

A-Engrossed House Bill 2009

Ordered by the House April 9
Including House Amendments dated April 9

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care)

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.

Establishes Oregon Health Authority Board and Oregon Health Authority and specifies duties, functions and powers. Transfers health *[and health insurance]* functions to authority from Department of Human Services *[and Department of Consumer and Business Services]*.

Creates Quality Care Institute *[and Oregon Health Insurance Exchange]* in Oregon Health Authority. **Directs authority to develop and submit to Legislative Assembly for approval Oregon Health Insurance Exchange plan.**

Expands eligibility for medical assistance. Requires authority to implement premium assistance program. Requires *[authority to streamline]* **Department of Human Services to implement streamlined and simple** application process for medical assistance and premium assistance programs. Requires authority to increase reimbursement rates for health services providers participating in medical assistance *[programs]* **program.** Requires authority to conduct outreach for and marketing of medical assistance and premium assistance programs.

Creates tax on health insurance and managed care plans. Sets fixed rate for hospital assessment and removes sunset. *[Creates new cigarette tax.]* Establishes Oregon Health Authority Fund. Deposits moneys from taxes and assessments into fund. Continuously appropriates moneys in fund to authority for purpose of carrying out functions of authority.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

- 1
- 2 Relating to health care; creating new provisions; amending ORS 25.323, 65.800, 87.533, 90.113, 90.440,
- 3 92.337, 93.270, 97.210, 97.450, 97.977, 105.580, 106.081, 109.094, 109.096, 109.225, 109.251, 109.675,
- 4 109.680, 109.685, 109.695, 110.318, 113.085, 113.105, 113.145, 114.525, 114.535, 115.125, 116.093,
- 5 116.253, 124.050, 125.060, 127.635, 127.646, 127.720, 127.865, 130.370, 130.425, 135.139, 135.917,
- 6 137.227, 137.228, 137.464, 137.466, 137.658, 144.102, 144.270, 161.315, 161.327, 161.336, 161.341,
- 7 161.346, 161.365, 161.370, 161.375, 161.385, 161.390, 165.698, 166.250, 166.291, 166.412, 166.470,
- 8 169.076, 169.690, 179.010, 179.040, 179.050, 179.055, 179.065, 179.105, 179.110, 179.140, 179.150,
- 9 179.210, 179.230, 179.240, 179.321, 179.325, 179.331, 179.360, 179.370, 179.375, 179.380, 179.385,
- 10 179.390, 179.450, 179.460, 179.473, 179.479, 179.490, 179.492, 179.505, 179.509, 179.610, 179.620,
- 11 179.640, 179.653, 179.655, 179.660, 179.701, 179.711, 179.731, 179.740, 179.745, 179.770, 181.537,
- 12 181.637, 182.415, 182.515, 182.535, 184.345, 192.517, 192.519, 192.527, 192.535, 192.537, 192.539,
- 13 192.547, 192.549, 192.630, 197.660, 198.792, 199.461, 199.490, 199.495, 199.512, 222.120, 222.850,
- 14 222.860, 222.870, 222.875, 222.880, 222.883, 222.885, 222.890, 222.897, 222.900, 222.911, 244.050,
- 15 247.570, 276.180, 276.610, 276.612, 278.315, 279A.050, 285A.213, 285B.563, 291.055, 291.371, 314.840,
- 16 315.604, 315.613, 320.308, 332.111, 336.222, 336.227, 336.235, 336.245, 339.333, 339.505, 339.869,
- 17 343.221, 343.499, 343.961, 345.535, 346.015, 346.035, 348.320, 351.105, 352.008, 401.259, 401.300,
- 18 401.347, 401.654, 401.657, 401.661, 401.667, 401.670, 401.871, 408.305, 408.310, 408.320, 408.325,
- 19 408.380, 408.570, 408.580, 409.010, 409.320, 409.330, 409.410, 409.420, 409.425, 409.430, 409.435,

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.

1 409.500, 409.520, 409.530, 409.540, 409.600, 409.619, 409.621, 409.623, 409.625, 409.720, 409.740,
 2 409.745, 409.747, 411.095, 411.620, 411.708, 414.025, 414.033, 414.034, 414.042, 414.047, 414.049,
 3 414.051, 414.055, 414.057, 414.065, 414.073, 414.105, 414.106, 414.109, 414.115, 414.125, 414.135,
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 8 414.735, 414.736, 414.737, 414.738, 414.739, 414.740, 414.741, 414.742, 414.743, 414.750, 414.751,
 9 414.805, 414.807, 414.815, 414.839, 416.430, 416.510, 416.530, 416.540, 416.550, 416.560, 416.570,
 10 416.580, 416.590, 416.600, 416.610, 416.990, 417.345, 417.346, 417.728, 417.730, 417.735, 417.795,
 11 417.845, 419B.005, 419B.839, 419C.239, 419C.443, 419C.507, 419C.529, 419C.530, 419C.532, 419C.533,
 12 419C.538, 419C.542, 420.505, 420.870, 420A.135, 420A.145, 420A.155, 421.504, 426.005, 426.010,
 13 426.020, 426.060, 426.070, 426.072, 426.074, 426.075, 426.095, 426.110, 426.120, 426.127, 426.130,
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 15 426.233, 426.234, 426.235, 426.236, 426.237, 426.238, 426.241, 426.250, 426.273, 426.275, 426.278,
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 20 430.030, 430.050, 430.071, 430.073, 430.078, 430.140, 430.160, 430.165, 430.170, 430.195, 430.205,
 21 430.210, 430.215, 430.240, 430.255, 430.257, 430.259, 430.265, 430.270, 430.290, 430.306, 430.315,
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 35 433.006, 433.008, 433.010, 433.012, 433.017, 433.035, 433.040, 433.045, 433.055, 433.060, 433.065,
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 37 433.245, 433.255, 433.260, 433.267, 433.269, 433.271, 433.273, 433.285, 433.290, 433.295, 433.312,
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 42 438.130, 438.140, 438.150, 438.160, 438.210, 438.310, 438.320, 438.420, 438.435, 438.440, 438.450,
 43 438.605, 438.610, 438.615, 438.620, 440.420, 441.017, 441.020, 441.022, 441.025, 441.030, 441.037,
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 7 446.321, 446.322, 446.324, 446.325, 446.330, 446.335, 446.340, 446.345, 446.347, 446.348, 446.350,
 8 446.425, 447.124, 448.005, 448.011, 448.020, 448.030, 448.035, 448.037, 448.040, 448.051, 448.060,
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 14 453.225, 453.235, 453.245, 453.255, 453.265, 453.342, 453.347, 453.370, 453.605, 453.635, 453.645,
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 16 453.771, 453.775, 453.780, 453.785, 453.790, 453.795, 453.800, 453.805, 453.807, 453.864, 453.867,
 17 453.870, 453.873, 453.876, 453.879, 453.885, 453.888, 453.891, 453.894, 453.897, 453.900, 453.903,
 18 453.909, 453.995, 454.235, 455.680, 458.525, 458.532, 459.386, 459.390, 459.395, 466.135, 466.280,
 19 466.605, 466.615, 468.035, 468.055, 468.060, 468A.707, 468B.150, 469.525, 469.533, 469.559, 469.611,
 20 471.190, 471.235, 471.333, 471.432, 471.547, 471.732, 475.225, 475.302, 475.303, 475.304, 475.306,
 21 475.309, 475.312, 475.316, 475.320, 475.331, 475.334, 475.338, 475.565, 476.030, 478.260, 479.215,
 22 479.217, 479.220, 480.225, 497.162, 527.710, 537.532, 537.534, 541.845, 545.101, 547.045, 561.740,
 23 609.652, 616.010, 616.015, 616.020, 616.077, 616.330, 616.711, 616.745, 619.095, 624.010, 624.020,
 24 624.036, 624.041, 624.046, 624.051, 624.060, 624.070, 624.073, 624.077, 624.080, 624.086, 624.091,
 25 624.096, 624.106, 624.111, 624.116, 624.121, 624.165, 624.310, 624.320, 624.330, 624.340, 624.370,
 26 624.380, 624.390, 624.400, 624.410, 624.430, 624.490, 624.495, 624.510, 624.530, 624.550, 624.570,
 27 624.630, 624.650, 624.670, 624.990, 624.992, 628.270, 634.550, 656.319, 657.010, 657.880, 657.885,
 28 657A.260, 657A.400, 657A.410, 657A.420, 675.360, 675.365, 676.160, 677.290, 677.491, 677.510,
 29 677.515, 677.805, 677.812, 678.153, 678.362, 678.440, 678.730, 680.205, 682.017, 682.019, 682.025,
 30 682.028, 682.031, 682.039, 682.045, 682.047, 682.051, 682.056, 682.062, 682.068, 682.075, 682.079,
 31 682.085, 682.105, 682.107, 682.109, 682.111, 682.117, 682.208, 682.212, 682.216, 682.220, 682.224,
 32 682.245, 682.991, 685.055, 685.160, 688.545, 688.595, 688.625, 688.630, 688.635, 688.640, 688.645,
 33 688.650, 688.655, 688.660, 688.665, 689.605, 689.645, 690.055, 690.057, 690.205, 691.405, 691.485,
 34 692.300, 693.115, 701.505, 708A.430, 722.262, 723.466, 731.216, 731.276, 731.840, 735.610, 735.612,
 35 735.614, 735.630, 735.700, 735.701, 735.706, 735.722, 735.734, 735.754, 735.756, 743.736, 743.737,
 36 743.745, 743.760, 743.767, 743.807, 743.814, 743.817, 743.831, 802.250, 807.720, 813.021, 813.025,
 37 813.030, 813.240, 813.260, 813.270, 813.500, 815.260, 820.330, 820.360, 820.380 and 830.110 and
 38 sections 13 and 14, chapter 653, Oregon Laws 1991, section 6, chapter 1059, Oregon Laws 1999,
 39 section 2, chapter 798, Oregon Laws 2001, section 2, chapter 76, Oregon Laws 2003, sections 1,
 40 2, 5, 8, 10, 14 and 51, chapter 736, Oregon Laws 2003, section 18, chapter 810, Oregon Laws 2003,
 41 section 2, chapter 460, Oregon Laws 2007, section 2, chapter 665, Oregon Laws 2007, sections
 42 3 and 4, chapter 838, Oregon Laws 2007, section 2a, chapter 872, Oregon Laws 2007, sections
 43 15 and 21, chapter 18, Oregon Laws 2008, and section 2, chapter 31, Oregon Laws 2008; repeal-
 44 ing ORS 414.019, 414.021, 414.022, 414.023, 414.024, 414.031, 414.032, 414.036, 414.038, 414.039,
 45 414.085, 414.107, 414.660, 414.670, 414.744, 430.180, 430.190, 445.270 and 735.706 and sections 4,

1 9, 12 and 13, chapter 736, Oregon Laws 2003, and sections 10 and 13, chapter 810, Oregon Laws
2 2003; appropriating money; prescribing an effective date; and providing for revenue raising that
3 requires approval by a three-fifths majority.

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

5
6 **HEALTH AUTHORITY LAW**

7
8 **ESTABLISHING OREGON HEALTH AUTHORITY BOARD**

9
10 **(Establishment; Appointment; Term; Confirmation; Per Diem)**

11
12 **SECTION 1.** (1) There is established the Oregon Health Authority Board, consisting of
13 nine members appointed by the Governor.

14 (2) The term of office of each member is four years, but a member serves at the pleasure
15 of the Governor. Before the expiration of the term of a member, the Governor shall appoint
16 a successor whose term begins on January 1 next following. A member is eligible for reap-
17 pointment. If there is a vacancy for any cause, the Governor shall make an appointment to
18 become immediately effective for the unexpired term.

19 (3) The appointment of the board is subject to confirmation by the Senate in the manner
20 prescribed in ORS 171.562 and 171.565.

21 (4) Members of the board are entitled to reimbursement of per diem expenses for their
22 attendance at board meetings and subcommittee meetings. Reimbursement of per diem ex-
23 penses under this subsection is not subject to ORS 292.495 and shall be established by the
24 board.

25 **SECTION 2.** Notwithstanding the term of office specified by section 1 of this 2009 Act,
26 of the members first appointed to the Oregon Health Authority Board:

27 (1) Two shall serve for terms ending December 31, 2011.

28 (2) Two shall serve for terms ending December 31, 2012.

29 (3) Two shall serve for terms ending December 31, 2013.

30 (4) Three shall serve for terms ending December 31, 2014.

31 **SECTION 3.** The members of the Oregon Health Authority Board may be appointed be-
32 fore the operative date specified in section 1164 of this 2009 Act and may take any action
33 before that date that is necessary to enable the board to exercise, on and after the operative
34 date specified in section 1164 of this 2009 Act, the duties, functions and powers of the board
35 pursuant to section 9 of this 2009 Act.

36
37 **(Qualification of Members)**

38
39 **SECTION 4.** (1) The Oregon Health Authority Board consists of individuals who:

40 (a) Are United States citizens and residents of this state;

41 (b) Have demonstrated leadership skills in their professional and civic lives;

42 (c) To the greatest extent practicable, represent the various geographic, ethnic, gender,
43 racial and economic diversity of this state; and

44 (d) Collectively offer expertise, knowledge and experience in consumer advocacy, man-
45 agement of a company that offers health insurance to its employees, public health, finance,

1 organized labor, health care and the operation of a small business.

2 (2) No more than four members of the board may be individuals:

3 (a) Whose household incomes, during the individuals' tenure on the board or during the
4 12-month period prior to the individuals' appointment to the board, come from health care
5 or from a health care related field; or

6 (b) Who receive health care benefits from a publicly funded state health benefit plan.

7 (3) No more than four members of the board may be, during the individuals' tenure on
8 the board or during the 12-month period prior to the individuals' appointment to the board,
9 employed in a health care or health care related field.

10 (4) At least one member of the board shall have an active license to provide health care
11 in Oregon and shall be appointed to serve in addition to the members offering the expertise,
12 knowledge and experience described in subsection (1)(d) of this section.

13
14 (Officers; Quorum; Meetings)

15
16 **SECTION 5.** (1) The Governor shall select from the membership of the Oregon Health
17 Authority Board the chairperson and vice chairperson.

18 (2) A majority of the members of the board constitutes a quorum for the transaction of
19 business.

20 (3) The board shall meet at least once every month and shall meet at least once every
21 two years in each congressional district in this state, at a place, day and hour determined
22 by the board. The board may also meet at other times and places specified by the call of the
23 chairperson or a majority of the members of the board, or as specified in bylaws adopted by
24 the board.

25
26 (Authority to Adopt Rules)

27
28 **SECTION 6.** In accordance with applicable provisions of ORS chapter 183, the Oregon
29 Health Authority Board may adopt rules necessary for the administration of the laws that
30 the board is charged with administering.

31
32 (Committees)

33
34 **SECTION 7.** (1) The Oregon Health Authority Board shall establish the committees de-
35 scribed in subsections (2) and (3) of this section.

36 (2)(a) The Public Health Benefit Purchasers Committee shall include individuals who
37 purchase health care for the following:

38 (A) The Public Employees' Benefit Board.

39 (B) The Oregon Educators Benefit Board.

40 (C) Trustees of the Public Employees Retirement System.

41 (D) A city government.

42 (E) A county government.

43 (F) A special district.

44 (G) Any private nonprofit organization that receives the majority of its funding from the
45 state and requests to participate on the committee.

1 (b) The Public Health Benefit Purchasers Committee shall:

2 (A) Identify and make specific recommendations to achieve uniformity across all public
3 health benefit plan designs based on the best available clinical evidence, recognized best
4 practices for health promotion and disease management, demonstrated cost-effectiveness
5 and shared demographics among the enrollees within the pools covered by the benefit plans.

6 (B) Develop an action plan for ongoing collaboration to implement the benefit design
7 alignment described in subparagraph (A) of this paragraph and shall leverage purchasing to
8 achieve benefit uniformity if practicable.

9 (C) Continuously review and report to the Oregon Health Authority Board on the com-
10 mittee's progress in aligning benefits while minimizing the cost shift to individual purchasers
11 of insurance without shifting costs to the private sector or the Oregon Health Insurance
12 Exchange.

13 (c) The Oregon Health Authority Board shall work with the Public Health Benefit Pur-
14 chasers Committee to identify uniform provisions for state and local public contracts for
15 health benefit plans that achieve maximum quality and cost outcomes. The board shall col-
16 laborate with the committee to develop steps to implement joint contract provisions. The
17 committee shall identify a schedule for the implementation of contract changes. The process
18 for implementation of joint contract provisions must include a review process to protect
19 against unintended cost shifts to enrollees or agencies.

20 (d) Proposals and plans developed in accordance with this subsection shall be completed
21 by October 1, 2010, and shall be submitted to the Oregon Health Authority Board for its ap-
22 proval and possible referral to the Legislative Assembly no later than December 31, 2010.

23 (3)(a) The Health Care Workforce Committee shall include individuals who have the col-
24 lective expertise, knowledge and experience in a broad range of health professions, health
25 care education and health care workforce development initiatives.

26 (b) The Health Care Workforce Committee shall coordinate efforts to recruit and educate
27 health care professionals and retain a quality workforce to meet the demand that will be
28 created by the expansion in health care coverage, system transformations and an increas-
29 ingly diverse population.

30 (4) Members of the committees described in subsections (2) and (3) of this section who
31 are not members of the Oregon Health Authority Board are not entitled to compensation but
32 shall be reimbursed from funds available to the board for actual and necessary travel and
33 other expenses incurred by them by their attendance at committee meetings, in the manner
34 and amount provided in ORS 292.495.

35
36 (Advisory and Technical Committees)

37
38 **SECTION 8.** (1) The Oregon Health Authority Board may establish such advisory and
39 technical committees as the board considers necessary to aid and advise the board in the
40 performance of the board's functions. These committees may be continuing or temporary
41 committees. The board shall determine the representation, membership, terms and organ-
42 ization of the committees and shall appoint the members of the committees.

43 (2) Members of the committees who are not members of the board are not entitled to
44 compensation, but at the discretion of the board may be reimbursed from funds available to
45 the board for actual and necessary travel and other expenses incurred by them in the per-

1 **formance of their official duties, in the manner and amount provided in ORS 292.495.**

2
3 **(Duties)**
4

5 **SECTION 9. (1) The duties of the Oregon Health Authority Board are to:**

6 **(a) Be the policy-making and oversight body for the Oregon Health Authority established**
7 **in section 10 of this 2009 Act and all of the authority's departmental divisions, including the**
8 **Quality Care Institute and the Oregon Health Insurance Exchange described in sections 17a**
9 **and 17b of this 2009 Act.**

10 **(b) Develop and submit a plan to the Legislative Assembly by December 31, 2010, to pro-**
11 **vide and fund access to affordable, quality health care for all Oregonians by 2015.**

12 **(c) Develop a program to provide health insurance premium assistance to all low and**
13 **moderate income individuals who are legal residents of Oregon.**

14 **(d) Establish and continuously refine uniform, statewide health care quality standards for**
15 **use by all purchasers of health care, third-party payers and health care providers as quality**
16 **performance benchmarks.**

17 **(e) Establish evidence-based clinical standards and practice guidelines that may be used**
18 **by providers.**

19 **(f) Approve and monitor community-centered health initiatives described in section 10**
20 **(1)(g) of this 2009 Act that are consistent with public health goals, strategies, programs and**
21 **performance standards adopted by the Oregon Health Authority Board to improve the health**
22 **of all Oregonians, and shall regularly report to the Legislative Assembly on the accomplish-**
23 **ments and needed changes to the initiatives.**

24 **(g) Establish cost containment mechanisms to reduce health care costs.**

25 **(h) Ensure that Oregon's health care workforce is sufficient in numbers and training to**
26 **meet the demand that will be created by the expansion in health coverage, health care sys-**
27 **tem transformations, an increasingly diverse population and an aging workforce.**

28 **(i) Work with the Oregon congressional delegation to advance the adoption of changes in**
29 **federal law or policy to promote Oregon's comprehensive health reform plan.**

30 **(j) Establish a health benefit package in accordance with section 16 of this 2009 Act to**
31 **be used as the baseline for all health benefit plans offered through the Oregon Health In-**
32 **surance Exchange.**

33 **(k) Approve policies and procedures for the Oregon Health Insurance Exchange developed**
34 **in accordance with section 17b of this 2009 Act.**

35 **(L) By December 31, 2010, develop a publicly owned health benefit plan that operates in**
36 **the exchange under the same rules and regulations as all health insurance plans offered**
37 **through the exchange and report to the Legislative Assembly on the plan.**

38 **(m) By December 31, 2010, investigate and report to the Legislative Assembly, and an-**
39 **nually thereafter, on the feasibility and advisability of future changes to the health insurance**
40 **market in Oregon, including but not limited to the following:**

41 **(A) A requirement for every resident to have health insurance coverage.**

42 **(B) A payroll tax as a means to encourage employers to continue providing health in-**
43 **surance to their employees.**

44 **(C) Expansion of the exchange to include a program of premium assistance and to ad-**
45 **vance reforms of the insurance market.**

1 (D) The implementation of a system of interoperable electronic health records utilized
2 by all health care providers in this state.

3 (2) The Oregon Health Authority Board is authorized to:

4 (a) Subject to the approval of the Governor, organize and reorganize the authority as the
5 board considers necessary to properly conduct the work of the authority.

6 (b) Submit directly to the Legislative Counsel, no later than October 1 of each even-
7 numbered year, requests for measures necessary to provide statutory authorization to carry
8 out any of the board's duties or to implement any of the board's recommendations. The
9 measures may be filed prior to the beginning of the legislative session in accordance with the
10 rules of the House of Representatives and the Senate.

11 (3) If the board or the authority is unable to perform, in whole or in part, any of the
12 duties described in sections 1 to 18 of this 2009 Act without federal approval, the board is
13 authorized to request waivers or other approval necessary to perform those duties. The
14 board shall implement any portions of those duties not requiring legislative authority or
15 federal approval, to the extent practicable.

16 (4) The enumeration of duties, functions and powers in this section is not intended to be
17 exclusive nor to limit the duties, functions and powers imposed on the board by sections 1
18 to 18 of this 2009 Act and by other statutes.

19
20 **ESTABLISHING OREGON HEALTH AUTHORITY**

21
22 **(Establishment; Duties; Powers)**

23
24 **SECTION 10.** (1) The Oregon Health Authority is established. The authority shall:

25 (a) Carry out policies adopted by the Oregon Health Authority Board;

26 (b) Establish the Quality Care Institute created by section 17a of this 2009 Act;

27 (c) Develop a plan for the Oregon Health Insurance Exchange in accordance with section
28 17b of this 2009 Act;

29 (d) Administer the Oregon Prescription Drug Program;

30 (e) Administer the Family Health Insurance Assistance Program;

31 (f) Provide regular reports to the board with respect to the performance of health ser-
32 vices contractors serving recipients of medical assistance, including reports of trends in
33 health services and enrollee satisfaction;

34 (g) Guide and support, with the authorization of the board, community-centered health
35 initiatives designed to address critical behavioral risk factors, especially those that contrib-
36 ute to chronic disease;

37 (h) Be the state Medicaid agency for the administration of funds from Titles XIX and
38 XXI of the Social Security Act and administer medical assistance under ORS chapter 414;
39 and

40 (i) In consultation with the Director of the Department of Consumer and Business Ser-
41 vices, adopt by rule standards and methodologies for:

42 (A) Reviewing administrative expenses of health insurers;

43 (B) Approving health insurance premium rates; and

44 (C) Enforcing rules adopted under this paragraph.

45 (2) The Oregon Health Authority is authorized to:

1 (a) Create an all-claims database to collect health care data and monitor and evaluate
2 health care reform in Oregon and to provide comparative cost and quality information to
3 consumers, providers and purchasers of health care about Oregon's health care systems and
4 health plan networks in order to provide comparative information to consumers.

5 (b) Develop uniform contracting standards for the purchase of health care, including the
6 following:

7 (A) Uniform quality performance measures;

8 (B) Evidence-based guidelines for major chronic disease management and health care
9 services with unexplained variations in frequency or cost;

10 (C) Evidence-based effectiveness guidelines for select new technologies and medical
11 equipment; and

12 (D) A statewide drug formulary for use by publicly funded health benefit plans.

13 (c) Submit directly to the Legislative Counsel, no later than October 1 of each even-
14 numbered year, requests for measures necessary to provide statutory authorization to carry
15 out any of the authority's duties or to implement any of the board's recommendations. The
16 measures may be filed prior to the beginning of the legislative session in accordance with the
17 rules of the House of Representatives and the Senate.

18 (3) The enumeration of duties, functions and powers in this section is not intended to be
19 exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon
20 Health Authority by sections 1 to 18 of this 2009 Act or by other statutes.

21
22 (Director)

23
24 SECTION 11. (1) The Oregon Health Authority is under the supervision and control of a
25 director, who is responsible for the performance of the duties, functions and powers of the
26 authority.

27 (2) The Governor shall appoint the Director of the Oregon Health Authority, who holds
28 office at the pleasure of the Governor. The appointment of the director shall be subject to
29 confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

30 SECTION 12. The Director of the Oregon Health Authority may be appointed before the
31 operative date specified in section 1164 of this 2009 Act and may take any action before that
32 date that is necessary to enable the director to exercise, on and after the operative date
33 specified in section 1164 of this 2009 Act, the duties, functions and powers of the director
34 pursuant to sections 1 to 18 of this 2009 Act.

35
36 (Deputy Directors)

37
38 SECTION 13. (1) The Director of the Oregon Health Authority may, by written order filed
39 with the Secretary of State, appoint deputy directors. A deputy director serves at the
40 pleasure of the director, has authority to act for the director in the absence of the director
41 and is subject to the control of the director at all times.

42 (2) The director and any deputy directors shall receive such salary as may be provided
43 by law or as fixed by the Governor. In addition to salaries, the director and deputy directors,
44 subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable
45 expenses necessarily incurred in the performance of official duties.

1 (3) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all
2 subordinate officers and employees of the Oregon Health Authority, prescribe their duties
3 and fix their compensation.

4
5 (General Authority to Adopt Rules)

6
7 **SECTION 14.** In accordance with applicable provisions of ORS chapter 183, the Director
8 of the Oregon Health Authority may adopt rules necessary for the administration of the laws
9 that the Oregon Health Authority is charged with administering.

10
11 (Oaths, Depositions and Subpoenas)

12
13 **SECTION 15.** The Director of the Oregon Health Authority, each deputy director and
14 authorized representatives of the director may administer oaths, take depositions and issue
15 subpoenas to compel the attendance of witnesses and the production of documents or other
16 written information necessary to carry out the provisions of sections 1 to 18 of this 2009 Act.
17 If any person fails to comply with a subpoena issued under this section or refuses to testify
18 on matters on which the person lawfully may be interrogated, the director, deputy director
19 or authorized representative may follow the procedure set out in ORS 183.440 to compel
20 obedience.

21
22 (Baseline Health Benefit Package)

23
24 **SECTION 16.** The Oregon Health Authority, in developing and offering the health benefit
25 package required by section 9 (1)(j) of this 2009 Act, may not establish policies or procedures
26 that discourage insurers from offering more comprehensive health benefit plans that provide
27 greater consumer choice at a higher cost. The health benefit package developed by the board
28 shall:

29 (1) Promote the provision of services through an integrated health home model that re-
30 duces unnecessary hospitalizations and emergency department visits.

31 (2) Require little or no cost sharing for evidence-based preventive care and services, such
32 as care and services that have been shown to prevent acute exacerbations of disease symp-
33 toms in individuals with chronic illnesses.

34 (3) Create incentives for individuals to actively participate in their own health care and
35 to maintain or improve their health status.

36 (4) Require a greater contribution by an enrollee to the cost of elective or discretionary
37 health services.

38 (5) Include a defined set of health care services that are affordable, financially
39 sustainable and based upon the prioritized list of health services developed and updated by
40 the Health Services Commission under ORS 414.720.

41
42 **ESTABLISHING DEPARTMENTAL ENTITIES WITHIN**
43 **OREGON HEALTH AUTHORITY**

44
45 (Quality Care Institute)

1 **SECTION 17a.** (1) The Quality Care Institute is created within the Oregon Health Au-
2 thority.

3 (2) The institute shall develop, for the Oregon Health Authority Board, uniform statewide
4 health care quality standards that are designed for use by purchasers, third-party payers and
5 health care providers as the quality performance benchmarks in Oregon. The board shall
6 report to the Legislative Assembly no later than December 31, 2010, on the uniform statewide
7 health care quality standards and shall make any recommendations for legislative changes
8 necessary to implement the standards.

9
10 (Oregon Health Insurance Exchange)

11
12 **SECTION 17b.** (1) The Oregon Health Authority, in consultation with the Director of the
13 Department of Consumer and Business Services, shall develop a plan for the staffing, funding
14 and administration of the Oregon Health Insurance Exchange within the Oregon Health Au-
15 thority. The plan shall set forth the duties and responsibilities of the exchange, which:

16 (a) Shall include all of the following:

17 (A) The selection and pricing of benefit plans to be offered through the exchange, in-
18 cluding the health benefit package developed under section 9 (1)(j) of this 2009 Act. The plans
19 shall include a range of price, copayment and deductible options.

20 (B) The rating and underwriting standards applicable to the exchange, including whether
21 to incorporate community rating and guaranteed issue.

22 (C) Determining the role of the Public Employees' Benefit Board, the Oregon Educators
23 Benefit Board and other public purchasers, including state-funded private nonprofit organ-
24 izations.

25 (D) The development of a transition period for the rollover of individual policies into the
26 exchange.

27 (E) Enforcement of the rules governing the sale of insurance within the exchange.

28 (F) Identifying the role of insurance producers.

29 (G) Providing benefit plans through the exchange at little or no cost to low income indi-
30 viduals.

31 (H) Maximizing the role of private insurance plans in the development of benefit packages
32 offered through the exchange.

33 (b) May include the following:

34 (A) Establishing criteria for the selection of insurance carriers to participate in the ex-
35 change.

36 (B) Establishing a requirement that all residents of this state have health care coverage.

37 (C) Determining whether the exchange should be the exclusive market for individual and
38 small group purchasers, or whether such purchasers will continue to have other options to
39 obtain coverage.

40 (D) Determining whether and how to use health savings accounts.

41 (E) Determining whether and how to use high deductible plans.

42 (F) Determining the extent to which it is permissible under the Internal Revenue Code
43 to pay premiums, deductibles and copayments on a pretax basis.

44 (G) Determining the need to develop and implement a reinsurance program.

45 (2) The Oregon Health Authority shall submit the plan developed under this section to

1 the Oregon Health Authority Board for approval.

2 (3) No later than October 1, 2010, the board shall submit a request to Legislative Counsel
3 pursuant to section 9 (2)(b) of this 2009 Act for a measure to implement the plan.

4
5 (Establishment of Oregon Health Authority Fund)

6
7 **SECTION 18.** The Oregon Health Authority Fund is established in the State Treasury,
8 separate and distinct from the General Fund. Interest earned by the Oregon Health Au-
9 thority Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
10 to the Oregon Health Authority for the following purposes:

11 (1) Increasing reimbursement rates of providers of health care to recipients of medical
12 assistance.

13 (2) Maintaining or expanding the number of individuals participating in or the coverage
14 or services provided by the medical assistance program.

15 (3) Paying the costs associated with administering the assessments imposed under
16 sections 37 and 40 of this 2009 Act and section 2, chapter 736, Oregon Laws 2003.

17 (4) Reimbursing the General Fund for reductions in revenue caused by the effect of sec-
18 tion 37 of this 2009 Act on the retaliatory tax imposed under ORS 731.854 and 731.859.

19 (5) Paying the costs of carrying out the duties, functions and powers of the authority
20 under section 10 of this 2009 Act.

21
22 **TRANSFER OF FUNCTIONS TO OREGON HEALTH AUTHORITY**

23
24 (Duties, Functions and Powers)

25
26 **SECTION 19.** (1)(a) Except as provided in paragraph (b) of this subsection, all of the du-
27 ties, functions and powers of the Department of Human Services with respect to health and
28 health care are imposed upon, transferred to and vested in the Oregon Health Authority,
29 including but not limited to:

30 (A) Developing the policies for and the provision of publicly funded medical care and
31 medical assistance in this state.

32 (B) Ensuring the promotion and protection of public health and the licensing of health
33 care facilities.

34 (C) Developing the policies for and the provision of mental health treatment and treat-
35 ment for substance use disorders.

36 (D) The administration of the Oregon Prescription Drug Program.

37 (E) Responsibility for the Office for Oregon Health Policy and Research and all of the
38 functions of the office.

39 (b) The department shall retain the duties, functions and powers with respect to the el-
40 igibility determination process for individuals applying for medical assistance and with re-
41 spect to policies for and the delivery of social services other than health care and medical
42 assistance to individuals:

43 (A) In long term care;

44 (B) In home-based and community-based care;

45 (C) In residential facility care for seniors;

- 1 (D) With physical disabilities; and
- 2 (E) With developmental disabilities.

3 (2) All duties, functions and powers of the Oregon Department of Administrative Services
4 with respect to the Public Employees' Benefit Board, the Oregon Educators Benefit Board,
5 the Office of Private Health Partnerships and the Family Health Insurance Assistance Pro-
6 gram are imposed upon, transferred to and vested in the Oregon Health Authority.

7 (3) All of the duties, functions and powers of the Department of Consumer and Business
8 Services with respect to the Oregon Medical Insurance Pool Board and the operation of the
9 Oregon Medical Insurance Pool are imposed upon, transferred to and vested in the Oregon
10 Health Authority.

11 (4) The Oregon Health Policy Commission is abolished. On the operative date of this
12 section, the tenure of office of the members of the Oregon Health Policy Commission ceases.
13 All the duties, functions and powers of the Oregon Health Policy Commission are imposed
14 upon, transferred to and vested in the Oregon Health Authority.

15 (5) The directors of the Department of Human Services, the Oregon Department of Ad-
16 ministrative Services and the Department of Consumer and Business Services shall work
17 together to establish a timeline and to implement the transfer of duties, functions and pow-
18 ers pursuant to this section.

19 (6) All changes necessary to accomplish this section shall be completed by June 30, 2011.
20 When developing the 2011-2013 biennial budget, the Governor shall reflect the completion of
21 this section.

22 **SECTION 20.** (1) No later than June 1, 2011, the Department of Human Services, the
23 Oregon Department of Administrative Services and the Department of Consumer and Busi-
24 ness Services shall:

25 (a) Deliver to the Oregon Health Authority all records and property within the jurisdic-
26 tion of the department that relate to the duties, functions and powers transferred by section
27 19 of this 2009 Act; and

28 (b) Transfer to the Oregon Health Authority those employees engaged primarily in the
29 exercise of the duties, functions and powers transferred by section 19 of this 2009 Act.

30 (2) The Director of the Oregon Health Authority shall take possession of the records and
31 property, and shall take charge of the employees and employ them in the exercise of the
32 duties, functions and powers transferred by section 19 of this 2009 Act, without reduction
33 of compensation but subject to change or termination of employment or compensation as
34 provided by law.

35 (3) The Governor shall resolve any dispute between the Department of Human Services,
36 the Department of Consumer and Business Services or the Oregon Department of Adminis-
37 trative Services and the Oregon Health Authority relating to transfers of records, property
38 and employees under this section, and the Governor's decision is final.

39
40 (Effect on Actions, Proceedings and Prosecutions)

41
42 **SECTION 20a.** The transfer of duties, functions and powers to the Oregon Health Au-
43 thority by section 19 of this 2009 Act does not affect any action, proceeding or prosecution
44 involving or with respect to such duties, functions and powers begun before and pending at
45 the time of the transfer, except that the Oregon Health Authority is substituted for the

1 Department of Human Services, the Oregon Department of Administrative Services, the
2 Department of Consumer and Business Services or the Oregon Health Policy Commission in
3 the action, proceeding or prosecution.

4
5 (Effect on Liabilities, Duties and Obligations)
6

7 **SECTION 21.** (1) Nothing in sections 19 to 20a of this 2009 Act relieves a person of a li-
8 ability, duty or obligation accruing under or with respect to the duties, functions and powers
9 transferred by section 19 of this 2009 Act. The Oregon Health Authority may undertake the
10 collection or enforcement of any such liability, duty or obligation.

11 (2) The rights and obligations of the Department of Human Services, the Oregon De-
12 partment of Administrative Services and the Department of Consumer and Business Services
13 legally incurred under contracts, leases and business transactions executed, entered into or
14 begun before the operative date of section 19 of this 2009 Act and with respect to the duties,
15 functions and powers transferred by section 19 of this 2009 Act are transferred to the Oregon
16 Health Authority. For the purpose of succession to these rights and obligations, the Oregon
17 Health Authority is a continuation of the Department of Human Services, the Oregon De-
18 partment of Administrative Services and the Department of Consumer and Business Services
19 and not a new authority.

20 **SECTION 22.** Whenever, in any uncodified law or resolution of the Legislative Assembly
21 or in any rule, document, record or proceeding authorized by the Legislative Assembly, ref-
22 erence is made to the Department of Human Services, the Oregon Department of Adminis-
23 trative Services, the Department of Consumer and Business Services or the Oregon Health
24 Policy Commission or an executive, officer or employee of the departments or commission,
25 with respect to the duties, functions and powers transferred by section 19 of this 2009 Act,
26 the reference is considered to be a reference to the Oregon Health Authority Board, the
27 Oregon Health Authority or an executive, officer or employee of the Oregon Health Author-
28 ity.

29
30 **NO RESTRAINT OF TRADE**
31

32 **SECTION 23.** The activities of insurers participating in the Oregon Health Insurance
33 Exchange created in accordance with section 17b of this 2009 Act that are conducted under
34 the direction of the Oregon Health Authority do not constitute a conspiracy or restraint of
35 trade or an illegal monopoly, nor are they carried out for the purposes of lessening compe-
36 tition or fixing prices arbitrarily.

37
38 **EXPANSION OF MEDICAL ASSISTANCE**
39

40 **SECTION 24.** (1) The Oregon Health Authority is responsible for statewide outreach and
41 marketing of the medical assistance and premium assistance programs administered by the
42 authority with the goal of enrolling in those programs all eligible individuals residing in this
43 state.

44 (2) To maximize the enrollment and retention of eligible individuals in the medical as-
45 sistance and premium assistance programs, the authority shall develop and administer a

1 grant program to provide funding to organizations and community-based groups to deliver
2 culturally specific and targeted outreach and direct application assistance to:

3 (a) Members of racial, ethnic and language minority communities;

4 (b) Individuals living in geographic isolation; and

5 (c) Individuals with additional barriers to accessing health care such as individuals with
6 cognitive, mental health or sensory disorders, physical disabilities or chemical dependency
7 or individuals experiencing homelessness.

8 **SECTION 25.** (1) The Department of Human Services shall implement a streamlined and
9 simple application process for the medical assistance and premium assistance programs ad-
10 ministered by the Oregon Health Authority. The process shall include, but not be limited to:

11 (a) An online application that may be submitted via the Internet;

12 (b) Application forms that are readable at a 6th grade level and request the minimum
13 amount of information necessary to begin processing the application; and

14 (c) Application assistance from qualified staff to aid individuals who have language, cog-
15 nitive, physical or geographic barriers to applying for medical assistance.

16 (2) In developing the simplified forms, the department shall consult with persons not
17 employed by the department who have experience in serving vulnerable and hard-to-reach
18 populations.

19 (3) The department shall facilitate outreach and enrollment efforts to connect uninsured,
20 eligible individuals with all available publicly funded health programs, including but not lim-
21 ited to the Family Health Insurance Assistance Program.

22 **SECTION 26.** (1) The Oregon Health Authority shall implement a premium assistance
23 program to provide subsidies, on a sliding scale, to individuals with incomes at or below 300
24 percent of the federal poverty guidelines to enable them to purchase employer sponsored
25 health insurance or private market health insurance products that offer the essential bene-
26 fits package established by the Oregon Health Authority Board for insurance offered through
27 the Oregon Health Insurance Exchange.

28 (2) The authority shall offer for purchase, without subsidy, the products described in
29 subsection (1) of this section for the enrollment of children in families with incomes above
30 300 percent of the federal poverty guidelines.

31 **SECTION 27.** Section 26 of this 2009 Act becomes operative upon receipt of approval from
32 the Centers on Medicare and Medicaid Services to authorize matching Medicaid funds for
33 expenditures under section 26 of this 2009 Act.

34 **SECTION 28.** On the effective date of this 2009 Act, the Oregon Health Authority is au-
35 thorized to apply for approval from the Centers for Medicaid and Medicare Services to obtain
36 federal financial participation in the provision of medical assistance for children with family
37 incomes at or below 200 percent of the federal poverty guidelines. The authority is also au-
38 thorized to seek necessary federal approval to obtain federal financial participation in the
39 provision of medical assistance to families with incomes at or below 300 percent of the fed-
40 eral poverty guidelines, with contributions toward the cost of the medical assistance by the
41 families on a sliding scale.

42 **SECTION 29.** Of the moneys in the Oregon Health Authority Fund established in section
43 18 of this 2009 Act, the authority shall use \$100 million to increase the reimbursement rates
44 paid to health services providers participating in the medical assistance program, to levels
45 above the reimbursement rates existing on the effective date of this 2009 Act.

1 **SECTION 30.** (1) As used in this section, “qualified provider” means a person that:

2 (a) Is eligible for payment by the Oregon Health Authority for health services provided
3 to recipients of medical assistance as defined in ORS 414.025;

4 (b)(A) Provides outpatient hospital services or other health services, as defined in ORS
5 414.705, that are offered by a rural health clinic in:

6 (i) A rural health clinic;

7 (ii) A federally-qualified health center; or

8 (iii) An Indian Health Service facility, a tribal health clinic or an urban Indian health
9 center; or

10 (B) Provides clinic services under the direction of a physician, without regard to whether
11 a physician is the administrator of the clinic;

12 (c) Is authorized by the Department of Human Services to make presumptive eligibility
13 determinations; and

14 (d)(A) Receives funding from one or more of the following sources:

15 (i) Section 330 or 330A of the Public Health Service Act, 42 U.S.C. 254b or 254c;

16 (ii) Title V of the Social Security Act, 42 U.S.C. 701 et seq.; or

17 (iii) Title V of the Indian Health Care Improvement Act, 25 U.S.C. 1601 et seq.;

18 (B) Participates in a program established under:

19 (i) Section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1786; or

20 (ii) Section 4(a) of the Agriculture and Consumer Protection Act of 1973, 7 U.S.C. 612c;

21 (C) Provides prenatal services paid for with funding from Title XIX or XXI of the Social
22 Security Act; or

23 (D) Is the Indian Health Service or a health program or facility operated by a tribal or-
24 ganization under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450f
25 et seq.

26 (2) The authority shall provide medical assistance to a pregnant woman, residing in this
27 state, who is presumptively eligible for medical assistance as determined under ORS 414.536
28 or this section.

29 (3) A woman is presumptively eligible for medical assistance under this section if a
30 qualified provider determines that the woman is pregnant and that her income does not ex-
31 ceed the limits established by the department by rule.

32 (4) The presumptive eligibility period for medical assistance begins on the date a qualified
33 provider makes the determination under subsection (3) of this section and ends on the earlier
34 of the following dates:

35 (a) If the woman timely files an application for medical assistance, the date the depart-
36 ment determines eligibility for medical assistance in accordance with ORS 414.047.

37 (b) If the woman does not timely file an application for medical assistance, the last day
38 of the month following the month in which the presumptive eligibility period begins.

39 (5) An application is timely under subsection (4) of this section if it is filed with the de-
40 partment on or before the last day of the month following the month in which the
41 presumptive eligibility determination is made by a qualified provider.

42 (6) The department shall furnish to qualified providers medical assistance application
43 forms and information about how to assist an applicant in completing and filing the forms.

44 (7) A qualified provider that makes a presumptive eligibility determination shall:

45 (a) Immediately inform the woman that she must file an application for medical assist-

1 **ance with the department on or before the last day of the month following the month in**
2 **which the presumptive eligibility determination is made by a qualified provider;**

3 **(b) Provide a medical assistance application form to the woman;**

4 **(c) With the woman's consent, assist her in completing the application;**

5 **(d) Within five working days of the determination, notify the department; and**

6 **(e) Submit the completed application to the department.**

7 **SECTION 31.** ORS 414.047 is amended to read:

8 414.047. (1) Application for any category of aid shall also constitute application for medical as-
9 sistance.

10 (2) Except as [*otherwise*] provided in this section, each person requesting medical assistance
11 shall [*make application therefor*] **apply** to the Department of Human Services. The department shall
12 determine **the person's** eligibility for **assistance** and fix the date on which [*such*] **the** assistance
13 [*may begin,*] **begins** and shall obtain [*such*] other information required by [*the rules of*] **rules**
14 **adopted by** the department.

15 (3) If [*an applicant*] **a person** is unable to make application for medical assistance, an applica-
16 tion may be made by someone acting responsibly for [*the applicant*] **that person**.

17 **(4)(a) The department shall adopt rules establishing a minimum 12-month period of en-**
18 **rollment for persons described in 42 U.S.C. 1396a(l)(1)(C) or (D) who are determined eligible**
19 **for medical assistance.**

20 **(b) The department shall reenroll a person immediately following the initial 12-month**
21 **period of enrollment for successive 12-month periods of enrollment as long as the person**
22 **meets the description in 42 U.S.C. 1396a(l)(1)(C) or (D) and is eligible for medical assistance**
23 **on the date of reenrollment.**

24 **(c) The department may not require a new application as a condition of reenrollment**
25 **under paragraph (b) of this subsection and must determine the person's eligibility for medical**
26 **assistance using information and sources available to the department or documentation**
27 **readily available to the person.**

28 **SECTION 32.** ORS 414.536 is amended to read:

29 414.536. (1) **If** the Department of Human Services [*shall provide medical assistance to a woman*
30 *whom the department determines is presumptively eligible for medical assistance. As used in this sec-*
31 *tion, a woman is "presumptively eligible for medical assistance" if the department determines that the*]
32 **determines that a** woman likely is eligible for medical assistance under ORS 414.534, **the depart-**
33 **ment shall determine her to be presumptively eligible for medical assistance until a formal**
34 **determination on eligibility is made.**

35 (2) The period of time a woman may receive medical assistance based on presumptive eligibility
36 is limited. The period of time:

37 (a) Begins on the date that the department determines the woman likely meets the eligibility
38 criteria under ORS 414.534; and

39 (b) Ends on the earlier of the following dates:

40 (A) If the woman applies for medical assistance following the determination by the department
41 that the woman is presumptively eligible for medical assistance, the date on which a formal deter-
42 mination on eligibility is made by the department in accordance with ORS 414.534; or

43 (B) If the woman does not apply for medical assistance following the determination by the de-
44 partment that the woman is presumptively eligible for medical assistance, the last day of the month
45 following the month in which presumptive eligibility begins.

SECTION 33. ORS 414.706 is amended to read:

414.706. The Legislative Assembly shall approve and fund health services to the following persons:

- (1) Persons who are categorically needy as described in ORS 414.025 [(2)(n) and (o)] **(2)(o) and (p)**;
- (2) Pregnant women with incomes no more than [185] **200** percent of the federal poverty guidelines;
- (3) Persons under 19 years of age with incomes no more than 200 percent of the federal poverty guidelines;
- (4) Persons described in ORS 414.708; and
- (5) Persons 19 years of age or older with incomes no more than 100 percent of the federal poverty guidelines who do not have federal Medicare coverage.

SECTION 34. ORS 414.839 is amended to read:

414.839. (1) Subject to funds available, the [Department of Human Services] **Oregon Health Authority** may provide public subsidies for the purchase of health insurance coverage provided by public programs or private insurance, including but not limited to the Family Health Insurance Assistance Program, for currently uninsured individuals [based on]:

(a) Under 19 years of age with family incomes up to 200 percent of the federal poverty [level.] **guidelines; and**

(b) 19 years of age and older with incomes at or below 185 percent of the federal poverty guidelines. [The objective is to create a transition from dependence on public programs to privately financed health insurance.]

(2) Public subsidies shall apply only to health benefit plans that meet or exceed the basic benchmark health benefit plan or plans established under ORS 735.733.

(3) Cost sharing shall be permitted and structured in such a manner to encourage appropriate use of preventive care and avoidance of unnecessary services.

(4) Cost sharing shall be based on an individual's ability to pay and may not exceed the cost of purchasing a plan.

(5) The state may pay a portion of the cost of the subsidy, based on the individual's income and other resources.

NOTE: Section 35 was deleted by amendment. Subsequent sections were not renumbered.

HEALTH CARE ASSESSMENTS

SECTION 36. As used in this section and sections 37 and 38 of this 2009 Act:

(1) "Gross amount of premiums" has the meaning given that term in ORS 731.808.

(2) "Health benefit plan" has the meaning given that term in ORS 743.730.

(3) "Insurer" means an authorized insurer that issues or renews a health benefit plan in this state.

SECTION 37. (1) No later than 45 days following the end of a calendar quarter, an insurer shall pay an assessment at the rate of _____ percent of the gross amount of premiums that were derived from health benefit plans covering direct domestic risks during that calendar quarter.

(2) The assessment shall be paid to the Oregon Health Authority and shall be accompanied by a verified report, on a form prescribed by the authority, of:

1 (a) All health benefit plans issued or renewed by the insurer during the calendar quarter
2 for which the assessment is paid; and

3 (b) The gross amount of premiums by line of insurance, derived by the insurer from all
4 health benefit plans issued or renewed by the insurer during the calendar quarter for which
5 the assessment is paid.

6 (3) The assessment imposed under this section is in addition to and not in lieu of any tax,
7 surcharge or other assessment imposed on an insurer.

8 (4) An insurer may not offset the assessment under this section against corporate excise
9 taxes imposed under ORS chapter 317.

10 (5) Assessments under this section may not be considered in the gross amount of pre-
11 miums for any purpose.

12 (6) If the authority determines that the assessment paid by the insurer under this section
13 is incorrect, the authority shall charge or credit to the insurer the difference between the
14 correct amount of the assessment and the amount paid by the insurer.

15 **SECTION 38.** (1) An insurer that fails to timely file a verified report or to pay an as-
16 sessment under section 37 of this 2009 Act shall be subject to a penalty of up to \$500 per day
17 of delinquency. The total amount of penalties imposed under this section for a calendar
18 quarter may not exceed five percent of the assessment due for that calendar quarter.

19 (2) Any penalty imposed under this section is in addition to and not in lieu of the as-
20 sessment imposed under section 37 of this 2009 Act.

21 (3) Penalties imposed under this section shall be paid to the Oregon Health Authority for
22 deposit into the Oregon Health Authority Fund.

23 **SECTION 39.** Section 37 of this 2009 Act applies to premiums received by an insurer on
24 or after October 1, 2009.

25 **SECTION 40.** (1) As used in this section and section 41 of this 2009 Act, "Medicaid man-
26 aged care plan" includes a prepaid capitated health service contractor described in ORS
27 414.630 and a prepaid managed care health services organization described in ORS 414.725.

28 (2) No later than 45 days following the end of a calendar quarter, a Medicaid managed
29 care plan shall pay an assessment at a rate of _____ percent of the gross amount of
30 capitation payments received by the Medicaid managed care plan during that calendar quar-
31 ter for providing coverage of health services under ORS 414.705 to 414.750.

32 (3) The assessment shall be paid to the Oregon Health Authority in a manner and form
33 prescribed by the authority.

34 (4) Assessments received by the authority under this section shall be deposited in the
35 Oregon Health Authority Fund established in section 18 of this 2009 Act.

36 **SECTION 41.** (1) A Medicaid managed care plan that fails to timely pay an assessment
37 under section 40 of this 2009 Act shall be subject to a penalty of up to \$500 per day of delin-
38 quency. The total amount of penalties imposed under this section for a calendar quarter may
39 not exceed five percent of the assessment due for that calendar quarter.

40 (2) Any penalty imposed under this section is in addition to and not in lieu of the as-
41 sessment imposed under section 40 of this 2009 Act.

42 (3) Penalties imposed under this section shall be paid to the Oregon Health Authority for
43 deposit into the Oregon Health Authority Fund.

44 **SECTION 42.** Section 40 of this 2009 Act applies to capitation payments received by a
45 Medicaid managed care plan on or after October 1, 2009.

1 **SECTION 43.** Section 1, chapter 736, Oregon Laws 2003, is amended to read:

2 **Sec. 1.** As used in sections 1 to 9, **chapter 736, Oregon Laws 2003** [of this 2003 Act]:

3 (1) “Charity care” [means costs for providing inpatient or outpatient care services free of charge
4 or at a reduced charge because of the indigence or lack of health insurance of the patient receiving the
5 care services.] **has the meaning given that term in ORS 442.200.**

6 (2) “Contractual adjustments” means the difference between the amounts charged based on the
7 hospital’s full established charges and the amount received or due from the payor.

8 (3) “Hospital” [has the meaning given that term in ORS 442.015 but does not include special in-
9 patient care facilities.] **means:**

10 (a) **A hospital as defined in ORS 442.015; or**

11 (b) **An ambulatory surgical center as defined in ORS 442.015.**

12 (4) “Net revenue”:

13 (a) Means the total amount of charges for inpatient or outpatient care provided by the hospital
14 to patients, less **the cost to the hospital of** charity care[, *bad debts*] and contractual adjustments;

15 (b) Does not include revenue derived from sources other than inpatient or outpatient operations,
16 including but not limited to interest and guest meals; and

17 (c) Does not include any revenue that is taken into account in computing a long term care fa-
18 cility assessment under sections 15 to 22, **chapter 736, Oregon Laws 2003** [of this 2003 Act].

19 (5) “Waivered hospital” means a type A or type B hospital, as described in ORS 442.470, a hos-
20 pital that provides only psychiatric care or a hospital [identified by the Department of Human Ser-
21 vices as appropriate for inclusion in the application described in section 4 of this 2003 Act] **that meets**
22 **criteria prescribed by the Oregon Health Authority by rule.**

23 **SECTION 44.** Section 2, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 780,
24 Oregon Laws 2007, is amended to read:

25 **Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital in this state that is
26 not a waivered hospital. The assessment shall be imposed at **the rate of _____ percent.** [a rate
27 determined by the Director of Human Services by rule that is the director’s best estimate of the rate
28 needed to fund the services and costs identified in section 9, chapter 736, Oregon Laws 2003. The rate
29 of assessment shall be imposed on the net revenue of each hospital subject to assessment. The director
30 shall consult with representatives of hospitals before setting the assessment.]

31 [(2) Notwithstanding subsection (1) of this section, the rate of assessment may not exceed 1.5 per-
32 cent.]

33 [(3)] (2) The assessment shall be reported on a form prescribed by the [Department of Human
34 Services] **Oregon Health Authority** and shall contain the information required to be reported by
35 the [department] **authority.** The assessment form shall be filed with the [department] **authority** on
36 or before the 75th day following the end of the calendar quarter for which the assessment is being
37 reported. Except as provided in subsection [(7)] (5) of this section, the hospital shall pay the as-
38 sessment at the time the hospital files the assessment report. The payment shall accompany the re-
39 port.

40 [(4) To the extent permitted by federal law, aggregate taxes levied under this section may not exceed
41 payments under section 9 (2), chapter 736, Oregon Laws 2003.]

42 [(5)] (3) [Notwithstanding subsection (4) of this section,] A hospital is not guaranteed that any
43 additional moneys paid to the hospital in the form of payments for services shall equal or exceed
44 the amount of the assessment paid by the hospital.

45 [(6)] (4) Hospitals operated by the United States Department of Veterans Affairs and pediatric

1 specialty hospitals providing care to children at no charge are exempt from the assessment imposed
2 under this section.

3 [(7)(a) *The Department of Human Services shall develop a schedule for collection of the assessment*
4 *for the calendar quarter ending September 30, 2009, that will result in the collection occurring between*
5 *December 15, 2009, and the time all Medicaid cost settlements are finalized for that calendar quarter.*]

6 [(b)] (5) The [Department of Human Services] **Oregon Health Authority** shall prescribe by rule
7 criteria for late payment of assessments.

8 **SECTION 45.** Section 5, chapter 736, Oregon Laws 2003, is amended to read:

9 **Sec. 5.** (1) A hospital that fails to file a report or pay an assessment under section 2, **chapter**
10 **736, Oregon Laws 2003**, [of this 2003 Act] by the date the report or payment is due shall be subject
11 to a penalty of **up to \$500** per day of delinquency. The total amount of penalties imposed under this
12 section for each reporting period may not exceed five percent of the assessment for the reporting
13 period for which penalties are being imposed.

14 (2) Penalties imposed under this section shall be collected by the [Department of Human
15 Services] **Oregon Health Authority** and deposited in the [Department of Human Services Account
16 established under ORS 409.060] **Oregon Health Authority Fund established in section 18 of this**
17 **2009 Act.**

18 (3) Penalties paid under this section are in addition to and not in lieu of the assessment imposed
19 under section 2, **chapter 736, Oregon Laws 2003** [of this 2003 Act].

20 **SECTION 46.** Section 8, chapter 736, Oregon Laws 2003, as amended by section 1, chapter 757,
21 Oregon Laws 2005, is amended to read:

22 **Sec. 8.** Amounts collected by the [Department of Human Services] **Oregon Health Authority**
23 from the assessments imposed under section 2, chapter 736, Oregon Laws 2003, shall be deposited
24 in the [Hospital Quality Assurance Fund established under section 9, chapter 736, Oregon Laws
25 2003.] **Oregon Health Authority Fund established in section 18 of this 2009 Act.**

26 **SECTION 47.** Section 10, chapter 736, Oregon Laws 2003, as amended by section 3, chapter 780,
27 Oregon Laws 2007, is amended to read:

28 **Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, apply to net revenues earned by hos-
29 pitals on or after [January 1, 2004, and before the earlier of October 1, 2009, or when the assessment
30 described in sections 37 to 44, chapter 736, Oregon Laws 2003, no longer qualifies for federal matching
31 funds under Title XIX of the Social Security Act.] **October 1, 2009.**

32 **SECTION 48.** Section 14, chapter 736, Oregon Laws 2003, as amended by section 6, chapter 780,
33 Oregon Laws 2007, is amended to read:

34 **Sec. 14.** Any moneys remaining in the Hospital Quality Assurance Fund on [December 31,
35 2013] **the effective date of this 2009 Act**, are transferred to the [General Fund.] **Oregon Health**
36 **Authority Fund established in section 18 of this 2009 Act.**

37 **SECTION 49.** Section 51, chapter 736, Oregon Laws 2003, as amended by section 20, chapter
38 780, Oregon Laws 2007, is amended to read:

39 **Sec. 51.** Any moneys [remaining] **deposited** in the Medical Care Quality Assurance Fund **on**
40 **or after the effective date of this 2009 Act** [on December 31, 2011, are] **shall be** transferred to the
41 [General Fund] **Oregon Health Authority Fund established in section 18 of this 2009 Act.**

42 **SECTION 50.** **Assessments received by the Oregon Health Authority under sections 37**
43 **and 40 of this 2009 Act shall be paid into the State Treasury and credited to the Oregon**
44 **Health Authority Fund established in section 18 of this 2009 Act.**

45 **SECTION 51.** ORS 731.840 is amended to read:

1 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and
2 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,
3 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes
4 measured by income that might otherwise be imposed upon the foreign or alien insurer except the
5 fire insurance premiums tax imposed under ORS 731.820, [and] the tax imposed upon wet marine and
6 transportation insurers under ORS 731.824 and 731.828, **and the assessment imposed under sec-**
7 **tion 37 of this 2009 Act.** However, all real and personal property, if any, of the insurer shall be
8 listed, assessed and taxed the same as real and personal property of like character of noninsurers.
9 Nothing in this subsection shall be construed to preclude the imposition of the assessments imposed
10 under ORS 656.612 upon a foreign or alien insurer.

11 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity
12 as such.

13 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien
14 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS
15 731.824 and 731.828.

16 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,
17 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers
18 and their insurance producers and other representatives as such, and:

19 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-
20 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any
21 such tax, license or fee; except that whenever a county, city, district or other political subdivision
22 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing
23 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or
24 imposed upon domestic insurers; and

25 (b) No county, city, district, political subdivision or agency in this state shall require of any
26 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-
27 ance Code, any additional authorization, license, or permit of any kind for conducting therein
28 transactions otherwise lawful under the authority or license granted under this code.

29 **SECTION 52. An insurer, Medicaid managed care plan or hospital that pays an assess-**
30 **ment under section 37 or 40 of this 2009 Act or under section 2, chapter 736, Oregon Laws**
31 **2003, may, subject to approval by the Oregon Health Authority, pass through a portion of the**
32 **assessment to purchasers of the health benefits or services of the insurer, Medicaid managed**
33 **care plan or hospital for health benefits or services provided on or after October 1, 2009, and**
34 **on or before June 30, 2011.**

35 **SECTION 53. (1) Section 4, chapter 736, Oregon Laws 2003, is repealed.**

36 **(2) Section 9, chapter 736, Oregon Laws 2003, as amended by section 2, chapter 757,**
37 **Oregon Laws 2005, and section 2, chapter 780, Oregon Laws 2007, is repealed.**

38 **(3) Section 12, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 780,**
39 **Oregon Laws 2007, is repealed.**

40 **(4) Section 13, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 780,**
41 **Oregon Laws 2007, is repealed.**

42 **SECTION 54. Sections 36 to 42, 50 and 52 of this 2009 Act, the amendments to ORS 731.840**
43 **and sections 1, 2, 5, 8, 10, 14 and 51, chapter 736, Oregon Laws 2003, by sections 43 to 49 and**
44 **51 of this 2009 Act and the repeal of sections 4, 9, 12 and 13, chapter 736, Oregon Laws 2003,**
45 **by section 53 of this 2009 Act become operative on the later of the effective date of this 2009**

1 **Act or October 1, 2009.**

2
3 **CONFORMING AMENDMENTS**

4
5 **SECTION 55.** ORS 25.323 is amended to read:

6 25.323. (1) Except as provided in this section, whenever a child support order is entered or
7 modified under this chapter, ORS chapter 107, 108, 109, 110 or ORS 416.400 to 416.465, 419B.400 or
8 419C.590, the court or the enforcing agency shall order one or both parties to provide satisfactory
9 health care coverage that is reasonable in cost and accessible to the child. An order for health care
10 coverage under this subsection may include health care coverage provided by a public entity.

11 (2) In addition to ordering health care coverage under subsection (1) of this section, the court
12 or enforcing agency may order one or both parties to pay medical support for the child. Medical
13 support ordered under this subsection must be reasonable in cost.

14 (3) If the court or the enforcing agency finds that the parties cannot provide satisfactory health
15 care coverage because satisfactory health care coverage that is reasonable in cost and accessible
16 to the child is not available at the time the child support order is entered, the court or the enforcing
17 agency:

18 (a) Shall order one or both parties to provide satisfactory health care coverage that is reason-
19 able in cost and accessible to the child when the coverage becomes available; and

20 (b) May order that, until the court or enforcing agency determines that satisfactory health care
21 coverage that is reasonable in cost and accessible to the child is available and modifies the order,
22 one or both parties pay medical support that is reasonable in cost. The court or enforcing agency
23 shall make written findings on whether to order the payment of medical support under this para-
24 graph.

25 (4) The cost of any amount ordered to provide satisfactory health care coverage and medical
26 support under this section must be included in the child support calculation made under ORS 25.275.

27 *[(5) The court or enforcing agency may not order a party to pay medical support under this section*
28 *if the party is eligible to receive medical assistance under ORS 414.032, or has a dependent child in*
29 *the household who is eligible to receive medical assistance under ORS 414.032.]*

30 ~~[(6)]~~ (5) The Department of Justice shall adopt rules for determining the reasonableness of the
31 cost of satisfactory health care coverage and of medical support for the purposes of this section, and
32 for determining how the costs of providing health care coverage and medical support affect the total
33 support obligation for a child under ORS 25.275.

34 **SECTION 56.** ORS 65.800 is amended to read:

35 65.800. For purposes of ORS 65.803 to 65.815:

36 (1) "Hospital" means a hospital as defined in ORS 442.015 [(19)].

37 (2) "Noncharitable entity" means any person or entity that is not a public benefit or religious
38 corporation and is not wholly owned or controlled by one or more public benefit or religious cor-
39 porations.

40 **SECTION 57.** ORS 87.533 is amended to read:

41 87.533. A lien created by ORS 87.503 shall not be enforced so as to interfere with:

42 (1) Any assets or income allowed to the community spouse or dependent family member under
43 42 U.S.C. 1396r-5(d) or any rule of the Department of Human Services.

44 (2) The priority given to the recovery of medical assistance payments under ORS 115.125 (1)(i)
45 **or (j)** or other medical assistance claims under ORS 414.105 (2) and (3).

1 (3) The eligibility of a person for medical assistance or entitlement to Medicaid assistance pay-
2 ments.

3 **SECTION 58.** ORS 90.113 is amended to read:

4 90.113. Residence in a [*Department of Human Services*] licensed program, facility or home de-
5 scribed in ORS 430.306 to 430.375, 430.380, 430.385, 430.395, 430.397 to 430.401, 430.405 to 430.565,
6 430.570, 430.590, 443.400 to 443.455, 443.705 to 443.825 or 443.835 is not governed by this chapter.

7 **SECTION 59.** ORS 90.440 is amended to read:

8 90.440. (1) As used in this section:

9 (a) "Group recovery home" means a place that provides occupants with shared living facilities
10 and that meets the description of a group home under 42 U.S.C. 300x-25.

11 (b) "Illegal drugs" includes controlled substances or prescription drugs:

12 (A) For which the tenant does not have a valid prescription; or

13 (B) That are used by the tenant in a manner contrary to the prescribed regimen.

14 (c) "Peace officer" means a sheriff, constable, marshal or deputy or a member of a state or city
15 police force.

16 (2) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy and
17 peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has used
18 or possessed alcohol or illegal drugs within the preceding seven days. For purposes of this sub-
19 section, the following are sufficient proof that a tenant has used or possessed alcohol or illegal
20 drugs:

21 (a) The tenant fails a test for alcohol or illegal drug use;

22 (b) The tenant refuses a request made in good faith by the group recovery home that the tenant
23 take a test for alcohol or illegal drug use; or

24 (c) Any person has personally observed the tenant using or possessing alcohol or illegal drugs.

25 (3) A group recovery home that undertakes the removal of a tenant under this section shall
26 personally deliver to the tenant a written notice that:

27 (a) Describes why the tenant is being removed;

28 (b) Describes the proof that the tenant has used or possessed alcohol or illegal drugs within the
29 seven days preceding delivery of the notice;

30 (c) Specifies the date and time by which the tenant must move out of the group recovery home;

31 (d) Explains that if the removal was wrongful or in bad faith the tenant may seek injunctive
32 relief to recover possession under ORS 105.121 and may bring an action to recover monetary dam-
33 ages; and

34 (e) Gives contact information for the local legal services office and for the Oregon State Bar's
35 Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal
36 services.

37 (4) A written notice in substantially the following form meets the requirements of subsection (3)
38 of this section:

39 _____
40
41 This notice is to inform you that you must move out of _____ (insert address of group
42 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
43 of notice).

44 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
45 as applicable, and dates of occurrence).

1 The proof of your use or possession is _____ (specify facts).

2 If you did not use or possess alcohol or illegal drugs within the seven days before delivery of
3 this notice, if this notice was given in bad faith or if your group recovery home has not substantially
4 complied with ORS 90.440, you may be able to get a court to order the group recovery home to let
5 you move back in. You may also be able to recover monetary damages.

6 You may be eligible for free legal services at your local legal services office _____ (in-
7 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.

9
10 (5) Within the notice period, a group recovery home shall allow a tenant removed under this
11 section to follow any emergency departure plan that was prepared by the tenant and approved by
12 the group recovery home at the time the tenancy began. If the removed tenant does not have an
13 emergency departure plan, a representative of the group recovery home shall offer to take the re-
14 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-
15 nity.

16 (6) The date and time for moving out specified in a notice under subsection (3) of this section
17 must be at least 24 hours after the date and time the notice is delivered to the tenant. If the tenant
18 remains on the group recovery home premises after the date and time for moving out specified in
19 the notice, the tenant is a person remaining unlawfully in a dwelling as described in ORS 164.255
20 and not a person described in ORS 105.115. Only a peace officer may forcibly remove a tenant who
21 remains on the group recovery home premises after the date and time specified for moving out.

22 (7) A group recovery home that removes a tenant under this section shall send a copy of the
23 notice described in subsection (3) of this section to the [*Department of Human Services*] **Oregon**
24 **Health Authority** no later than 72 hours after delivering the notice to the tenant.

25 (8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief to
26 recover possession and may recover an amount equal to the greater of actual damages or three
27 times the tenant's monthly rent if:

28 (a) The group recovery home removed the tenant in bad faith or without substantially complying
29 with this section; or

30 (b) If removal is under subsection (2)(c) of this section, the removal was wrongful because the
31 tenant did not use or possess alcohol or illegal drugs.

32 (9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive relief to recover pos-
33 session under ORS 105.121 must commence the action to seek relief not more than 90 days after the
34 date specified in the notice for the tenant to move out.

35 (10) In any court action regarding the removal of a tenant under this section, a group recovery
36 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
37 days preceding the removal, whether or not the evidence was described in the notice required by
38 subsection (3) of this section.

39 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-
40 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
41 105.168.

42 **SECTION 60.** ORS 92.337 is amended to read:

43 92.337. (1) The Real Estate Commissioner shall grant an exemption pursuant to this section if
44 a subdivider or series partitioner submits on a form prepared by the commissioner, verification that:

45 (a) The subdivision or series partition is recorded pursuant to ORS 92.010 to 92.190;

1 (b) Each lot or parcel is situated on a surfaced roadway which, together with means for opera-
2 tion and maintenance, meets the standards of the governing body of the local jurisdiction and is
3 either a concrete or asphalt surface road which has right of way and improvements, including curbs
4 and necessary and adequate drainage structures, or a road which meets alternative standards of the
5 governing body of the local jurisdiction;

6 (c) The subdivision or series partition, where necessary, has drainage structures and fill de-
7 signed to prevent flooding and approved by the appropriate governing body;

8 (d) Energy sources and telephone services for normal domestic use are economically available
9 to the subdivision or series partition and are ready for hookup for each lot or parcel at time of sale
10 or lease;

11 (e) Water is available for each lot or parcel at the time of sale or lease of each lot or parcel in
12 quantity and quality for domestic use as determined by the [*Department of Human Services*] **Oregon**
13 **Health Authority**;

14 (f) A municipally owned disposal system, an individual or collective subsurface sewage disposal
15 system to serve the lot or parcel, or a privately owned sewage disposal system is available for each
16 lot or parcel at the time of sale or lease of each lot or parcel which meets the requirements of the
17 Environmental Quality Commission;

18 (g) A surety bond, or bonds, or other security or agreements to complete the improvements is
19 provided by the subdivider or series partitioner to the city or county having jurisdiction so that all
20 of the subdivision or series partition improvements committed by the subdivider or series partitioner
21 to the city or county will be completed; and

22 (h) Provisions, satisfactory to the commissioner, have been made for satisfaction of all liens and
23 encumbrances existing against the subdivision or series partition which secure or evidence the
24 payment of money.

