

Senate Bill 144

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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**.

Changes name of Board of Radiologic Technology to Board of Medical Imaging Technology.

Defines medical imaging technology.

Expands various provisions relating to radiologic technology and radiologic technologists to include other medical imaging specialties.

A BILL FOR AN ACT

1
2 Relating to medical imaging; creating new provisions; and amending ORS 31.740, 58.015, 67.005,
3 192.519, 433.443, 676.160, 688.405, 688.415, 688.425, 688.435, 688.445, 688.455, 688.465, 688.475,
4 688.480, 688.485, 688.495, 688.505, 688.515, 688.520, 688.525, 688.545, 688.555, 688.560, 688.565,
5 688.585, 688.595, 688.600, 688.605, 688.915 and 746.600.

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

7 **SECTION 1.** ORS 688.405 is amended to read:

8 688.405. As used in ORS 688.405 to 688.605:

9 (1) "Approved school of [*radiologic*] **medical imaging** technology" means a school of
10 [*radiologic*] **medical imaging** technology accredited by [*the Joint Review Committee on Education in*
11 *Radiologic Technology or by a regional post-secondary accreditation body, whose graduates are quali-*
12 *fied to sit for the American Registry of Radiologic Technologists examination*] **a national or regional**
13 **post-secondary accreditation body, a graduate of which is qualified to sit for the nationally**
14 **recognized certification examination approved by the Board of Medical Imaging Technology**
15 **in the graduate's medical imaging specialty.**

16 [(2) "Board" means the Board of Radiologic Technology established by ORS 688.405 to 688.605.]

17 [(3) "Diagnostic radiologic technologist" means a person other than a licensed practitioner who
18 actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic
19 purposes under the supervision of a licensed practitioner.]

20 (2) "Computed tomography (CAT)" means the process by which a computer-reconstructed
21 transverse or axial image of a human being is created by an X-ray tube and detector as-
22 sembly rotating 360 degrees about a specified area of the body of the human being.

23 (3) "Computed tomography technologist" means a person who operates computed
24 tomography equipment.

25 (4) "Inactive status" means the status granted by the board to a **medical imaging technologist**
26 [*licensee*] or limited **X-ray machine operator** [*permit holder*] who has notified the board:

27 (a) Of the intent not to practice [*radiologic*] **medical imaging** technology or **limited scope**
28 **radiography**; and

29 (b) Of the desire to retain the right to reinstate the license or [*limited*] permit subject to board

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 rule.

2 [(5) “Licensed practitioner” means a person licensed or otherwise authorized by Oregon law to
3 practice one of the healing arts.]

4 [(6) “License” means a license granted and issued by the board to practice radiologic technology.]

5 [(7) “Limited permit course of study” means a board approved set of didactical and clinical expe-
6 rience elements designed to prepare a student for obtaining practical experience and for passing the
7 limited permit examination described in ORS 688.515.]

8 [(8) “Limited permit holder” means a person other than a radiation therapist or a diagnostic
9 radiologic technologist who handles X-ray equipment in the process of applying radiation on a human
10 being for diagnostic purposes under the supervision of a licensed practitioner and who has met the
11 requirements of ORS 688.515.]

12 **(5) “License” means a license granted and issued by the board to practice medical imag-
13 ing technology.**

14 **(6) “Licensed practitioner” means a person licensed or otherwise authorized by Oregon
15 law to practice one of the healing arts.**

16 **(7) “Limited X-ray machine operator” means a person other than a medical imaging
17 technologist who handles X-ray equipment in the process of applying radiation on a human
18 being for diagnostic purposes under the supervision of a licensed practitioner and who has
19 met the requirements of ORS 688.515.**

20 **(8) “Limited X-ray machine operator course of study” means a board-approved set of
21 didactical and clinical experience elements designed to prepare a person for obtaining prac-
22 tical experience and for passing the limited X-ray machine operator examination described
23 in ORS 688.515 to practice limited scope radiography.**

24 [(9) “Radiation oncologist” means a physician who is either certified or eligible for certification in
25 therapeutic radiology by the American Board of Radiology or its equivalent or who is certified in
26 general radiology by the American Board of Radiology and who devotes all professional time to the
27 investigation and management of neoplastic disorders inclusive of teaching such investigation and
28 management.]

29 **(9) “Magnetic resonance imaging (MRI)” means the process by which certain nuclei,
30 when placed in a magnet field, absorb and release energy in the form of radio waves that are
31 analyzed by a computer.**

32 **(10) “Magnetic resonance imaging technologist” means a person who practices magnetic
33 resonance imaging.**

34 **(11) “Mammographer” means a person who performs mammography procedures.**

35 **(12) “Mammography” means a low-dose X-ray system used to examine the breasts to
36 detect disease.**

37 **(13)(a) “Medical imaging technologist” means a person other than a licensed practitioner
38 or a limited X-ray machine operator, who operates medical imaging equipment for diagnostic
39 or therapeutic purposes under the supervision of a licensed practitioner.**

40 **(b) “Medical imaging technologist” includes a:**

41 **(A) Magnetic resonance imaging technologist;**

42 **(B) Medical sonographer;**

43 **(C) Nuclear medicine technologist;**

44 **(D) Radiation therapist;**

45 **(E) Computed tomography technologist;**

1 (F) Radiologic technologist; and

2 (G) Mammographer.

3 (14) “Medical imaging technology” means the production of visual representations of body
4 parts, tissues or organs for use in clinical diagnosis or therapy that includes but is not lim-
5 ited to X-ray, ultrasound, magnetic resonance imaging, single photon emission, nuclear
6 medicine and positron emission tomography.

7 (15) “Medical sonographer” means a person who practices diagnostic medical sonography
8 and is certified by a nationally recognized certification organization approved by the board.

9 (16) “Medical sonography” or “diagnostic ultrasound” means the use of ultrasound tech-
10 nology for diagnostic purposes on a human being.

11 (17) “Nuclear medicine technologist” means a person who practices nuclear medicine
12 technology and is certified by a nationally recognized certification organization approved by
13 the board.

14 (18) “Nuclear medicine technology” means the use of radionuclides for diagnostic imaging
15 or therapy on a human being.

16 [(10)] (19) “Radiation therapist” means a person[, *other than a licensed practitioner,*] who handles
17 ionizing radiation in the process of applying radiation on a human being for therapeutic purposes
18 [*under the supervision of a licensed practitioner*] and who is certified by a board accepted na-
19 tionally recognized certification organization approved by the board.

20 [(11)] (20) “Radiation therapy” means the use of ionizing radiation [*upon*] on a human being for
21 therapeutic purposes.

22 [(12)] (21) “Radiologic technologist” means a person [*other than a licensed practitioner*] who uses
23 radiographic and fluoroscopic equipment in the process of applying radiation to a human
24 being for diagnostic purposes and who is certified by a nationally recognized certification
25 organization approved by the board. [*practices radiologic technology as a:*]

26 [(a) *Diagnostic radiologic technologist; or*]

27 [(b) *Radiation therapist.*]

28 [(13)] (22) “Radiologic technology” means the use of ionizing radiation [*upon*] on a human being
29 for diagnostic or therapeutic purposes.

30 [(14)] (23) “Radiologist” means a person duly licensed to practice medicine in the State of
31 Oregon and [*who is*] certified by the American Board of Radiology or by the American Osteopathic
32 Board of Radiology.

33 [(15)] (24) “Supervision” means the act of monitoring and reviewing the performance of [*diag-
34 nostic X-ray technology*] medical imaging technologists and limited X-ray machine operators
35 through [*periodic inspection*] regular inspections of work produced, regardless of whether or not
36 the supervising licensed practitioner is continuously physically present during the [*performance of
37 such diagnostic X-ray*] use of the medical imaging technology or the limited scope radiography.

38 **SECTION 2.** ORS 688.415 is amended to read:

39 688.415. [(1)] A [*No*] person [*shall*] may not:

40 [(a)] (1) Practice [*radiologic*] medical imaging technology or limited scope radiography or
41 purport to be a medical imaging technologist or any form of a limited X-ray machine opera-
42 tor if the person is not licensed in accordance with the provisions of ORS [*688.405 to 688.605*]
43 **688.445** or is not the holder of a permit issued under ORS 688.515;

44 [(b)] (2) Practice [*radiologic*] medical imaging technology or limited scope radiography under
45 a false or assumed name;

1 [(c)] (3) Knowingly employ any person for the purpose of practicing [*radiologic*] **medical imag-**
 2 **ing technology or limited scope radiography** if that person is not licensed **under ORS 688.445** or
 3 does not hold a valid permit [*in accordance with the provisions of ORS 688.405 to 688.605*] **issued**
 4 **under ORS 688.515;**

5 [(d)] (4) Obtain or attempt to obtain a license or permit or a renewal of a license or permit by
 6 bribery or fraudulent representation; or

7 [(e)] (5) Knowingly make a false statement on an application for a license or permit or a renewal
 8 for a license **or permit.**

9 [(2) *After January 1, 1979, no person shall practice radiologic technology or purport to be a*
 10 *radiologic technologist unless the person is licensed in accordance with the provisions of ORS 688.405*
 11 *to 688.605 or holds a permit issued by the Board of Radiologic Technology.*]

12 **SECTION 3.** ORS 688.425 is amended to read:

13 688.425. (1) A person licensed in accordance with the provisions of ORS [*688.405 to 688.605*]
 14 **688.445** may use the [*title of "Licensed Radiologic Technologist" or the letters "LRT."*] A person li-
 15 censed as a radiologic technologist in the therapeutic field may use the title of "*Licensed Radiation*
 16 *Therapy Technologist" or the letters "LRTT."*] **credential of the person's specialty.**

17 (2) **A person who holds a permit as a limited X-ray machine operator in limited scope**
 18 **radiography issued under ORS 688.515 may use the title of "Limited X-ray Machine**
 19 **Operator" or the letters "LXMO."**

20 [(2)] (3) [*No person shall use these titles or any abbreviation of these titles or any title which*] **A**
 21 **person may not use a credential under subsection (1) of this section or the title under sub-**
 22 **section (2) of this section or a credential or title that is substantially the same as [*these titles*]**
 23 **a credential under subsection (1) of this section or the title under subsection (2) of this**
 24 **section unless the person is authorized [*under subsection (1) of this section*] as provided in this**
 25 **section.**

26 **SECTION 4.** ORS 688.435 is amended to read:

27 688.435. The provisions of ORS 688.405 to 688.605 [*shall*] **do** not apply to the following persons:

28 (1) Persons who operate dental X-ray equipment for the sole purpose of oral radiography.

