

A-Engrossed
Senate Bill 519

Ordered by the Senate May 4
Including Senate Amendments dated May 4

Sponsored by Senator ATKINSON (at the request of Dr. Norwood Knight-Richardson)

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.

Requires health insurers, and Department of Human Services through state medical assistance program, to cover services performed using telemedicine. Requires Director of Department of Consumer and Business Services and Director of Human Services to adopt rules.

A BILL FOR AN ACT

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

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

4 **SECTION 1. As used in section 2 of this 2007 Act:**

5 (1) **"Health care service contractor" has the meaning given that term in ORS 750.005.**

6 (2) **"Health insurer" means a person engaged in the business of entering into policies of**
7 **health insurance as that term is defined in ORS 731.162.**

8 (3) **"Health professional" means a person licensed by a health professional regulatory**
9 **board as that term is defined in ORS 676.160.**

10 (4) **"Medical services contractor" means a person that enters into a medical services**
11 **contract, as defined in ORS 743.801, with a health professional.**

12 (5) **"Telemedicine" means using telecommunications technology to deliver health care,**
13 **including but not limited to clinical diagnosis, clinical services and patient consultation.**
14 **"Telemedicine" includes the practice of medicine across state lines as defined in ORS 677.135.**

15 **SECTION 2. (1) Whenever any policy of health insurance provides for reimbursement for**
16 **a service when performed in person, the insured under the policy is entitled to reimburse-**
17 **ment for the same service performed using telemedicine if:**

18 (a) **The service is within the lawful scope of practice of the licensed health professional**
19 **performing the service;**

20 (b) **Provision of the service using telemedicine is supported by evidence-based medical**
21 **criteria; and**

22 (c) **Provision of the service using telemedicine is medically necessary.**

23 (2) **A health care service performed using telemedicine may be subject to all terms and**
24 **conditions of the policy, including but not limited to a deductible, copayment or coinsurance**
25 **requirement that is applicable to a comparable service performed in an in-person consulta-**
26 **tion.**

27 (3) **The Director of the Department of Consumer and Business Services may adopt rules**
28 **to carry out the purposes of this section that are consistent with rules adopted by the Di-**

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 rector of Human Services under section 3 of this 2007 Act and that further the goals of this
2 section in improving access to health care services in medically underserved areas and im-
3 proving patient access to health care specialists in geographic areas where there is a short-
4 age of such specialists.

5 **SECTION 3.** (1) The Director of Human Services shall adopt rules setting reimbursement
6 rates for telemedicine services performed by health professionals through the state medical
7 assistance program. The reimbursement rates must take into account the cost of technology
8 investments needed to practice telemedicine and may not be less than rates paid for com-
9 parable in-person health care services. Subject to rules adopted by the director under sub-
10 section (2) of this section, the director shall set reimbursement rates under this section as
11 follows:

12 (a) A health professional who is participating at an originating site of a telecommuni-
13 cation transmission, is physically present with the patient and is contemporaneously com-
14 municating and interacting with a health professional at the terminus of the transmission
15 shall be reimbursed at the rate that a health professional is entitled to receive under the
16 state medical assistance program for an office visit.

17 (b) A health professional who communicates with a patient in the course of providing
18 telemedicine services shall be reimbursed at the rate that a health professional is entitled
19 to receive under the state medical assistance program for an in-person consultation, whether
20 the communication is contemporaneous or asynchronous store and forward.

21 (c) A health professional shall be reimbursed for a telemedicine consultation with an-
22 other health professional at the rate that a health professional is entitled to receive under
23 the state medical assistance program for an in-person consultation with another health
24 professional, whether the communication is contemporaneous or asynchronous store and
25 forward.

26 (d) A health professional shall be reimbursed for any health care service provided using
27 telemedicine at the rate that a health professional is entitled to receive under the state
28 medical assistance program for the same service performed in an in-person consultation,
29 whether the communication is contemporaneous or asynchronous store and forward.

30 (2) The director shall adopt rules to further the goals of this section in improving access
31 to health care services in medically underserved areas and improving patient access to
32 health care specialists in geographic areas where there is a shortage of such specialists, in-
33 cluding but not limited to rules:

34 (a) Establishing protocols to ensure that telemedicine services meet minimum standards
35 of care, including that health professionals perform telemedicine services in clinical settings
36 and that clinical records be maintained in accordance with medical community standards;

37 (b) Placing appropriate limits on using telemedicine to provide health care services, in-
38 cluding:

39 (A) Prohibiting the use of telephone or telephone facsimile when videoconference tech-
40 nology is available; and

41 (B) Prohibiting the use of telemedicine when an in-person consultation with an appro-
42 priate health professional is available within a reasonable distance from the location where
43 the patient resides or is employed;

44 (c) Establishing patient confidentiality standards to ensure that telemedicine services
45 meet the legal requirements for protecting health information;

1 (d) Establishing procedures for obtaining informed consent to perform health care ser-
2 vices using telemedicine; and

3 (e) Providing for exceptions to the provisions of this section if the Governor has declared
4 a state of emergency under ORS 401.055 and exceptions are necessary to further the goals
5 of this section.