25 (2) A subdivision or series partition granted exemption under this section shall be exempt from
26 the provisions of ORS 92.305 to 92.495 and 92.820 except ORS 92.375, 92.385, 92.425, 92.427, 92.430,
27 92.433, 92.455, 92.460, 92.465, 92.475, 92.485, 92.490 and 92.495.

28 (3) The commissioner may withdraw the exemption provided by this section if the commissioner
29 determines that the subdivider or series partitioner has provided false information or omitted to
30 state material facts to obtain the exemption or has failed to comply with any provision to which the
31 subdivider or series partitioner is subject under subsections (1) and (2) of this section.

32 (4) In the event that any provision under subsection (1) of this section is not or cannot be sat-
33 isfied and without invoking the power granted under subsection (3) of this section, the commissioner
34 and the subdivider or series partitioner may mutually agree in writing upon a written disclosure of
35 the condition that shall be provided to any prospective purchaser prior to the sale or lease of any
36 interest in the subdivision or series partition to carry out the public policy stated in ORS 92.313.

37 (5) The form required by subsection (1) of this section shall be accompanied by a filing fee of
38 \$100 plus \$10 for each lot, parcel or interest in the subdivision or series partition, with a maximum
39 fee of \$500.

40 (6) For purposes of verification by the subdivider or series partitioner under subsection (1)(b),
41 (c) and (g) of this section, a copy of the conditions imposed by the appropriate governing body will
42 be sufficient.

43 **SECTION 61.** ORS 93.270, as amended by section 16, chapter 100, Oregon Laws 2007, is
44 amended to read:

45 93.270. (1) A person conveying or contracting to convey fee title to real property may not in-

1 clude in an instrument for that purpose a provision:

2 (a) Restricting the use of the real property by any person or group of persons by reason of race,
3 color, religion, sex, sexual orientation, national origin or disability.

4 (b) Restricting the use of the real property by any home or facility that is licensed [*by or under*
5 *the authority of the department*] under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide resi-
6 dential care alone or in conjunction with treatment or training or a combination thereof.

7 (2) Any provision in an instrument executed in violation of subsection (1) of this section is void
8 and unenforceable.

9 (3) An instrument that contains a provision restricting the use of real property in a manner
10 listed in subsection (1)(b) of this section does not give rise to any public or private right of action
11 to enforce the restriction.

12 (4)(a) An instrument that contains a provision restricting the use of real property by requiring
13 roofing materials with a lower fire rating than that required in the state building code established
14 under ORS chapter 455 does not give rise to any public or private right of action to enforce the
15 restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on
16 public or private right of action under this paragraph are limited solely to considerations of fire
17 rating.

18 (b) As used in this subsection, "wildfire hazard zones" are areas that are legally declared by a
19 governmental agency having jurisdiction over the area to have special hazards caused by a combi-
20 nation of combustible natural fuels, topography and climatic conditions that result in a significant
21 hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be
22 determined using criteria established by the State Forestry Department.

23 **SECTION 62.** ORS 97.210 is amended to read:

24 97.210. The body of any person who died of smallpox, diphtheria, scarlet fever or other disease
25 that the [*Department of Human Services*] **Oregon Health Authority**, by rule, may prescribe, shall
26 not be subject to the provisions of ORS 97.170 to 97.200.

27 **SECTION 63.** ORS 97.450 is amended to read:

28 97.450. (1)(a) Whenever any cemetery that is within the limits of any county, city or town has
29 been abandoned, or it is desirable to abandon such cemetery, the governing body of any county, if
30 the cemetery is owned by the county, or the corporate authorities of the city or town, if the ceme-
31 tery is owned by the city or town, or the trustees or directors, if the cemetery is owned by an as-
32 sociation or corporation, may order that such burial ground be discontinued, have the remains of
33 all persons interred in the cemetery moved to some other suitable place and provide for the removal
34 and reerection of all stones and monuments marking said graves. Each removal must be made in an
35 appropriate manner and in accordance with the directions of the Director of [*Human Services*] **the**
36 **Oregon Health Authority**. Prior to any removal authorized under this section, written notice must
37 be given to the family, or next of kin of the deceased, if known, and if unknown, notice of the re-
38 moval shall be published for at least four successive weeks in a newspaper of general circulation in
39 the county in which the cemetery is located and twice in a newspaper with statewide circulation.

40 (b) Any removal and the costs of the proceedings under this section shall be at the expense of
41 the county, city or town, individual, corporation or association owning the cemetery to be moved.

42 (2) Notwithstanding subsection (1)(a) of this section, a cemetery or burial ground containing
43 human remains that were interred before February 14, 1909, may not be discontinued or declared
44 abandoned or have remains removed from the burial ground or cemetery without prior notice to and
45 comment by the Oregon Commission on Historic Cemeteries. When commenting on a request to

1 discontinue or declare abandoned a cemetery or burial ground, the commission shall consider:

- 2 (a) The listing of the cemetery or burial ground under ORS 97.782;
- 3 (b) The historic significance of the cemetery or graves included in the request; and
- 4 (c) The findings of any archaeological survey of the cemetery or burial ground.

5 **SECTION 64.** ORS 97.977 is amended to read:

6 97.977. (1)(a) The [*Department of Human Services*] **Oregon Health Authority** may allow an or-
7 gan procurement organization to establish a donor registry.

- 8 (b) Only one donor registry may be established within this state.
- 9 (c) The donor registry shall comply with subsections (3) and (4) of this section.

10 (2) The Department of Transportation shall:

11 (a) Cooperate with a person who administers the donor registry established under subsection (1)
12 of this section for the purpose of transferring to the donor registry all relevant information regard-
13 ing a donor's making, amending or revoking an anatomical gift.

14 (b) When requested by the organ procurement organization that has established the donor reg-
15 istry in this state, the department shall electronically transfer to the organ procurement organiza-
16 tion the name, address, birthdate and donor designation listed on the driver license or identification
17 card of a person designated as a donor. The organ procurement organization shall treat the infor-
18 mation transferred from the department as confidential and may use the information only to expedite
19 the making of anatomical gifts authorized by the donor.

20 (3) The donor registry must:

21 (a) Allow a donor or other person authorized under ORS 97.955 to include on the donor registry
22 a statement or symbol that the donor has made, amended or revoked an anatomical gift;

23 (b) Be accessible to a procurement organization to allow the procurement organization to obtain
24 relevant information on the donor registry to determine, at or near death of the donor or a pro-
25 spective donor, whether the donor or prospective donor has made, amended or revoked an anatom-
26 ical gift; and

27 (c) Be accessible for purposes of this subsection seven days a week on a 24-hour basis.

28 (4) Personally identifiable information on the donor registry about a donor or prospective donor
29 may not be used or disclosed without the express consent of the donor, prospective donor or person
30 who made the anatomical gift for any purpose other than to determine, at or near death of the donor
31 or prospective donor, whether the donor or prospective donor has made, amended or revoked an
32 anatomical gift.

33 **SECTION 65.** ORS 105.580 is amended to read:

34 105.580. (1) Except as provided in subsection (3) of this section, if the existence of the nuisance
35 is established in the action, an order of abatement shall be entered as part of the general judgment
36 in the case.

37 (2) The order of abatement may direct the effectual closing of the premises, building or place
38 against its use for any purpose, and so keeping it closed for a period of one year, unless sooner re-
39 leased. The court shall not include provisions for the closing of the premises under the provisions
40 of this subsection unless that relief is specifically requested in the complaint.

41 (3) The court, if satisfied of an owner's good faith, shall enter no order of abatement as to that
42 owner if the court finds that the owner:

43 (a) Had no knowledge of the existence of the nuisance or has been making reasonable efforts
44 to abate the nuisance;

45 (b) Has not been guilty of any contempt of court in the proceedings; and

1 (c) Will make best efforts to immediately abate any nuisance that may exist and prevent it from
2 being a nuisance for a period of one year thereafter.

3 (4) Except for an order of abatement entered based on the manufacture of a controlled sub-
4 stance, if an order of abatement has been entered and an owner subsequently meets the require-
5 ments of this section, the order of abatement shall be canceled as to that owner.

6 (5) If the court enters an order under this section on the basis that the property was used for
7 the manufacture of a controlled substance, the court shall send a copy of the order to the Director
8 of [*Human Services*] **the Oregon Health Authority**. The director or the director's designee shall
9 declare the property to be an illegal drug manufacturing site for purposes of ORS 453.855 to 453.912.
10 An order of the court under this section shall not be canceled until the director or the director's
11 designee determines the property to be fit for use. Upon determining the property to be fit for use,
12 the director or designee shall notify the court, which shall cancel the abatement order.

13 **SECTION 66.** ORS 106.081 is amended to read:

14 106.081. When the county clerk issues a marriage license, the county clerk shall also give to the
15 licensees a pamphlet describing the medical condition known as fetal alcohol syndrome, its causes
16 and its effects. The pamphlet shall be provided to the counties by the [*Department of Human*
17 *Services*] **Oregon Health Authority** under ORS 431.825 for distribution under this section.

18 **SECTION 67.** ORS 109.094 is amended to read:

19 109.094. Upon the paternity of a child being established in the proceedings, the father shall have
20 the same rights as a father who is or was married to the mother of the child. The clerk of the court
21 shall certify the fact of paternity to the Center for Health Statistics of the [*Department of Human*
22 *Services*] **Oregon Health Authority**, and the Center for Health Statistics shall prepare a new birth
23 certificate for the child.

24 **SECTION 68.** ORS 109.096 is amended to read:

25 109.096. (1) When the paternity of a child has not been established under ORS 109.070, the pu-
26 tative father is entitled to reasonable notice in adoption or other court proceedings concerning the
27 custody of the child, except for juvenile court proceedings, if the petitioner knows, or by the exer-
28 cise of ordinary diligence should have known:

29 (a) That the child resided with the putative father at any time during the 60 days immediately
30 preceding the initiation of the proceeding, or at any time since the child's birth if the child is less
31 than 60 days old when the proceeding is initiated; or

32 (b) That the putative father repeatedly has contributed or tried to contribute to the support of
33 the child during the year immediately preceding the initiation of the proceeding, or during the pe-
34 riod since the child's birth if the child is less than one year old when the proceeding is initiated.

35 (2) Except as provided in subsection (3) or (4) of this section, a verified statement of the mother
36 of the child or of the petitioner, or an affidavit of another person with knowledge of the facts, filed
37 in the proceeding and asserting that the child has not resided with the putative father, as provided
38 in subsection (1)(a) of this section, and that the putative father has not contributed or tried to con-
39 tribute to the support of the child, as provided in subsection (1)(b) of this section, is sufficient proof
40 to enable the court to grant the relief sought without notice to the putative father.

41 (3) The putative father is entitled to reasonable notice in a proceeding for the adoption of the
42 child if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with
43 the Center for Health Statistics of the [*Department of Human Services*] **Oregon Health Authority**
44 prior to the child's being placed in the physical custody of a person or persons for the purpose of
45 adoption by them. If the notice of the initiation of filiation proceedings was not on file at the time

1 of the placement, the putative father is barred from contesting the adoption proceeding.

2 (4) Except as otherwise provided in subsection (3) of this section, the putative father is entitled
3 to reasonable notice in court proceedings concerning the custody of the child, other than juvenile
4 court proceedings, if notice of the initiation of filiation proceedings as required by ORS 109.225 was
5 on file with the Center for Health Statistics prior to the initiation of the proceedings.

6 (5) Notice under this section is not required to be given to a putative father who was a party
7 to filiation proceedings under ORS 109.125 that were dismissed or resulted in a finding that he was
8 not the father of the child.

9 (6) The notice required under this section shall be given in the manner provided in ORS 109.330.

10 (7) No notice given under this section need disclose the name of the mother of the child.

11 (8) A putative father has the primary responsibility to protect his rights, and nothing in this
12 section shall be used to set aside an act of a permanent nature including, but not limited to,
13 adoption or termination of parental rights, unless the father establishes within one year after the
14 entry of the final judgment or order fraud on the part of a petitioner in the proceeding with respect
15 to matters specified in subsections (1) to (5) of this section.

16 **SECTION 69.** ORS 109.225 is amended to read:

17 109.225. (1) After filing the petition, the petitioner shall cause the Center for Health Statistics
18 of the [*Department of Human Services*] **Oregon Health Authority** to be served by mail with a notice
19 setting forth the court in which the petition was filed, the date of the filing therein, the case num-
20 ber, the full name and address of the child, the date and place of the child's birth, or if the child is
21 not yet born, the date and place of the child's conception and the probable date of the child's birth,
22 the full names and addresses of the child's alleged parents, and the names and addresses of the
23 petitioner and of the respondents in the proceedings.

24 (2) The Center for Health Statistics shall file immediately the notice, or a copy thereof, with the
25 record of the birth of the child or in the same manner as its filing of records of birth if the center
26 does not have a record of the birth. The center shall only provide the information contained in the
27 notice to persons whose names appear in the notice or to persons or agencies showing a legitimate
28 interest in the parent-child relationship including, but not limited to, parties to adoption, juvenile
29 court or heirship proceedings.

30 **SECTION 70.** ORS 109.251 is amended to read:

31 109.251. As used in ORS 109.250 to 109.262, "blood tests" includes any test for genetic markers
32 to determine paternity of a type generally acknowledged as reliable by accreditation bodies desig-
33 nated by the [*Department of Human Services*] **Oregon Health Authority** in compliance with the
34 United States Secretary of Health and Human Services, and performed by a laboratory approved by
35 such accreditation body. "Blood tests" includes but is not limited to the Human Leucocyte Antigen
36 Test, the deoxyribonucleic acid test and any test that extracts genetic material from any human
37 tissue.

38 **SECTION 71.** ORS 109.675 is amended to read:

39 109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or consent,
40 outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, ex-
41 cluding methadone maintenance, by a physician licensed by the Oregon Medical Board, a psychol-
42 ogist licensed by the State Board of Psychologist Examiners, a nurse practitioner registered by the
43 Oregon State Board of Nursing, a clinical social worker licensed by the State Board of Clinical So-
44 cial Workers or a community mental health [*and developmental disabilities*] program established and
45 operated pursuant to ORS 430.620 when approved to do so by the [*Department of Human Services*]

1 **Oregon Health Authority** pursuant to rule.

2 (2) However, the person providing treatment shall have the parents of the minor involved before
3 the end of treatment unless the parents refuse or unless there are clear clinical indications to the
4 contrary, which shall be documented in the treatment record. The provisions of this subsection do
5 not apply to:

6 (a) A minor who has been sexually abused by a parent; or

7 (b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 and
8 109.520 or 419B.550 to 419B.558 or, for the purpose of this section only, emancipated by virtue of
9 having lived apart from the parents or legal guardian while being self-sustaining for a period of 90
10 days prior to obtaining treatment as provided by this section.

11 **SECTION 72.** ORS 109.680 is amended to read:

12 109.680. A physician, psychologist, nurse practitioner, licensed clinical social worker or com-
13 munity mental health [*and developmental disabilities*] program described in ORS 109.675 may advise
14 the parent or parents or legal guardian of any minor described in ORS 109.675 of the diagnosis or
15 treatment whenever the disclosure is clinically appropriate and will serve the best interests of the
16 minor's treatment because the minor's condition has deteriorated or the risk of a suicide attempt
17 has become such that inpatient treatment is necessary, or the minor's condition requires
18 detoxification in a residential or acute care facility. If such disclosure is made, the physician, psy-
19 chologist, nurse practitioner, licensed clinical social worker or community mental health [*and de-*
20 *velopmental disabilities*] program shall not be subject to any civil liability for advising the parent,
21 parents or legal guardian without the consent of the minor.

22 **SECTION 73.** ORS 109.685 is amended to read:

23 109.685. A physician, psychologist, nurse practitioner, licensed clinical social worker or com-
24 munity mental health [*and developmental disabilities*] program described in ORS 109.675 who in good
25 faith provides diagnosis or treatment to a minor as authorized by ORS 109.675 shall not be subject
26 to any civil liability for providing such diagnosis or treatment without consent of the parent or legal
27 guardian of the minor.

28 **SECTION 74.** ORS 109.695 is amended to read:

29 109.695. For the purpose of carrying out the policy and intent of ORS 109.675 to 109.695 while
30 taking into account the respective rights of minors at risk of chemical dependency or mental or
31 emotional disorder and the rights and interests of parents or legal guardians of such minors, the
32 [*Department of Human Services*] **Oregon Health Authority** shall adopt rules for the implementation
33 of ORS 109.675 to 109.695 by community mental health [*and developmental disabilities*] programs
34 approved to do so. Such rules shall provide for the earliest feasible involvement of the parents or
35 guardians in the treatment plan consistent with clinical requirements of the minor.

36 **SECTION 75.** ORS 110.318 is amended to read:

37 110.318. In a proceeding to establish, enforce or modify a support order or to determine par-
38 entage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual if:

39 (1) The individual is personally served with notice within this state;

40 (2) The individual submits to the jurisdiction of this state by consent, by entering a general
41 appearance or by filing a responsive document having the effect of waiving any contest to personal
42 jurisdiction;

43 (3) The individual resided with the child in this state;

44 (4) The individual resided in this state and provided prenatal expenses or support for the child;

45 (5) The child resides in this state as a result of the acts or directives of the individual;

1 (6) The individual engaged in sexual intercourse in this state and the child may have been
2 conceived by that act of intercourse;

3 (7) The individual asserted parentage in the registry maintained in this state by the Center for
4 Health Statistics of the [*Department of Human Services*] **Oregon Health Authority** by filing a vol-
5 untary acknowledgment of paternity under ORS 109.070; or

6 (8) There is any other basis consistent with the Constitutions of the State of Oregon and the
7 United States for the exercise of personal jurisdiction.

8 **SECTION 76.** ORS 113.085 is amended to read:

9 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
10 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person
11 it finds suitable as personal representative, giving preference in the following order:

12 (a) To the executor named in the will.

13 (b) To the surviving spouse of the decedent or the nominee of the surviving spouse of the
14 decedent.

15 (c) To the nearest of kin of the decedent or the nominee of the nearest of kin of the decedent.

16 (d) To the Director of Human Services or a designee, if it appears the decedent received public
17 assistance pursuant to ORS chapter 411 [*or 414 and that such assistance is a claim against the*
18 *estate*].

19 **(e) To the Director of the Oregon Health Authority or a designee, if it appears the**
20 **decedent received medical assistance pursuant to ORS chapter 414.**

21 [(e)] (f) To the Department of Veterans' Affairs, if the decedent was a protected person under
22 ORS 406.050 (7), and the department has joined in the petition for such appointment.

23 [(f)] (g) To any other person.

24 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
25 of State Lands as personal representative if it appears that the decedent died wholly intestate and
26 without known heirs. The Attorney General shall represent the Department of State Lands in the
27 administration of the estate. Any funds received by the Department of State Lands in the capacity
28 of personal representative may be deposited in accounts, separate and distinct from the General
29 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
30 account.

31 (3) The court may appoint a person other than the Department of State Lands to administer the
32 estate of a decedent who died wholly intestate and without known heirs if the person filing a peti-
33 tion under ORS 113.035 attaches written authorization from an estate administrator of the Depart-
34 ment of State Lands appointed under ORS 113.235 approving the filing of the petition by the person.
35 Except as provided by rule adopted by the Director of the Department of State Lands, an estate
36 administrator may consent to the appointment of another person to act as personal representative
37 only if it appears after investigation that the estate is insolvent.

38 **SECTION 77.** ORS 113.105 is amended to read:

39 113.105. (1) Unless a testator provides in a will that no bond shall be required of the executor
40 of the estate, or unless the personal representative is the sole heir or devisee or is the Department
41 of State Lands, [*or is the Director of Human Services or a designee, or is*] the Department of Veter-
42 ans' Affairs, **the Director of Human Services or a designee or the Director of the Oregon**
43 **Health Authority or a designee**, the personal representative may not act nor shall letters be issued
44 to the personal representative until the personal representative files with the clerk of the court a
45 bond. The bond shall be executed by a surety company authorized to transact surety business in this

1 state, or by one or more sufficient personal sureties approved by the court. A personal surety must
2 be a resident of this state. The court may, in its discretion, require a bond notwithstanding any
3 provision in a will that no bond is required. The bond shall be for the security and benefit of all
4 interested persons and shall be conditioned upon the personal representative faithfully performing
5 the duties of the trust.

6 (2) The amount of the bond set by the court shall be adequate to protect interested persons, but
7 in no event shall it be less than \$1,000. In setting the amount of the bond the court shall consider:

8 (a) The nature, liquidity and apparent value of the assets of the estate.

9 (b) The anticipated income during administration.

10 (c) The probable indebtedness and taxes.

11 (3) Nothing in this section affects the provisions of ORS 709.240, relating to a trust company
12 acting as personal representative.

13 (4) Notwithstanding any other provisions of this section, a court may, in its discretion, waive
14 the requirement of a bond if all devisees and heirs known to the court agree in writing that the
15 requirement be waived and the signed agreement is filed with the court at the time of filing of the
16 petition for the appointment of a personal representative.

17 **SECTION 78.** ORS 113.145 is amended to read:

18 113.145. (1) Upon appointment a personal representative shall deliver or mail to the devisees,
19 heirs and the persons described in ORS 113.035 (8) and (9) who were required to be named in the
20 petition for appointment of a personal representative, at the addresses therein shown, information
21 that shall include:

22 (a) The title of the court in which the estate proceeding is pending and the clerk's file number;

23 (b) The name of the decedent and the place and date of the death of the decedent;

24 (c) Whether or not a will of the decedent has been admitted to probate;

25 (d) The name and address of the personal representative and the attorney of the personal rep-
26 resentative;

27 (e) The date of the appointment of the personal representative;

28 (f) A statement advising the devisee, heir or other interested person that the rights of the
29 devisee, heir or other interested person may be affected by the proceeding and that additional in-
30 formation may be obtained from the records of the court, the personal representative or the attorney
31 for the personal representative;

32 (g) If information under this section is required to be delivered or mailed to a person described
33 in ORS 113.035 (8), a statement that the rights of the person in the estate may be barred unless the
34 person proceeds as provided in ORS 113.075 within four months of the delivery or mailing of the
35 information; and

36 (h) If information under this section is required to be delivered or mailed to a person described
37 in ORS 113.035 (9), a statement that the rights of the person in the estate may be barred unless the
38 person proceeds as provided in ORS 112.049 within four months of the delivery or mailing of the
39 information.

40 (2) If the personal representative is a devisee, heir or other interested person named in the pe-
41 tition the personal representative is not required to deliver or mail the information under this sec-
42 tion to the personal representative.

43 (3) The failure of the personal representative to give information under this section is a breach
44 of duty to the persons concerned, but does not affect the validity of appointment, duties or powers
45 or the exercise of duties or powers.

1 (4) Within 30 days after the date of appointment a personal representative shall cause to be filed
2 in the estate proceeding proof of the delivery or mailing required by this section or a waiver of
3 notice as provided under ORS 111.225. The proof shall include a copy of the information delivered
4 or mailed and the names of the persons to whom it was delivered or mailed.

5 (5) If before the filing of the final account the personal representative has actual knowledge that
6 the petition did not include the name and address of any person described in ORS 113.035 (4), (5),
7 (7), (8) or (9), the personal representative shall:

8 (a) Make reasonable efforts under the circumstances to ascertain each of those names and ad-
9 dresses;

10 (b) Promptly deliver or mail information as described in subsection (1) of this section to each
11 of those persons located after the filing of the petition and before the filing of the final account; and

12 (c) File in the estate proceeding, on or before filing the final account under ORS 116.083, proof
13 of compliance with this subsection or a waiver of notice as provided under ORS 111.225.

14 (6) Within 30 days after the appointment of a personal representative, the personal represen-
15 tative must mail or deliver the information specified in subsection (1) of this section and a copy of
16 the death certificate of the decedent to the Department of Human Services **and the Oregon Health**
17 **Authority**.

18 **SECTION 79.** ORS 114.525 is amended to read:

19 114.525. An affidavit filed under ORS 114.515 shall:

20 (1) State the name, age, domicile, post-office address and Social Security number of the decedent;

21 (2) State the date and place of the decedent's death. A certified copy of the death certificate
22 shall be attached to the affidavit;

23 (3) Describe and state the fair market value of all property in the estate, including a legal de-
24 scription of any real property;

25 (4) State that no application or petition for the appointment of a personal representative has
26 been granted in Oregon;

27 (5) State whether the decedent died testate or intestate, and if the decedent died testate, the
28 will shall be attached to the affidavit;

29 (6) List the heirs of the decedent and the last address of each heir as known to the affiant, and
30 state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent
31 died testate, will be delivered to each heir or mailed to the heir at the last-known address;

32 (7) If the decedent died testate, list the devisees of the decedent and the last address of each
33 devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing
34 the date of filing will be delivered to each devisee or mailed to the devisee at the last-known ad-
35 dress;

36 (8) State the interest in the property described in the affidavit to which each heir or devisee is
37 entitled and the interest, if any, that will escheat;

38 (9) State that reasonable efforts have been made to ascertain creditors of the estate. List the
39 expenses of and claims against the estate remaining unpaid or on account of which the affiant or
40 any other person is entitled to reimbursement from the estate, including the known or estimated
41 amounts thereof and the names and addresses of the creditors as known to the affiant, and state that
42 a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been
43 paid in full or mailed to the creditor at the last-known address;

44 (10) Separately list the name and address of each person known to the affiant to assert a claim
45 against the estate that the affiant disputes and the known or estimated amount thereof and state

1 that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed
2 to the person at the last-known address;

3 (11) State that a copy of the affidavit showing the date of filing will be mailed or delivered to
4 the Department of Human Services **and the Oregon Health Authority**;

5 (12) State that claims against the estate not listed in the affidavit or in amounts larger than
6 those listed in the affidavit may be barred unless:

7 (a) A claim is presented to the affiant within four months of the filing of the affidavit at the
8 address stated in the affidavit for presentment of claims; or

9 (b) A personal representative of the estate is appointed within the time allowed under ORS
10 114.555; and

11 (13) If the affidavit lists one or more claims that the affiant disputes, state that any such claim
12 may be barred unless:

13 (a) A petition for summary determination is filed within four months of the filing of the affidavit;
14 or

15 (b) A personal representative of the estate is appointed within the time allowed under ORS
16 114.555.

17 **SECTION 80.** ORS 114.535 is amended to read:

18 114.535. (1) Any person indebted to the decedent or having possession of personal property be-
19 longing to the estate, to whom a certified copy of the affidavit filed under ORS 114.515 is delivered
20 by the affiant on or after the 10th day following the filing of the affidavit, shall pay, transfer or
21 deliver the personal property to the affiant. Any person who has received property of the decedent
22 under ORS 446.616, 722.262 or 803.094, or any similar statute providing for the transfer of property
23 of an estate which is not being probated shall pay, transfer or deliver the property to the affiant if
24 the person would be required to pay, transfer or deliver the property to a personal representative
25 of the estate. The transferor is discharged and released from any liability or responsibility for the
26 transfer in the same manner and with the same effect as if the property had been transferred, de-
27 livered or paid to a personal representative of the estate of the decedent.

28 (2) A transfer agent of any corporate security registered in the name of the decedent shall
29 change the registered ownership on the books of the corporation to the person entitled thereto on
30 presentation of a certified copy of the affidavit filed under ORS 114.515.

31 (3) If a person to whom an affidavit is delivered refuses to pay, deliver or transfer any personal
32 property to the affiant or the person entitled to the property as disclosed in the affidavit filed under
33 ORS 114.515, the property may be recovered or its payment, delivery or transfer compelled upon
34 proof of the transferee's entitlement in a proceeding brought for the purpose by or on behalf of the
35 transferee.

36 (4) If the [*affidavit was signed by the Director of Human Services or a designee of the director, the*
37 *director or the designee*] **Director of Human Services, the designee of the Director of Human**
38 **Services, the Director of the Oregon Health Authority or the designee of the Director of the**
39 **Oregon Health Authority signs the affidavit, the Director of Human Services, the designee**
40 **of the Director of Human Services, the Director of the Oregon Health Authority or the**
41 **designee of the Director of the Oregon Health Authority** may certify a copy of the affidavit for
42 the purposes described in subsection (1) or (2) of this section.

43 **SECTION 81.** ORS 115.125 is amended to read:

44 115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims
45 in full, the personal representative shall make payment in the following order:

1 (a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.

2 (b) Expenses of administration.

3 (c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.

4 (d) Debts and taxes with preference under federal law.

5 (e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent,
6 including compensation of persons attending the decedent.

7 (f) Taxes with preference under the laws of this state that are due and payable while possession
8 of the estate of the decedent is retained by the personal representative.

9 (g) Debts owed employees of the decedent for labor performed within 90 days immediately pre-
10 ceding the date of death of the decedent.

11 (h) Child support arrearages.

12 (i) **The claim of the Oregon Health Authority for the amount of the state's monthly**
13 **contribution to the federal government to defray the costs of outpatient prescription drug**
14 **coverage provided to a person who is eligible for Medicare Part D prescription drug coverage**
15 **and who receives benefits under the state medical assistance program or Title XIX of the**
16 **Social Security Act.**

17 [(i)] (j) The claim of the Department of Human Services for the net amount of assistance paid
18 to or for the decedent, in the following order:

19 [(A)] *The amount of the state's monthly contribution to the federal government to defray the costs*
20 *of outpatient prescription drug coverage provided to a person who is eligible for Medicare Part D*
21 *prescription drug coverage and who receives benefits under the state medical assistance program or*
22 *Title XIX of the Social Security Act;*

23 [(B)] (A) Public assistance, as defined in ORS 411.010, funded entirely by moneys from the
24 General Fund; **and**

25 [(C)] (B) Public assistance, as defined in ORS 411.010, funded by a combination of state and
26 federal funds; *and*].

27 [(D)] (k) **The claim of the Department of Human Services or the Oregon Health Authority**
28 **for the care** [*Care*] and maintenance of the decedent at a state institution, as provided in ORS
29 179.610 to 179.770.

30 [(j)] (L) The claim of the Department of Corrections for care and maintenance of any decedent
31 who was at a state institution to the extent provided in ORS 179.610 to 179.770.

32 [(k)] (m) All other claims against the estate.

33 (2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of
34 any one class specified in subsection (1) of this section, each expense or claim of that class shall
35 be paid only in proportion to the amount thereof.

36 **SECTION 82.** ORS 116.093 is amended to read:

37 116.093. (1) Upon filing the final account and petition for a judgment of distribution, the personal
38 representative shall fix a time for filing objections thereto in a notice thereof. Not less than 20 days
39 before the time fixed in the notice, the personal representative shall cause a copy of the notice to
40 be mailed to:

41 (a) Each heir at the last-known address of the heir, if the decedent died intestate.

42 (b) Each devisee at the last-known address of the devisee, if the decedent died testate.

43 (c) Each creditor who has not received payment in full and whose claim has not otherwise been
44 barred.

45 (d) Any other person known to the personal representative to have or to claim an interest in

1 the estate being distributed.

2 (2) The notice need not be mailed to the personal representative.

3 (3) Proof of the mailing to those persons entitled to notice shall be filed in the estate proceeding
4 at or before approval of the final account.

5 (4) If the Department of Human Services has presented a claim under ORS chapter 411 [*or 414*
6 *or ORS 416.310 to 416.340, 416.510 to 416.990 or 417.010 to 417.080*] **or ORS 416.310 to 416.340 or**
7 **417.010 to 417.080, or the Oregon Health Authority has presented a claim under ORS chapter**
8 **414 or ORS 416.310 to 416.340 or 416.510 to 416.990**, or the Department of Corrections [*or the au-*
9 *thorized agent of the Department of Corrections*] has presented a claim under ORS 179.620 (3), and
10 the claim has not been settled or paid in full, the personal representative shall mail to the appro-
11 priate department a copy of the final account at the same time, and shall make proof of the mailing
12 in the same manner, as the notice provided for in this section.

13 **SECTION 83.** ORS 116.253 is amended to read:

14 116.253. (1) Within 10 years after the death of a decedent whose estate escheated in whole or
15 in part to the state, or within eight years after the entry of a judgment or order escheating property
16 of an estate to the state, a claim may be made for the property escheated, or the proceeds thereof,
17 by or on behalf of a person not having actual knowledge of the escheat or by or on behalf of a
18 person who at the time of the escheat was unable to prove entitlement to the escheated property.

19 (2) The claim shall be made by a petition filed with the Director of the Department of State
20 Lands. The claim is considered a contested case as provided in ORS 183.310 and there is the right
21 of judicial review as provided in ORS 183.480. The petition must include a declaration under penalty
22 of perjury in the form required by ORCP 1 E and shall state:

23 (a) The age and place of residence of the claimant by whom or on whose behalf the petition is
24 filed;

25 (b) That the claimant lawfully is entitled to the property or proceeds, briefly describing the
26 property or proceeds;

27 (c) That at the time the property escheated to the state the claimant had no knowledge or notice
28 thereof or was unable to prove entitlement to the escheated property and has subsequently acquired
29 new evidence of that entitlement;

30 (d) That the claimant claims the property or proceeds as an heir or devisee or as the personal
31 representative of the estate of an heir or devisee, setting forth the relationship, if any, of the
32 claimant to the decedent who at the time of death was the owner;

33 (e) That 10 years have not elapsed since the death of the decedent, or that eight years have not
34 elapsed since the entry of the judgment or order escheating the property to the state; and

35 (f) If the petition is not filed by the claimant, the status of the petitioner.

36 (3) If it is determined that the claimant is entitled to the property or the proceeds thereof, the
37 Director of the Department of State Lands shall deliver the property to the petitioner, subject to
38 and charged with any tax on the property and the costs and expenses of the state in connection
39 therewith.

40 (4) If the person whose property escheated or reverted to the state was at any time an inmate
41 of a state institution in Oregon for persons with mental illness or mental retardation, the reasonable
42 unpaid cost[, *as determined by the Department of Human Services,*] of the care and maintenance of
43 the person while a ward of the institution, regardless of when the cost was incurred, may be de-
44 ducted from, or, if necessary, be offset in full against, the amount of the escheated property. **The**
45 **reasonable unpaid cost of care and maintenance shall be determined by:**

1 **(a) The Department of Human Services for patients of the Eastern Oregon Training**
2 **Center; and**

3 **(b) The Oregon Health Authority for patients of the Blue Mountain Recovery Center and**
4 **the Oregon State Hospital.**

5 (5) For the purposes of this section, the death of the decedent is presumed to have occurred on
6 the date shown in the decedent's death certificate or in any other similar document issued by the
7 jurisdiction in which the death occurred or issued by an agency of the federal government.

8 **SECTION 84.** ORS 124.050 is amended to read:

9 124.050. As used in ORS 124.050 to 124.095:

10 (1) "Abuse" means one or more of the following:

11 (a) Any physical injury caused by other than accidental means, or which appears to be at vari-
12 ance with the explanation given of the injury.

13 (b) Neglect which leads to physical harm through withholding of services necessary to maintain
14 health and well-being.

15 (c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal
16 or neglect of duties and obligations owed an elderly person by a caretaker or other person.

17 (d) Willful infliction of physical pain or injury.

18 (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
19 163.465 or 163.467.

20 (f) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly
21 person or person with a disability to alarm by conveying a threat to wrongfully take or appropriate
22 money or property, which threat reasonably would be expected to cause the person to believe that
23 the threat will be carried out.

24 (2) "Elderly person" means any person 65 years of age or older who is not subject to the pro-
25 visions of ORS 441.640 to 441.665.

26 (3) "Law enforcement agency" means:

27 (a) Any city or municipal police department.

28 (b) Any county sheriff's office.

29 (c) The Oregon State Police.

30 (d) Any district attorney.

31 (4) "Public or private official" means:

32 (a) Physician, naturopathic physician, osteopathic physician, chiropractor or podiatric physician
33 and surgeon, including any intern or resident.

34 (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an
35 in-home health service.

36 (c) Employee of the Department of Human Services[, *county health department or community*
37 *mental health and*] **or community** developmental disabilities program.

38 **(d) Employee of the Oregon Health Authority, county health department or community**
39 **mental health program.**

40 [(d)] (e) Peace officer.

41 [(e)] (f) Member of the clergy.

42 [(f)] (g) Licensed clinical social worker.

43 [(g)] (h) Physical, speech or occupational therapists.

44 [(h)] (i) Senior center employee.

45 [(i)] (j) Information and referral or outreach worker.

1 [(j)] (k) Licensed professional counselor or licensed marriage and family therapist.

2 [(k)] (L) Any public official who comes in contact with elderly persons in the performance of the
3 official's official duties.

4 [(L)] (m) Firefighter or emergency medical technician.

5 **SECTION 85.** ORS 125.060 is amended to read:

6 125.060. (1) The notices required by this section must be given to all persons whose identities
7 and addresses can be ascertained in the exercise of reasonable diligence by the person required to
8 give the notice.

9 (2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other pro-
10 tective order must be given by the petitioner to the following persons:

11 (a) The respondent, if the respondent has attained 14 years of age.

12 (b) The spouse, parents and adult children of the respondent.

13 (c) If the respondent does not have a spouse, parent or adult child, the person or persons most
14 closely related to the respondent.

15 (d) Any person who is cohabiting with the respondent and who is interested in the affairs or
16 welfare of the respondent.

17 (e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the
18 respondent by a court of any state, any trustee for a trust established by or for the respondent, any
19 person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and
20 any person acting as attorney-in-fact for the respondent under a power of attorney.

21 (f) If the respondent is a minor, the person who has exercised principal responsibility for the
22 care and custody of the respondent during the 60-day period before the filing of the petition.

23 (g) If the respondent is a minor and has no living parents, any person nominated to act as
24 fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

25 (h) If the respondent is receiving moneys paid or payable by the United States through the De-
26 partment of Veterans Affairs, a representative of the United States Department of Veterans Affairs
27 regional office that has responsibility for the payments to the protected person.

28 (i) If the respondent is receiving moneys paid or payable for public assistance provided under
29 ORS chapter 411 [or 414] by the State of Oregon through the Department of Human Services, a
30 representative of the department.

31 **(j) If the respondent is receiving moneys paid or payable for medical assistance provided**
32 **under ORS chapter 414 by the State of Oregon through the Oregon Health Authority, a rep-**
33 **resentative of the authority.**

34 [(j)] (k) If the respondent is committed to the legal and physical custody of the Department of
35 Corrections, the Attorney General and the superintendent or other officer in charge of the facility
36 in which the respondent is confined.

37 [(k)] (L) If the respondent is a foreign national, the consulate for the respondent's country.

38 [(L)] (m) Any other person that the court requires.

39 (3) Notice of a motion for the termination of the protective proceedings, for removal of a
40 fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's
41 actions or for protective orders in addition to those sought in the petition must be given by the
42 person making the motion to the following persons:

43 (a) The protected person, if the protected person has attained 14 years of age.

44 (b) Any person who has filed a request for notice in the proceedings.

45 (c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the

1 protected person.

2 (d) If the protected person is receiving moneys paid or payable by the United States through the
3 Department of Veterans Affairs, a representative of the United States Department of Veterans Af-
4 fairs regional office that has responsibility for the payments to the protected person.

5 (e) If the protected person is committed to the legal and physical custody of the Department of
6 Corrections, the Attorney General and the superintendent or other officer in charge of the facility
7 in which the protected person is confined.

8 (f) Any other person that the court requires.

9 (4) A request for notice under subsection (3)(b) of this section must be in writing and include
10 the name, address and phone number of the person requesting notice. A copy of the request must
11 be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has
12 been appointed. The original request must be filed with the court. The person filing the request must
13 pay the fee specified by ORS 21.310 (5).

14 (5) A person who files a request for notice in the proceedings in the manner provided by sub-
15 section (4) of this section is entitled to receive notice from the fiduciary of any motion specified in
16 subsection (3) of this section and of any other matter to which a person listed in subsection (2) of
17 this section is entitled to receive notice under a specific provision of this chapter.

18 (6) If the Department of Human Services is nominated as guardian for the purpose of consenting
19 to the adoption of a minor, the notice provided for in this section must also be given to the minor's
20 brothers, sisters, aunts, uncles and grandparents.

21 (7) In addition to the requirements of subsection (2) of this section, notice of the filing of a pe-
22 tition for the appointment of a guardian for a person who is alleged to be incapacitated must be
23 given by the petitioner to the following persons:

24 (a) Any attorney who is representing the respondent in any capacity.

25 (b) If the respondent is a resident of a nursing home or residential facility, or if the person
26 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-
27 cility, the office of the Long Term Care Ombudsman.

28 (c) If the respondent is a resident of a mental health treatment facility or a residential facility
29 for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends
30 to place the respondent in such a facility, the system described in ORS 192.517 (1).

31 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding
32 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this
33 section must be given by the person making the motion to the following persons:

34 (a) Any attorney who represented the protected person at any time during the protective pro-
35 ceeding.

36 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion
37 seeks authority to place the protected person in a nursing home or residential facility, the office of
38 the Long Term Care Ombudsman.

39 (c) If the protected person is a resident of a mental health treatment facility or a residential
40 facility for individuals with developmental disabilities, or if the motion seeks authority to place the
41 protected person in such a facility, the system described in ORS 192.517 (1).

42 (9) A respondent or protected person may not waive the notice required under this section.

43 (10) The requirement that notice be served on an attorney for a respondent or protected person
44 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney
45 receiving the notice to represent the respondent or protected person in the protective proceeding.

1 **SECTION 86.** ORS 127.635 is amended to read:

2 127.635. (1) Life-sustaining procedures as defined in ORS 127.505 which would otherwise be ap-
3 plied to an incapable principal who does not have an appointed health care representative or ap-
4 plicable valid advance directive may be withheld or withdrawn in accordance with subsections (2)
5 and (3) of this section if the principal has been medically confirmed to be in one of the following
6 conditions:

7 (a) A terminal condition;

8 (b) Permanently unconscious;

9 (c) A condition in which administration of life-sustaining procedures would not benefit the
10 principal's medical condition and would cause permanent and severe pain; or

11 (d) The person has a progressive illness that will be fatal and is in an advanced stage, the per-
12 son is consistently and permanently unable to communicate by any means, swallow food and water
13 safely, care for the person's self and recognize the person's family and other people, and it is very
14 unlikely that the person's condition will substantially improve.

15 (2) If a principal's condition has been determined to meet one of the conditions set forth in
16 subsection (1) of this section, and the principal does not have an appointed health care represen-
17 tative or applicable advance directive, the principal's health care representative shall be the first
18 of the following, in the following order, who can be located upon reasonable effort by the health
19 care facility and who is willing to serve as the health care representative:

20 (a) A guardian of the principal who is authorized to make health care decisions, if any;

21 (b) The principal's spouse;

22 (c) An adult designated by the others listed in this subsection who can be so located, if no
23 person listed in this subsection objects to the designation;

24 (d) A majority of the adult children of the principal who can be so located;

25 (e) Either parent of the principal;

26 (f) A majority of the adult siblings of the principal who can be located with reasonable effort;

27 or

28 (g) Any adult relative or adult friend.

29 (3) If none of the persons described in subsection (2) of this section is available, then life-
30 sustaining procedures may be withheld or withdrawn upon the direction and under the supervision
31 of the attending physician.

32 (4) Life-sustaining procedures may be withheld or withdrawn upon the direction and under the
33 supervision of the attending physician at the request of a person designated the health care repre-
34 sentative under subsections (2) and (3) of this section only after the person has consulted with con-
35 cerned family and close friends, and if the principal has a case manager, as defined by rules adopted
36 by the [Department of Human Services] **Oregon Health Authority**, after giving notice to the prin-
37 cipal's case manager.

38 **SECTION 87.** ORS 127.646 is amended to read:

39 127.646. As used in ORS 127.646 to 127.654:

40 (1) "Health care organization" means a home health agency, hospice program, hospital, long
41 term care facility or health maintenance organization.

42 (2) "Health maintenance organization" has the meaning given that term in ORS 750.005, except
43 that "health maintenance organization" includes only those organizations that participate in the
44 federal Medicare or Medicaid programs.

45 (3) "Home health agency" has the meaning given that term in ORS 443.005.

1 (4) "Hospice program" has the meaning given that term in ORS 443.850.

2 (5) "Hospital" has the meaning given that term in ORS 442.015 [(19)], except that "hospital" does
3 not include a special inpatient care facility.

4 (6) "Long term care facility" has the meaning given that term in ORS 442.015, except that "long
5 term care facility" does not include an intermediate care facility for individuals with mental retar-
6 dation.

7 **SECTION 88.** ORS 127.720 is amended to read:

8 127.720. (1) The physician or provider may subject the principal to mental health treatment in
9 a manner contrary to the principal's wishes as expressed in a declaration for mental health treat-
10 ment only:

11 (a) If the principal is committed to the [*Department of Human Services*] **Oregon Health Au-**
12 **thority** pursuant to ORS 426.005 to 426.390 and treatment is authorized in compliance with ORS
13 426.385 (3) and administrative rule; or

14 (b) In cases of emergency endangering life or health.

15 (2) A declaration does not limit any authority provided in ORS 426.005 to 426.390 either to take
16 a person into custody, or to admit, retain or treat a person in a health care facility.

17 **SECTION 89.** ORS 127.865 is amended to read:

18 127.865. §3.11. Reporting requirements. (1)(a) The [*Department of Human Services*] **Oregon**
19 **Health Authority** shall annually review a sample of records maintained pursuant to ORS 127.800
20 to 127.897.

21 (b) The [*department*] **authority** shall require any health care provider upon dispensing
22 medication pursuant to ORS 127.800 to 127.897 to file a copy of the dispensing record with the [*de-*
23 *partment*] **authority**.

24 (2) The [*department*] **authority** shall make rules to facilitate the collection of information re-
25 garding compliance with ORS 127.800 to 127.897. Except as otherwise required by law, the informa-
26 tion collected shall not be a public record and may not be made available for inspection by the
27 public.

28 (3) The [*department*] **authority** shall generate and make available to the public an annual sta-
29 tistical report of information collected under subsection (2) of this section.

30 **SECTION 90.** ORS 130.370 is amended to read:

31 130.370. (1) Within three months after a petition is entered in the register of the court under
32 ORS 130.355, or within such longer time as the court allows, a trustee must make reasonably dili-
33 gent efforts to investigate the financial records and affairs of the settlor and to take such further
34 actions as are reasonably necessary to ascertain the identity and address of each person who has
35 or asserts a claim against the trust estate. The court shall allow the trustee as much time as re-
36 quested by the trustee for the purpose of determining the claims against the trust estate. The trustee
37 must thereafter cause to be delivered or mailed a notice containing the information required in
38 subsection (2) of this section to each person known by the trustee to have or to assert a claim
39 against the trust estate and to the Department of Human Services **and the Oregon Health Au-**
40 **thority**. Notice under this section is not required for any claim that has already been presented,
41 accepted or paid in full or on account of a claim that is merely conjectural.

42 (2) The notice required by this section must include:

43 (a) The name and Social Security number of the settlor;

44 (b) The name of the trustee and the address at which claims must be presented;

45 (c) A statement that claims against the trust estate that are not presented to the trustee within

1 30 days after the date of the notice may be barred;

2 (d) The date of the notice, which shall be the date on which the notice is delivered or mailed;
3 and

4 (e) A copy of the settlor's death certificate.

5 **SECTION 91.** ORS 130.425 is amended to read:

6 130.425. (1) Claims allowed against the trust estate under ORS 130.350 to 130.450 must be paid
7 by the trustee in the following order of priority:

8 (a) Expenses of administering the trust estate.

9 (b) Expenses of a plain and decent funeral and disposition of the remains of the settlor.

10 (c) Debts and taxes with preference under federal law.

11 (d) Reasonable and necessary medical and hospital expenses of the last illness of the settlor,
12 including compensation of persons attending the settlor.

13 (e) Taxes with preference under the laws of this state that are due and payable while possession
14 of the trust estate of the settlor is retained by the trustee.

15 (f) Debts owed employees of the settlor for labor performed within 90 days immediately preced-
16 ing the date of death of the settlor.

17 (g) Child support arrearages.

18 (h) A claim of the Department of Human Services for the net amount of public assistance, as
19 defined in ORS 411.010[, *paid to or for the settlor, and the claim of the department for care and*
20 *maintenance of any settlor who was at a state institution to the extent provided in ORS 179.610 to*
21 *179.770*].

22 **(i) A claim of the Department of Human Services or the Oregon Health Authority for the**
23 **care and maintenance of any settlor who was a patient at a state institution under ORS**
24 **179.610 to 179.770.**

25 [(i)] (j) All other claims against the trust estate.

26 (2) If the assets of the trust estate are insufficient to pay in full all expenses or claims of any
27 one class specified in subsection (1) of this section, each expense or claim of that class shall be paid
28 only in proportion to the amount thereof.

29 **SECTION 92.** ORS 135.139 is amended to read:

30 135.139. (1) When a person has been charged with a crime in which it appears from the nature
31 of the charge that the transmission of body fluids from one person to another may have been in-
32 volved, the district attorney, upon the request of the victim or the parent or guardian of a minor
33 or incapacitated victim, shall seek the consent of the person charged to submit to a test for HIV
34 and any other communicable disease. In the absence of such consent or failure to submit to the test,
35 the district attorney may petition the court for an order requiring the person charged to submit to
36 a test for HIV and any other communicable disease.

37 (2)(a) At the time of an appearance before a circuit court judge on a criminal charge, the judge
38 shall inform every person arrested and charged with a crime, in which it appears from the nature
39 of the charge that the transmission of body fluids from one person to another may have been in-
40 volved, of the availability of testing for HIV and other communicable diseases and shall cause the
41 alleged victim of such a crime, if any, or a parent or guardian of the victim, if any, to be notified
42 that testing for HIV and other communicable diseases is available. The judge shall inform the person
43 arrested and charged and the victim, or parent or guardian of the victim, of the availability of
44 counseling under the circumstances described in subsection (7) of this section.

45 (b) Notwithstanding the provisions of ORS 433.045, if the district attorney files a petition under

1 subsection (1) of this section, the court shall order the person charged to submit to testing if the
2 court determines there is probable cause to believe that:

3 (A) The person charged committed the crime; and

4 (B) The victim has received a substantial exposure, as defined by rule of the [*Department of*
5 *Human Services*] **Oregon Health Authority**.

6 (3) Notwithstanding the provisions of ORS 433.045, upon conviction of a person for any crime
7 in which the court determines from the facts that the transmission of body fluids from one person
8 to another was involved and if the person has not been tested pursuant to subsection (2) of this
9 section, the court shall seek the consent of the convicted person to submit to a test for HIV and
10 other communicable diseases. In the absence of such consent or failure to submit to the test, the
11 court shall order the convicted person to submit to the test if the victim of the crime, or a parent
12 or guardian of the victim, requests the court to make such order.

13 (4) When a test is ordered under subsection (2) or (3) of this section, the victim of the crime or
14 a parent or guardian of the victim, shall designate an attending physician to receive such informa-
15 tion on behalf of the victim.

16 (5) If an HIV test results in a negative reaction, the court may order the person to submit to
17 another HIV test six months after the first test was administered.

18 (6) The result of any test ordered under this section is not a public record and shall be available
19 only to:

20 (a) The victim.

21 (b) The parent or guardian of a minor or incapacitated victim.

22 (c) The attending physician who is licensed to practice medicine.

23 (d) The [*Department of Human Services*] **Oregon Health Authority**.

24 (e) The person tested.

25 (7) If an HIV test ordered under this section results in a positive reaction, the individual subject
26 to the test shall receive post-test counseling as required by the [*Department of Human Services*,]
27 **Oregon Health Authority** by rule. The results of HIV tests ordered under this section shall be
28 reported to the [*Department of Human Services*] **authority**. Counseling and referral for appropriate
29 health care, testing and support services as directed by the Director of [*Human Services*] **the**
30 **Oregon Health Authority** shall be provided to the victim or victims at the request of the victim
31 or victims, or the parent or guardian of a minor or incapacitated victim.

32 (8) The costs of testing and counseling provided under subsections (2), (3) and (7) of this section
33 shall be paid through the compensation for crime victims program authorized by ORS 147.005 to
34 147.367 from amounts appropriated for such purposes. Restitution to the state for payment of the
35 costs of any counseling provided under this section and for payment of the costs of any test ordered
36 under this section shall be included by the court in any order requiring the convicted person to pay
37 restitution.

38 (9) When a court orders a convicted person to submit to a test under this section, the with-
39 drawal of blood may be performed only by a physician licensed to practice medicine or by a licensed
40 health care provider acting within the provider's licensed scope of practice or acting under the
41 supervision of a physician licensed to practice medicine.

42 (10) No person authorized by subsection (9) of this section to withdraw blood, no person assist-
43 ing in the performance of the test nor any medical care facility where blood is withdrawn or tested
44 that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal
45 action when the act is performed in a reasonable manner according to generally accepted medical

1 practices.

2 (11) The results of tests or reports, or information therein, obtained under this section shall be
3 confidential and shall not be divulged to any person not authorized by this section to receive the
4 information. Any violation of this subsection is a Class C misdemeanor.

5 (12) As used in this section:

6 (a) "HIV test" means a test as defined in ORS 433.045.

7 (b) "Parent or guardian of the victim" means a custodial parent or legal guardian of a victim
8 who is a minor or incapacitated person.

9 (c) "Positive reaction" means a positive HIV test with a positive confirmatory test result as
10 specified by the [*Department of Human Services*] **Oregon Health Authority**.

11 (d) "Transmission of body fluids" means the transfer of blood, semen, vaginal secretions or other
12 body fluids identified by rule of the [*Department of Human Services*] **authority**, from the perpetrator
13 of a crime to the mucous membranes or potentially broken skin of the victim.

14 (e) "Victim" means the person or persons to whom transmission of body fluids from the
15 perpetrator of the crime occurred or was likely to have occurred in the course of the crime.

16 **SECTION 93.** ORS 135.917 is amended to read:

17 135.917. (1) Courts having jurisdiction over the offense of possession of less than one ounce of
18 marijuana shall designate agencies or organizations to perform the diagnostic assessment and
19 treatment required under possession of marijuana diversion agreements described in ORS 135.907.
20 The designated agencies or organizations must meet the standards set by the [*Department of Human*
21 *Services*] **Oregon Health Authority** to perform the diagnostic assessment and treatment of drug
22 dependency and must be certified by the [*Department of Human Services*] **authority**. Wherever pos-
23 sible, a court shall designate agencies or organizations to perform the diagnostic assessment that
24 are separate from those that may be designated to carry out a program of treatment for drug de-
25 pendency.

26 (2) Monitoring of a defendant's progress under a diversion agreement shall be the responsibility
27 of the diagnostic assessment agency or organization. It shall make a report to the court stating the
28 defendant's successful completion or failure to complete all or any part of the treatment program
29 specified by the diagnostic assessment. The form of the report shall be determined by agreement
30 between the court and the diagnostic assessment agency or organization. The court shall make the
31 report of the diagnostic assessment agency or organization that is required by this subsection a part
32 of the record of the case.

33 **SECTION 94.** ORS 137.227 is amended to read:

34 137.227. (1) After a defendant has been convicted of a crime, the court may cause the defendant
35 to be evaluated to determine if the defendant is an alcoholic or a drug-dependent person, as those
36 terms are defined in ORS 430.306. The evaluation shall be conducted by an agency or organization
37 designated under subsection (2) of this section.

38 (2) The court shall designate agencies or organizations to perform the evaluations required un-
39 der subsection (1) of this section. The designated agencies or organizations must meet the standards
40 set by the [*Department of Human Services*] **Oregon Health Authority** to perform the evaluations for
41 drug dependency and must be approved by the [*department*] **authority**. Wherever possible, a court
42 shall designate agencies or organizations to perform the evaluations that are separate from those
43 that may be designated to carry out a program of treatment for alcohol or drug dependency.

44 **SECTION 95.** ORS 137.228 is amended to read:

45 137.228. (1) When a defendant is sentenced for a crime, the court may enter a finding that the

1 defendant is an alcoholic or a drug-dependent person, as those terms are defined in ORS 430.306.
2 The finding may be based upon any evidence before the court, including, but not limited to, the facts
3 of the case, stipulations of the parties and the results of any evaluation conducted under ORS
4 137.227.

5 (2) When the court finds that the defendant is an alcoholic or a drug-dependent person, the
6 court, when it sentences the defendant to a term of imprisonment, shall direct the Department of
7 Corrections to place the defendant in an appropriate alcohol or drug treatment program, to the ex-
8 tent that resources are available. The alcohol or drug treatment program shall meet the standards
9 promulgated by the [*Department of Human Services*] **Oregon Health Authority** pursuant to ORS
10 430.357.

11 **SECTION 96.** ORS 137.464 is amended to read:

12 137.464. (1)(a) At the death warrant hearing under ORS 137.463, the court shall order that the
13 [*Department of Human Services*] **Oregon Health Authority** or its designee perform an assessment
14 of the defendant's mental capacity to engage in reasoned choices of legal strategies and options if:

15 (A) The defendant indicates the wish to waive the right to counsel; and

16 (B) The court has substantial reason to believe that, due to mental incapacity, the defendant
17 cannot engage in reasoned choices of legal strategies and options.

18 (b) The court also shall order an assessment described in paragraph (a) of this subsection upon
19 motion by the state.

20 (2) If the requirements of subsection (1) of this section are met, the court may order the de-
21 fendant to be committed to a state mental hospital designated by the [*Department of Human*
22 *Services*] **authority** for a period not exceeding 30 days for the purpose of assessing the defendant's
23 mental capacity. The report of any competency assessment performed under this section must in-
24 clude, but need not be limited to, the following:

25 (a) A description of the nature of the assessment;

26 (b) A statement of the mental condition of the defendant; and

27 (c) A statement regarding the defendant's mental capacity to engage in reasoned choices of legal
28 strategies and options.

29 (3) If the competency assessment cannot be conducted because the defendant is unwilling to
30 participate, the report must so state and must include, if possible, an opinion as to whether the
31 unwillingness of the defendant is the result of a mental condition affecting the defendant's mental
32 capacity to engage in reasoned choices of legal strategies and options.

33 (4) The [*Department of Human Services*] **authority** shall file three copies of the report of the
34 competency assessment with the clerk of the court, who shall cause copies to be delivered to the
35 district attorney and to counsel for the defendant.

36 **SECTION 97.** ORS 137.466 is amended to read:

37 137.466. (1) If the court has ordered the [*Department of Human Services*] **Oregon Health Au-**
38 **thority** to perform a competency assessment of the defendant under ORS 137.464 and the assessment
39 has been completed, the court shall determine the issue of the defendant's mental capacity to engage
40 in reasoned choices of legal strategies and options. If neither the state nor counsel for the defendant
41 contests the finding of the report filed under ORS 137.464, the court may make the determination
42 of the defendant's mental capacity to engage in reasoned choices of legal strategies and options on
43 the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the
44 report is received in evidence at the hearing, the party contesting the finding has the right to
45 summon and to cross-examine the psychiatrist or psychologist who submitted the report and to offer

1 evidence on the issue. Either party may introduce other evidence regarding the defendant's mental
2 capacity to engage in reasoned choices of legal strategies and options.

3 (2) If the court determines that, due to mental incapacity, the defendant cannot engage in rea-
4 soned choices of legal strategies and options, the court shall continue the appointment of counsel
5 provided under ORS 137.463.

6 (3) No appeal may be taken from an order issued pursuant to this section.

7 **SECTION 98.** ORS 137.658 is amended to read:

8 137.658. (1) The chairperson of the Oregon Criminal Justice Commission may create any com-
9 mittees within the commission as the chairperson may think necessary. Persons who are not com-
10 mission members may be appointed as members to serve on the committees with the approval of the
11 commission.

12 (2) The chairperson shall appoint members of committees created under this section in such a
13 manner as to ensure representation from all segments of the criminal justice system that are af-
14 fected by the work of the committee. In selecting members for committee assignments, the chair-
15 person shall consider, but is not limited to, representatives from the following:

16 (a) The Attorney General;

17 (b) The Director of the Department of Corrections;

18 (c) The chairperson of the State Board of Parole and Post-Prison Supervision;

19 (d) The Superintendent of State Police;

20 (e) The chief administrative employee of the Psychiatric Security Review Board;

21 (f) The Director of Human Services;

22 **(g) The Director of the Oregon Health Authority;**

23 [(g)] **(h)** The Director of the Oregon Youth Authority;

24 [(h)] **(i)** Trial judges;

25 [(i)] **(j)** Judges of the Oregon Supreme Court or Court of Appeals;

26 [(j)] **(k)** Majority and minority parties of the House of Representatives and the Senate;

27 [(k)] **(L)** District attorneys;

28 [(L)] **(m)** Criminal defense attorneys;

29 [(m)] **(n)** County sheriffs;

30 [(n)] **(o)** County commissioners;

31 [(o)] **(p)** County community corrections directors;

32 [(p)] **(q)** Chiefs of police;

33 [(q)] **(r)** Victims of crime;

34 [(r)] **(s)** The public at large;

35 [(s)] **(t)** The director of a nonprofit entity created for the purpose of increasing understanding
36 of the adult and juvenile justice systems and promotion of effective policies for prevention and
37 control of crime; and

38 [(t)] **(u)** Private contract providers.

39 **SECTION 99.** ORS 144.102 is amended to read:

40 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
41 responsible for correctional services for a person shall specify in writing the conditions of post-
42 prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person
43 upon release from prison or jail.

44 (2) The board or the supervisory authority shall determine, and may at any time modify, the
45 conditions of post-prison supervision, which may include, among other conditions, that the person

1 shall:

2 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
3 sory authority.

4 (b) Be under the supervision of the Department of Corrections and its representatives or other
5 supervisory authority and abide by their direction and counsel.

6 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

7 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
8 thority.

9 (e) Not own, possess or be in control of any weapon.

10 (f) Respect and obey all municipal, county, state and federal laws.

11 (g) Understand that the board or supervisory authority may, at its discretion, punish violations
12 of post-prison supervision.

13 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
14 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
15 sory authority may require the person, as an additional condition of post-prison supervision, to pay
16 a reasonable fee to the victim impact program to offset the cost of the person's participation. The
17 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-
18 agraph.

19 (i) If required to report as a sex offender under ORS 181.595, report with the Department of
20 State Police, a chief of police, a county sheriff or the supervising agency:

21 (A) When supervision begins;

22 (B) Within 10 days of a change in residence;

23 (C) Once each year within 10 days of the person's date of birth;

24 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
25 institution of higher education; and

26 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
27 education.

28 (3)(a) The board or supervisory authority may establish special conditions as the board or su-
29 pervisory authority determines necessary because of the individual circumstances of the person on
30 post-prison supervision.

31 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in
32 ORS 181.594, the board or supervisory authority shall include all of the following as special condi-
33 tions of the person's post-prison supervision:

34 (A) Agreement to comply with any curfew set by the board, the supervisory authority or the
35 supervising officer.

36 (B) A prohibition against contacting a person under 18 years of age without the prior written
37 approval of the board, supervisory authority or supervising officer.

38 (C) A prohibition against being present more than one time, without the prior written approval
39 of the board, supervisory authority or supervising officer, at a place where persons under 18 years
40 of age regularly congregate.

41 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
42 against being present, without the prior written approval of the board, supervisory authority or
43 supervising officer, at, or on property adjacent to, a school, child care center, playground or other
44 place intended for use primarily by persons under 18 years of age.

45 (E) A prohibition against working or volunteering at a school, child care center, park, play-

1 ground or other place where persons under 18 years of age regularly congregate.

2 (F) Entry into and completion of or successful discharge from a sex offender treatment program
3 approved by the board, supervisory authority or supervising officer. The program may include
4 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-
5 gram.

6 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
7 by the victim, the person's treatment provider and the board, supervisory authority or supervising
8 officer.

9 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
10 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
11 visual or auditory materials that are relevant to the person's deviant behavior.

12 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
13 upon the request of a representative of the board or supervisory authority if the representative has
14 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision
15 will be found.

16 (J) Participation in random polygraph examinations to obtain information for risk management
17 and treatment. The person is responsible for paying the expenses of the examinations. The results
18 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
19 prove a violation of post-prison supervision.

20 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
21 approved by the board, supervisory authority or supervising officer.

22 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-
23 thority or supervising officer.

24 (M) A prohibition against residing in any dwelling in which another sex offender who is on
25 probation, parole or post-prison supervision resides unless approved by the board, supervisory au-
26 thority or supervising officer, or in which more than one other sex offender who is on probation,
27 parole or post-prison supervision resides unless approved by the board or the director of the super-
28 visory authority, or a designee of the board or director. As soon as practicable, the supervising of-
29 ficer of a person subject to the requirements of this subparagraph shall review the person's living
30 arrangement with the person's sex offender treatment provider to ensure that the arrangement
31 supports the goals of offender rehabilitation and community safety. As used in this subparagraph:

32 (i) "Dwelling" has the meaning given that term in ORS 469.160.

33 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

34 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential fa-
35 cility that provides rehabilitative care and treatment for sex offenders.

36 (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined
37 in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
38 years of age, the board or supervisory authority, if requested by the victim, shall include as a special
39 condition of the person's post-prison supervision that the person not reside within three miles of the
40 victim unless:

41 (i) The victim resides in a county having a population of less than 130,000 and the person is
42 required to reside in that county under subsection (6) of this section;

43 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the
44 evidence that no mental intimidation or pressure was brought to bear during the commission of the
45 crime;

1 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the
2 evidence that imposition of the condition will deprive the person of a residence that would be
3 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison
4 supervision; or

5 (iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house"
6 means a publicly or privately operated profit or nonprofit residential facility that provides
7 rehabilitative care and treatment for sex offenders.

8 (B) A victim may request imposition of the special condition of post-prison supervision described
9 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's
10 request may be included in the judgment document.

11 (C) If the board or supervisory authority imposes the special condition of post-prison supervision
12 described in this paragraph and if at any time during the period of post-prison supervision the victim
13 moves to within three miles of the person's residence, the board or supervisory authority may not
14 require the person to change the person's residence in order to comply with the special condition
15 of post-prison supervision.

16 (4)(a) The board or supervisory authority may require the person to pay, as a condition of
17 post-prison supervision, any compensatory fines, restitution or attorney fees:

18 (A) As determined, imposed or required by the sentencing court; or

19 (B) When previously required as a condition of any type of supervision that is later revoked.

20 (b) The board may require a person to pay restitution as a condition of post-prison supervision
21 imposed for an offense other than the offense for which the restitution was ordered if the person:

22 (A) Was ordered to pay restitution as a result of another conviction; and

23 (B) Has not fully paid the restitution by the time the person has completed the period of post-
24 prison supervision imposed for the offense for which the restitution was ordered.

25 (5) A person's failure to apply for or accept employment at any workplace where there is a labor
26 dispute in progress does not constitute a violation of the conditions of post-prison supervision. As
27 used in this subsection, "labor dispute" has the meaning given that term in ORS 662.010.

28 (6)(a) When a person is released from imprisonment on post-prison supervision, the board shall
29 order, as a condition of post-prison supervision, that the person reside for the first six months after
30 release in the county where the person resided at the time of the offense that resulted in the
31 imprisonment.

32 (b) Upon motion of the board, the person, a victim or a district attorney, the board may waive
33 the residency requirement only after making a finding that one of the following conditions has been
34 met:

35 (A) The person provides proof of employment with no set ending date in a county other than the
36 established county of residence;

37 (B) The person is found to pose a significant danger to a victim of the person's crime, or a vic-
38 tim or victim's family is found to pose a significant danger to the person residing in the established
39 county of residence;

40 (C) The person has a spouse or biological or adoptive family residing in a county other than the
41 established county of residence who will be materially significant in aiding in the rehabilitation of
42 the person and in the success of the post-prison supervision;

43 (D) As another condition of post-prison supervision, the person is required to participate in a
44 treatment program that is not available in the established county of residence;

45 (E) The person desires to be released to another state; or

1 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
2 paragraph, for the waiver.

3 (c)(A) The board shall determine the county where the person resided at the time of the offense
4 by establishing the person's last address at the time of the offense. In making its determination, the
5 board shall examine all of the following:

- 6 (i) An Oregon driver license, regardless of its validity;
- 7 (ii) Records maintained by the Department of Revenue;
- 8 (iii) Records maintained by the Department of State Police bureau of criminal identification;
- 9 (iv) Records maintained by the Department of Human Services; *[and]*
- 10 (v) Records maintained by the Department of Corrections[.]; **and**
- 11 **(vi) Records maintained by the Oregon Health Authority.**

12 (B) When the person did not have an identifiable address of record at the time of the offense,
13 the person is considered to have resided in the county where the offense occurred.

14 (C) If the person is serving multiple sentences, the county of residence shall be determined ac-
15 cording to the date of the last arrest resulting in a conviction.

16 (D) In determining the person's county of residence for purposes of this subsection, the board
17 may not consider offenses committed by the person while the person was incarcerated in a Depart-
18 ment of Corrections facility.

19 (7) As used in this section, "attends," "institution of higher education," "works" and "carries
20 on a vocation" have the meanings given those terms in ORS 181.594.

21 **SECTION 100.** ORS 144.270 is amended to read:

22 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
23 parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be
24 given to the person paroled.

25 (2) The board shall determine, and may at any time modify, the conditions of parole, which may
26 include, among other conditions, that the parolee shall:

- 27 (a) Accept the parole granted subject to all terms and conditions specified by the board.
- 28 (b) Be under the supervision of the Department of Corrections and its representatives and abide
29 by their direction and counsel.
- 30 (c) Answer all reasonable inquiries of the board or the parole officer.
- 31 (d) Report to the parole officer as directed by the board or parole officer.
- 32 (e) Not own, possess or be in control of any weapon.
- 33 (f) Respect and obey all municipal, county, state and federal laws.
- 34 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines
35 that the parole is not in the best interest of the parolee, or in the best interest of society.

36 (3)(a) The board may establish such special conditions as it determines are necessary because
37 of the individual circumstances of the parolee.

38 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, the
39 board shall include all of the following as special conditions of the person's parole:

40 (A) Agreement to comply with any curfew set by the board or the supervising officer.

41 (B) A prohibition against contacting a person under 18 years of age without the prior written
42 approval of the board or supervising officer.

43 (C) A prohibition against being present more than one time, without the prior written approval
44 of the board or supervising officer, at a place where persons under 18 years of age regularly con-
45 gregate.

1 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
2 against being present, without the prior written approval of the board or supervising officer, at, or
3 on property adjacent to, a school, child care center, playground or other place intended for use
4 primarily by persons under 18 years of age.

5 (E) A prohibition against working or volunteering at a school, child care center, park, play-
6 ground or other place where persons under 18 years of age regularly congregate.