29 (2) Students in approved schools of [*radiologic*] **medical imaging** technology as defined in ORS
 30 688.405 while practicing [*radiologic*] **medical imaging** technology under the supervision of an in-
 31 structor who is either a radiologist or a licensed [*radiologic*] **medical imaging** technologist **in the**
 32 **student's specialty.**

33 (3) A licensed practitioner or students in approved schools leading to licensure as a practitioner
 34 of one of the healing arts, while practicing [*radiologic*] **medical imaging** technology under the
 35 supervision of an instructor who is either a licensed practitioner or a licensed [*radiologic*] **medical**
 36 **imaging** technologist **in the student's specialty.**

37 (4) **Persons who operate ultrasound equipment for the sole purpose of physical therapy.**

38 **SECTION 5.** ORS 688.445 is amended to read:

39 688.445. (1) The Board of [*Radiologic*] **Medical Imaging** Technology shall issue a license to
 40 practice as a [*radiologic*] **medical imaging** technologist in the State of Oregon to each person who
 41 meets the qualifications for licensure as provided in ORS [*688.405 to 688.605*] **688.455.** [*Such*] **The**
 42 license shall state the [*category or categories*] **specialty** for which the qualifications have been
 43 met[, *which include diagnostic radiologic technologist and radiation therapist*].

44 (2) A license must be renewed every two years on the first day of the month of the anniversary
 45 date of the licensee's birthday.

1 (3) *[Any]* A license that is not renewed as provided in subsection (2) of this section expires. The
 2 board may renew an expired license upon payment of a delinquent fee in an amount set by the board
 3 plus the biennial renewal fee. However, *[no such]* a late renewal may **not** be granted more than five
 4 years after a license has expired.

5 (4) *[A license shall be renewed upon application to the board which is accompanied by a fee in an*
 6 *amount set by the board]* **The board shall renew a license upon receipt of an application ac-**
 7 **companied by a fee in an amount established by the board.**

8 (5) A license *[which]* **that** has been expired for more than five years may be reissued only in the
 9 manner prescribed for an original license.

10 **SECTION 6.** ORS 688.455 is amended to read:

11 688.455. The Board of *[Radiologic]* **Medical Imaging** Technology shall license *[any]* a person
 12 *[who]* **as a medical imaging technologist if the person** makes an application in writing and pays
 13 a fee in an amount *[set]* **established** by the board and *[who at that time]* **if the person, at the time**
 14 **of application:**

15 (1) Is at least 18 years of age;

16 (2) Has successfully completed a four-year course of study in a secondary school approved by
 17 the board of education of the state in which the school is located or has passed an approved
 18 equivalency test;

19 **(3) Has undergone a background check to the satisfaction of the board as established in**
 20 **rules adopted by the board; and**

21 *[(3)]* **(4) Meets the requirements for licensing *[as described in ORS 688.465, 688.475 and***
 22 ***688.495]* under section 8 of this 2007 Act or ORS 688.465, 688.475 or 688.495.**

23 **SECTION 7. Section 8 of this 2007 Act is added to and made a part of ORS 688.405 to**
 24 **688.605.**

25 **SECTION 8. For licensure as a medical imaging technologist, an applicant must be cer-**
 26 **tified by the nationally recognized certification organization approved by the Board of Med-**
 27 **ical Imaging Technology in the medical imaging speciality for which licensure is sought.**

28 **SECTION 9.** ORS 688.465 is amended to read:

29 688.465. For licensure as a **medical imaging technologist with a specialty as a radiologic**
 30 **technologist in the diagnostic field, an applicant must be currently certified in X-ray technology**
 31 **by *[the American Registry of Radiologic Technologists (ARRT) in X-ray technology]* a nationally**
 32 **recognized certification organization approved by the Board of Medical Imaging Technology.**

33 **SECTION 10.** ORS 688.475 is amended to read:

34 688.475. For licensure as a **medical imaging technologist with a specialty as a radiologic**
 35 **technologist in the therapeutic field, an applicant must be currently certified in radiation therapy**
 36 **by *[the American Registry of Radiologic Technologists (ARRT) in radiation therapy]* a nationally**
 37 **recognized certification organization approved by the Board of Medical Imaging Technology.**

38 **SECTION 11.** ORS 688.480 is amended to read:

39 688.480. (1) Persons who operate computed tomography equipment not involving the use of
 40 radionuclides for diagnostic purposes must be certified by *[the American Registry of Radiologic*
 41 *Technologists]* **a nationally recognized certification organization approved by the Board of**
 42 **Medical Imaging Technology.**

43 (2) Persons who operate computed tomography equipment combined with a *[positrion]* **positron**
 44 **emission tomography imaging system for diagnostic purposes shall adhere to rules adopted by the**
 45 **board *[of Radiologic Technology].***

1 **SECTION 12.** ORS 688.485 is amended to read:

2 688.485. (1) The Board of [*Radiologic*] **Medical Imaging** Technology [*may conduct one or more*]
3 **shall oversee** examinations **given** each year **for the limited X-ray machine operator permit** [*at*
4 *such times and places as the board may determine*].

5 (2) An applicant who fails to pass an examination may take additional examinations [*scheduled*
6 *by the board*].

7 (3) A fee shall be charged for **board oversight of the** examinations as determined by the board.

8 **SECTION 13.** ORS 688.495 is amended to read:

9 688.495. The Board of [*Radiologic*] **Medical Imaging** Technology may license as a [*radiologic*]
10 **medical imaging** technologist, without examination, any person who:

11 (1) Applies for a license as provided in ORS 688.455; and

12 (2) On the date of making application:

13 (a) Is a [*radiologic*] **licensed medical imaging** technologist under the laws of any other state,
14 territory of the United States or nation, if the requirements for licensure in that state, territory or
15 nation are not less than those required under ORS 688.405 to 688.605; and

16 (b) [*the applicant*] **Has** passed a written examination in that state, territory or nation that is
17 comparable to the examination required in this state for the [*category or categories*] **or specialty** for
18 which licensure is sought.

19 **SECTION 14.** ORS 688.505 is amended to read:

20 688.505. The Board of [*Radiologic*] **Medical Imaging** Technology shall require each person
21 holding a license [*or permit under ORS 688.405 to 688.605*] **under ORS 688.445 or 688.495** to submit,
22 at the time the person submits the biennial renewal fee, evidence of continuing education in
23 [*radiologic*] **medical imaging** technology pursuant to rules of the board. Continuing education must
24 be pertinent to the subject area of [*radiologic*] **medical imaging** technology for which the license
25 [*or permit*] was issued. Evidence of current [*American Registry of Radiologic Technologists*] certif-
26 ication **by a nationally recognized certification organization approved by the board for appli-**
27 **cable subspecialties** may be used as valid documentation of continuing education required by this
28 section.

29 **SECTION 15.** ORS 688.515 is amended to read:

30 688.515. (1) The Board of [*Radiologic*] **Medical Imaging** Technology shall issue a limited **X-ray**
31 **machine operator** permit to an applicant to practice [*in a limited area of radiologic technology*]
32 **limited scope radiography under the supervision of a licensed practitioner** if [*such*] **the** appli-
33 cant meets the requirements for a limited **X-ray machine operator** permit as provided in this sec-
34 tion. [*Such*] **A limited X-ray machine operator** permit shall state the category or categories for
35 which the applicant has demonstrated competence and shall be limited to one of the categories listed
36 below or as established by the board by rule:

37 [(a) *Upper extremities;*]

38 [(b) *Pelvis or lower extremities, or both;*]

39 (a) **Skull;**

40 (b) **Sinus;**

41 (c) **Spine;**

42 [(c)] (d) **Chest** [*and ribs*];

43 (e) **Extremities;**

44 [(d) *Spine;*]

45 [(e) *Head;*]

1 [(f) *Abdomen; or*]

2 [(g)] (f) [*Foot and ankle for*] Podiatric [*use*]; or

3 (g) **Bone densitometry.**

4 (2) Limited **X-ray machine operator** permits [*shall*] **may** not be issued for **fluoroscopy, bony**
5 **thorax studies, abdominal studies,** contrast studies or special head studies such as tomography,
6 **or any of the medical imaging technology specialties other than limited scope radiography.**

7 (3) Each applicant for a limited **X-ray machine operator** permit shall **meet the qualifications**
8 **in ORS 688.455 (1) to (3) and:**

9 [(a) *Make an application in writing;*]

10 [(b) *Pay an application fee in an amount set by the board;*]

11 [(c) *Be at least 18 years of age;*]

12 [(d)] (a) Have successfully passed a board-approved course of instruction in radiation use and
13 safety consisting of the number of hours of instruction required by the board by rule;

14 [(e)] (b) Have successfully completed a course of instruction approved by the board and taught
15 by a board-approved, licensed, registered [*radiologic technologist*] **medical imaging technologist** in
16 laboratory practice specific to each category for which the applicant seeks a limited **X-ray machine**
17 **operator** permit, with the instructor's certifying to the board that the applicant has completed the
18 course in those categories applied for;

19 [(f)] (c) Have successfully completed a practical experience program approved by the board,
20 specific to each category for which the applicant seeks a limited **X-ray machine operator** permit.
21 Such program shall include operation of an energized X-ray machine under the supervision of a
22 [*registered radiologic technologist*] **licensed medical imaging technologist;**

23 [(g)] (d) Have paid the examination fee set by board rule to reflect the actual cost of the ex-
24 amination; and

25 [(h)] (e) Have successfully passed an oral or written examination, or both, conducted by or ap-
26 proved by the board in radiation use and safety and in those categories in which the applicant seeks
27 a limited permit.

28 (4) Upon meeting the requirements of this section, the board shall issue a limited **X-ray ma-**
29 **chine operator** permit to the applicant. A limited **X-ray machine operator** permit shall be re-
30 newed every two years on the first day of the month of the anniversary date of the permittee's
31 birthday subject to ORS 688.505 and payment of a fee in an amount set by the board. Any limited
32 **X-ray machine operator** permit that is not renewed as provided in this subsection expires. The
33 board may renew any expired limited **X-ray machine operator** permit upon payment of a delinquent
34 fee in an amount set by the board plus the biennial renewal fee.

