

# Senate Bill 1100

Sponsored by Senator ATKINSON; Senators FERRIOLI, G GEORGE, GORDLY, WINTERS (at the request of Dr. Norwood Knight-Richardson) (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

## A BILL FOR AN ACT

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

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

3 **SECTION 1. Sections 2 and 3 of this 2008 Act are added to and made a part of the In-**  
4 **urance Code.**

5 **SECTION 2. As used in section 3 of this 2008 Act:**

6 (1) "Health professional" means a person licensed by a health professional regulatory  
7 board as that term is defined in ORS 676.160.

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

11 **SECTION 3. (1) The goals of this section are to improve access to health care services**  
12 **in medically underserved areas and to improve patient access to health care specialists in**  
13 **geographic areas where there is a shortage of specialists.**

14 (2) A health insurer must reimburse a person insured under a policy of health insurance  
15 for a service provided using telemedicine if:

16 (a) The policy requires reimbursement for the service when provided in person;

17 (b) The service is within the lawful scope of practice of the health professional providing  
18 the service;

19 (c) Providing the service using telemedicine is supported by evidence-based medical cri-  
20 teria; and

21 (d) Providing the service using telemedicine is medically necessary.

22 (3) A health insurer may require that reimbursement for a telemedical service be subject  
23 to all terms and conditions of the policy, including but not limited to a deductible, copayment  
24 or coinsurance requirement that is applicable to reimbursement for a comparable service  
25 provided in person.

26 (4) The Director of the Department of Consumer and Business Services may adopt rules  
27 to carry out the provisions of this section. If the director adopts rules under this subsection,  
28 the rules must be consistent with rules adopted by the Director of Human Services under  
29 section 4 of this 2008 Act.  
30

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       **SECTION 4.** (1) The Director of Human Services by rule shall adopt rates and require-  
2       ments for reimbursing health professionals for telemedical services provided to recipients  
3       of state medical assistance. The rates of reimbursement must take into account the invest-  
4       ments in technology needed to practice telemedicine and may not be less than rates of re-  
5       imbursement for comparable in-person health care services. Subject to rules adopted by the  
6       director under subsection (2) of this section, the director shall establish reimbursement rates  
7       under this subsection as follows:

8       (a) A health professional who is physically present with the patient while  
9       contemporaneously communicating and interacting with another health professional using  
10      telemedicine shall be reimbursed at the rate that a health professional is entitled to receive  
11      under the state medical assistance program for an office visit.

12      (b) A health professional who is not physically present with the patient but is communi-  
13      cating with the patient using telemedicine shall be reimbursed at the rate that a health  
14      professional is entitled to receive under the state medical assistance program for an in-  
15      person consultation.

16      (c) A health professional shall be reimbursed for a telemedical consultation with another  
17      health professional at the rate that a health professional is entitled to receive under the  
18      state medical assistance program for an in-person consultation with another health profes-  
19      sional.

20      (d) A health professional shall be reimbursed for any health care service provided using  
21      telemedicine at the rate that a health professional is entitled to receive under the state  
22      medical assistance program for the same service provided in person.

23      (2) The director shall adopt rules regarding reimbursement for health services provided  
24      in the state medical assistance program that promote access to health care services in  
25      medically underserved areas and improve patient access to health care specialists in ge-  
26      ographic areas where there is a shortage of such specialists, including but not limited to  
27      rules:

28      (a) Establishing protocols to ensure that telemedical services meet minimum standards  
29      of care, including a requirement that health professionals provide telemedical services in a  
30      hospital, a location where a health professional provides health care services in person, a  
31      long term care facility, an intermediate care facility or any other health care facility pre-  
32      scribed by the director by rule, and that clinical records be maintained in accordance with  
33      medical community standards.

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

36      (A) Prohibiting the use of telephone or facsimile when videoconference technology is  
37      available; and

38      (B) Prohibiting the use of telemedicine when an appropriate health professional is avail-  
39      able within a reasonable travel distance from the location where the patient resides or is  
40      employed.

41      (c) Establishing patient confidentiality standards to ensure that telemedical services  
42      meet the legal requirements for protecting health information.

43      (d) Establishing procedures for obtaining informed consent to provide health care ser-  
44      vices using telemedicine.

45      (e) Providing for exceptions to the requirements of this subsection if:

1 **(A) The Governor has declared a state of emergency under ORS 401.055; and**

2 **(B) Exceptions are necessary to further the goals of this section.**

3 **(3) As used in this section:**

4 **(a) "Health professional" has the meaning given that term in section 2 of this 2008 Act.**

5 **(b) "Telemedicine" has the meaning given that term in section 2 of this 2008 Act.**

6 **SECTION 5.** ORS 750.055 is amended to read:

7 750.055. (1) The following provisions of the Insurance Code apply to health care service con-  
8 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

9 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,  
10 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,  
11 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,  
12 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992.

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

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

17 (d) ORS chapter 734.