7 (F) Entry into and completion of or successful discharge from a sex offender treatment program
8 approved by the board or supervising officer. The program may include polygraph and
9 plethysmograph testing. The person is responsible for paying for the treatment program.

10 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
11 by the victim, the person's treatment provider and the board or supervising officer.

12 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
13 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
14 visual or auditory materials that are relevant to the person's deviant behavior.

15 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
16 upon the request of a representative of the board if the representative has reasonable grounds to
17 believe that evidence of a violation of a condition of parole will be found.

18 (J) Participation in random polygraph examinations to obtain information for risk management
19 and treatment. The person is responsible for paying the expenses of the examinations. The results
20 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
21 prove a violation of parole.

22 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
23 approved by the board or supervising officer.

24 (L) A prohibition against using a post-office box unless approved by the board or supervising
25 officer.

26 (M) A prohibition against residing in any dwelling in which another sex offender who is on
27 probation, parole or post-prison supervision resides unless approved by the board or supervising of-
28 ficer, or in which more than one other sex offender who is on probation, parole or post-prison
29 supervision resides unless approved by the board or a designee of the board. As soon as practicable,
30 the supervising officer of a person subject to the requirements of this subparagraph shall review the
31 person's living arrangement with the person's sex offender treatment provider to ensure that the
32 arrangement supports the goals of offender rehabilitation and community safety. As used in this
33 subparagraph:

34 (i) "Dwelling" has the meaning given that term in ORS 469.160.

35 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

36 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential fa-
37 cility that provides rehabilitative care and treatment for sex offenders.

38 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594,
39 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the
40 board, if requested by the victim, shall include as a special condition of the person's parole that the
41 person not reside within three miles of the victim unless:

42 (i) The victim resides in a county having a population of less than 130,000 and the person is
43 required to reside in that county under subsection (5) of this section;

44 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental
45 intimidation or pressure was brought to bear during the commission of the crime;

1 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition
2 of the condition will deprive the person of a residence that would be materially significant in aiding
3 in the rehabilitation of the person or in the success of the parole; or

4 (iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house"
5 means a publicly or privately operated profit or nonprofit residential facility that provides
6 rehabilitative care and treatment for sex offenders.

7 (B) A victim may request imposition of the special condition of parole described in this para-
8 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request
9 may be included in the judgment document.

10 (C) If the board imposes the special condition of parole described in this paragraph and if at any
11 time during the period of parole the victim moves to within three miles of the parolee's residence,
12 the board may not require the parolee to change the parolee's residence in order to comply with the
13 special condition of parole.

14 (4) It is not a cause for revocation of parole that the parolee failed to apply for or accept em-
15 ployment at any workplace where there is a labor dispute in progress. As used in this subsection,
16 "labor dispute" has the meaning given that term in ORS 662.010.

17 (5)(a) When the board grants an inmate parole from the custody of the Department of Cor-
18 rections, the board shall order, as a condition of parole, that the inmate reside for the first six
19 months in the county where the inmate resided at the time of the offense that resulted in the
20 imprisonment.

21 (b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive
22 the residency requirement only after making a finding that one of the following conditions has been
23 met:

24 (A) The inmate provides proof of a job with no set ending date in a county other than the es-
25 tablished county of residence;

26 (B) The inmate is found to pose a significant danger to the victim of the offender's crime, or the
27 victim or victim's family is found to pose a significant danger to the inmate residing in the county
28 of residence;

29 (C) The inmate has a spouse or biological or adoptive family residing in other than the county
30 of residence who will be materially significant in aiding in the rehabilitation of the offender and in
31 the success of the parole;

32 (D) As another condition of parole, the inmate is required to participate in a treatment program
33 that is not available or located in the county of residence;

34 (E) The inmate desires to be paroled to another state; or

35 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
36 paragraph, for the waiver.

37 (c)(A) For purposes of this subsection, "residency" means the last address at the time of the
38 offense, as established by an examination of all of the following:

39 (i) An Oregon driver license, regardless of its validity;

40 (ii) Records maintained by the Department of Revenue;

41 (iii) Records maintained by the Department of State Police bureau of criminal identification;

42 (iv) Records maintained by the Department of Human Services; *[and]*

43 (v) Records maintained by the Department of Corrections[.]; **and**

44 **(vi) Records maintained by the Oregon Health Authority.**

45 (B) When an inmate did not have one identifiable address of record at the time of the offense,

1 the inmate shall be considered to have resided in the county where the offense occurred.

2 (C) If the inmate is serving multiple sentences, the county of residence shall be determined ac-
3 cording to the date of the last arrest resulting in a conviction.

4 (D) If the inmate is being rereleased after revocation of parole, the county of residence shall
5 be determined according to the date of the arrest resulting in a conviction of the underlying offense.

6 (E) In determining the inmate's county of residence, a conviction for an offense that the inmate
7 committed while incarcerated in a state corrections institution may not be considered.

8 (6) When the board grants an inmate parole from the custody of the Department of Corrections
9 and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condi-
10 tion of parole, shall order the inmate to report with the Department of State Police, a chief of police,
11 a county sheriff or the supervising agency:

12 (a) When supervision begins;

13 (b) Within 10 days of a change in residence;

14 (c) Once each year within 10 days of the inmate's date of birth;

15 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
16 institution of higher education; and

17 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
18 education.

19 (7) As used in this section, "attends," "institution of higher education," "works" and "carries
20 on a vocation" have the meanings given those terms in ORS 181.594.

21 **SECTION 101.** ORS 161.315 is amended to read:

22 161.315. Upon filing of notice or the introduction of evidence by the defendant as provided in
23 ORS 161.309 (3), the state shall have the right to have at least one psychiatrist or licensed psy-
24 chologist of its selection examine the defendant. The state shall file notice with the court of its in-
25 tention to have the defendant examined. Upon filing of the notice, the court, in its discretion, may
26 order the defendant committed to a state institution or any other suitable facility, if the defendant
27 is 18 years of age or older, for observation and examination as the court may designate for a period
28 not to exceed 30 days. If the defendant is under 18 years of age, upon filing of the notice, the court,
29 in its discretion, may order the defendant committed to a secure intensive community inpatient fa-
30 cility designated by the [*Department of Human Services*] **Oregon Health Authority** for observation
31 and examination as the court may designate for a period not to exceed 30 days. If the defendant
32 objects to the examiner chosen by the state, the court for good cause shown may direct the state
33 to select a different examiner.

34 **SECTION 102.** ORS 161.327 is amended to read:

35 161.327. (1)(a) Following the entry of a judgment pursuant to ORS 161.319 and the dispositional
36 determination under ORS 161.325, if the court finds that the person would have been guilty of a
37 felony, or of a misdemeanor during a criminal episode in the course of which the person caused
38 physical injury or risk of physical injury to another, the court shall order that a psychiatric or
39 psychological evaluation be performed and a report of the evaluation be provided to the court if an
40 evaluation was not performed or a report was not provided to the court prior to trial. Upon receipt
41 of the evaluation, the court shall order that the person be placed under the jurisdiction of the Psy-
42 chiatric Security Review Board for care and treatment if the court finds by a preponderance of the
43 evidence that the person is affected by mental disease or defect and presents a substantial danger
44 to others requiring commitment to:

45 (A) A state hospital designated by the [*Department of Human Services*] **Oregon Health Au-**

1 **thority** if the person is at least 18 years of age; or

2 (B) A secure intensive community inpatient facility designated by the [*Department of Human*
3 *Services*] **authority** if the person is under 18 years of age.

4 (b) The period of jurisdiction of the board is equal to the maximum sentence provided by statute
5 for the crime for which the person was found guilty except for insanity.

6 (c) When a court orders a psychiatric or psychological evaluation of a financially eligible person
7 under this subsection, the court shall order the public defense services executive director to pay a
8 reasonable fee for the evaluation from funds available for the purpose.

9 (2) The court shall determine whether the person should be committed to a state hospital, or to
10 a secure intensive community inpatient facility, designated by the [*Department of Human Services*]
11 **authority** or conditionally released pending any hearing before the board as follows:

12 (a) If the court finds that the person presents a substantial danger to others and is not a proper
13 subject for conditional release, the court shall order the person committed to a state hospital des-
14 ignated by the [*Department of Human Services*] **authority** if the person is at least 18 years of age,
15 or to a secure intensive community inpatient facility designated by the [*Department of Human Ser-*
16 *vices*] **authority** if the person is under 18 years of age, for custody, care and treatment pending
17 hearing before the board in accordance with ORS 161.341 to 161.351.

18 (b) If the court finds that the person presents a substantial danger to others but that the person
19 can be adequately controlled with supervision and treatment if conditionally released and that nec-
20 essary supervision and treatment are available, the court may order the person conditionally re-
21 leased, subject to those supervisory orders of the court as are in the best interests of justice, the
22 protection of society and the welfare of the person. The court shall designate a person or state,
23 county or local agency to supervise the person upon release, subject to those conditions as the court
24 directs in the order for conditional release. Prior to the designation, the court shall notify the per-
25 son or agency to whom conditional release is contemplated and provide the person or agency an
26 opportunity to be heard before the court. After receiving an order entered under this paragraph, the
27 person or agency designated shall assume supervision of the person pursuant to the direction of the
28 Psychiatric Security Review Board. The person or agency designated as supervisor shall be required
29 to report in writing no less than once per month to the board concerning the supervised person's
30 compliance with the conditions of release.

31 (3) For purposes of this section, a person affected by a mental disease or defect in a state of
32 remission is considered to have a mental disease or defect requiring supervision when the disease
33 may, with reasonable medical probability, occasionally become active and, when active, render the
34 person a danger to others.

35 (4) In determining whether a person should be conditionally released, the court may order
36 evaluations, examinations and compliance as provided in ORS 161.336 (4) and 161.346 (2).

37 (5) In determining whether a person should be committed to a state hospital or to a secure in-
38 tensive community inpatient facility or conditionally released, the court shall have as its primary
39 concern the protection of society.

40 (6) Upon placing a person on conditional release, the court shall notify the board in writing of
41 the court's conditional release order, the supervisor appointed, and all other conditions of release,
42 and the person shall be on conditional release pending hearing before the board in accordance with
43 ORS 161.336 to 161.351. Upon compliance with this subsection and subsections (1) and (2) of this
44 section, the court's jurisdiction over the person is terminated and the board assumes jurisdiction
45 over the person.

1 (7) An order of the court under this section is a final order appealable by the person found
2 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
3 of an appeal under this section shall be served and filed within 90 days after the order appealed from
4 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
5 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
6 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
7 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
8 determined and paid as provided in ORS 138.500.

9 (8) Upon placing a person under the jurisdiction of the board, the court shall notify the person
10 of the right to appeal and the right to a hearing before the board in accordance with ORS 161.336
11 (7) and 161.341 (4).

12 **SECTION 103.** ORS 161.336 is amended to read:

13 161.336. (1) If the Psychiatric Security Review Board determines that the person presents a
14 substantial danger to others but can be adequately controlled with supervision and treatment if
15 conditionally released and that necessary supervision and treatment are available, the board may
16 order the person conditionally released, subject to those supervisory orders of the board as are in
17 the best interests of justice, the protection of society and the welfare of the person. The board may
18 designate any person or state, county or local agency the board considers capable of supervising the
19 person upon release, subject to those conditions as the board directs in the order for conditional
20 release. Prior to the designation, the board shall notify the person or agency to whom conditional
21 release is contemplated and provide the person or agency an opportunity to be heard before the
22 board. After receiving an order entered under this section, the person or agency designated shall
23 assume supervision of the person pursuant to the direction of the board.

24 (2) Conditions of release contained in orders entered under this section may be modified from
25 time to time and conditional releases may be terminated by order of the board as provided in ORS
26 161.351.

27 (3) For purposes of this section, a person affected by a mental disease or defect in a state of
28 remission is considered to have a mental disease or defect requiring supervision when the disease
29 may, with reasonable medical probability, occasionally become active and, when active, render the
30 person a danger to others. The person may be continued on conditional release by the board as
31 provided in this section.

32 (4)(a) As a condition of release, the board may require the person to report to any state or local
33 mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is
34 recommended, the board may order the person, as a condition of release, to cooperate with and ac-
35 cept the treatment from the facility.

36 (b) The facility to which the person has been referred for evaluation shall perform the evalu-
37 ation and submit a written report of its findings to the board. If the facility finds that treatment of
38 the person is appropriate, it shall include its recommendations for treatment in the report to the
39 board.

40 (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a
41 regular basis concerning the progress of the person.

42 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
43 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS
44 192.501 to 192.505.

45 (e) The facility shall comply with any other conditions of release prescribed by order of the

1 board.

2 (5) If at any time while the person is under the jurisdiction of the board it appears to the board
 3 or its chairperson that the person has violated the terms of the conditional release or that the
 4 mental health of the individual has changed, the board or its chairperson may order the person re-
 5 turned for evaluation or treatment to a state hospital designated by the [*Department of Human*
 6 *Services*] **Oregon Health Authority** if the person is at least 18 years of age, or to a secure intensive
 7 community inpatient facility designated by the [*Department of Human Services*] **authority** if the
 8 person is under 18 years of age. A written order of the board, or its chairperson on behalf of the
 9 board, is sufficient warrant for any law enforcement officer to take into custody such person and
 10 transport the person accordingly. A sheriff, municipal police officer, constable, parole and probation
 11 officer, prison official or other peace officer shall execute the order, and the person shall be re-
 12 turned as soon as practicable to the custody of the [*Department of Human Services*] **authority**.
 13 Within 20 days following the return of the person to the custody of the [*Department of Human Ser-*
 14 *vices*] **authority**, the board shall conduct a hearing. Notice of the time and place of the hearing shall
 15 be given to the person, the attorney representing the person and the Attorney General. The board
 16 may continue the person on conditional release or, if it finds by a preponderance of the evidence
 17 that the person is affected by mental disease or defect and presents a substantial danger to others
 18 and cannot be adequately controlled if conditional release is continued, it may order the person
 19 committed to a state hospital designated by the [*Department of Human Services*] **authority** if the
 20 person is at least 18 years of age, or to a secure intensive community inpatient facility designated
 21 by the [*Department of Human Services*] **authority** if the person is under 18 years of age. The state
 22 must prove by a preponderance of the evidence the person's unfitness for conditional release. A
 23 person in custody pursuant to this subsection has the same rights as any person appearing before
 24 the board pursuant to ORS 161.346.

25 (6) The community mental health [*and developmental disabilities*] program director, the director
 26 of the facility providing treatment to a person on conditional release, any peace officer or any per-
 27 son responsible for the supervision of a person on conditional release may take a person on condi-
 28 tional release into custody or request that the person be taken into custody if there is reasonable
 29 cause to believe the person is a substantial danger to others because of mental disease or defect and
 30 that the person is in need of immediate care, custody or treatment. Any person taken into custody
 31 pursuant to this subsection shall be transported as soon as practicable to a state hospital designated
 32 by the [*Department of Human Services*] **authority** if the person is at least 18 years of age, or to a
 33 secure intensive community inpatient facility designated by the [*Department of Human Services*]
 34 **authority** if the person is under 18 years of age. A person taken into custody under this subsection
 35 has the same rights as any person appearing before the board pursuant to ORS 161.346.

36 (7)(a) Any person conditionally released under this section may apply to the board for discharge
 37 from or modification of an order of conditional release on the ground that the person is no longer
 38 affected by mental disease or defect or, if still so affected, no longer presents a substantial danger
 39 to others and no longer requires supervision, medication, care or treatment. Notice of the hearing
 40 on an application for discharge or modification of an order of conditional release shall be made to
 41 the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove by a
 42 preponderance of the evidence the applicant's fitness for discharge or modification of the order of
 43 conditional release. Applications by the person for discharge or modification of conditional release
 44 shall not be filed more often than once every six months.

45 (b) Upon application by any person or agency responsible for supervision or treatment pursuant

1 to an order of conditional release, the board shall conduct a hearing to determine if the conditions
 2 of release shall be continued, modified or terminated. The application shall be accompanied by a
 3 report setting forth the facts supporting the application.

4 (8) The total period of commitment and conditional release ordered pursuant to this section may
 5 not exceed the maximum sentence provided by statute for the crime for which the person was found
 6 guilty except for insanity.

7 (9) The board shall maintain and keep current the medical, social and criminal history of all
 8 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall
 9 be determined pursuant to ORS 192.501 to 192.505.

10 (10) In determining whether a person should be committed to a state hospital or to a secure
 11 intensive community inpatient facility, conditionally released or discharged, the board shall have as
 12 its primary concern the protection of society.

13 **SECTION 104.** ORS 161.341 is amended to read:

14 161.341. (1) If the Psychiatric Security Review Board finds, upon its initial hearing, that the
 15 person presents a substantial danger to others and is not a proper subject for conditional release,
 16 the board shall order the person committed to, or retained in, a state hospital designated by the
 17 [*Department of Human Services*] **Oregon Health Authority** if the person is at least 18 years of age,
 18 or to a secure intensive community inpatient facility designated by the [*Department of Human Ser-*
 19 *vices*] **authority** if the person is under 18 years of age, for custody, care and treatment. The period
 20 of commitment ordered by the board may not exceed the maximum sentence provided by statute for
 21 the crime for which the person was found guilty except for insanity.

22 (2) If at any time after the commitment of a person to a state hospital, or to a secure intensive
 23 community inpatient facility, designated by the [*Department of Human Services*] **authority** under this
 24 section, the superintendent of the hospital or the director of the secure intensive community inpa-
 25 tient facility is of the opinion that the person is no longer affected by mental disease or defect, or,
 26 if so affected, no longer presents a substantial danger to others or that the person continues to be
 27 affected by mental disease or defect and continues to be a danger to others, but that the person can
 28 be controlled with proper care, medication, supervision and treatment if conditionally released, the
 29 superintendent or director shall apply to the board for an order of discharge or conditional release.
 30 The application shall be accompanied by a report setting forth the facts supporting the opinion of
 31 the superintendent or director. If the application is for conditional release, the application must also
 32 be accompanied by a verified conditional release plan. The board shall hold a hearing on the appli-
 33 cation within 60 days of its receipt. Not less than 20 days prior to the hearing before the board,
 34 copies of the report shall be sent to the Attorney General.

35 (3) The attorney representing the state may choose a psychiatrist or licensed psychologist to
 36 examine the person prior to the initial or any later decision by the board on discharge or condi-
 37 tional release. The results of the examination shall be in writing and filed with the board, and shall
 38 include, but need not be limited to, an opinion as to the mental condition of the person, whether the
 39 person presents a substantial danger to others and whether the person could be adequately con-
 40 trolled with treatment as a condition of release.

41 (4) Any person who has been committed to a state hospital, or to a secure intensive community
 42 inpatient facility, designated by the [*Department of Human Services*] **authority** for custody, care and
 43 treatment or another person acting on the person's behalf may apply to the board for an order of
 44 discharge or conditional release upon the grounds:

45 (a) That the person is no longer affected by mental disease or defect;

1 (b) If so affected, that the person no longer presents a substantial danger to others; or

2 (c) That the person continues to be affected by a mental disease or defect and would continue
3 to be a danger to others without treatment, but that the person can be adequately controlled and
4 given proper care and treatment if placed on conditional release.

5 (5) When application is made under subsection (4) of this section, the board shall require that
6 a report from the superintendent of the hospital or the director of the secure intensive community
7 inpatient facility be prepared and transmitted as provided in subsection (2) of this section. The ap-
8 plicant must prove by a preponderance of the evidence the applicant's fitness for discharge or con-
9 ditional release under the standards of subsection (4) of this section, unless more than two years
10 has passed since the state had the burden of proof on that issue, in which case the state shall have
11 the burden of proving by a preponderance of the evidence the applicant's lack of fitness for dis-
12 charge or conditional release. Applications for discharge or conditional release under subsection (4)
13 of this section shall not be filed more often than once every six months commencing with the date
14 of the initial board hearing.

15 (6) The board is not required to hold a hearing on a first application under subsection (4) of this
16 section any sooner than 90 days after the initial hearing. However, hearings resulting from any
17 subsequent requests shall be held within 60 days of the filing of the application.

18 (7)(a) In no case shall any person committed by the court under ORS 161.327 to a state hospital,
19 or to a secure intensive community inpatient facility, designated by the [*Department of Human Ser-*
20 *vices*] **authority** be held in the hospital or facility for more than 90 days from the date of the court's
21 commitment order without an initial hearing before the board to determine whether the person
22 should be conditionally released or discharged.

23 (b) In no case shall a person be held pursuant to this section for a period of time exceeding two
24 years without a hearing before the board to determine whether the person should be conditionally
25 released or discharged.

26 **SECTION 105.** ORS 161.346 is amended to read:

27 161.346. (1) The Psychiatric Security Review Board shall conduct hearings upon any application
28 for discharge, conditional release, commitment or modification filed pursuant to ORS 161.336, 161.341
29 or 161.351 and as otherwise required by ORS 161.336 to 161.351 and shall make findings on the is-
30 sues before it which may include:

31 (a) If the board finds that the person is no longer affected by mental disease or defect, or, if so
32 affected, no longer presents a substantial danger to others, the board shall order the person dis-
33 charged from commitment or from conditional release.

34 (b) If the board finds that the person is still affected by a mental disease or defect and is a
35 substantial danger to others, but can be controlled adequately if conditionally released with treat-
36 ment as a condition of release, the board shall order the person conditionally released as provided
37 in ORS 161.336.

38 (c) If the board finds that the person has not recovered from the mental disease or defect and
39 is a substantial danger to others and cannot adequately be controlled if conditionally released on
40 supervision, the board shall order the person committed to, or retained in, a state hospital desig-
41 nated by the [*Department of Human Services*] **Oregon Health Authority** if the person is at least 18
42 years of age, or a secure intensive community inpatient facility designated by the [*Department of*
43 *Human Services*] **authority** if the person is under 18 years of age, for care, custody and treatment.

44 (2) At any time, the board may appoint a psychiatrist or licensed psychologist to examine the
45 person and to submit a report to the board. Reports filed with the board pursuant to the examination

1 shall include, but need not be limited to, an opinion as to the mental condition of the person and
2 whether the person presents a substantial danger to others, and whether the person could be ade-
3 quately controlled with treatment as a condition of release. To facilitate the examination of the
4 person, the board may order the person placed in the temporary custody of any state hospital or
5 other suitable facility.

6 (3) The board may make the determination regarding discharge or conditional release based
7 upon the written reports submitted pursuant to this section. If any member of the board desires
8 further information from the examining psychiatrist or licensed psychologist who submitted the re-
9 port, these persons shall be summoned by the board to give testimony. The board shall consider all
10 evidence available to it which is material, relevant and reliable regarding the issues before the
11 board. Such evidence may include but is not limited to the record of trial, the information supplied
12 by the attorney representing the state or by any other interested party, including the person, and
13 information concerning the person's mental condition and the entire psychiatric and criminal history
14 of the person. All evidence of a type commonly relied upon by reasonably prudent persons in the
15 conduct of their serious affairs shall be admissible at hearings. Testimony shall be taken upon oath
16 or affirmation of the witness from whom received. The officer presiding at the hearing shall admin-
17 ister oaths or affirmations to witnesses.

18 (4) The board shall furnish to the person about whom the hearing is being conducted, the at-
19 torney representing the person, the Attorney General, the district attorney and the court or de-
20 partment of the county from which the person was committed written notice of any hearing pending
21 under this section within a reasonable time prior to the hearing. The notice shall include:

22 (a) The time, place and location of the hearing.

23 (b) The nature of the hearing and the specific action for which a hearing has been requested,
24 the issues to be considered at the hearing and a reference to the particular sections of the statutes
25 and rules involved.

26 (c) A statement of the authority and jurisdiction under which the hearing is to be held.

27 (d) A statement of all rights under subsection (6) of this section.

28 (5) Prior to the commencement of a hearing, the board or presiding officer shall serve personally
29 or by mail a written notice to each party as provided in ORS 183.413 (2).

30 (6) At the hearing, the person about whom the hearing is being held shall have the right:

31 (a) To appear at all proceedings held pursuant to this section, except board deliberations.

32 (b) To cross-examine all witnesses appearing to testify at the hearing.

33 (c) To subpoena witnesses and documents as provided in ORS 161.395.

34 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
35 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
36 nancially eligible, to have suitable counsel appointed at state expense.

37 (e) To examine all information, documents and reports which the board considers. If then avail-
38 able to the board, the information, documents and reports shall be disclosed to the person so as to
39 allow examination prior to the hearing.

40 (7) A record shall be kept of all hearings before the board, except board deliberations.

41 (8) Upon request of any party before the board, or on its own motion, the board may continue
42 a hearing for a reasonable period not to exceed 60 days to obtain additional information or testi-
43 mony or for other good cause shown.

44 (9) Within 15 days following the conclusion of the hearing, the board shall provide to the person,
45 the attorney representing the person, the Attorney General or other attorney representing the state,

1 if any, written notice of the board's decision.

2 (10) The burden of proof on all issues at hearings of the board shall be by a preponderance of
3 the evidence.

4 (11) If the board determines that the person about whom the hearing is being held is financially
5 eligible, the board shall appoint suitable counsel to represent the person. Counsel so appointed shall
6 be an attorney who satisfies the professional qualifications established by the Public Defense Ser-
7 vices Commission under ORS 151.216. The public defense services executive director shall determine
8 and allow fair compensation for counsel appointed under this subsection and the reasonable ex-
9 penses of the person in respect to the hearing. Compensation payable to appointed counsel shall not
10 be less than the applicable compensation level established under ORS 151.216. The compensation and
11 expenses so allowed shall be paid by the public defense services executive director from funds
12 available for the purpose.

13 (12) The Attorney General may represent the state at contested hearings before the board unless
14 the district attorney of the county from which the person was committed elects to represent the
15 state. The district attorney of the county from which the person was committed shall cooperate with
16 the Attorney General in securing the material necessary for presenting a contested hearing before
17 the board. If the district attorney elects to represent the state, the district attorney shall give timely
18 written notice of such election to the Attorney General, the board and the attorney representing the
19 person.

20 **SECTION 106.** ORS 161.365 is amended to read:

21 161.365. (1) Whenever the court has reason to doubt the defendant's fitness to proceed by reason
22 of incapacity as defined in ORS 161.360, the court may call to its assistance in reaching its decision
23 any witness and may appoint a psychiatrist or psychologist to examine the defendant and advise the
24 court.

25 (2) If the court determines the assistance of a psychiatrist or psychologist would be helpful, the
26 court may order the defendant to be committed for the purpose of an examination for a period not
27 exceeding 30 days to a state mental hospital designated by the [*Department of Human Services*]
28 **Oregon Health Authority** if the defendant is at least 18 years of age, or to a secure intensive
29 community inpatient facility designated by the [*Department of Human Services*] **authority** if the de-
30 fendant is under 18 years of age. The report of each examination shall include, but is not necessarily
31 limited to, the following:

32 (a) A description of the nature of the examination;

33 (b) A statement of the mental condition of the defendant; and

34 (c) If the defendant suffers from a mental disease or defect, an opinion as to whether the de-
35 fendant is incapacitated within the definition set out in ORS 161.360.

36 (3) Except when the defendant and the court both request to the contrary, the report may not
37 contain any findings or conclusions as to whether the defendant as a result of mental disease or
38 defect was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act
39 charged.

40 (4) If the examination by the psychiatrist or psychologist cannot be conducted by reason of the
41 unwillingness of the defendant to participate therein, the report shall so state and shall include, if
42 possible, an opinion as to whether such unwillingness of the defendant was the result of mental
43 disease or defect affecting capacity to proceed.

44 (5) The report of the examination shall be filed in triplicate with the clerk of the court, who
45 shall cause copies to be delivered to the district attorney and to counsel for defendant.

1 (6) When upon motion of the court or a financially eligible defendant, the court has ordered a
 2 psychiatric or psychological examination of the defendant, a county or justice court shall order the
 3 county to pay, and a circuit court shall order the public defense services executive director to pay
 4 from funds available for the purpose:

5 (a) A reasonable fee if the examination of the defendant is conducted by a psychiatrist or psy-
 6 chologist in private practice; and

7 (b) All costs including transportation of the defendant if the examination is conducted by a
 8 psychiatrist or psychologist in the employ of the [*Department of Human Services*] **Oregon Health**
 9 **Authority** or a community mental health [*and developmental disabilities*] program established under
 10 ORS 430.610 to 430.670.

11 (7) When such an examination is ordered at the request or with the acquiescence of a defendant
 12 who is determined not to be financially eligible, the examination shall be performed at the defend-
 13 ant's expense. When such an examination is ordered at the request of the prosecution, the county
 14 shall pay for the expense of the examination.

15 **SECTION 107.** ORS 161.370 is amended to read:

16 161.370. (1) When the defendant's fitness to proceed is drawn in question, the issue shall be de-
 17 termined by the court. If neither the prosecuting attorney nor counsel for the defendant contests the
 18 finding of the report filed by a psychiatrist or psychologist under ORS 161.365, the court may make
 19 the determination on the basis of such report. If the finding is contested, the court shall hold a
 20 hearing on the issue. If the report is received in evidence upon such hearing, the party who contests
 21 the finding thereof shall have the right to summon and to cross-examine any psychiatrist or psy-
 22 chologist who submitted the report and to offer evidence upon the issue. Other evidence regarding
 23 the defendant's fitness to proceed may be introduced by either party.

24 (2) If the court determines that the defendant lacks fitness to proceed, the proceeding against
 25 the defendant shall be suspended, except as provided in subsection (12) of this section, and the court
 26 shall commit the defendant to the custody of the superintendent of a state mental hospital desig-
 27 nated by the [*Department of Human Services*] **Oregon Health Authority** if the defendant is at least
 28 18 years of age, or to the custody of the director of a secure intensive community inpatient facility
 29 designated by the [*Department of Human Services*] **authority** if the defendant is under 18 years of
 30 age, or shall release the defendant on supervision for as long as such unfitness shall endure. The
 31 court may release the defendant on supervision if it determines that care other than commitment for
 32 incapacity to stand trial would better serve the defendant and the community. It may place condi-
 33 tions which it deems appropriate on the release, including the requirement that the defendant reg-
 34 ularly report to the [*Department of Human Services*] **authority** or a community mental health [*and*
 35 *developmental disabilities*] program for examination to determine if the defendant has regained ca-
 36 pacity to stand trial. When the court, on its own motion or upon the application of the super-
 37 intendent of the hospital or director of the secure intensive community inpatient facility in which
 38 the defendant is committed, a person examining the defendant as a condition of release on super-
 39 vision, or either party, determines, after a hearing, if a hearing is requested, that the defendant has
 40 regained fitness to proceed, the proceeding shall be resumed. If, however, the court is of the view
 41 that so much time has elapsed since the commitment or release of the defendant on supervision that
 42 it would be unjust to resume the criminal proceeding, the court on motion of either party may dis-
 43 miss the charge and may order the defendant to be discharged or cause a proceeding to be com-
 44 menced forthwith under ORS 426.070 to 426.170 or 427.235 to 427.290.

45 (3) The superintendent of a state hospital or director of a secure intensive community inpatient

1 facility shall cause the defendant to be evaluated within 60 days from the defendant's delivery into
2 the superintendent's or director's custody, for the purpose of determining whether there is a sub-
3 stantial probability that, in the foreseeable future, the defendant will have the capacity to stand
4 trial.

5 (4) In addition, the superintendent or director shall:

6 (a) Immediately notify the committing court if the defendant, at any time, gains or regains the
7 capacity to stand trial or will never have the capacity to stand trial.

8 (b) Within 90 days of the defendant's delivery into the superintendent's or director's custody,
9 notify the committing court that:

10 (A) The defendant has the present capacity to stand trial;

11 (B) There is no substantial probability that, in the foreseeable future, the defendant will gain
12 or regain the capacity to stand trial; or

13 (C) There is a substantial probability that, in the foreseeable future, the defendant will gain or
14 regain the capacity to stand trial. If such a probability exists, the superintendent or director shall
15 give the court an estimate of the time in which the defendant, with appropriate treatment, is ex-
16 pected to gain or regain capacity.

17 (5) If the superintendent or director determines that there is a substantial probability that, in
18 the foreseeable future, the defendant will gain or regain the capacity to stand trial, unless the court
19 otherwise orders, the defendant shall remain in the superintendent's or director's custody where the
20 defendant shall receive treatment designed for the purpose of enabling the defendant to gain or re-
21 gain capacity. In keeping with the notice requirement under subsection (4)(b) of this section, the
22 superintendent or director shall, for the duration of the defendant's period of commitment, submit
23 a progress report to the committing court, concerning the defendant's capacity or incapacity, at
24 least once every 180 days as measured from the date of the defendant's delivery into the super-
25 intendent's or director's custody.

26 (6) A defendant who remains committed under subsection (5) of this section shall be discharged
27 within a period of time that is reasonable for making a determination concerning whether or not,
28 and when, the defendant may gain or regain capacity. However, regardless of the number of charges
29 with which the defendant is accused, in no event shall the defendant be committed for longer than
30 whichever of the following, measured from the defendant's initial custody date, is shorter:

31 (a) Three years; or

32 (b) A period of time equal to the maximum sentence the court could have imposed if the de-
33 fendant had been convicted.

34 (7) The superintendent or director shall notify the committing court of the defendant's impending
35 discharge 30 days before the date on which the superintendent or director is required to discharge
36 the defendant under subsection (6) of this section.

37 (8) When the committing court receives a notice from the superintendent or director under ei-
38 ther subsection (4) or (7) of this section concerning the defendant's progress or lack thereof, the
39 committing court shall determine after a hearing, if a hearing is requested, whether the defendant
40 presently has the capacity to stand trial.

41 (9) If under subsection (8) of this section the court determines that the defendant lacks the ca-
42 pacity to stand trial, the court shall further determine whether there is a substantial probability
43 that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial and
44 whether the defendant is entitled to discharge under subsection (6) of this section. If the court de-
45 termines that there is no substantial probability that the defendant, in the foreseeable future, will

1 gain or regain the capacity to stand trial or that the defendant is entitled to discharge under sub-
2 section (6) of this section, the court shall dismiss, without prejudice, all charges against the de-
3 fendant and:

4 (a) Order that the defendant be discharged; or

5 (b) Initiate commitment proceedings under ORS 426.070 or 427.235 to 427.290.

6 (10) All notices required under this section shall be filed with the clerk of the court and deliv-
7 ered to both the district attorney and the counsel for the defendant.

8 (11) If the defendant regains fitness to proceed, the term of any sentence received by the de-
9 fendant for conviction of the crime charged shall be reduced by the amount of time the defendant
10 was committed under this section to the custody of a state mental hospital, or to the custody of a
11 secure intensive community inpatient facility, designated by the *[Department of Human Services]*

12 **Oregon Health Authority.**

13 (12) The fact that the defendant is unfit to proceed does not preclude any objection through
14 counsel and without the personal participation of the defendant on the grounds that the indictment
15 is insufficient, that the statute of limitations has run, that double jeopardy principles apply or upon
16 any other ground at the discretion of the court which the court deems susceptible of fair determi-
17 nation prior to trial.

18 **SECTION 108.** ORS 161.375 is amended to read:

19 161.375. (1) When a patient, who has been placed at the Oregon State Hospital for evaluation,
20 care, custody and treatment under the jurisdiction of the Psychiatric Security Review Board or by
21 court order under ORS 161.315, 161.365 or 161.370, has escaped or is absent without authorization
22 from the Oregon State Hospital or from the custody of any person in whose charge the superinten-
23 dent has placed the patient, the superintendent may order the arrest and detention of the patient.

24 (2) When a patient, who has been placed at a secure intensive community inpatient facility for
25 evaluation, care, custody and treatment under the jurisdiction of the Psychiatric Security Review
26 Board or by court order under ORS 161.315, 161.365, 161.370 or 419C.527, has escaped or is absent
27 without authorization from the facility or from the custody of any person in whose charge the di-
28 rector of the facility has placed the patient, the director of the facility shall notify the Director of
29 *[Human Services. The Director of Human Services]* **the Oregon Health Authority. The Director**
30 **of the Oregon Health Authority** may order the arrest and detention of the patient.

31 (3) The superintendent or the *[Director of Human Services]* **Director of the Oregon Health**
32 **Authority** may issue an order under this section based upon a reasonable belief that grounds exist
33 for issuing the order. When reasonable, the superintendent or the *[Director of Human Services]* **Di-**
34 **rector of the Oregon Health Authority** shall investigate to ascertain whether such grounds exist.

35 (4) Any order issued by the superintendent or the *[Director of Human Services]* **Director of the**
36 **Oregon Health Authority** as authorized by this section constitutes full authority for the arrest and
37 detention of the patient and all laws applicable to warrant or arrest apply to the order. An order
38 issued by the superintendent or the *[Director of Human Services]* **Director of the Oregon Health**
39 **Authority** under this section expires 72 hours after being signed by the superintendent or the *[Di-*
40 *rector of Human Services]* **Director of the Oregon Health Authority.**

41 (5) As used in this section, "superintendent" means the superintendent of the Oregon State
42 Hospital or the superintendent's authorized representative.

43 **SECTION 109.** ORS 161.385 is amended to read:

44 161.385. (1) There is hereby created a Psychiatric Security Review Board consisting of 10 mem-
45 bers appointed by the Governor and subject to confirmation by the Senate under section 4, Article

1 III of the Oregon Constitution.

2 (2) The membership of the board may not include any district attorney, deputy district attorney
3 or public defender. The Governor shall appoint:

4 (a) A psychiatrist experienced in the criminal justice system and not otherwise employed on a
5 full-time basis by the [*Department of Human Services*] **Oregon Health Authority** or a community
6 mental health [*and developmental disabilities*] program;

7 (b) A licensed psychologist experienced in the criminal justice system and not otherwise em-
8 ployed on a full-time basis by the [*Department of Human Services*] **authority** or a community mental
9 health [*and developmental disabilities*] program;

10 (c) A member with substantial experience in the processes of parole and probation;

11 (d) A lawyer with substantial experience in criminal trial practice;

12 (e) A psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child
13 psychiatry who is experienced in the juvenile justice system and not employed on a full-time basis
14 by the [*Department of Human Services*] **authority** or a community mental health [*and developmental*
15 *disabilities*] program;

16 (f) A licensed psychologist who is experienced in child psychology and the juvenile justice sys-
17 tem and not employed on a full-time basis by the [*Department of Human Services*] **authority** or a
18 community mental health [*and developmental disabilities*] program;

19 (g) A member with substantial experience in the processes of juvenile parole and probation;

20 (h) A lawyer with substantial experience in juvenile law practice; and

21 (i) Two members of the general public.

22 (3) The term of office of each member is four years. The Governor at any time may remove any
23 member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term
24 of a member, the Governor shall appoint a successor whose term begins on July 1 next following.
25 A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make
26 an appointment to become immediately effective for the unexpired term.

27 (4) A member of the board not otherwise employed full-time by the state shall be paid on a per
28 diem basis an amount equal to \$289.22, adjusted according to the executive pay plan for the
29 biennium, for each day during which the member is engaged in the performance of official duties,
30 including necessary travel time. In addition, subject to ORS 292.220 to 292.250 regulating travel and
31 other expenses of state officers and employees, the member shall be reimbursed for actual and nec-
32 essary travel and other expenses incurred in the performance of official duties.

33 (5) Subject to any applicable provision of the State Personnel Relations Law, the board may hire
34 employees to aid it in performing its duties.

35 (6) The board consists of two five-member panels. The adult panel is responsible for persons
36 placed under the board's jurisdiction under ORS 161.327 and 419C.544 and consists of those members
37 appointed under subsection (2)(a) to (d) of this section and one of the public members. The juvenile
38 panel is responsible for young persons placed under the board's jurisdiction under ORS 419C.529 and
39 consists of those members appointed under subsection (2)(e) to (h) of this section and the other
40 public member.

41 (7)(a) Each panel shall select one of its members as chairperson to serve for a one-year term
42 with such duties and powers as the panel determines.

43 (b) A majority of the voting members of a panel constitutes a quorum for the transaction of
44 business of the panel.

45 (8) Each panel shall meet at least twice every month, unless the chairperson determines that

1 there is not sufficient business before the panel to warrant a meeting at the scheduled time. The
 2 panel shall also meet at other times and places specified by the call of the chairperson or of a ma-
 3 jority of the members of the panel.

4 (9)(a) When a person over whom a panel of the board exercises its jurisdiction is adversely af-
 5 fected or aggrieved by a final order of the panel, the person is entitled to judicial review of the final
 6 order. The person is entitled on judicial review to suitable counsel possessing skills and experience
 7 commensurate with the nature and complexity of the case. If the person is financially eligible, suit-
 8 able counsel shall be appointed by the reviewing court in the manner provided in ORS 138.500 (1).
 9 If the person is financially eligible, the public defense services executive director shall determine
 10 and pay, as provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary
 11 to the review and compensation for counsel appointed for the person. The costs, expenses and com-
 12 pensation so allowed shall be paid as provided in ORS 138.500.

13 (b) The order and the proceedings underlying the order are subject to review by the Court of
 14 Appeals upon petition to that court filed within 60 days of the order for which review is sought. The
 15 panel shall submit to the court the record of the proceeding or, if the person agrees, a shortened
 16 record. The record may include a certified true copy of a tape recording of the proceedings at a
 17 hearing in accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the
 18 person by the panel.

19 (c) The court may affirm, reverse or remand the order on the same basis as provided in ORS
 20 183.482 (8).

21 (d) The filing of the petition does not stay the panel's order, but the panel or the Court of Ap-
 22 peals may order a stay upon application on such terms as are deemed proper.

23 **SECTION 110.** ORS 161.390 is amended to read:

24 161.390. (1) The [*Department of Human Services*] **Oregon Health Authority** shall promulgate
 25 rules for the assignment of persons to state mental hospitals or secure intensive community inpa-
 26 tient facilities under ORS 161.341, 161.365 and 161.370 and for establishing standards for evaluation
 27 and treatment of persons committed to a state hospital or a secure intensive community inpatient
 28 facility, designated by the [*department*] **authority**, or ordered to a community mental health [*and*
 29 *developmental disabilities*] program under ORS 161.315 to 161.351 [*and 428.210*].

30 (2) Whenever the Psychiatric Security Review Board requires the preparation of a predischarge
 31 or preconditional release plan before a hearing or as a condition of granting discharge or condi-
 32 tional release for a person committed under ORS 161.327 or 161.341 to a state hospital or a secure
 33 intensive community inpatient facility for custody, care and treatment, the [*Department of Human*
 34 *Services*] **authority** is responsible for and shall prepare the plan.

35 (3) In carrying out a conditional release plan prepared under subsection (2) of this section, the
 36 [*Department of Human Services*] **authority** may contract with a community mental health [*and de-*
 37 *velopmental disabilities*] program, other public agency or private corporation or an individual to
 38 provide supervision and treatment for the conditionally released person.

39 **SECTION 111.** ORS 165.698 is amended to read:

40 165.698. The prosecuting attorney shall notify the [*Department of Human Services*] **Oregon**
 41 **Health Authority** and any appropriate licensing boards of the conviction of a person under ORS
 42 165.692.

43 **SECTION 112.** ORS 166.250 is amended to read:

44 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
 45 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm

1 if the person knowingly:

2 (a) Carries any firearm concealed upon the person;

3 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
4 cle; or

5 (c) Possesses a firearm and:

6 (A) Is under 18 years of age;

7 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
8 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
9 volving violence, as defined in ORS 166.470; and

10 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
11 charged under this section;

12 (C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
13 felony;

14 (D) Was committed to the [*Department of Human Services*] **Oregon Health Authority** under
15 ORS 426.130; or

16 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
17 prohibited from purchasing or possessing a firearm as a result of that mental illness.

18 (2) This section does not prohibit:

19 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
20 ssuming a firearm:

21 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
22 guardian or by another person with the consent of the minor's parent or guardian; or

23 (B) Temporarily for hunting, target practice or any other lawful purpose; or

24 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
25 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
26 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
27 residence or place of business any handgun, and no permit or license to purchase, own, possess or
28 keep any such firearm at the person's place of residence or place of business is required of any such
29 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
30 while used, for whatever period of time, as residential quarters.

31 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

32 (4) Unlawful possession of a firearm is a Class A misdemeanor.

33 **SECTION 113.** ORS 166.291 is amended to read:

34 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
35 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
36 out in this section, shall issue the person a concealed handgun license if the person:

37 (a)(A) Is a citizen of the United States; or

38 (B) Is a legal resident alien who can document continuous residency in the county for at least
39 six months and has declared in writing to the United States Citizenship and Immigration Services
40 the intent to acquire citizenship status and can present proof of the written declaration to the
41 sheriff at the time of application for the license;

42 (b) Is at least 21 years of age;

43 (c) Is a resident of the county;

44 (d) Has no outstanding warrants for arrest;

45 (e) Is not free on any form of pretrial release;

- 1 (f) Demonstrates competence with a handgun by any one of the following:
- 2 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
- 3 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
- 4 of the course;
- 5 (B) Completion of any National Rifle Association firearms safety or training course if handgun
- 6 safety was a component of the course;
- 7 (C) Completion of any firearms safety or training course or class available to the general public
- 8 offered by law enforcement, community college, or private or public institution or organization or
- 9 firearms training school utilizing instructors certified by the National Rifle Association or a law
- 10 enforcement agency if handgun safety was a component of the course;
- 11 (D) Completion of any law enforcement firearms safety or training course or class offered for
- 12 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
- 13 cers if handgun safety was a component of the course;
- 14 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
- 15 ized shooting competition or military service;
- 16 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
- 17 revoked; or
- 18 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
- 19 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
- 20 was a component of the course;
- 21 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
- 22 of a felony;
- 23 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
- 24 161.295, of a misdemeanor within the four years prior to the application;
- 25 (i) Has not been committed to the [*Department of Human Services*] **Oregon Health Authority**
- 26 under ORS 426.130;
- 27 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
- 28 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- 29 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
- 30 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
- 31 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
- 32 volving violence, as defined in ORS 166.470;
- 33 (L) Has not been convicted of an offense involving controlled substances or participated in a
- 34 court-supervised drug diversion program, except this disability does not operate to exclude a person
- 35 if:
- 36 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
- 37 a court-supervised drug diversion program under ORS 135.907; or
- 38 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
- 39 has not been convicted of violating ORS 475.864 (3);
- 40 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
- 41 107.700 to 107.735 or 163.738;
- 42 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and
- 43 (o) Is not required to register as a sex offender in any state.
- 44 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
- 45 has had the person's record expunged under the laws of this state or equivalent laws of other ju-

1 jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

2 (3) Before the sheriff may issue a license:

3 (a) The application must state the applicant’s legal name, current address and telephone number,
4 date and place of birth, hair and eye color and height and weight. The application must also list the
5 applicant’s residence address or addresses for the previous three years. The application must contain
6 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
7 section. The application may include the Social Security number of the applicant if the applicant
8 voluntarily provides this number. The application must be signed by the applicant.

9 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
10 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
11 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
12 records check is necessary, the sheriff shall request the Department of State Police to conduct the
13 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
14 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
15 check and may not keep any record of the fingerprints. The Department of State Police shall report
16 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
17 Police shall also furnish the sheriff with any information about the applicant that the Department
18 of State Police may have in its possession from its central bureau of criminal identification includ-
19 ing, but not limited to, manual or computerized criminal offender information.

20 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
21 quest. The forms shall be uniform throughout the state in substantially the following form:

22 _____
23
24 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

25 Date_____

26 I hereby declare as follows:

27 I am a citizen of the United States or a legal resident alien who can document continuous res-
28 idency in the county for at least six months and have declared in writing to the United States Cit-
29 izenship and Immigration Services my intention to become a citizen and can present proof of the
30 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
31 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
32 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
33 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
34 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
35 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
36 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
37 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
38 volving controlled substances or completed a court-supervised drug diversion program. There are
39 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
40 been committed to the [*Department of Human Services*] **Oregon Health Authority** under ORS
41 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me from
42 purchasing or possessing a firearm because of mental illness. If any of the previous conditions do
43 apply to me, I have been granted relief or wish to petition for relief from the disability under ORS
44 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a ci-
45 tation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738.

1 I have never received a dishonorable discharge from the Armed Forces of the United States. I am
2 not required to register as a sex offender in any state. I understand I will be fingerprinted and
3 photographed.

4

5 Legal name _____
6 Age _____ Date of birth _____
7 Place of birth _____
8 Social Security number _____

9 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
10 thorized under ORS 166.291. It will be used only as a means of identification.)

11

12 Proof of identification (Two pieces of current identification are required, one of which must bear a
13 photograph of the applicant. The type of identification and the number on the identification are to
14 be filled in by the sheriff.):

15 1. _____
16 2. _____

17

18 Height _____ Weight _____
19 Hair color _____ Eye color _____

20

21 Current address _____

(List residence addresses for the
past three years on the back.)

24

25 City _____ County _____ Zip _____
26 Phone _____

27

28 I have read the entire text of this application, and the statements therein are correct and true.
29 (Making false statements on this application is a misdemeanor.)

30

(Signature of Applicant)

31

32

33 Character references.

34

35 Name Address
36 _____
37 Name Address

38

39 Approved _____ Disapproved _____ by _____

40

41 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
42 Paid _____

43 License No. _____

44

45

1 (5)(a) Fees for concealed handgun licenses are:

2 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

3 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

4 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

5 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
6 the concealed handgun license.

7 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
8 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
9 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
10 performance of duties under those sections.

11 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
12 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
13 is an applicant for a concealed handgun license or is a license holder.

14 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
15 for a resident of a contiguous state who has a compelling business interest or other legitimate
16 demonstrated need.

17 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
18 person:

19 (a) Has a current Oregon driver license issued to the person showing a residence address in the
20 county;

21 (b) Is registered to vote in the county and has a memorandum card issued to the person under
22 ORS 247.181 showing a residence address in the county;

23 (c) Has documentation showing that the person currently leases or owns real property in the
24 county; or

25 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
26 tax year showing a residence address in the county.

27 **SECTION 114.** ORS 166.412 is amended to read:

28 166.412. (1) As used in this section:

29 (a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

30 (b) "Department" means the Department of State Police;

31 (c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include
32 an antique firearm;

33 (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C.
34 921 to 929;

35 (e) "Firearms transaction thumbprint form" means a form provided by the department under
36 subsection (12) of this section;

37 (f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,
38 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or
39 otherwise;

40 (g) "Handgun" has the meaning given that term in ORS 166.210; and

41 (h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun
42 dealer.

43 (2) Except as provided in subsections (3)(c) and (13) of this section, a gun dealer shall comply
44 with the following before a handgun is delivered to a purchaser:

45 (a) The purchaser shall present to the dealer current identification meeting the requirements

1 of subsection (4) of this section.

2 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of
3 the purchaser on the record.

4 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
5 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to
6 be filed with that copy.

7 (d) The gun dealer shall request by telephone that the department conduct a criminal history
8 record check on the purchaser and shall provide the following information to the department:

9 (A) The federal firearms license number of the gun dealer;

10 (B) The business name of the gun dealer;

11 (C) The place of transfer;

12 (D) The name of the person making the transfer;

13 (E) The make, model, caliber and manufacturer's number of the handgun being transferred;

14 (F) The name and date of birth of the purchaser;

15 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
16 number to the gun dealer; and

17 (H) The type, issuer and identification number of the identification presented by the purchaser.

18 (e) The gun dealer shall receive a unique approval number for the transfer from the department
19 and record the approval number on the firearms transaction record and on the firearms transaction
20 thumbprint form.

21 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the
22 completion of the firearms transaction thumbprint form.

23 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-
24 partment shall immediately, during the gun dealer's telephone call or by return call:

25 (A) Determine, from criminal records and other information available to it, whether the pur-
26 chaser is disqualified under ORS 166.470 from completing the purchase; and

27 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
28 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
29 transfer.

30 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
31 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
32 dealer with an estimate of the time when the department will provide the requested information.

33 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
34 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close
35 of the gun dealer's next business day following the request by the dealer for a criminal history re-
36 cord check, the dealer may deliver the handgun to the purchaser.

37 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
38 one piece of current identification bearing a photograph and the date of birth of the purchaser that:

39 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
40 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
41 tional governmental organization or an international quasi- governmental organization; and

42 (B) Is intended to be used for identification of an individual or is commonly accepted for the
43 purpose of identification of an individual.

44 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
45 not include the current address of the purchaser, the purchaser shall present a second piece of

1 current identification that contains the current address of the purchaser. The Superintendent of
2 State Police may specify by rule the type of identification that may be presented under this para-
3 graph.

4 (c) The department may require that the dealer verify the identification of the purchaser if that
5 identity is in question by sending the thumbprints of the purchaser to the department.

6 (5) The department shall establish a telephone number that shall be operational seven days a
7 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from
8 dealers for a criminal history record check under this section.

9 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
10 the investigations required by this section provided the employee, official or agency acts in good
11 faith and without malice.

12 (7)(a) The department may retain a record of the information obtained during a request for a
13 criminal records check for no more than five years.

14 (b) The record of the information obtained during a request for a criminal records check by a
15 gun dealer is exempt from disclosure under public records law.

16 (8) The [*Department of Human Services*] **Oregon Health Authority** shall provide the Department
17 of State Police with direct electronic access to information from the [*Department of Human*
18 *Services*'] **authority's** database of information identifying persons meeting the criteria in ORS
19 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The [*Department*
20 *of State Police and the Department of Human Services*] **department and the authority** shall enter
21 into an agreement describing the access to information under this subsection.

22 (9) A law enforcement agency may inspect the records of a gun dealer relating to transfers of
23 handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal
24 investigation or under the authority of a properly authorized subpoena or search warrant.

25 (10) When a handgun is delivered, it shall be unloaded.

26 (11) In accordance with applicable provisions of ORS chapter 183, the Superintendent of State
27 Police may adopt rules necessary for:

28 (a) The design of the firearms transaction thumbprint form;

29 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

30 (c) The provision of a security system to identify dealers who request a criminal history record
31 check under subsection (2) of this section; and

32 (d) The creation and maintenance of a database of the business hours of gun dealers.

33 (12) The department shall publish the firearms transaction thumbprint form and shall furnish the
34 form to gun dealers on application at cost.

35 (13) This section does not apply to transactions between persons licensed as dealers under 18
36 U.S.C. 923.

37 **SECTION 115.** ORS 166.470 is amended to read:

38 166.470. (1) Unless relief has been granted under ORS 166.274, 18 U.S.C. 925(c) or the expunction
39 laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell,
40 deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that
41 the recipient:

42 (a) Is under 18 years of age;

43 (b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
44 felony;

45 (c) Has any outstanding felony warrants for arrest;

1 (d) Is free on any form of pretrial release for a felony;

2 (e) Was committed to the [*Department of Human Services*] **Oregon Health Authority** under ORS
3 426.130;

4 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
5 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
6 illness; or

7 (g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity
8 under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in
9 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
10 163.187, 163.190, 163.195 or 166.155 (1)(b).

11 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
12 reasonably should know is stolen.

13 (3) Subsection (1)(a) of this section does not prohibit:

14 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
15 minor from transferring to the minor a firearm, other than a handgun; or

16 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
17 lawful purpose.

18 (4) Violation of this section is a Class A misdemeanor.

19 **SECTION 116.** ORS 169.076 is amended to read:

20 169.076. Each local correctional facility shall:

21 (1) Provide sufficient staff to perform all audio and visual functions involving security, control,
22 custody and supervision of all confined detainees and prisoners, with personal inspection at least
23 once each hour. The supervision may include the use of electronic monitoring equipment when ap-
24 proved by the Department of Corrections and the governing body of the area in which the facility
25 is located.

26 (2) Have a comprehensive written policy with respect to:

27 (a) Legal confinement authority.

28 (b) Denial of admission.

29 (c) Telephone calls.

30 (d) Admission and release medical procedures.

31 (e) Medication and prescriptions.

32 (f) Personal property accountability which complies with ORS 133.455.

33 (g) Vermin and communicable disease control.

34 (h) Release process to include authority, identification and return of personal property.

35 (i) Rules of the facility governing correspondence and visitations.

36 (3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, re-
37 bellions and other types of emergencies; and regulations for the operation of the facility.

38 (4) Not administer any physical punishment to any prisoner at any time.

39 (5) Provide for emergency medical and dental health, having written policies providing for:

40 (a) Licensed physician or nurse practitioner review of the facility's medical and dental plans.

41 (b) The security of medication and medical supplies.

42 (c) A medical and dental record system to include request for medical and dental attention,
43 treatment prescribed, prescriptions, special diets and other services provided.

44 (d) First aid supplies and staff first aid training.

45 (6) Prohibit firearms from the security area of the facility except in times of emergency as de-

1 terminated by the administrator of the facility.

2 (7) Insure that confined detainees and prisoners:

3 (a) Will be fed daily at least three meals served at regular times, with no more than 14 hours
4 between meals except when routinely absent from the facility for work or other purposes.

5 (b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered
6 dietitian or the [Department of Human Services] **Oregon Health Authority**.

7 (c) Be provided special diets as prescribed by the designated facility physician or nurse practi-
8 tioner.

9 (d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions,
10 as defined by [the Department of Human Services rules as authorized by ORS 624.041] **the authority**
11 **under ORS 624.041**.

12 (8) Insure that the facility be clean, and provide each confined detainee or prisoner:

13 (a) Materials to maintain personal hygiene.

14 (b) Clean clothing twice weekly.

15 (c) Mattresses and blankets that are clean and fire-retardant.

16 (9) Require each prisoner to shower at least twice weekly.

17 (10) Forward, without examination or censorship, each prisoner's outgoing written communi-
18 cations to the Governor, jail administrator, Attorney General, judge, Department of Corrections or
19 the attorney of the prisoner.

20 (11) Keep the facility safe and secure in accordance with the State of Oregon Structural Spe-
21 cialty Code and Fire and Life Safety Code.

22 (12) Have and provide each prisoner with written rules for inmate conduct and disciplinary
23 procedures. If a prisoner cannot read or is unable to understand the written rules, the information
24 shall be conveyed to the prisoner orally.

25 (13) Not restrict the free exercise of religion unless failure to impose the restriction will cause
26 a threat to facility or order.

27 (14) Safeguard and insure that the prisoner's legal rights to access to legal materials are pro-
28 tected.

29 **SECTION 117.** ORS 169.690 is amended to read:

30 169.690. (1)(a) Before the Department of Corrections, [Oregon Youth Authority or Department of
31 Human Services] **Department of Human Services, Oregon Health Authority, Oregon Youth**
32 **Authority** or any city, county or other public agency establishes a facility described in paragraph
33 (c) of this subsection, the city, county, department, [youth] authority or agency must designate a
34 citizens advisory committee in the proposed affected geographic area.

35 (b) If there is an established citizens group or neighborhood organization in the affected ge-
36 ographic area which is established or recognized by the city or county where it is located, it shall
37 be asked to nominate the committee. If there is none, the local government body having jurisdiction
38 over the affected area shall appoint a committee selected from residents of the area.

39 (c) The facilities to which paragraph (a) of this subsection applies are:

40 (A) Halfway houses, work release centers or any other domiciliary facilities for persons released
41 from any penal or correctional facility but still in the custody of the city, county or public agency;
42 and

43 (B) Youth care centers or other facilities authorized to accept youth offenders under ORS
44 419C.478.

45 (2) The local governmental body having jurisdiction over the affected geographic area shall ap-

1 point to the citizens advisory committee persons from those nominated under subsection (1) of this
2 section and shall invite the participation of officers of local governments having jurisdiction over
3 the area.

4 (3) For each proposed house, center or other facility, the agency responsible for establishing the
5 house, center or facility shall inform fully the citizens advisory committee of each affected ge-
6 ographic area of the following:

7 (a) The proposed location, estimated population size and use;

8 (b) The numbers and qualifications of resident professional staff;

9 (c) The proposed rules of conduct and discipline to be imposed on residents; and

10 (d) Such other relevant information as the agency responsible for establishing the house, center
11 or facility considers appropriate or which the advisory committee requests.

12 (4) The citizens advisory committee shall advise the agency responsible for establishing the
13 house, center or facility as to the suitability of the proposed house, center or other facility and may
14 suggest changes in the proposal submitted under subsection (3) of this section. The advice shall be
15 in writing and must represent the view of the majority of the committee.

16 (5) If the agency responsible for establishing the house, center or facility rejects any of the ad-
17 vice of the citizens advisory committee, it must submit its reasons in writing to the committee.

18 (6) No person serving on a committee established under this section should be entitled to receive
19 any compensation or reimbursement for service on such committee.

20 **SECTION 118.** ORS 179.010 is amended to read:

21 179.010. As used in this chapter, unless the context requires otherwise[, "*institutions*" means *the*
22 *institutions designated in ORS 179.321.*]:

23 (1) "**Institution**" means the institutions designated in ORS 179.321.

24 (2) "**Agency**" means:

25 (a) **The Department of Corrections when the institution is a Department of Corrections**
26 **institution, as defined in ORS 421.005;**

27 (b) **The Department of Human Services when the institution is the Eastern Oregon**
28 **Training Center; or**

29 (c) **The Oregon Health Authority when the institution is the Blue Mountain Recovery**
30 **Center or the Oregon State Hospital.**

31 **SECTION 119.** ORS 179.040 is amended to read:

32 179.040. (1) [*The Department of Corrections and the Department of Human Services*] **The De-**
33 **partment of Corrections, the Department of Human Services and the Oregon Health Au-**
34 **thority** shall:

35 (a) Govern, manage and administer the affairs of the public institutions and works within their
36 respective jurisdictions.

37 (b) Enter into contracts for the planning, erection, completion and furnishings of all new
38 buildings or additions at their respective institutions.

39 (c) Subject to any applicable provisions of ORS 279A.125, 279A.255, 279A.275, 279A.280,
40 279A.285, 279A.290, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280 and 283.110 to 283.395, enter
41 into contracts for the purchase of supplies for their respective institutions.

42 (d) Make and adopt rules, not inconsistent with law, for the guidance of the [*Department of*
43 *Corrections or the Department of Human Services*] **agencies** and for the government of their respec-
44 tive institutions.

45 (2) The [*Department of Corrections and the Department of Human Services*] **agencies**, respec-

1 tively, may:

2 (a) Sue and plead in all courts of law and equity.

3 (b) Perform all legal and peaceful acts requisite and necessary for the successful management
4 and maintenance of the institutions within their respective jurisdictions.

5 **SECTION 120.** ORS 179.050 is amended to read:

6 179.050. The [*Department of Corrections and the Department of Human Services*] **Department of**
7 **Corrections, the Department of Human Services and the Oregon Health Authority** may re-
8 ceive, take and hold property, both real and personal, for any institution within their respective
9 jurisdictions. Title shall be taken in the name of the state.

10 **SECTION 121.** ORS 179.055 is amended to read:

11 179.055. (1) The revenue from the rental or lease of property administered by an institution
12 governed or managed by the [*Department of Corrections or the Department of Human Services*] **De-**
13 **partment of Corrections, the Department of Human Services or the Oregon Health**
14 **Authority**, except dormitory and housing rentals at institutions governed by [*either department*] **the**
15 **agencies**, shall be deposited in the account of the respective [*department*] **agency** for use by the
16 respective [*department*] **agency** to pay for the cost of administration, taxes, repairs and improve-
17 ments on the property.

18 (2) The [*Department of Corrections or Department of Human Services*] **agencies** may request the
19 Oregon Department of Administrative Services to make necessary repairs and improvements on the
20 property described in subsection (1) of this section to be paid for by the [*Department of Corrections*
21 *or Department of Human Services*] **agencies** from the proceeds derived from such rental or lease of
22 the property or from appropriations otherwise available.

23 **SECTION 122.** ORS 179.065 is amended to read:

24 179.065. The [*Department of Corrections and the Department of Human Services*] **Department of**
25 **Corrections, the Department of Human Services and the Oregon Health Authority** shall have
26 the same powers with respect to furnishing heat, light, power, sewage, fire protection and commu-
27 nications facilities to institutions under their respective jurisdictions as is granted to the Oregon
28 Department of Administrative Services under ORS 276.210 to 276.228, 276.234 to 276.244, 276.250 and
29 276.252. The powers shall be exercised in accordance with and subject to the provisions of such
30 sections.

31 **SECTION 123.** ORS 179.105 is amended to read:

32 179.105. (1) For a purpose of ORS 179.040, including aid and support of research in any of the
33 institutions, the [*Department of Corrections and the Department of Human Services*] **Department of**
34 **Corrections, the Department of Human Services and the Oregon Health Authority** may in
35 their respective discretions accept from the United States or any of its agencies financial assistance
36 and grants in the form of money or labor, or from any other source any donation or grant of land
37 or gift of money or any other thing. Funds accepted in accordance with the provisions of this sec-
38 tion and ORS 179.110 shall be deposited with the State Treasurer and, subject to subsection (2) of
39 this section, are continuously appropriated to the Department of Corrections, **the** [*or*] Department
40 of Human Services **or the Oregon Health Authority**, as appropriate, and may be expended by the
41 Department **of Corrections, the Department of Human Services or the Oregon Health Au-**
42 **thority** according to the conditions and terms of the grant or donation.

43 (2) Funds received under subsection (1) of this section or ORS 179.110 shall be expended subject
44 to expenditure limitations imposed on the Department of Corrections, **the** [*or*] Department of Human
45 Services **or the Oregon Health Authority** by the Legislative Assembly or, in the absence of such

1 limitations, only after approval of the Legislative Assembly or of the Emergency Board, if approval
2 is required during the interim between sessions of the Legislative Assembly.

3 (3) In any case where prior approval of the authority to expend any funds available under sub-
4 section (1) of this section or ORS 179.110 is imposed as a term or condition of receipt of such funds,
5 the Legislative Assembly or the Emergency Board may approve expenditures of such funds prior to
6 their receipt.

7 **SECTION 124.** ORS 179.110 is amended to read:

8 179.110. Subject to the approval of the Director of the Oregon Department of Administrative
9 Services, the [*Department of Corrections and the Department of Human Services*] **Department of**
10 **Corrections, the Department of Human Services and the Oregon Health Authority**, respec-
11 tively, may accept and receive grants of funds from the United States or any of its agencies for the
12 construction, equipment and betterment of any of the institutions under its jurisdiction and may
13 cooperate with the United States or its agencies in such construction, equipment and betterment.
14 Any balances of appropriations for capital outlay for any institution resulting from the use of funds
15 so received shall be placed in a common fund. The Department of Corrections, [*and*] the Department
16 of Human Services **and the Oregon Health Authority** are authorized and empowered in their dis-
17 cretion to expend such common fund or any portion thereof in the construction, equipment or
18 betterment of any institution under its jurisdiction.

19 **SECTION 125.** ORS 179.140 is amended to read:

20 179.140. Subject to any applicable provision of ORS 279A.125, 279A.255, 279A.275, 279A.280,
21 279A.285, 279A.290, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280, 283.110 to 283.395 and 291.232
22 to 291.260, all claims for supplies or materials furnished or services rendered to institutions shall
23 be audited and approved as provided by law, upon the presentation of duly verified vouchers there-
24 for, approved in writing by the Director of the Department of Corrections, [*or by*] the Director of
25 Human Services **or the Director of the Oregon Health Authority**, or by their designees.

26 **SECTION 126.** ORS 179.150 is amended to read:

27 179.150. No officer of the Department of Corrections, [*or*] the Department of Human Services
28 **or the Oregon Health Authority** or officer, employee or other person connected with an institution
29 shall be pecuniarily interested in any contract for supplies or services furnished or rendered to an
30 institution, other than the services of regular employment.

31 **SECTION 127.** ORS 179.210 is amended to read:

32 179.210. (1) The Department of Human Services, the Department of Corrections, **the Oregon**
33 **Health Authority** and the Superintendent of Public Instruction may audit, allow and pay a claim
34 for damage to property made by an employee of one of those agencies if:

35 (a) The damage to property arises out of the claimant's employment at one of the institutions
36 or facilities operated by the [*Department of Human Services or the Department of Corrections*]
37 **agencies**, or one of the schools operated by the Superintendent of Public Instruction under ORS
38 346.010; and

39 (b) The employee files a written claim with the employee's employer within 180 days after the
40 employee discovers or should have discovered the damage.

41 (2) No claim under subsection (1) of this section shall be paid:

42 (a) That exceeds, in the aggregate with payments of other claims, the moneys appropriated for
43 such purpose.

44 (b) To the extent that the person incurring damage has been or may be compensated by liability
45 insurance or otherwise.

1 (c) If the [*Department of Human Services, the Department of Corrections*] **agencies** or the Super-
 2 intendent of Public Instruction determines the cause or occasion of the accident resulting in damage
 3 is chargeable to the conduct or negligence of the party damaged.

4 **SECTION 128.** ORS 179.230 is amended to read:

5 179.230. The decision of the Department of Human Services, the Department of Corrections, **the**
 6 **Oregon Health Authority** or the Superintendent of Public Instruction to reject any claim filed
 7 under ORS 179.210 is final, and is not subject to review under ORS chapter 183, or by any other
 8 agency or court. The provisions of this section do not affect any other remedy that may be available
 9 to the claimant under law.

10 **SECTION 129.** ORS 179.240 is amended to read:

11 179.240. (1) If any person owes a debt to this state or a state agency, and the debt has been fixed
 12 by final judgment of a court of competent jurisdiction or is no longer subject to judicial review, the
 13 [*Department of Corrections or the Department of Human Services*] **Department of Corrections, the**
 14 **Department of Human Services or the Oregon Health Authority** shall deduct the amount of the
 15 debt from any award made to that person under ORS 179.210.

16 (2) The [*Department of Corrections or the Department of Human Services*] **agencies** shall request
 17 the State Treasurer to transfer to the appropriate fund or account to which the debt is owed, an
 18 amount equal to the amount deducted from the award under subsection (1) of this section, for use
 19 during that biennium in accordance with law by the state agency administering the fund or account
 20 to which the debt is owed. The State Treasurer shall evidence the transfer by proper bookkeeping
 21 entries. If the [*Department of Corrections, Department of Human Services*] **Department of Cor-**
 22 **rections, the Department of Human Services, the Oregon Health Authority or the State**
 23 **Treasurer** cannot determine the appropriate fund or account, the amount shall be transferred to the
 24 General Fund for general governmental purposes.

25 (3) Any debt owed by a person to this state or a state agency is satisfied, upon the completion
 26 of a transfer made pursuant to subsection (2) of this section, to the extent of the amount so trans-
 27 ferred.

28 **SECTION 130.** ORS 179.321 is amended to read:

29 179.321. (1) The Department of Human Services shall operate, control, manage and supervise [*the*
 30 *Blue Mountain Recovery Center, the Eastern Oregon Training Center and the Oregon State Hospital*]
 31 **the Eastern Oregon Training Center.**

32 **(2) The Oregon Health Authority shall operate, control, manage and supervise the Blue**
 33 **Mountain Recovery Center and the Oregon State Hospital.**

34 [(2)] (3) The Department of Corrections shall operate, control, manage and supervise those in-
 35 stitutions defined as Department of Corrections institutions in ORS 421.005.