35 (5) Every person issued a limited **X-ray machine operator** permit shall notify the board in
36 writing of the name of each licensed practitioner supervising [*permittee's*] **the person's** performance
37 of diagnostic [*X-ray*] **radiologic** technology and [*shall*] **may** only perform diagnostic [*X-ray*]
38 **radiologic** technology while being supervised by a licensed practitioner. In the event [*permittee*] **the**
39 **person** subsequently is supervised by a licensed practitioner other than the [*person*] **practitioner**
40 whose name was initially furnished to the board, the [*board shall be immediately notified*] **person**
41 **shall immediately notify the board** in writing.

42 [(6) *A temporary license or limited permit may be issued by the board without examination to a*
43 *graduate of or a student enrolled in an approved school of radiologic technology or limited permit*
44 *course of instruction upon application and payment of a registration fee in an amount set by the board*
45 *if the person practices as a diagnostic radiologic technologist or radiation therapist under the super-*

1 *vision of a licensed practitioner. A temporary license or limited permit is valid for a period of six*
 2 *months and may be renewed by the board for one six-month period only.]*

3 *[(7) At the discretion of the board a temporary limited permit may be issued by the board without*
 4 *examination to a person upon application and payment of a registration fee in an amount set by the*
 5 *board if the person practices diagnostic radiologic technology under the supervision of a licensed*
 6 *practitioner and if the person is enrolled in an approved course of instruction in radiation use and*
 7 *safety. Such a temporary limited permit shall be valid for a period of three months and shall not be*
 8 *renewed by the board except as provided under subsection (6) of this section.]*

9 *[(8) In addition to the temporary license or limited permit authorized by this section, the board*
 10 *may authorize a permit authorizing its holder to be an X-ray bone densitometry operator. The operator*
 11 *must meet standards of training established by the board by rule. The applicant shall pay a*
 12 *nonrefundable fee fixed by the board and the permit may be issued for a period of two years and may*
 13 *be renewed upon payment of a fixed renewal fee.]*

14 **SECTION 16.** Section 17 of this 2007 Act is added to and made a part of ORS 688.405 to
 15 **688.605.**

16 **SECTION 17. (1) A temporary medical imaging technologist license or a temporary lim-**
 17 **ited X-ray machine operator permit may be issued by the Board of Medical Imaging Tech-**
 18 **nology without examination to a graduate of or a student enrolled in an approved school of**
 19 **medical imaging technology or a limited X-ray machine operator course of study upon ap-**
 20 **plication and payment of a registration fee in an amount set by the board if the person**
 21 **practices as a medical imaging technologist or limited X-ray machine operator under the**
 22 **supervision of a licensed practitioner.**

23 **(2) A temporary medical imaging technologist license or a temporary limited X-ray ma-**
 24 **chine operator permit is valid for a period of six months and may be renewed by the board**
 25 **for one six-month period only.**

26 **SECTION 18.** ORS 688.520 is amended to read:

27 688.520. The Board of [*Radiologic*] **Medical Imaging** Technology may issue licenses and permits
 28 for periods other than 24 months. The fee for a license or permit issued for any period other than
 29 24 months shall be prorated on a monthly basis.

30 **SECTION 19.** ORS 688.525 is amended to read:

31 688.525. (1) The Board of [*Radiologic*] **Medical Imaging** Technology, after notice of and hearing
 32 as required under the contested case procedures of ORS chapter 183, may refuse to license any ap-
 33 plicant, may refuse to renew the license [*or permit*] of any [*radiologic*] **medical imaging** technologist
 34 **or the permit of a limited X-ray machine operator** or may suspend or revoke the license or
 35 permit of a person who:

36 **(a) Has been disciplined by a licensing board in another state for acts by the holder of a**
 37 **license or a permit that are similar to acts described in this subsection. A certified copy of**
 38 **the order of discipline constitutes conclusive evidence of the discipline.**

39 [*(a)*] **(b)** Is chemically dependent.

40 [*(b)*] **(c)** In the judgment of the board is guilty of unethical or unprofessional conduct in the
 41 practice of [*radiologic*] **medical imaging** technology **or limited scope radiography.**

42 [*(c)*] **(d)** Has been convicted of any crime [*where the crime*] **that** bears a demonstrable relation-
 43 ship to the practice of [*radiologic*] **medical imaging** technology **or limited scope radiography.**

44 [*(d)*] **(e)** In the judgment of the board, [*is guilty of*] **has acted with** gross negligence in the
 45 practice of [*radiologic*] **medical imaging** technology **or limited scope radiography.**

1 [(e)] (f) Has been adjudged incompetent by a court of law and thereafter has not been
2 [lawfully] declared competent.

3 [(f)] (g) Has undertaken to act as a [radiologic] **medical imaging** technologist **or a limited**
4 **X-ray machine operator** independently of the supervision of a practitioner licensed by the State
5 of Oregon to practice one of the healing arts.

6 [(g)] (h) Has obtained or attempted to obtain a license or permit under ORS 688.405 to 688.605
7 by fraud or material misrepresentation.

8 (2) Upon receipt of a complaint under ORS 688.405 to 688.605, the board shall conduct an in-
9 vestigation as described under ORS 676.165.

10 (3) Information that the board obtains as part of an investigation into licensee, **permittee** or
11 applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement
12 involving licensee, **permittee** or applicant conduct is confidential as provided under ORS 676.175.

13 **SECTION 20.** ORS 688.545 is amended to read:

14 688.545. (1)(a) There is created in the Department of Human Services a Board of [Radiologic]
15 **Medical Imaging** Technology consisting of nine members who shall be appointed by the Governor.
16 Each member of the board shall be a citizen of the United States and a resident of the State of
17 Oregon. Each appointed member is entitled to vote.

18 (b) Of the members of the board:

19 (A) One shall be a radiologist;

20 (B) At least one shall be a lay person;

21 (C) At least one shall be a limited [permit holder] **X-ray machine operator**; and

22 (D) At least five shall be licensed practicing [radiologic] **medical imaging** technologists, one of
23 whom shall be a radiation therapist.

24 (2) The section manager of the Radiation Protection Services Section of the Department of Hu-
25 man Services, or a person appointed by the section manager, shall be an advisory member of the
26 board for the purpose of providing counsel and [shall not be] **is not** entitled to vote.

27 (3) The term of office of the members of the board [shall be] **is** three years and a member may
28 be reappointed to serve not more than two full terms.

29 (4) Members of the board [shall be] **are** entitled to compensation and expenses as provided in
30 ORS 292.495.

31 (5) The board shall annually elect a board chairperson and a vice chairperson from the members
32 of the board.

33 (6) For the purpose of transacting its business, the board shall meet at least once every three
34 months at times and places designated by resolution. Special meetings may also be held at such
35 times as the board may elect or at the call of the chairperson. Notification of the time, place and
36 purpose of any special meeting shall be sent to all members of the board at least 15 days before the
37 date of the meeting. All meetings are subject to ORS 192.610 to 192.690.

38 (7) Five members of the board [shall] constitute a quorum for the transaction of business at any
39 meeting. Five affirmative votes [shall be] **are** required to take action.

40 **SECTION 21.** ORS 688.555 is amended to read:

41 688.555. (1) The Board of [Radiologic] **Medical Imaging** Technology [shall have the power to]
42 **may** adopt [such rules as may be] **rules that are** necessary to carry out the provisions of ORS
43 688.405 to 688.605.

44 (2) In adopting rules, the board shall act with benefit of the advice of the Attorney General of
45 the State of Oregon.

1 (3) The board may appoint and fix the compensation of an executive [*officer*] **director** subject
 2 to ORS 240.245 and include reimbursement for actual and necessary travel expenses incurred in the
 3 performance of the duties of the [*officer*] **director**.

4 **SECTION 22.** ORS 688.560 is amended to read:

5 688.560. The Board of [*Radiologic*] **Medical Imaging** Technology by rule shall establish and
 6 collect reasonable fees for the following services:

7 (1) [*Administration*] **Oversight** of limited **X-ray machine operator** permit examinations.

8 (2) Special interpretation of examination results.

9 (3) Duplication of permits, **licenses** and wall certificates.

10 (4) Reproduction of records.

11 (5) Licensing and permitting.

12 **SECTION 23.** ORS 688.565 is amended to read:

13 688.565. The Board of [*Radiologic*] **Medical Imaging** Technology shall approve programs of
 14 continuing education in [*radiologic*] **medical imaging** technology to meet the requirements of ORS
 15 688.505.

16 **SECTION 24.** ORS 688.585 is amended to read:

17 688.585. (1) The Board of [*Radiologic*] **Medical Imaging** Technology Account is established in
 18 the State Treasury, separate and distinct from the General Fund. Except for moneys otherwise des-
 19 ignated by statute, all fees, contributions and other moneys received by the Board of [*Radiologic*]
 20 **Medical Imaging** Technology shall be paid into the State Treasury and credited to the account.
 21 All moneys in the account are continuously appropriated to the board to be used by the board for
 22 purposes of ORS 688.405 to 688.605. Any interest or other income from moneys in the account shall
 23 be credited to the account.

24 (2) The board shall keep a record of all moneys deposited in the account. The record shall in-
 25 dicate by separate cumulative accounts the source from which the moneys are derived and the in-
 26 dividual activity or program for which each withdrawal is charged.

27 **SECTION 25.** ORS 688.595 is amended to read:

28 688.595. The section manager of the Radiation Protection Services Section of the Department
 29 of Human Services shall enforce the provisions of ORS 688.405 to 688.605 and shall conduct, under
 30 the direction of the Board of [*Radiologic*] **Medical Imaging** Technology, inspections in furtherance
 31 of the purposes of ORS 688.405 to 688.605.

32 **SECTION 26.** ORS 688.600 is amended to read:

33 688.600. (1) Upon the complaint of any [*citizen*] **resident** of this state, or upon its own motion,
 34 the Board of [*Radiologic*] **Medical Imaging** Technology may investigate any alleged violation of
 35 ORS 688.405 to 688.605.

36 (2) In the conduct of investigations, the board may:

37 (a) Take evidence;

38 (b) Take the depositions of witnesses, including the person charged, in the manner provided by
 39 law in civil cases;

40 (c) Compel the appearance of witnesses, including the person charged, before the board in per-
 41 son the same as in civil cases;

42 (d) Require answers to interrogatories; and

43 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
 44 matter under investigation.