6 (3) As used in this section:

7 (a) "Asynchronous store and forward" means a telecommunication technique in which
8 information is sent to an intermediate station where it is stored before being sent at a later
9 time to its final destination or to another intermediate station. Each intermediate station
10 verifies the integrity of the information before forwarding it.

11 (b) "Clinical setting" means a hospital, a location where a health professional performs
12 health care services in person, a long term care facility, an intermediate care facility and
13 any other health care facility prescribed by the director by rule.

14 (c) "Health professional" means a person licensed by a health professional regulatory
15 board as that term is defined in ORS 676.160.

16 (d) "Telemedicine" means using telecommunications technology to deliver health care,
17 including but not limited to clinical diagnosis, clinical services and patient consultation.
18 "Telemedicine" includes the practice of medicine across state lines as defined in ORS 677.135.

19 **SECTION 4.** ORS 750.055 is amended to read:

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

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

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

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

30 (d) ORS chapter 734.

31 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
32 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.412, 743.472,
33 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to
34 743.552, 743.556, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.691, 743.693, 743.694, 743.697,
35 743.699, 743.701, 743.706 to 743.712, 743.721, 743.722, 743.726, 743.727, 743.728, 743.729, 743.793,
36 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857,
37 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.866 and 743.868 **and section 2 of this 2007**
38 **Act.**

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

40 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
41 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

45 (i) ORS 735.600 to 735.650.

1 (j) ORS 743.680 to 743.689.

2 (k) ORS 744.700 to 744.740.

3 (L) ORS 743.730 to 743.773.

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

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

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

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

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

18 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
19 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

20 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
21 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
22 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
23 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992.

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

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

28 (d) ORS chapter 734.

29 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
30 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.412, 743.472,
31 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to
32 743.552, 743.556, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.691, 743.693, 743.694, 743.697,
33 743.699, 743.701, 743.706 to 743.712, 743.721, 743.722, 743.727, 743.728, 743.729, 743.793, 743.804,
34 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
35 743.859, 743.861, 743.862, 743.863, 743.864, 743.866 and 743.868 **and section 2 of this 2007 Act.**

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

37 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
38 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

42 (i) ORS 735.600 to 735.650.

43 (j) ORS 743.680 to 743.689.

44 (k) ORS 744.700 to 744.740.

45 (L) ORS 743.730 to 743.773.

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

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

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

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

11 **SECTION 6.** ORS 750.333 is amended to read:

12 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
13 tiple employer welfare arrangement:

14 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
15 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
16 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

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

18 (c) ORS chapter 734.

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

20 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
21 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
22 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
23 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
24 743.864.

25 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
26 743.717, 743.718, 743.719, 743.721, 743.722, 743.725 and 743.726 **and section 2 of this 2007 Act.**
27 Multiple employer welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the
28 sections referred to in this paragraph only as provided in ORS 743.730 to 743.773.

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

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

32 (i) ORS 731.592 and 731.594.

33 (2) For the purposes of this section:

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

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

37 (c) Contributions shall be considered premiums.

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

40 **SECTION 7.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, is amended
41 to read:

42 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
43 tiple employer welfare arrangement:

44 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
45 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,

1 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

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

3 (c) ORS chapter 734.

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

5 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
6 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
7 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
8 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
9 743.864.

10 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
11 743.717, 743.718, 743.719, 743.721, 743.722 and 743.725 **and section 2 of this 2007 Act**. Multiple
12 employer welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the sections
13 referred to in this paragraph only as provided in ORS 743.730 to 743.773.

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

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

17 (i) ORS 731.592 and 731.594.

18 (2) For the purposes of this section:

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

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

22 (c) Contributions shall be considered premiums.

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

25 **SECTION 8.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section 4,
26 chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, and section 6, chapter
27 418, Oregon Laws 2005, is amended to read:

28 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
29 tiple employer welfare arrangement:

30 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
31 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
32 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

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

34 (c) ORS chapter 734.

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

36 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
37 743.600, 743.601, 743.602, 743.610, 743.691, 743.693, 743.694, 743.699, 743.727, 743.728, 743.730 to
38 743.773 (except 743.760 to 743.773), 743.793, 743.801, 743.804, 743.807, 743.808, 743.814 to 743.839,
39 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863 and
40 743.864.

41 (f) ORS 743.556, 743.701, 743.703, 743.706, 743.707, 743.709, 743.710, 743.712, 743.713, 743.714,
42 743.717, 743.718, 743.719, 743.721 and 743.722 **and section 2 of this 2007 Act**. Multiple employer
43 welfare arrangements to which ORS 743.730 to 743.773 apply are subject to the sections referred to
44 in this paragraph only as provided in ORS 743.730 to 743.773.

45 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-

1 ance consultants, and ORS 744.700 to 744.740.

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

3 (i) ORS 731.592 and 731.594.

4 (2) For the purposes of this section:

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

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

8 (c) Contributions shall be considered premiums.

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

11