36 **SECTION 131.** ORS 179.325 is amended to read:

37 179.325. (1) The Department of Human Services may order the change, in all or part, of the
 38 purpose and use of any state institution being used as an institution for the care and treatment of
 39 persons with [*mental illness or*] mental retardation in order to care for persons committed to its
 40 custody whenever the department determines that a change in purpose and use will better enable
 41 [*the*] **this** state to meet its responsibilities to persons with [*mental illness or*] mental retardation. In
 42 determining whether to order the change, the department shall consider changes in the number and
 43 source of the admissions of persons with [*mental illness or*] mental retardation.

44 **(2) The Oregon Health Authority may order the change, in all or part, of the purpose and**
 45 **use of any state institution being used as an institution for the care and treatment of per-**

1 **sons with mental illness in order to care for persons committed to its custody whenever the**
2 **authority determines that a change in purpose and use will better enable this state to meet**
3 **its responsibilities to persons with mental illness. In determining whether to order the**
4 **change, the authority shall consider changes in the number and source of the admissions of**
5 **persons with mental illness.**

6 **SECTION 132.** ORS 179.331 is amended to read:

7 179.331. (1) The superintendents shall be appointed and, whenever the public service requires
8 such action, may be removed, suspended or discharged, as follows:

9 (a) [*Superintendents of institutions described in ORS 179.321 (1)*] **The superintendent of the**
10 **Eastern Oregon Training Center**, by the Director of Human Services.

11 (b) **The superintendents of the Blue Mountain Recovery Center and the Oregon State**
12 **Hospital, by the Director of the Oregon Health Authority.**

13 [(b)] (c) **The** superintendents of Department of Corrections institutions as defined in ORS
14 421.005, by the Director of the Department of Corrections.

15 (2) For purposes of the State Personnel Relations Law, the superintendents are assigned to the
16 unclassified service.

17 **SECTION 133.** ORS 179.360 is amended to read:

18 179.360. (1) Each superintendent shall:

19 (a) Have custody of the residents of the institution under jurisdiction of the superintendent.

20 (b) Direct the care, custody and training of the residents unless otherwise directed by law or
21 by rule.

22 (c) Adopt sanitary measures for the health and comfort of the residents.

23 (d) Promote the mental, moral and physical welfare and development of the residents.

24 (e) Enjoy the other powers and privileges and perform the other duties that are prescribed by
25 law or by rule or that naturally attach themselves to the position of superintendent.

26 (f) Designate a physician licensed by the Oregon Medical Board to serve as chief medical officer
27 as provided in ORS 426.020 and 427.010, who will be directly responsible to the superintendent for
28 administration of the medical treatment programs at the institution and assume such other respon-
29 sibilities as are assigned by the superintendent.

30 (2) [*The Director of the Department of Corrections or the Director of Human Services*] **The Di-**
31 **rector of the Department of Corrections, the Director of Human Services and the Director**
32 **of the Oregon Health Authority** shall prescribe for their respective institutions:

33 (a) The duties of the superintendents where the duties are not prescribed by law.

34 (b) The additional duties, beyond those prescribed by law, that [*the Director of the Department*
35 *of Corrections or the Director of Human Services*] **each agency director** considers necessary for the
36 good of the public service.

37 **SECTION 134.** ORS 179.370 is amended to read:

38 179.370. [*The Director of the Department of Corrections or the Director of Human Services*] **The**
39 **Director of the Department of Corrections, the Director of Human Services or the Director**
40 **of the Oregon Health Authority** may require that a superintendent reside in state-provided hous-
41 ing at the institution under the jurisdiction of the superintendent. The rental shall be determined
42 pursuant to ORS 182.425.

43 **SECTION 135.** ORS 179.375 is amended to read:

44 179.375. (1) The [*Department of Corrections and the Department of Human Services*] **Department**
45 **of Corrections, the Department of Human Services and the Oregon Health Authority** shall

1 ~~[insure]~~ **ensure** that adequate chaplaincy services, including but not limited to Protestant and
2 Roman Catholic, are available at their respective institutions.

3 (2) Chaplains serving the various institutions shall, with respect to the inmates or patients at
4 such institutions:

5 (a) Provide for and attend to their spiritual needs.

6 (b) Visit them for the purpose of giving religious and moral instruction.

7 (c) Participate in the rehabilitation programs affecting them.

8 **SECTION 136.** ORS 179.380 is amended to read:

9 179.380. (1) The ~~[Department of Corrections and the Department of Human Services]~~ **Department**
10 **of Corrections, the Department of Human Services and the Oregon Health Authority** shall
11 authorize the employment of all necessary physicians, attendants, nurses, engineers, messengers,
12 clerks, guards, cooks, waiters and other officers and employees not specifically authorized by law
13 and necessary to the successful maintenance of their respective institutions. The amounts expended
14 for the services of such officers and employees shall not exceed the amounts provided therefor in
15 the biennial appropriations for the institution.

16 (2) The ~~[Department of Corrections and the Department of Human Services]~~ **agencies** shall desig-
17 nate in their respective rules which employees shall be officers, and shall require all officers to take
18 and subscribe to an oath of office and, if the circumstances require it, to furnish bonds.

19 **SECTION 137.** ORS 179.385 is amended to read:

20 179.385. The ~~[Department of Corrections and the Department of Human Services]~~ **Department of**
21 **Corrections, the Department of Human Services and the Oregon Health Authority**, respec-
22 tively, may establish scholarship programs to provide assistance in securing qualified personnel at
23 state institutions governed by them. Scholarships authorized by this section shall be granted in
24 accordance with rules and regulations adopted respectively by the ~~[departments]~~ **agencies**.

25 **SECTION 138.** ORS 179.390 is amended to read:

26 179.390. (1) The superintendent of an institution ~~[other than an institution within the jurisdiction~~
27 ~~of the Department of Human Services shall, subject to the approval of the Director of Human Services~~
28 ~~or the]~~ **within the jurisdiction of the Department of Corrections shall, subject to the approval**
29 **of the** Director of the Department of Corrections, appoint in the manner provided by law all as-
30 sistants, officers and other employees at the institution under the jurisdiction of the superintendent.
31 The superintendent may suspend or remove an assistant, officer or other employee in the manner
32 provided by law, reporting all acts of suspension or removal to the ~~[Director of Human Services or]~~
33 Director of the Department of Corrections for approval or disapproval. ~~[The Director of Human~~
34 ~~Services or Director of the Department of Corrections shall fix the salaries of assistants, officers and~~
35 ~~employees where their salary is not fixed by law. The Director of Human Services or Director of the~~
36 ~~Department of Corrections shall, subject to any applicable provisions of the State Personnel Relations~~
37 ~~Law, suspend or discharge any subordinate of a superintendent when public service requires such~~
38 ~~action.]~~

39 **(2) The Director of the Department of Corrections, the Director of Human Services and**
40 **the Director of the Oregon Health Authority shall:**

41 **(a) Fix the salaries of assistants, officers and employees where their salary is not fixed**
42 **by law.**

43 **(b) Suspend or discharge any subordinate of a superintendent when public service re-**
44 **quires such action, except when suspending or discharging the subordinate violates the State**
45 **Personnel Relations Law.**

1 [(2)] (3) The Director of Human Services or a designee at *[each]* a facility under jurisdiction of
 2 the Department of Human Services shall, as provided by law, appoint, suspend or discharge an em-
 3 ployee of the department. The Director of Human Services may designate up to three employees at
 4 each facility to act in the name of the director in accordance with ORS 240.400.

5 **(4) The Director of the Oregon Health Authority or a designee at a facility under juris-**
 6 **isdiction of the Oregon Health Authority shall, as provided by law, appoint, suspend or dis-**
 7 **charge an employee of the authority. The director may designate up to three employees at**
 8 **each facility to act in the name of the director in accordance with ORS 240.400.**

9 [(3)] (5) In addition to or in lieu of employing physicians, the Director of the Department of
 10 Corrections or the designee thereof may contract for the personal services of physicians licensed to
 11 practice medicine by the Oregon Medical Board to serve as medical advisors for the *[Department*
 12 *of Human Services]* **Oregon Health Authority**. Advisors under such contracts shall be directly re-
 13 sponsible for administration of medical treatment programs at penal and correctional institutions,
 14 as defined in ORS 421.005.

15 **SECTION 139.** ORS 179.450 is amended to read:

16 179.450. The *[Department of Corrections may direct the employment of able-bodied persons at the*
 17 *Department of Corrections institutions and the Department of Human Services may direct the employ-*
 18 *ment of able-bodied persons at institutions for persons with mental illness or mental retardation]* **De-**
 19 **partment of Corrections, the Department of Human Services and the Oregon Health**
 20 **Authority may direct the employment of able-bodied persons at the agencies' respective in-**
 21 **stitutions**, in the performance of useful work upon land owned by the state if it does not compete
 22 with free labor. Work may not be performed upon any such land except by consent and approval
 23 of the agency of the state having management of the land.

24 **SECTION 140.** ORS 179.460 is amended to read:

25 179.460. (1) In order to encourage industry and thereby increase productiveness in the insti-
 26 tutions, the *[Department of Corrections and the Department of Human Services]* **Department of**
 27 **Corrections, the Department of Human Services and the Oregon Health Authority** shall pre-
 28 scribe rules and regulations for the sale and exchange of surplus products of each.

29 (2) The funds derived from the sale of the surplus products shall be paid into the State Treasury
 30 and become a part of a fund to be known as the State Institutional Betterment Fund, which fund
 31 shall be expended by the *[Department of Corrections and the Department of Human Services]*
 32 **agencies**, respectively, for the benefit of the institutions in proportion to the amount earned by
 33 each.

34 (3) The provisions of this section apply to schools operated under ORS 346.010.

35 **SECTION 141.** ORS 179.473 is amended to read:

36 179.473. (1) Whenever the health and welfare of the person and the efficient administration of
 37 the institution require the transfer of an inmate of a Department of Corrections institution or a
 38 youth offender in a youth correction facility to another institution:

39 (a) The Department of Corrections or the Oregon Youth Authority, with the consent of the De-
 40 partment of Human Services, may transfer a person at any institution under its jurisdiction to an
 41 institution for persons with mental retardation, or, with the consent of the Oregon Health and Sci-
 42 ence University, to the Oregon Health and Science University.

43 (b) The Department of Corrections may transfer an inmate of a Department of Corrections in-
 44 stitution to a state mental hospital listed in ORS 426.010 for evaluation and treatment pursuant to
 45 rules adopted jointly by the Department of Corrections and the *[Department of Human Services]*

1 **Oregon Health Authority.**

2 (c) The Oregon Youth Authority may transfer a youth offender or other person confined in a
3 youth correction facility to a hospital or facility designated by the [*Department of Human Services*]
4 **Oregon Health Authority** for evaluation and treatment pursuant to rules adopted jointly by the
5 Oregon Youth Authority and the [*Department of Human Services*] **Oregon Health Authority**.

6 (d) Except as provided in subsection (2) of this section, the Department of Corrections or the
7 Oregon Youth Authority may make a transfer of a person from any institution under the jurisdiction
8 of the department or **the Oregon Youth Authority** to any other institution under the jurisdiction
9 of the department or authority.

10 (2) A youth offender in a youth correction facility may not be transferred to a Department of
11 Corrections institution under subsection (1) of this section. A youth offender in a youth correction
12 facility who has been transferred to another institution may not be transferred from such other in-
13 stitution to a Department of Corrections institution.

14 (3) The rules adopted under subsection (1)(b) and (c) of this section must:

15 (a) Provide the inmate or youth offender with the rights to which persons are entitled under
16 ORS 179.485.

17 (b) Provide that a transfer of an inmate or a youth offender to the [*Department of Human Ser-*
18 *VICES*] **Oregon Health Authority** for stabilization and evaluation for treatment may not exceed 30
19 days unless the transfer is extended pursuant to a hearing required by paragraph (c) of this sub-
20 section.

21 (c) Provide for an administrative commitment hearing if:

22 (A) The [*Department of Human Services*] **Oregon Health Authority** determines that adminis-
23 trative commitment for treatment for a mental illness is necessary or advisable or that the [*De-*
24 *partment of Human Services*] **authority** needs more than 30 days to stabilize or evaluate the inmate
25 or youth offender for treatment; and

26 (B) The inmate or youth offender does not consent to the administrative commitment or an ex-
27 tension of the transfer.

28 (d) Provide for, at a minimum, all of the following for the administrative commitment hearing
29 process:

30 (A) Written notice to the inmate or youth offender that an administrative commitment to a state
31 mental hospital listed in ORS 426.010 or a hospital or facility designated by the [*Department of Hu-*
32 *man Services*] **Oregon Health Authority** or an extension of the transfer is being considered. The
33 notice required by this subparagraph must be provided far enough in advance of the hearing to
34 permit the inmate or youth offender to prepare for the hearing.

35 (B) Disclosure to the inmate or youth offender, at the hearing, of the evidence that is being re-
36 lied upon for the administrative commitment or the extension of the transfer.

37 (C) An opportunity, at the hearing, for the inmate or youth offender to be heard in person and
38 to present documentary evidence.

39 (D) An opportunity, at the hearing, for the inmate or youth offender to present the testimony
40 of witnesses and to confront and cross-examine witnesses called by the state. The opportunity re-
41 quired by this subparagraph may be denied upon a finding by the decision maker of good cause for
42 not permitting the inmate or youth offender to present the testimony of witnesses or confront or
43 cross-examine witnesses called by the state.

44 (E) An independent decision maker for the hearing.

45 (F) A written statement by the decision maker of the evidence relied upon by the decision maker

1 and the reasons for administratively committing the inmate or youth offender or extending the
2 transfer.

3 (G) A qualified and independent assistant for the inmate or youth offender to be provided by the
4 state if the inmate or youth offender is financially unable to provide one.

5 (H) Effective and timely notice of the procedures required by subparagraphs (A) to (G) of this
6 paragraph.

7 (e) Provide that an inmate or a youth offender may not be administratively committed involun-
8 tarily unless the independent decision maker finds by clear and convincing evidence that the inmate
9 or youth offender is a mentally ill person as defined in ORS 426.005.

10 (f) Provide that the duration of an administrative commitment pursuant to an administrative
11 commitment hearing be no more than 180 days unless the administrative commitment is renewed in
12 a subsequent administrative commitment hearing. Notwithstanding this paragraph, an administrative
13 commitment may not continue beyond the term of incarceration to which the inmate was sentenced
14 or beyond the period of time that the youth offender may be placed in a youth correction facility.

15 **SECTION 142.** ORS 179.479 is amended to read:

16 179.479. (1) The superintendent or other chief executive officer of an institution described in
17 ORS 179.321 may, when authorized by regulation or direction of the [*Department of Corrections or*
18 *Department of Human Services*] **Department of Corrections, the Department of Human Services**
19 **or the Oregon Health Authority**, convey an inmate to a physician, clinic or hospital, including the
20 Oregon Health and Science University, for medical, surgical or dental treatment when such treat-
21 ment cannot satisfactorily be provided at the institution. An inmate conveyed for treatment pursuant
22 to this section shall be kept in the custody of the institution from which the inmate is conveyed.

23 (2) The Department of Corrections, [*and*] the Department of Human Services [*each*] **and the**
24 **Oregon Health Authority** shall prescribe rules and regulations governing conveyances authorized
25 by this section.

26 **SECTION 143.** ORS 179.490 is amended to read:

27 179.490. In the case of a necessary or emergency operation, requiring the services of a specialist,
28 and where the relatives or guardians, in the judgment of the [*Department of Corrections or Depart-*
29 *ment of Human Services*] **Department of Corrections, the Department of Human Services or the**
30 **Oregon Health Authority**, are unable to pay a part or the whole cost of the operation, [*either de-*
31 *partment, in its discretion,*] **the agencies** may have the operation performed, the cost of the opera-
32 tion to be payable from the funds of the institution concerned.

33 **SECTION 144.** ORS 179.492 is amended to read:

34 179.492. (1) The [*Department of Human Services or the Department of Corrections*] **Department**
35 **of Corrections, the Department of Human Services or the Oregon Health Authority** shall
36 dispense as written a prescription for a brand-name mental health drug prescribed for a person while
37 the person is in the custody of an institution described in ORS 179.321 if the prescription specifies
38 “dispense as written” or contains the notation “D.A.W.” or other words of similar meaning.

39 (2) If, at the time of commitment to the custody of an institution described in ORS 179.321, a
40 person has a prescription for a specified brand-name mental health drug and the prescription speci-
41 fies “dispense as written” or contains the notation “D.A.W.” or other words of similar meaning, the
42 [*Department of Human Services or the*] Department of Corrections, **the Department of Human**
43 **Services or the Oregon Health Authority** shall ensure that the person is prescribed the specified
44 brand-name drug until a licensed health professional with prescriptive privileges evaluates the per-
45 son and becomes responsible for the treatment of the person.

1 **SECTION 145.** ORS 179.505 is amended to read:

2 179.505. (1) As used in this section:

3 (a) “Disclosure” means the release of, transfer of, provision of access to or divulgence in any
4 other manner of information outside the health care services provider holding the information.

5 (b) “Health care services provider” means:

6 (A) Medical personnel or other staff employed by or under contract with a public provider to
7 provide health care or maintain written accounts of health care provided to individuals; or

8 (B) Units, programs or services designated, operated or maintained by a public provider to pro-
9 vide health care or maintain written accounts of health care provided to individuals.

10 (c) “Individually identifiable health information” means any health information that is:

11 (A) Created or received by a health care services provider; and

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

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

16 (ii) The provision of health care to an individual; or

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

18 (d) “Personal representative” includes but is not limited to:

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

21 (B) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
22 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
23 decisions; and

24 (C) A person appointed as a personal representative under ORS chapter 113.

25 (e) “Psychotherapy notes” means notes recorded in any medium:

26 (A) By a mental health professional, in the performance of the official duties of the mental
27 health professional;

28 (B) Documenting or analyzing the contents of conversation during a counseling session; and

29 (C) That are maintained separately from the rest of the individual’s record.

30 (f) “Psychotherapy notes” does not mean notes documenting:

31 (A) Medication prescription and monitoring;

32 (B) Counseling session start and stop times;

33 (C) Modalities and frequencies of treatment furnished;

34 (D) Results of clinical tests; or

35 (E) Any summary of the following items:

36 (i) Diagnosis;

37 (ii) Functional status;

38 (iii) Treatment plan;

39 (iv) Symptoms;

40 (v) Prognosis; or

41 (vi) Progress to date.

42 (g) “Public provider” means:

43 (A) The *[state institutions for the care and treatment of individuals with mental illness or devel-*
44 *opmental disabilities operated by the Department of Human Services]* **Blue Mountain Recovery**
45 **Center, the Eastern Oregon Training Center and the Oregon State Hospital;**

1 (B) Department of Corrections institutions as defined in ORS 421.005;

2 (C) A contractor of the [*Department of Human Services or the Department of Corrections*] **De-**
3 **partment of Corrections, the Department of Human Services or the Oregon Health Authority**
4 that provides health care to individuals residing in a state institution operated by the [*Department*
5 *of Human Services or the Department of Corrections*] **agencies**;

6 (D) A community mental health [*and*] **program or community** developmental disabilities pro-
7 gram as described in ORS 430.610 to 430.695 and the public and private entities with which it con-
8 tracts to provide mental health or developmental disabilities programs or services;

9 (E) A program or service provided under ORS 431.250, 431.375 to 431.385 or 431.416;

10 (F) A program or service [*licensed, approved, established, maintained or operated by or contracted*
11 *with the Department of Human Services under ORS 430.630 for individuals with developmental disa-*
12 *bilities and individuals with mental or emotional disturbances*] **established or maintained under**
13 **ORS 430.630**;

14 (G) A program or facility providing an organized full-day or part-day program of treatment that
15 is licensed, approved, established, maintained or operated by or contracted with the [*Department of*
16 *Human Services*] **Oregon Health Authority** for alcoholism, drug addiction or mental or emotional
17 disturbance; or

18 (H) A program or service providing treatment by appointment that is licensed, approved, estab-
19 lished, maintained or operated by or contracted with the [*Department of Human Services*] **authority**
20 for alcoholism, drug addiction or mental or emotional disturbance.

21 (h) "Written account" means records containing only individually identifiable health information.

22 (2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16) and (17) of
23 this section or unless otherwise permitted or required by state or federal law or by order of the
24 court, written accounts of the individuals served by any health care services provider maintained
25 in or by the health care services provider by the officers or employees thereof who are authorized
26 to maintain written accounts within the official scope of their duties are not subject to access and
27 may not be disclosed. This subsection applies to written accounts maintained in or by facilities of
28 the Department of Corrections only to the extent that the written accounts concern the medical,
29 dental or psychiatric treatment as patients of those under the jurisdiction of the Department of
30 Corrections.

31 (3) If the individual or a personal representative of the individual provides an authorization, the
32 content of any written account referred to in subsection (2) of this section must be disclosed ac-
33 cordingly, if the authorization is in writing and is signed and dated by the individual or the personal
34 representative of the individual and sets forth with specificity the following:

35 (a) Name of the health care services provider authorized to make the disclosure, except when
36 the authorization is provided by recipients of or applicants for public assistance to a governmental
37 entity for purposes of determining eligibility for benefits or investigating for fraud;

38 (b) Name or title of the persons or organizations to which the information is to be disclosed or
39 that information may be disclosed to the public;

40 (c) Name of the individual;

41 (d) Extent or nature of the information to be disclosed; and

42 (e) Statement that the authorization is subject to revocation at any time except to the extent
43 that action has been taken in reliance thereon, and a specification of the date, event or condition
44 upon which it expires without express revocation. However, a revocation of an authorization is not
45 valid with respect to inspection or records necessary to validate expenditures by or on behalf of

1 governmental entities.

2 (4) The content of any written account referred to in subsection (2) of this section may be dis-
3 closed without an authorization:

4 (a) To any person to the extent necessary to meet a medical emergency.

5 (b) At the discretion of the responsible officer of the health care services provider, which in the
6 case of any [*Department of Human Services facility or community mental health and developmental*
7 *disabilities program shall be the Director of Human Services*] **Oregon Health Authority facility or**
8 **community mental health program is the Director of the Oregon Health Authority**, to persons
9 engaged in scientific research, program evaluation, peer review and fiscal audits. However, individ-
10 ual identities may not be disclosed to such persons, except when the disclosure is essential to the
11 research, evaluation, review or audit and is consistent with state and federal law.

12 (c) To governmental agencies when necessary to secure compensation for services rendered in
13 the treatment of the individual.

14 (5) When an individual's identity is disclosed under subsection (4) of this section, a health care
15 services provider shall prepare, and include in the permanent records of the health care services
16 provider, a written statement indicating the reasons for the disclosure, the written accounts dis-
17 closed and the recipients of the disclosure.

18 (6) The content of any written account referred to in subsection (2) of this section and held by
19 a health care services provider currently engaged in the treatment of an individual may be disclosed
20 to officers or employees of that provider, its agents or cooperating health care services providers
21 who are currently acting within the official scope of their duties to evaluate treatment programs,
22 to diagnose or treat or to assist in diagnosing or treating an individual when the written account
23 is to be used in the course of diagnosing or treating the individual. Nothing in this subsection
24 prevents the transfer of written accounts referred to in subsection (2) of this section among health
25 care services providers, the Department of Human Services, the Department of Corrections, **the**
26 **Oregon Health Authority** or a local correctional facility when the transfer is necessary or bene-
27 ficial to the treatment of an individual.

28 (7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240
29 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or
30 treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or
31 an institution operated by the department, nothing in this section prohibits the disclosure of any
32 written account referred to in subsection (2) of this section to the Department of Justice, Oregon
33 Department of Administrative Services, or their agents, upon request, or the subsequent disclosure
34 to a court, administrative hearings officer, arbitrator or other administrative decision maker.

35 (8)(a) When an action, suit, claim, arbitration or proceeding involves [*the Department of Human*
36 *Services or an institution operated by the department*] **the Department of Human Services, the**
37 **Oregon Health Authority or an institution operated by the department or authority**, nothing
38 in this section prohibits the disclosure of any written account referred to in subsection (2) of this
39 section to the Department of Justice, Oregon Department of Administrative Services, or their
40 agents.

41 (b) Disclosure of information in an action, suit, claim, nonlabor arbitration or proceeding is
42 limited by the relevancy restrictions of ORS 40.010 to 40.585, 183.710 to 183.725, 183.745 and 183.750
43 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed
44 under this paragraph.

45 (c) Disclosure of information as part of a labor arbitration or proceeding to support a personnel

1 action taken against staff is limited to written accounts directly relating to alleged action or in-
2 action by staff for which the personnel action was imposed.

3 (9)(a) The copy of any written account referred to in subsection (2) of this section, upon written
4 request of the individual or a personal representative of the individual, shall be disclosed to the
5 individual or the personal representative of the individual within a reasonable time not to exceed
6 five working days. The individual or the personal representative of the individual shall have the
7 right to timely access to any written accounts.

8 (b) If the disclosure of psychiatric or psychological information contained in the written account
9 would constitute an immediate and grave detriment to the treatment of the individual, disclosure
10 may be denied, if medically contraindicated by the treating physician or a licensed health care
11 professional in the written account of the individual.

12 (c) The Department of Corrections may withhold psychiatric or psychological information if:

13 (A) The information relates to an individual other than the individual seeking it.

14 (B) Disclosure of the information would constitute a danger to another individual.

15 (C) Disclosure of the information would compromise the privacy of a confidential source.

16 (d) However, a written statement of the denial under paragraph (c) of this subsection and the
17 reasons therefor must be entered in the written account.

18 (10) A health care services provider may require a person requesting disclosure of the contents
19 of a written account under this section to reimburse the provider for the reasonable costs incurred
20 in searching files, abstracting if requested and copying if requested. However, an individual or a
21 personal representative of the individual may not be denied access to written accounts concerning
22 the individual because of inability to pay.

23 (11) A written account referred to in subsection (2) of this section may not be used to initiate
24 or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by
25 federal, state or local authorities against the individual or to conduct any investigations of the in-
26 dividual. If the individual, as a party to an action, suit or other judicial proceeding, voluntarily
27 produces evidence regarding an issue to which a written account referred to in subsection (2) of this
28 section would be relevant, the contents of that written account may be disclosed for use in the
29 proceeding.

30 (12) Information obtained in the course of diagnosis, evaluation or treatment of an individual
31 that, in the professional judgment of the health care services provider, indicates a clear and imme-
32 diate danger to others or to society may be reported to the appropriate authority. A decision not
33 to disclose information under this subsection does not subject the provider to any civil liability.
34 Nothing in this subsection may be construed to alter the provisions of ORS 146.750, 146.760,
35 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040 and 419B.045.

36 (13) The prohibitions of this section apply to written accounts concerning any individual who
37 has been treated by any health care services provider irrespective of whether or when the individual
38 ceases to receive treatment.

39 (14) Persons other than the individual or the personal representative of the individual who are
40 granted access under this section to the contents of a written account referred to in subsection (2)
41 of this section may not disclose the contents of the written account to any other person except in
42 accordance with the provisions of this section.

43 (15) Nothing in this section prevents the Department of Human Services **or the Oregon Health**
44 **Authority** from disclosing the contents of written accounts in its possession to individuals or
45 agencies with whom children in its custody are placed.

1 (16) The system described in ORS 192.517 (1) shall have access to records, as defined in ORS
2 192.515, as provided in ORS 192.517.

3 (17)(a) Except as provided in paragraph (b) of this subsection, a health care services provider
4 must obtain an authorization from an individual or a personal representative of the individual to
5 disclose psychotherapy notes.

6 (b) A health care services provider may use or disclose psychotherapy notes without obtaining
7 an authorization from the individual or a personal representative of the individual to carry out the
8 following treatment, payment and health care operations:

9 (A) Use by the originator of the psychotherapy notes for treatment;

10 (B) Disclosure by the health care services provider for its own training program in which stu-
11 dents, trainees or practitioners in mental health learn under supervision to practice or improve their
12 skills in group, joint, family or individual counseling; or

13 (C) Disclosure by the health care services provider to defend itself in a legal action or other
14 proceeding brought by the individual or a personal representative of the individual.

15 (c) An authorization for the disclosure of psychotherapy notes may not be combined with an
16 authorization for a disclosure of any other individually identifiable health information, but may be
17 combined with another authorization for a disclosure of psychotherapy notes.

18 **SECTION 146.** ORS 179.509 is amended to read:

19 179.509. (1) The superintendent of each state institution shall submit quarterly reports on the
20 number of deaths, including the ages of the deceased, the causes of death and the disposition of the
21 remains, within the institution to the [*Department of Human Services or to the Department of Cor-*
22 *rections*] **Department of Corrections, the Department of Human Services or the Oregon**
23 **Health Authority**, as the case may be, having jurisdiction over the institution.

24 (2) The [*Department of Human Services or the Department of Corrections*] **agencies** shall compile
25 the reports described in subsection (1) of this section and submit them quarterly to the offices of the
26 President of the Senate and of the Speaker of the House of Representatives.

27 **SECTION 147.** ORS 179.610 is amended to read:

28 179.610. As used in ORS 179.610 to 179.770, unless the context requires otherwise:

29 [(1) "Agency" means either the Department of Human Services for a person in a state institution
30 described in ORS 179.321 (1) or the Department of Corrections for a person in a Department of Cor-
31 rections institution as defined in ORS 421.005.]

32 [(2)] (1) "Authorized representative" means an individual or entity appointed under authority
33 of ORS chapter 125, as guardian or conservator of a person, who has the ability to control the
34 person's finances, and any other individual or entity holding funds or receiving benefits or income
35 on behalf of any person.

36 [(3)] (2) "Care" means all services rendered by the state institutions as described in ORS 179.321
37 or by the [*Department of Human Services or the Department of Corrections*] **Department of Cor-**
38 **rections, Department of Human Services or Oregon Health Authority** on behalf of those insti-
39 tutions. These services include, but are not limited to, such items as medical care, room, board,
40 administrative costs and other costs not otherwise excluded by law.

41 [(4)] (3) "Decedent's estate" has the meaning given "estate" in ORS 111.005 (15).

42 [(5)] (4) "Person," "person in a state institution" or "person at a state institution," or any sim-
43 ilar phrase, means an individual who is or has been at a state institution described in ORS 179.321.

44 [(6)] (5) "Personal estate" means all income and benefits as well as all assets, including all
45 personal and real property of a living person, and includes assets held by the person's authorized

1 representative and all other assets held by any other individual or entity holding funds or receiving
2 benefits or income on behalf of any person.

3 **SECTION 148.** ORS 179.620 is amended to read:

4 179.620. (1) A person and the personal estate of the person, or a decedent's estate, is liable for
5 the full cost of care. Full cost of care is established according to ORS 179.701.

6 (2) While the person is liable for the full cost of care, the maximum amount a person is required
7 to pay toward the full cost of care shall be determined according to the person's ability to pay.
8 Ability to pay is determined as provided in ORS 179.640.

9 (3) Upon the death of a person, the decedent's estate shall be liable for any unpaid cost of care.
10 The liability of the decedent's estate is limited to the cost of care incurred on or after July 24, 1979.
11 The decedent's estate shall not include assets placed in trust for the person by other persons. Col-
12 lection of any amount from a decedent's estate shall be pursuant to ORS 179.740.

13 (4) Regardless of subsection (1) of this section and ORS 179.610 [(6)] (5), assets held in trust by
14 a trustee for a person are subject to laws generally applicable to trusts.

15 (5) Notwithstanding subsections (1) and (3) of this section, [*neither the Department of Human*
16 *Services nor the Department of Corrections may*] **the Department of Corrections, the Department**
17 **of Human Services and the Oregon Health Authority may not** collect the cost of care from:

18 (a) Any assets received by or owing to a person and the personal estate of the person, or the
19 decedent's estate, as compensation from the state for injury, death or, if the collection is being made
20 by the Department of Corrections, the false imprisonment of the person that occurred when the
21 person was in a state institution listed in ORS 179.321 and for which the state admits liability or is
22 found liable through adjudication; and

23 (b) Any real or personal property of the personal estate of the person, or the decedent's estate,
24 that the person or an authorized representative of the person can demonstrate was purchased solely
25 with assets referred to in paragraph (a) of this subsection or partially with such assets, to the extent
26 such assets were used in the purchase.

27 **SECTION 149.** ORS 179.640 is amended to read:

28 179.640. (1)(a) [*Both the Department of Human Services and the Department of Corrections*] **The**
29 **Department of Corrections, the Department of Human Services and the Oregon Health Au-**
30 **thority** shall establish rules for determining ability to pay for persons in their respective insti-
31 tutions. The rules adopted by each agency shall require, in addition to other relevant factors,
32 consideration of the personal estate, the person's need for funds for personal support after release,
33 and the availability of third-party benefits such as, but not limited to, Medicare or private insurance.
34 Each agency may also consider the probable length of stay at the state institution. Nothing in this
35 section requires the Department of Corrections to investigate a person's ability to pay or to issue
36 an ability-to-pay order.

37 (b) When adopting rules under paragraph (a) of this subsection, the Department of Corrections
38 shall consider the person's needs for funds to pay for the support of the person's children and to pay
39 any monetary obligations imposed on the person as a result of the person's conviction.

40 (2) In determining a person's ability to pay, [*neither agency*] **none of the agencies** may consider
41 as part of the personal estate of the person or the decedent's estate:

42 (a) Any assets received by or owing to the person and the personal estate of the person, or the
43 decedent's estate, as compensation from the state for injury, death or, if the collection is being made
44 by the Department of Corrections, the false imprisonment of the person that occurred when the
45 person was in a state institution listed in ORS 179.321 and for which the state admits liability or is

1 found liable through adjudication; and

2 (b) Any real or personal property that the person or an authorized representative of the person
3 can demonstrate was purchased solely with assets referred to in paragraph (a) of this subsection or
4 partially with such assets, to the extent such assets were used in the purchase.

5 (3) A person and the authorized representative of the person, if any, shall provide all financial
6 information requested by the agency that is necessary to determine the person's ability to pay. To
7 determine ability to pay, the agency may use any information available to the agency, including in-
8 formation provided by the Department of Revenue from personal income tax returns pursuant to
9 ORS 314.840, and elderly rental assistance claims. Upon request, the Department of Revenue shall
10 release copies of tax returns to the agency. When the person or the person's authorized represen-
11 tative fails to provide evidence to demonstrate an inability to pay full cost of care, the agency may
12 determine the person has the ability to pay the full cost of care.

13 (4) The agency shall provide actual notice to the person and any authorized representative, if
14 known to the agency, of its determination by issuing an ability-to-pay order. The order shall state
15 the person's full liability and the person's determined ability to pay. Actual notice means receipt by
16 the person and the authorized representative of notice. The notice shall include a copy of the
17 ability-to-pay order, a description of the person's appeal rights and the date upon which appeal
18 rights terminate and state the address where a request for hearing may be mailed or delivered. At
19 any time, the agency may reissue an ability-to-pay order to notify an authorized representative as
20 provided by ORS 179.653 (4).

21 (5) At any time during the person's stay at the state institution or within 36 months from the
22 date the person is released, if the agency receives new financial information that shows a change
23 in the person's financial circumstances, the agency shall consider the changed circumstances and
24 issue a new ability-to-pay order.

25 (6) Orders issued after the person is released may not require the person to make payments to-
26 ward the cost of care for more than 36 consecutive months following release. However, the agency
27 may collect beyond the 36-month period any payments that became due but were not paid within the
28 36 months following release. Any remaining balance of full cost of care shall be collected as pro-
29 vided in ORS 179.740.

30 (7) Notwithstanding ORS 183.315 (5), if a person or authorized representative disagrees with any
31 ability-to-pay order issued pursuant to this section, the person or authorized representative may re-
32 quest a contested case hearing. To the extent practical, the hearing will be held at a location con-
33 venient to the person or the authorized representative. The request must be postmarked within 60
34 days from the date of the mailing of the ability-to-pay order. If the person or the authorized repre-
35 sentative makes a timely request for a contested case hearing, the hearing and any appeal of the
36 final hearing order shall be governed by ORS 183.413 to 183.497. If the person or the authorized
37 representative fails to make a timely request for a contested case hearing, the ability-to-pay order
38 shall be final and not subject to judicial review, except as subsequently modified by the agency as
39 provided in subsection (5) of this section.

40 (8) On appeal, regardless of other information presented, payment of the full cost of care may
41 be ordered if the person or the authorized representative refuses to produce financial information
42 that the Hearings Officer or administrative law judge determines is relevant and must be produced.

43 **SECTION 150.** ORS 179.653 is amended to read:

44 179.653. (1) If any person or authorized representative refuses to pay for the cost of care as or-
45 dered by the [*Department of Human Services or the Department of Corrections*] **Department of**

1 **Corrections, the Department of Human Services or the Oregon Health Authority** under ORS
2 179.640, the amount unpaid plus interest shall be a lien in favor of the State of Oregon. The lien
3 shall arise as each payment is due under the order and shall continue until the liability with interest
4 is satisfied. The lien shall be upon the title to and interest in the real and personal property of the
5 personal estate.

6 (2) Prior to the filing of a distraint warrant as provided in ORS 179.655 (2), the lien shall only
7 be valid against:

8 (a) Property of the person;

9 (b) Assets held by any authorized representative bound by the ability-to-pay order; and

10 (c) Assets subject to lien held by any person or entity having actual knowledge of the ability-
11 to-pay order or the lien.

12 (3) Regardless of any other provision of law or statute that provides a procedure for establishing
13 obligations, including the claim and payment provisions of ORS chapter 125, an authorized repre-
14 sentative who has received notice and had an opportunity to request a contested case hearing shall
15 comply with an ability-to-pay order upon demand by the agency. The agency may issue the demand
16 any time after the order becomes final.

17 (4) An authorized representative who has not had an opportunity to request a contested case
18 hearing, either because the authorized representative was not appointed at the time the ability-to-
19 pay order became final, or was not given notice of the ability-to-pay order as required by ORS
20 179.640 (4), shall not be bound by the order of the agency. To bind the authorized representative,
21 the ability-to-pay order must be reissued and notice provided to the authorized representative pur-
22 suant to ORS 179.640 (4). The authorized representative shall have the same appeal rights as if the
23 order had originally been issued to the authorized representative. After the order becomes final, the
24 authorized representative shall be bound as provided in subsection (3) of this section. The agency
25 may not issue an execution of a lien or foreclose against property held by or in the control of the
26 authorized representative until the authorized representative is bound by the order of the agency.

27 (5) An authorized representative who is a trustee shall only be bound to the extent that the final
28 order specifically finds that the trust assets of a trust fund are subject to claim by the agency.

29 (6) If the authorized representative does not comply with the demand, the agency may file with
30 the probate court a motion to require the authorized representative to comply. If the authorized
31 representative is a conservator or guardian appointed under ORS chapter 125, the motion shall be
32 filed in that proceeding. The motion shall be accompanied by an affidavit stating that the order is
33 final, that demand has been made on the authorized representative and that the order has not been
34 complied with.

35 (7) The authorized representative may object to the motion only on grounds that the order is
36 not final, that the order is not binding on the authorized representative as provided in this section
37 or that all required payments have been made. The objection must be by affidavit.

38 (8) If the authorized representative objects by affidavit, the court shall hear the motion. If the
39 court determines that the ability-to-pay order is final and binding on the authorized representative
40 and that all required payments have not been made, the court shall order the authorized represen-
41 tative to comply with the ability-to-pay order.

42 (9) If the authorized representative fails to object by affidavit within 15 days of the filing of the
43 motion, the court shall order the authorized representative to comply with the order. An authorized
44 representative who willfully fails or refuses to comply may be found in contempt of court and may
45 be held personally responsible.

1 (10) Nothing in this section shall affect the requirement that the agency issue a new order in
2 accordance with ORS 179.640 (5) if financial circumstances have changed.

3 **SECTION 151.** ORS 179.655 is amended to read:

4 179.655. (1) If any amount due the [*Department of Human Services or the Department of Cor-*
5 *rections*] **Department of Corrections, the Department of Human Services or the Oregon**
6 **Health Authority** for the cost of care of a person is not paid within 30 days after it becomes due,
7 and no provision is made to secure the payment by bond, deposit or otherwise, pursuant to rules
8 adopted by the appropriate agency, the agency may issue a distraint warrant directed to any county
9 of the state.

10 (2) After the receipt of the distraint warrant, the clerk of the county shall enter in the County
11 Clerk Lien Record the name of the person, the amount for which the distraint warrant is issued and
12 the date the distraint warrant is recorded. The amount of the distraint warrant shall become a lien
13 upon the title to and interest in any property owned or later acquired by the debtor against whom
14 it is issued, and it may be enforced by the agency in the same manner as a judgment of the circuit
15 court.

16 (3) In the event that an ability-to-pay order issued under ORS 179.640 (4) or (5) becomes final,
17 and supersedes a previous final ability-to-pay order on which a distraint warrant had been issued,
18 the agency shall issue a new distraint warrant superseding the previous distraint warrant, and the
19 lien shall conform to the new order.

20 (4) The agency may direct a copy of the distraint warrant to the sheriff of any county of the
21 state commanding the sheriff to levy upon and sell the real and personal property of the taxpayer
22 found within that county, for the payment of the amount due, with interest, collection charge and
23 the sheriff's fee. The sheriff shall return the distraint warrant to the agency and pay to it the money
24 collected not less than 60 days from the date the copy of the distraint warrant was directed to the
25 sheriff.

26 (5) The agency may issue the directive provided in subsection (4) of this section to any agent
27 of the agency. In executing the distraint warrant, the agent shall have the same powers conferred
28 by law upon sheriffs. However, the agent is not entitled to any fee or compensation in excess of
29 actual expenses incurred in the performance of this duty.

30 **SECTION 152.** ORS 179.660 is amended to read:

31 179.660. If the [*Department of Human Services or the Department of Corrections*] **Department**
32 **of Corrections, the Department of Human Services or the Oregon Health Authority** believes
33 a person at one of its state institutions needs a guardian or conservator, or both, and one has not
34 been appointed, the agency may request that the district attorney institute proper proceedings for
35 this appointment in the court having probate jurisdiction. The county of which the person is a res-
36 ident, or was a resident at the time of admittance, shall be the basis for determining the appropriate
37 district attorney to be contacted.

38 **SECTION 153.** ORS 179.701 is amended to read:

39 179.701. The cost-of-care rates for a person shall be determined by the [*Department of Human*
40 *Services or the Department of Corrections*] **Department of Corrections, the Department of Human**
41 **Services or the Oregon Health Authority**, as appropriate. The rates established shall be reason-
42 ably related to current costs of the institutions as described in ORS 179.321. Current costs shall
43 exclude costs of outpatient services as defined in ORS 430.010 [(4)] (5) and any other costs not di-
44 rectly related to the care for a person at a state institution.

45 **SECTION 154.** ORS 179.711 is amended to read:

1 179.711. (1) Remittance of amounts due for care of persons at state institutions as provided in
 2 ORS 179.610 to 179.770 shall be made to the [*Department of Human Services or the Department of*
 3 *Corrections*] **Department of Corrections, the Department of Human Services or the Oregon**
 4 **Health Authority**, as appropriate.

5 (2) The agency shall refund any unearned payment for the care of a person at a state institution
 6 where payment has been made in advance and the person dies or is discharged before the end of the
 7 period for which payment was made. Any refund shall be paid to the person, to the authorized rep-
 8 resentative of the person or to the decedent's estate if the person has died. All claims for refunds
 9 approved by the agency shall be paid as provided in ORS 293.295 to 293.462. Any amounts necessary
 10 for payment of refunds are appropriated from the money collected by that agency under the pro-
 11 visions of ORS 179.610 to 179.770.

12 **SECTION 155.** ORS 179.731 is amended to read:

13 179.731. If the [*Department of Human Services or the Department of Corrections*] **Department**
 14 **of Corrections, the Department of Human Services or the Oregon Health Authority** deter-
 15 mines that collection of the amount payable under ORS 179.610 to 179.770 for the cost of care of a
 16 person would be detrimental to the best interests of the person or the agency, the agency may waive
 17 the collection of part or all of the amount otherwise payable.

18 **SECTION 156.** ORS 179.740 is amended to read:

19 179.740. (1) The [*Department of Human Services or the Department of Corrections*] **Department**
 20 **of Corrections, the Department of Human Services or the Oregon Health Authority**, as ap-
 21 propriate, may file a claim against the decedent's estate for any unpaid charges under ORS 179.620
 22 (3). This shall be done in the same manner as claims of creditors and with the priorities provided
 23 in ORS 115.125.

24 (2) If, within 90 days following the person's death, the person's estate is not otherwise being
 25 probated, the agency may petition any court of competent jurisdiction for the issuance of letters of
 26 administration or testamentary. This action would be for the purpose of collecting the full amount
 27 of unpaid cost of care as determined by ORS 179.701 and limited by ORS 179.620 (3). However, the
 28 agency may not file a petition under this subsection until at least 90 days after the death of the
 29 person who was at the state institution and then only in the event that the person's estate is not
 30 otherwise being probated.

31 (3) The agency may settle any claim against the decedent's estate during the pendency of the
 32 probate proceeding by accepting other security or in any other equitable manner. The agency may
 33 waive all or part of the claim if it finds collection of this amount due to be inequitable.

34 (4) The agency may not recover amounts that exceed the total cost of care of the deceased
 35 person as computed under ORS 179.701 and limited by ORS 179.620 (3).

36 **SECTION 157.** ORS 179.745 is amended to read:

37 179.745. The State of Oregon, by and through the [*Department of Human Services or the Depart-*
 38 *ment of Corrections*] **Department of Corrections, the Department of Human Services or the**
 39 **Oregon Health Authority**, may take title to real and personal property to carry out the provisions
 40 of ORS 179.620, 179.653, 179.655 and 179.740. With the written consent of the owner of real property
 41 or an authorized representative of the owner, the agency may transfer real property under the pro-
 42 visions of ORS 270.100 to 270.190. The agency may transfer personal property under rules adopted
 43 by the agency. The proceeds, less costs, of any real or personal property transferred by the agency
 44 under this section shall be credited to and deposited in the [*Mental Health and Developmental Dis-*
 45 *ability Services Account established by ORS 430.180 or the Department of Corrections Account estab-*

1 *lished by ORS 423.097*] **Department of Corrections Account, the Department of Human**
2 **Services Account or the Oregon Health Authority Fund**, as appropriate.

3 **SECTION 158.** ORS 179.770 is amended to read:

4 179.770. (1) In accordance with any applicable provisions of ORS chapter 183, [*both the Depart-*
5 *ment of Human Services and the Department of Corrections*] **the Department of Corrections, the**
6 **Department of Human Services and the Oregon Health Authority** may adopt any rules neces-
7 sary to carry out ORS 179.610 to 179.770.

8 (2) Subject to any applicable provision of the State Personnel Relations Law, the agency may
9 employ employees necessary to carry out ORS 179.610 to 179.770.

10 **SECTION 159.** ORS 181.537 is amended to read:

11 181.537. (1) As used in this section:

12 (a) "Care" means the provision of care, treatment, education, training, instruction, supervision,
13 placement services, recreation or support to children, the elderly or persons with disabilities.

14 (b) "Qualified entity" means a community mental health [*and developmental disabilities*
15 *program,*] **program, a community developmental disabilities program**, a local health department
16 or an individual or business or organization, whether public, private, for-profit, nonprofit or volun-
17 tary, that provides care, including a business or organization that licenses, certifies or registers
18 others to provide care.

19 (2) The Department of Human Services, **the Oregon Health Authority** and the Employment
20 Department may require the fingerprints of a person for the purpose of requesting a state or na-
21 tionwide criminal records check of the person under ORS 181.534:

22 (a) For agency employment purposes;

23 (b) For the purposes of licensing, certifying, registering or otherwise regulating or administering
24 programs, persons or qualified entities that provide care;

25 (c) For the purposes of employment decisions by or for qualified entities that are regulated or
26 otherwise subject to oversight by the Department of Human Services **or the Oregon Health Au-**
27 **thority** and that provide care; or

28 (d) For the purposes of employment decisions made by a mass transit district or transportation
29 district for qualified entities that, under contracts with the district or the [*Department of Human*
30 *Services*] **Oregon Health Authority**, employ persons to operate motor vehicles for the transporta-
31 tion of medical assistance program clients.

32 (3) The Department of Human Services **and the Oregon Health Authority** may conduct crimi-
33 nal records checks on a person through the Law Enforcement Data System maintained by the De-
34 partment of State Police, if deemed necessary by the Department of Human Services **or the Oregon**
35 **Health Authority** to protect children, elderly persons, persons with disabilities or other vulnerable
36 persons.

37 (4) The Department of Human Services **and the Oregon Health Authority** may furnish to
38 qualified entities, in accordance with the [*Department of Human Services'*] rules **of the Department**
39 **of Human Services or the Oregon Health Authority** and the rules of the Department of State
40 Police, information received from the Law Enforcement Data System. However, any criminal
41 offender records and information furnished to the Department of Human Services **or the Oregon**
42 **Health Authority** by the Federal Bureau of Investigation through the Department of State Police
43 may not be disseminated to qualified entities.

44 (5) A qualified entity, using rules adopted by the Department of Human Services **or the Oregon**
45 **Health Authority**, shall determine under this section whether a person is fit to hold a position,

1 provide services, be employed or, if the qualified entity has authority to make such a determination,
2 be licensed, certified or registered, based on the criminal records check obtained pursuant to ORS
3 181.534, any false statements made by the person regarding the criminal history of the person and
4 any refusal to submit or consent to a criminal records check including fingerprint identification. If
5 a person is determined to be unfit, then that person may not hold the position, provide services or
6 be employed, licensed, certified or registered.

7 (6) In making the fitness determination under subsection (5) of this section, the qualified entity
8 shall consider:

9 (a) The nature of the crime;

10 (b) The facts that support the conviction or pending indictment or indicate the making of the
11 false statement;

12 (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the
13 person's present or proposed position, services, employment, license, certification or registration;
14 and

15 (d) Intervening circumstances relevant to the responsibilities and circumstances of the position,
16 services, employment, license, certification or registration. Intervening circumstances include but
17 are not limited to the passage of time since the commission of the crime, the age of the person at
18 the time of the crime, the likelihood of a repetition of offenses, the subsequent commission of an-
19 other relevant crime and a recommendation of an employer.

20 (7) The Department of Human Services, **the Oregon Health Authority** and the Employment
21 Department may make fitness determinations based on criminal offender records and information
22 furnished by the Federal Bureau of Investigation through the Department of State Police only as
23 provided in ORS 181.534.

24 (8) A qualified entity and an employee of a qualified entity acting within the course and scope
25 of employment are immune from any civil liability that might otherwise be incurred or imposed for
26 determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position,
27 provide services or be employed, licensed, certified or registered. A qualified entity, employee of a
28 qualified entity acting within the course and scope of employment and an employer or employer's
29 agent who in good faith comply with this section and the decision of the qualified entity or employee
30 of the qualified entity acting within the course and scope of employment are not liable for the fail-
31 ure to hire a prospective employee or the decision to discharge an employee on the basis of the
32 qualified entity's decision. An employee of the state acting within the course and scope of employ-
33 ment is not liable for defamation or invasion of privacy in connection with the lawful dissemination
34 of information lawfully obtained under this section.

35 (9) The Department of Human Services **and the Oregon Health Authority** shall develop [*a*
36 *system that maintains*] **systems that maintain** information regarding criminal records checks in
37 order to minimize the administrative burden imposed by this section and ORS 181.534. Records
38 maintained under this subsection are confidential and may not be disseminated except for the pur-
39 poses of this section and in accordance with the rules of the Department of Human Services, **the**
40 **Oregon Health Authority** and the Department of State Police. Nothing in this subsection permits
41 the Department of Human Services to retain fingerprint cards obtained pursuant to this section.

42 (10) In addition to the rules required by ORS 181.534, the Department of Human Services **and**
43 **the Oregon Health Authority**, in consultation with the Department of State Police, shall adopt
44 rules:

45 (a) Specifying which qualified entities are subject to this section;

1 (b) Specifying which qualified entities may request criminal offender information;

2 (c) Specifying which qualified entities are responsible for deciding whether a subject individual
3 is not fit for a position, service, license, certification, registration or employment; and

4 (d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records
5 check, may proceed to make a fitness determination under subsection (5) of this section using the
6 information maintained by the Department of Human Services **and the Oregon Health Authority**
7 pursuant to subsection (9) of this section.

8 (11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted,
9 the qualified entity shall deny or terminate the employment of the person, or revoke or deny any
10 applicable position, authority to provide services, employment, license, certification or registration.

11 (12) If the qualified entity requires a criminal records check of employees or other persons, the
12 application forms of the qualified entity must contain a notice that employment is subject to fin-
13 gerprinting and a criminal records check.

14 **SECTION 160.** ORS 181.637 is amended to read:

15 181.637. (1) The Board on Public Safety Standards and Training shall establish the following
16 policy committees:

- 17 (a) Corrections Policy Committee;
- 18 (b) Fire Policy Committee;
- 19 (c) Police Policy Committee;
- 20 (d) Telecommunications Policy Committee; and
- 21 (e) Private Security Policy Committee.

22 (2) The members of each policy committee shall select a chairperson and vice chairperson for
23 the policy committee. Only members of the policy committee who are also members of the board are
24 eligible to serve as a chairperson or vice chairperson. The vice chairperson may act as chairperson
25 in the absence of the chairperson.

26 (3) The Corrections Policy Committee consists of:

- 27 (a) All of the board members who represent the corrections discipline;
- 28 (b) The chief administrative officer of the training division of the Department of Corrections;
- 29 (c) A security manager from the Department of Corrections; and
- 30 (d) The following, who may not be current board members, appointed by the chairperson of the

31 board:

- 32 (A) One person recommended by and representing the Oregon State Sheriffs' Association;
- 33 (B) Two persons recommended by and representing the Oregon Jail Managers' Association;
- 34 (C) One person recommended by and representing a statewide association of community cor-
35 rections directors;
- 36 (D) One nonmanagement corrections officer employed by the Department of Corrections; and
- 37 (E) One corrections officer who is a female, who is employed by the Department of Corrections
38 at a women's correctional facility and who is a member of a bargaining unit.

39 (4) The Fire Policy Committee consists of:

- 40 (a) All of the board members who represent the fire service discipline; and
- 41 (b) The following, who may not be current board members, appointed by the chairperson of the
42 board:
 - 43 (A) One person recommended by and representing a statewide association of fire instructors;
 - 44 (B) One person recommended by and representing a statewide association of fire marshals;
 - 45 (C) One person recommended by and representing community college fire programs; and

- 1 (D) One nonmanagement firefighter recommended by a statewide organization of firefighters.
- 2 (5) The Police Policy Committee consists of:
- 3 (a) All of the board members who represent the law enforcement discipline; and
- 4 (b) The following, who may not be current board members, appointed by the chairperson of the
- 5 board:
- 6 (A) One person recommended by and representing the Oregon Association Chiefs of Police;
- 7 (B) Two persons recommended by and representing the Oregon State Sheriffs' Association;
- 8 (C) One command officer recommended by and representing the Oregon State Police; and
- 9 (D) One nonmanagement law enforcement officer.
- 10 (6) The Telecommunications Policy Committee consists of:
- 11 (a) All of the board members who represent the telecommunications discipline; and
- 12 (b) The following, who may not be current board members, appointed by the chairperson of the
- 13 board:
- 14 (A) Two persons recommended by and representing a statewide association of public safety
- 15 communications officers;
- 16 (B) One person recommended by and representing the Oregon Association Chiefs of Police;
- 17 (C) One person recommended by and representing the Oregon State Police;
- 18 (D) Two persons representing telecommunicators;
- 19 (E) One person recommended by and representing the Oregon State Sheriffs' Association;
- 20 (F) One person recommended by and representing the Oregon Fire Chiefs' Association;
- 21 (G) One person recommended by and representing the Emergency Medical Services and Trauma
- 22 Systems Program of the [*Department of Human Services*] **Oregon Health Authority**; and
- 23 (H) One person representing paramedics and recommended by a statewide association dealing
- 24 with fire medical issues.
- 25 (7) The Private Security Policy Committee consists of:
- 26 (a) All of the board members who represent the private security industry; and
- 27 (b) The following, who may not be current board members, appointed by the chairperson of the
- 28 board:
- 29 (A) One person representing unarmed private security professionals;
- 30 (B) One person representing armed private security professionals;
- 31 (C) One person representing the health care industry;
- 32 (D) One person representing the manufacturing industry;
- 33 (E) One person representing the retail industry;
- 34 (F) One person representing the hospitality industry;
- 35 (G) One person representing private business or a governmental entity that utilizes private se-
- 36 curity services;
- 37 (H) One person representing persons who monitor alarm systems;
- 38 (I) Two persons who are investigators licensed under ORS 703.430, one of whom is recommended
- 39 by the Oregon State Bar and one of whom is in private practice; and
- 40 (J) One person who represents the public at large and who is not related within the second de-
- 41 gree by affinity or consanguinity to a person who is employed or doing business as a private security
- 42 professional or executive manager, as defined in ORS 181.870, or as an investigator, as defined in
- 43 ORS 703.401.
- 44 (8) In making appointments to the policy committees under this section, the chairperson of the
- 45 board shall seek to reflect the diversity of the state's population. An appointment made by the

1 chairperson of the board must be ratified by the board before the appointment is effective. The
2 chairperson of the board may remove an appointed member for just cause. An appointment to a
3 policy committee that is based on the member's employment is automatically revoked if the member
4 changes employment. The chairperson of the board shall fill a vacancy in the same manner as
5 making an initial appointment. The term of an appointed member is two years. An appointed member
6 may be appointed to a second term.

7 (9) A policy committee may meet at such times and places as determined by the policy commit-
8 tee in consultation with the Department of Public Safety Standards and Training. A majority of a
9 policy committee constitutes a quorum to conduct business. A policy committee may create sub-
10 committees if needed.

11 (10)(a) Each policy committee shall develop policies, requirements, standards and rules relating
12 to its specific discipline. A policy committee shall submit its policies, requirements, standards and
13 rules to the board for the board's consideration. When a policy committee submits a policy, re-
14 quirement, standard or rule to the board for the board's consideration, the board shall:

15 (A) Approve the policy, requirement, standard or rule;

16 (B) Disapprove the policy, requirement, standard or rule; or

17 (C) Defer a decision and return the matter to the policy committee for revision or reconsider-
18 ation.

19 (b) The board may defer a decision and return a matter submitted by a policy committee under
20 paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was re-
21 turned to a policy committee is resubmitted to the board, the board shall take all actions necessary
22 to implement the policy, requirement, standard or rule unless the board disapproves the policy, re-
23 quirement, standard or rule.

24 (c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this
25 subsection requires a two-thirds vote by the members of the board.

26 (11) At any time after submitting a matter to the board, the chairperson of the policy committee
27 may withdraw the matter from the board's consideration.

28 **SECTION 161.** ORS 182.415 is amended to read:

29 182.415. As used in ORS 182.415 to 182.435 and 240.086 unless the context requires otherwise:

30 (1) "Furnishings" includes furniture usually used in connection with occupancy of a household
31 but does not include rugs, draperies, range, refrigerator, washer, dryer or any item of furnishings
32 received by the state or one of its agencies as a gift, nor does it include any furniture purchased
33 for the state-owned residence required in relation to the official duties of an institutional executive
34 or the Chancellor of the Department of Higher Education prior to September 9, 1971.

35 (2) "Housing" includes single and multiple family dwellings, apartments, and manufactured
36 dwellings and manufactured dwelling pads, available on a monthly tenancy but does not include
37 guard stations maintained by the State Forestry Department or dormitory facilities at any state in-
38 stitution or at any state institution of higher education.

39 (3) "Dormitory" includes any facility which houses students and those facilities used primarily
40 for sleeping purposes by the employees of the Department of Human Services **or the Oregon Health**
41 **Authority.**

42 (4) "State agency" has the same meaning as in ORS 291.002.

43 **SECTION 162.** ORS 182.515 is amended to read:

44 182.515. As used in this section and ORS 182.525:

45 (1) "Agency" means:

1 (a) The Department of Corrections;

2 (b) The Oregon Youth Authority;

3 (c) The State Commission on Children and Families; and

4 (d) That part of the [*Department of Human Services*] **Oregon Health Authority** that deals with
5 mental health and addiction issues.

6 (2) "Cost effective" means that cost savings realized over a reasonable period of time are
7 greater than costs.

8 (3) "Evidence-based program" means a program that:

9 (a) Incorporates significant and relevant practices based on scientifically based research; and

10 (b) Is cost effective.

11 (4)(a) "Program" means a treatment or intervention program or service that is intended to:

12 (A) Reduce the propensity of a person to commit crimes;

13 (B) Improve the mental health of a person with the result of reducing the likelihood that the
14 person will commit a crime or need emergency mental health services; or

15 (C) Reduce the propensity of a person who is less than 18 years of age to engage in antisocial
16 behavior with the result of reducing the likelihood that the person will become a juvenile offender.

17 (b) "Program" does not include:

18 (A) An educational program or service that an agency is required to provide to meet educational
19 requirements imposed by state law; or

20 (B) A program that provides basic medical services.

21 (5) "Scientifically based research" means research that obtains reliable and valid knowledge by:

22 (a) Employing systematic, empirical methods that draw on observation or experiment;

23 (b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify
24 the general conclusions drawn; and

25 (c) Relying on measurements or observational methods that provide reliable and valid data
26 across evaluators and observers, across multiple measurements and observations and across studies
27 by the same or different investigators.

28 **SECTION 163.** ORS 182.535 is amended to read:

29 182.535. For purposes of ORS 182.535 to 182.550, "natural resource agency" means the Depart-
30 ment of Environmental Quality, the State Department of Agriculture, the Water Resources Depart-
31 ment, the State Department of Fish and Wildlife, the State Forestry Department, the Department
32 of State Lands, the Department of Education, the State Department of Geology and Mineral Indus-
33 tries, the Department of Land Conservation and Development, the State Marine Board, the Public
34 Utility Commission, the Department of Transportation, the State Fire Marshal and the [*Department*
35 *of Human Services*] **Oregon Health Authority**.

36 **SECTION 164.** ORS 184.345 is amended to read:

37 184.345. (1) The Oregon Department of Administrative Services shall provide on a reimbursable
38 basis administrative and other services, as agreed to, to:

39 (a) The Department of Corrections;

40 (b) The Department of Human Services; [*and*]

41 **(c) The Oregon Health Authority; and**

42 [*c*] **(d) The State Board of Education.**

43 (2) In addition to its duties under subsection (1) of this section, the Oregon Department of Ad-
44 ministrative Services shall provide clerical support to the Energy Facility Siting Council.

45 **SECTION 165.** ORS 192.517 is amended to read:

1 192.517. (1) The system designated to protect and advocate for the rights of individuals shall
2 have access to all records of:

3 (a) Any individual who is a client of the system if the individual or the legal guardian or other
4 legal representative of the individual has authorized the system to have such access;

5 (b) Any individual, including an individual who has died or whose whereabouts are unknown:

6 (A) If the individual by reason of the individual's mental or physical condition or age is unable
7 to authorize such access;

8 (B) If the individual does not have a legal guardian or other legal representative, or the state
9 or a political subdivision of this state is the legal guardian of the individual; and

10 (C) If a complaint regarding the rights or safety of the individual has been received by the sys-
11 tem or if, as a result of monitoring or other activities which result from a complaint or other evi-
12 dence, there is probable cause to believe that the individual has been subject to abuse or neglect;
13 and

14 (c) Any individual who has a legal guardian or other legal representative, who is the subject
15 of a complaint of abuse or neglect received by the system, or whose health and safety is believed
16 with probable cause to be in serious and immediate jeopardy if the legal guardian or other legal
17 representative:

18 (A) Has been contacted by the system upon receipt of the name and address of the legal
19 guardian or other legal representative;

20 (B) Has been offered assistance by the system to resolve the situation; and

21 (C) Has failed or refused to act on behalf of the individual.

22 (2) The system shall have access to the name, address and telephone number of any legal
23 guardian or other legal representative of an individual.

24 (3) The system that obtains access to records under this section shall maintain the
25 confidentiality of the records to the same extent as is required of the provider of the services, except
26 as provided under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10806)
27 as in effect on January 1, 2003.

28 (4) The system shall have reasonable access to facilities, including the residents and staff of the
29 facilities.

30 (5) This section is not intended to limit or overrule the provisions of ORS 41.675 or 441.055
31 [(9)] (10).

32 **SECTION 166.** ORS 192.519 is amended to read:

33 192.519. As used in ORS 192.518 to 192.529:

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

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

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

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

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

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

- 1 (f) The signature of the individual or personal representative of the individual and the date;
- 2 (g) A description of the authority of the personal representative, if applicable; and
- 3 (h) Statements adequate to place the individual on notice of the following:
- 4 (A) The individual's right to revoke the authorization in writing;
- 5 (B) The exceptions to the right to revoke the authorization;
- 6 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits
- 7 on whether the individual signs the authorization; and
- 8 (D) The potential for information disclosed pursuant to the authorization to be subject to
- 9 redisclosure by the recipient and no longer protected.
- 10 (2) "Covered entity" means:
- 11 (a) A state health plan;
- 12 (b) A health insurer;
- 13 (c) A health care provider that transmits any health information in electronic form to carry out
- 14 financial or administrative activities in connection with a transaction covered by ORS 192.518 to
- 15 192.529; or
- 16 (d) A health care clearinghouse.
- 17 (3) "Health care" means care, services or supplies related to the health of an individual.
- 18 (4) "Health care operations" includes but is not limited to:
- 19 (a) Quality assessment, accreditation, auditing and improvement activities;
- 20 (b) Case management and care coordination;
- 21 (c) Reviewing the competence, qualifications or performance of health care providers or health
- 22 insurers;
- 23 (d) Underwriting activities;
- 24 (e) Arranging for legal services;
- 25 (f) Business planning;
- 26 (g) Customer services;
- 27 (h) Resolving internal grievances;
- 28 (i) Creating de-identified information; and
- 29 (j) Fundraising.
- 30 (5) "Health care provider" includes but is not limited to:
- 31 (a) A psychologist, occupational therapist, clinical social worker, professional counselor or
- 32 marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist,
- 33 occupational therapist, clinical social worker, professional counselor or marriage and family thera-
- 34 pist;
- 35 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
- 36 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
- 37 assistant or acupuncturist;
- 38 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
- 39 the nurse or nursing home administrator;
- 40 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 41 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 42 hygienist or denturist;
- 43 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 44 of the speech-language pathologist or audiologist;
- 45 (g) An emergency medical technician certified under ORS chapter 682;

- 1 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 2 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
3 physician;
- 4 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
5 physician;
- 6 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
7 therapist;
- 8 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
9 entry midwife;
- 10 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
11 therapist;
- 12 (n) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the
13 radiologic technologist;
- 14 (o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the
15 respiratory care practitioner;
- 16 (p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 17 (q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
- 18 (r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
19 service practitioner;
- 20 (s) A health care facility as defined in ORS 442.015;
- 21 (t) A home health agency as defined in ORS 443.005;
- 22 (u) A hospice program as defined in ORS 443.850;
- 23 (v) A clinical laboratory as defined in ORS 438.010;
- 24 (w) A pharmacy as defined in ORS 689.005;
- 25 (x) A diabetes self-management program as defined in ORS 743A.184; and
- 26 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal
27 course of business.
- 28 (6) "Health information" means any oral or written information in any form or medium that:
- 29 (a) Is created or received by a covered entity, a public health authority, an employer, a life
30 insurer, a school, a university or a health care provider that is not a covered entity; and
- 31 (b) Relates to:
- 32 (A) The past, present or future physical or mental health or condition of an individual;
- 33 (B) The provision of health care to an individual; or
- 34 (C) The past, present or future payment for the provision of health care to an individual.
- 35 (7) "Health insurer" means:
- 36 (a) An insurer as defined in ORS 731.106 who offers:
- 37 (A) A health benefit plan as defined in ORS 743.730;
- 38 (B) A short term health insurance policy, the duration of which does not exceed six months in-
39 cluding renewals;
- 40 (C) A student health insurance policy;
- 41 (D) A Medicare supplemental policy; or
- 42 (E) A dental only policy.
- 43 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
44 under ORS 735.600 to 735.650.
- 45 (8) "Individually identifiable health information" means any oral or written health information

1 in any form or medium that is:

2 (a) Created or received by a covered entity, an employer or a health care provider that is not
3 a covered entity; and

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

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

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

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

10 (9) "Payment" includes but is not limited to:

11 (a) Efforts to obtain premiums or reimbursement;

12 (b) Determining eligibility or coverage;

13 (c) Billing activities;

14 (d) Claims management;

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

16 (f) Utilization review; and

17 (g) Disclosures to consumer reporting agencies.

18 (10) "Personal representative" includes but is not limited to:

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

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

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

25 (d) A person described in ORS 192.526.

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

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

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

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

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

33 (12) "State health plan" means:

34 (a) The state Medicaid program;

35 (b) The Oregon State Children's Health Insurance Program; [or]

36 (c) The Family Health Insurance Assistance Program established in ORS 735.720 to 735.740[.];

37 **or**

38 **(d) Any medical assistance or premium assistance program operated by the Oregon**
39 **Health Authority.**

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

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

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

43 **SECTION 167.** ORS 192.527 is amended to read:

44 192.527. (1) Notwithstanding ORS 179.505, a state health plan or a prepaid managed care health
45 services organization may disclose the protected health information of an individual listed in sub-

1 section (2) of this section, without obtaining an authorization from the individual or a personal
2 representative of the individual, to another prepaid managed care health services organization for
3 treatment activities of a prepaid managed care health services organization when the prepaid man-
4 aged care health services organization is providing behavioral or physical health care services to
5 the individual.

6 (2) The protected health information that may be disclosed pursuant to subsection (1) of this
7 section includes the following, as defined by the [*Department of Human Services*] **Oregon Health**
8 **Authority** by rule:

- 9 (a) Oregon Health Plan member name;
- 10 (b) Medicaid recipient number;
- 11 (c) Performing provider number;
- 12 (d) Hospital provider name;
- 13 (e) Attending physician;
- 14 (f) Diagnosis;
- 15 (g) Date or dates of service;
- 16 (h) Procedure code;
- 17 (i) Revenue code;
- 18 (j) Quantity of units of service provided; or
- 19 (k) Medication prescription and monitoring.

20 (3) As used in this section, “prepaid managed care health services organization” has the mean-
21 ing given that term in ORS 414.736.