45 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas

1 over the signature of the board chairperson and the seal of the board in the name of the State of
 2 Oregon.

3 **SECTION 27.** ORS 688.605 is amended to read:

4 688.605. (1) *[Any radiologic technologist,]* Any person licensed **or issued a permit** by the Board
 5 of *[Radiologic]* **Medical Imaging** Technology or any *[other]* organization representing *[radiologic*
 6 *technologists]* **such persons** shall, and any other person may, report to the board any suspected vi-
 7 olation of ORS 688.405 to 688.605 or any rule adopted pursuant to ORS 688.555.

8 (2) Any information that the board obtains as the basis of a complaint or in the investigation
 9 *[thereof]* **of a complaint** is confidential as provided under ORS 676.175.

10 (3) Any person who reports or provides information to the board and who does so in good faith
 11 *[shall not be]* **is not** subject to an action for civil damages as a result *[thereof]* **of reporting or**
 12 **providing information.**

13 (4) A claim of a violation of ORS 688.405 to 688.605 shall be reported to the board and shall be
 14 substantiated by satisfactory evidence. If the board finds that a violation has occurred, the board
 15 shall, subject to the conditions of ORS 676.175, report the violation to the Attorney General for
 16 prosecution.

17 **SECTION 28.** ORS 688.915 is amended to read:

18 688.915. (1) In addition to any other sanction authorized by law, the Board of *[Radiologic]*
 19 **Medical Imaging** Technology may impose a civil penalty not to exceed \$1,000 for any violation of
 20 ORS 688.405 to 688.605, or of any rules *[promulgated pursuant to]* **adopted under** those provisions.
 21 The penalty may be imposed whether or not the person incurring the penalty has been licensed or
 22 been issued a permit under ORS 688.405 to 688.605, or has made application for a license or permit
 23 under those sections. A civil penalty may be imposed in lieu of a refusal to grant or renew a license
 24 or permit, or a suspension or revocation of a license or permit, under ORS 688.525.

25 (2) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

26 (3) All penalties recovered under this section shall be credited to the Board of *[Radiologic]*
 27 **Medical Imaging** Technology Account established under ORS 688.585.

28 **SECTION 29.** ORS 31.740 is amended to read:

29 31.740. Punitive damages shall not be awarded against a health practitioner if:

30 (1) The health practitioner is licensed, registered or certified as:

31 (a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

32 (b) An occupational therapist under ORS 675.230 to 675.300;

33 (c) A licensed clinical social worker under ORS 675.530, 675.540 to 675.560, 675.580 and 675.585;

34 (d) A physician under ORS 677.100 to 677.228;

35 (e) An emergency medical technician under ORS chapter 682;

36 (f) A podiatric physician and surgeon under ORS 677.820 to 677.840;

37 (g) A nurse under ORS 678.040 to 678.101;

38 (h) A nurse practitioner under ORS 678.375 to 678.390;

39 (i) A dentist under ORS 679.060 to 679.180;

40 (j) A dental hygienist under ORS 680.040 to 680.100;

41 (k) A denturist under ORS 680.515 to 680.535;

42 (L) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

43 (m) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

44 (n) A chiropractor under ORS 684.040 to 684.105;

45 (o) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

- 1 (p) A massage therapist under ORS 687.021 to 687.086;
- 2 (q) A physical therapist under ORS 688.040 to 688.145;
- 3 (r) A *[radiologic technician]* **medical imaging technologist** under ORS 688.445 to 688.525;
- 4 (s) A pharmacist under ORS 689.151 and 689.225 to 689.285; or
- 5 (t) A physician assistant as provided by ORS 677.505 to 677.525; and

6 (2) The health practitioner was engaged in conduct regulated by the license, registration or
 7 certificate issued by the appropriate governing body and was acting within the scope of practice for
 8 which the license, registration or certificate was issued and without malice.

9 **SECTION 30.** ORS 58.015 is amended to read:

10 58.015. As used in this chapter, unless the context requires otherwise:

11 (1) “Foreign professional corporation” means a professional corporation organized under laws
 12 other than the laws of this state.

13 (2) “License” includes a license, certificate of registration, permit or other legal authorization
 14 required by law as a condition precedent to the rendering of professional service or services within
 15 this state.

16 (3) “Oregon Business Corporation Act” has the same meaning given that term in ORS 60.951.

17 (4) “Practicing medicine” has the meaning given that term in ORS 677.085.

18 (5) “Professional” means:

- 19 (a) Accountants licensed under ORS 673.010 to 673.457 or the laws of another state;
- 20 (b) Architects licensed under ORS 671.010 to 671.220 or the laws of another state;
- 21 (c) Attorneys licensed under ORS 9.005 to 9.755 or the laws of another state;
- 22 (d) Chiropractors licensed under ORS chapter 684 or the laws of another state;
- 23 (e) Dentists licensed under ORS chapter 679 or the laws of another state;
- 24 (f) Landscape architects licensed under ORS 671.310 to 671.459 or the laws of another state;

25 **(g) Medical imaging technologists licensed under ORS 688.405 to 688.605 or the laws of**
 26 **another state;**

27 *[(g)] (h) Naturopaths licensed under ORS chapter 685 or the laws of another state;*

28 *[(h)] (i) Nurse practitioners licensed under ORS 678.010 to 678.410 or the laws of another state;*

29 *[(i)] (j) Psychologists licensed under ORS 675.010 to 675.150 or the laws of another state;*

30 *[(j)] (k) Physicians licensed under ORS chapter 677 or the laws of another state;*

31 *[(k)] (L) Podiatrists licensed under ORS chapter 677 or the laws of another state;*

32 *[(L) Radiologic technologists licensed under ORS 688.405 to 688.605 or the laws of another state;]*

33 (m) Real estate appraisers licensed or certified under ORS chapter 674 or the laws of another
 34 state; and

35 (n) Other persons providing to the public types of personal service or services substantially
 36 similar to those listed in paragraphs (a) to (m) of this subsection that may be lawfully rendered only
 37 pursuant to a license.

38 (6) “Professional corporation” or “domestic professional corporation” means a corporation or-
 39 ganized under this chapter for the specific purpose of rendering professional service or services and
 40 for such other purposes provided under this chapter.

41 (7) “Professional service” means personal service or services rendered in this state to the public
 42 which may be lawfully rendered only pursuant to a license by a professional.

43 (8) “Regulatory board” means the governmental agency of the State of Oregon required or au-
 44 thorized by law to license and regulate the rendering of a professional service or services for which
 45 a professional corporation is organized.

SECTION 31. ORS 67.005 is amended to read:

67.005. As used in this chapter:

(1) “Business” includes every trade, occupation, profession and commercial activity.

(2) “Debtor in bankruptcy” means a person who is the subject of:

(a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) A comparable order under federal, state or foreign law governing insolvency.

(3) “Dissociated partner” means a partner with respect to whom an event specified in ORS 67.220 has occurred.

(4) “Distribution” means a transfer of money or other property from a partnership to a partner in the partner’s capacity as a partner or to the partner’s transferee.

(5) “Foreign limited liability partnership” means a partnership that:

(a) Is formed under laws other than the law of this state; and

(b) Has the status of a limited liability partnership under those laws.

(6) “Limited liability partnership” means a partnership that has registered under ORS 67.590, and has not registered or qualified in any other jurisdiction other than as a foreign limited liability partnership.

(7) “Partnership” means an association of two or more persons to carry on as co-owners a business for profit created under ORS 67.055, predecessor law, or comparable law of another jurisdiction. A partnership includes a limited liability partnership.

(8) “Partnership agreement” means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(9) “Partnership at will” means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(10) “Partnership interest” or “partner’s interest in the partnership” means all of a partner’s interests in the partnership, including the partner’s transferable interest and all management and other rights.

(11) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality or any other legal or commercial entity.

(12) “Professional” means:

(a) Accountants licensed under ORS 673.010 to 673.457 or the laws of another state;

(b) Architects licensed under ORS 671.010 to 671.220 or the laws of another state;

(c) Attorneys licensed under ORS 9.005 to 9.755 or the laws of another state;

(d) Chiropractors licensed under ORS chapter 684 or the laws of another state;

(e) Dentists licensed under ORS chapter 679 or the laws of another state;

(f) Landscape architects licensed under ORS 671.310 to 671.459 or the laws of another state;

(g) Medical imaging technologists licensed under ORS 688.405 to 688.605 or the laws of another state;

[(g)] (h) Naturopaths licensed under ORS chapter 685 or the laws of another state;

[(h)] (i) Nurse practitioners licensed under ORS 678.010 to 678.410 or the laws of another state;

[(i)] (j) Psychologists licensed under ORS 675.010 to 675.150 or the laws of another state;

[(j)] (k) Physicians licensed under ORS chapter 677 or the laws of another state;

[(k)] (L) Podiatrists licensed under ORS chapter 677 or the laws of another state;

[(L) Radiologic technologists licensed under ORS 688.405 to 688.605 or the laws of another state;]

1 (m) Real estate appraisers licensed under ORS chapter 674 or the laws of another state; and

2 (n) Other persons providing to the public types of personal service or services substantially
3 similar to those listed in paragraphs (a) to (m) of this subsection that may be lawfully rendered only
4 pursuant to a license.

5 (13) "Professional service" means the service rendered by a professional.

6 (14) "Property" means all property, real, personal or mixed, tangible or intangible, or any in-
7 terest therein.

8 (15) "State" means a state of the United States, the District of Columbia, the Commonwealth
9 of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

10 (16) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, encumbrance, cre-
11 ation of a security interest and any other disposition.

12 (17) "Transferable interest of a partner in the partnership" means the partner's share of the
13 profits and losses of the partnership and the partner's right to receive distributions.