18 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
19 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,  
20 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,  
21 743.560, 743.600 to 743.610, 743.650 to 743.664, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,  
22 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,  
23 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,  
24 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,  
25 743A.164, 743A.168, 743A.184, 743A.188 and 743A.190 **and section 3 of this 2008 Act.**

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

27 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
28 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

29 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that  
30 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is  
31 referred by a physician associated with a group practice health maintenance organization.

32 (i) ORS 735.600 to 735.650.

33 (j) ORS 743.680 to 743.689.

34 (k) ORS 744.700 to 744.740.

35 (L) ORS 743.730 to 743.773.

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

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

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

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

1       **SECTION 6.** ORS 750.055, as amended by section 7, chapter 137, Oregon Laws 2003, section 3,  
 2 chapter 263, Oregon Laws 2003, sections 501 and 502, chapter 22, Oregon Laws 2005, sections 5 and  
 3 6, chapter 255, Oregon Laws 2005, section 5, chapter 418, Oregon Laws 2005, section 3, chapter 128,  
 4 Oregon Laws 2007, section 9, chapter 182, Oregon Laws 2007, section 6, chapter 313, Oregon Laws  
 5 2007, section 4, chapter 504, Oregon Laws 2007, section 4, chapter 566, Oregon Laws 2007, and sec-  
 6 tion 4, chapter 872, Oregon Laws 2007, is amended to read:

7       750.055. (1) The following provisions of the Insurance Code apply to health care service con-  
 8 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

9       (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,  
 10 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,  
 11 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,  
 12 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992.

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

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

17       (d) ORS chapter 734.

18       (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
 19 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,  
 20 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,  
 21 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,  
 22 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,  
 23 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,  
 24 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,  
 25 743A.164, 743A.168, 743A.184 and 743A.190 **and section 3 of this 2008 Act.**

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

27       (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
 28 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

29       (h) ORS 743A.024, except in the case of group practice health maintenance organizations that  
 30 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is  
 31 referred by a physician associated with a group practice health maintenance organization.

32       (i) ORS 735.600 to 735.650.

33       (j) ORS 743.680 to 743.689.

34       (k) ORS 744.700 to 744.740.

35       (L) ORS 743.730 to 743.773.

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

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

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

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

1       **SECTION 7.** ORS 750.333 is amended to read:

2       750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-  
3       tiple employer welfare arrangement:

4       (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
5       731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
6       731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

7       (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.

8       (c) ORS chapter 734.

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

10       (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,  
11       743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,  
12       743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,  
13       743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110  
14       and 743A.184.

15       (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,  
16       743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180,  
17       743A.188 and 743A.190 **and section 3 of this 2008 Act.** Multiple employer welfare arrangements  
18       to which ORS 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only  
19       as provided in ORS 743.730 to 743.773.

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

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

23       (i) ORS 731.592 and 731.594.

24       (2) For the purposes of this section:

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

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

28       (c) Contributions shall be considered premiums.

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

31       **SECTION 8.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, section 11,  
32       chapter 182, Oregon Laws 2007, section 8, chapter 313, Oregon Laws 2007, section 6, chapter 504,  
33       Oregon Laws 2007, section 6, chapter 566, Oregon Laws 2007, and section 6, chapter 872, Oregon  
34       Laws 2007, is amended to read:

35       750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-  
36       tiple employer welfare arrangement:

37       (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
38       731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
39       731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

40       (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.

41       (c) ORS chapter 734.

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

43       (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,  
44       743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,  
45       743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,

1 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110  
2 and 743A.184.

3 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,  
4 743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180  
5 and 743A.190 **and section 3 of this 2008 Act**. Multiple employer welfare arrangements to which  
6 ORS 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only as pro-  
7 vided in ORS 743.730 to 743.773.

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

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

11 (i) ORS 731.592 and 731.594.

12 (2) For the purposes of this section:

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

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

16 (c) Contributions shall be considered premiums.

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

19 **SECTION 9.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section 4,  
20 chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, section 6, chapter 418,  
21 Oregon Laws 2005, section 12, chapter 182, Oregon Laws 2007, section 9, chapter 313, Oregon Laws  
22 2007, section 7, chapter 504, Oregon Laws 2007, section 7, chapter 566, Oregon Laws 2007, and sec-  
23 tion 7, chapter 872, Oregon Laws 2007, is amended to read:

24 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-  
25 tiple employer welfare arrangement:

26 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
27 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
28 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992.

29 (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.

30 (c) ORS chapter 734.

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

32 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,  
33 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 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, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110  
36 and 743A.184.

37 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,  
38 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180 and  
39 743A.190 **and section 3 of this 2008 Act**. Multiple employer welfare arrangements to which ORS  
40 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only as provided  
41 in ORS 743.730 to 743.773.

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

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

45 (i) ORS 731.592 and 731.594.

1 (2) For the purposes of this section:

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

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

5 (c) Contributions shall be considered premiums.

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

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