22 **SECTION 168.** ORS 192.535 is amended to read:

23 192.535. (1) A person may not obtain genetic information from an individual, or from an indi-
24 vidual’s DNA sample, without first obtaining informed consent of the individual or the individual’s
25 representative, except:

26 (a) As authorized by ORS 181.085 or comparable provisions of federal criminal law relating to
27 the identification of persons, or for the purpose of establishing the identity of a person in the course
28 of an investigation conducted by a law enforcement agency, a district attorney, a medical examiner
29 or the Criminal Justice Division of the Department of Justice;

30 (b) For anonymous research or coded research conducted under conditions described in ORS
31 192.537 (2), after notification pursuant to ORS 192.538 or pursuant to ORS 192.547 (7)(b);

32 (c) As permitted by rules of the [*Department of Human Services*] **Oregon Health Authority** for
33 identification of deceased individuals;

34 (d) As permitted by rules of the [*Department of Human Services*] **Oregon Health Authority** for
35 newborn screening procedures;

36 (e) As authorized by statute for the purpose of establishing paternity; or

37 (f) For the purpose of furnishing genetic information relating to a decedent for medical diagnosis
38 of blood relatives of the decedent.

39 (2) Except as provided in subsection (3) of this section, a physician licensed under ORS chapter
40 677 shall seek the informed consent of the individual or the individual’s representative for the pur-
41 poses of subsection (1) of this section in the manner provided by ORS 677.097. Except as provided
42 in subsection (3) of this section, any other licensed health care provider or facility must seek the
43 informed consent of the individual or the individual’s representative for the purposes of subsection
44 (1) of this section in a manner substantially similar to that provided by ORS 677.097 for physicians.

45 (3) A person conducting research shall seek the informed consent of the individual or the indi-

1 vidual's representative for the purposes of subsection (1) of this section in the manner provided by
2 ORS 192.547.

3 (4) Except as provided in ORS 746.135 (1), any person not described in subsection (2) or (3) of
4 this section must seek the informed consent of the individual or the individual's representative for
5 the purposes of subsection (1) of this section in the manner provided by rules adopted by the [*De-*
6 *partment of Human Services*] **Oregon Health Authority**.

7 (5) The [*Department of Human Services*] **Oregon Health Authority** may not adopt rules under
8 subsection (1)(d) of this section that would require the providing of a DNA sample for the purpose
9 of obtaining complete genetic information used to screen all newborns.

10 **SECTION 169.** ORS 192.537 is amended to read:

11 192.537. (1) Subject to the provisions of ORS 192.531 to 192.549, 659A.303 and 746.135, an indi-
12 vidual's genetic information and DNA sample are private and must be protected, and an individual
13 has a right to the protection of that privacy. Any person authorized by law or by an individual or
14 an individual's representative to obtain, retain or use an individual's genetic information or any
15 DNA sample must maintain the confidentiality of the information or sample and protect the infor-
16 mation or sample from unauthorized disclosure or misuse.

17 (2)(a) A person may use an individual's DNA sample or genetic information that is derived from
18 a biological specimen or clinical individually identifiable health information for anonymous research
19 or coded research only if the individual:

20 (A) Has granted informed consent for the specific anonymous research or coded research
21 project;

22 (B) Has granted consent for genetic research generally;

23 (C) Was notified in accordance with ORS 192.538 that the individual's biological specimen or
24 clinical individually identifiable health information may be used for anonymous research or coded
25 research and the individual did not, at the time of notification, request that the biological specimen
26 or clinical individually identifiable health information not be used for anonymous research or coded
27 research; or

28 (D) Was not notified, due to emergency circumstances, in accordance with ORS 192.538 that the
29 individual's biological specimen or clinical individually identifiable health information may be used
30 for anonymous research or coded research and the individual died before receiving the notice.

31 (b) Paragraph (a) of this subsection does not apply to biological specimens or clinical individ-
32 ually identifiable health information obtained before July 29, 2005, if an institutional review board
33 operating under ORS 192.547 (1)(b) meets the requirements described in ORS 192.547 (7)(b).

34 (3) A person may not retain another individual's genetic information or DNA sample without
35 first obtaining authorization from the individual or the individual's representative, unless:

36 (a) Retention is authorized by ORS 181.085 or comparable provisions of federal criminal law re-
37 lating to identification of persons, or is necessary for the purpose of a criminal or death investi-
38 gation, a criminal or juvenile proceeding, an inquest or a child fatality review by a county
39 multidisciplinary child abuse team;

40 (b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice
41 of the Supreme Court for civil actions;

42 (c) Retention is permitted by rules of the [*Department of Human Services*] **Oregon Health Au-**
43 **thority** for identification of, or testing to benefit blood relatives of, deceased individuals;

44 (d) Retention is permitted by rules of the [*Department of Human Services*] **authority** for newborn
45 screening procedures; or

1 (e) Retention is for anonymous research or coded research conducted after notification or with
2 consent pursuant to subsection (2) of this section or ORS 192.538.

3 (4) The DNA sample of an individual from which genetic information has been obtained shall
4 be destroyed promptly upon the specific request of that individual or the individual's representative,
5 unless:

6 (a) Retention is authorized by ORS 181.085 or comparable provisions of federal criminal law re-
7 lating to identification of persons, or is necessary for the purpose of a criminal or death investi-
8 gation, a criminal or juvenile proceeding, an inquest or a child fatality review by a county
9 multidisciplinary child abuse team;

10 (b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice
11 of the Supreme Court for civil actions; or

12 (c) Retention is for anonymous research or coded research conducted after notification or with
13 consent pursuant to subsection (2) of this section or ORS 192.538.

14 (5) A DNA sample from an individual that is the subject of a research project, other than an
15 anonymous research project, shall be destroyed promptly upon completion of the project or with-
16 drawal of the individual from the project, whichever occurs first, unless the individual or the indi-
17 vidual's representative directs otherwise by informed consent.

18 (6) A DNA sample from an individual for insurance or employment purposes shall be destroyed
19 promptly after the purpose for which the sample was obtained has been accomplished unless re-
20 tention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the
21 Supreme Court for civil, criminal and juvenile proceedings.

22 (7) An individual or an individual's representative, promptly upon request, may inspect, request
23 correction of and obtain genetic information from the records of the individual.

24 (8) Subject to the provisions of ORS 192.531 to 192.549, and to policies adopted by the person
25 in possession of a DNA sample, an individual or the individual's representative may request that the
26 individual's DNA sample be made available for additional genetic testing for medical diagnostic
27 purposes. If the individual is deceased and has not designated a representative to act on behalf of
28 the individual after death, a request under this subsection may be made by the closest surviving
29 blood relative of the decedent or, if there is more than one surviving blood relative of the same
30 degree of relationship to the decedent, by the majority of the surviving closest blood relatives of the
31 decedent.

32 (9) The [Department of Human Services] **Oregon Health Authority** shall coordinate the imple-
33 mentation of this section.

34 (10) Subsections (3) to (8) of this section apply only to a DNA sample or genetic information that
35 is coded, identified or identifiable.

36 (11) This section does not apply to any law, contract or other arrangement that determines a
37 person's rights to compensation relating to substances or information derived from an individual's
38 DNA sample.

39 **SECTION 170.** ORS 192.539 is amended to read:

40 192.539. (1) Regardless of the manner of receipt or the source of genetic information, including
41 information received from an individual or a blood relative of the individual, a person may not dis-
42 close or be compelled, by subpoena or any other means, to disclose the identity of an individual upon
43 whom a genetic test has been performed or the identity of a blood relative of the individual, or to
44 disclose genetic information about the individual or a blood relative of the individual in a manner
45 that permits identification of the individual, unless:

1 (a) Disclosure is authorized by ORS 181.085 or comparable provisions of federal criminal law
2 relating to identification of persons, or is necessary for the purpose of a criminal or death investi-
3 gation, a criminal or juvenile proceeding, an inquest, or a child fatality review by a county multi-
4 disciplinary child abuse team;

5 (b) Disclosure is required by specific court order entered pursuant to rules adopted by the Chief
6 Justice of the Supreme Court for civil actions;

7 (c) Disclosure is authorized by statute for the purpose of establishing paternity;

8 (d) Disclosure is specifically authorized by the tested individual or the tested individual's rep-
9 resentative by signing a consent form prescribed by rules of the [*Department of Human Services*]
10 **Oregon Health Authority**;

11 (e) Disclosure is for the purpose of furnishing genetic information relating to a decedent for
12 medical diagnosis of blood relatives of the decedent; or

13 (f) Disclosure is for the purpose of identifying bodies.

14 (2) The prohibitions of this section apply to any redisclosure by any person after another person
15 has disclosed genetic information or the identity of an individual upon whom a genetic test has been
16 performed, or has disclosed genetic information or the identity of a blood relative of the individual.

17 (3) A release or publication is not a disclosure if:

18 (a) It involves a good faith belief by the person who caused the release or publication that the
19 person was not in violation of this section;

20 (b) It is not due to willful neglect;

21 (c) It is corrected in the manner described in ORS 192.541 (4);

22 (d) The correction with respect to genetic information is completed before the information is
23 read or heard by a third party; and

24 (e) The correction with respect to DNA samples is completed before the sample is retained or
25 genetically tested by a third party.

26 **SECTION 171.** ORS 192.547 is amended to read:

27 192.547. (1)(a) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules
28 for conducting research using DNA samples, genetic testing and genetic information. Rules estab-
29 lishing minimum research standards shall conform to the Federal Policy for the Protection of Human
30 Subjects, 45 C.F.R. 46, that is current at the time the rules are adopted. The rules may be changed
31 from time to time as may be necessary.

32 (b) The rules adopted by the [*Department of Human Services*] **Oregon Health Authority** shall
33 address the operation and appointment of institutional review boards. The rules shall conform to the
34 compositional and operational standards for such boards contained in the Federal Policy for the
35 Protection of Human Subjects that is current at the time the rules are adopted. The rules must re-
36 quire that research conducted under paragraph (a) of this subsection be conducted with the approval
37 of the institutional review board.

38 (c) Persons proposing to conduct anonymous research, coded research or genetic research that
39 is otherwise thought to be exempt from review must obtain from an institutional review board prior
40 to conducting such research a determination that the proposed research is exempt from review.

41 (2) A person proposing to conduct research under subsection (1) of this section, including
42 anonymous research or coded research, must disclose to the institutional review board the proposed
43 use of DNA samples, genetic testing or genetic information.

44 (3) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules requiring
45 that all institutional review boards operating under subsection (1)(b) of this section register with the

1 department. The Advisory Committee on Genetic Privacy and Research shall use the registry to
2 educate institutional review boards about the purposes and requirements of the genetic privacy
3 statutes and administrative rules relating to genetic research.

4 (4) The *[Department of Human Services]* **Oregon Health Authority** shall consult with the Ad-
5 visory Committee on Genetic Privacy and Research before adopting the rules required under sub-
6 sections (1) and (3) of this section, including rules identifying those parts of the Federal Policy for
7 the Protection of Human Subjects that are applicable to this section.

8 (5) Genetic research in which the DNA sample or genetic information is coded shall satisfy the
9 following requirements:

10 (a)(A) The subject has granted informed consent for the specific research project;

11 (B) The subject has consented to genetic research generally; or

12 (C) The DNA sample or genetic information is derived from a biological specimen or from clin-
13 ical individually identifiable health information that was obtained or retained in compliance with
14 ORS 192.537 (2).

15 (b) The research has been approved by an institutional review board after disclosure by the in-
16 vestigator to the board of risks associated with the coding.

17 (c) The code is:

18 (A) Not derived from individual identifiers;

19 (B) Kept securely and separately from the DNA samples and genetic information; and

20 (C) Not accessible to the investigator unless specifically approved by the institutional review
21 board.

22 (d) Data is stored securely in password protected electronic files or by other means with access
23 limited to necessary personnel.

24 (e) The data is limited to elements required for analysis and meets the criteria in 45 C.F.R.
25 164.514(e) for a limited data set.

26 (f) The investigator is a party to the data use agreement as provided by 45 C.F.R. 164.514(e) for
27 limited data set recipients.

28 (6) Research conducted in accordance with this section is rebuttably presumed to comply with
29 ORS 192.535 and 192.539.

30 (7)(a) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information
31 obtained, with blanket informed consent, before June 25, 2001, for genetic research.

32 (b) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information ob-
33 tained without specific informed consent and derived from a biological specimen or clinical individ-
34 ually identifiable health information for anonymous research or coded research if an institutional
35 review board operating under subsection (1)(b) of this section:

36 (A) Waives or alters the consent requirements pursuant to the Federal Policy for the Protection
37 of Human Subjects; and

38 (B) Waives authorization pursuant to the federal Health Insurance Portability and Accountabil-
39 ity Act privacy regulations, 45 C.F.R. parts 160 and 164.

40 (c) Except as provided in subsection (5)(a) of this section or paragraph (b) of this subsection, a
41 person must have specific informed consent from an individual to use a DNA sample or genetic in-
42 formation of the individual obtained on or after June 25, 2001, for genetic research.

43 (8) Except as otherwise allowed by rule of the *[Department of Human Services]* **Oregon Health**
44 **Authority**, if DNA samples or genetic information obtained for either clinical or research purposes
45 is used in research, a person may not recontact the individual or the individual's physician by using

1 research information that is identifiable or coded. The [*Department of Human Services*] **Oregon**
 2 **Health Authority** shall adopt by rule criteria for recontacting an individual or an individual's
 3 physician. In adopting the criteria, the department shall consider the recommendations of national
 4 organizations such as those created by executive order by the President of the United States and
 5 the recommendations of the Advisory Committee on Genetic Privacy and Research.

6 (9) The requirements for consent to, or notification of, obtaining a DNA sample or genetic in-
 7 formation for genetic research are governed by the provisions of ORS 192.531 to 192.549 and the
 8 administrative rules that were in effect on the effective date of the institutional review board's most
 9 recent approval of the study.

10 **SECTION 172.** ORS 192.549 is amended to read:

11 192.549. (1) The Advisory Committee on Genetic Privacy and Research is established consisting
 12 of 15 members. The President of the Senate and the Speaker of the House of Representatives shall
 13 each appoint one member and one alternate. The Director of [*Human Services*] **the Oregon Health**
 14 **Authority** shall appoint one representative and one alternate from each of the following categories:

15 (a) Academic institutions involved in genetic research;

16 (b) Physicians licensed under ORS chapter 677;

17 (c) Voluntary organizations involved in the development of public policy on issues related to
 18 genetic privacy;

19 (d) Hospitals;

20 [(e) *The Department of Human Services*];

21 [(f)] (e) The [*Department of Consumer and Business Services*] **Oregon Health Authority**;

22 [(g)] (f) Health care service contractors involved in genetic and health services research;

23 [(h)] (g) The biosciences industry;

24 [(i)] (h) The pharmaceutical industry;

25 [(j)] (i) Health care consumers;

26 [(k)] (j) Organizations advocating for privacy of medical information;

27 [(L)] (k) Public members of institutional review boards; and

28 [(m)] (L) Organizations or individuals promoting public education about genetic research and
 29 genetic privacy and public involvement in policymaking related to genetic research and genetic
 30 privacy.

31 (2) Organizations and individuals representing the categories listed in subsection (1) of this
 32 section may recommend nominees for membership on the advisory committee to the President, the
 33 Speaker and the director.

34 (3) Members and alternate members of the advisory committee serve two-year terms and may
 35 be reappointed.

36 (4) Members and alternate members of the advisory committee serve at the pleasure of the ap-
 37 pointing entity.

38 (5) The [*Department of Human Services*] **Oregon Health Authority** shall provide staff for the
 39 advisory committee.

40 (6) The advisory committee shall report biennially to the Legislative Assembly in the manner
 41 provided by ORS 192.245. The report shall include the activities and the results of any studies con-
 42 ducted by the advisory committee. The advisory committee may make any recommendations for
 43 legislative changes deemed necessary by the advisory committee.

44 (7) The advisory committee shall study the use and disclosure of genetic information and shall
 45 develop and refine a legal framework that defines the rights of individuals whose DNA samples and

1 genetic information are collected, stored, analyzed and disclosed.

2 (8) The advisory committee shall create opportunities for public education on the scientific, legal
3 and ethical development within the fields of genetic privacy and research. The advisory committee
4 shall also elicit public input on these matters. The advisory committee shall make reasonable efforts
5 to obtain public input that is representative of the diversity of opinion on this subject. The advisory
6 committee's recommendations to the Legislative Assembly shall take into consideration public con-
7 cerns and values related to these matters.

8 **SECTION 173.** ORS 192.630, as amended by section 21, chapter 100, Oregon Laws 2007, is
9 amended to read:

10 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
11 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
12 to 192.690.

13 (2) A quorum of a governing body may not meet in private for the purpose of deciding on or
14 deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to
15 192.690.

16 (3) A governing body may not hold a meeting at any place where discrimination on the basis
17 of race, color, creed, sex, sexual orientation, national origin, age or disability is practiced. However,
18 the fact that organizations with restricted membership hold meetings at the place does not restrict
19 its use by a public body if use of the place by a restricted membership organization is not the pri-
20 mary purpose of the place or its predominate use.

21 (4) Meetings of the governing body of a public body shall be held within the geographic bound-
22 aries over which the public body has jurisdiction, or at the administrative headquarters of the public
23 body or at the other nearest practical location. Training sessions may be held outside the jurisdic-
24 tion as long as no deliberations toward a decision are involved. A joint meeting of two or more
25 governing bodies or of one or more governing bodies and the elected officials of one or more feder-
26 ally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one
27 of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the
28 nearest practical location. Meetings may be held in locations other than those described in this
29 subsection in the event of an actual emergency necessitating immediate action.

30 (5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet
31 in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard
32 of hearing, to fail to make a good faith effort to have an interpreter for persons who are deaf or
33 hard of hearing provided at a regularly scheduled meeting. The sole remedy for discrimination on
34 the basis of disability shall be as provided in ORS 192.680.

35 (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice
36 of the request for an interpreter, shall provide the name of the requester, sign language preference
37 and any other relevant information the governing body may request.

38 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have
39 an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

40 (d) If certification of interpreters occurs under state or federal law, the [*Department of Human*
41 *Services*] **Oregon Health Authority** or other state or local agency shall try to refer only certified
42 interpreters to governing bodies for purposes of this subsection.

43 (e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the
44 department or other state or local agency that maintains a list of qualified interpreters and ar-
45 ranging for the referral of one or more qualified interpreters to provide interpreter services.

1 **SECTION 174.** ORS 197.660 is amended to read:

2 197.660. As used in ORS 197.660 to 197.670, 215.213, 215.263, 215.283, 215.284 and 443.422:

3 (1) "Residential facility" means a residential care, residential training or residential treatment
4 facility, as those terms are defined in ORS 443.400, [*licensed under ORS 443.400 to 443.460 or licensed*
5 *under ORS 418.205 to 418.327 by the Department of Human Services*] that provides residential care
6 alone or in conjunction with treatment or training or a combination thereof for six to fifteen indi-
7 viduals who need not be related. Staff persons required to meet licensing requirements shall not be
8 counted in the number of facility residents, and need not be related to each other or to any resident
9 of the residential facility.

10 (2) "Residential home" means a residential treatment or training [*or adult foster home licensed*
11 *by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to*
12 *443.825,]* **home, as defined in ORS 443.400**, a residential facility registered under ORS 443.480 to
13 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care
14 alone or in conjunction with treatment or training or a combination thereof for five or fewer indi-
15 viduals who need not be related. Staff persons required to meet licensing requirements shall not be
16 counted in the number of facility residents, and need not be related to each other or to any resident
17 of the residential home.

18 (3) "Zoning requirement" means any standard, criteria, condition, review procedure, permit re-
19 quirement or other requirement adopted by a city or county under the authority of ORS chapter 215
20 or 227 that applies to the approval or siting of a residential facility or residential home. A zoning
21 requirement does not include a state or local health, safety, building, occupancy or fire code re-
22 quirement.

23 **SECTION 175.** ORS 198.792 is amended to read:

24 198.792. (1) Proceedings may be initiated by the county board or any other public agency in
25 accordance with ORS 431.705 to 431.760:

26 (a) To annex the affected territory to a district, as defined by ORS 431.705; or

27 (b) To form a metropolitan service district as authorized by ORS chapter 268, or a county ser-
28 vice district as authorized by ORS chapter 451, to include the affected territory.

29 (2) The findings of the Director of [*Human Services*] **the Oregon Health Authority** when filed
30 with the county board in accordance with ORS 431.735 or 431.750 shall be considered a petition for
31 the purposes of ORS 198.705 to 198.955. The county board of the principal county shall conduct
32 proceedings in accordance with the findings and order of the director and with ORS 198.705 to
33 198.955.

34 (3) In proceedings described by subsection (1) of this section, the county board shall determine
35 whether the affected territory shall be included in a new district or annexed to an existing district.
36 The county board shall not inquire into the need for the proposed service facilities or adjust the
37 boundaries of the affected territory. ORS 198.805 (2), and the provisions of ORS 198.810 and 198.815
38 providing for an election on the formation of or annexation to a district, do not apply to proceedings
39 under this section.

40 **SECTION 176.** ORS 199.461 is amended to read:

41 199.461. (1) When the boundary commission receives a petition in a boundary change proceeding
42 or an application for any proceeding allowed under ORS 199.464, it shall:

43 (a) Cause a study to be made of the proposal.

44 (b) Conduct one or more public hearings on the proposal.

45 (2) After the study and hearings, the boundary commission may alter the boundaries set out in

1 a petition for formation or a minor boundary change of a city or district or in a petition for con-
 2 solidation of cities so as either to include or exclude territory. If the commission determines that
 3 any land has been improperly omitted from the proposal and that the owner of the land has not
 4 appeared at the hearing, in person or by a representative designated in writing, the commission shall
 5 continue the hearing on the petition and shall order notice given to the nonappearing owner re-
 6 quiring appearance of the owner before the commission to show cause, if any, why the land should
 7 not be included in the proposal. For minor boundary change modifications, notice to nonappearing
 8 owners may be given by personal service or by letter sent by first-class mail, at least 10 days prior
 9 to the date to which the hearing has been continued. For major boundary change modifications,
 10 notice to nonappearing owners may be given by personal service, by letter sent by first-class mail
 11 or by a legal advertisement in a newspaper of general circulation in the area at least 15 days prior
 12 to the date to which the hearing has been continued. The required notice may be waived by the
 13 nonappearing owner.

14 (3) After the study and hearings the boundary commission may alter the application for
 15 extraterritorial sewer or water line extensions to include or exclude line and connections thereto,
 16 and may alter the application for formation of a privately owned sewer or water system or allo-
 17 cation of territory to a community water supply system to include or exclude territory. If the com-
 18 mission determines that any land has been improperly omitted from a proposal to form a private
 19 water or sewer system or allocate territory to a community water system, or that any line or con-
 20 nections have been improperly omitted from a proposal to extend extraterritorially a water or sewer
 21 line, and that the owner of the property to be included or to which the line is being extended has
 22 not appeared at the hearing, in person or by a representative designated in writing, the commission
 23 shall continue the hearing on the proposal and shall order notice given to the nonappearing owner
 24 requiring appearance of the owner before the commission to show cause, if any, why the land or line
 25 or connection should not be included in the proposal. Notice to nonappearing owners may be given
 26 by personal service or by letter sent by first-class mail, at least 10 days prior to the date to which
 27 the hearing has been continued. The required notice may be waived by the nonappearing owner.

28 (4) On the basis of the study and on the basis of the facts presented at the hearing, the boundary
 29 commission shall approve the proposed boundary change or application under ORS 199.464 as pre-
 30 sented or as modified by the commission or disapprove the proposed change, by an order stating the
 31 reasons for the decision of the commission. Jurisdiction for judicial review of such an order is con-
 32 ferred upon the Court of Appeals. Except as provided in ORS 183.315 (1), any person interested in
 33 a boundary change may petition for judicial review of the order under ORS 183.482.

34 (5) Immediately after the effective date of a final order entered under subsection (4) of this
 35 section and a proclamation declaring a minor boundary change approved if any is entered under
 36 ORS 199.505 (3), the commission shall file a copy of the order and proclamation, if any, with the
 37 Secretary of State, the Department of Revenue, the assessor and the county clerk of each county in
 38 which the affected territory, city or district is located, and the clerk of the affected city or district.
 39 If the commission disapproves a minor boundary change, it shall send a copy of the final order to
 40 the person who actually filed the petition and to the affected city or district.

41 (6) Immediately after the effective date of a final order on an application under ORS 199.464, the
 42 commission shall file a copy of the order with the applicant, the *[Department of Human Services]*
 43 **Oregon Health Authority**, the Department of Environmental Quality and the county planning de-
 44 partment.

45 **SECTION 177.** ORS 199.490 is amended to read:

1 199.490. (1) A proceeding for a minor boundary change other than a transfer of territory may
2 be initiated:

3 (a) By resolution of the governing body of the affected city or district;

4 (b) By petition signed by 10 percent of the electors registered in the affected territory;

5 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

6 (d) By resolution of a boundary commission having jurisdiction of the affected territory; or

7 (e) When the minor boundary change is a withdrawal of a city from a district, by resolution of
8 the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to
9 199.534.

10 (2)(a)(A) An annexation proceeding may also be initiated by a resolution adopted by the gov-
11 erning body of the affected city or district upon receiving consent to annex their land in writing
12 from more than half of the owners of land in the territory proposed to be annexed, who also own
13 more than half of the land in the territory proposed to be annexed and of real property therein
14 representing more than half of the assessed value of all real property in the territory proposed to
15 be annexed.

16 (B) A resolution adopted by the governing body of the affected city or district upon receiving
17 written consent to annexation from a majority of the electors registered in the territory proposed
18 to be annexed and written consent to the annexation of their land from the owners of more than
19 half the land in the territory proposed to be annexed.

20 (b) However, before soliciting statements of consent for the purpose of authorizing an
21 annexation under a proceeding initiated as provided by this subsection, the governing body of the
22 affected city or district shall file a notice of intent to annex with the boundary commission having
23 jurisdiction of the affected territory. The notice of intent to annex shall name the affected city or
24 district and generally describe the boundaries of the territory sought to be annexed, which territory
25 must be contiguous to the city or district or separated from it only by a public right of way or a
26 stream, bay, lake or other body of water. The notice of intent to annex shall have attached to it a
27 county assessor's cadastral map showing the location of the affected territory that the city or dis-
28 trict proposes to annex.

29 (c) For the purpose of this subsection, consent need not be obtained for any land in a public
30 way included within or contiguous to the territory proposed to be annexed. However, land in such
31 a public way shall, as determined by the commission, be considered annexed to the affected city or
32 district if the minor boundary change is approved, regardless of the land's ownership, size or as-
33 sessed valuation.

34 (d) For the purpose of this subsection, consent need not be obtained for any real property that
35 is publicly owned, is the right of way for a public utility, telecommunications utility or railroad or
36 is exempt from ad valorem taxation unless the owner of such property files a statement consenting
37 to or opposing annexation with the legislative body of the annexing city or district on or before the
38 date the city or district adopts the resolution required by paragraph (a) of this subsection.

39 (e) As used in this subsection, "owner" has the additional meaning given that term in ORS
40 222.120 (7).

41 (3) A transfer of territory proceeding may be initiated:

42 (a) By joint resolution of the governing bodies of the affected districts or cities;

43 (b) By petition signed by 10 percent of the electors registered in the affected territory;

44 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

45 or

1 (d) By resolution of a boundary commission having jurisdiction of the affected territory.

2 (4) The petition or resolution shall:

3 (a) Name the affected city or district and state whether it is proposed to annex, withdraw or
4 transfer territory;

5 (b) Describe the boundaries of the affected territory;

6 (c) If the proposal concerns a district, designate the applicable principal Act;

7 (d) Have attached a county assessor's cadastral map showing the location of the affected terri-
8 tory; and

9 (e) Be filed with the boundary commission having jurisdiction of the affected territory.

10 (5) When a city annexation is initiated:

11 (a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the
12 boundary commission having jurisdiction of the annexation.

13 (b) As provided by ORS 222.840 to 222.915, the findings adopted by the Director of [*Human*
14 *Services*] **the Oregon Health Authority** under ORS 222.880 shall be considered the initiatory action
15 and a certified copy of the findings shall be filed with the boundary commission having jurisdiction
16 of the annexation, at the same time a copy of the finding is filed with the affected city.

17 (6) Except when a boundary change is initiated by an affected city or district under subsection
18 (1), (2), (3) or (5) of this section or by the [*Director of Human Services*] **director** as provided by
19 subsection (5)(b) of this section, the boundary commission shall notify the affected city or district
20 that a petition has been filed or that the commission has adopted a resolution. If the petition com-
21 plies with the requirements of the applicable statutes, the commission shall proceed as provided by
22 ORS 199.460 to 199.463 and 199.490 to 199.519.

23 (7) Unless the parties appearing at a hearing for a minor boundary change or application under
24 ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or
25 disapproving a minor boundary change must be adopted within 90 days after the date the petition,
26 resolution or application is filed with the commission. If a final order approving or disapproving a
27 minor boundary change is not adopted within 90 days after the petition, resolution or application is
28 filed or within the period of postponement, the petition, resolution or application shall be considered
29 approved by the commission. A postponement shall not be for a period exceeding one year from the
30 date the petition, resolution or application initiating the proposal is filed with the commission.

31 **SECTION 178.** ORS 199.495 is amended to read:

32 199.495. In a proceeding initiated as provided by ORS 199.490 (2) and (5):

33 (1) If the proposed annexation is approved by the commission, the final order shall be effective
34 at the time specified in the final order except that the effective date for an annexation initiated as
35 provided by ORS 199.490 (5) shall not be more than one year after the date the final order is adopted
36 and for an annexation initiated as provided by ORS 199.490 (2) shall not be more than 10 years after
37 the date the final order is adopted. If no effective date is specified in the final order, the order shall
38 take effect on the date the order is adopted. The order shall not be subject to ORS 199.505.

39 (2) ORS 222.883 to 222.896, 222.900 (1) and (3) and 222.915 do not apply to proceedings initiated
40 by the findings of the Director of [*Human Services*] **the Oregon Health Authority**.

41 **SECTION 179.** ORS 199.512 is amended to read:

42 199.512. (1) The findings of the Director of [*Human Services*] **the Oregon Health Authority** filed
43 with a boundary commission in accordance with ORS 431.740 or 431.750 shall be considered a peti-
44 tion for the purposes of ORS 199.410 to 199.534. When the findings of the director are filed with a
45 commission, it shall proceed in accordance with the findings and with ORS 199.410 to 199.534, but

1 the commission shall not inquire into the need for the proposed facilities or adjust the boundaries
2 of the affected territory.

3 (2) In proceedings described by subsection (1) of this section, the boundary commission shall
4 determine whether the affected territory shall be included in a new city, new metropolitan service
5 district or new county service district or annexed to an existing district. The final order of the
6 commission shall conclude the proceedings for all purposes; and the formation or annexation ap-
7 proved and ordered by the commission shall take effect 45 days after the date the commission adopts
8 the final order in the proceeding.

9 **SECTION 180.** ORS 222.120 is amended to read:

10 222.120. (1) Except when expressly required to do so by the city charter, the legislative body
11 of a city is not required to submit a proposal for annexation of territory to the electors of the city
12 for their approval or rejection.

13 (2) When the legislative body of the city elects to dispense with submitting the question of the
14 proposed annexation to the electors of the city, the legislative body of the city shall fix a day for
15 a public hearing before the legislative body at which time the electors of the city may appear and
16 be heard on the question of annexation.

17 (3) The city legislative body shall cause notice of the hearing to be published once each week
18 for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the
19 city, and shall cause notices of the hearing to be posted in four public places in the city for a like
20 period.

21 (4) After the hearing, the city legislative body may, by an ordinance containing a legal de-
22 scription of the territory in question:

23 (a) Declare that the territory is annexed to the city upon the condition that the majority of the
24 votes cast in the territory is in favor of annexation;

25 (b) Declare that the territory is annexed to the city where electors or landowners in the con-
26 tiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170,
27 prior to the public hearing held under subsection (2) of this section; or

28 (c) Declare that the territory is annexed to the city where the [*Department of Human Services*]
29 **Oregon Health Authority**, prior to the public hearing held under subsection (1) of this section, has
30 issued a finding that a danger to public health exists because of conditions within the territory as
31 provided by ORS 222.840 to 222.915.

32 (5) If the territory described in the ordinance issued under subsection (4) of this section is a part
33 less than the entire area of a district named in ORS 222.510, the ordinance may also declare that
34 the territory is withdrawn from the district on the effective date of the annexation or on any sub-
35 sequent date specified in the ordinance. However, if the affected district is a district named in ORS
36 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS
37 222.465.

38 (6) The ordinance referred to in subsection (4) of this section is subject to referendum.

39 (7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the
40 legal owner of record or, where there is a recorded land contract which is in force, the purchaser
41 thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be
42 counted as a fraction to the same extent as the interest of the owner in the land bears in relation
43 to the interest of the other owners and the same fraction shall be applied to the parcel's land mass
44 and assessed value for purposes of the consent petition. If a corporation owns land in territory
45 proposed to be annexed, the corporation shall be considered the individual owner of that land.

1 **SECTION 181.** ORS 222.850 is amended to read:

2 222.850. As used in ORS 222.840 to 222.915, unless the context requires otherwise:

3 (1) "Affected territory" means an area within the urban growth boundary of a city and which
4 is otherwise eligible for annexation to that city and in which there exists an actual or alleged dan-
5 ger to public health.

6 **(2) "Authority" means the Oregon Health Authority.**

7 [(2)] **(3)** "City council" means the legislative body of a city.

8 [(3)] **(4)** "Commission" means the Environmental Quality Commission.

9 [(4)] **(5)** "Danger to public health" means a condition which is conducive to the propagation of
10 communicable or contagious disease-producing organisms and which presents a reasonably clear
11 possibility that the public generally is being exposed to disease-caused physical suffering or illness,
12 including a condition such as:

13 (a) Impure or inadequate domestic water.

14 (b) Inadequate installations for the disposal or treatment of sewage, garbage or other contam-
15 inated or putrefying waste.

16 (c) Inadequate improvements for drainage of surface water and other fluid substances.

17 [(5) "*Department*" means the *Department of Human Services*.]

18 (6) "Director" means the Director of [*Human Services*] **the Oregon Health Authority.**

19 (7) "District" means any one of the following:

20 (a) A metropolitan service district formed under ORS chapter 268.

21 (b) A county service district formed under ORS chapter 451.

22 (c) A sanitary district formed under ORS 450.005 to 450.245.

23 (d) A sanitary authority, water authority or joint water and sanitary authority formed under
24 ORS 450.600 to 450.989.

25 (e) A domestic water supply district formed under ORS chapter 264.

26 **SECTION 182.** ORS 222.860 is amended to read:

27 222.860. (1) The city council of any city shall adopt a resolution containing a proposal for
28 annexation without vote or consent in the affected territory. The proposal may contain terms of
29 annexation as provided in ORS 222.111 and shall:

30 (a) Describe the boundaries of the affected territory; and

31 (b) Describe the conditions alleged to be causing a danger to public health.

32 (2) The governing body of any district having jurisdiction over the affected territory may adopt
33 a resolution containing a proposal for annexation to the city without vote or consent in the affected
34 territory. The proposal shall:

35 (a) Describe the boundaries of the affected territory; and

36 (b) Describe the conditions alleged to be causing a danger to public health.

37 (3) The local board of health having jurisdiction shall verify the conditions alleged in the pro-
38 posal to be causing a danger to public health, based upon its knowledge of those conditions.

39 (4) The council or governing body shall cause a certified copy of the resolution together with
40 verification by the local board of health having jurisdiction, to be forwarded to the [*Department of*
41 *Human Services*] **Oregon Health Authority** and request the [*department*] **authority** to ascertain
42 whether conditions dangerous to public health exist in the affected territory.

43 **SECTION 183.** ORS 222.870 is amended to read:

44 222.870. (1) Upon receipt of the certified copy of the resolution, and verification by the local
45 board of health having jurisdiction, the [*Department of Human Services*] **Oregon Health Authority**

1 shall review and investigate conditions in the affected territory. If it finds substantial evidence that
 2 a danger to public health exists in the territory, it shall issue an order for a hearing to be held
 3 within the affected territory, or at a place near the affected territory if there is no suitable place
 4 within that territory at which to hold the hearing, not sooner than 30 days from the date of the
 5 order.

6 (2) Upon issuance of an order for a hearing, the [*department*] **authority** shall immediately give
 7 notice of the resolution and order by publishing them in a newspaper of general circulation within
 8 the city and the affected territory once each week for two successive weeks and by posting copies
 9 of the order in four public places within the affected territory.

10 **SECTION 184.** ORS 222.875 is amended to read:

11 222.875. (1) The hearing shall be for the sole purpose of determining whether a danger to public
 12 health exists due to conditions in the affected territory. It may be conducted by one or more mem-
 13 bers of the staff of the [*Department of Human Services*] **Oregon Health Authority** to whom au-
 14 thority to conduct such a hearing is delegated. It shall proceed in accordance with rules which may
 15 be established by the [*department*] **authority**. Any person who may be affected by the finding, in-
 16 cluding residents of the city, may be heard. Within 60 days following the hearing, the person con-
 17 ducting the hearing shall prepare and submit to the [*department*] **authority** written findings of fact
 18 and recommendations based thereon. The [*department*] **authority** shall publish a notice of the issu-
 19 ance of such findings and recommendations in the newspaper utilized for the notice of hearing under
 20 ORS 222.870, advising of the opportunity for presentation of a petition under subsection (2) of this
 21 section.

22 (2) Within 15 days after the publication of notice of issuance of findings in accordance with
 23 subsection (1) of this section any person who may be affected by the findings, including residents
 24 of the city, or the affected city, may petition the Director of [*Human Services*] **the Oregon Health**
 25 **Authority** according to rules of the [*department*] **authority** to present written or oral arguments
 26 on the proposal. If a petition is received the director may set a time and place for receipt of argu-
 27 ment.

28 **SECTION 185.** ORS 222.880 is amended to read:

29 222.880. (1) Within 30 days following the final hearing of any arguments received by petition
 30 under the provisions of ORS 222.875 (2) the Director of [*Human Services*] **the Oregon Health Au-**
 31 **thority** shall review the arguments and the findings and recommendations of the person conducting
 32 the hearing as provided in ORS 222.875 (2). If the director finds no danger to public health exists
 33 because of conditions within the affected territory, the director shall issue an order terminating the
 34 proceedings under ORS 222.840 to 222.915 with reference to the affected territory.

35 (2) If the director finds that a danger to public health exists because of conditions within the
 36 affected territory, the director shall file a certified copy of findings with the city and, except where
 37 the condition causing the danger to public health is impure or inadequate domestic water, with the
 38 Environmental Quality Commission.

39 (3) If the director determines that a danger to public health exists because of conditions within
 40 only part of the affected territory, the director may, upon petition and hearing, reduce the bounda-
 41 ries of the affected territory to that part of the territory that presents a danger if the area to be
 42 excluded would not be surrounded by the affected territory remaining to be annexed and would not
 43 be directly served by the sanitary, water or other facilities necessary to remove or alleviate the
 44 danger to public health existing within the affected territory remaining to be annexed. The findings
 45 shall describe the boundaries of the affected territory as reduced by the director. The director shall

1 file a certified copy of findings with the city and, except where the condition causing the danger to
2 public health is impure or inadequate domestic water, the commission.

3 (4) In determining whether to exclude any area the director may consider whether or not such
4 exclusion would unduly interfere with the removal or alleviation of the danger to public health in
5 the affected territory remaining to be annexed and whether the exclusion would result in an illogical
6 boundary for the extension of services normally provided by an incorporated city.

7 (5) The city shall, when requested, aid in the determinations made under subsections (3) and (4)
8 of this section and, if necessary, cause a study to be made.

9 (6) Notwithstanding ORS 222.111 (3), the director, in implementing an order under ORS 222.840
10 to 222.915, may allow the use of the tax differential authorized by ORS 222.111 (3) for a period not
11 exceeding 15 years with the consent of the affected city.

12 **SECTION 186.** ORS 222.883 is amended to read:

13 222.883. At any time after the Director of [*Human Services*] **the Oregon Health Authority** un-
14 der ORS 222.880 finds that conditions dangerous to public health exist, the [*Department of Human*
15 *Services*] **Oregon Health Authority** may order further proceedings on the findings filed under ORS
16 222.880 halted in order to allow a city, district or persons affected by the findings to develop and
17 propose an alternative plan to annexation for the removal or alleviation of the conditions dangerous
18 to public health. Proceedings may be stayed under this section for not longer than 30 days.

19 **SECTION 187.** ORS 222.885 is amended to read:

20 222.885. (1) Within 60 days after the Director of [*Human Services*] **the Oregon Health Au-**
21 **thority** under ORS 222.880 finds that conditions dangerous to public health exist, a petition, signed
22 by not less than 51 percent of the electors registered in the affected territory, may be filed with the
23 [*Department of Human Services*] **Oregon Health Authority**. Such petition shall suggest an alterna-
24 tive plan to annexation to the city for removal or alleviation of the conditions dangerous to public
25 health. The petition shall state the intent of the residents to seek annexation to an existing district
26 authorized by law to provide facilities within the affected territory necessary to remove or alleviate
27 the dangerous conditions or to seek, with the approval of the city or district, extraterritorial ex-
28 tension of a city's or district's sewer or water lines. The petition shall be accompanied by a proposed
29 plan which shall state the type of facilities to be constructed, a proposed means of financing the
30 facilities, and an estimate of the time required to construct such facilities and place them in oper-
31 ation.

32 (2) Within 30 days after the director under ORS 222.880 finds that conditions dangerous to public
33 health exist, a resolution adopted by the city council or the governing body of any district having
34 jurisdiction over the affected territory may be filed with the [*department*] **authority**. The resolution
35 shall suggest an alternative plan to annexation to the city for removal or alleviation of the condi-
36 tions dangerous to public health. The resolution shall be accompanied by a proposed plan which
37 shall state the type of facilities to be constructed, a proposed means of financing the facilities, and
38 an estimate of the time required to construct such facilities and place them in operation.

39 (3) Upon receipt of such petition or resolution adopted by a district or city council, the [*de-*
40 *partment*] **authority** shall:

41 (a) Immediately forward copies of any petition or resolution to the city or district referred to
42 in the petition or resolution, and, except where the condition causing the danger to public health
43 is impure or inadequate domestic water, to the Environmental Quality Commission.

44 (b) Order further proceedings on the findings filed under ORS 222.880 stayed pending the review
45 permitted under ORS 222.890 and this section.

1 **SECTION 188.** ORS 222.890 is amended to read:

2 222.890. (1) An alternative plan referred to in ORS 222.885 shall be reviewed by the [*Department*
3 *of Human Services*] **Oregon Health Authority** in cases where danger to public health is caused by
4 impure or inadequate domestic water and in all other cases by the Environmental Quality Commis-
5 sion. The plan shall be approved or rejected by the [*appropriate*] authority **or commission**. In re-
6 viewing the alternative plan contained in the petition, the authority **or commission** shall consider
7 whether, in its judgment, the plan contains a preferable alternative for the alleviation or removal
8 of the conditions dangerous to public health. If it determines that annexation to the city provides
9 the best and most expeditious method of removing or alleviating the dangerous conditions, the al-
10 ternative plan shall be rejected and further proceedings on the finding filed under ORS 222.880 shall
11 resume.

12 (2) If the [*reviewing*] authority **or commission** finds that the alternative plan provides a pref-
13 erable method of alleviating or removing the dangerous conditions, the petitioners or appropriate
14 governing body shall have six months within which to present to [*such*] **the authority or commis-**
15 **sion** information showing:

16 (a) That the territory in which the conditions dangerous to public health exist has received ap-
17 proval for the extension of a city's or district's sewer or water lines within the territory or has
18 annexed to a district authorized by law to provide facilities necessary to remove or alleviate the
19 dangerous conditions, and that financing of the facilities for extension of such facilities to the ter-
20 ritory has been assured.

21 (b) Detailed plans and specifications for the construction of such facilities.

22 (c) A time schedule for the construction of such facilities.

23 (d) That such facilities, if constructed, will remove or alleviate the conditions dangerous to
24 public health in a manner as satisfactory and expeditious as would be accomplished by the proposed
25 annexation to the city.

26 (3) The authority **or commission** shall review the final plan presented to it by the petitioners,
27 city or district and shall promptly certify whether the requirements of subsection (2) of this section
28 have been met. If the requirements have been met, the [*department*] **authority** shall certify the al-
29 ternative plan. Further annexation proceedings on the findings filed under ORS 222.880 shall be
30 suspended and the city shall be so notified. If the requirements of subsection (2) of this section are
31 not met by the petitioners, city or district or whenever the [*reviewing*] authority **or commission**
32 determines that the requirements of the certified plan are not being satisfied, further proceedings
33 on the findings filed under ORS 222.880 shall resume.

34 **SECTION 189.** ORS 222.897 is amended to read:

35 222.897. (1) Upon receipt of a certified copy of the findings of the [*Department of Human*
36 *Services*] **Oregon Health Authority** under ORS 222.880, the city council shall cause a study to be
37 made and preliminary plans and specifications developed for the sanitary, water or other facilities
38 necessary to remove or alleviate the conditions causing a danger to public health. The council shall
39 prepare a schedule setting out the steps necessary to put the plan into operation and the time re-
40 quired for each step in the implementation of the plan. A copy of the plans and specifications and
41 the time schedule shall, in the case where the danger to public health is caused by impure or inad-
42 equate domestic water, be submitted to the [*department*] **authority** and in all other cases to the
43 Environmental Quality Commission.

44 (2) If the city within 90 days, fails to complete the requirements in subsection (1) of this section,
45 the [*department*] **authority** shall conduct the necessary studies and prepare plans and other docu-

1 ments required for the consideration of the proposal and the final determination of the proceedings.
2 The expense of the study and preparation of the plans and other documents shall be paid by the city
3 upon vouchers properly certified by the Director of [*Human Services*] **the Oregon Health**
4 **Authority**.

5 **SECTION 190.** ORS 222.900 is amended to read:

6 222.900. (1) Subject to subsection (2) of this section, upon receipt of the certified copy of the
7 finding as provided in ORS 222.880 (2) or (3) and certification of approval of plans under ORS
8 222.898, the city council shall adopt an ordinance which shall:

9 (a) Contain the legal description of the territory annexed;

10 (b) Contain the terms of the annexation, if any, made under ORS 222.111;

11 (c) Adopt the plans, specifications and time schedule as approved by the [*Department of Human*
12 *Services*] **Oregon Health Authority** or Environmental Quality Commission; and

13 (d) Declare the territory annexed to the city in accordance with ORS 222.840 to 222.915.

14 (2) An ordinance shall not be enacted as provided in subsection (1) of this section until the ex-
15 piration of the time for appeal under the provisions of ORS 222.896 and, in the event an appeal is
16 filed, following the determination of that appeal.

17 (3) If the [*department*] **authority** makes its finding under ORS 222.880 (3), the city shall not an-
18 nex a greater area than that described in the finding. The recorder, or other officer performing the
19 duties of the recorder, shall transmit a transcript to the Secretary of State, including certified copies
20 of the resolution required in ORS 222.860, the finding of the Director of [*Human Services*] **the**
21 **Oregon Health Authority**, and the ordinance proclaiming annexation of the territory.

22 (4) If the city council adopts the ordinance of annexation as provided in subsection (1) of this
23 section, it shall within one year thereafter prepare plans and specifications for the sanitary, water
24 or other facilities proposed to be provided in the annexed area, in compliance with ORS 448.115 to
25 448.285 or 468B.055 and shall then proceed in accordance with the time schedule to construct or
26 install these facilities. The commission shall use its powers of enforcement under ORS 448.305,
27 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, and ORS chapters 468,
28 468A and 468B to insure that the facilities are constructed or installed in conformance with the
29 approved plans and schedule. The manner of financing the cost of the facilities shall be determined
30 by the city council.

31 **SECTION 191.** ORS 222.911 is amended to read:

32 222.911. No officer or employee of the [*Department of Human Services*] **Oregon Health Au-**
33 **thority** who owns property or resides within affected territory that is subject to proceedings under
34 the provisions of ORS 222.840 to 222.915 shall participate in an official capacity in any investigation,
35 hearing or recommendation relating to such proceedings. If the Director of [*Human Services*] **the**
36 **Oregon Health Authority** is such a person, the director shall so inform the Governor, who shall
37 appoint another person to fulfill the duties of the director in any investigation, hearing or recom-
38 mendation relating to such proceeding.

39 **SECTION 192.** ORS 244.050 is amended to read:

40 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
41 Government Ethics Commission a verified statement of economic interest as required under this
42 chapter:

43 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
44 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-
45 bers of the Legislative Assembly.

- 1 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
2 judicial officer who does not otherwise serve as a judicial officer.
- 3 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.
- 4 (d) The Deputy Attorney General.
- 5 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
6 Secretary of the Senate and the Chief Clerk of the House of Representatives.
- 7 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
8 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the
9 State Board of Higher Education.
- 10 (g) The following state officers:
- 11 (A) Adjutant General.
- 12 (B) Director of Agriculture.
- 13 (C) Manager of State Accident Insurance Fund Corporation.
- 14 (D) Water Resources Director.
- 15 (E) Director of Department of Environmental Quality.
- 16 (F) Director of Oregon Department of Administrative Services.
- 17 (G) State Fish and Wildlife Director.
- 18 (H) State Forester.
- 19 (I) State Geologist.
- 20 (J) Director of Human Services.
- 21 (K) Director of the Department of Consumer and Business Services.
- 22 (L) Director of the Department of State Lands.
- 23 (M) State Librarian.
- 24 (N) Administrator of Oregon Liquor Control Commission.
- 25 (O) Superintendent of State Police.
- 26 (P) Director of the Public Employees Retirement System.
- 27 (Q) Director of Department of Revenue.
- 28 (R) Director of Transportation.
- 29 (S) Public Utility Commissioner.
- 30 (T) Director of Veterans' Affairs.
- 31 (U) Executive Director of Oregon Government Ethics Commission.
- 32 (V) Director of the State Department of Energy.
- 33 (W) Director and each assistant director of the Oregon State Lottery.
- 34 **(X) Director of the Oregon Health Authority.**
- 35 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 36 (i) Every elected city or county official.
- 37 (j) Every member of a city or county planning, zoning or development commission.
- 38 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
39 cipal administrator of the city or county.
- 40 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 41 (m) Every member of a governing body of a metropolitan service district and the executive of-
42 ficer thereof.
- 43 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 44 (o) The chief administrative officer and the financial officer of each common and union high
45 school district, education service district and community college district.

- 1 (p) Every member of the following state boards and commissions:
2 (A) Board of Geologic and Mineral Industries.
3 (B) Oregon Economic and Community Development Commission.
4 (C) State Board of Education.
5 (D) Environmental Quality Commission.
6 (E) Fish and Wildlife Commission of the State of Oregon.
7 (F) State Board of Forestry.
8 (G) Oregon Government Ethics Commission.
9 (H) Oregon Health [*Policy Commission*] **Authority Board**.
10 (I) State Board of Higher Education.
11 (J) Oregon Investment Council.
12 (K) Land Conservation and Development Commission.
13 (L) Oregon Liquor Control Commission.
14 (M) Oregon Short Term Fund Board.
15 (N) State Marine Board.
16 (O) Mass transit district boards.
17 (P) Energy Facility Siting Council.
18 (Q) Board of Commissioners of the Port of Portland.
19 (R) Employment Relations Board.
20 (S) Public Employees Retirement Board.
21 (T) Oregon Racing Commission.
22 (U) Oregon Transportation Commission.
23 (V) Wage and Hour Commission.
24 (W) Water Resources Commission.
25 (X) Workers' Compensation Board.
26 (Y) Oregon Facilities Authority.
27 (Z) Oregon State Lottery Commission.
28 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
29 (BB) Columbia River Gorge Commission.
30 (CC) Oregon Health and Science University Board of Directors.
31 (q) The following officers of the State Treasurer:
32 (A) Chief Deputy State Treasurer.
33 (B) Chief of staff for the office of the State Treasurer.
34 (C) Director of the Investment Division.
35 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
36 or 777.915 to 777.953.
37 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
38 (2) By April 15 next after the date an appointment takes effect, every appointed public official
39 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
40 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
41 and 244.090.
42 (3) By April 15 next after the filing deadline for the primary election, each candidate for public
43 office described in subsection (1) of this section shall file with the commission a statement of eco-
44 nomic interest as required under ORS 244.060, 244.070 and 244.090.
45 (4) Within 30 days after the filing deadline for the general election, each candidate for public

1 office described in subsection (1) of this section who was not a candidate in the preceding primary
 2 election, or who was nominated for public office described in subsection (1) of this section at the
 3 preceding primary election by write-in votes, shall file with the commission a statement of economic
 4 interest as required under ORS 244.060, 244.070 and 244.090.

5 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or
 6 appointed public officials as of April 15 and to persons who are candidates for public office on April
 7 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until
 8 30 days after the filing deadline for the statewide general election.

9 (6) If a statement required to be filed under this section has not been received by the commis-
 10 sion within five days after the date the statement is due, the commission shall notify the public of-
 11 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
 12 requirements of this section. If the public official or candidate fails to comply by the date set by the
 13 commission, the commission may impose a civil penalty as provided in ORS 244.350.

14 **SECTION 193.** ORS 247.570 is amended to read:

15 247.570. (1) Not later than five business days after receiving a certificate of death under ORS
 16 432.307, a county registrar designated under ORS 432.035 shall furnish to the county clerk of that
 17 county the name, age, date of birth and residence address of the person for whom the registrar has
 18 received the certificate of death. If the person was registered to vote in the county, the county clerk
 19 immediately shall cancel the registration of the person.

20 (2) Not later than five business days after receiving information from the county registrar under
 21 subsection (1) of this section, the county clerk shall furnish the information to the Secretary of
 22 State. The Secretary of State shall furnish a copy of the appropriate names received under this
 23 subsection to each county clerk. Each county clerk immediately shall cancel the registrations of
 24 those persons.

25 (3) The [*Department of Human Services*] **Oregon Health Authority**, during the last week of each
 26 month, shall furnish to the Secretary of State a list of the name, age, date of birth, county of resi-
 27 dence and residence address of each resident of this state who has died during the preceding month
 28 and for whom a certificate of death was not filed with a county registrar. The Secretary of State
 29 shall furnish a copy of the appropriate names to each county clerk. Each county clerk immediately
 30 shall cancel registrations of those persons.

31 **SECTION 194.** ORS 276.180 is amended to read:

32 276.180. When vacated and no longer required for institution uses, all or any portion of the
 33 buildings, grounds and facilities presently operated and controlled by the Department of Human
 34 Services, **the** Department of Corrections, **the Oregon Health Authority** or the State Board of Ed-
 35 ucation, are transferred to the Oregon Department of Administrative Services when so ordered by
 36 the Oregon Department of Administrative Services. Title shall vest automatically in the Oregon
 37 Department of Administrative Services in the name of the State of Oregon and the department shall
 38 operate and maintain all facilities described in this section.

39 **SECTION 195.** ORS 276.610 is amended to read:

40 276.610. There is established a fund in the State Treasury to be known as the State Building
 41 Fund which shall be used for the construction, alteration and repair of buildings required for use
 42 of institutions and activities under the jurisdiction of the Department of Corrections, **the** Depart-
 43 ment of Human Services, **the Oregon Health Authority** or the State Board of Education and the
 44 State Board of Higher Education and for the furnishing and equipping of buildings so constructed,
 45 altered or repaired.

1 **SECTION 196.** ORS 276.612 is amended to read:

2 276.612. The Department of Corrections, **the** Department of Human Services, **the Oregon**
3 **Health Authority** and the State Board of Education each shall determine the buildings to be con-
4 structed, altered, repaired, furnished and equipped for the use of institutions and activities under
5 their respective jurisdictions. The State Board of Higher Education shall determine the buildings
6 to be constructed, altered, repaired, furnished and equipped for the use of institutions or activities
7 under its jurisdiction.

8 **SECTION 197.** ORS 278.315 is amended to read:

9 278.315. (1) The [*Department of Human Services*] **Oregon Health Authority** may provide tort
10 liability coverage through the Oregon Department of Administrative Services to any county or pri-
11 vate community care provider that has contracted with the [*Department of Human Services*] **au-**
12 **thority** to provide supervision, care, treatment or training of persons under the jurisdiction of the
13 Psychiatric Security Review Board. Counties or private community care providers, and the officers
14 and employees of those counties and providers acting within the scope of their employment, may be
15 covered to the extent that any tort claim arises out of the provision of supervision, care, treatment
16 or training of persons pursuant to the terms of the contract. Tort liability coverage under this sec-
17 tion must be in writing, and may be part of the contract between the [*Department of Human*
18 *Services*] **authority** and the county or private community care provider. The coverage provided un-
19 der this section shall be self-insurance by the State of Oregon to the limits contained in ORS 30.260
20 to 30.300.

21 (2) Counties or private community care providers that have contracted with the [*Department of*
22 *Human Services*] **authority** to provide supervision, care, treatment or training of persons under the
23 jurisdiction of the Psychiatric Security Review Board, and the officers and employees of those
24 counties and providers, are not agents of the [*department*] **authority** for the purposes of ORS 30.260
25 to 30.300.

26 **SECTION 198.** ORS 279A.050 is amended to read:

27 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
28 agency shall exercise all procurement authority in accordance with the provisions of the Public
29 Contracting Code.

30 (b) When a contracting agency has authority under this section to carry out functions described
31 in this section, or has authority to make procurements under a provision of law other than the
32 Public Contracting Code, the contracting agency is not required to exercise that authority in ac-
33 cordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the
34 contract or contracting authority.

35 (2) Except as otherwise provided in the Public Contracting Code, for state agencies the Director
36 of the Oregon Department of Administrative Services has all the authority to carry out the pro-
37 visions of the Public Contracting Code.

38 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation
39 has all the authority to:

40 (a) Procure or supervise the procurement of all services and personal services to construct, ac-
41 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
42 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

43 (b) Procure or supervise the procurement of all goods, services, public improvements and per-
44 sonal services relating to the operation, maintenance or construction of highways, bridges and other
45 transportation facilities that are subject to the authority of the Department of Transportation; and

1 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
2 bidders on public improvement contracts related to the operation, maintenance or construction of
3 highways, bridges and other transportation facilities that are subject to the authority of the De-
4 partment of Transportation.

5 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all
6 the authority to procure or supervise the procurement of goods, services and personal services re-
7 lated to programs under the authority of the Secretary of State.

8 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the
9 authority to procure or supervise the procurement of goods, services and personal services related
10 to programs under the authority of the State Treasurer.

11 (6) The state agencies listed in this subsection have all the authority to do the following in ac-
12 cordance with the Public Contracting Code:

13 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-
14 vices and personal services for the construction, demolition, exchange, maintenance, operation and
15 equipping of housing[.] **for the purpose of providing care to individuals with mental retardation**
16 **or other developmental disabilities, subject to applicable provisions of ORS 427.335;**

17 (b) **The Oregon Health Authority to procure or supervise the procurement of goods,**
18 **services and personal services for the construction, demolition, exchange, maintenance, op-**
19 **eration and equipping of housing for persons with chronic mental illness, subject to applica-**
20 **ble provisions of ORS 426.504;**

21 [(A) *For persons with chronic mental illness, subject to applicable provisions of ORS 426.504;*
22 *and*]

23 [(B) *For the purpose of providing care to individuals with mental retardation or other develop-*
24 *mental disabilities, subject to applicable provisions of ORS 427.335;]*

25 [(b)] (c) The State Department of Fish and Wildlife to procure or supervise the procurement of
26 construction materials, equipment, supplies, services and personal services for public improvements,
27 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
28 of the State Department of Fish and Wildlife;

29 [(c)] (d) The State Parks and Recreation Department to procure or supervise the procurement
30 of all goods, services, public improvements and personal services relating to state parks;

31 [(d)] (e) The Oregon Department of Aviation to procure or supervise the procurement of con-
32 struction materials, equipment, supplies, services and personal services for public improvements,
33 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
34 of the Oregon Department of Aviation;

35 [(e)] (f) The Economic and Community Development Department to procure or supervise the
36 procurement of all goods, services, personal services and public improvements related to its foreign
37 trade offices operating outside the state;

38 [(f)] (g) The Housing and Community Services Department to procure or supervise the procure-
39 ment of goods, services and personal services as provided in ORS 279A.025 (2)(o);

40 [(g)] (h) The Department of Corrections to procure or supervise the procurement of construction
41 materials, equipment, supplies, services and personal services for public improvements, public works
42 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
43 ment of Corrections;

44 [(h)] (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
45 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods for its

1 institutions;

2 [(i)] (j) The Department of Veterans' Affairs to procure or supervise the procurement of real
3 estate broker and principal real estate broker services related to programs under the department's
4 authority;

5 [(j)] (k) The Oregon Military Department to procure or supervise the procurement of con-
6 struction materials, equipment, supplies, services and personal services for public improvements,
7 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
8 of the Oregon Military Department;

9 [(k)] (L) The Department of Education, subject to any applicable provisions of ORS 329.075,
10 329.085 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425),
11 to procure or supervise the procurement of goods, services, personal services and information tech-
12 nology relating to student assessment; and

13 [(L)] (m) Any state agency to conduct a procurement when the agency is specifically authorized
14 by any provision of law other than the Public Contracting Code to enter into a contract.

15 (7) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department
16 of Administrative Services has exclusive authority to procure or supervise the procurement of all
17 state agency information technology contracts and all price agreements on behalf of the state
18 agencies identified in subsection (6)(a) to [(j)] (k) of this section under which more than one state
19 agency may order goods, services or personal services unless the director delegates this authority.
20 This subsection does not apply to contracts under which the contractor delivers to the state agency
21 information technology products or services incidental to the performance of personal services con-
22 tracts described in ORS chapter 279C or construction contracts described in ORS chapter 279C. A
23 state agency identified in subsection (3) or (6)(a) to [(j)] (k) of this section may not establish a price
24 agreement or enter into a contract for goods, services or personal services without the approval of
25 the director if the director has established a price agreement for the goods, services or personal
26 services.

27 **SECTION 199.** ORS 285A.213 is amended to read:

28 285A.213. (1) There is established in the State Treasury, separate and distinct from the General
29 Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Re-
30 volving Loan Fund are continuously appropriated to the Economic and Community Development
31 Department.

32 (2) The Economic and Community Development Department shall administer the Safe Drinking
33 Water Revolving Loan Fund in accordance with a memorandum of understanding between the de-
34 partment and the [*Department of Human Services*] **Oregon Health Authority**.

35 (3) The Safe Drinking Water Revolving Loan Fund shall consist of:

36 (a) Moneys transferred to the fund by the [*Department of Human Services*] **authority** for pur-
37 poses authorized by the memorandum of understanding between the [*Department of Human Services*
38 *and the Economic and Community Development Department*] **authority and the department**.

39 (b) Moneys transferred to the fund by the federal government, other state agencies or local
40 governments.

41 (c) Moneys transferred to the fund by the Legislative Assembly or the Oregon Economic and
42 Community Development Commission.

43 (d) Proceeds from the sale of revenue bonds.

44 (e) Repayment of financial assistance provided with moneys from the fund.

45 (f) Interest and other earnings on moneys in the fund.

1 (4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial
 2 or other assistance to publicly owned and privately owned water systems under the Safe Drinking
 3 Water Act Amendments of 1996, P.L. 104-182, and rules of the [*Economic and Community Develop-*
 4 *ment Department. As used in this subsection, "assistance" includes direct purchase by the Economic*
 5 *and Community Development Department of goods or services related to a water system project to the*
 6 *extent permitted by the memorandum of understanding between the Economic and Community Devel-*
 7 *opment Department and the Department of Human Services, the Safe Drinking Water Act Amendments*
 8 *of 1996, and as authorized by rules of the Economic and Community Development Department]* **de-**
 9 **partment. As used in this subsection, "assistance" includes direct purchase by the depart-**
 10 **ment of goods or services related to a water system project to the extent permitted by the**
 11 **memorandum of understanding between the department and the authority, the Safe Drinking**
 12 **Water Act Amendments of 1996, and as authorized by rules of the department.**

13 (5) The owner of a water system may borrow from the Safe Drinking Water Revolving Loan
 14 Fund by entering into a loan agreement with the [*Economic and Community Development*
 15 *Department]* **department.** The owner of a municipally owned water system may enter into a loan
 16 agreement with the department notwithstanding any restriction on indebtedness in the charter or
 17 bylaws of the municipality or any other provision of law. Moneys owed to the department by the
 18 borrower under a loan agreement may be paid from:

19 (a) Revenue from any water system project of the borrower, including special assessment re-
 20 venue;

21 (b) Amounts withheld under subsection (6) of this section;

22 (c) The general fund of the borrower;

23 (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or

24 (e) Any other source.

25 (6) If a borrower fails to comply with a loan agreement entered into under subsection (5) of this
 26 section, the [*Economic and Community Development Department]* **department** may seek appropriate
 27 legal remedies to secure any repayment due the Safe Drinking Water Revolving Loan Fund. If a
 28 borrower defaults on repayment due the fund, the State of Oregon may withhold any amounts oth-
 29 erwise due to the borrower. Any amounts withheld under this subsection shall be credited toward
 30 repayment of the borrower's indebtedness to the fund.

31 **SECTION 200.** ORS 285B.563 is amended to read:

32 285B.563. (1) There is established in the State Treasury, separate and distinct from the General
 33 Fund, the Water Fund. All moneys in the Water Fund are continuously appropriated to the Eco-
 34 nomic and Community Development Department for the purposes described in ORS 285B.560 to
 35 285B.599, including the direct project management costs.

36 (2)(a) Moneys in the Water Fund may be obligated to water projects.

37 (b) Moneys shall be used primarily to make loans to municipalities. The department may make
 38 a loan only if:

39 (A) The municipality applying for the loan certifies to the department that adequate funds will
 40 be available to repay the loan; and

41 (B) The department determines that the amount of the loan applied for is based on a reasonable
 42 and prudent expectation of the municipality's ability to repay the loan.

43 (c) The department may award a grant only if a loan is not feasible due to:

44 (A) Financial hardship to the municipality, as determined by the department, based on consid-
 45 eration of anticipated water service charges or anticipated waste water service charges, the per

1 capita income of the municipality and any other factors as the department by rule may establish;
2 and

3 (B) Special circumstances of the water project.

4 (d) The department may determine the amount of grant or loan funding on a case-by-case basis.

5 (3) The moneys in the fund may also be used to assist the department in selling revenue bonds
6 on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.

7 (4) Moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The
8 earnings from the investments and other program income shall be credited to the Water Fund.

9 (5) The Water Fund shall consist of:

10 (a) Moneys appropriated to the fund by the Legislative Assembly.

11 (b) Moneys transferred to the fund by the Economic and Community Development Department
12 from the Special Public Works Fund created by ORS 285B.455.

13 (c) Moneys transferred to the Water Fund by the Water Resources Commission from the Water
14 Development Fund created by Article XI-I(1) of the Oregon Constitution.

15 (d) Moneys from any federal, state or other grants.

16 (e) Proceeds of revenue bonds issued under ORS 285B.575.

17 (f) Earnings on the Water Fund.

18 (6) The department shall administer the fund.

19 (7) The department shall adopt rules and policies for the administration of the fund. The de-
20 partment shall coordinate its rulemaking regarding safe drinking water projects with the Water
21 Resources Department and the [*Department of Human Services*] **Oregon Health Authority**. The
22 rules adopted under this subsection for safe drinking water projects shall:

23 (a) Require the installation of meters on all new active service connections from any distribution
24 lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS
25 285B.572 to 285B.578.

26 (b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund,
27 for installation of meters on all service connections throughout the drinking water system not later
28 than two years after the completion of a safe drinking water project.

29 (8)(a) The Economic and Community Development Department shall manage the Water Fund and
30 any expenditures from accounts in the fund and transfers between accounts so that the fund pro-
31 vides a continuing source of financing consistent with ORS 285B.413.

32 (b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the de-
33 partment may reduce the value of the fund when the department:

34 (A) Finds that without a reduction in fund value, bonds secured by the fund are likely to be in
35 default; and

36 (B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection
37 are satisfied.

38 (9)(a) The department may charge administrative costs to the fund, but not to moneys segregated
39 in the account created by subsection (11) of this section, to pay for administrative costs incurred
40 by the department.

41 (b) To the extent permitted by federal law, administrative costs of the department may be paid
42 from bond proceeds.

43 (10) The department may establish other accounts within the Water Fund for the payment of
44 water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue
45 bonds, administrative costs and operating expenses or any other purpose necessary to carry out ORS

1 285B.560 to 285B.599.

2 (11) There is created within the Water Fund a separate and distinct account for the proceeds
3 from the sale of water development general obligation bonds issued for safe drinking water projects
4 and credited to the special account under this section. Any investment earnings thereon shall be
5 segregated in and continuously appropriated to a special, separately accounted for subaccount of
6 this account. Moneys credited to this account shall be maintained separate and distinct from moneys
7 credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS
8 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created
9 by this subsection, including interest on the moneys, shall be credited to the Water Development
10 Administration and Bond Sinking Fund created by ORS 541.830.

11 (12) As used in this section, "administrative costs" include the department's direct and indirect
12 costs for investigating and processing an application, developing a contract, monitoring the use of
13 funds by a municipality, investigating and resolving a budget discrepancy, closing a project and
14 providing financial and other assistance to a municipality.

15 **SECTION 201.** ORS 291.055 is amended to read:

16 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
17 tablish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered
18 year:

19 (a) Are not effective for agencies in the executive department of government unless approved
20 in writing by the Director of the Oregon Department of Administrative Services;

21 (b) Are not effective for agencies in the judicial department of government unless approved in
22 writing by the Chief Justice of the Supreme Court;

23 (c) Are not effective for agencies in the legislative department of government unless approved
24 in writing by the President of the Senate and the Speaker of the House of Representatives;

25 (d) Shall be reported by the state agency to the Oregon Department of Administrative Services
26 within 10 days of their adoption; and

27 (e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine
28 die of the regular session of the Legislative Assembly meeting in that year, whichever is later, un-
29 less otherwise authorized by enabling legislation setting forth the approved fees.

30 (2) This section does not apply to:

31 (a) Any tuition or fees charged by the State Board of Higher Education and state institutions
32 of higher education.

33 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
34 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
35 butions and assessments calculated by cents per hour for workers' compensation coverage required
36 by ORS 656.506.

37 (c) Fees or payments required for:

38 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
39 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

40 (B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS
41 735.614 and 735.625.

42 (C) Copayments and premiums paid to the Oregon medical assistance program.

43 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
44 culated for each separate instance for each fee payer and are based on actual cost of services pro-
45 vided.

1 (e) State agency charges on employees for benefits and services.

2 (f) Any intergovernmental charges.

3 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
4 Oregon Forest Land Protection Fund fees established by ORS 477.760.

5 (h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.

6 (i) Any charges established by the State Parks and Recreation Director in accordance with ORS
7 565.080 (3).

8 (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer
9 and Business Services **or the Oregon Health Authority** pursuant to ORS 731.804 **or sections 37**
10 **and 40 of this 2009 Act**, or fees charged by the Division of Finance and Corporate Securities of the
11 Department of Consumer and Business Services to banks, trusts and credit unions pursuant to ORS
12 706.530 and 723.114.