14 **SECTION 32.** ORS 192.519 is amended to read:

15 192.519. As used in ORS 192.518 to 192.526:

16 (1) "Authorization" means a document written in plain language that contains at least the fol-
17 lowing:

18 (a) A description of the information to be used or disclosed that identifies the information in a
19 specific and meaningful way;

20 (b) The name or other specific identification of the person or persons authorized to make the
21 requested use or disclosure;

22 (c) The name or other specific identification of the person or persons to whom the covered entity
23 may make the requested use or disclosure;

24 (d) A description of each purpose of the requested use or disclosure, including but not limited
25 to a statement that the use or disclosure is at the request of the individual;

26 (e) An expiration date or an expiration event that relates to the individual or the purpose of the
27 use or disclosure;

28 (f) The signature of the individual or personal representative of the individual and the date;

29 (g) A description of the authority of the personal representative, if applicable; and

30 (h) Statements adequate to place the individual on notice of the following:

31 (A) The individual's right to revoke the authorization in writing;

32 (B) The exceptions to the right to revoke the authorization;

33 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits
34 on whether the individual signs the authorization; and

35 (D) The potential for information disclosed pursuant to the authorization to be subject to
36 redisclosure by the recipient and no longer protected.

37 (2) "Covered entity" means:

38 (a) A state health plan;

39 (b) A health insurer;

40 (c) A health care provider that transmits any health information in electronic form to carry out
41 financial or administrative activities in connection with a transaction covered by ORS 192.518 to
42 192.526; or

43 (d) A health care clearinghouse.

44 (3) "Health care" means care, services or supplies related to the health of an individual.

45 (4) "Health care operations" includes but is not limited to:

- 1 (a) Quality assessment, accreditation, auditing and improvement activities;
 2 (b) Case management and care coordination;
 3 (c) Reviewing the competence, qualifications or performance of health care providers or health
 4 insurers;
 5 (d) Underwriting activities;
 6 (e) Arranging for legal services;
 7 (f) Business planning;
 8 (g) Customer services;
 9 (h) Resolving internal grievances;
 10 (i) Creating de-identified information; and
 11 (j) Fundraising.
- 12 (5) "Health care provider" includes but is not limited to:
- 13 (a) A psychologist, occupational therapist, clinical social worker, professional counselor or
 14 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,
 15 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
 16 pist;
- 17 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
 18 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
 19 assistant or acupuncturist;
- 20 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
 21 the nurse or nursing home administrator;
- 22 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 23 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
 24 hygienist or denturist;
- 25 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
 26 of the speech-language pathologist or audiologist;
- 27 (g) An emergency medical technician certified under ORS chapter 682;
- 28 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 29 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
 30 physician;
- 31 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
 32 physician;
- 33 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
 34 therapist;
- 35 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
 36 entry midwife;
- 37 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
 38 therapist;
- 39 (n) A [*radiologic technologist*] **medical imaging technologist** licensed under ORS 688.405 to
 40 688.605 or an employee of the [*radiologic technologist*] **medical imaging technologist**;
- 41 (o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
 42 respiratory care practitioner;
- 43 (p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 44 (q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 45 (r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral

- 1 service practitioner;
- 2 (s) A health care facility as defined in ORS 442.015;
- 3 (t) A home health agency as defined in ORS 443.005;
- 4 (u) A hospice program as defined in ORS 443.850;
- 5 (v) A clinical laboratory as defined in ORS 438.010;
- 6 (w) A pharmacy as defined in ORS 689.005;
- 7 (x) A diabetes self-management program as defined in ORS 743.694; and
- 8 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
- 9 course of business.
- 10 (6) "Health information" means any oral or written information in any form or medium that:
- 11 (a) Is created or received by a covered entity, a public health authority, an employer, a life
- 12 insurer, a school, a university or a health care provider that is not a covered entity; and
- 13 (b) Relates to:
- 14 (A) The past, present or future physical or mental health or condition of an individual;
- 15 (B) The provision of health care to an individual; or
- 16 (C) The past, present or future payment for the provision of health care to an individual.
- 17 (7) "Health insurer" means:
- 18 (a) An insurer as defined in ORS 731.106 who offers:
- 19 (A) A health benefit plan as defined in ORS 743.730;
- 20 (B) A short term health insurance policy, the duration of which does not exceed six months in-
- 21 cluding renewals;
- 22 (C) A student health insurance policy;
- 23 (D) A Medicare supplemental policy; or
- 24 (E) A dental only policy.
- 25 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
- 26 under ORS 735.600 to 735.650.
- 27 (8) "Individually identifiable health information" means any oral or written health information
- 28 in any form or medium that is:
- 29 (a) Created or received by a covered entity, an employer or a health care provider that is not
- 30 a covered entity; and
- 31 (b) Identifiable to an individual, including demographic information that identifies the individual,
- 32 or for which there is a reasonable basis to believe the information can be used to identify an indi-
- 33 vidual, and that relates to:
- 34 (A) The past, present or future physical or mental health or condition of an individual;
- 35 (B) The provision of health care to an individual; or
- 36 (C) The past, present or future payment for the provision of health care to an individual.
- 37 (9) "Payment" includes but is not limited to:
- 38 (a) Efforts to obtain premiums or reimbursement;
- 39 (b) Determining eligibility or coverage;
- 40 (c) Billing activities;
- 41 (d) Claims management;
- 42 (e) Reviewing health care to determine medical necessity;
- 43 (f) Utilization review; and
- 44 (g) Disclosures to consumer reporting agencies.
- 45 (10) "Personal representative" includes but is not limited to:

1 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
2 authority to make medical and health care decisions;

3 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
4 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
5 decisions;

6 (c) A person appointed as a personal representative under ORS chapter 113; and

7 (d) A person described in ORS 192.526.

8 (11)(a) "Protected health information" means individually identifiable health information that is
9 maintained or transmitted in any form of electronic or other medium by a covered entity.

10 (b) "Protected health information" does not mean individually identifiable health information in:

11 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
12 U.S.C. 1232g);

13 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

14 (C) Employment records held by a covered entity in its role as employer.

15 (12) "State health plan" means:

16 (a) The state Medicaid program;

17 (b) The Oregon State Children's Health Insurance Program; or

18 (c) The Family Health Insurance Assistance Program established in ORS 735.720 to 735.740.

19 (13) "Treatment" includes but is not limited to:

20 (a) The provision, coordination or management of health care; and

21 (b) Consultations and referrals between health care providers.

22 **SECTION 33.** ORS 433.443 is amended to read:

23 433.443. (1)(a) During a proclaimed state of impending public health crisis, the Department of
24 Human Services may:

25 (A) Adopt reporting requirements for and provide notice of those requirements to health care
26 providers, institutions and facilities for the purpose of obtaining information directly related to the
27 impending public health crisis;

28 (B) After consultation with appropriate medical experts, create diagnostic and treatment proto-
29 cols to respond to the impending public health crisis and provide notice of those protocols to health
30 care providers, institutions and facilities;

31 (C) Order, or authorize local public health administrators to order, public health measures, in-
32 cluding temporary isolation or quarantine of individuals or groups, as provided in ORS 433.019,
33 433.022, 433.035 and 433.106;

34 (D) Upon approval of the Governor, take other reasonable administrative actions necessary to
35 address the impending public health crisis and provide notice of those actions to health care pro-
36 viders, institutions and facilities; and

37 (E) Impose civil penalties of up to \$500 per day against individuals, institutions or facilities that
38 knowingly fail to comply with requirements resulting from actions taken in accordance with the
39 powers granted to the Department of Human Services under subparagraphs (A), (B) and (D) of this
40 paragraph.

41 (b) The authority of the Department of Human Services to take administrative action, and the
42 effectiveness of any action taken, under paragraph (a)(A), (B) and (D) of this subsection terminates
43 upon the expiration of the proclaimed state of impending public health crisis, unless the actions are
44 continued under other applicable law.

45 (2) Civil penalties under subsection (1) of this section shall be imposed in the manner provided

1 in ORS 183.745. The Department of Human Services must establish that the individual, institution
2 or facility subject to the civil penalty had actual notice of the action taken that is the basis for the
3 penalty. The maximum aggregate total for penalties that may be imposed against an individual, in-
4 stitution or facility under subsection (1) of this section is \$500 for each day of violation, regardless
5 of the number of violations of subsection (1) of this section that occurred on each day of violation.

6 (3)(a) During a proclaimed state of impending public health crisis, the Department of Human
7 Services and local public health administrators shall be given immediate access to individually
8 identifiable health information necessary to:

9 (A) Determine the causes of an illness related to the impending public health crisis;

10 (B) Identify persons at risk;

11 (C) Identify patterns of transmission;

12 (D) Provide treatment; and

13 (E) Take steps to control the disease.

14 (b) Individually identifiable health information accessed as provided by paragraph (a) of this
15 subsection may not be used for conducting nonemergency epidemiologic research or to identify
16 persons at risk for post-traumatic mental health problems.

17 (c) Individually identifiable health information obtained by the Department of Human Services
18 or local public health administrators under this subsection may not be disclosed without written
19 authorization of the identified individual except:

20 (A) Directly to the individual who is the subject of the information or to the legal representative
21 of that individual;

22 (B) To state, local or federal agencies authorized to receive such information by state or federal
23 law;

24 (C) To identify or to determine the cause or manner of death of a deceased individual; or

25 (D) Directly to a health care provider, institution or facility for the evaluation or treatment of
26 a condition that is the subject of a proclamation of a state of impending public health crisis issued
27 under ORS 433.441.

28 (d) Upon expiration of the state of impending public health crisis, the Department of Human
29 Services or local public health administrators may not use or disclose any individually identifiable
30 health information that has been obtained under subsections (1) to (4) of this section. If a state of
31 emergency that is related to the state of impending public health crisis has been declared under
32 401.055, the Department of Human Services and local public health administrators may continue to
33 use any information obtained as provided in subsections (1) to (4) of this section until termination
34 of the state of emergency.

35 (4) As used in subsections (1) to (4) of this section:

36 (a) "Covered entity" means:

37 (A) The Children's Health Insurance Program;

38 (B) The Family Health Insurance Assistance Program established under ORS 735.722;

39 (C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insur-
40 ance as defined in ORS 731.162;

41 (D) The state medical assistance program; and

42 (E) A health care provider.

