11 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
12 transaction of health insurance.

13 **SECTION 13. Section 3 of this 2007 Act and the amendments to ORS 750.055 and 750.333**
14 **by sections 8 to 12 of this 2007 Act apply to health insurance policies issued or renewed on**
15 **or after the effective date of this 2007 Act.**

16