13 (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid
14 to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

15 (L) Fees charged by the Housing and Community Services Department for intellectual property
16 pursuant to ORS 456.562.

17 (m) New or increased fees that are anticipated in the legislative budgeting process for an
18 agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted
19 budget for the agency.

20 (n) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

21 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
22 pected and temporary revenue surpluses may be increased to not more than their prior level without
23 compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency
24 specifies the following:

25 (A) The reason for the fee decrease; and

26 (B) The conditions under which the fee will be increased to not more than its prior level.

27 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
28 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

29 **SECTION 202.** ORS 291.371 is amended to read:

30 291.371. (1) As used in this section, "legislative review agency" means the Joint Committee on
31 Ways and Means during the period when the Legislative Assembly is in session and the Emergency
32 Board during the interim period between sessions.

33 (2) Prior to making any changes in a salary plan, the Oregon Department of Administrative
34 Services shall submit the proposed changes to the legislative review agency.

35 (3)(a) The Oregon Department of Administrative Services may approve the reallocation of posi-
36 tions or the establishment of new positions not specifically provided for in the budget of the affected
37 agency if it finds that the proposed change:

38 (A) Can be financed by the agency within the limits of its biennial budget and legislatively ap-
39 proved program;

40 (B) Will not produce future budgetary increases; and

41 (C) Conforms to legislatively approved salary policies.

42 (b) Proposed changes not meeting the requirements of paragraph (a) of this subsection shall be
43 presented to the legislative review agency.

44 (4) Agencies within the Department of Human Services, **the Oregon Health Authority** and the
45 Department of Corrections shall report on a biennial basis to the legislative review agency. Each

1 report shall include the number of vacant budgeted positions, including all job categories and clas-
2 sifications, within the agency. The legislative review agency shall order the reporting agency to
3 show cause why the budgeted positions have not been filled and shall assess fully the impact the
4 vacancies have on:

5 (a) The agency's delivery of services, accounting for any seasonal fluctuation in the need for
6 those services;

7 (b) The agency's budget due to increased use of overtime;

8 (c) The agency's use of temporary employees; and

9 (d) Employee workload.

10 (5) It is declared to be the policy of this state that the total personal services, budget and full-
11 time equivalent positions approved for any state agency shall be the maximum amount necessary to
12 meet the requirements of the agency for the biennium. Notwithstanding ORS 291.232 to 291.260, the
13 Governor and the Oregon Department of Administrative Services may transfer vacant position au-
14 thority among and within state agencies to achieve maximum utilization of authorized positions
15 within agencies.

16 **SECTION 203.** ORS 314.840 is amended to read:

17 314.840. (1) The Department of Revenue may:

18 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
19 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
20 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
21 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
22 any other information the department considers necessary.

23 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

24 (c) Publish statistics so classified as to prevent the identification of income or any particulars
25 contained in any report or return.

26 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
27 Security number, employer identification number or other taxpayer identification number to the ex-
28 tent necessary in connection with collection activities or the processing and mailing of correspond-
29 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
30 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
31 come.

32 (2) The department also may disclose and give access to information described in ORS 314.835
33 to:

34 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

35 (A) With respect to an individual who is designated as being under consideration for appoint-
36 ment or reappointment to an office or for employment in the office of the Governor. The information
37 disclosed shall be confined to whether the individual:

38 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
39 than the three immediately preceding years for which the individual was required to file an Oregon
40 individual income tax return.

41 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
42 otherwise respond to a deficiency notice within 30 days of its mailing.

43 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
44 of the penalty.

45 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal

1 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
2 of making the appointment, reappointment or decision to employ or not to employ the individual in
3 the office of the Governor.

4 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
5 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
6 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
7 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
8 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
9 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
10 The Department of Revenue shall disclose and give access to the information described in ORS
11 314.835 for the purposes of this subparagraph only if:

12 (i) The request for information is made in writing, specifies the purposes for which the request
13 is made and is signed by an authorized representative of the Oregon Department of Administrative
14 Services. The form for request for information shall be prescribed by the Oregon Department of
15 Administrative Services and approved by the Director of the Department of Revenue.

16 (ii) The officer, employee or person receiving the information does not remove from the premises
17 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
18 rate taxpayer.

19 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
20 and compliance purposes only.

21 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
22 tative of any of the following entities that has or is governed by a provision of law that meets the
23 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

24 (A) A state;

25 (B) A city, county or other political subdivision of a state;

26 (C) The District of Columbia; or

27 (D) An association established exclusively to provide services to federal, state or local taxing
28 authorities.

29 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
30 compliance purposes only. The Multistate Tax Commission may make the information available to
31 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
32 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

33 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
34 representative of the State of Oregon, to the extent the department deems disclosure or access
35 necessary for the performance of the duties of advising or representing the department pursuant to
36 ORS 180.010 to 180.240 and the tax laws of this state.

37 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
38 of Justice, to the extent the department deems disclosure or access necessary for such employees
39 to perform their duties under contracts or agreements between the department and any other de-
40 partment, agency or subdivision of the State of Oregon, in the department's administration of the
41 tax laws.

42 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
43 the extent the department deems disclosure or access necessary for the performance of such others'
44 duties under contracts or agreements between the department and such legal entities, in the de-
45 partment's administration of the tax laws.

1 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
2 173.850. Such officer or representative shall not remove from the premises of the department any
3 materials that would reveal the identity of any taxpayer or any other person.

4 (i) The Department of Consumer and Business Services, to the extent the department requires
5 such information to determine whether it is appropriate to adjust those workers' compensation
6 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
7 earned income received by an individual.

8 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
9 or person to whom disclosure or access is given by state law and not otherwise referred to in this
10 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
11 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
12 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
13 attorney regarding cases for which they are providing support enforcement services under ORS
14 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
15 Accountancy, pursuant to ORS 673.415.

16 (k) The Director of the Department of Consumer and Business Services to determine that a
17 person complies with ORS chapter 656 and the Director of the Employment Department to determine
18 that a person complies with ORS chapter 657, the following employer information:

19 (A) Identification numbers.

20 (B) Names and addresses.

21 (C) Inception date as employer.

22 (D) Nature of business.

23 (E) Entity changes.

24 (F) Date of last payroll.

25 (L) The Director of Human Services to determine that a person has the ability to pay for care
26 that includes services provided by the [*state institutions as described in ORS 179.321*] **Eastern**
27 **Oregon Training Center** or the Department of Human Services [*or*] to collect any unpaid cost of
28 care as provided by ORS chapter 179.

29 **(m) The Director of the Oregon Health Authority to determine that a person has the**
30 **ability to pay for care that includes services provided by the Blue Mountain Recovery Center**
31 **or the Oregon State Hospital or the Oregon Health Authority to collect any unpaid cost of**
32 **care as provided by ORS chapter 179.**

33 [*m*] (n) Employees of the Employment Department to the extent the Department of Revenue
34 deems disclosure or access to information on a combined tax report filed under ORS 316.168 is
35 necessary to performance of their duties in administering the tax imposed by ORS chapter 657.

36 [*n*] (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, func-
37 tions and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone
38 number and standard industrial classification, if available.

39 [*o*] (p) Employees of the Department of State Lands for the purposes of identifying, locating
40 and publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of
41 chapter 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address
42 and the refund amount.

43 [*p*] (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
44 agencies to assist in the investigation or prosecution of the following criminal activities:

45 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited

1 to the stolen document, the name, address and taxpayer identification number of the payee, the
2 amount of the check and the date printed on the check.

3 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
4 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
5 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
6 dress and taxpayer identification number of the payee, the amount of the check, the date printed
7 on the check and the altered name and address.

8 [(q)] (r) The United States Postal Inspection Service or a federal law enforcement agency, in-
9 cluding but not limited to the United States Department of Justice, to assist in the investigation of
10 the following criminal activities:

11 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
12 to the stolen document, the name, address and taxpayer identification number of the payee, the
13 amount of the check and the date printed on the check.

14 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
15 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
16 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
17 dress and taxpayer identification number of the payee, the amount of the check, the date printed
18 on the check and the altered name and address.

19 [(r)] (s) The United States Financial Management Service, for purposes of facilitating the re-
20 ciprocal offsets described in ORS 305.612.

21 [(s)] (t) A municipal corporation of this state for purposes of assisting the municipal corporation
22 in the administration of a tax of the municipal corporation that is imposed on or measured by in-
23 come, wages or net earnings from self-employment. Any disclosure under this paragraph may be
24 made only pursuant to a written agreement between the Department of Revenue and the municipal
25 corporation that ensures the confidentiality of the information disclosed.

26 (3)(a) Each officer or employee of the department and each person described or referred to in
27 subsection (2)(a), (e) to (k) or [(m) to (p)] (n) to (q) of this section to whom disclosure or access to
28 the tax information is given under subsection (2) of this section or any other provision of state law,
29 prior to beginning employment or the performance of duties involving such disclosure or access,
30 shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the
31 violation of ORS 314.835, and shall as a condition of employment or performance of duties execute
32 a certificate for the department, in a form prescribed by the department, stating in substance that
33 the person has read these provisions of law, that the person has had them explained and that the
34 person is aware of the penalties for the violation of ORS 314.835.

35 (b) The disclosure authorized in subsection [(2)(q)] (2)(r) of this section shall be made only after
36 a written agreement has been entered into between the Department of Revenue and the person de-
37 scribed in subsection [(2)(q)] (2)(r) of this section to whom disclosure or access to the tax informa-
38 tion is given, providing that:

39 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
40 section [(2)(q)] (2)(r) of this section is confidential information that may not be disclosed, except to
41 the extent necessary to investigate or prosecute the criminal activities described in subsection
42 [(2)(q)] (2)(r) of this section;

43 (B) The information shall be protected as confidential under applicable federal and state laws;
44 and

45 (C) The United States Postal Inspection Service or the federal law enforcement agency shall

1 give notice to the Department of Revenue of any request received under the federal Freedom of In-
2 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

3 (4) The Department of Revenue may recover the costs of furnishing the information described
4 in subsection [(2)(k), (L) and (n) to (p)] **(2)(k) to (m) and (o) to (q)** of this section from the respec-
5 tive agencies.

6 **SECTION 204.** ORS 315.604 is amended to read:

7 315.604. (1) As used in this section:

8 (a) "Bone marrow donor expense" means the sum of the amounts paid or incurred during the tax
9 year by an employer for the following:

10 (A) Development of an employee bone marrow donation program.

11 (B) Employee education related to bone marrow donation, including but not limited to the need
12 for donors and an explanation of the procedures used to determine tissue type and donate bone
13 marrow.

14 (C) Payments to a health care provider for determining the tissue type of an employee who
15 agrees to register or registers as a bone marrow donor.

16 (D) Wages paid to an employee for time reasonably related to tissue typing and bone marrow
17 donation.

18 (E) Transportation of an employee to the site of a donation or any other service which is de-
19 termined by the [*Department of Human Services*] **Oregon Health Authority** by rule as essential for
20 a successful bone marrow donation.

21 (b) "Employee" means an individual who:

22 (A) Is regularly employed by the taxpayer for more than 20 hours per week;

23 (B) Who is not a temporary or seasonal employee; and

24 (C) Whose wages are subject to withholding under ORS 316.162 to 316.221.

25 (c) "Wages" has the meaning given the term for purposes of ORS 316.162 to 316.221.

26 (2) A business tax credit against the taxes otherwise due under ORS chapter 316 for the tax year
27 is allowed to a resident employer, or if the employer is a corporation, to the employer against the
28 taxes otherwise due under ORS chapter 317. The amount of the credit is equal to 25 percent of the
29 bone marrow donor expense paid or incurred during the tax year by an employer to provide a pro-
30 gram for employees who are potential bone marrow donors or who actually become bone marrow
31 donors.

32 (3)(a) Except as provided under paragraph (b) of this subsection, the allowance of a credit under
33 this section shall not affect the computation of taxable income for purposes of ORS chapter 316 or
34 317.

35 (b) If in determining the amount of the credit for any tax year an amount allowed as a deduction
36 under section 170 of the Internal Revenue Code is included in bone marrow donation expense, the
37 amount allowed as a deduction shall be added to federal taxable income.

38 (4) The credit allowed under this section shall be allowed to a nonresident employer in the same
39 manner as the credit is allowed to a resident employer.

40 (5) Any tax credit otherwise allowable under this section which is not used by the taxpayer in
41 a particular tax year may be carried forward and offset against the taxpayer's tax liability for the
42 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
43 carried forward and used in the second succeeding tax year. Any credit remaining unused in such
44 second succeeding tax year may be carried forward and used in the third succeeding tax year. Any
45 credit remaining unused in such third succeeding tax year may be carried forward and used in the

1 fourth succeeding tax year. Any credit remaining unused in such fourth succeeding tax year may
2 be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year
3 thereafter.

4 **SECTION 205.** ORS 315.613 is amended to read:

5 315.613. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed
6 under ORS chapter 677, who is engaged in the practice of medicine, and who has a rural practice
7 that amounts to 60 percent of the individual's practice, shall be allowed an annual credit against
8 taxes otherwise due under this chapter in the sum of \$5,000 during the time in which the individual
9 retains such practice and membership if the individual is actively practicing in and is a member of
10 the medical staff of one of the following hospitals:

11 (a) A type A hospital designated as such by the Office of Rural Health;

12 (b) A type B hospital designated as such by the Office of Rural Health if the hospital is:

13 (A) Not within the boundaries of a metropolitan statistical area;

14 (B) Located 30 or more highway miles from the closest hospital within the major population
15 center in a metropolitan statistical area; or

16 (C) Located in a county with a population of less than 75,000;

17 (c) A type C rural hospital, if the Office of Rural Health makes the findings required by ORS
18 315.619; or

19 (d) A rural critical access hospital.

20 (2) A nonresident shall be allowed the credit under this section in the proportion provided in
21 ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresi-
22 dent to resident occurs, the credit allowed by this section shall be determined in a manner consist-
23 ent with ORS 316.117.

24 (3) For purposes of this section, an "individual's practice" shall be determined on the basis of
25 actual time spent in practice each week in hours or days, whichever is considered by the Office of
26 Rural Health to be more appropriate. In the case of a shareholder of a corporation or a member of
27 a partnership, only the time of the individual shareholder or partner shall be considered and the full
28 amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual
29 capacity.

30 (4) As used in this section:

31 (a) "Type A hospital," "type B hospital" and "type C hospital" have the meaning for those terms
32 provided in ORS 442.470.

33 (b) "Rural critical access hospital" means a facility that meets the criteria set forth in 42 U.S.C.
34 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health
35 and the *[Department of Human Services]* **Oregon Health Authority**.

36 **SECTION 206.** ORS 320.308 is amended to read:

37 320.308. The following are exempt from the state transient lodging tax:

38 (1) A dwelling unit in a hospital, health care facility, long term care facility or any other resi-
39 dential facility that is licensed, registered or certified by the Department of Human Services **or the**
40 **Oregon Health Authority**;

41 (2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing
42 mental health treatment;

43 (3) A dwelling unit that is used by members of the general public for temporary human occu-
44 pancy for fewer than 30 days per year;

45 (4) A dwelling unit, the consideration for which is funded through a contract with a government

1 agency and the purpose of which is to provide emergency or temporary shelter;

2 (5) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other
3 nonprofit facility; or

4 (6) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive
5 period of 30 days or more during the year. The requirements of this subsection are satisfied even
6 if the physical dwelling unit changes during the consecutive period, if:

7 (a) All dwelling units occupied are within the same facility; and

8 (b) The person paying consideration for the transient lodging is the same person throughout the
9 consecutive period.

10 **SECTION 207.** ORS 332.111 is amended to read:

11 332.111. A district school board in a school district may enter into agreements to provide aux-
12 iliary services and facilities to students, including but not limited to forms of residential care and
13 medical and dental services. Any facility used for residential purposes under this section must meet
14 the applicable standards of the [*Department of Human Services*] **Oregon Health Authority** and the
15 State Fire Marshal.

16 **SECTION 208.** ORS 336.222 is amended to read:

17 336.222. In accordance with rules adopted by the State Board of Education in consultation with
18 the [*Department of Human Services*] **Oregon Health Authority**, each district school board shall
19 adopt a comprehensive alcohol and drug abuse policy and implementation plan, including but not
20 limited to:

21 (1) Alcohol and drug abuse prevention curriculum and public information programs addressing
22 students, parents, teachers, administrators and school board members;

23 (2) The nature and extent of the district's expectation of intervention with students who appear
24 to have drug or alcohol abuse problems;

25 (3) The extent of the district's alcohol and other drug prevention and intervention programs; and

26 (4) The district's strategy to gain access to federal funds available for drug abuse prevention
27 programs.

28 **SECTION 209.** ORS 336.227 is amended to read:

29 336.227. To assist school districts to formulate the programs described in ORS 336.222 (1), the
30 [*Department of Human Services*] **Oregon Health Authority** shall:

31 (1) Devise a public information program directed toward students, parents, teachers, adminis-
32 trators and school board members at the school district level; and

33 (2) Contact advocacy associations of the target groups described in subsection (1) of this section
34 to facilitate outreach programs and disseminate alcohol and drug abuse prevention information.

35 **SECTION 210.** ORS 336.235 is amended to read:

36 336.235. In order to carry out the duties described in ORS 336.222 and 336.227, the State Board
37 of Education, in consultation with the [*Department of Human Services*] **Oregon Health Authority**,
38 shall adopt by rule, as a minimum, descriptions of the content of what shall be included in the policy
39 and plan described in ORS 336.222 and 336.227.

40 **SECTION 211.** ORS 336.245 is amended to read:

41 336.245. The Department of Education, the Oregon University System and the [*Department of*
42 *Human Services*] **Oregon Health Authority** shall report to regular sessions of the Legislative As-
43 sembly and to the Governor on the progress and effectiveness of the policies and plans described in
44 ORS 336.222, 336.227 and 352.008 by submitting a copy of the report to the offices of the President
45 of the Senate and the Speaker of the House of Representatives and to the Governor.

1 **SECTION 212.** ORS 339.333 is amended to read:

2 339.333. (1) The Center for School Safety shall be governed by a board of directors. The board
3 of directors shall consist of:

4 (a) The Superintendent of Public Instruction or a designee of the superintendent;

5 (b) The Director of the Oregon Youth Authority or a designee of the director;

6 (c) The Attorney General or a designee of the Attorney General;

7 (d) The Superintendent of State Police or a designee of the superintendent;

8 (e) The Director of Human Services or a designee of the director;

9 **(f) The Director of the Oregon Health Authority or a designee of the director;**

10 [~~f~~] **(g)** Nine members appointed by the Governor, as follows:

11 (A) One member representing the Oregon School Boards Association;

12 (B) One member representing the Confederation of Oregon School Administrators;

13 (C) One member representing the Oregon Education Association;

14 (D) One member representing the Oregon School Employees Association;

15 (E) One member representing the Oregon State Sheriffs' Association;

16 (F) One member representing the Oregon Association Chiefs of Police;

17 (G) One member representing the Oregon District Attorneys Association;

18 (H) One member representing the National Resource Center for Safe Schools on the Northwest
19 Regional Educational Laboratory; and

20 (I) One member representing the Oregon School Safety Officers Association; and

21 [~~g~~] **(h)** Other members that the board may appoint.

22 (2) When making appointments to the board of directors, the Governor shall solicit recommen-
23 dations from professional organizations that represent school employees, school district boards,
24 school administrators and other education providers.

25 (3) The term of office of each board member appointed by the Governor is two years, but a
26 member serves at the pleasure of the Governor. Before the expiration of the term of a board mem-
27 ber, the Governor shall appoint a successor. A board member is eligible for reappointment but shall
28 not serve for more than two consecutive terms. If there is a vacancy for any cause, the Governor
29 shall make an appointment to become immediately effective for the unexpired term.

30 (4) A member of the board of directors is entitled to compensation and expenses as provided in
31 ORS 292.495.

32 (5) The board of directors shall meet a minimum of four times per year.

33 (6) The board of directors shall annually elect a chairperson and vice chairperson from the
34 membership. The board of directors may form committees as needed.

35 **SECTION 213.** ORS 339.505 is amended to read:

36 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
37 ing definitions shall be used:

38 (a) "Graduate" means an individual who has:

39 (A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

40 (B) Met all state requirements and local requirements for attendance, competence and units of
41 credit for high school; and

42 (C) Received one of the following:

43 (i) A high school diploma issued by a school district.

44 (ii) An adult high school diploma issued by an authorized community college.

45 (iii) A modified high school diploma.

1 (b) "School dropout" means an individual who:

2 (A) Has enrolled for the current school year, or was enrolled in the previous school year and
3 did not attend during the current school year;

4 (B) Is not a high school graduate;

5 (C) Has not received a General Educational Development (GED) certificate; and

6 (D) Has withdrawn from school.

7 (c) "School dropout" does not include a student described by at least one of the following:

8 (A) A student who has transferred to another educational system or institution that leads to
9 graduation and the school district has received a written request for the transfer of the student's
10 records or transcripts.

11 (B) A student who is deceased.

12 (C) A student who is participating in home instruction paid for by the district.

13 (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to
14 ORS 339.030 (1)(d) or (e).

15 (E) A student who is participating in a Department of Education approved public or private
16 education program, an alternative education program as defined in ORS 336.615 or a hospital edu-
17 cation program, or is residing in a Department of Human Services **or an Oregon Health Authority**
18 facility.

19 (F) A student who is temporarily residing in a shelter care program certified by the Oregon
20 Youth Authority [*or the Department of Human Services*] or in a juvenile detention facility.

21 (G) A student who is enrolled in a foreign exchange program.

22 (H) A student who is temporarily absent from school because of suspension, a family emergency,
23 or severe health or medical problems that prohibit the student from attending school.

24 (I) A student who has received a General Educational Development (GED) certificate.

25 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
26 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
27 grams under ORS 336.615 to 336.675 and the standards for excused absences for purposes of ORS
28 339.065 for family emergencies and health and medical problems.

29 **SECTION 214.** ORS 339.869 is amended to read:

30 339.869. (1) The State Board of Education, in consultation with the [*Department of Human Ser-*
31 *vices*] **Oregon Health Authority**, the Oregon State Board of Nursing and the State Board of Phar-
32 macy, shall adopt rules for the administration of prescription and nonprescription medication to
33 students by trained school personnel and for student self-medication. The rules shall include age
34 appropriate guidelines and training requirements for school personnel.

35 (2) School district boards shall adopt policies and procedures that provide for the administration
36 of prescription and nonprescription medication to students by trained school personnel and for stu-
37 dent self-medication. Such policies and procedures shall be consistent with the rules adopted by the
38 State Board of Education under subsection (1) of this section. A school district board shall not re-
39 quire school personnel who have not received appropriate training to administer medication.

40 **SECTION 215.** ORS 343.221 is amended to read:

41 343.221. In order to provide special education for children with disabilities, the district school
42 board of any school district in which there are school-age children who require special education:

43 (1) Shall submit an annual projected activities and cost statement to the Superintendent of
44 Public Instruction for a program of special education for the district's children with disabilities. The
45 proposed district program shall include provisions for providing special education and related ser-

1 vices and be designed to meet the unique needs of all resident children with disabilities.

2 (2) Shall provide special education for such children consistent with the projected activities and
3 cost statement.

4 (3) May, when the board considers a contract to be economically feasible and in the interests
5 of the learning opportunities of eligible children, contract for special education for such children
6 with another school district if the district school boards jointly agree to provide special education.

7 (4) May, when the board considers a contract to be economically feasible and in the interests
8 of the learning opportunities of eligible children, contract for special education for such children
9 with an education service district if:

10 (a) The contract is consistent with the local service plan of the education service district de-
11 veloped pursuant to ORS 334.175 and the school districts within the education service district ap-
12 prove the contract by a resolution adopted in the manner provided in ORS 334.175.

13 (b) The school district contracts with an education service district pursuant to ORS 334.185.

14 (5) May contract with private agencies or organizations approved by the State Board of Educa-
15 tion for special education.

16 (6) May use the services of public agencies, including community mental health **programs** and
17 **community** developmental disabilities programs, which provide diagnostic, evaluation and other
18 related services for children.

19 (7) May contract for the provision of related services by a person in private practice if that
20 person is registered, certified or licensed by the State of Oregon as qualified to provide a particular
21 related service that requires registration, certification or licensing by the state.

22 **SECTION 216.** ORS 343.499 is amended to read:

23 343.499. (1)(a) There is created the State Interagency Coordinating Council.

24 (b) The Governor shall appoint members of the council from a list of eligible appointees provided
25 by the council and agencies described in subsection (2) of this section and shall ensure that the
26 membership of the council reasonably represents the population of this state.

27 (c) The Governor shall designate one member of the council to serve as the chairperson, or if
28 the Governor chooses not to name a chairperson, the council may elect one of its members to serve
29 as chairperson. However, any member of the council who represents the Department of Education
30 may not serve as the chairperson of the council.

31 (2) The membership of the council shall be composed as follows:

32 (a) At least 20 percent of the council members shall be parents, including minority parents, of
33 preschool children with disabilities or of children with disabilities who are 12 years of age or
34 younger who have knowledge of or experience with programs for infants and toddlers with disabili-
35 ties. At least one council member shall be a parent of an infant or toddler with a disability or of a
36 child with a disability who is six years of age or younger.

37 (b) At least 20 percent of the council members shall be public or private providers of early
38 intervention and early childhood special education services.

39 (c) At least one council member shall be a member of the Legislative Assembly.

40 (d) At least one council member shall be involved in personnel preparation.

41 (e) At least one council member shall represent the Department of Human Services.

42 (f) At least one council member shall represent the federal Head Start program.

43 (g) At least one council member shall represent the Child Care Division of the Employment
44 Department.

45 (h) At least one council member shall represent the Department of Education.

1 (i) At least one council member shall represent the Department of Consumer and Business Ser-
2 vices.

3 (j) At least one council member shall represent the State Commission on Children and Families.

4 (k) At least one council member shall represent the Child Development and Rehabilitation Cen-
5 ter of the Oregon Health and Science University.

6 (L) At least one council member shall be a member of the State Advisory Council for Special
7 Education created under ORS 343.287.

8 (m) At least one council member shall be a representative designated by the state coordinator
9 for homeless education.

10 (n) At least one council member shall represent the state child welfare agency responsible for
11 foster care.

12 (o) At least one council member shall represent the state agency responsible for children's
13 mental health.

14 (p) At least one council member shall be from the [*agency responsible for the state Medicaid*
15 *program*] **Oregon Health Authority**.

16 (q) The council may include other members appointed by the Governor, including but not limited
17 to one representative from the United States Bureau of Indian Affairs or, where there is no school
18 operated or funded by the bureau, from the Indian Health Service or the tribe or tribal council.

19 (3) An individual appointed to represent a state agency that is involved in the provision of or
20 payment for services for preschool children with disabilities under subsection (2)(e) and (h) to (k)
21 of this section shall have sufficient authority to engage in making and implementing policy on behalf
22 of the agency.

23 (4) The State Interagency Coordinating Council shall:

24 (a) Advise the Superintendent of Public Instruction and the State Board of Education on unmet
25 needs in the early childhood special education and early intervention programs for preschool chil-
26 dren with disabilities, review and comment publicly on any rules proposed by the State Board of
27 Education and the distribution of funds for the programs and assist the state in developing and re-
28 porting data on and evaluations of the programs and services.

29 (b) Advise and assist the represented public agencies regarding the services and programs they
30 provide to preschool children with disabilities and their families, including public comments on any
31 proposed rules affecting the target population and the distribution of funds for such services, and
32 assist each agency in developing services that reflect the overall goals for the target population as
33 adopted by the council.

34 (c) Advise and assist the Department of Education and other state agencies in the development
35 and implementation of the policies that constitute the statewide system.

36 (d) Assist all appropriate public agencies in achieving the full participation, coordination and
37 cooperation for implementation of a statewide system that includes but is not limited to:

38 (A) Seeking information from service providers, service coordinators, parents and others about
39 any federal, state or local policies that impede timely service delivery; and

40 (B) Taking steps to ensure that any policy problems identified under subparagraph (A) of this
41 paragraph are resolved.

42 (e) Advise and assist the Department of Education in identifying the sources of fiscal and other
43 support for preschool services, assigning financial responsibility to the appropriate agencies and
44 ensuring that the provisions of interagency agreements under ORS 343.511 are carried out.

45 (f) Review and comment on each agency's services and policies regarding services for preschool

1 children with disabilities, or preschool children who are at risk of developing disabling conditions,
2 and their families to the maximum extent possible to assure cost-effective and efficient use of re-
3 sources.

4 (g) To the extent appropriate, assist the Department of Education in the resolution of disputes.

5 (h) Advise and assist the Department of Education in the preparation of applications and
6 amendments thereto.

7 (i) Advise and assist the Department of Education regarding the transition of preschool children
8 with disabilities.

9 (j) Prepare and submit an annual report to the Governor and to the United States Secretary of
10 Education on the status of early intervention programs operated within this state.

11 (5) The council may advise appropriate agencies about integration of services for preschool
12 children with disabilities and at-risk preschool children.

13 (6) Terms of office for council members shall be three years, except that:

14 (a) The representative from the State Advisory Council for Special Education shall serve a
15 one-year term; and

16 (b) The representatives from other state agencies and the representative from the Legislative
17 Assembly shall serve indefinite terms.

18 (7) Subject to approval by the Governor, the council may use federal funds appropriated for this
19 purpose and available to the council to:

20 (a) Conduct hearings and forums;

21 (b) Reimburse nonagency council members pursuant to ORS 292.495 for attending council
22 meetings, for performing council duties, and for necessary expenses, including child care for parent
23 members;

24 (c) Pay compensation to a council member if the member is not employed or if the member must
25 forfeit wages from other employment when performing official council business;

26 (d) Hire staff; and

27 (e) Obtain the services of such professional, technical and clerical personnel as may be neces-
28 sary to carry out its functions.

29 (8) Except as provided in subsection (7) of this section, council members shall serve without
30 compensation.

31 (9) The Department of Education shall provide clerical and administrative support, including
32 staff, to the council to carry out the performance of the council's function as described in this sec-
33 tion.

34 (10) The council shall meet at least quarterly. The meetings shall be announced publicly and,
35 to the extent appropriate, be open and accessible to the general public.

36 (11) No member of the council shall cast a vote on any matter that would provide direct finan-
37 cial benefit to that member or otherwise give the appearance of a conflict of interest under state
38 law.

39 **SECTION 217.** ORS 343.961 is amended to read:

40 343.961. (1) The Department of Education shall be responsible for payment of the cost of the
41 education in programs with which the [*Department of Human Services*] **Oregon Health Authority**
42 or Oregon Youth Authority contracts for long-term care or treatment. Programs eligible for such
43 education shall be in accordance with criteria adopted by rule by the State Board of Education.

44 (2) The Department of Education shall be responsible for payment of the costs of such education
45 by contract with the school district, excluding transportation, care, treatment and medical expenses.

1 The resident district shall provide transportation to pupils enrolled in programs under ORS 430.715
2 who live at home but require day treatment. The payments may be made to the school district or,
3 at the discretion of the school district, to the district providing the education, as set forth in sub-
4 section (3) of this section, from the funds appropriated for the purpose.

5 (3) The school district in which the agency is located is responsible for providing the education
6 directly or through an adjacent school district or through the education service district in which
7 the program is located or one contiguous thereto. The instruction may be given in facilities of such
8 districts or in facilities provided by such agency.

9 (4) The school district may request the Department of Education to combine several private
10 agency school programs into one contract with a school district, an adjacent school district or an
11 education service district.

12 (5) The [Department of Human Services] **Oregon Youth Authority** shall give the school district
13 providing the education at a treatment program 14 days' notice before a student is dismissed from
14 the treatment program.

15 (6) The Department of Education may make advances to such school district from funds appro-
16 priated therefor based on the estimated agreed cost of educating the pupils per school year. Ad-
17 vances equal to 25 percent of such estimated cost may be made on September 1, December 1 and
18 March 1 of the current year. The balance may be paid whenever the full determination of cost is
19 made.

20 (7) School districts which provide the education described in this section on a year-round plan
21 may apply for 25 percent of the funds appropriated therefor on July 1, October 1, January 1, and
22 15 percent on April 1. The balance may be paid whenever the full determination of cost is made.

23 (8) In addition to the payment methods described in this section, the Department of Education
24 may:

25 (a) Negotiate interagency agreements to pay for the cost of education in treatment programs
26 operated under the auspices of the State Board of Higher Education; and

27 (b) Negotiate intergovernmental agreements to pay for the cost of education in treatment pro-
28 grams operated under the auspices of the Oregon Health and Science University Board of Directors.

29 **SECTION 218.** ORS 345.535 is amended to read:

30 345.535. (1) In adopting criteria for the registration of private schools, the State Board of Edu-
31 cation shall take into consideration the unique qualities of private education while seeking to fur-
32 ther the educational opportunities of students enrolled in such schools.

33 (2) After consultation with the advisory committee appointed under ORS 345.575, the State
34 Board of Education shall establish by rule minimum criteria for the registration of private schools.

35 (3) In establishing standards, the State Board of Education shall comply with the rules of the
36 State Fire Marshal and the [Department of Human Services] **Oregon Health Authority** relating to
37 fire protection, health and sanitation.

38 **SECTION 219.** ORS 346.015 is amended to read:

39 346.015. (1) Prior to convening a meeting to prepare an individual education plan for a child
40 with mental retardation or a developmental disability for whom placement at a school under ORS
41 346.010 may be considered, the agency that is providing the education for the child shall notify the
42 local community [*mental health and*] developmental disabilities program. The case manager respon-
43 sible for programs for children with mental retardation or developmental disabilities, in consultation
44 with the Department of Human Services, shall evaluate whether the child also has needs for alter-
45 native residential care or other support services. If the evaluation determines this to be the case,

1 but documents that community resources are not available to meet these needs, the school district
2 may proceed with the meeting to prepare the individual education plan in which placement at a
3 school under ORS 346.010 may be considered.

4 (2) An agency providing education under subsection (1) of this section may initiate the proce-
5 dure in subsection (1) of this section for any child who does not have mental retardation or a de-
6 velopmental disability when in the agency's judgment a treatment or residential issue is prompting
7 proposed placement under ORS 346.010.

8 (3) A child may not be placed in a school operated under ORS 346.010 unless the district su-
9 perintendent or the superintendent's designee has signed a statement declaring that the district
10 cannot provide a free appropriate public education for the child commensurate with the needs of the
11 child as identified by the individual education plan of the child and that the school is the least re-
12 strictive environment in which the child can be educated.

13 (4) By rule, the State Board of Education shall determine procedures to be followed by local
14 education agencies in carrying out this section.

15 **SECTION 220.** ORS 346.035 is amended to read:

16 346.035. For a child who is enrolled under ORS 346.010 and who has mental retardation or a
17 developmental disability, the Department of Education shall notify the community [*mental health*
18 *and*] developmental disabilities program of the date of the annual review of the individual education
19 plan of the child for the purpose of including in the review the assigned case manager's assessment
20 of community resources that are available for treatment or residential needs the child might have.

21 **SECTION 221.** ORS 348.320 is amended to read:

22 348.320. (1) A person shall be eligible for a loan under ORS 348.310 to 348.390 if the person is:

23 (a) A bona fide resident of this state;

24 (b) Accepted for enrollment, or is a student in good standing in the professional medical program
25 at an accredited medical school located in the United States or in an accredited school of
26 osteopathic medicine;

27 (c) As a result of personal financial resources, unable to pursue a program of study in the ab-
28 sence of a loan or would be unable to do so without great hardship; and

29 (d) Desirous of practicing medicine in a rural community in this state, and in an area which
30 meets the qualifications of a medical shortage area.

31 (2) The person desiring consideration for a loan under ORS 348.310 to 348.390 shall apply to the
32 Oregon Student Assistance Commission.

33 (3) The person desiring consideration for a loan under ORS 348.310 to 348.390 shall agree in
34 writing to practice medicine in a medical shortage area as defined by the [*Director of Human Ser-*
35 *vices*] **Oregon Health Authority**, for a period equal to the period covered by the loan, but no less
36 than two years.

37 **SECTION 222.** ORS 351.105 is amended to read:

38 351.105. In order to carry out the duties described in ORS 352.008, the State Board of Higher
39 Education, in consultation with the [*Department of Human Services*] **Oregon Health Authority**,
40 shall adopt by rule, as a minimum, descriptions of the content of what shall be included in the policy
41 and plan described in ORS 352.008.

42 **SECTION 223.** ORS 352.008 is amended to read:

43 352.008. In consultation with the [*Department of Human Services*] **Oregon Health Authority**,
44 each state institution of higher education shall adopt a comprehensive alcohol and drug abuse policy
45 and implementation plan.

1 **SECTION 224.** ORS 401.259 is amended to read:

2 401.259. (1) The following [*departments*] **state agencies** shall designate a person within each
3 [*department*] **agency** to act as a liaison with the Office of Emergency Management:

- 4 (a) The Department of Transportation;
- 5 (b) The State Department of Agriculture;
- 6 (c) The Department of Environmental Quality;
- 7 (d) The Department of Human Services;
- 8 (e) The State Department of Energy;
- 9 (f) The Oregon Department of Administrative Services;
- 10 (g) The Department of State Police;
- 11 (h) The State Department of Geology and Mineral Industries; [*and*]
- 12 **(i) The Oregon Health Authority; and**
- 13 [*i*] **(j) The Oregon Military Department.**

14 (2) Each person designated as a liaison under subsection (1) of this section shall assist in the
15 coordination of the functions of the person's [*department*] **agency** that relate to emergency
16 preparedness and response with similar functions of the Office of Emergency Management.

17 **SECTION 225.** ORS 401.300 is amended to read:

18 401.300. (1) The Director of the Office of Emergency Management, pursuant to the authority to
19 administer grant programs for seismic rehabilitation provided in ORS 401.270, shall develop a grant
20 program for the disbursement of funds for the seismic rehabilitation of critical public buildings, in-
21 cluding hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs'
22 offices, other facilities used by state, county, district or municipal law enforcement agencies and
23 buildings with a capacity of 250 or more persons that are routinely used for student activities by
24 kindergarten through grade 12 public schools, community colleges, education service districts and
25 institutions of higher education. The funds for the seismic rehabilitation of critical public buildings
26 under the grant program are to be provided from the issuance of bonds pursuant to the authority
27 provided in Articles XI-M and XI-N of the Oregon Constitution.

28 (2) The grant program shall include the appointment of a grant committee. The grant committee
29 may be composed of any number of persons with qualifications that the director determines neces-
30 sary. However, the director shall include persons with experience in administering state grant pro-
31 grams and representatives of entities with responsibility over critical public buildings. The director
32 shall also include as permanent members representatives of:

- 33 (a) The Department of Human Services;
- 34 (b) The State Department of Geology and Mineral Industries;
- 35 (c) The Seismic Safety Policy Advisory Commission;
- 36 (d) The Oregon Department of Administrative Services;
- 37 (e) The Department of Education;
- 38 **(f) The Oregon Health Authority;**
- 39 [*f*] **(g) The Oregon Fire Chiefs' Association;**
- 40 [*g*] **(h) The Oregon Association Chiefs of Police; and**
- 41 [*h*] **(i) The Oregon Association of Hospitals and Health Systems.**

42 (3) The director shall determine the form and method of applying for grants from the grant
43 program, the eligibility requirements for grant applicants, and general terms and conditions of the
44 grants. The director shall also provide that the grant committee review grant applications and make
45 a determination of funding based on a scoring system that is directly related to the statewide needs

1 assessment performed by the State Department of Geology and Mineral Industries. Additionally, the
2 grant process may:

3 (a) Require that the grant applicant provide matching funds for completion of any seismic re-
4 habilitation project.

5 (b) Provide authority to the grant committee to waive requirements of the grant program based
6 on special circumstances such as proximity to fault hazards, community value of the structure,
7 emergency functions provided by the structure and storage of hazardous materials.

8 (c) Allow an applicant to appeal any determination of grant funding to the director for reeval-
9 uation.

10 (d) Provide that applicants release the state, the director and the grant committee from any
11 claims of liability for providing funding for seismic rehabilitation.

12 (e) Provide separate rules for funding rehabilitation of structural and nonstructural building el-
13 ements.

14 (4) Subject to the grant rules established by the director and subject to reevaluation by the di-
15 rector, the grant committee has the responsibility to review and make determinations on grant ap-
16 plications under the grant program established pursuant to this section.

17 **SECTION 226.** ORS 401.347 is amended to read:

18 401.347. The Office of Emergency Management shall provide technical, clerical and other nec-
19 essary support services to the Seismic Safety Policy Advisory Commission. The Department of Con-
20 sumer and Business Services, [*the Department of Human Services,*] the State Department of Geology
21 and Mineral Industries, the Department of Land Conservation and Development, the Department of
22 Transportation, **the Oregon Health Authority**, the Water Resources Department and the Oregon
23 University System shall provide assistance, as required, to the commission to enable it to meet its
24 objectives.

25 **SECTION 227.** ORS 401.654 is amended to read:

26 401.654. (1) The [*Department of Human Services*] **Oregon Health Authority** may establish a
27 registry of emergency health care providers who are available to provide health care services during
28 an emergency or crisis. The [*department*] **authority** may require training related to the provision
29 of health care services in an emergency or crisis as a condition of registration.

30 (2) The [*department*] **authority** shall issue identification cards to health care providers included
31 in the registry established under this section that:

32 (a) Identify the health care provider;

33 (b) Indicate that the health care provider is registered as an Oregon emergency health care
34 provider;

35 (c) Identify the license or certification held by the health care provider; and

36 (d) Identify the health care provider's usual area of practice if that information is available and
37 the [*department*] **authority** determines that it is appropriate to provide that information.

38 (3) The [*department*] **authority** by rule shall establish a form for identification cards issued un-
39 der subsection (2) of this section.

40 (4) The [*department*] **authority** shall support and provide assistance to the Office of Emergency
41 Management in emergencies or crises involving the public health or requiring emergency medical
42 response.

43 **SECTION 228.** ORS 401.657 is amended to read:

44 401.657. (1) The [*Department of Human Services*] **Oregon Health Authority** may designate all
45 or part of a health care facility or other location as an emergency health care center. Upon the

1 Governor declaring a state of emergency under ORS 401.055, or proclaiming a state of public health
2 emergency after determining that a threat to the public health is imminent and likely to be wide-
3 spread, life-threatening and of a scope that requires immediate medical action to protect the public
4 health, emergency health care centers may be used for:

- 5 (a) Evaluation and referral of individuals affected by the emergency;
- 6 (b) Provision of health care services; and
- 7 (c) Preparation of patients for transportation.

8 (2) The *[department]* **Oregon Health Authority** may enter into cooperative agreements with
9 local public health authorities that allow local public health authorities to designate emergency
10 health care centers under this section.

11 (3) An emergency health care center designated under this section must have an emergency
12 operations plan and a credentialing plan that governs the use of emergency health care providers
13 registered under ORS 401.654 and other health care providers who volunteer to perform health care
14 services at the center under ORS 401.651 to 401.670. The emergency operations plan and creden-
15 tialing plan must comply with rules governing those plans adopted by the *[department]* **Oregon**
16 **Health Authority**.

17 **SECTION 229.** ORS 401.661 is amended to read:

18 401.661. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming
19 a state of public health emergency after determining that a threat to the public health is imminent
20 and likely to be widespread, life-threatening and of a scope that requires immediate medical action
21 to protect the public health:

22 (1) The *[Department of Human Services]* **Oregon Health Authority** may direct emergency health
23 care providers registered under ORS 401.654 who are willing to provide health care services on a
24 voluntary basis to proceed to any place in this state where health care services are required by
25 reason of the emergency or crisis; and

26 (2) Any emergency health care provider registered under ORS 401.654 or other health care
27 provider may volunteer to perform health care services described in ORS 401.657 at any emergency
28 health care center or health care facility in the manner provided by ORS 401.664.

29 **SECTION 230.** ORS 401.667 is amended to read:

30 401.667. (1) Emergency health care providers registered under ORS 401.654 and other health
31 care providers who volunteer to perform health care services without compensation under ORS
32 401.651 to 401.670 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims
33 arising out of those services.

34 (2) Health care facilities and other persons operating emergency health care centers designated
35 under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims
36 arising out of services provided without compensation through those centers or facilities under ORS
37 401.651 to 401.670.

38 (3) An emergency health care provider registered under ORS 401.654 participating in training
39 authorized by the *[Department of Human Services]* **Oregon Health Authority** under ORS 401.651 to
40 401.670 is an agent of the state under ORS 30.260 to 30.300 for the purposes of any claims arising
41 out of that training.

42 (4) The provisions of subsections (1) and (2) of this section apply only to emergency health care
43 centers or health care facilities that have adopted emergency operations plans and credentialing
44 plans that govern the use of emergency health care providers registered under ORS 401.654 and
45 other health care providers who volunteer to perform health care services under ORS 401.651 to

1 401.670. An emergency operations plan and a credentialing plan must comply with rules governing
2 those plans adopted by the [*Department of Human Services*] **authority**.

3 **SECTION 231.** ORS 401.670 is amended to read:

4 401.670. The [*Department of Human Services*] **Oregon Health Authority** shall adopt all rules
5 necessary for the implementation of ORS 401.651 to 401.670.

6 **SECTION 232.** ORS 401.871 is amended to read:

7 401.871. (1) The State Interoperability Executive Council is created within the Department of
8 State Police. The membership of the council shall consist of:

9 (a) Two members from the Legislative Assembly, as follows:

10 (A) The President of the Senate shall appoint one member from the Senate with an interest in
11 public safety communications infrastructure; and

12 (B) The Speaker of the House of Representatives shall appoint one member from the House of
13 Representatives with an interest in public safety and wireless communications infrastructure.

14 (b) The following members appointed by the Governor:

15 (A) One member from the Department of State Police;

16 (B) One member from the Office of Emergency Management;

17 (C) One member from the State Forestry Department;

18 (D) One member from the Department of Corrections;

19 (E) One member from the Department of Transportation;

20 (F) One member from the Oregon Department of Administrative Services;

21 (G) One member from the Department of Human Services;

22 **(H) One member from the Oregon Health Authority;**

23 [*H*] **(I)** One member from the Oregon Military Department;

24 [*I*] **(J)** One member from the Department of Public Safety Standards and Training;

25 [*J*] **(K)** One member of an Indian tribe as defined in ORS 97.740;

26 [*K*] **(L)** One member from a nonprofit professional organization devoted to the enhancement
27 of public safety communications systems; and

28 [*L*] **(M)** One member from the public.

29 (c) The following members appointed by the Governor with the concurrence of the President of
30 the Senate and the Speaker of the House of Representatives:

31 (A) One member from the Oregon Fire Chiefs' Association;

32 (B) One member from the Oregon Association Chiefs of Police;

33 (C) One member from the Oregon State Sheriffs' Association;

34 (D) One member from the Association of Oregon Counties;

35 (E) One member from the League of Oregon Cities; and

36 (F) One member from the Special Districts Association of Oregon.

37 (2) Each agency or organization identified in subsection (1)(b)(A) to [*I*] **(J)** and (1)(c) of this
38 section shall recommend a person from the agency or organization for membership on the council.

39 (3) Members of the council are not entitled to compensation, but in the discretion of the Su-
40 perintendent of State Police may be reimbursed from funds available to the Department of State
41 Police for actual and necessary travel and other expenses incurred by them in the performance of
42 their official duties in the manner and amount provided in ORS 292.495.

43 (4) Members of the Legislative Assembly appointed to the council are nonvoting members and
44 may act in an advisory capacity only.

45 **SECTION 233.** ORS 408.305 is amended to read:

1 408.305. As used in ORS 408.305 to 408.340, unless the context requires otherwise:

2 (1) "Agent Blue" means the herbicide composed primarily of cacodylic acid (organic arsenic) and
3 inorganic arsenic.

4 (2) "Agent Orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and
5 dichlorophenoxyacetic acid.

6 (3) "Agent White" means any herbicide composed primarily of 2, 4, D and picloram.

7 (4) "Causative agent" includes Agent Blue, Agent Orange, Agent White and any other combi-
8 nation of chemicals consisting primarily of 2, 4, D or 2, 4, 5, T or any other chemical or biological
9 agent used by any government involved in the Vietnam Conflict, or diseases endemic to Southeast
10 Asia, including, but not limited to, the disease known as melioidosis.

11 [(5) "Department" means the Department of Human Services.]

12 [(6)] (5) "Veteran" means any individual who resides in this state, who served on active duty in
13 the Armed Forces of the United States for a period of not less than 180 days any part of which oc-
14 curred between January 1, 1962, and May 7, 1975, within the borders of Vietnam, Cambodia, Laos
15 or Thailand, and who was either a resident of this state at the time of enlistment, induction or other
16 entry into the Armed Forces or became a bona fide resident of Oregon prior to April 1, 1981.

17 **SECTION 234.** ORS 408.310 is amended to read:

18 408.310. (1) A physician who has primary responsibility for the treatment of a veteran who may
19 have been exposed to causative agents while serving in the Armed Forces of the United States or
20 for the treatment of a veteran's spouse, surviving spouse or minor child who may be exhibiting
21 symptoms or conditions that may be attributable to the veteran's exposure to causative agents shall,
22 at the request and direction of the veteran, veteran's spouse or surviving spouse or the parent or
23 guardian of such minor child, submit a report to the [Department of Human Services] **Oregon Health**
24 **Authority**. The report shall be made on a form adopted by the [department] **authority** and made
25 available to physicians and hospitals in this state.

26 (2) If there is no physician having primary responsibility for the treatment of a veteran, veter-
27 an's spouse, surviving spouse or minor child, then the senior medical supervisor of the hospital or
28 clinic treating the veteran, veteran's spouse, surviving spouse or minor child shall submit the report
29 described in this section to the [department] **authority** at the request and direction of the veteran,
30 veteran's spouse or surviving spouse or the parent or legal guardian of a veteran's minor child.

31 (3) The form adopted by the [department] **authority** under this section shall list the symptoms
32 commonly attributed to exposure to causative agents, and shall require the following information:

33 (a) Symptoms of the patient which may be related to exposure to causative agents.

34 (b) A diagnosis of the patient's condition.

35 (c) Methods of treatment prescribed.

36 (d) Any other information required by the [department] **authority**.

37 (4) The [department] **authority**, after receiving a report from a physician, hospital or clinic un-
38 der this section, may require the veteran, veteran's spouse, surviving spouse or minor child to pro-
39 vide such other information as may be required by the [department] **authority**.

40 **SECTION 235.** ORS 408.320 is amended to read:

41 408.320. The Oregon Public Health Advisory Board created under ORS 431.195 shall:

42 (1) Order the compilation of statistical data from information obtained under ORS 408.310 and
43 determine the use and dissemination of that data.

44 (2) Make recommendations to the Director of [Human Services] **the Oregon Health Authority**
45 or the Director of Veterans' Affairs concerning the implementation and operation of programs au-

1 thORIZED BY ORS 408.300 TO 408.340.

2 (3) Assess programs of federal agencies operating for the benefit of veterans exposed to
3 causative agents and their families, and make recommendations to the appropriate agencies for the
4 improvement of those programs.

5 (4) Suspend or terminate specific programs or duties required under ORS 408.300 to 408.340
6 when necessary to prevent duplication of those programs or duties by other governmental agencies.

7 (5) Apply for, receive and accept any grants or contributions available from the United States
8 or any of its agencies for the purpose of carrying out ORS 408.300 to 408.340.

9 (6) When the advisory board considers it necessary for the health and welfare of veterans and
10 the spouses, surviving spouses and minor children of veterans, ask the Attorney General to initiate
11 proceedings as provided under ORS 408.335.

12 (7) Report biennially to the Legislative Assembly or to the Emergency Board, as appropriate,
13 as necessary to accomplish the objectives of ORS 408.300 to 408.340 concerning the programs insti-
14 tuted under ORS 408.300 to 408.340.

15 **SECTION 236.** ORS 408.325 is amended to read:

16 408.325. (1) The [*Department of Human Services*] **Oregon Health Authority** and the Oregon
17 Public Health Advisory Board shall institute a cooperative program to refer veterans to appropriate
18 state and federal agencies for the purpose of filing claims to remedy medical and financial problems
19 caused by exposure to causative agents.

20 (2) The Director of [*Human Services*] **the Oregon Health Authority**, after receiving the rec-
21 ommendations of the advisory board, shall adopt rules to provide for the administration and opera-
22 tion of programs authorized by ORS 408.300 to 408.340. The director [*of Human Services*] shall
23 cooperate with appropriate state and federal agencies in providing services under ORS 408.300 to
24 408.340.

25 **SECTION 237.** ORS 408.380 is amended to read:

26 408.380. (1) The Oregon Veterans' Home authorized by section 1, chapter 591, Oregon Laws 1995,
27 is subject to all state laws and administrative rules and all federal laws and administrative regu-
28 lations to which long term care facilities operated by nongovernmental entities are subject, except
29 for the requirement to obtain a certificate of need under ORS 442.315 from the [*Department of Hu-*
30 *man Services*] **Oregon Health Authority**.

31 (2) As used in this section, "long term care facility" has the meaning given that term in ORS
32 442.015.

33 **SECTION 238.** ORS 408.570 is amended to read:

34 408.570. When a veteran who has been adjudged mentally ill is eligible for treatment in a United
35 States veterans facility and commitment is necessary for the proper care and treatment of such
36 veteran, the [*Department of Human Services*] **Oregon Health Authority** or community mental health
37 [*and developmental disabilities*] program director, as provided under ORS 426.060, may, upon receipt
38 of a certificate of eligibility from the United States Department of Veterans Affairs, assign the per-
39 son to the United States Department of Veterans Affairs for care, custody and treatment in a United
40 States veterans facility. Upon admission to any such facility, the veteran shall be subject to the
41 rules and regulations of the United States Department of Veterans Affairs and provisions of ORS
42 426.060 to 426.395 and related rules and regulations of the [*Department of Human Services*] **Oregon**
43 **Health Authority**. The chief officer of such facility shall be vested with the same powers exercised
44 by superintendents of state hospitals for persons with mental illness within this state with reference
45 to the retention, transfer, trial visit or discharge of the veteran so assigned. The commitment of a

1 veteran to a veterans facility within this state by a court of another state under a similar provision
2 of law has the same force and effect as if the veteran was committed to a veterans facility within
3 that other state.

4 **SECTION 239.** ORS 408.580 is amended to read:

5 408.580. Upon receipt of a certificate of eligibility and available facilities, the [*Department of*
6 *Human Services*] **Oregon Health Authority** may cause to be transferred any veteran from any fa-
7 cility to which the veteran has been assigned to a United States veterans facility. No veteran under
8 sentence by any court, or committed by any court after having been charged with any crime and
9 acquitted on the ground of mental disease or defect, may be transferred without an order of such
10 court authorizing the transfer. Whenever any veteran, not a convict, has been committed by order
11 of a court and is transferred as provided in this section, the order of commitment shall be held to
12 apply to the facility to which the veteran is transferred as to any other facility to which the veteran
13 could be assigned or transferred under ORS 426.060.

14 **SECTION 240.** ORS 409.010 is amended to read:

15 409.010. (1) The Department of Human Services is created.

16 (2) The department is responsible for the delivery and administration of programs and services
17 relating to:

18 (a) Children and families, including but not limited to child protective services, foster care,
19 residential care for children and adoption services;

20 (b) Elderly persons and persons with disabilities, including but not limited to social, health and
21 protective services and promotion of hiring of otherwise qualified persons who are certifiably dis-
22 abled;

23 (c) Persons who, as a result of the person's or the person's family's economic, social or health
24 condition, require financial assistance[, *institutional care, rehabilitation or other social and health*]
25 **or other social** services;

26 [*(d) Health and health-related affairs, including but not limited to medical assistance and services,*
27 *public health services, migrant health services, licensing of health facilities and coordination of the*
28 *activities of professional and occupational licensing boards;*]

29 [*(e)*] **(d)** [*Mental health and*] Developmental disabilities;

30 [*(f)*] **(e)** Vocational rehabilitation for individuals with disabilities;

31 [*(g)*] **(f)** *Alcohol abuse, drug abuse, addiction and chemical dependency problems;*

32 [*(h)*] **(f)** Licensing and regulation of individuals, facilities and programs providing [*health and*]
33 human services, in accordance with the provisions of state and federal law; and

34 [*(i)*] **(g)** [*Any*] **All** other [*health and*] human service programs and functions delegated to the
35 department by or in accordance with the provisions of state and federal law.

36 (3) The department shall be the recipient of all federal funds paid or to be paid to the state to
37 enable the state to provide the programs and services assigned to the department.

38 (4)(a) All personnel of the department, including those engaged in the administration of voca-
39 tional rehabilitation programs, public assistance programs and services to families or children in
40 compliance with the federal Social Security laws, shall be subject to the merit system prescribed in
41 the State Personnel Relations Law. For purposes of the State Personnel Relations Law, the depart-
42 ment is the appointing authority of all employees in the department.

43 (b) The Director of Human Services, in conformity with the State Personnel Relations Law, may
44 appoint and employ such personnel as may be necessary for the department, and may appoint and
45 fix the compensation of all assistants and employees of the department.

1 (c) The director may authorize reimbursement of such expenses as are approved by the depart-
2 ment and incurred by assistants and employees of the department, and by volunteers or other per-
3 sons not employed by the department, in carrying out duties assigned or authorized by the
4 department.

5 (5) The director may designate employees to be custodians of records within any of the organ-
6 izational units of the department, and persons so designated shall have the duties and powers of
7 custodians of public records as prescribed by law. Such designation shall be in writing and notice
8 thereof shall be filed in the office of the Secretary of State, with the director and in the organiza-
9 tional unit to which the authorization applies.

10 **SECTION 241.** ORS 409.320 is amended to read:

11 409.320. The Director of [*Human Services*] **the Oregon Health Authority** shall require each
12 **health** licensing board in the [*Department of Human Services*] **Oregon Health Authority** to main-
13 tain a register of the names and current addresses of all persons holding valid licenses, certificates
14 of registration or other evidence of authority required to practice the occupation or profession, or
15 operate the facility within the jurisdiction of such board and periodically, as the director may re-
16 quire, to file a copy of the register at the office of the [*department*] **authority**. Any board that is
17 authorized or required to distribute a register described in this section may collect a fee to cover
18 the costs of publication, such fee to be handled as other receipts of the board are handled.

19 **SECTION 242.** ORS 409.330 is amended to read:

20 409.330. The Director of [*Human Services*] **the Oregon Health Authority**, or the designee of the
21 director, shall serve as an ex officio member of all health-related licensing boards in the
22 [*department*] **Oregon Health Authority**, but without the right to vote. However, nothing in this
23 section is intended to authorize the director to intervene in the internal functions and adminis-
24 tration of the boards.

25 **SECTION 243.** ORS 409.410 is amended to read:

26 409.410. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall administer
27 all alcohol and drug abuse programs, including but not limited to programs or components of pro-
28 grams described in ORS 430.397 to 430.401, 475.225, 743.557 and 743.558 and ORS chapters 430 and
29 801 to 822.

30 (2) Subject to ORS 417.300 and 417.305, the director shall:

31 (a) Report to the Legislative Assembly on accomplishments and issues occurring during each
32 biennium, and report on a new biennial plan describing resources, needs and priorities for all alco-
33 hol and drug abuse programs.

34 (b) Develop within the [*Department of Human Services*] **Oregon Health Authority** priorities for
35 alcohol and drug abuse programs and activities.

36 (c) Monitor the priorities of approved alcohol and drug abuse related programs in all other state
37 agencies.

38 (d) Conduct statewide and special planning processes which provide for participation from state
39 and local agencies, groups and individuals.

40 (e) Identify the needs of special populations including minorities, elderly, youth, women and in-
41 dividuals with disabilities.

42 (f) Subject to ORS chapter 183, adopt such rules as are necessary for the performance of the
43 duties and functions specified by this section, ORS [*409.010 and*] 430.255 to [*430.630*] **430.570**, or
44 otherwise lawfully delegated.

45 (3) The director may apply for, receive and administer funds, including federal funds and grants,

1 from sources other than the state. Subject to expenditure limitation set by the Legislative Assembly,
2 funds received under this subsection may be expended by the director:

3 (a) For the study, prevention or treatment of alcohol and drug abuse and dependence in this
4 state.

5 (b) To provide training, both within this state and in other states, in the prevention and treat-
6 ment of alcohol and drug abuse and dependence.

7 **SECTION 244.** ORS 409.420 is amended to read:

8 409.420. In addition to the Director of [*Human Services*] **the Oregon Health Authority's** other
9 responsibilities, the director shall place special emphasis on all of the following:

10 (1) Establishing standards for both public and private alcohol and drug abuse prevention, inter-
11 vention and treatment programs. It is the policy of the Legislative Assembly that all programs pro-
12 viding alcohol and drug abuse related prevention, intervention and treatment services in this state,
13 with public funds, meet the standards established under this subsection.

14 (2) Providing training for state employees dealing directly with appropriate client groups to in-
15 sure better recognition and understanding of alcohol and drug abuse problems. Training is also to
16 be directed at increasing knowledge of appropriate and available resources for assisting clients with
17 alcohol and drug abuse problems.

18 (3) Conducting continuing long-term evaluation of clients and other recipients of services from
19 all [*Department of Human Services*] **Oregon Health Authority** funded programs, for periods of up
20 to 24 months following completion of service, to assess service effectiveness and enable appropriate
21 corrective actions.

22 (4) Ensuring financial audits and program reviews of alcohol and drug abuse related programs
23 and services that receive funds, including beer and wine tax revenues distributed under ORS 430.380
24 and 471.810, from any state agency.

25 **SECTION 245.** ORS 409.425 is amended to read:

26 409.425. (1) For purposes of this section, "inhalant" has the meaning given that term in ORS
27 167.808.

28 (2) The Director of [*Human Services*] **the Oregon Health Authority** shall develop education
29 resources focusing on the problem of inhalant abuse by minors. The director shall ensure that spe-
30 cial emphasis is placed on the education of parents about the risks of inhalant use. The director
31 shall develop tools to help parents talk to their children about the extraordinary risks associated
32 with even a single use of inhalants, as well as those risks that arise from repeated use.

33 (3) The director shall develop education resources focusing on merchants that sell products that
34 contain inhalants. The director shall encourage merchants that sell products containing inhalants
35 to post signs that inform the public that using inhalants for the purpose of intoxication is illegal and
36 potentially deadly.

37 (4) The director shall develop and print a standard sign for the purposes of subsection (3) of this
38 section, and shall make the sign available to merchants that elect to display the sign. The sign shall:

39 (a) Contain the message, "Illegal to inhale fumes for purpose of intoxication. Fumes may cause
40 serious injury or death!"

41 (b) Be at least five by seven inches in size with lettering that is at least three-eighths of an inch
42 in height.

43 (c) Contain a graphic depiction of the message to convey the message to a person who cannot
44 read the message. If the depiction includes a picture of a person, the depiction of the person shall
45 be of a minor and shall not reflect any specific race or culture.

1 (5) The sign developed under subsection (4) of this section shall be in English and in such other
2 languages as may be commonly used in this state. Merchants shall be encouraged to post signs in
3 languages other than English if English is not the primary language of a significant number of the
4 patrons of the business.

5 **SECTION 246.** ORS 409.430 is amended to read:

6 409.430. (1) The [*Department of Human Services*] **Oregon Health Authority**, in collaboration
7 with county representatives, prior to January 1, 2000, shall develop a plan for the administration
8 of the statewide gambling addiction programs and delivery of program services.

9 (2) The [*Department of Human Services*] **authority** may appoint an advisory committee or des-
10 ignate an existing advisory committee to make recommendations to the [*department*] **authority**
11 concerning:

12 (a) Performance standards and evaluation methodology;

13 (b) Fiscal reporting and accountability;

14 (c) Delivery of services; and

15 (d) A distribution plan for use of available funds.

16 (3) The distribution plan for the moneys available in the Problem Gambling Treatment Fund
17 shall be based on performance standards.

18 (4) The [*Department of Human Services*] **authority** may enter into an intergovernmental agree-
19 ment or other contract for the delivery of services related to programs for the prevention and
20 treatment of gambling addiction and other emotional and behavioral problems related to gambling.

21 (5) Before entering into an agreement or contract under subsection (4) of this section, the [*De-*
22 *partment of Human Services*] **authority** must consider the experience, performance and program ca-
23 pacity of those organizations currently providing services.

24 **SECTION 247.** ORS 409.435 is amended to read:

25 409.435. (1) There is established in the State Treasury, separate and distinct from the General
26 Fund, the Problem Gambling Treatment Fund. All moneys in the Problem Gambling Treatment Fund
27 are continuously appropriated to the [*Department of Human Services*] **Oregon Health Authority** to
28 be expended for programs for the prevention and treatment of gambling addiction and other emo-
29 tional and behavioral problems related to gambling and for the administration of the programs.

30 (2) The Problem Gambling Treatment Fund shall consist of:

31 (a) The net proceeds from the Oregon State Lottery allocated to the fund under ORS 461.549;

32 (b) Moneys appropriated to the fund by the Legislative Assembly; and

33 (c) Interest earnings on moneys in the fund.

34 **SECTION 248.** ORS 409.500 is amended to read:

35 409.500. (1) The Pain Management Commission is established within the [*Department of Human*
36 *Services*] **Oregon Health Authority**. The commission shall:

37 (a) Develop pain management recommendations;

38 (b) Develop ways to improve pain management services through research, policy analysis and
39 model projects; and

40 (c) Represent the concerns of patients in Oregon on issues of pain management to the Governor
41 and the Legislative Assembly.

42 (2) The pain management coordinator of the [*Department of Human Services*] **authority** shall
43 serve as staff to the commission.

44 **SECTION 249.** ORS 409.520 is amended to read:

45 409.520. (1) The Pain Management Commission shall consist of 19 members as follows:

1 (a) Seventeen members shall be appointed by the Director of [*Human Services*] **the Oregon**
2 **Health Authority**. Prior to making appointments, the director shall request and consider recom-
3 mendations from individuals and public and private agencies and organizations with experience or
4 a demonstrated interest in pain management issues, including but not limited to:

5 (A) Physicians licensed under ORS chapter 677 or organizations representing physicians;

6 (B) Nurses licensed under ORS chapter 678 or organizations representing nurses;

7 (C) Psychologists licensed under ORS 675.010 to 675.150 or organizations representing psychol-
8 ogists;

9 (D) Physician assistants licensed under ORS chapter 677 or organizations representing physician
10 assistants;

11 (E) Chiropractic physicians licensed under ORS chapter 684 or organizations representing
12 chiropractic physicians;

13 (F) Naturopaths licensed under ORS chapter 685 or organizations representing naturopaths;

14 (G) Clinical social workers licensed under ORS 675.510 to 675.600 or organizations representing
15 clinical social workers;

16 (H) Acupuncturists licensed under ORS 677.759;

17 (I) Pharmacists licensed under ORS chapter 689;

18 (J) Palliative care professionals or organizations representing palliative care professionals;

19 (K) Mental health professionals or organizations representing mental health professionals;

20 (L) Health care consumers or organizations representing health care consumers;

21 (M) Hospitals and health plans or organizations representing hospitals and health plans;

22 (N) Patients or advocacy groups representing patients;

23 (O) Dentists licensed under ORS chapter 679;

24 (P) Occupational therapists licensed under ORS 675.210 to 675.340;

25 (Q) Physical therapists licensed under ORS 688.010 to 688.201; and

26 (R) Members of the public.

27 (b) Two members shall be members of a legislative committee with jurisdiction over human
28 services issues, one appointed by the President of the Senate and one appointed by the Speaker of
29 the House of Representatives. Both members shall be nonvoting, ex officio members of the commis-
30 sion.

31 (2) The term of office of each member is four years, but a member serves at the pleasure of the
32 appointing authority. Before the expiration of the term of a member, the appointing authority shall
33 appoint a successor whose term begins on July 1 next following. A member is eligible for reap-
34 pointment. If there is a vacancy for any cause, the appointing authority shall make an appointment
35 to become immediately effective for the unexpired term.

36 **SECTION 250.** ORS 409.530 is amended to read:

37 409.530. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall select one
38 member of the Pain Management Commission as chairperson and another as vice chairperson, for
39 such terms and with duties and powers necessary for the performance of the functions of such of-
40 fices as the director determines.

41 (2) A majority of the voting members of the commission constitutes a quorum for the transaction
42 of business.

43 (3) The commission shall meet at least once every six months at a place, day and hour deter-
44 mined by the director. The commission also shall meet at other times and places specified by the
45 call of the chairperson or of a majority of the members of the commission.

1 **SECTION 251.** ORS 409.540 is amended to read:

2 409.540. There is established the Pain Management Fund in the [*Department of Human Services*
3 *Account established under ORS 409.060*] **Oregon Health Authority Fund established under sec-**
4 **tion 19 of this 2009 Act.** All moneys credited to the Pain Management Fund are continuously ap-
5 propriated for the purposes of ORS 409.500 to 409.570 to be expended by the Pain Management
6 Commission established under ORS 409.500.

7 **SECTION 252.** ORS 409.600 is amended to read:

8 409.600. (1) The Women, Infants and Children Program is established in the [*Department of Hu-*
9 *man Services*] **Oregon Health Authority.** The purpose of the program is to serve as an adjunct to
10 health care by providing nutritious food, nutrition education and counseling, health screening and
11 referral services to pregnant and breast-feeding women and to infants and children in certain high-
12 risk categories.

13 (2) The [*department*] **authority** shall adopt:

14 (a) Standards and procedures to guide administration of the program by the state in conformity
15 with federal requirements and to define the rights, responsibilities and legal procedures of program
16 vendors; and

17 (b) Rules necessary to implement and carry out the provisions of this section.

18 (3)(a) In addition to any other penalty provided by law, the [*department*] **authority** may assess
19 a civil penalty against any person for violation of any rule of the [*department*] **authority** relating
20 to the Women, Infants and Children Program. The [*department*] **authority** shall adopt by rule crite-
21 ria for the amount of civil penalties to be assessed under this section.

22 (b) All penalties recovered under this section shall be deposited into the [*General Fund of the*
23 *State Treasury and credited to a subaccount of the Department of Human Services Account designated*
24 *by the department*] **Oregon Health Authority Fund and credited to an account designated by**
25 **the authority.** Moneys deposited are appropriated continuously to the [*department*] **authority** and
26 shall be used only for the administration and enforcement of this section.