43 (b) "Health care provider" includes but is not limited to:

44 (A) A psychologist, occupational therapist, clinical social worker, professional counselor or
45 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,

- 1 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
2 pist;
- 3 (B) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
4 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
5 assistant or acupuncturist;
- 6 (C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
7 the nurse or nursing home administrator;
- 8 (D) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 9 (E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
10 hygienist or denturist;
- 11 (F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
12 of the speech-language pathologist or audiologist;
- 13 (G) An emergency medical technician certified under ORS chapter 682;
- 14 (H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 15 (I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
16 physician;
- 17 (J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
18 physician;
- 19 (K) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
20 therapist;
- 21 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
22 entry midwife;
- 23 (M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
24 therapist;
- 25 (N) A [*radiologic technologist*] **medical imaging technologist** licensed under ORS 688.405 to
26 688.605 or an employee of the [*radiologic technologist*] **medical imaging technologist**;
- 27 (O) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
28 respiratory care practitioner;
- 29 (P) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 30 (Q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 31 (R) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
32 service practitioner;
- 33 (S) A health care facility as defined in ORS 442.015;
- 34 (T) A home health agency as defined in ORS 443.005;
- 35 (U) A hospice program as defined in ORS 443.850;
- 36 (V) A clinical laboratory as defined in ORS 438.010;
- 37 (W) A pharmacy as defined in ORS 689.005;
- 38 (X) A diabetes self-management program as defined in ORS 743.694; and
- 39 (Y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
40 course of business.
- 41 (c) "Individually identifiable health information" means any oral or written health information
42 in any form or medium that is:
- 43 (A) Created or received by a covered entity, an employer or a health care provider that is not
44 a covered entity; and
- 45 (B) Identifiable to an individual, including demographic information that identifies the individual,

1 or for which there is a reasonable basis to believe the information can be used to identify an indi-
2 vidual, and that relates to:

- 3 (i) The past, present or future physical or mental health or condition of an individual;
- 4 (ii) The provision of health care to an individual; or
- 5 (iii) The past, present or future payment for the provision of health care to an individual.

6 (5) All civil penalties recovered under subsections (1) to (4) of this section shall be paid into the
7 State Treasury and credited to the General Fund and are available for general governmental ex-
8 penses.

9 **SECTION 34.** ORS 676.160 is amended to read:

10 676.160. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- 11 (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- 12 (2) State Board of Chiropractic Examiners;
- 13 (3) State Board of Clinical Social Workers;
- 14 (4) Oregon Board of Licensed Professional Counselors and Therapists;
- 15 (5) Oregon Board of Dentistry;
- 16 (6) Board of Examiners of Licensed Dietitians;
- 17 (7) State Board of Massage Therapists;
- 18 (8) State Mortuary and Cemetery Board;
- 19 (9) Board of Naturopathic Examiners;
- 20 (10) Oregon State Board of Nursing;
- 21 (11) Board of Examiners of Nursing Home Administrators;
- 22 (12) Oregon Board of Optometry;
- 23 (13) State Board of Pharmacy;
- 24 (14) Board of Medical Examiners;
- 25 (15) Occupational Therapy Licensing Board;
- 26 (16) Physical Therapist Licensing Board;
- 27 (17) State Board of Psychologist Examiners;
- 28 (18) Board of [*Radiologic*] **Medical Imaging** Technology;
- 29 (19) Oregon State Veterinary Medical Examining Board; and
- 30 (20) Department of Human Services to the extent that the department certifies emergency med-
31 ical technicians.

32 **SECTION 35.** ORS 746.600 is amended to read:

33 746.600. As used in ORS 746.600 to 746.690:

34 (1)(a) “Adverse underwriting decision” means any of the following actions with respect to in-
35 surance transactions involving insurance coverage that is individually underwritten:

- 36 (A) A declination of insurance coverage.
- 37 (B) A termination of insurance coverage.
- 38 (C) Failure of an insurance producer to apply for insurance coverage with a specific insurer that
39 the insurance producer represents and that is requested by an applicant.

40 (D) In the case of life or health insurance coverage, an offer to insure at higher than standard
41 rates.

42 (E) In the case of individual health insurance coverage, an offer to insure the applicant under
43 a health benefit plan other than the health benefit plan initially elected by the applicant.

44 (F) In the case of individual health insurance coverage, an offer to insure the applicant under
45 a health benefit plan that imposes a waiver of coverage for one or more preexisting conditions for

1 a period of time that is greater than six months and less than 24 months following the applicant's
2 effective date of coverage.

3 (G) In the case of insurance coverage other than life or health insurance coverage:

4 (i) Placement by an insurer or insurance producer of a risk with a residual market mechanism,
5 an unauthorized insurer or an insurer that specializes in substandard risks.

6 (ii) The charging of a higher rate on the basis of information that differs from that which the
7 applicant or policyholder furnished.

8 (iii) An increase in any charge imposed by the insurer for any personal insurance in connection
9 with the underwriting of insurance. For purposes of this sub-subparagraph, the imposition of a ser-
10 vice fee is not a charge.

11 (b) "Adverse underwriting decision" does not mean any of the following actions, but the insurer
12 or insurance producer responsible for the occurrence of the action must nevertheless provide the
13 applicant or policyholder with the specific reason or reasons for the occurrence:

14 (A) The termination of an individual policy form on a class or statewide basis.

15 (B) A declination of insurance coverage solely because the coverage is not available on a class
16 or statewide basis.

17 (C) The rescission of a policy.

18 (2) "Affiliate of" a specified person or "person affiliated with" a specified person means a person
19 who directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is
20 under common control with, the person specified.

21 (3) "Applicant" means a person who seeks to contract for insurance coverage, other than a
22 person seeking group insurance coverage that is not individually underwritten.

23 (4) "Consumer" means an individual, or the personal representative of the individual, who seeks
24 to obtain, obtains or has obtained one or more insurance products or services from a licensee that
25 are to be used primarily for personal, family or household purposes, and about whom the licensee
26 has personal information.

27 (5) "Consumer report" means any written, oral or other communication of information bearing
28 on a natural person's creditworthiness, credit standing, credit capacity, character, general reputa-
29 tion, personal characteristics or mode of living that is used or expected to be used in connection
30 with an insurance transaction.

31 (6) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a co-
32 operative or nonprofit basis:

33 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;

34 (b) Obtains information primarily from sources other than insurers; and

35 (c) Furnishes consumer reports to other persons.

36 (7) "Control" means, and the terms "controlled by" or "under common control with" refer to,
37 the possession, directly or indirectly, of the power to direct or cause the direction of the manage-
38 ment and policies of a person, whether through the ownership of voting securities, by contract other
39 than a commercial contract for goods or nonmanagement services, or otherwise, unless the power
40 of the person is the result of a corporate office held in, or an official position held with, the con-
41 trolled person.

42 (8) "Covered entity" means:

43 (a) A health insurer;

44 (b) A health care provider that transmits any health information in electronic form to carry out
45 financial or administrative activities in connection with a transaction covered by ORS 746.607 or

1 by rules adopted under ORS 746.608; or

2 (c) A health care clearinghouse.

3 (9) "Credit history" means any written or other communication of any information by a con-
4 sumer reporting agency that:

5 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and

6 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
7 eligibility, premiums or rates for personal insurance.

8 (10) "Customer" means a consumer who has a continuing relationship with a licensee under
9 which the licensee provides one or more insurance products or services to the consumer that are
10 to be used primarily for personal, family or household purposes.

11 (11) "Declination of insurance coverage" or "decline coverage" means a denial, in whole or in
12 part, by an insurer or insurance producer of an application for requested insurance coverage.

13 (12) "Health care" means care, services or supplies related to the health of an individual.

14 (13) "Health care operations" includes but is not limited to:

15 (a) Quality assessment, accreditation, auditing and improvement activities;

16 (b) Case management and care coordination;

17 (c) Reviewing the competence, qualifications or performance of health care providers or health
18 insurers;

19 (d) Underwriting activities;

20 (e) Arranging for legal services;

21 (f) Business planning;

22 (g) Customer services;

23 (h) Resolving internal grievances;

24 (i) Creating de-identified information; and

25 (j) Fundraising.

26 (14) "Health care provider" includes but is not limited to:

27 (a) A psychologist, occupational therapist, clinical social worker, professional counselor or
28 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,
29 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
30 pist;

31 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
32 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
33 assistant or acupuncturist;

34 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
35 the nurse or nursing home administrator;

36 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

37 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
38 hygienist or denturist;

39 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
40 of the speech-language pathologist or audiologist;

41 (g) An emergency medical technician certified under ORS chapter 682;

42 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

43 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
44 physician;

45 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic

- 1 physician;
- 2 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
3 therapist;
- 4 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
5 entry midwife;
- 6 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
7 therapist;
- 8 (n) A [*radiologic*] **medical imaging** technologist licensed under ORS 688.405 to 688.605 or an
9 employee of the [*radiologic*] **medical imaging** technologist;
- 10 (o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
11 respiratory care practitioner;
- 12 (p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 13 (q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 14 (r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
15 service practitioner;
- 16 (s) A health care facility as defined in ORS 442.015;
- 17 (t) A home health agency as defined in ORS 443.005;
- 18 (u) A hospice program as defined in ORS 443.850;
- 19 (v) A clinical laboratory as defined in ORS 438.010;
- 20 (w) A pharmacy as defined in ORS 689.005;
- 21 (x) A diabetes self-management program as defined in ORS 743.694; and
- 22 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
23 course of business.
- 24 (15) "Health information" means any oral or written information in any form or medium that:
- 25 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
26 a university or a health care provider that is not a covered entity; and
- 27 (b) Relates to:
- 28 (A) The past, present or future physical or mental health or condition of an individual;
- 29 (B) The provision of health care to an individual; or
- 30 (C) The past, present or future payment for the provision of health care to an individual.
- 31 (16) "Health insurer" means:
- 32 (a) An insurer who offers:
- 33 (A) A health benefit plan as defined in ORS 743.730;
- 34 (B) A short term health insurance policy, the duration of which does not exceed six months in-
35 cluding renewals;
- 36 (C) A student health insurance policy;
- 37 (D) A Medicare supplemental policy; or
- 38 (E) A dental only policy.
- 39 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
40 under ORS 735.600 to 735.650.
- 41 (17) "Homeowner insurance" means insurance for residential property consisting of a combina-
42 tion of property insurance and casualty insurance that provides coverage for the risks of owning
43 or occupying a dwelling and that is not intended to cover an owner's interest in rental property or
44 commercial exposures.
- 45 (18) "Individual" means a natural person who:

1 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
 2 certificate holder;

3 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
 4 certificate holder;

5 (c) Is a past, present or proposed policyowner;

6 (d) Is a past or present applicant;

7 (e) Is a past or present claimant; or

8 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
 9 certificate that is subject to ORS 746.600 to 746.690.

10 (19) "Individually identifiable health information" means any oral or written health information
 11 that is:

12 (a) Created or received by a covered entity or a health care provider that is not a covered en-
 13 tity; and

14 (b) Identifiable to an individual, including demographic information that identifies the individual,
 15 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 16 vidual, and that relates to:

17 (A) The past, present or future physical or mental health or condition of an individual;

18 (B) The provision of health care to an individual; or

19 (C) The past, present or future payment for the provision of health care to an individual.

20 (20) "Institutional source" means a person or governmental entity that provides information
 21 about an individual to an insurer, insurance producer or insurance-support organization, other than:

22 (a) An insurance producer;

23 (b) The individual who is the subject of the information; or

24 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
 25 pacity.

26 (21) "Insurance producer" or "producer" means a person licensed by the Director of the De-
 27 partment of Consumer and Business Services as a resident or nonresident insurance producer.

28 (22) "Insurance score" means a number or rating that is derived from an algorithm, computer
 29 application, model or other process that is based in whole or in part on credit history.

30 (23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in
 31 part, in assembling or collecting information about natural persons for the primary purpose of pro-
 32 viding the information to an insurer or insurance producer for insurance transactions, including:

33 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-
 34 nection with insurance transactions; and

35 (B) The collection of personal information from insurers, insurance producers or other
 36 insurance-support organizations for the purpose of detecting or preventing fraud, material misrep-
 37 resentation or material nondisclosure in connection with insurance underwriting or insurance claim
 38 activity.

39 (b) "Insurance-support organization" does not mean insurers, insurance producers, governmental
 40 institutions or health care providers.

41 (24) "Insurance transaction" means any transaction that involves insurance primarily for per-
 42 sonal, family or household needs rather than business or professional needs and that entails:

43 (a) The determination of an individual's eligibility for an insurance coverage, benefit or payment;
 44 or

45 (b) The servicing of an insurance application, policy or certificate.

1 (25) "Insurer" has the meaning given that term in ORS 731.106.

2 (26) "Investigative consumer report" means a consumer report, or portion of a consumer report,
3 for which information about a natural person's character, general reputation, personal character-
4 istics or mode of living is obtained through personal interviews with the person's neighbors, friends,
5 associates, acquaintances or others who may have knowledge concerning such items of information.

6 (27) "Licensee" means an insurer, insurance producer or other person authorized or required to
7 be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.

8 (28) "Loss history report" means a report provided by, or a database maintained by, an
9 insurance-support organization or consumer reporting agency that contains information regarding
10 the claims history of the individual property that is the subject of the application for a homeowner
11 insurance policy or the consumer applying for a homeowner insurance policy.

12 (29) "Nonaffiliated third party" means any person except:

13 (a) An affiliate of a licensee;

14 (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the
15 licensee; and

16 (c) As designated by the director by rule.

17 (30) "Payment" includes but is not limited to:

18 (a) Efforts to obtain premiums or reimbursement;

19 (b) Determining eligibility or coverage;

20 (c) Billing activities;

21 (d) Claims management;

22 (e) Reviewing health care to determine medical necessity;

23 (f) Utilization review; and

24 (g) Disclosures to consumer reporting agencies.

25 (31)(a) "Personal financial information" means:

26 (A) Information that is identifiable with an individual, gathered in connection with an insurance
27 transaction from which judgments can be made about the individual's character, habits, avocations,
28 finances, occupations, general reputation, credit or any other personal characteristics; or

29 (B) An individual's name, address and policy number or similar form of access code for the in-
30 dividual's policy.

31 (b) "Personal financial information" does not mean information that a licensee has a reasonable
32 basis to believe is lawfully made available to the general public from federal, state or local gov-
33 ernment records, widely distributed media or disclosures to the public that are required by federal,
34 state or local law.

35 (32) "Personal information" means:

36 (a) Personal financial information;

37 (b) Individually identifiable health information; or

38 (c) Protected health information.

39 (33) "Personal insurance" means the following types of insurance products or services that are
40 to be used primarily for personal, family or household purposes:

41 (a) Private passenger automobile coverage;

42 (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and
43 renters coverage;

44 (c) Personal dwelling property coverage;

45 (d) Personal liability and theft coverage, including excess personal liability and theft coverage;

1 and

2 (e) Personal inland marine coverage.

3 (34) “Personal representative” includes but is not limited to:

4 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
5 authority to make medical and health care decisions;

6 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700
7 to 127.737 to make health care decisions or mental health treatment decisions;

8 (c) A person appointed as a personal representative under ORS chapter 113; and

9 (d) A person described in ORS 746.611.

10 (35) “Policyholder” means a person who:

11 (a) In the case of individual policies of life or health insurance, is a current policyowner;

12 (b) In the case of individual policies of other kinds of insurance, is currently a named insured;

13 or

14 (c) In the case of group policies of insurance under which coverage is individually underwritten,
15 is a current certificate holder.

16 (36) “Pretext interview” means an interview wherein the interviewer, in an attempt to obtain
17 personal information about a natural person, does one or more of the following:

18 (a) Pretends to be someone the interviewer is not.

19 (b) Pretends to represent a person the interviewer is not in fact representing.

20 (c) Misrepresents the true purpose of the interview.

21 (d) Refuses upon request to identify the interviewer.

22 (37) “Privileged information” means information that is identifiable with an individual and that:

23 (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the in-
24 dividual; and

25 (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits
26 or a civil or criminal proceeding involving the individual.

27 (38)(a) “Protected health information” means individually identifiable health information that is
28 transmitted or maintained in any form of electronic or other medium by a covered entity.

29 (b) “Protected health information” does not mean individually identifiable health information in:

30 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
31 U.S.C. 1232g);

32 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

33 (C) Employment records held by a covered entity in its role as employer.

34 (39) “Residual market mechanism” means an association, organization or other entity involved
35 in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance
36 Code relating to insurance applicants who are unable to procure insurance through normal insur-
37 ance markets.

38 (40) “Termination of insurance coverage” or “termination of an insurance policy” means either
39 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
40 the failure of a premium to be paid as required by the policy.

41 (41) “Treatment” includes but is not limited to:

42 (a) The provision, coordination or management of health care; and

43 (b) Consultations and referrals between health care providers.

44 **SECTION 36.** ORS 746.600, as amended by section 4, chapter 590, Oregon Laws 2003, section
45 7, chapter 599, Oregon Laws 2003, section 7, chapter 253, Oregon Laws 2005, and section 2, chapter

1 489, Oregon Laws 2005, is amended to read:

2 746.600. As used in ORS 746.600 to 746.690:

3 (1)(a) "Adverse underwriting decision" means any of the following actions with respect to in-
4 surance transactions involving insurance coverage that is individually underwritten:

5 (A) A declination of insurance coverage.

6 (B) A termination of insurance coverage.

7 (C) Failure of an insurance producer to apply for insurance coverage with a specific insurer that
8 the insurance producer represents and that is requested by an applicant.

9 (D) In the case of life or health insurance coverage, an offer to insure at higher than standard
10 rates.

11 (E) In the case of insurance coverage other than life or health insurance coverage:

12 (i) Placement by an insurer or insurance producer of a risk with a residual market mechanism,
13 an unauthorized insurer or an insurer that specializes in substandard risks.

14 (ii) The charging of a higher rate on the basis of information that differs from that which the
15 applicant or policyholder furnished.

16 (iii) An increase in any charge imposed by the insurer for any personal insurance in connection
17 with the underwriting of insurance. For purposes of this sub-subparagraph, the imposition of a ser-
18 vice fee is not a charge.

19 (b) "Adverse underwriting decision" does not mean any of the following actions, but the insurer
20 or insurance producer responsible for the occurrence of the action must nevertheless provide the
21 applicant or policyholder with the specific reason or reasons for the occurrence:

22 (A) The termination of an individual policy form on a class or statewide basis.

23 (B) A declination of insurance coverage solely because the coverage is not available on a class
24 or statewide basis.

25 (C) The rescission of a policy.

26 (2) "Affiliate of" a specified person or "person affiliated with" a specified person means a person
27 who directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is
28 under common control with, the person specified.

29 (3) "Applicant" means a person who seeks to contract for insurance coverage, other than a
30 person seeking group insurance coverage that is not individually underwritten.

31 (4) "Consumer" means an individual, or the personal representative of the individual, who seeks
32 to obtain, obtains or has obtained one or more insurance products or services from a licensee that
33 are to be used primarily for personal, family or household purposes, and about whom the licensee
34 has personal information.

35 (5) "Consumer report" means any written, oral or other communication of information bearing
36 on a natural person's creditworthiness, credit standing, credit capacity, character, general reputa-
37 tion, personal characteristics or mode of living that is used or expected to be used in connection
38 with an insurance transaction.

39 (6) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a co-
40 operative or nonprofit basis:

41 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;

42 (b) Obtains information primarily from sources other than insurers; and

43 (c) Furnishes consumer reports to other persons.

44 (7) "Control" means, and the terms "controlled by" or "under common control with" refer to,
45 the possession, directly or indirectly, of the power to direct or cause the direction of the manage-

1 ment and policies of a person, whether through the ownership of voting securities, by contract other
 2 than a commercial contract for goods or nonmanagement services, or otherwise, unless the power
 3 of the person is the result of a corporate office held in, or an official position held with, the con-
 4 trolled person.

5 (8) "Covered entity" means:

6 (a) A health insurer;

7 (b) A health care provider that transmits any health information in electronic form to carry out
 8 financial or administrative activities in connection with a transaction covered by ORS 746.607 or
 9 by rules adopted under ORS 746.608; or

10 (c) A health care clearinghouse.

11 (9) "Credit history" means any written or other communication of any information by a con-
 12 sumer reporting agency that:

13 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and

14 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
 15 eligibility, premiums or rates for personal insurance.

16 (10) "Customer" means a consumer who has a continuing relationship with a licensee under
 17 which the licensee provides one or more insurance products or services to the consumer that are
 18 to be used primarily for personal, family or household purposes.

19 (11) "Declination of insurance coverage" or "decline coverage" means a denial, in whole or in
 20 part, by an insurer or insurance producer of an application for requested insurance coverage.

21 (12) "Health care" means care, services or supplies related to the health of an individual.

22 (13) "Health care operations" includes but is not limited to:

23 (a) Quality assessment, accreditation, auditing and improvement activities;

24 (b) Case management and care coordination;

25 (c) Reviewing the competence, qualifications or performance of health care providers or health
 26 insurers;

27 (d) Underwriting activities;

28 (e) Arranging for legal services;

29 (f) Business planning;

30 (g) Customer services;

31 (h) Resolving internal grievances;

32 (i) Creating de-identified information; and

33 (j) Fundraising.