27 **SECTION 253.** ORS 409.619 is amended to read:

28 409.619. (1) The Oregon Council on Health Care Interpreters is created in the [*Department of*
29 *Human Services*] **Oregon Health Authority.** The council shall consist of 25 members appointed as
30 follows:

31 (a) The Governor shall appoint two members from each of the following groups:

32 (A) Consumers of medical services who are persons with limited English proficiency and who
33 use health care interpreters;

34 (B) Educators who either teach interpreters or persons in related educational fields, or who
35 train recent immigrants and persons with limited English proficiency;

36 (C) Persons with expertise and experience in administration or policymaking related to the de-
37 velopment and operation of policies, programs or services related to interpreters, and who have fa-
38 miliarity with the rulings of the federal Office for Civil Rights concerning interpreter services for
39 various institutions;

40 (D) Health care providers, consisting of one physician and one registered nurse, who utilize in-
41 terpreter services regularly in their practice;

42 (E) Representatives of safety net clinics that predominantly serve persons with limited English
43 proficiency; and

44 (F) Representatives of hospitals, health systems and health plans predominantly serving persons
45 with limited English proficiency.

1 (b) The Governor shall appoint one representative from each of the following agencies and or-
2 ganizations after consideration of nominations by the executive authority of each:

3 (A) The Commission on Asian Affairs;

4 (B) The Commission on Black Affairs;

5 (C) The Commission on Hispanic Affairs;

6 (D) The Commission on Indian Services;

7 (E) The International Refugee Center of Oregon;

8 (F) The Oregon Judicial Department's Certified Court Interpreter program;

9 (G) The Commission for Women; and

10 (H) The Institute for Health Professionals of Portland Community College.

11 (c) The Director of [*Human Services*] **the Oregon Health Authority** shall appoint one member
12 from each of the following:

13 (A) The [*Department of Human Services*] **Oregon Health Authority**;

14 (B) The Office of Medical Assistance Programs; **and**

15 [*(C) The Mental Health and Developmental Disability Services Division*];

16 [*(D) The Senior and Disabled Services Division*; and]

17 [*(E)*] (C) The Health Division.

18 **(d) The Director of Human Services shall appoint one member from each of the following:**

19 **(A) The Department of Human Services; and**

20 **(B) The Senior and Disabled Services Division.**

21 [*(d)*] **(e)** The membership of the council shall be appointed so as to be representative of the ra-
22 cial, ethnic, cultural, social and economic diversity of the people of this state.

23 (2) The term of a member shall be three years. A member may be reappointed.

24 (3) If there is a vacancy for any cause, the appointing authority shall make an appointment to
25 become immediately effective for the unexpired term. The appointing authority may appoint a re-
26 placement for any member of the council who misses more than two consecutive meetings of the
27 council. The newly appointed member shall represent the same group as the vacating member.

28 (4) The council shall select one member as chairperson and one member as vice chairperson, for
29 such terms and with duties and powers as the council determines necessary for the performance of
30 the functions of such offices.

31 (5) The council may establish such advisory and technical committees as it considers necessary
32 to aid and advise the council in the performance of its functions. The committees may be continuing
33 or temporary committees. The council shall determine the representation, membership, terms and
34 organization of the committees and shall appoint committee members.

35 (6) A majority of the members of the council shall constitute a quorum for the transaction of
36 business.

37 (7) Members of the council are not entitled to compensation, but at the discretion of the Direc-
38 tor of [*Human Services*] **the Oregon Health Authority** may be reimbursed for actual and necessary
39 travel and other expenses incurred by them in the performance of their official duties, subject to
40 ORS 292.495.

41 (8) The council may accept contributions of funds and assistance from the United States Gov-
42 ernment or its agencies or from any other source, public or private, for purposes consistent with the
43 purposes of the council.

44 (9) The [*Department of Human Services*] **Oregon Health Authority** shall provide the council
45 with such services and employees as the council requires to carry out its duties.

1 **SECTION 254.** ORS 409.621 is amended to read:

2 409.621. The Oregon Council on Health Care Interpreters shall work in cooperation with the
3 [*Department of Human Services*] **Oregon Health Authority** to:

4 (1) Develop testing, qualification and certification standards for health care interpreters for
5 persons with limited English proficiency.

6 (2) Coordinate with other states to develop and implement educational and testing programs for
7 health care interpreters.

8 (3) Examine operational and funding issues, including but not limited to the feasibility of devel-
9 oping a central registry and annual subscription mechanism for health care interpreters.

10 (4) Do all other acts as shall be necessary or appropriate under the provisions of ORS 409.615
11 to 409.623.

12 **SECTION 255.** ORS 409.623 is amended to read:

13 409.623. (1) In consultation with the Oregon Council on Health Care Interpreters, the [*Depart-*
14 *ment of Human Services*] **Oregon Health Authority** shall by rule establish procedures for testing,
15 qualification and certification of health care interpreters for persons with limited English profi-
16 ciency, including but not limited to:

17 (a) Minimum standards for qualification and certification as a health care interpreter, including:

18 (A) Oral and written language skills in English and in the language for which health care in-
19 terpreter qualification or certification is granted; and

20 (B) Formal education or training in medical terminology, anatomy and physiology, and medical
21 ethics;

22 (b) Categories of expertise of health care interpreters based on the English and non-English
23 skills and the medical terminology skills of the person seeking qualification or certification;

24 (c) Procedures for receiving applications and for examining applicants for qualification or cer-
25 tification;

26 (d) The content and administration of required examinations;

27 (e) The requirements and procedures for reciprocity of qualification and certification for health
28 care interpreters qualified or certified in another state or territory of the United States; and

29 (f) Fees for application, examination, initial issuance, renewal and reciprocal acceptance of
30 qualification or certification as a health care interpreter and for other fees deemed necessary by the
31 [*department*] **authority**.

32 (2) Any person seeking qualification or certification as a health care interpreter must submit
33 an application to the [*department*] **authority**. If the applicant meets the requirements for qualifica-
34 tion or certification established by the [*department*] **authority** under this section, the [*department*]
35 **authority** shall issue an annual certificate of qualification or a certification to the health care in-
36 terpreter. The [*department*] **authority** shall collect a fee for the issuance of the certificate of quali-
37 fication or the certification and for any required examinations in the amount established pursuant
38 to subsection (1) of this section.

39 (3) The [*department*] **authority** shall work with other states to develop educational and testing
40 programs and procedures for the qualification and certification of health care interpreters.

41 (4) In addition to the requirements for qualification established under subsection (1) of this
42 section, a person may be qualified as a health care interpreter only if the person:

43 (a) Is able to fluently interpret or translate the dialect, slang or specialized vocabulary of the
44 non-English language for which qualification is sought;

45 (b) Has had at least 60 hours of health care interpreter training that includes anatomy and

1 physiology and concepts of medical interpretation; and

2 (c) Has had practical experience as an intern with a practicing health care interpreter.

3 (5) A person may not use the title of “qualified health care interpreter” unless the person has
4 met the requirements for qualification established under subsections (1) and (4) of this section and
5 has been issued a valid certificate of qualification by the [department] **authority**.

6 (6) In addition to the requirements for certification established under subsection (1) of this sec-
7 tion, a person may be certified as a health care interpreter only if:

8 (a) The person has met all the requirements established under subsection (4) of this section; and

9 (b) The person has passed written and oral examinations required by the [department] **authority**
10 in English, in the non-English language the person wishes to translate and in medical terminology.

11 (7) A person may not use the title of “certified health care interpreter” unless the person has
12 met the requirements for certification established under subsections (1) and (6) of this section and
13 has been issued a valid certification by the [department] **authority**.

14 **SECTION 256.** ORS 409.625 is amended to read:

15 409.625. All moneys received by the Oregon Council on Health Care Interpreters under ORS
16 409.615 to 409.625 shall be paid into the [*General Fund in the State Treasury and placed to the credit*
17 *of the Department of Human Services Account*] **Oregon Health Authority Fund and credited to**
18 **an account designated by the authority**. Such moneys [*are appropriated continuously to the de-*
19 *partment and*] shall be used only for the administration and enforcement of the provisions of ORS
20 409.615 to 409.625.

21 **SECTION 257.** ORS 409.720 is amended to read:

22 409.720. (1) As used in this section:

23 (a) “Adult foster home” has the meaning given that term in ORS 443.705 (1).

24 (b) “Health care facility” has the meaning given that term in ORS 442.015 [(16)].

25 (c) “Residential facility” has the meaning given that term in ORS 443.400 (6).

26 (2) Every adult foster home, health care facility and residential facility licensed or registered
27 by the Department of Human Services shall:

28 (a) Adopt a plan to provide for the safety of persons who are receiving care at or are residents
29 of the home or facility in the event of an emergency that requires immediate action by the staff of
30 the home or facility due to conditions of imminent danger that pose a threat to the life, health or
31 safety of persons who are receiving care at or are residents of the home or facility; and

32 (b) Provide training to all employees of the home or facility about the responsibilities of the
33 employees to implement the plan required by this section.

34 (3) The department shall adopt by rule the requirements for the plan and training required by
35 this section. The rules adopted shall include, but are not limited to, procedures for the evacuation
36 of the persons who are receiving care at or are residents of the adult foster home, health care fa-
37 cility or residential facility to a place of safety when the conditions of imminent danger require re-
38 location of those persons.

39 **SECTION 258.** ORS 409.740 is amended to read:

40 409.740. The [*Department of Human Services*] **Oregon Health Authority**, in consultation with
41 the appropriate professional and trade associations and licensing boards, shall inform retired physi-
42 cians and health care providers regarding ORS 30.302 and 30.792.

43 **SECTION 259.** ORS 409.745 is amended to read:

44 409.745. (1) The Physician Visa Waiver Program is established in the [*Department of Human*
45 *Services*] **Oregon Health Authority**. The purpose of the program is to make recommendations to

1 the United States Department of State for a waiver of the foreign country residency requirement
2 on behalf of foreign physicians holding visas who seek employment in federally designated shortage
3 areas.

4 (2) A foreign physician who has completed a residency in the United States may apply to the
5 [Department of Human Services] **authority** for a recommendation for a waiver of the foreign country
6 residency requirement in order to obtain employment in a federally designated shortage area in the
7 state. Applications shall be on the forms of and contain the information requested by the
8 [department] **authority**. Each application shall be accompanied by the application fee.

9 (3) The [department] **authority** reserves the right to recommend or decline to recommend any
10 request for a waiver.

11 (4) The [department] **authority** shall adopt rules necessary to implement and administer the
12 program, including but not limited to adopting an application fee not to exceed the cost of admin-
13 istering the program.

14 **SECTION 260.** ORS 409.747 is amended to read:

15 409.747. Notwithstanding ORS 411.760 [and 414.095], liquidated and delinquent debts owed to the
16 Department of Human Services may be set off against amounts owed by the department to the
17 debtors.

18 **SECTION 261.** ORS 411.095 is amended to read:

19 411.095. (1) Except as provided in subsection (2) of this section, when the Department of Human
20 Services changes a benefit standard that results in the reduction, suspension or closure of a grant
21 of general assistance or a grant of public assistance, the department shall mail a notice of intended
22 action to each recipient affected by the change at least 30 days before the effective date of the
23 action.

24 (2) If the department has fewer than 60 days before the effective date to implement a proposed
25 change described in subsection (1) of this section, the department shall mail a notice of intended
26 action to each recipient affected by the change as soon as practicable but at least 10 working days
27 before the effective date of the action.

28 (3) When the department conducts a hearing pursuant to ORS 416.310 to 416.340 and [416.510 to
29 416.830 and] 416.990 or when the department proposes to deny, reduce, suspend or terminate a grant
30 of general assistance, a grant of public assistance or a support service payment used to support
31 participation in the job opportunity and basic skills program, the department shall provide an op-
32 portunity for a hearing under ORS chapter 183.

33 (4) When emergency assistance or the continuation of assistance pending a hearing on the re-
34 duction, suspension or termination of public assistance or a support service payment used to support
35 participation in the job opportunity and basic skills program is denied, and the applicant for or re-
36 cipient of public assistance or a support service payment requests a hearing on the denial, an ex-
37 pedited hearing on the denial shall be held within five working days after the request. A written
38 decision shall be issued within three working days after the hearing is held.

39 (5) For purposes of this section, a reduction or termination of services resulting from an as-
40 sessment for service eligibility as defined in ORS 411.099 is a grant of public assistance.

41 (6) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules
42 and orders shall be in accordance with ORS chapter 183.

43 **SECTION 262.** ORS 411.620 is amended to read:

44 411.620. (1) The Department of Human Services may prosecute a civil suit or action against any
45 person who has obtained, for personal benefit or for the benefit of any other person, any amount

1 or type of general assistance or public assistance, as defined in ORS 411.010, or has aided any other
2 person to obtain such general assistance or public assistance, in violation of any provision of ORS
3 411.630, or in violation of ORS 411.640. In such suit or action the department may recover the
4 amount or value of such general assistance or public assistance so obtained in violation of ORS
5 411.630, or in violation of ORS 411.640, with interest thereon, together with costs and disbursements
6 incurred therein.

7 (2) Excepting as to bona fide purchasers for value, the department, **the Oregon Health Au-**
8 **thority**, the conservator for the recipient or the personal representative of the estate of a deceased
9 recipient may prosecute a civil suit or action to set aside the transfer, gift or other disposition of
10 any money or property made in violation of any provisions of ORS 411.630, 411.708 and 414.105 and
11 the department **or the authority** may recover out of such money or property, or otherwise, the
12 amount or value of any general assistance or public assistance obtained as a result of such violation,
13 with interest thereon, together with costs and disbursements incurred therein.

14 **SECTION 263.** ORS 411.708 is amended to read:

15 411.708. (1) The amount of any assistance paid under ORS 411.706 is a claim against the property
16 or interest in the property belonging to and a part of the estate of any deceased recipient. If the
17 deceased recipient has no estate, the estate of the surviving spouse of the deceased recipient, if any,
18 shall be charged for assistance granted under ORS 411.706 to the deceased recipient or the surviving
19 spouse. There shall be no adjustment or recovery of assistance correctly paid on behalf of any de-
20 ceased recipient under ORS 411.706 except after the death of the surviving spouse of the deceased
21 recipient, if any, and only at a time when the deceased recipient has no surviving child who is under
22 21 years of age or who is blind or has a disability. Transfers of real or personal property by re-
23 cipients of assistance without adequate consideration are voidable and may be set aside under ORS
24 411.620 (2).

25 (2) Except when there is a surviving spouse, or a surviving child who is under 21 years of age
26 or who is blind or has a disability, the amount of any assistance paid under ORS 411.706 is a claim
27 against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

28 (3) A claim under this section shall exclude benefits paid to or on behalf of a beneficiary under
29 a policy of qualified long term care insurance, as defined in ORS 414.025 [(2)(s)] **(2)(t)**.

30 (4) Nothing in this section authorizes the recovery of the amount of any assistance from the
31 estate or surviving spouse of a recipient to the extent that the need for assistance resulted from a
32 crime committed against the recipient.

33 **SECTION 264.** ORS 414.025, as amended by section 18a, chapter 861, Oregon Laws 2007, is
34 amended to read:

35 414.025. As used in this chapter, unless the context or a specially applicable statutory definition
36 requires otherwise:

37 (1) "Category of aid" means assistance provided by the Oregon Supplemental Income Program,
38 aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income
39 payments.

40 (2) "Categorically needy" means, insofar as funds are available for the category, a person who
41 is a resident of this state and who:

42 (a) Is receiving a category of aid.

43 (b) Would be eligible for[,] **a category of aid** but is not receiving a category of aid.

44 (c) Is in a medical facility and, if the person left such facility, would be eligible for a category
45 of aid.

1 (d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except
2 for age and regular attendance in school or in a course of professional or technical training.

3 (e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a
4 dependent child except for age and regular attendance in school or in a course of professional or
5 technical training; or

6 (B) Is the spouse of the caretaker relative.

7 (f) Is under the age of 21 years, is in a foster family home or licensed child-caring agency or
8 institution under a purchase of care agreement and is one for whom a public agency of this state
9 is assuming financial responsibility, in whole or in part.

10 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
11 of a category of aid, whose needs and income are taken into account in determining the cash needs
12 of the recipient of a category of aid, and who is determined by the Department of Human Services
13 to be essential to the well-being of the recipient of a category of aid.

14 (h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving
15 aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

16 (i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency
17 of this state is assuming financial responsibility, in whole or in part.

18 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions
19 for persons with mental retardation[; *or*].

20 (k) Is under the age of 22 years and is in a psychiatric hospital.

21 [(k)] (L) Is under the age of 21 years and is in an independent living situation with all or part
22 of the maintenance cost paid by the Department of Human Services.

23 [(L)] (m) Is a member of a family that received aid in the preceding month under ORS 412.006
24 or 412.014 and became ineligible for aid due to increased hours of or increased income from em-
25 ployment. As long as the member of the family is employed, such families will continue to be eligible
26 for medical assistance for a period of at least six calendar months beginning with the month in
27 which such family became ineligible for assistance due to increased hours of employment or in-
28 creased earnings.

29 [(m)] (n) Is an adopted person under 21 years of age for whom a public agency is assuming fi-
30 nancial responsibility in whole or in part.

31 [(n)] (o) Is an individual or is a member of a group who is required by federal law to be included
32 in the state's medical assistance program in order for that program to qualify for federal funds.

33 [(o)] (p) Is an individual or member of a group who, subject to the rules of the department [*and*
34 *within available funds*], may optionally be included in the state's medical assistance program under
35 federal law and regulations concerning the availability of federal funds for the expenses of that in-
36 dividual or group.

37 [(p)] (q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to
38 412.069 and 418.647, whether or not the woman is eligible for cash assistance.

39 [(q)] (r) Except as otherwise provided in this section [*and to the extent of available funds*], is a
40 pregnant woman or child for whom federal financial participation is available under [*Title XIX*]
41 **Title XIX or XXI** of the federal Social Security Act.

42 [(r)] (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the
43 federal Social Security Act or is not a full-time student in a post-secondary education program as
44 defined by the Department of Human Services by rule, but whose family income is less than the
45 federal poverty level and whose family investments and savings equal less than the investments and

1 savings limit established by the department by rule.

2 [(s)] (t) Would be eligible for a category of aid but for the receipt of qualified long term care
3 insurance benefits under a policy or certificate issued on or after January 1, 2008. As used in this
4 paragraph, "qualified long term care insurance" means a policy or certificate of insurance as defined
5 in ORS 743.652 (6).

6 (3) "Income" has the meaning given that term in ORS 411.704.

7 (4) "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable in-
8 struments as defined in ORS 73.0104 and such similar investments or savings as the Department of
9 Human Services may establish by rule that are available to the applicant or recipient to contribute
10 toward meeting the needs of the applicant or recipient.

11 (5) "Medical assistance" means so much of the following medical and remedial care and services
12 as may be prescribed by the [Department of Human Services] **Oregon Health Authority** according
13 to the standards established pursuant to [ORS 414.065] **section 10 of this 2009 Act**, including pay-
14 ments made for services provided under an insurance or other contractual arrangement and money
15 paid directly to the recipient for the purchase of medical care:

16 (a) Inpatient hospital services, other than services in an institution for mental diseases;

17 (b) Outpatient hospital services;

18 (c) Other laboratory and X-ray services;

19 (d) Skilled nursing facility services, other than services in an institution for mental diseases;

20 (e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled
21 nursing facility or elsewhere;

22 (f) Medical care, or any other type of remedial care recognized under state law, furnished by
23 licensed practitioners within the scope of their practice as defined by state law;

24 (g) Home health care services;

25 (h) Private duty nursing services;

26 (i) Clinic services;

27 (j) Dental services;

28 (k) Physical therapy and related services;

29 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
30 689;

31 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
32 of the eye or by an optometrist, whichever the individual may select;

33 (n) Other diagnostic, screening, preventive and rehabilitative services;

34 (o) Inpatient hospital services, skilled nursing facility services and intermediate care facility
35 services for individuals 65 years of age or over in an institution for mental diseases;

36 (p) Any other medical care, and any other type of remedial care recognized under state law;

37 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
38 physical or mental impairments, and such health care, treatment and other measures to correct or
39 ameliorate impairments and chronic conditions discovered thereby;

40 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
41 diseases; and

42 (s) Hospice services.

43 (6) "Medical assistance" includes any care or services for any individual who is a patient in a
44 medical institution or any care or services for any individual who has attained 65 years of age or
45 is under 22 years of age, and who is a patient in a private or public institution for mental diseases.

1 “Medical assistance” includes “health services” as defined in ORS 414.705. “Medical assistance”
2 does not include care or services for an inmate in a nonmedical public institution.

3 (7) “Medically needy” means a person who is a resident of this state and who is considered el-
4 igible under federal law for medically needy assistance.

5 (8) “Resources” has the meaning given that term in ORS 411.704. For eligibility purposes, “re-
6 sources” does not include charitable contributions raised by a community to assist with medical
7 expenses.

8 **SECTION 265.** ORS 414.033 is amended to read:

9 414.033. The [*Department of Human Services*] **Oregon Health Authority** may:

10 (1) Subject to the allotment system provided for in ORS 291.234 to 291.260, expend such sums
11 as are required to be expended in this state to provide medical assistance. Expenditures for medical
12 assistance include, but are not limited to, expenditures for deductions, cost sharing, enrollment fees,
13 premiums or similar charges imposed with respect to hospital insurance benefits or supplementary
14 health insurance benefits, as established by federal law.

15 (2) Enter into agreements with, join with or accept grants from, the federal government for co-
16 operative research and demonstration projects for public welfare purposes, including, but not limited
17 to, any project which determines the cost of providing medical assistance to the medically needy and
18 evaluates service delivery systems.

19 **SECTION 266.** ORS 414.034 is amended to read:

20 414.034. The [*Department of Human Services*] **Oregon Health Authority** shall accept federal
21 Centers for Medicare and Medicaid Services billing, reimbursement and reporting forms instead of
22 department billing, reimbursement and reporting forms if the federal forms contain substantially the
23 same information as required by the department forms.

24 **SECTION 267.** ORS 414.105 and 414.106 are added to and made a part of ORS chapter 416.

25 **SECTION 268.** ORS 414.042 is added to and made a part of ORS chapter 411.

26 **SECTION 269.** ORS 414.042 is amended to read:

27 414.042. [(1) *The need for and the amount of medical assistance to be made available for each eli-*
28 *gible group of recipients of medical assistance shall be determined, in accordance with the rules of the*
29 *Department of Human Services, taking into account:*]

30 [(a) *The requirements and needs of the person, the spouse and other dependents;*]

31 [(b) *The income, resources and maintenance available to the person but, except as provided in ORS*
32 *414.025 (2)(r), resources shall be disregarded for those eligible by reason of having income below the*
33 *federal poverty level and who are eligible for medical assistance only because of the enactment of*
34 *chapter 836, Oregon Laws 1989;*]

35 [(c) *The responsibility of the spouse and, with respect to a person who is blind or is permanently*
36 *and totally disabled or is under 21 years of age, the responsibility of the parents; and]*

37 [(d) *The report of the Health Services Commission as funded by the Legislative Assembly and such*
38 *other programs as the Legislative Assembly may authorize. However, medical assistance, including*
39 *health services, shall not be provided to persons described in ORS 414.025 (2)(r) unless the Legislative*
40 *Assembly specifically appropriates funds to provide such assistance.*]

41 [(2) *Such amounts of income and resources may be disregarded as the department may prescribe*
42 *by rules, except that]* The Department of **Human Services** may not require any needy person over
43 65 years of age, as a condition of entering or remaining in a hospital, nursing home or other con-
44 gregate care facility, to sell any real property normally used as such person’s home. Any rule of the
45 department inconsistent with this section is to that extent invalid. [*The amounts to be disregarded*

1 shall be within the limits required or permitted by federal law, rules or orders applicable thereto.]

2 [(3) In the determination of the amount of medical assistance available to a medically needy person,
3 all income and resources available to the person in excess of the amounts prescribed in ORS 414.038,
4 within limits prescribed by the department, shall be applied first to costs of needed medical and reme-
5 dial care and services not available under the medical assistance program and then to the costs of
6 benefits under the medical assistance program.]

7 **SECTION 270.** ORS 414.047, 414.049, 414.051, 414.055, 414.057, 414.073, 414.151, 414.420,
8 414.422 and 414.424 are added to and made a part of ORS chapter 411.

9 **SECTION 271.** ORS 414.047 is amended to read:

10 414.047. (1) Application for any category of aid shall also constitute application for medical as-
11 sistance.

12 (2) Except as otherwise provided in this section, each person requesting medical assistance shall
13 make application therefor to the [*Department of Human Services. The department*] **Oregon Health**
14 **Authority. The authority** shall determine eligibility for and fix the date on which such assistance
15 may begin, and shall obtain such other information required by the rules of the [*department*] **au-**
16 **thority.**

17 (3) If an applicant is unable to make application for medical assistance, an application may be
18 made by someone acting responsibly for the applicant.

19 **SECTION 272.** ORS 414.049 is amended to read:

20 414.049. For each person applying for [*health services under ORS 414.705 to 414.750*] **medical**
21 **assistance**, the Department of Human Services shall fully document:

22 (1) The category of aid as defined in ORS 414.025 that makes the person eligible for medical
23 assistance or the way in which the person qualifies as categorically needy as defined in ORS 414.025;

24 (2) The status of the person as a resident of this state; and

25 (3) The financial income and resources of the person.

26 **SECTION 273.** ORS 414.051 is amended to read:

27 414.051. The [*Department of Human Services*] **Oregon Health Authority** shall approve or deny
28 prior authorization requests for dental services not later than 30 days after submission thereof by
29 the provider, and shall make payments to providers of prior authorized dental services not later than
30 30 days after receipt of the invoice of the provider.

31 **SECTION 274.** ORS 414.055 is amended to read:

32 414.055. Any individual whose claim for medical assistance is denied or is not acted upon with
33 reasonable promptness may petition the [*Department of Human Services*] **Oregon Health Authority**
34 for a fair hearing. The hearing shall be held at a time and place and shall be conducted in accord-
35 ance with the rules of the [*department*] **authority.**

36 **SECTION 275.** ORS 414.057 is amended to read:

37 414.057. Upon the receipt of property or income or upon any other change in circumstances
38 which directly affects the eligibility of the recipient to receive medical assistance or the amount of
39 medical assistance available to the recipient, the recipient shall immediately notify the [*Department*
40 *of Human Services*] **Oregon Health Authority** of the receipt or possession of such property or in-
41 come, or other change in circumstances. Failure to give the notice shall entitle the [*Department of*
42 *Human Services*] **authority** to recover from the recipient the amount of assistance improperly dis-
43 bursed by reason thereof.

44 **SECTION 276.** ORS 414.065 is amended to read:

45 414.065. (1)(a) With respect to medical and remedial care and services to be provided in medical

1 assistance during any period, and within the limits of funds available therefor, the [*Department of*
2 *Human Services*] **Oregon Health Authority** shall determine, subject to such revisions as it may
3 make from time to time and with respect to the “health services” defined in ORS 414.705, subject
4 to legislative funding in response to the report of the Health Services Commission and paragraph
5 (b) of this subsection:

6 (A) The types and extent of medical and remedial care and services to be provided to each eli-
7 gible group of recipients of medical assistance.

8 (B) Standards to be observed in the provision of medical and remedial care and services.

9 (C) The number of days of medical and remedial care and services toward the cost of which
10 public assistance funds will be expended in the care of any person.

11 (D) Reasonable fees, charges and daily rates to which public assistance funds will be applied
12 toward meeting the costs of providing medical and remedial care and services to an applicant or
13 recipient.

14 (E) Reasonable fees for professional medical and dental services which may be based on usual
15 and customary fees in the locality for similar services.

16 (F) The amount and application of any copayment or other similar cost-sharing payment that the
17 [*department*] **authority** may require a recipient to pay toward the cost of medical and remedial care
18 or services.

19 (b) Notwithstanding ORS 414.720 (8), the [*department*] **authority** shall adopt rules establishing
20 timelines for payment of health services under paragraph (a) of this subsection.

21 (2) The types and extent of medical and remedial care and services and the amounts to be paid
22 in meeting the costs thereof, as determined and fixed by the [*department*] **authority** and within the
23 limits of funds available therefor, shall be the total available for medical assistance and payments
24 for such medical assistance shall be the total amounts from public assistance funds available to
25 providers of medical and remedial care and services in meeting the costs thereof.

26 (3) Except for payments under a cost-sharing plan, payments made by the [*department*] **authority**
27 for medical assistance shall constitute payment in full for all medical and remedial care and services
28 for which such payments of medical assistance were made.

29 (4) Medical benefits, standards and limits established pursuant to subsection (1)(a)(A), (B) and
30 (C) of this section for the eligible medically needy, except for persons receiving assistance under
31 ORS 411.706, may be less than but may not exceed medical benefits, standards and limits established
32 for the eligible categorically needy, except that, in the case of a research and demonstration project
33 entered into under ORS 411.135, medical benefits, standards and limits for the eligible medically
34 needy may exceed those established for specific eligible groups of the categorically needy.

35 **SECTION 277.** ORS 414.073 is amended to read:

36 414.073. When giving information concerning medical assistance, the [*Department of Human*
37 *Services*] **Oregon Health Authority** shall make available to applicants or recipients materials which
38 include at least a listing of all the healing arts licensed in this state.

39 **SECTION 278.** ORS 414.105 is amended to read:

40 414.105. (1) The [*Department of Human Services*] **Oregon Health Authority** may recover from
41 any person the amounts of medical assistance incorrectly paid on behalf of such person.

42 (2) Medical assistance pursuant to this chapter paid on behalf of an individual who was 55 years
43 of age or older when the individual received such assistance, or paid on behalf of a person of any
44 age who was a permanently institutionalized inpatient in a nursing facility, intermediate care facil-
45 ity for persons with mental retardation or other medical institution, may be recovered from the es-

1 tate of the individual or from any recipient of property or other assets held by the individual at the
 2 time of death including the estate of the surviving spouse. Claim for such medical assistance cor-
 3 rectly paid to the individual may be established against the estate, but there shall be no adjustment
 4 or recovery thereof until after the death of the surviving spouse, if any, and only at a time when
 5 the individual has no surviving child who is under 21 years of age or who is blind or permanently
 6 and totally disabled. Transfers of real or personal property by recipients of such aid without ade-
 7 quate consideration are voidable and may be set aside under ORS 411.620 (2).

8 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
 9 surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed
 10 against the recipient.

11 (4) In any action or proceeding under this section to recover medical assistance paid, it shall
 12 be the legal burden of the person who receives the property or other assets from a Medicaid recip-
 13 ient to establish the extent and value of the Medicaid recipient's legal title or interest in the prop-
 14 erty or assets in accordance with rules established by the [department] **authority**.

15 (5) As used in this section, "estate" includes all real and personal property and other assets in
 16 which the deceased individual had any legal title or interest at the time of death including assets
 17 conveyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in
 18 common, survivorship, life estate, living trust or other similar arrangement.

19 **SECTION 279.** ORS 414.106 is amended to read:

20 414.106. (1) Subject to the requirements of subsection (2) of this section, if 42 U.S.C. 1396p
 21 (b)(1)(B) as in effect on January 1, 1995, is repealed without replacement or is declared unconstitu-
 22 tional, the Director of [*Human Services*] **the Oregon Health Authority** shall limit the recovery of
 23 medical assistance paid pursuant to ORS chapter 414 from the estate of an individual or a recipient
 24 of property or other assets held by an individual at the time of death, including a surviving spouse
 25 of the individual, to the recovery of medical assistance payments paid on behalf of the individual
 26 on or after the date that the individual attained 65 years of age.

27 (2) The director shall limit the recovery of medical assistance as described under subsection (1)
 28 of this section only if the director determines, after receiving the written opinion of the Attorney
 29 General, that the recovery limitation will not violate any federal law in effect on the operative date
 30 of the recovery limitation. The director may condition, limit, modify or terminate any recovery lim-
 31 itation as the director considers necessary to avoid a violation of federal law.

32 **SECTION 280.** ORS 414.109 is amended to read:

33 414.109. (1) The Oregon Health Plan Fund is established, separate and distinct from the General
 34 Fund. Interest earned by the Oregon Health Plan Fund shall be retained by the Oregon Health Plan
 35 Fund.

36 (2) Moneys in the Oregon Health Plan Fund are continuously appropriated to the Department
 37 of Human Services for the purposes of funding the maintenance and expansion of the number of
 38 persons eligible for medical assistance under the Oregon Health Plan and funding the maintenance
 39 of the benefits available under the Oregon Health Plan.

40 **(3) On the effective date of this 2009 Act, all moneys in the Oregon Health Plan Fund**
 41 **shall be transferred to the Oregon Health Authority Fund established in section 19 of this**
 42 **2009 Act.**

43 **SECTION 281.** ORS 414.115 is amended to read:

44 414.115. (1) In lieu of providing one or more of the medical and remedial care and services
 45 available under medical assistance by direct payments to providers thereof and in lieu of providing

1 such medical and remedial care and services made available pursuant to ORS 414.065, the [*Depart-*
2 *ment of Human Services*] **Oregon Health Authority** shall use available medical assistance funds to
3 purchase and pay premiums on policies of insurance, or enter into and pay the expenses on health
4 care service contracts, or medical or hospital service contracts that provide one or more of the
5 medical and remedial care and services available under medical assistance for the benefit of the
6 categorically needy [*or the medically needy, or both*]. Notwithstanding other specific provisions, the
7 use of available medical assistance funds to purchase medical or remedial care and services may
8 provide the following insurance or contract options:

9 (a) Differing services or levels of service among groups of eligibles as defined by rules of the
10 [*department*] **authority**; and

11 (b) Services and reimbursement for these services may vary among contracts and need not be
12 uniform.

13 (2) The policy of insurance or the contract by its terms, or the insurer or contractor by written
14 acknowledgment to the [*department*] **authority** must guarantee:

15 (a) To provide medical and remedial care and services of the type, within the extent and ac-
16 cording to standards prescribed under ORS 414.065;

17 (b) To pay providers of medical and remedial care and services the amount due, based on the
18 number of days of care and the fees, charges and costs established under ORS 414.065, except as to
19 medical or hospital service contracts which employ a method of accounting or payment on other
20 than a fee-for-service basis;

21 (c) To provide medical and remedial care and services under policies of insurance or contracts
22 in compliance with all laws, rules and regulations applicable thereto; and

23 (d) To provide such statistical data, records and reports relating to the provision, administration
24 and costs of providing medical and remedial care and services to the [*department*] **authority** as may
25 be required by the [*department*] **authority** for its records, reports and audits.

26 **SECTION 282.** ORS 414.125 is amended to read:

27 414.125. (1) Any payment of available medical assistance funds for policies of insurance or ser-
28 vice contracts shall be according to such uniform area-wide rates as the [*Department of Human*
29 *Services*] **Oregon Health Authority** shall have established and which it may revise from time to
30 time as may be necessary or practical, except that, in the case of a research and demonstration
31 project entered into under ORS 411.135 special rates may be established.

32 (2) No premium or other periodic charge (2) on any policy of insurance, health care service con-
33 tract, or medical or hospital service contract shall be paid from available medical assistance funds
34 unless the insurer or contractor issuing such policy or contract is by law authorized to transact
35 business as an insurance company, health care service contractor or hospital association in this
36 state.

37 **SECTION 283.** ORS 414.135 is amended to read:

38 414.135. The [*Department of Human Services*] **Oregon Health Authority** may enter into nonex-
39 clusive contracts under which funds available for medical assistance may be administered and dis-
40 bursed by the contractor to direct providers of medical and remedial care and services available
41 under medical assistance in consideration of services rendered and supplies furnished by them in
42 accordance with the provisions of this chapter. Payment shall be made according to the rules of the
43 [*department*] **authority** pursuant to the number of days and the fees, charges and costs established
44 under ORS 414.065. The contractor must guarantee the [*department*] **authority** by written acknowl-
45 edgment:

1 (1) To make all payments under this chapter promptly but not later than 30 days after receipt
2 of the proper evidence establishing the validity of the provider's claim.

3 (2) To provide such data, records and reports to the [department] **authority** as may be required
4 by the [department] **authority**.

5 **SECTION 284.** ORS 414.145 is amended to read:

6 414.145. (1) The provisions of ORS 414.115, 414.125 or 414.135 shall be implemented whenever it
7 appears to the [Department of Human Services] **Oregon Health Authority** that such implementation
8 will provide comparable benefits at equal or less cost than provision thereof by direct payments by
9 the [department] **authority** to the providers of medical assistance, but in no case greater than the
10 legislatively approved budgeted cost per eligible recipient at the time of contracting.

11 (2) When determining comparable benefits at equal or less cost as provided in subsection (1) of
12 this section, the [department] **authority** must take into consideration the recipients' need for rea-
13 sonable access to preventive and remedial care, and the contractor's ability to assure continuous
14 quality delivery of both routine and emergency services.

15 **SECTION 285.** ORS 414.151 is amended to read:

16 414.151. The [Department of Human Services] **Oregon Health Authority** shall endeavor to de-
17 velop agreements with local governments to facilitate the enrollment of poverty level medical as-
18 sistance program clients. Subject to the availability of funds therefor, the agreement shall be
19 structured to allow flexibility by the state and local governments and may allow any of the following
20 options for enrolling clients in poverty level medical assistance programs:

21 (1) Initial processing shall be done at the county health department by employees of the county,
22 with eligibility determination completed at the local office of the [Department of Human Services]
23 **authority**;

24 (2) Initial processing and eligibility determination shall be done at the county health department
25 by employees of the local health department; or

26 (3) Application forms shall be made available at the county health department with initial pro-
27 cessing and eligibility determination shall be done at the local office of the [Department of Human
28 Services] **authority**.

29 **SECTION 286.** ORS 414.153 is amended to read:

30 414.153. In order to make advantageous use of the system of public health services available
31 through county health departments and other publicly supported programs and to insure access to
32 public health services through contract under ORS chapter 414, the state shall:

33 (1) Unless cause can be shown why such an agreement is not feasible, require and approve
34 agreements between prepaid health plans and publicly funded providers for authorization of payment
35 for point of contact services in the following categories:

- 36 (a) Immunizations;
- 37 (b) Sexually transmitted diseases; and
- 38 (c) Other communicable diseases;

39 (2) Allow enrollees in prepaid health plans to receive from fee-for-service providers:

- 40 (a) Family planning services;
- 41 (b) Human immunodeficiency virus and acquired immune deficiency syndrome prevention ser-
42 vices; and

43 (c) Maternity case management if the [Department of Human Services] **Oregon Health Author-**
44 **ity** determines that a prepaid plan cannot adequately provide the services;

45 (3) Encourage and approve agreements between prepaid health plans and publicly funded pro-

1 viders for authorization of and payment for services in the following categories:

2 (a) Maternity case management;

3 (b) Well-child care;

4 (c) Prenatal care;

5 (d) School-based clinics;

6 (e) Health services for children provided through schools and Head Start programs; and

7 (f) Screening services to provide early detection of health care problems among low income
8 women and children, migrant workers and other special population groups; and

9 (4) Recognize the social value of partnerships between county health departments and other
10 publicly supported programs and other health providers, and take appropriate measures to involve
11 publicly supported health care and service programs in the development and implementation of
12 managed health care programs in their areas of responsibility.

13 **SECTION 287.** ORS 414.211 is amended to read:

14 414.211. (1) There is established a Medicaid Advisory Committee consisting of not more than 15
15 members appointed by the Governor.

16 (2) The committee shall be composed of:

17 (a) A physician licensed under ORS chapter 677;

18 (b) Two members of health care consumer groups that include Medicaid recipients;

19 (c) Two Medicaid recipients, one of whom shall be a person with a disability;

20 (d) The Director of [*Human Services*] **the Oregon Health Authority** or designee;

21 (e) Health care providers;

22 (f) Persons associated with health care organizations, including but not limited to managed care
23 plans under contract to the Medicaid program; and

24 (g) Members of the general public.

25 (3) In making appointments, the Governor shall consult with appropriate professional and other
26 interested organizations. All members appointed to the committee shall be familiar with the medical
27 needs of low income persons.

28 (4) The term of office for each member shall be two years, but each member shall serve at the
29 pleasure of the Governor.

30 (5) Members of the committee shall receive no compensation for their services but, subject to
31 any applicable state law, shall be allowed actual and necessary travel expenses incurred in the
32 performance of their duties from the [*Public Welfare Account*] **Oregon Health Authority Fund.**

33 **SECTION 288.** ORS 414.221 is amended to read:

34 414.221. The Medicaid Advisory Committee shall advise the Administrator of the Office for
35 Oregon Health Policy and Research and the Director of [*Human Services*] **the Oregon Health Au-**
36 **thority** on:

37 (1) Medical care, including mental health and alcohol and drug treatment and remedial care to
38 be provided under ORS chapter 414; and

39 (2) The operation and administration of programs provided under ORS chapter 414.

40 **SECTION 289.** ORS 414.225 is amended to read:

41 414.225. The [*Department of Human Services*] **Oregon Health Authority** shall consult with the
42 Medicaid Advisory Committee concerning the determinations required under ORS 414.065.

43 **SECTION 290.** ORS 414.227 is amended to read:

44 414.227. (1) ORS 192.610 to 192.690 apply to any meeting of an advisory committee with the au-
45 thority to make decisions for, conduct policy research for or make recommendations to the [*De-*

1 *partment of Human Services*] **Oregon Health Authority or the Oregon Health Authority Board**
2 on administration or policy related to the medical assistance program operated under this chapter.

3 (2) Subsection (1) of this section applies only to advisory committee meetings attended by two
4 or more advisory committee members who are not employed by a public body.

5 **SECTION 291.** ORS 414.312 is amended to read:

6 414.312. (1) As used in ORS 414.312 to 414.318:

7 (a) "Pharmacy benefit manager" means an entity that, in addition to being a prescription drug
8 claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists,
9 negotiates rebates with prescription drug manufacturers and serves as an intermediary between the
10 Oregon Prescription Drug Program, prescription drug manufacturers and pharmacies.

11 (b) "Prescription drug claims processor" means an entity that processes and pays prescription
12 drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data be-
13 tween pharmacies and the Oregon Prescription Drug Program and processes related payments to
14 pharmacies.

15 (c) "Program price" means the reimbursement rates and prescription drug prices established by
16 the administrator of the Oregon Prescription Drug Program.

17 (2) The Oregon Prescription Drug Program is established in the [*Department of Human*
18 *Services*] **Oregon Health Authority**. The purpose of the program is to:

19 (a) Purchase prescription drugs or reimburse pharmacies for prescription drugs in order to re-
20 ceive discounted prices and rebates;

21 (b) Make prescription drugs available at the lowest possible cost to participants in the program;
22 and

23 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs
24 available at the best possible prices.

25 (3) The Director of [*Human Services*] **the Oregon Health Authority** shall appoint an adminis-
26 trator of the Oregon Prescription Drug Program. The administrator shall:

27 (a) Negotiate price discounts and rebates on prescription drugs with prescription drug man-
28 ufacturers;

29 (b) Purchase prescription drugs on behalf of individuals and entities that participate in the
30 program;

31 (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and
32 transmit program prices to pharmacies;

33 (d) Determine program prices and reimburse pharmacies for prescription drugs;

34 (e) Adopt and implement a preferred drug list for the program;

35 (f) Develop a system for allocating and distributing the operational costs of the program and any
36 rebates obtained to participants of the program; and

37 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

38 (4) The following individuals or entities may participate in the program:

39 (a) Public Employees' Benefit Board;

40 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in
41 ORS 174.117 that directly or indirectly purchase prescription drugs;

42 [(c) *Enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342;*]

43 [(d)] (c) Oregon Health and Science University established under ORS 353.020;

44 [(e)] (d) State agencies that directly or indirectly purchase prescription drugs, including agencies
45 that dispense prescription drugs directly to persons in state-operated facilities;

- 1 [(f)] (e) Residents of this state who lack or are underinsured for prescription drug coverage;
2 [(g)] (f) Private entities; and
3 [(h)] (g) Labor organizations.

4 (5) The state agency that receives federal Medicaid funds and is responsible for implementing
5 the state's medical assistance program may not participate in the program.

6 (6) The administrator may establish different reimbursement rates or prescription drug prices for
7 pharmacies in rural areas to maintain statewide access to the program.

8 (7) The administrator shall establish the terms and conditions for a pharmacy to enroll in the
9 program. A licensed pharmacy that is willing to accept the terms and conditions established by the
10 administrator may apply to enroll in the program.

11 (8) Except as provided in subsection [(9)] (10) of this section, the administrator may not:

12 (a) Contract with a pharmacy benefit manager;

13 (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

14 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dis-
15 pensed through the program.

16 (9) The administrator shall contract with one or more entities to provide the functions of a
17 prescription drug claims processor. The administrator may also contract with a pharmacy benefit
18 manager to negotiate with prescription drug manufacturers on behalf of the administrator.

19 (10) Notwithstanding subsection [(4)(f)] (4)(e) of this section, individuals who are eligible for
20 Medicare Part D prescription drug coverage may participate in the program.

21 **SECTION 292.** ORS 414.314 is amended to read:

22 414.314. (1) An individual or entity described in ORS 414.312 (4) may apply to participate in the
23 Oregon Prescription Drug Program. Participants shall apply on an application provided by the [*De-*
24 *partment of Human Services*] **Oregon Health Authority**. The [*department*] **authority** may charge
25 participants a nominal fee to participate in the program. The [*department*] **authority** shall issue a
26 prescription drug identification card to participants of the program.

27 (2) The [*department*] **authority** shall provide a mechanism to calculate and transmit the program
28 prices for prescription drugs to a pharmacy. The pharmacy shall charge the participant the program
29 price for a prescription drug.

30 (3) A pharmacy may charge the participant the professional dispensing fee set by the
31 [*department*] **authority**.

32 (4) Prescription drug identification cards issued under this section must contain the information
33 necessary for proper claims adjudication or transmission of price data.

34 **SECTION 293.** ORS 414.316 is amended to read:

35 414.316. The Office for Oregon Health Policy and Research shall develop and recommend to the
36 [*Department of Human Services*] **Oregon Health Authority** a preferred drug list that identifies
37 preferred choices of prescription drugs within therapeutic classes for particular diseases and condi-
38 tions, including generic alternatives, for use in the Oregon Prescription Drug Program. The office
39 shall conduct public hearings and use evidence-based evaluations on the effectiveness of similar
40 prescription drugs to develop the preferred drug list.

41 **SECTION 294.** ORS 414.318 is amended to read:

42 414.318. The Prescription Drug Purchasing Fund is established separate and distinct from the
43 General Fund. The Prescription Drug Purchasing Fund shall consist of moneys appropriated to the
44 fund by the Legislative Assembly and moneys received by the [*Department of Human Services*]
45 **Oregon Health Authority** for the purposes established in this section in the form of gifts, grants,

1 bequests, endowments or donations. The moneys in the Prescription Drug Purchasing Fund are
2 continuously appropriated to the [department] **authority** and shall be used to purchase prescription
3 drugs, reimburse pharmacies for prescription drugs and reimburse the [department] **authority** for the
4 costs of administering the Oregon Prescription Drug Program, including contracted services costs,
5 computer costs, professional dispensing fees paid to retail pharmacies and other reasonable program
6 costs. Interest earned on the fund shall be credited to the fund.

7 **SECTION 295.** ORS 414.320 is amended to read:

8 414.320. The [Department of Human Services] **Oregon Health Authority** shall adopt rules to
9 implement and administer ORS 414.312 to 414.318. The rules shall include but are not limited to es-
10 tablishing procedures for:

11 (1) Issuing prescription drug identification cards to individuals and entities that participate in
12 the Oregon Prescription Drug Program; and

13 (2) Enrolling pharmacies in the program.

14 **SECTION 296.** ORS 414.325 is amended to read:

15 414.325. (1) As used in this section, "legend drug" means any drug requiring a prescription by
16 a practitioner, as defined in ORS 689.005.

17 (2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
18 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
19 patient in the practitioner's care and within the scope of practice. Prescriptions shall be dispensed
20 in the generic form pursuant to ORS 689.515 and pursuant to rules of the [Department of Human
21 Services] **Oregon Health Authority** unless the practitioner prescribes otherwise and an exception
22 is granted by the [department] **authority**.

23 (3) Except as provided in subsections (4) and (5) of this section, the [department] **authority** shall
24 place no limit on the type of legend drug that may be prescribed by a practitioner, but the [depart-
25 ment] **authority** shall pay only for drugs in the generic form unless an exception has been granted
26 by the [department] **authority**.

27 (4) Notwithstanding subsection (3) of this section, an exception must be applied for and granted
28 before the [department] **authority** is required to pay for minor tranquilizers and amphetamines and
29 amphetamine derivatives, as defined by rule of the [department] **authority**.

30 (5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph
31 (b) of this subsection, the [department] **authority** is authorized to:

32 (A) Withhold payment for a legend drug when federal financial participation is not available;
33 and

34 (B) Require prior authorization of payment for drugs that the [department] **authority** has de-
35 termined should be limited to those conditions generally recognized as appropriate by the medical
36 profession.

37 (b) The [department] **authority** may not require prior authorization for therapeutic classes of
38 nonsedating antihistamines and nasal inhalers, as defined by rule by the [department] **authority**,
39 when prescribed by an allergist for treatment of any of the following conditions, as described by the
40 Health Services Commission on the funded portion of its prioritized list of services:

41 (A) Asthma;

42 (B) Sinusitis;

43 (C) Rhinitis; or

44 (D) Allergies.

45 (6)(a) The [department] **authority** shall pay a rural health clinic for a legend drug prescribed

1 and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent
2 medical condition if:

3 (A) There is not a pharmacy within 15 miles of the clinic;

4 (B) The prescription is dispensed for a patient outside of the normal business hours of any
5 pharmacy within 15 miles of the clinic; or

6 (C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

7 (b) As used in this subsection, “urgent medical condition” means a medical condition that arises
8 suddenly, is not life-threatening and requires prompt treatment to avoid the development of more
9 serious medical problems.

10 (7) Notwithstanding ORS 414.334, the [department] **authority** may conduct prospective drug
11 utilization review prior to payment for drugs for a patient whose prescription drug use exceeded 15
12 drugs in the preceding six-month period.

13 (8) Notwithstanding subsection (3) of this section, the [department] **authority** may pay a phar-
14 macy for a particular brand name drug rather than the generic version of the drug after notifying
15 the pharmacy that the cost of the particular brand name drug, after receiving discounted prices and
16 rebates, is equal to or less than the cost of the generic version of the drug.

17 **SECTION 297.** ORS 414.327 is amended to read:

18 414.327. [(1) *The Department of Human Services shall seek a waiver from the federal Centers for*
19 *Medicare and Medicaid Services to allow the department to communicate prescription drug orders by*
20 *electronic means from a practitioner authorized to prescribe drugs directly to the dispensing*
21 *pharmacist.*]

22 [(2)] The [Department of Human Services] **Oregon Health Authority** shall adopt rules permitting
23 [the department] **a practitioner** to communicate prescription drug orders by electronic means [from
24 a practitioner authorized to prescribe drugs] directly to the dispensing pharmacist.

25 **SECTION 298.** ORS 414.329 is amended to read:

26 414.329. (1) Notwithstanding ORS 414.705 to 414.750, the [Department of Human Services] **Oregon**
27 **Health Authority** shall adopt rules modifying the prescription drug benefits for persons who are
28 eligible for Medicare Part D prescription drug coverage and who receive prescription drug benefits
29 under the state medical assistance program or Title XIX of the Social Security Act. The rules shall
30 include but need not be limited to:

31 (a) Identification of the Part D classes of drugs for which federal financial participation is not
32 available and that are not covered classes of drugs;

33 (b) Identification of the Part D classes of drugs for which federal financial participation is not
34 available and that are covered classes of drugs;

35 (c) Identification of the classes of drugs not covered under Medicare Part D prescription drug
36 coverage for which federal financial participation is available and that are covered classes of drugs;
37 and

38 (d) Cost-sharing obligations related to the provision of Part D classes of drugs for which federal
39 financial participation is not available.

40 (2) As used in this section, “covered classes of drugs” means classes of prescription drugs pro-
41 vided to persons eligible for prescription drug coverage under the state medical assistance program
42 or Title XIX of the Social Security Act.

43 **SECTION 299.** ORS 414.334 is amended to read:

44 414.334. (1) The [Department of Human Services] **Oregon Health Authority** shall adopt a
45 Practitioner-Managed Prescription Drug Plan for the Oregon Health Plan. The purpose of the plan

1 is to ensure that enrollees of the Oregon Health Plan receive the most effective prescription drug
2 available at the best possible price.

3 (2) Before adopting the plan, the [department] **authority** shall conduct public meetings and
4 consult with the Health Resources Commission.

5 (3) The [department] **authority** shall consult with representatives of the regulatory boards and
6 associations representing practitioners who are prescribers under the Oregon Health Plan and en-
7 sure that practitioners receive educational materials and have access to training on the
8 Practitioner-Managed Prescription Drug Plan.

9 (4) Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the [depart-
10 ment] **authority**, a practitioner may prescribe any drug that the practitioner indicates is medically
11 necessary for an enrollee as being the most effective available.

12 (5) An enrollee may appeal to the [department] **authority** a decision of a practitioner or the
13 [department] **authority** to not provide a prescription drug requested by the enrollee.

14 (6) This section does not limit the decision of a practitioner as to the scope and duration of
15 treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

16 **SECTION 300.** ORS 414.336 is amended to read:

17 414.336. The [Department of Human Services] **Oregon Health Authority** may not adopt or
18 amend any rule that requires a prescribing practitioner to contact the [department] **authority** to
19 request an exception for a medically appropriate or medically necessary drug that is not listed on
20 the Practitioner-Managed Prescription Drug Plan drug list for that class of drugs adopted under
21 ORS 414.334, unless otherwise authorized by enabling legislation setting forth the requirement for
22 prior authorization.

23 **SECTION 301.** ORS 414.338 is amended to read:

24 414.338. (1) The Patient Prescription Drug Assistance Program is established. The purpose of the
25 program is to match low-income Oregonians who lack prescription drug benefit coverage with pre-
26 scription drug assistance programs offered by pharmaceutical companies.

27 (2) The program shall:

28 (a) Provide information on:

29 (A) Eligibility requirements and coverage provided by publicly funded prescription drug benefit
30 programs administered by the [Department of Human Services] **Oregon Health Authority**; and

31 (B) The process for applying to receive publicly funded prescription drug benefits;

32 (b) Assist a patient in applying to pharmaceutical companies for free or discounted prescription
33 drug medications if the patient is not eligible for any publicly funded prescription drug benefit pro-
34 gram;

35 (c) Provide information, in an organized and easily understood manner, to patients, physicians,
36 pharmacists and pharmacies regarding patient qualifications for prescription drug assistance pro-
37 grams;

38 (d) Increase awareness of the various prescription drug assistance programs offered by pharma-
39 ceutical companies; and

40 (e) Establish a toll-free hotline and Internet website to increase public awareness of the Patient
41 Prescription Drug Assistance Program and to provide public access to the information and services
42 provided through the program.

43 (3)(a) The College of Pharmacy at Oregon State University shall operate the Patient Prescription
44 Drug Assistance Program until June 30, 2003, and may operate the program thereafter unless the
45 [Department of Human Services] **authority** enters into a contract described in paragraph (b) of this

1 subsection.

2 (b) For periods on or after July 1, 2003, the [*Department of Human Services*] **authority** may
3 contract with any pharmacy provider to operate the Patient Prescription Drug Assistance Program.

4 **SECTION 302.** ORS 414.350 is amended to read:

5 414.350. As used in ORS 414.350 to 414.415:

6 (1) "Appropriate and medically necessary use" means drug prescribing, drug dispensing and pa-
7 tient medication usage in conformity with the criteria and standards developed under ORS 414.350
8 to 414.415.

9 (2) "Board" means the Drug Use Review Board created under ORS 414.355.

10 (3) "Compendia" means those resources widely accepted by the medical profession in the
11 efficacious use of drugs, including the following sources:

12 (a) The American Hospital Formulary Services drug information.

13 (b) The United States Pharmacopeia drug information.

14 (c) The American Medical Association drug evaluations.

15 (d) The peer-reviewed medical literature.

16 (e) Drug therapy information provided by manufacturers of drug products consistent with the
17 federal Food and Drug Administration requirements.

18 (4) "Counseling" means the effective communication of information by a pharmacist, as defined
19 by rules of the State Board of Pharmacy.

20 (5) "Criteria" means the predetermined and explicitly accepted elements based on the compendia
21 that are used to measure drug use on an ongoing basis to determine if the use is appropriate, med-
22 ically necessary and not likely to result in adverse medical outcomes.

23 (6) "Drug-disease contraindication" means the potential for, or the occurrence of, an undesirable
24 alteration of the therapeutic effect of a given prescription because of the presence, in the patient
25 for whom it is prescribed, of a disease condition or the potential for, or the occurrence of, a clin-
26 ically significant adverse effect of the drug on the patient's disease condition.

27 (7) "Drug-drug interaction" means the pharmacological or clinical response to the administration
28 of at least two drugs different from that response anticipated from the known effects of the two
29 drugs when given alone, which may manifest clinically as antagonism, synergism or idiosyncrasy.
30 Such interactions have the potential to have an adverse effect on the individual or lead to a clin-
31 ically significant adverse reaction, or both, that:

32 (a) Is characteristic of one or any of the drugs present; or

33 (b) Leads to interference with the absorption, distribution, metabolizing, excretion or therapeutic
34 efficacy of one or any of the drugs.

35 (8) "Drug use review" means the programs designed to measure and assess on a retrospective
36 and a prospective basis, through an evaluation of claims data, the proper utilization, quantity, ap-
37 propriateness as therapy and medical necessity of prescribed medication in the medical assistance
38 program.

39 (9) "Intervention" means an action taken by the [*Department of Human Services*] **Oregon Health**
40 **Authority** with a prescriber or pharmacist to inform about or to influence prescribing or dispensing
41 practices or utilization of drugs.

42 (10) "Overutilization" means the use of a drug in quantities or for durations that put the recip-
43 ient at risk of an adverse medical result.

44 (11) "Pharmacist" means an individual who is licensed as a pharmacist under ORS chapter 689.

45 (12) "Prescriber" means any person authorized by law to prescribe drugs.

1 (13) "Prospective program" means the prospective drug use review program described in ORS
2 414.375.

3 (14) "Retrospective program" means the retrospective drug use review program described in
4 ORS 414.380.

5 (15) "Standards" means the acceptable prescribing and dispensing methods determined by the
6 compendia, in accordance with local standards of medical practice for health care providers.

7 (16) "Therapeutic appropriateness" means drug prescribing based on scientifically based and
8 clinically relevant drug therapy that is consistent with the criteria and standards developed under
9 ORS 414.350 to 414.415.

10 (17) "Therapeutic duplication" means the prescribing and dispensing of two or more drugs from
11 the same therapeutic class such that the combined daily dose puts the recipient at risk of an adverse
12 medical result or incurs additional program costs without additional therapeutic benefits.

13 (18) "Underutilization" means that a drug is used by a recipient in insufficient quantity to
14 achieve a desired therapeutic goal.

15 **SECTION 303.** ORS 414.355 is amended to read:

16 414.355. (1) There is created a 12-member Drug Use Review Board responsible for advising the
17 [*Department of Human Services*] **Oregon Health Authority Board** on the implementation of the re-
18 trospective and prospective drug utilization review programs.

19 (2) The members of the **Drug Use Review** Board shall be appointed by the Director of [*Human*
20 *Services*] **the Oregon Health Authority** and shall serve a term of two years. An individual ap-
21 pointed to the board may be reappointed upon completion of the individual's term. The membership
22 of the board shall be composed of the following:

23 (a) Four persons licensed as physicians and actively engaged in the practice of medicine or
24 osteopathic medicine in Oregon, who may be from among persons recommended by the Oregon
25 Medical Association, the Osteopathic Physicians and Surgeons of Oregon or other organization
26 representing physicians;

27 (b) One person licensed as a physician in Oregon who is actively engaged in academic medicine;

28 (c) Three persons licensed and actively practicing pharmacy in Oregon who may be from among
29 persons recommended by the Oregon State Pharmacists Association, the National Association of
30 Chain Drug Stores, the Oregon Society of Hospital Pharmacists, the Oregon Society of Consultant
31 Pharmacists or other organizations representing pharmacists whether affiliated or unaffiliated with
32 any association;

33 (d) One person licensed as a pharmacist in Oregon who is actively engaged in academic phar-
34 macy;

35 (e) Two persons who shall represent persons receiving medical assistance; and

36 (f) One person licensed and actively practicing dentistry in Oregon who may be from among
37 persons recommended by the Oregon Dental Association or other organizations representing den-
38 tists.

39 (3) Board members must have expertise in one or more of the following:

40 (a) Clinically appropriate prescribing of outpatient drugs covered by the medical assistance
41 program.

42 (b) Clinically appropriate dispensing and monitoring of outpatient drugs covered by the medical
43 assistance program.

44 (c) Drug use review, evaluation and intervention.

45 (d) Medical quality assurance.

1 (4) The director shall fill a vacancy on the board by appointing a new member to serve the re-
2 mainder of the unexpired term based upon qualifications described in subsections (2) and (3) of this
3 section.

4 (5) A board member may be removed only by a vote of eight members of the board and the re-
5 moval must be approved by the director. The director may remove a member, without board action,
6 if a member fails to attend two consecutive meetings unless such member is prevented from attend-
7 ing by serious illness of the member or in the member's family.

8 **SECTION 304.** ORS 414.360 is amended to read:

9 414.360. (1) The Drug Use Review Board shall advise the [*Department of Human Services*]
10 **Oregon Health Authority Board** on:

11 (a) Adoption of rules to implement ORS 414.350 to 414.415 in accordance with the provisions of
12 ORS 183.710 to 183.725, 183.745 and 183.750 and ORS chapter 183.

13 (b) Implementation of the medical assistance program retrospective and prospective programs
14 as described in ORS 414.350 to 414.415, including the type of software programs to be used by the
15 pharmacist for prospective drug use review and the provisions of the contractual agreement between
16 the state and any entity involved in the retrospective drug use review program.

17 (c) Development of and application of the criteria and standards to be used in retrospective and
18 prospective drug utilization review in a manner that insures that such criteria and standards are
19 based on the compendia, relevant guidelines obtained from professional groups through consensus-
20 driven processes, the experience of practitioners with expertise in drug therapy, data and experience
21 obtained from drug utilization review program operations. The **Drug Use Review** Board shall have
22 an open professional consensus process for establishing and revising criteria and standards. Criteria
23 and standards shall be available to the public. In developing recommendations for criteria and
24 standards, the board shall establish an explicit ongoing process for soliciting and considering input
25 from interested parties. The board shall make timely revisions to the criteria and standards based
26 upon this input in addition to revisions based upon scheduled review of the criteria and standards.
27 Further, the drug utilization review standards shall reflect the local practices of prescribers in order
28 to monitor:

29 (A) Therapeutic appropriateness.

30 (B) Overutilization or underutilization.

31 (C) Therapeutic duplication.

32 (D) Drug-disease contraindications.

33 (E) Drug-drug interactions.

34 (F) Incorrect drug dosage or drug treatment duration.

35 (G) Clinical abuse or misuse.

36 (H) Drug allergies.

37 (d) Development, selection and application of and assessment for interventions for medical as-
38 sistance program prescribers, dispensers and patients that are educational and not punitive in na-
39 ture.

40 (2) In reviewing retrospective and prospective drug use, the **Drug Use Review** Board may con-
41 sider only drugs that have received final approval from the federal Food and Drug Administration.

42 **SECTION 305.** ORS 414.365 is amended to read:

43 414.365. In addition to advising the [*Department of Human Services*] **Oregon Health Authority**
44 **Board**, the Drug Use Review Board shall do the following subject to the approval of the [*Director*
45 *of Human Services*] **Oregon Health Authority Board**:

1 (1) Publish an annual report, as described in ORS 414.415.

2 (2) Publish and disseminate educational information to prescribers and pharmacists regarding
3 the **Drug Use Review** Board and the drug use review programs, including information on the fol-
4 lowing:

5 (a) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or med-
6 ically unnecessary care among prescribers, pharmacists and recipients.

7 (b) Potential or actual severe or adverse reactions to drugs.

8 (c) Therapeutic appropriateness.

9 (d) Overutilization or underutilization.

10 (e) Appropriate use of generic products.

11 (f) Therapeutic duplication.

12 (g) Drug-disease contraindications.

13 (h) Drug-drug interactions.

14 (i) Drug allergy interactions.

15 (j) Clinical abuse and misuse.

16 (3) Adopt and implement procedures designed to insure the confidentiality of any information
17 collected, stored, retrieved, assessed or analyzed by the **Drug Use Review** Board, staff of the board
18 or contractors to the drug use review programs that identifies individual prescribers, pharmacists
19 or recipients.

20 **SECTION 306.** ORS 414.375 is amended to read:

21 414.375. The prospective drug use review program must be based on the guidelines established
22 by the [*Department of Human Services*] **Oregon Health Authority Board** in consultation with the
23 Drug Use Review Board. The program must provide that prior to the prescription being filled or
24 delivered a review will be conducted by the pharmacist at the point of sale to screen for potential
25 drug therapy problems resulting from the following:

26 (1) Therapeutic duplication.

27 (2) Drug-drug interactions, including serious interactions with nonprescription or over-the-
28 counter drugs.

29 (3) Incorrect dosage and duration of treatment.

30 (4) Drug-allergy interactions.

31 (5) Clinical abuse and misuse.

32 (6) Drug-disease contraindications.

33 **SECTION 307.** ORS 414.380 is amended to read:

34 414.380. The retrospective drug use review program must:

35 (1) Be based on the guidelines established by the [*Department of Human Services in consultation*
36 *with*] **Oregon Health Authority Board based upon recommendations from** the Drug Use Review
37 Board; and

38 (2) Use the mechanized drug claims processing and information retrieval system to analyze
39 claims data on drug use against explicit predetermined standards that are based on the compendia
40 and other sources to monitor the following:

41 (a) Therapeutic appropriateness.

42 (b) Overutilization or underutilization.

43 (c) Fraud and abuse.

44 (d) Therapeutic duplication.

45 (e) Drug-disease contraindications.

- 1 (f) Drug-drug interactions.
- 2 (g) Incorrect drug dosage or duration of drug treatment.
- 3 (h) Clinical abuse and misuse.

4 **SECTION 308.** ORS 414.390 is amended to read:

5 414.390. (1) Information collected under ORS 414.350 to 414.415 that identifies an individual is
6 confidential and shall not be disclosed by the Drug Use Review Board, the retrospective drug use
7 review program, [*or the Department of Human Services*] **the Oregon Health Authority Board or**
8 **the Oregon Health Authority** to any person other than a health care provider appearing on a re-
9 cipient's medication profile.

10 (2) The staff of the **Drug Use Review** Board may have access to identifying information for
11 purposes of carrying out intervention activities. The identifying information shall not be released to
12 anyone other than a staff member of the board, retrospective drug use review program, [*Department*
13 *of Human Services*] **Oregon Health Authority Board, Oregon Health Authority**[,] or to any health
14 care provider appearing on a recipient's medication profile or, for purposes of investigating potential
15 fraud in programs administered by the [*Department of Human Services*] **Oregon Health Authority**,
16 to the Department of Justice.

17 (3) The **Drug Use Review** Board may release cumulative, nonidentifying information for the
18 purposes of legitimate research and for educational purposes.

19 **SECTION 309.** ORS 414.410 is amended to read:

20 414.410. The [*Department of Human Services*] **Oregon Health Authority** shall provide staff to
21 the Drug Use Review Board.

22 **SECTION 310.** ORS 414.426 is amended to read:

23 414.426. The [*Department of Human Services*] **Oregon Health Authority** is hereby authorized to
24 pay the cost of care for patients in institutions operated under ORS 179.321 under the medical as-
25 sistance program established by ORS chapter 414.

26 **SECTION 311.** ORS 414.428 is amended to read:

27 414.428. (1) An individual described in ORS 414.025 [(2)(r)] **(2)(s)** who is eligible for or receiving
28 medical assistance and who is an American Indian and Alaskan Native beneficiary shall receive the
29 benefit package of health care services described in ORS [*414.835*] **414.707 (1)** if:

30 (a) The [*Department of Human Services*] **Oregon Health Authority** receives 100 percent federal
31 medical assistance percentage for payments made by the [*department*] **authority** for the health care
32 services provided as part of the benefit package described in ORS [*414.835 that are not included in*
33 *the benefit package described in ORS 414.834*] **414.707 (1)**; or

34 (b) The [*department*] **authority** receives funding from the Indian tribes for which federal finan-
35 cial participation is available.

36 (2) As used in this section, "American Indian and Alaskan Native beneficiary" means:

37 (a) A member of a federally recognized Indian tribe, band or group;

38 (b) An Eskimo or Aleut or other Alaskan native enrolled by the United States Secretary of the
39 Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601; or

40 (c) A person who is considered by the United States Secretary of the Interior to be an Indian
41 for any purpose.

42 **SECTION 312.** Section 2, chapter 76, Oregon Laws 2003, is amended to read:

43 **Sec. 2.** (1) Section 1, **chapter 76, Oregon Laws 2003**, [*of this 2003 Act*] becomes operative on
44 the day after the date the [*Department of Human Services*] **Oregon Health Authority** receives ap-
45 proval from the federal Centers for Medicare and Medicaid Services to amend Oregon's Medicaid

1 waiver.

2 (2) The [Department of Human Services] **authority** shall notify the Legislative Counsel upon receipt of approval or disapproval to amend Oregon's Medicaid waiver.

3 **SECTION 313.** ORS 414.534 is amended to read:

4 414.534. (1) The [Department of Human Services] **Oregon Health Authority** shall provide medical assistance to a woman who:

5 (a) Is screened for breast or cervical cancer through the Oregon Breast and Cervical Cancer Program operated by the [department] **authority**;

6 (b) As a result of a screening in accordance with paragraph (a) of this subsection, is found by a provider to be in need of treatment for breast or cervical cancer;

7 (c) Does not otherwise have creditable coverage, as defined in 42 U.S.C. 300gg(c); and

8 (d) Is 64 years of age or younger.

9 (2) The period of time a woman can receive medical assistance based on the eligibility criteria of subsection (1) of this section:

10 (a) Begins:

11 (A) On the date the Department of **Human Services** makes a formal determination that the woman is eligible for medical assistance in accordance with subsection (1) of this section; or

12 (B) Up to three months prior to the month in which the woman applied for medical assistance if on the earlier date the woman met the eligibility criteria of subsection (1) of this section.

13 (b) Ends when:

14 (A) The woman is no longer in need of treatment; or

15 (B) The department determines the woman no longer meets the eligibility criteria of subsection (1) of this section.

16 **SECTION 314.** ORS 414.536 is amended to read:

17 414.536. (1) **If** the Department of Human Services [shall provide medical assistance to a woman whom the department determines is presumptively eligible for medical assistance. As used in this section, a woman is "presumptively eligible for medical assistance" if the department determines that the] **determines that a** woman likely is eligible for medical assistance under ORS 414.534, **the department shall determine her to be presumptively eligible for medical assistance until a formal determination on eligibility is made.**

18 (2) The period of time a woman may receive medical assistance based on presumptive eligibility is limited. The period of time:

19 (a) Begins on the date that the department determines the woman likely meets the eligibility criteria under ORS 414.534; and

20 (b) Ends on the earlier of the following dates:

21 (A) If the woman applies for medical assistance following the determination by the department that the woman is presumptively eligible for medical assistance, the date on which a formal determination on eligibility is made by the department in accordance with ORS 414.534; or

22 (B) If the woman does not apply for medical assistance following the determination by the department that the woman is presumptively eligible for medical assistance, the last day of the month following the month in which presumptive eligibility begins.