34 (14) "Health care provider" includes but is not limited to:

35 (a) A psychologist, occupational therapist, clinical social worker, professional counselor or
 36 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,
 37 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
 38 pist;

39 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
 40 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
 41 assistant or acupuncturist;

42 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
 43 the nurse or nursing home administrator;

44 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

45 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental

- 1 hygienist or denturist;
- 2 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
3 of the speech-language pathologist or audiologist;
- 4 (g) An emergency medical technician certified under ORS chapter 682;
- 5 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 6 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
7 physician;
- 8 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
9 physician;
- 10 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
11 therapist;
- 12 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
13 entry midwife;
- 14 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
15 therapist;
- 16 (n) A [*radiologic*] **medical imaging** technologist licensed under ORS 688.405 to 688.605 or an
17 employee of the [*radiologic*] **medical imaging** technologist;
- 18 (o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
19 respiratory care practitioner;
- 20 (p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 21 (q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 22 (r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
23 service practitioner;
- 24 (s) A health care facility as defined in ORS 442.015;
- 25 (t) A home health agency as defined in ORS 443.005;
- 26 (u) A hospice program as defined in ORS 443.850;
- 27 (v) A clinical laboratory as defined in ORS 438.010;
- 28 (w) A pharmacy as defined in ORS 689.005;
- 29 (x) A diabetes self-management program as defined in ORS 743.694; and
- 30 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
31 course of business.
- 32 (15) “Health information” means any oral or written information in any form or medium that:
- 33 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
34 a university or a health care provider that is not a covered entity; and
- 35 (b) Relates to:
- 36 (A) The past, present or future physical or mental health or condition of an individual;
- 37 (B) The provision of health care to an individual; or
- 38 (C) The past, present or future payment for the provision of health care to an individual.
- 39 (16) “Health insurer” means:
- 40 (a) An insurer who offers:
- 41 (A) A health benefit plan as defined in ORS 743.730;
- 42 (B) A short term health insurance policy, the duration of which does not exceed six months in-
43 cluding renewals;
- 44 (C) A student health insurance policy;
- 45 (D) A Medicare supplemental policy; or

1 (E) A dental only policy.

2 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
3 under ORS 735.600 to 735.650.

4 (17) "Homeowner insurance" means insurance for residential property consisting of a combina-
5 tion of property insurance and casualty insurance that provides coverage for the risks of owning
6 or occupying a dwelling and that is not intended to cover an owner's interest in rental property or
7 commercial exposures.

8 (18) "Individual" means a natural person who:

9 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
10 certificate holder;

11 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
12 certificate holder;

13 (c) Is a past, present or proposed policyowner;

14 (d) Is a past or present applicant;

15 (e) Is a past or present claimant; or

16 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
17 certificate that is subject to ORS 746.600 to 746.690.

18 (19) "Individually identifiable health information" means any oral or written health information
19 that is:

20 (a) Created or received by a covered entity or a health care provider that is not a covered en-
21 tity; and

22 (b) Identifiable to an individual, including demographic information that identifies the individual,
23 or for which there is a reasonable basis to believe the information can be used to identify an indi-
24 vidual, and that relates to:

25 (A) The past, present or future physical or mental health or condition of an individual;

26 (B) The provision of health care to an individual; or

27 (C) The past, present or future payment for the provision of health care to an individual.

28 (20) "Institutional source" means a person or governmental entity that provides information
29 about an individual to an insurer, insurance producer or insurance-support organization, other than:

30 (a) An insurance producer;

31 (b) The individual who is the subject of the information; or

32 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
33 pacity.

34 (21) "Insurance producer" or "producer" means a person licensed by the Director of the De-
35 partment of Consumer and Business Services as a resident or nonresident insurance producer.

36 (22) "Insurance score" means a number or rating that is derived from an algorithm, computer
37 application, model or other process that is based in whole or in part on credit history.

38 (23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in
39 part, in assembling or collecting information about natural persons for the primary purpose of pro-
40 viding the information to an insurer or insurance producer for insurance transactions, including:

41 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-
42 nection with insurance transactions; and

43 (B) The collection of personal information from insurers, insurance producers or other
44 insurance-support organizations for the purpose of detecting or preventing fraud, material misrep-
45 resentation or material nondisclosure in connection with insurance underwriting or insurance claim

1 activity.

2 (b) "Insurance-support organization" does not mean insurers, insurance producers, governmental
3 institutions or health care providers.

4 (24) "Insurance transaction" means any transaction that involves insurance primarily for per-
5 sonal, family or household needs rather than business or professional needs and that entails:

6 (a) The determination of an individual's eligibility for an insurance coverage, benefit or payment;
7 or

8 (b) The servicing of an insurance application, policy or certificate.

9 (25) "Insurer" has the meaning given that term in ORS 731.106.

10 (26) "Investigative consumer report" means a consumer report, or portion of a consumer report,
11 for which information about a natural person's character, general reputation, personal character-
12 istics or mode of living is obtained through personal interviews with the person's neighbors, friends,
13 associates, acquaintances or others who may have knowledge concerning such items of information.

14 (27) "Licensee" means an insurer, insurance producer or other person authorized or required to
15 be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.

16 (28) "Loss history report" means a report provided by, or a database maintained by, an
17 insurance-support organization or consumer reporting agency that contains information regarding
18 the claims history of the individual property that is the subject of the application for a homeowner
19 insurance policy or the consumer applying for a homeowner insurance policy.

20 (29) "Nonaffiliated third party" means any person except:

21 (a) An affiliate of a licensee;

22 (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the
23 licensee; and

24 (c) As designated by the director by rule.

25 (30) "Payment" includes but is not limited to:

26 (a) Efforts to obtain premiums or reimbursement;

27 (b) Determining eligibility or coverage;

28 (c) Billing activities;

29 (d) Claims management;

30 (e) Reviewing health care to determine medical necessity;

31 (f) Utilization review; and

32 (g) Disclosures to consumer reporting agencies.

33 (31)(a) "Personal financial information" means:

34 (A) Information that is identifiable with an individual, gathered in connection with an insurance
35 transaction from which judgments can be made about the individual's character, habits, avocations,
36 finances, occupations, general reputation, credit or any other personal characteristics; or

37 (B) An individual's name, address and policy number or similar form of access code for the in-
38 dividual's policy.

39 (b) "Personal financial information" does not mean information that a licensee has a reasonable
40 basis to believe is lawfully made available to the general public from federal, state or local gov-
41 ernment records, widely distributed media or disclosures to the public that are required by federal,
42 state or local law.

43 (32) "Personal information" means:

44 (a) Personal financial information;

45 (b) Individually identifiable health information; or

- 1 (c) Protected health information.
- 2 (33) “Personal insurance” means the following types of insurance products or services that are
 3 to be used primarily for personal, family or household purposes:
- 4 (a) Private passenger automobile coverage;
- 5 (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and
 6 renters coverage;
- 7 (c) Personal dwelling property coverage;
- 8 (d) Personal liability and theft coverage, including excess personal liability and theft coverage;
 9 and
- 10 (e) Personal inland marine coverage.
- 11 (34) “Personal representative” includes but is not limited to:
- 12 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
 13 authority to make medical and health care decisions;
- 14 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700
 15 to 127.737 to make health care decisions or mental health treatment decisions;
- 16 (c) A person appointed as a personal representative under ORS chapter 113; and
- 17 (d) A person described in ORS 746.611.
- 18 (35) “Policyholder” means a person who:
- 19 (a) In the case of individual policies of life or health insurance, is a current policyowner;
- 20 (b) In the case of individual policies of other kinds of insurance, is currently a named insured;
 21 or
- 22 (c) In the case of group policies of insurance under which coverage is individually underwritten,
 23 is a current certificate holder.
- 24 (36) “Pretext interview” means an interview wherein the interviewer, in an attempt to obtain
 25 personal information about a natural person, does one or more of the following:
- 26 (a) Pretends to be someone the interviewer is not.
- 27 (b) Pretends to represent a person the interviewer is not in fact representing.
- 28 (c) Misrepresents the true purpose of the interview.
- 29 (d) Refuses upon request to identify the interviewer.
- 30 (37) “Privileged information” means information that is identifiable with an individual and that:
- 31 (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the in-
 32 dividual; and
- 33 (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits
 34 or a civil or criminal proceeding involving the individual.
- 35 (38)(a) “Protected health information” means individually identifiable health information that is
 36 transmitted or maintained in any form of electronic or other medium by a covered entity.
- 37 (b) “Protected health information” does not mean individually identifiable health information in:
- 38 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
 39 U.S.C. 1232g);
- 40 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
- 41 (C) Employment records held by a covered entity in its role as employer.
- 42 (39) “Residual market mechanism” means an association, organization or other entity involved
 43 in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance
 44 Code relating to insurance applicants who are unable to procure insurance through normal insur-
 45 ance markets.

1 (40) "Termination of insurance coverage" or "termination of an insurance policy" means either
2 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
3 the failure of a premium to be paid as required by the policy.

4 (41) "Treatment" includes but is not limited to:

5 (a) The provision, coordination or management of health care; and

6 (b) Consultations and referrals between health care providers.

7 **SECTION 37. Section 8 of this 2007 Act applies to persons first submitting applications**
8 **for licensure on or after the effective date of this 2007 Act.**

9 **SECTION 38. (1) The amendments to ORS 688.445 by section 5 of this 2007 Act apply to**
10 **licenses issued on or after the effective date of this 2007 Act.**

11 **(2) The amendments to ORS 688.455 by section 6 of this 2007 Act apply to persons sub-**
12 **mitting applications on or after the effective date of this 2007 Act.**

13 **(3) The amendments to ORS 688.495 by section 13 of this 2007 Act apply to licenses issued**
14 **by the Board of Medical Imaging Technology on or after the effective date of this 2007 Act.**

15 **(4) The amendments to ORS 688.515 by section 15 of this 2007 Act apply to permits issued**
16 **on or after the effective date of this 2007 Act.**

17 **(5) The amendments to ORS 688.525 by section 19 of this 2007 Act apply to orders of dis-**
18 **cipline issued on or after the effective date of this 2007 Act.**

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