23 **SECTION 315.** ORS 414.538 is amended to read:

24 414.538. (1) The Department of Human Services [shall provide medical assistance under ORS 414.534 or 414.536 to a woman who meets general coverage requirements applicable to recipients of medical assistance. The department] may not impose income or resource limitations or a prior period

1 of uninsurance on a woman who otherwise qualifies for medical assistance under ORS 414.534 or
2 414.536.

3 (2) In *[providing]* **determining eligibility for** medical assistance under ORS 414.534 or 414.536,
4 the department *[of Human Services]* shall give priority to low-income women.

5 **SECTION 316.** ORS 414.540 is amended to read:

6 414.540. The *[Department of Human Services]* **Oregon Health Authority** shall adopt rules nec-
7 essary for the implementation and administration of ORS 414.534 to 414.538.

8 **SECTION 317.** ORS 414.630 is amended to read:

9 414.630. (1) The *[Department of Human Services]* **Oregon Health Authority** shall execute pre-
10 paid capitated health service contracts for at least hospital or physician medical care, or both, with
11 hospital and medical organizations, health maintenance organizations and any other appropriate
12 public or private persons.

13 (2) For purposes of ORS 279A.025, 279A.140, 414.145 and 414.610 to 414.640, instrumentalities and
14 political subdivisions of the state are authorized to enter into prepaid capitated health service con-
15 tracts with the *[Department of Human Services]* **Oregon Health Authority or the Oregon Health**
16 **Authority Board** and shall not thereby be considered to be transacting insurance.

17 (3) In the event that there is an insufficient number of qualified bids for prepaid capitated health
18 services contracts for hospital or physician medical care, or both, in some areas of the state, the
19 *[department]* **Oregon Health Authority** may continue a fee for service payment system.

20 (4) Payments to providers may be subject to contract provisions requiring the retention of a
21 specified percentage in an incentive fund or to other contract provisions by which adjustments to
22 the payments are made based on utilization efficiency.

23 **SECTION 318.** ORS 414.640 is amended to read:

24 414.640. (1) Eligible persons shall select, to the extent practicable as determined by the *[De-*
25 *partment of Human Services]* **Oregon Health Authority**, from among available providers partic-
26 ipating in the program.

27 (2) The *[department]* **authority** by rule shall define the circumstances under which it may choose
28 to reimburse for any medical services not covered under the prepaid capitation or costs of related
29 services provided by or under referral from any physician participating in the program in which the
30 eligible person is enrolled.

31 (3) The *[department]* **authority** shall establish requirements as to the minimum time period that
32 an eligible person is assigned to specific providers in the system.

33 (4) Actions taken by providers, potential providers, contractors and bidders in specific accord-
34 ance with this chapter in forming consortiums or in otherwise entering into contracts to provide
35 medical care shall be considered to be conducted at the direction of this state, shall be considered
36 to be lawful trade practices and shall not be considered to be the transaction of insurance for pur-
37 poses of ORS 279A.025, 279A.140, 414.145 and 414.610 to 414.640.

38 **SECTION 319.** ORS 414.707 is amended to read:

39 414.707. *[(1) Subject to funds available:]*

40 *[(a)]* (1) Persons *[who are categorically needy as described in ORS 414.025 (2)(n) and (o), and*
41 *persons under 19 years of age and pregnant women who are eligible to receive health services under*
42 *ORS 414.706,]* **described in ORS 414.706 (1), (2), (3) and (5)** are eligible to receive all the health
43 services approved and funded by the Legislative Assembly.

44 *[(b)]* (2) Persons described in ORS 414.708 are eligible to receive the health services described
45 in ORS 414.705 (1)(c), (f) and (g).

1 [(c) Persons 19 years of age and older who are eligible to receive health services under ORS
2 414.706 are eligible to receive the health services described in ORS 414.705 (1)(b) to (m).]

3 [(2) Persons who are categorically needy as described in ORS 414.025 (2)(n) and (o), and persons
4 under 19 years of age and pregnant women who are eligible to receive health services under ORS
5 414.706, must be provided, at a minimum, the health services described in ORS 414.705 (1)(a) to (g).]

6 [(3) Persons 19 years of age and older who are eligible to receive health services under ORS
7 414.706 must be provided, at a minimum, health services described in ORS 414.705 (1)(b) to (h).]

8 [(4) Persons described in ORS 414.708 must be provided, at a minimum, the health services de-
9 scribed in ORS 414.705 (1)(c).]

10 [(5) The Department of Human Services shall:]

11 [(a) Develop at least three benefit packages of provider services to be offered under ORS 414.705
12 (1)(j); and]

13 [(b) Define by rule the services to be offered under ORS 414.705 (1)(k).]

14 [(6) Notwithstanding ORS 414.735, the Legislative Assembly shall adjust health services funded
15 under ORS 414.705 (1) by increasing or reducing benefit packages or health services and, subject to
16 ORS 414.709, by increasing or reducing the population of eligible persons.]

17 **SECTION 320.** ORS 414.708 is amended to read:

18 414.708. (1) A person is eligible to receive the health services described in ORS 414.707 [(1)(b)]
19 **(2)** when the person is a resident of this state who:

20 (a) Is 65 years of age or older, or is blind or has a disability as those terms are defined in ORS
21 411.704;

22 (b) Has a gross annual income that does not exceed the standard established by the [Department
23 of Human Services] **Oregon Health Authority Board**; and

24 (c) Is not covered under any public or private prescription drug benefit program.

25 (2) A person receiving prescription drug services under ORS 414.707 [(1)(b)] **(2)** shall pay up to
26 a percentage of the Medicaid price of the prescription drug established by the [department] **au-**
27 **thority** by rule and the dispensing fee.

28 **SECTION 321.** ORS 414.709 is amended to read:

29 414.709. (1) Except as provided in subsection (2) of this section, if insufficient resources are
30 available during a biennium, the population of eligible persons receiving health services may not be
31 reduced below the population of eligible persons approved and funded in the legislatively adopted
32 budget for the [Department of Human Services] **Oregon Health Authority** for the biennium.

33 (2) The [Department of Human Services] **Oregon Health Authority** may periodically limit en-
34 rollment of persons described in ORS 414.708 in order to stay within the legislatively adopted budget
35 for the [department] **authority**.

36 **SECTION 322.** ORS 414.710 is amended to read:

37 414.710. The following services [are available to persons eligible for services under ORS 414.025,
38 414.036, 414.042, 414.065 and 414.705 to 414.750 but such services] are not subject to ORS 414.720:

39 (1) Nursing facilities and home- and community-based waived services funded through the De-
40 partment of Human Services; **and**

41 [(2) Medical assistance to eligible persons who receive assistance under ORS 411.706 or to children
42 described in ORS 414.025 (2)(f), (i), (j), (k) and (m), 418.001 to 418.034, 418.189 to 418.970 and 657A.020
43 to 657A.460;]

44 [(3) Institutional, home- and community-based waived services or community mental health pro-
45 gram care for persons with mental retardation, developmental disabilities or severe mental illness and

1 *for the treatment of alcohol and drug dependent persons; and]*

2 [(4)] (2) Services to children who are wards of the Department of Human Services by order of
3 the juvenile court and services to children and families for health care or mental health care
4 through the department.

5 **SECTION 323.** ORS 414.712 is amended to read:

6 414.712. The [Department of Human Services] **Oregon Health Authority** shall provide medical
7 assistance under ORS 414.705 to 414.750 to eligible persons who [receive assistance under] **are de-**
8 **termined eligible for medical assistance by the Department of Human Services according to**
9 ORS 411.706. [and to children described in ORS 414.025 (2)(f), (i), (j), (k) and (m), 418.001 to 418.034,
10 418.189 to 418.970 and 657A.020 to 657A.460 and those mental health and chemical dependency services
11 recommended according to standards of medical assistance and according to the schedule of imple-
12 mentation established by the Legislative Assembly. In providing medical assistance services described
13 in ORS 414.018 to 414.024, 414.042, 414.107, 414.710, 414.720 and 735.712, the Department of Human
14 Services] **The Oregon Health Authority** shall also provide the following:

15 (1) Ombudsman services for eligible persons who receive assistance under ORS 411.706. With the
16 concurrence of the Governor **and the Oregon Health Authority Board**, the Director of [Human
17 Services] **the Oregon Health Authority** shall appoint ombudsmen and may terminate an ombuds-
18 man. Ombudsmen are under the supervision and control of the director. An ombudsman shall serve
19 as a patient's advocate whenever the patient or a physician or other medical personnel serving the
20 patient is reasonably concerned about access to, quality of or limitations on the care being provided
21 by a health care provider. Patients shall be informed of the availability of an ombudsman.
22 Ombudsmen shall report to the Governor **and the Oregon Health Authority Board** in writing at
23 least once each quarter. A report shall include a summary of the services that the ombudsman
24 provided during the quarter and the ombudsman's recommendations for improving ombudsman ser-
25 vices and access to or quality of care provided to eligible persons by health care providers.

26 (2) Case management services in each health care provider organization for those eligible per-
27 sons who receive assistance under ORS 411.706. Case managers shall be trained in and shall exhibit
28 skills in communication with and sensitivity to the unique health care needs of people who receive
29 assistance under ORS 411.706. Case managers shall be reasonably available to assist patients served
30 by the organization with the coordination of the patient's health care services at the reasonable
31 request of the patient or a physician or other medical personnel serving the patient. Patients shall
32 be informed of the availability of case managers.

33 (3) A mechanism, established by rule, for soliciting consumer opinions and concerns regarding
34 accessibility to and quality of the services of each health care provider.

35 (4) A choice of available medical plans and, within those plans, choice of a primary care pro-
36 vider.

37 (5) Due process procedures for any individual whose request for medical assistance coverage for
38 any treatment or service is denied or is not acted upon with reasonable promptness. These proce-
39 dures shall include an expedited process for cases in which a patient's medical needs require swift
40 resolution of a dispute.

41 **SECTION 324.** ORS 414.720 is amended to read:

42 414.720. (1) The Health Services Commission shall conduct public hearings prior to making the
43 report described in subsection (3) of this section. The commission shall solicit testimony and infor-
44 mation from advocates representing seniors, persons with disabilities, mental health services con-
45 sumers and low-income Oregonians, representatives of commercial carriers, representatives of small

1 and large Oregon employers and providers of health care, including but not limited to physicians
2 licensed to practice medicine, dentists, oral surgeons, chiropractors, naturopaths, hospitals, clinics,
3 pharmacists, nurses and allied health professionals.

4 (2) The commission shall actively solicit public involvement in a community meeting process to
5 build a consensus on the values to be used to guide health resource allocation decisions.

6 (3) The commission shall report to the Governor a list of health services ranked by priority,
7 from the most important to the least important, representing the comparative benefits of each ser-
8 vice to the entire population to be served. The list submitted by the commission pursuant to this
9 subsection is not subject to alteration by any other state agency. The recommendation may include
10 practice guidelines reviewed and adopted by the commission pursuant to subsection (4) of this sec-
11 tion.

12 (4) In order to encourage effective and efficient medical evaluation and treatment, the commis-
13 sion:

14 (a) May include clinical practice guidelines in its prioritized list of services. The commission
15 shall actively solicit testimony and information from the medical community and the public to build
16 a consensus on clinical practice guidelines developed by the commission.

17 (b) Shall consider both the clinical effectiveness and cost-effectiveness of health services in de-
18 termining their relative importance using peer-reviewed medical literature as defined in ORS
19 743A.060.

20 (5) The commission shall make its report by July 1 of the year preceding each regular session
21 of the Legislative Assembly and shall submit a copy of its report to the Governor, the Speaker of
22 the House of Representatives and the President of the Senate.

23 (6) The commission may alter the list during interim only under the following conditions:

24 (a) Technical changes due to errors and omissions; and

25 (b) Changes due to advancements in medical technology or new data regarding health outcomes.

26 (7) If a service is deleted or added and no new funding is required, the commission shall report
27 to the Speaker of the House of Representatives and the President of the Senate. However, if a ser-
28 vice to be added requires increased funding to avoid discontinuing another service, the commission
29 must report to the Emergency Board to request the funding.

30 (8) The report listing services to be provided pursuant to ORS [~~414.036,~~] 414.042, 414.065,
31 [~~414.107,~~] 414.705 to 414.725 and 414.735 to 414.750 shall remain in effect from October 1 of the
32 odd-numbered year through September 30 of the next odd-numbered year.

33 **SECTION 325.** ORS 414.725 is amended to read:

34 414.725. (1)(a) Pursuant to rules adopted by the [*Department of Human Services*] **Oregon Health**
35 **Authority**, the [*department*] **authority** shall execute prepaid managed care health services contracts
36 for health services funded by the Legislative Assembly. The contract must require that all services
37 are provided to the extent and scope of the Health Services Commission's report for each service
38 provided under the contract. The contracts are not subject to ORS chapters 279A and 279B, except
39 ORS 279A.250 to 279A.290 and 279B.235. Notwithstanding ORS 414.720 (8), the rules adopted by the
40 [*department*] **authority** shall establish timelines for executing the contracts described in this para-
41 graph.

42 (b) It is the intent of ORS 414.705 to 414.750 that the state use, to the greatest extent possible,
43 prepaid managed care health services organizations to provide physical health, dental, mental health
44 and chemical dependency services under ORS 414.705 to 414.750.

45 (c) The [*department*] **authority** shall solicit qualified providers or plans to be reimbursed for

1 providing the covered services. The contracts may be with hospitals and medical organizations,
 2 health maintenance organizations, managed health care plans and any other qualified public or pri-
 3 vate prepaid managed care health services organization. The *[department]* **authority** may not dis-
 4 criminate against any contractors that offer services within their providers' lawful scopes of
 5 practice.

6 (d) The *[department]* **authority** shall establish annual financial reporting requirements for pre-
 7 paid managed care health services organizations. The *[department]* **authority** shall prescribe a re-
 8 porting procedure that elicits sufficiently detailed information for the *[department]* **authority** to
 9 assess the financial condition of each prepaid managed care health services organization and that
 10 includes information on the three highest executive salary and benefit packages of each prepaid
 11 managed care health services organization.

12 (e) The *[department]* **authority** shall require compliance with the provisions of paragraph (d) of
 13 this subsection as a condition of entering into a contract with a prepaid managed care health ser-
 14 vices organization.

15 (2) The *[department]* **authority** may institute a fee-for-service case management system or a
 16 fee-for-service payment system for the same physical health, dental, mental health or chemical de-
 17 pendency services provided under the health services contracts for persons eligible for health ser-
 18 vices under ORS 414.705 to 414.750 in designated areas of the state in which a prepaid managed care
 19 health services organization is not able to assign an enrollee to a person or entity that is primarily
 20 responsible for coordinating the physical health, dental, mental health or chemical dependency ser-
 21 vices provided to the enrollee. In addition, the *[department]* **authority** may make other special ar-
 22 rangements as necessary to increase the interest of providers in participation in the state's managed
 23 care system, including but not limited to the provision of stop-loss insurance for providers wishing
 24 to limit the amount of risk they wish to underwrite.

25 (3) As provided in subsections (1) and (2) of this section, the aggregate expenditures by the
 26 *[department]* **authority** for health services provided pursuant to ORS 414.705 to 414.750 may not
 27 exceed the total dollars appropriated for health services under ORS 414.705 to 414.750.

28 (4) Actions taken by providers, potential providers, contractors and bidders in specific accord-
 29 ance with ORS 414.705 to 414.750 in forming consortiums or in otherwise entering into contracts to
 30 provide health care services shall be performed pursuant to state supervision and shall be consid-
 31 ered to be conducted at the direction of this state, shall be considered to be lawful trade practices
 32 and may not be considered to be the transaction of insurance for purposes of the Insurance Code.

33 (5) Health care providers contracting to provide services under ORS 414.705 to 414.750 shall
 34 advise a patient of any service, treatment or test that is medically necessary but not covered under
 35 the contract if an ordinarily careful practitioner in the same or similar community would do so un-
 36 der the same or similar circumstances.

37 (6) A prepaid managed care health services organization shall provide information on contacting
 38 available providers to an enrollee in writing within 30 days of assignment to the health services
 39 organization.

40 (7) Each prepaid managed care health services organization shall provide upon the request of
 41 an enrollee or prospective enrollee annual summaries of the organization's aggregate data regarding:

42 (a) Grievances and appeals; and

43 (b) Availability and accessibility of services provided to enrollees.

44 (8) A prepaid managed care health services organization may not limit enrollment in a desig-
 45 nated area based on the zip code of an enrollee or prospective enrollee.

1 **SECTION 326.** ORS 414.727 is amended to read:

2 414.727. (1) A prepaid managed care health services organization, as defined in ORS 414.736, that
3 contracts with the [*Department of Human Services*] **Oregon Health Authority** under ORS 414.725
4 (1) to provide prepaid managed care health services, including hospital services, shall reimburse
5 Type A and Type B hospitals and rural critical access hospitals, as described in ORS 442.470 and
6 identified by the Office of Rural Health as rural hospitals, fully for the cost of covered services
7 based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid to the
8 prepaid managed care health services organization for the contract period.

9 (2) The [*department*] **authority** shall base the capitation rates described in subsection (1) of this
10 section on the most recent audited Medicare cost report for Oregon hospitals adjusted to reflect the
11 Medicaid mix of services.

12 (3) This section may not be construed to prohibit a prepaid managed care health services or-
13 ganization and a hospital from mutually agreeing to reimbursement other than the reimbursement
14 specified in subsection (1) of this section.

15 (4) Hospitals reimbursed under subsection (1) of this section are not entitled to any additional
16 reimbursement for services provided.

17 **SECTION 327.** ORS 414.728 is amended to read:

18 414.728. For services provided to persons who are entitled to receive medical assistance and
19 whose medical assistance benefits are not administered by a prepaid managed care health services
20 organization, as defined in ORS 414.736, the [*Department of Human Services*] **Oregon Health Au-**
21 **thority** shall reimburse Type A and Type B hospitals and rural critical access hospitals, as de-
22 scribed in ORS 442.470 and identified by the Office of Rural Health as rural hospitals, fully for the
23 cost of covered services based on the most recent audited Medicare cost report for Oregon hospitals
24 adjusted to reflect the Medicaid mix of services.

25 **SECTION 328.** ORS 414.735 is amended to read:

26 414.735. (1) If insufficient resources are available during a contract period:

27 (a) The population of eligible persons determined by law shall not be reduced.

28 (b) The reimbursement rate for providers and plans established under the contractual agreement
29 shall not be reduced.

30 (2) In the circumstances described in subsection (1) of this section, reimbursement shall be ad-
31 justed by reducing the health services for the eligible population by eliminating services in the order
32 of priority recommended by the Health Services Commission, starting with the least important and
33 progressing toward the most important.

34 (3) The [*Department of Human Services*] **Oregon Health Authority Board** shall obtain the ap-
35 proval of the Legislative Assembly or Emergency Board, if the Legislative Assembly is not in ses-
36 sion, before instituting the reductions. In addition, providers contracting to provide health services
37 under ORS 414.705 to 414.750 must be notified at least two weeks prior to any legislative consider-
38 ation of such reductions. Any reductions made under this section shall take effect no sooner than
39 60 days following final legislative action approving the reductions.

40 **SECTION 329.** ORS 414.736 is amended to read:

41 414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740, 414.741,
42 414.742[,] **and** 414.743 [*and 414.744*]:

43 (1) “Designated area” means a geographic area of the state defined by the [*Department of Human*
44 *Services*] **Oregon Health Authority** by rule that is served by a prepaid managed care health ser-
45 vices organization.

1 (2) “Fully capitated health plan” means an organization that contracts with the [Department of
2 Human Services] **Oregon Health Authority or the Oregon Health Authority Board** on a prepaid
3 capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the
4 health services provided under the contract are reasonably accessible to enrollees.

5 (3) “Physician care organization” means an organization that contracts with the [Department of
6 Human Services] **Oregon Health Authority or the Oregon Health Authority Board** on a prepaid
7 capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the
8 health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j) are reasonably accessible to
9 enrollees. A physician care organization may also contract with the [department] **authority or the**
10 **board** on a prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k)
11 and (L).

12 (4) “Prepaid managed care health services organization” means a managed physical health,
13 dental, mental health or chemical dependency organization that contracts with the [Department of
14 Human Services] **authority or the board** on a prepaid capitated basis under ORS 414.725. A prepaid
15 managed care health services organization may be a dental care organization, fully capitated health
16 plan, physician care organization, mental health organization or chemical dependency organization.

17 **SECTION 330.** ORS 414.737 is amended to read:

18 414.737. (1) Except as provided in subsections (2) and (3) of this section, a person who is eligible
19 for or receiving physical health, dental, mental health or chemical dependency services under ORS
20 414.705 to 414.750 must be enrolled in the prepaid managed care health services organizations to
21 receive the health services for which the person is eligible.

22 (2) Subsection (1) of this section does not apply to:

23 (a) A person who is a noncitizen and who is eligible only for labor and delivery services and
24 emergency treatment services;

25 (b) A person who is an American Indian and Alaskan Native beneficiary; and

26 (c) A person whom the [department] **Oregon Health Authority** may by rule exempt from the
27 mandatory enrollment requirement of subsection (1) of this section, including but not limited to:

28 (A) A person who is also eligible for Medicare;

29 (B) A woman in her third trimester of pregnancy at the time of enrollment;

30 (C) A person under 19 years of age who has been placed in adoptive or foster care out of state;

31 (D) A person under 18 years of age who is medically fragile and who has special health care
32 needs; and

33 (E) A person with major medical coverage.

34 (3) Subsection (1) of this section does not apply to a person who resides in a designated area in
35 which a prepaid managed care health services organization providing physical health, dental, mental
36 health or chemical dependency services is not able to assign an enrollee to a person or entity that
37 is primarily responsible for coordinating the physical health, dental, mental health or chemical de-
38 pendency services provided to the enrollee.

39 (4) As used in this section, “American Indian and Alaskan Native beneficiary” means:

40 (a) A member of a federally recognized Indian tribe, band or group;

41 (b) An Eskimo or Aleut or other Alaskan Native enrolled by the United States Secretary of the
42 Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601; or

43 (c) A person who is considered by the United States Secretary of the Interior to be an Indian
44 for any purpose.

45 **SECTION 331.** ORS 414.737, as amended by section 8, chapter 751, Oregon Laws 2007, is

1 amended to read:

2 414.737. (1) Except as provided in subsections (2) and (3) of this section, a person who is eligible
3 for or receiving physical health, dental, mental health or chemical dependency services under ORS
4 414.705 to 414.750 must be enrolled in the prepaid managed care health services organizations to
5 receive the health services for which the person is eligible.

6 (2) Subsection (1) of this section does not apply to:

7 (a) A person who is a noncitizen and who is eligible only for labor and delivery services and
8 emergency treatment services;

9 (b) A person who is an American Indian and Alaskan Native beneficiary; and

10 (c) A person whom the *[department]* **Oregon Health Authority** may by rule exempt from the
11 mandatory enrollment requirement of subsection (1) of this section, including but not limited to:

12 (A) A person who is also eligible for Medicare;

13 (B) A woman in her third trimester of pregnancy at the time of enrollment;

14 (C) A person under 19 years of age who has been placed in adoptive or foster care out of state;

15 (D) A person under 18 years of age who is medically fragile and who has special health care
16 needs;

17 (E) A person receiving services under the Medically Involved Home-Care Program created by
18 ORS 417.345 (1); and

19 (F) A person with major medical coverage.

20 (3) Subsection (1) of this section does not apply to a person who resides in a designated area in
21 which a prepaid managed care health services organization providing physical health, dental, mental
22 health or chemical dependency services is not able to assign an enrollee to a person or entity that
23 is primarily responsible for coordinating the physical health, dental, mental health or chemical de-
24 pendency services provided to the enrollee.

25 (4) As used in this section, "American Indian and Alaskan Native beneficiary" means:

26 (a) A member of a federally recognized Indian tribe, band or group;

27 (b) An Eskimo or Aleut or other Alaskan Native enrolled by the United States Secretary of the
28 Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601; or

29 (c) A person who is considered by the United States Secretary of the Interior to be an Indian
30 for any purpose.

31 **SECTION 332.** ORS 414.738 is amended to read:

32 414.738. (1) If the *[Department of Human Services]* **Oregon Health Authority** has not been able
33 to contract with the fully capitated health plan or plans in a designated area, the *[department]* **au-**
34 **thority** may contract with a physician care organization in the designated area.

35 (2) The Office for Oregon Health Policy and Research shall develop criteria that the
36 *[department]* **authority** shall consider when determining the circumstances under which the *[de-*
37 *partment]* **authority** may contract with a physician care organization. The criteria developed by the
38 office shall include but not be limited to the following:

39 (a) The physician care organization must be able to assign an enrollee to a person or entity that
40 is primarily responsible for coordinating the physical health services provided to the enrollee;

41 (b) The contract with a physician care organization does not threaten the financial viability of
42 other fully capitated health plans in the designated area; and

43 (c) The contract with a physician care organization must be consistent with the legislative in-
44 tent of using prepaid managed care health services organizations to provide services under ORS
45 414.705 to 414.750.

1 **SECTION 333.** ORS 414.739 is amended to read:

2 414.739. (1) A fully capitated health plan may apply to the [*Department of Human Services*]
3 **Oregon Health Authority** to contract with the [*department*] **authority** as a physician care organ-
4 ization rather than as a fully capitated health plan to provide services under ORS 414.705 to 414.750.

5 (2) The Office for Oregon Health Policy and Research shall develop the criteria that the [*de-*
6 *partment*] **authority** must use to determine the circumstances under which the [*department*] **au-**
7 **thority** may accept an application by a fully capitated health plan to contract as a physician care
8 organization. The criteria developed by the office shall include but not be limited to the following:

9 (a) The fully capitated health plan must show documented losses due to hospital risk and must
10 show due diligence in managing those risks; and

11 (b) Contracting as a physician care organization is financially viable for the fully capitated
12 health plan.

13 **SECTION 334.** ORS 414.740 is amended to read:

14 414.740. (1) Notwithstanding ORS 414.738 (1), the [*Department of Human Services*] **Oregon**
15 **Health Authority** shall contract under ORS 414.725 with a prepaid group practice health plan that
16 serves at least 200,000 members in this state and that has been issued a certificate of authority by
17 the [*Department of Consumer and Business Services*] **authority** as a health care service contractor
18 to provide health services as described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j). A health plan
19 may also contract with the [*Department of Human Services*] **authority** on a prepaid capitated basis
20 to provide the health services described in ORS 414.705 (1)(k) and (L). The [*Department of Human*
21 *Services*] **authority** may accept financial contributions from any public or private entity to help
22 implement and administer the contract. The [*Department of Human Services*] **authority** shall seek
23 federal matching funds for any financial contributions received under this section.

24 (2) In a designated area, in addition to the contract described in subsection (1) of this section,
25 the [*Department of Human Services*] **authority** shall contract with prepaid managed care health
26 services organizations to provide health services under ORS 414.705 to 414.750.

27 **SECTION 335.** ORS 414.741 is amended to read:

28 414.741. (1) The Health Services Commission shall retain an actuary to determine the benchmark
29 for setting per capita rates necessary to reimburse prepaid managed care health services organiza-
30 tions and fee-for-service providers for the cost of providing health services under ORS 414.705 to
31 414.750.

32 (2) The actuary retained by the commission shall use the following information to determine the
33 benchmark for setting per capita rates:

34 (a) For hospital services, the most recently available Medicare cost reports for Oregon hospitals;

35 (b) For services of physicians licensed under ORS chapter 677 and other health professionals
36 using procedure codes, the Medicare Resource Based Relative Value system conversion rates for
37 Oregon;

38 (c) For prescription drugs, the most recent payment methodologies in the fee-for-service payment
39 system for the Oregon Health Plan;

40 (d) For durable medical equipment and supplies, 80 percent of the Medicare allowable charge for
41 purchases and rentals;

42 (e) For dental services, the most recent payment rates obtained from dental care organization
43 encounter data; and

44 (f) For all other services not listed in paragraphs (a) to (e) of this subsection:

45 (A) The Medicare maximum allowable charge, if available; or

1 (B) The most recent payment rates obtained from the data available under subsection (3) of this
2 section.

3 (3) The actuary shall use the most current encounter data and the most current fee-for-service
4 data that is available, reasonable trends for utilization and cost changes to the midpoint of the next
5 biennium, appropriate differences in utilization and cost based on geography, state and federal
6 mandates and other factors that, in the professional judgment of the actuary, are relevant to the fair
7 and reasonable estimation of costs. The Department of Human Services shall provide the actuary
8 with the data and information in the possession of the department or contractors of the department
9 reasonably necessary to develop a benchmark for setting per capita rates.

10 (4) The commission shall report the benchmark per capita rates developed under this section to
11 the Director of the Oregon Department of Administrative Services, the Director of [*Human*
12 *Services*] **the Oregon Health Authority** and the Legislative Fiscal Officer no later than August 1
13 of every even-numbered year.

14 (5) The [*Department of Human Services*] **Oregon Health Authority** shall retain an actuary to
15 determine:

16 (a) Per capita rates for health services that the [*department*] **authority** shall use to develop the
17 [*department's*] **authority's** proposed biennial budget; and

18 (b) Capitation rates to reimburse physician care organizations for the cost of providing health
19 services under ORS 414.705 to 414.750 using the same methodologies used to develop capitation rates
20 for fully capitated health plans. The rates may not advantage or disadvantage fully capitated health
21 plans for similar services.

22 (6) The [*Department of Human Services*] **Oregon Health Authority** shall submit to the Legisla-
23 tive Assembly no later than February 1 of every odd-numbered year a report comparing the per
24 capita rates for health services on which the proposed budget of the [*department*] **authority** is based
25 with the rates developed by the actuary retained by the Health Services Commission. If the rates
26 differ, the [*department*] **authority** shall disclose, by provider categories described in subsection (2)
27 of this section, the amount of and reason for each variance.

28 **SECTION 336.** ORS 414.742 is amended to read:

29 414.742. The [*Department of Human Services*] **Oregon Health Authority** may not establish
30 capitation rates that include payment for mental health drugs. The [*department*] **authority** shall re-
31 imburse pharmacy providers for mental health drugs only on a fee-for-service payment basis.

32 **SECTION 337.** ORS 414.743 is amended to read:

33 414.743. (1) As used in this section, "fully capitated health plan" means an organization that
34 contracts with the [*Department of Human Services*] **Oregon Health Authority** on a prepaid
35 capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that all
36 health services described in ORS 414.705 are reasonably accessible to enrollees.

37 (2) A fully capitated health plan that does not have a contract with a hospital to provide inpa-
38 tient or outpatient hospital services under ORS 414.705 to 414.750 must pay for hospital services at
39 80 percent of the Medicare rate for the noncontracting hospital.

40 (3) A hospital that does not have a contract with a fully capitated health plan to provide inpa-
41 tient or outpatient hospital services under ORS 414.705 to 414.750 must accept as payment in full
42 the rates described in subsection (2) of this section.

43 (4) This section does not apply to type A and type B hospitals, as described in ORS 442.470, and
44 rural critical access hospitals, as defined in ORS 315.613.

45 (5) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules to imple-

1 ment and administer this section.

2 **SECTION 338.** ORS 414.743, as amended by section 2, chapter 886, Oregon Laws 2007, is
3 amended to read:

4 414.743. (1) As used in this section, “fully capitated health plan” means an organization that
5 contracts with the [Department of Human Services] **Oregon Health Authority** on a prepaid
6 capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that all
7 health services described in ORS 414.705 are reasonably accessible to enrollees.

8 (2) A fully capitated health plan that does not have a contract with a hospital to provide inpa-
9 tient or outpatient hospital services under ORS 414.705 to 414.750 must pay for hospital services as
10 follows:

11 (a) For inpatient hospital services, based on the capitation rates developed for the budget period,
12 at the level of the statewide average unit cost, multiplied by the geographic factor, the payment
13 discount factor and an adjustment factor of 0.925.

14 (b) For outpatient hospital services, based on the capitation rates developed for the budget pe-
15 riod, at the level of charges multiplied by the statewide average cost-to-charge ratio, the geographic
16 factor, the payment discount factor and an adjustment factor of 0.925.

17 (3) A hospital that does not have a contract with a fully capitated health plan to provide inpa-
18 tient or outpatient hospital services under ORS 414.705 to 414.750 must accept as payment in full
19 for hospital services, rates:

20 (a) For inpatient hospital services, based on the capitation rates developed for the budget period,
21 at the level of the statewide average unit cost, multiplied by the geographic factor, the payment
22 discount factor and an adjustment factor of 0.925.

23 (b) For outpatient hospital services, based on the capitation rates developed for the budget pe-
24 riod, at the level of charges multiplied by the statewide average cost-to-charge ratio, the geographic
25 factor, the payment discount factor and an adjustment factor of 0.925.

26 (4) This section does not apply to type A and type B hospitals, as described in ORS 442.470, and
27 rural critical access hospitals, as defined in ORS 315.613.

28 (5) The [Department of Human Services] **Oregon Health Authority** shall adopt rules to imple-
29 ment and administer this section.

30 **SECTION 339.** Section 18, chapter 810, Oregon Laws 2003, is amended to read:

31 **Sec. 18.** [(1)] Except as provided in section 19 [of this 2003 Act], **chapter 810, Oregon Laws**
32 **2003**, sections 2, 3, 5, 5a, 11, 12, 12a, 14 and 15 [of this 2003 Act], **chapter 810, Oregon Laws 2003**,
33 and the amendments to ORS 414.705 and 414.725 by sections 4 and 7 [of this 2003 Act], **chapter 810,**
34 **Oregon Laws 2003**, become operative on October 1, 2003.

35 [(2) Sections 10 and 13 of this 2003 Act become operative on the day after the date the Department
36 of Human Services receives the necessary waivers from the Centers for Medicare and Medicaid Ser-
37 vices.]

38 [(3) The Director of Human Services shall notify the Legislative Counsel upon receipt of the wai-
39 vers or denial of the waiver request.]

40 **SECTION 340.** ORS 414.750 is amended to read:

41 414.750. Nothing in ORS [414.036 and] 414.705 to 414.750 is intended to limit the authority of the
42 Legislative Assembly to authorize services for persons whose income exceeds 100 percent of the
43 federal poverty level for whom federal medical assistance matching funds are available if state funds
44 are available therefor.

45 **SECTION 341.** ORS 414.751 is amended to read:

1 414.751. (1) There is established in the [*Office for Oregon Health Policy and Research*] **Oregon**
2 **Health Authority** the Office for Oregon Health Policy and Research Advisory Committee composed
3 of members appointed by the Governor. Members shall include:

4 (a) Representatives of managed care health services organizations under contract with the [*De-*
5 *partment of Human Services*] **Oregon Health Authority** pursuant to ORS 414.725 and serving pri-
6 marily rural areas of the state;

7 (b) Representatives of managed care health services organizations under contract with the [*De-*
8 *partment of Human Services*] **Oregon Health Authority** pursuant to ORS 414.725 and serving pri-
9 marily urban areas of the state;

10 (c) Representatives of medical organizations representing health care providers under contract
11 with managed care health services organizations pursuant to ORS 414.725 who serve patients in both
12 rural and urban areas of the state; **and**

13 (d) One representative from Type A hospitals and one representative from Type B hospitals.];
14 *and*]

15 [*(e) Representatives of the Department of Human Services.*]

16 (2) Members of the advisory committee shall not be entitled to compensation or per diem.

17 **SECTION 342.** ORS 414.805 is amended to read:

18 414.805. (1) An individual who receives medical services while in the custody of a law enforce-
19 ment officer is liable:

20 (a) To the provider of the medical services for the charges and expenses therefor; and

21 (b) To the [*Department of Human Services*] **Oregon Health Authority** for any charges or ex-
22 penses paid by the [*Department of Human Services*] **authority** out of the Law Enforcement Medical
23 Liability Account for the medical services.

24 (2) A person providing medical services to an individual described in subsection (1)(a) of this
25 section shall first make reasonable efforts to collect the charges and expenses thereof from the in-
26 dividual before seeking to collect them from the [*Department of Human Services*] **authority** out of
27 the Law Enforcement Medical Liability Account.

28 (3)(a) If the provider has not been paid within 45 days of the date of the billing, the provider
29 may bill the [*Department of Human Services*] **authority** who shall pay the account out of the Law
30 Enforcement Medical Liability Account.

31 (b) A bill submitted to the [*Department of Human Services*] **authority** under this subsection must
32 be accompanied by evidence documenting that:

33 (A) The provider has billed the individual or the individual's insurer or health care service
34 contractor for the charges or expenses owed to the provider; and

35 (B) The provider has made a reasonable effort to collect from the individual or the individual's
36 insurer or health care service contractor the charges and expenses owed to the provider.

37 (c) If the provider receives payment from the individual or the insurer or health care service
38 contractor after receiving payment from the [*Department of Human Services*] **authority**, the provider
39 shall repay the [*department*] **authority** the amount received from the public agency less any differ-
40 ence between payment received from the individual, insurer or contractor and the amount of the
41 billing.

42 (4) As used in this section:

43 (a) "Law enforcement officer" means an officer who is commissioned and employed by a public
44 agency as a peace officer to enforce the criminal laws of this state or laws or ordinances of a public
45 agency.

1 (b) "Public agency" means the state, a city, port, school district, mass transit district or county.

2 **SECTION 343.** ORS 414.807 is amended to read:

3 414.807. (1)(a) When charges and expenses are incurred for medical services provided to an in-
4 dividual for injuries related to law enforcement activity and subject to the availability of funds in
5 the account, the cost of such services shall be paid by the [*Department of Human Services*] **Oregon**
6 **Health Authority** out of the Law Enforcement Medical Liability Account established in ORS
7 414.815 if the provider of the medical services has made all reasonable efforts to collect the amount,
8 or any part thereof, from the individual who received the services.

9 (b) When a law enforcement agency involved with an injury certifies that the injury is related
10 to law enforcement activity, the [*Department of Human Services*] **Oregon Health Authority** shall
11 pay the provider:

12 (A) If the provider is a hospital, in accordance with current fee schedules established by the
13 Director of the Department of Consumer and Business Services for purposes of workers' compen-
14 sation under ORS 656.248; or

15 (B) If the provider is other than a hospital, 75 percent of the customary and usual rates for the
16 services.

17 (2) After the injured person is incarcerated and throughout the period of incarceration, the
18 [*Department of Human Services*] **Oregon Health Authority** shall continue to pay, out of the Law
19 Enforcement Medical Liability Account, charges and expenses for injuries related to law enforce-
20 ment activities as provided in subsection (1) of this section. Upon release of the injured person from
21 actual physical custody, the Law Enforcement Medical Liability Account is no longer liable for the
22 payment of medical expenses of the injured person.

23 (3) If the provider of medical services has filed a medical services lien as provided in ORS
24 87.555, the [*Department of Human Services*] **Oregon Health Authority** shall be subrogated to the
25 rights of the provider to the extent of payments made by the [*Department of Human Services*] **au-**
26 **thority** to the provider for the medical services. The [*Department of Human Services*] **authority** may
27 foreclose the lien as provided in ORS 87.585.

28 (4) The [*Department of Human Services*] **authority** shall deposit in the Law Enforcement Medical
29 Liability Account all moneys received by the [*department*] **authority** from:

30 (a) Providers of medical services as repayment;

31 (b) Individuals whose medical expenses were paid by the [*department*] **authority** under this
32 section; and

33 (c) Foreclosure of a lien as provided in subsection (3) of this section.

34 (5) As used in this section:

35 (a) "Injuries related to law enforcement activity" means injuries sustained prior to booking, ci-
36 tation in lieu of arrest or release instead of booking that occur during and as a result of efforts by
37 a law enforcement officer to restrain or detain, or to take or retain custody of, the individual.

38 (b) "Law enforcement officer" has the meaning given that term in ORS 414.805.

39 **SECTION 344.** ORS 414.815 is amended to read:

40 414.815. (1) The Law Enforcement Medical Liability Account is established separate and distinct
41 from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys
42 in the Law Enforcement Medical Liability Account are appropriated continuously to the [*Department*
43 *of Human Services*] **Oregon Health Authority** to pay expenses in administering the account and
44 paying claims out of the account as provided in ORS 414.807.

45 (2) The liability of the Law Enforcement Medical Liability Account is limited to funds accrued

1 to the account from assessments collected under ORS 137.309 (6), (8) or (9), or collected from indi-
2 viduals under ORS 414.805.

3 (3) The [*Department of Human Services*] **authority** may contract with persons experienced in
4 medical claims processing to provide claims processing for the account.

5 (4) The [*Department of Human Services*] **authority** shall adopt rules to implement administration
6 of the Law Enforcement Medical Liability Account including, but not limited to, rules that establish
7 reasonable deadlines for submission of claims.

8 (5) Each biennium, the [*Department of Human Services*] **Oregon Health Authority** shall submit
9 a report to the Legislative Assembly regarding the status of the Law Enforcement Medical Liability
10 Account. Within 30 days of the convening of each regular legislative session, the [*department*] **au-**
11 **thority** shall submit the report to the chair of the Senate Judiciary Committee and the chair of the
12 House Judiciary Committee. The report shall include, but is not limited to, the number of claims
13 submitted and paid during the biennium and the amount of money in the fund at the time of the
14 report.

15 **SECTION 345.** ORS 416.430 is amended to read:

16 416.430. (1) The administrator may establish paternity of a child in the course of a support
17 proceeding under ORS 416.400 to 416.465 when both parents sign statements that paternity has not
18 been legally established and that the male parent is the father of the child. The administrator may
19 enter an order which establishes paternity.

20 (2) If the parent fails to file a response denying paternity and requesting a hearing within the
21 time period allowed in ORS 416.415 (2), then the administrator, without further notice to the parent,
22 may enter an order, in accordance with ORS 416.415 (7), which declares and establishes the parent
23 as the legal father of the child.

24 (3) Any order entered pursuant to subsection (1) or (2) of this section establishes legal paternity
25 for all purposes. The Center for Health Statistics of the [*Department of Human Services*] **Oregon**
26 **Health Authority** shall prepare a new birth certificate in the new name, if any, of the child. The
27 original birth certificate shall be sealed and filed and may be opened only upon order of a court of
28 competent jurisdiction.

29 (4)(a) If paternity is alleged under ORS 416.415 (3) and a written response denying paternity and
30 requesting a hearing is received within the time period allowed in ORS 416.415 (2), or if the ad-
31 ministrator determines that there is a valid issue with respect to paternity of the child, the admin-
32 istrator, subject to the provisions of subsections (5) and (6) of this section, shall certify the matter
33 to the circuit court for a determination based upon the contents of the file and any evidence which
34 may be produced at trial. The proceedings in court shall for all purposes be deemed suits in equity.
35 The provisions of ORS 109.145 to 109.230 apply to proceedings certified to court by the administrator
36 pursuant to this section.

37 (b) Any response denying paternity and requesting a hearing shall be sent by the enforcement
38 office to the obligee by regular mail.

39 (5) An action to establish paternity initiated under ORS 416.400 to 416.465 shall not be certified
40 to court for trial unless all of the following have occurred:

41 (a) Blood tests have been conducted;

42 (b) The results of the blood tests have been served upon the parties and notice has been given
43 that an order establishing paternity will be entered unless a written objection is received within 30
44 days; and

45 (c) A written objection to the entry of an order has been timely received from a party.

1 (6) Notwithstanding the provisions of subsection (5) of this section, the administrator:

2 (a) Shall certify the matter to court:

3 (A) Within 30 days of receipt by the administrator of a timely written objection to the entry of
4 an order by a party under subsection (5)(c) of this section;

5 (B) When a party requests certification in writing after the administrator has received a party's
6 written denial of paternity if at least 120 days have elapsed from receipt of the denial; or

7 (C) Upon receipt of blood test results with a cumulative paternity index of less than 99; and

8 (b) May certify the matter to court at any time under any other circumstances.

9 (7) If the blood tests conducted under ORS 109.250 to 109.262 result in a cumulative paternity
10 index of 99 or greater, evidence of the tests, together with the testimony of the parent, shall be a
11 sufficient basis upon which to establish paternity and the administrator may enter an order declar-
12 ing the alleged father as the legal father of the child unless a party objects in writing to the entry
13 of the order. The testimony of the parent may be presented by affidavit.

14 (8) Prior to certification to court, the administrator may attempt to resolve the issue of
15 paternity by discovery conducted under the Oregon Rules of Civil Procedure. Unless otherwise
16 specifically provided by statute, the proceedings shall be conducted under the Oregon Rules of Civil
17 Procedure.

18 (9) When, in accordance with subsection (6)(a)(A) of this section, a party objects to the entry
19 of an order and the blood tests conducted under ORS 109.250 to 109.262 result in a cumulative
20 paternity index of 99 or greater, notwithstanding the party's objection, evidence of the tests, to-
21 gether with the testimony of a parent, is a sufficient basis upon which to presume paternity for
22 purposes of establishing temporary support under this section. The court shall, upon motion of any
23 party, enter a temporary order requiring the alleged father to provide support pending the determi-
24 nation of parentage by the court. In determining the amount of support, the court shall use the
25 formula established under ORS 25.275.

26 **SECTION 346.** ORS 416.510 is amended to read:

27 416.510. As used in ORS 416.510 to 416.610, unless the context requires otherwise:

28 (1) "Action" means an action, suit or proceeding.

29 (2) "Applicant" means an applicant for assistance.

30 (3) "Assistance" means moneys paid by the [*Department of Human Services*] **Oregon Health**
31 **Authority** to persons directly and moneys paid by the [*department*] **authority** or by a prepaid
32 managed care health services organization for services provided under contract pursuant to ORS
33 414.725 to others for the benefit of such persons.

34 (4) "**Authority**" means the **Oregon Health Authority**.

35 [(4)] (5) "Claim" means a claim of a recipient of assistance for damages for personal injuries
36 against any person or public body, agency or commission other than the State Accident Insurance
37 Fund Corporation or Workers' Compensation Board.

38 [(5)] (6) "Compromise" means a compromise between a recipient and any person or public body,
39 agency or commission against whom the recipient has a claim.

40 [(6)] "*Department*" means the *Department of Human Services*.]

41 (7) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce
42 the claim of the recipient.

43 (8) "Prepaid managed care health services organization" means a managed health, dental or
44 mental health care organization that contracts with the [*Department of Human Services*] **authority**
45 on a prepaid capitated basis under the Oregon Health Plan pursuant to ORS 414.725. Prepaid man-

1 aged care health services organizations may be dental care organizations, fully capitated health
2 plans, mental health organizations or chemical dependency organizations.

3 (9) "Recipient" means a recipient of assistance.

4 (10) "Settlement" means a settlement between a recipient and any person or public body, agency
5 or commission against whom the recipient has a claim.

6 **SECTION 347.** ORS 416.530 is amended to read:

7 416.530. When any applicant or recipient makes a claim or, without making a claim, begins an
8 action to enforce such claim, the applicant or recipient, or the attorney for the applicant or the
9 recipient, shall immediately notify the [*Department of Human Services*] **Oregon Health Authority**
10 and the recipient's prepaid managed care health services organization, if the recipient is receiving
11 services from the organization. If an applicant or recipient, or the attorney for the applicant or the
12 recipient, has given notice that the applicant or recipient has made a claim, it shall not be necessary
13 for the applicant or recipient, or the attorney for the applicant or the recipient, to give notice that
14 the applicant or recipient has begun an action to enforce such claim. The notification shall include
15 the name and address of each person or public body, agency or commission against whom claim is
16 made or action is brought. If claim is made or action is brought against a corporation, the address
17 given in such notification shall be that of its principal place of business. If the applicant or recipient
18 is a minor, the parents, legal guardian or foster parents of the minor shall give the notification re-
19 quired by this section.

20 **SECTION 348.** ORS 416.540 is amended to read:

21 416.540. (1) Except as provided in subsection (2) of this section and in ORS 416.590, the [*De-*
22 *partment of Human Services*] **Oregon Health Authority** shall have a lien upon the amount of any
23 judgment in favor of a recipient or amount payable to the recipient under a settlement or compro-
24 mise for all assistance received by such recipient from the date of the injury of the recipient to the
25 date of satisfaction of such judgment or payment under such settlement or compromise.

26 (2) The lien does not attach to the amount of any judgment, settlement or compromise to the
27 extent of attorney's fees, costs and expenses incurred by a recipient in securing such judgment,
28 settlement or compromise and to the extent of medical, surgical and hospital expenses incurred by
29 the recipient on account of the personal injuries for which the recipient had a claim.

30 (3) The [*department*] **authority** may assign the lien described in subsection (1) of this section to
31 a prepaid managed care health services organization for medical costs incurred by a recipient:

32 (a) During a period for which the [*department*] **authority** paid a capitation or enrollment fee;
33 and

34 (b) On account of the personal injury for which the recipient had a claim.

35 (4) A prepaid managed care health services organization to which the [*department*] **authority**
36 has assigned a lien shall notify the [*department*] **authority** no later than 10 days after filing notice
37 of a lien.

38 (5) For the purposes of ORS 416.510 to 416.610, the [*department*] **authority** may designate the
39 prepaid managed care health services organization to which a lien is assigned as its designee.

40 (6) If the [*department*] **authority** and a prepaid managed care health services organization both
41 have filed a lien, the [*department's*] **authority's** lien shall be satisfied first.

42 **SECTION 349.** ORS 416.550 is amended to read:

43 416.550. (1) Upon receiving notice under ORS 416.530, to perfect its lien the [*Department of Hu-*
44 *man Services*] **Oregon Health Authority** shall:

45 (a) File a notice of lien, substantially in the form prescribed in ORS 416.560, with the recording

1 officer of the county in which the person against whom claim is made or action is brought resides.
2 If the claim or action is against a corporation, the notice of lien shall be filed with the recording
3 officer of the county within the state in which such corporation has its principal place of business.
4 If the claim or action is against a public body, agency or commission, the notice of lien shall be filed
5 with the recording officer of the county in which the public body, agency or commission has its main
6 offices; and

7 (b) Prior to the date of satisfaction of the judgment or payment under the settlement or com-
8 promise, send a certified copy of the notice of lien by registered mail or by certified mail with return
9 receipt to each person or public body, agency or commission against whom claim is made or action
10 is brought by the recipient.

11 (2) Upon the filing of a notice of lien by the [department] **authority**, the recording officer shall
12 enter the name of the injured person, the approximate date of the injury and the name of the [de-
13 partment] **authority** as lienor in the hospital lien docket provided for in ORS 87.575 and shall make
14 an index thereto in the names of the injured persons and the [department] **authority**.

15 **SECTION 350.** ORS 416.560 is amended to read:

16 416.560. The form of the notice required by ORS 416.550 (1) shall be substantially as follows:
17 _____
18

19 Notice is hereby given that the [Department of Human Services] **Oregon Health Authority** has
20 rendered assistance to _____, a person who was injured on or about the ____ day
21 of _____ in the city of _____ and State of _____, and the [Department of Human
22 Services] **Oregon Health Authority** hereby asserts a lien to the extent provided in ORS 416.510 to
23 416.610, for the amount of such assistance upon any amount due and owing _____ (name of
24 injured person) under a judgment, settlement or compromise from _____ alleged to have caused
25 such injuries and from any other person or public body, agency or commission liable for the injury
26 or obligated to compensate the injured person on account of such injuries.

27 [Department of Human Services] **Oregon Health Authority**
28 by _____,

29 Director of [Human Services] **the Oregon Health Authority** or designee.
30

31 State of Oregon,)
32) ss.
33 County of _____)

34 I, _____, being first duly sworn on oath say: That I am the Director of [Human
35 Services] **the Oregon Health Authority** or designee; that I have read the foregoing notice of lien
36 and know the contents thereof and believe the same to be true.
37 _____

38 Subscribed and sworn to before me this ____ day of _____, _____.
39 _____, Notary Public.
40 _____

41 **SECTION 351.** ORS 416.570 is amended to read:

42 416.570. Immediately after a judgment has been rendered in favor of a recipient or a settlement
43 or compromise has been agreed upon, the person or public body, agency or commission bound by
44 such judgment, settlement or compromise shall notify the [Department of Human Services] **Oregon**
45

1 **Health Authority.** After such notification the *[department]* **authority** shall send a statement of the
 2 amount of its lien to such person or public body, agency or commission by registered mail or by
 3 certified mail with return receipt.

4 **SECTION 352.** ORS 416.580 is amended to read:

5 416.580. (1) After a notice of lien is filed in the manner provided in ORS 416.550 (2), any person
 6 or public body, agency or commission who makes any payment to the injured recipient, the heirs,
 7 personal representatives or assigns of the recipient, or their attorneys, under a judgment, settlement
 8 or compromise without previously having paid to the *[Department of Human Services]* **Oregon**
 9 **Health Authority** the amount of its lien, shall be liable to the State of Oregon, for the use and
 10 benefit of the *[department]* **authority** for a period of 180 days after the date of such payment for the
 11 amount of such payment to the extent that the lien attached thereto under ORS 416.540.

12 (2) Any amount paid to the *[department]* **authority** in satisfaction of its lien shall be distributed
 13 by the *[department]* **authority** to the United States Government and the Public Welfare Account,
 14 as their interests may appear.

15 (3) If the recipient is a minor, no payments to the *[department]* **authority** in satisfaction of its
 16 lien and, except to the extent of the fees, costs and expenses specified in ORS 416.540 (2), no pay-
 17 ments to the recipient under a judgment, settlement or compromise shall be made until a hearing
 18 has taken place and the court has issued its order under ORS 416.590.

19 **SECTION 353.** ORS 416.590 is amended to read:

20 416.590. (1) If the recipient is a minor, after the date on which a judgment in favor of the re-
 21 cipient is rendered or settlement or compromise is agreed upon, the guardian of the minor or the
 22 conservator of the estate of the minor shall petition the court having probate jurisdiction in the
 23 county in which the guardian or conservator was appointed to determine the sum that will be
 24 needed for the minor's complete physical rehabilitation. If the guardian or the conservator of the
 25 minor's estate fails to petition the court, any other interested person or public body, agency or
 26 commission may file the petition. The lien of the *[Department of Human Services]* **Oregon Health**
 27 **Authority** provided for in ORS 416.510 to 416.610 shall not attach to the amount of the judgment,
 28 settlement or compromise to the extent of the sum needed for the rehabilitation. Among other data,
 29 the petition shall contain the name and address of each person or public body, agency or commission
 30 liable to the minor under the judgment, settlement or compromise.

31 (2) The court shall conduct a hearing to determine the sum that will be needed by the minor
 32 and at least 10 days prior to the date of the hearing, the clerk of the court shall notify the
 33 conservator of the minor's estate, the *[department]* **authority** and the person who filed the petition,
 34 if the person is someone other than the guardian or the conservator of the minor's estate, of the
 35 date on which the hearing will be held. At the hearing any interested person as well as witnesses
 36 for the minor and for the *[department]* **authority** may testify on the question before the court. Upon
 37 reaching a decision, the court shall issue an order setting forth the decision and the clerk of the
 38 court shall enter the order in an appropriate record book. The clerk shall also send a copy of the
 39 order to the guardian or the conservator of the minor's estate, the person who filed the petition if
 40 the person is someone other than the guardian or the conservator of the minor's estate, the *[de-*
 41 *partment]* **authority** and to each person or public body, agency or commission liable to the minor
 42 under the judgment, settlement or compromise.

43 **SECTION 354.** ORS 416.600 is amended to read:

44 416.600. When the *[Department of Human Services]* **Oregon Health Authority** determines that
 45 a recipient will incur additional medical, surgical or hospital expenses or that additional assistance

1 will have to be given to the recipient after the date of satisfaction of judgment or payment under
2 a settlement or compromise, the [department] **authority** may release any portion of its lien to the
3 extent of such anticipated expenses and assistance.

4 **SECTION 355.** ORS 416.610 is amended to read:

5 416.610. The [Department of Human Services] **Oregon Health Authority** or the recipient's pre-
6 paid managed care health services organization, if the recipient is receiving services from the or-
7 ganization, shall have a cause of action against any recipient who fails to give the notification
8 required by ORS 416.530 for amounts received by the recipient pursuant to a judgment, settlement
9 or compromise to the extent that the [department] **authority** or the prepaid managed care health
10 services organization could have had a lien against such amounts had such notice been given.

11 **SECTION 356.** ORS 416.990 is amended to read:

12 416.990. Any person who makes, renders, signs or verifies any false or fraudulent statement, or
13 supplies any false or fraudulent information with intent to evade any lawful requirement of the De-
14 partment of Human Services **or the Oregon Health Authority** is guilty of a misdemeanor.

15 **SECTION 357.** ORS 417.345 is amended to read:

16 417.345. (1) The Medically Involved Home-Care Program is created in the [Department of Human
17 Services. The department] **Oregon Health Authority. The authority** shall provide all State Plan
18 Medicaid and waived services available under state and federal law that are necessary to enable
19 a medically involved child to be cared for in the child's home. The waived services that must be
20 available include but are not limited to home nursing care, durable medical equipment and respite
21 care.

22 (2) The [Department of Human Services] **authority** shall adopt by rule criteria for determining
23 the need for and extent of assistance to be provided to a medically involved child enrolled in the
24 Medically Involved Home-Care Program created by subsection (1) of this section. The criteria shall
25 include, but are not limited to, consideration of:

26 (a) The medical needs of the child;

27 (b) The needs of any other family member with a disability or chronic illness in the child's home;

28 (c) Family and community support available to the child and family caregivers; and

29 (d) The assistance necessary for the family to care for the child in the child's home, disregarding
30 parental or legal guardian income.

31 (3) Subject to limits on enrollment required by state or federal law, services offered through the
32 Medically Involved Home-Care Program shall be made available to children meeting the criteria
33 established by the [department] **authority** by rule. Priority for enrollment shall be given to:

34 (a) A child transferring to the child's home from nursing home placement, foster care placement
35 or other out-of-home placement;

36 (b) A child living at home who is at risk of nursing home placement, foster care placement or
37 other out-of-home placement;

38 (c) A child who does not otherwise qualify for medical assistance under ORS chapter 414 and
39 for whom the [department] **authority** pays family support payments pursuant to ORS 430.215 that
40 exceed \$10,000 per year; and

41 (d) A child who is at risk of losing eligibility for medical assistance under ORS chapter 414 due
42 to a caregiver's employment or an increase in a caregiver's earnings.

43 (4) As used in this section, "child" means a person under 18 years of age.

44 (5) The [Department of Human Services] **authority** shall enroll no fewer than 125 medically in-
45 volved children in the Medically Involved Home-Care Program beginning January 1, 2008. The [de-

1 *partment]* **authority** shall enroll an additional 25 medically involved children each calendar year
2 thereafter, to the maximum number allowed by federal law or under the terms of the federal ap-
3 proval.

4 (6) Moneys appropriated to the [*department*] **authority** for the Medically Involved Home-Care
5 Program may not be used to supplant moneys appropriated to the [*department*] **authority** for the
6 Children's Intensive In-Home Services program.

7 **SECTION 358.** ORS 417.346 is amended to read:

8 417.346. Subject to the availability of funds therefor, the Director of Human Services, **in con-**
9 **sultation with the Director of the Oregon Health Authority**, shall:

10 (1) Identify current programs and potential resources available to families providing care for a
11 family member with a disability or chronic illness.

12 (2) Develop a biennial plan for adequate funding and recommend budgetary priorities for family
13 support services.

14 (3) Develop a biennial cooperative plan for assuring a statewide interagency system of family
15 support services.

16 (4) Adopt rules for family support services that are guided by the goals and principles set forth
17 in ORS 417.340 to 417.348. These rules shall contain a grievance procedure.

18 (5) Make a biennial report to the Legislative Assembly on the state of the family support system,
19 including strengths, deficiencies, cost savings and recommendations. This report shall include a
20 comprehensive statement of the efforts of the Department of Human Services to carry out the poli-
21 cies and principles set forth in this legislation. The report shall include but not be limited to a list
22 of family support services, a summary of costs and the number of clients served.

23 (6) Establish a Family Support Advisory Council whose purpose is to review and comment on
24 plans and services provided or contracted for family support by state agencies and advise the di-
25 rector on the state plans for coordinated family support services.

26 (a) The council shall meet a minimum of four times per year.

27 (b) The membership of the council shall be 51 percent consumers of family support services.

28 (c) The remaining membership shall be composed of representatives of agencies providing family
29 support services and representatives of advocacy groups. One member shall be a representative of
30 the Department of Education.

31 **SECTION 359.** ORS 417.728 is amended to read:

32 417.728. (1) The State Commission on Children and Families, the Department of Education, the
33 Employment Department, [*and*] the Department of Human Services **and the Oregon Health Au-**
34 **thority** shall lead a joint effort with other state and local early childhood partners to establish the
35 policies necessary for a voluntary statewide early childhood system that shall be incorporated into
36 the local coordinated comprehensive plan.

37 (2) The voluntary statewide early childhood system shall be designed to achieve:

38 (a) The appropriate early childhood benchmarks jointly identified by the State Commission on
39 Children and Families, the Department of Education, the Employment Department, [*and*] the De-
40 partment of Human Services **and the Oregon Health Authority**, with input from early childhood
41 partners, as the appropriate benchmarks; and

42 (b) Any other early childhood benchmark or intermediate outcome jointly identified by the State
43 Commission on Children and Families, the Department of Education, the Employment Department,
44 [*and*] the Department of Human Services **and the Oregon Health Authority**, with input from early
45 childhood partners, as an appropriate benchmark or outcome.

1 (3) The voluntary statewide early childhood system shall include the following components:

2 (a) A process to identify as early as possible children and families who would benefit from early
3 childhood services;

4 (b) A plan to support the identified needs of the child and family that coordinates case man-
5 agement personnel and the delivery of services to the child and family; and

6 (c) Services to support children who are zero through eight years of age and their families who
7 give their express written consent, including:

8 (A) Screening, assessment and home visiting services pursuant to ORS 417.795;

9 (B) Specialized or targeted home visiting services;

10 (C) Community-based services such as relief nurseries, family support programs and parent ed-
11 ucation programs;

12 (D) High quality child care, as defined by the Commission for Child Care;

13 (E) Preschool and other early education services;

14 (F) Health services for children and pregnant women;

15 (G) Mental health services;

16 (H) Alcohol and drug treatment programs that meet the standards promulgated by the [*Depart-*
17 *ment of Human Services*] **Oregon Health Authority** pursuant to ORS 430.357;

18 (I) Developmental disability services; and

19 (J) Other state and local services.

20 (4) The State Commission on Children and Families, the Department of Education, the Employ-
21 ment Department, [*and*] the Department of Human Services **and the Oregon Health Authority**
22 shall jointly:

23 (a) Consolidate administrative functions relating to the voluntary statewide early childhood
24 system, to the extent practicable, including but not limited to training and technical assistance,
25 planning and budgeting. This paragraph does not apply to the administrative functions of the De-
26 partment of Education relating to education programs;

27 (b) Adopt policies to establish training and technical assistance programs to ensure that per-
28 sonnel have skills in appropriate areas, including screening, family assessment, competency-based
29 home visiting skills, cultural and gender differences and other areas as needed;

30 (c) Identify research-based age-appropriate and culturally and gender appropriate screening and
31 assessment tools that would be used as appropriate in programs and services of the voluntary
32 statewide early childhood system;

33 (d) Develop a plan for the implementation of a common data system for voluntary early child-
34 hood programs as provided in section 7, chapter 831, Oregon Laws 2001;

35 (e) Coordinate existing and new early childhood programs to provide a range of community-
36 based supports;

37 (f) Establish a common set of quality assurance standards to guide local implementation of all
38 elements of the voluntary statewide early childhood system, including voluntary universal screening
39 and assessment, home visiting, staffing, evaluation and community-based services;

40 (g) Ensure that all plans for voluntary early childhood services are coordinated and consistent
41 with federal and state law, including but not limited to plans for Oregon prekindergarten programs,
42 federal Head Start programs, early childhood special education services, early intervention services
43 and public health services;

44 (h) Identify how the voluntary statewide early childhood system for children who are zero
45 through eight years of age will link with systems of support for older children and their families;

1 (i) Contract for an evaluation of the outcomes of the voluntary statewide early childhood system;
2 and

3 (j) During January of each odd-numbered year, report to the Governor and the Legislative As-
4 sembly on the voluntary statewide early childhood system. The report shall include the evaluation
5 described in paragraph (i) of this subsection.

6 (5) The State Commission on Children and Families, the State Board of Education, the Employ-
7 ment Department, [and] the Department of Human Services **and the Oregon Health Authority**
8 when adopting rules to administer voluntary early childhood programs under their individual au-
9 thority shall adopt rules that are consistent with the requirements of the voluntary statewide early
10 childhood system created under this section.

11 (6) Information gathered in conjunction with the voluntary comprehensive screening and as-
12 sessment of children and their families may be used only for the following purposes:

- 13 (a) Providing services to children and families who give their express written consent;
- 14 (b) Providing statistical data that are not personally identifiable;
- 15 (c) Accomplishing other purposes for which the family has given express written consent; and
- 16 (d) Meeting the requirements of mandatory state and federal disclosure laws.

17 **SECTION 360.** ORS 417.730 is amended to read:

18 417.730. (1) There is established a State Commission on Children and Families consisting of:

- 19 (a) The Director of Human Services;
- 20 (b) The Superintendent of Public Instruction;
- 21 (c) The Director of the Employment Department or, at the Governor's direction, the chairperson
22 of the Commission for Child Care;

23 **(d) The Director of the Oregon Health Authority;**

24 [(d)] (e) One member appointed by the President of the Senate, who shall be a member of the
25 Senate and who shall be a nonvoting, advisory member;

26 [(e)] (f) One member appointed by the Speaker of the House of Representatives, who shall be a
27 member of the House of Representatives and who shall be a nonvoting, advisory member; and

28 [(f)] (g) Twelve members appointed by the Governor.

29 (2) The appointments made by the Governor shall reflect the state's diverse populations and
30 regions and shall include representatives with expertise along the full developmental continuum of
31 a child from the prenatal stage through 18 years of age. The members appointed by the Governor
32 shall include:

33 (a) One representative from the Oregon Juvenile Department Directors' Association, from which
34 the Governor may solicit suggestions for appointment;

35 (b) Six public members who have demonstrated interest in children, with consideration given to
36 a youth member and persons from the education community;

37 (c) Two members from local commissions on children and families, one from a rural area and
38 one from an urban area;

39 (d) One social service professional; and

40 (e) Two members from the business community who have demonstrated interest in children.

41 (3) The term of office of each member appointed by the Governor is four years. Before the ex-
42 piration of the term of an appointed member, the Governor shall appoint a successor whose term
43 begins on October 1. An appointed member is eligible for reappointment. If there is a vacancy in
44 an appointed position for any cause, the Governor shall make an appointment to become immediately
45 effective for the unexpired term.

1 (4) The appointments by the Governor to the state commission are subject to confirmation by
2 the Senate in the manner prescribed in ORS 171.562 and 171.565.

3 (5) An appointed member of the state commission who is not a member of the Legislative As-
4 sembly is entitled to compensation and expenses as provided in ORS 292.495. Members who are
5 members of the Legislative Assembly shall be paid compensation and expense reimbursement as
6 provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly.

7 (6)(a) The majority of the members of the state commission shall be laypersons.

8 (b) As used in this subsection, "layperson" means a person whose primary income is not derived
9 from either offering direct service to children and youth or being an administrator for a program for
10 children and youth.

11 **SECTION 361.** ORS 417.735 is amended to read:

12 417.735. (1) The State Commission on Children and Families shall promote the wellness of chil-
13 dren and families at the state level and shall act in accordance with the principles, characteristics
14 and values identified in ORS 417.708 to 417.725. The state commission shall provide no direct ser-
15 vices.

16 (2)(a) Funds for local commissions shall consist of payments from moneys appropriated for local
17 commissions to the State Commission on Children and Families by the Legislative Assembly. The
18 state commission shall develop an equitable formula for the distribution of funds to counties or re-
19 gions for services for children and families, and a minimum annual grant shall be provided to each
20 county or region.

21 (b) The state commission shall provide technical assistance and research-based information to
22 local commissions to support the development of county goals, performance measures and outcomes
23 for services and programs.

24 (c) The state commission may withhold funds from a local commission if services and programs
25 funded through the local commission do not meet appropriate performance measures and outcomes.

26 (3) The state commission shall:

27 (a) Set guidelines for the planning, coordination and delivery of services by local commissions
28 in partnership with other planning bodies and agencies providing services for children and families.
29 The guidelines shall be consistent with the key elements of the service system developed and im-
30 plemented under ORS 417.705 to 417.801. In conjunction with other planning bodies and agencies
31 providing social supports, the state commission shall use the local coordinated comprehensive plans
32 to advise agencies, the Legislative Assembly and the Governor;

33 (b) Advise the Legislative Assembly and the Governor concerning possible solutions to problems
34 facing children and families;

35 (c) In consultation with other agencies, identify high-level and intermediate outcomes relating
36 to children and families and monitor the progress of local coordinated comprehensive plans in
37 meeting intermediate outcome targets;

38 (d) Encourage the development of innovative projects, based on proven practices of effective-
39 ness, that benefit children and families;

40 (e) Ensure that all services for children and families are integrated and evaluated according to
41 their outcomes;

42 (f) Compile, analyze and distribute information that informs and supports statewide coordinated
43 planning;

44 (g) Establish a uniform system of reporting and collecting statistical data from counties and
45 other agencies serving children and families;

1 (h) Provide a process whereby the Department of Human Services, **Oregon Health Authority**,
2 Juvenile Crime Prevention Advisory Committee, Oregon Youth Authority, Department of Education,
3 Department of Community Colleges and Workforce Development, Employment Department, Housing
4 and Community Services Department and Economic and Community Development Department re-
5 view all findings from data collected by the local commissions through the local coordinated com-
6 prehensive plans. The information gathered in this review shall be considered by those agencies in
7 designing future economic resources and services and in the coordination of services;

8 (i) Make recommendations to the Commission for Child Care for the development of the state's
9 biennial child care plan; and

10 (j) Communicate information and policy advice on current research and proven practices of ef-
11 fectiveness, from both inside and outside the state, including successful local strategies, to local
12 commissions, the Governor, the Legislative Assembly, state agencies and the public. The information
13 shall include progress in meeting intermediate outcome targets identified in the local coordinated
14 comprehensive plans.

15 (4)(a) The state commission shall develop a review and approval process for local coordinated
16 comprehensive plans that includes:

17 (A) A requirement that the local plan has been approved by the board or boards of county
18 commissioners;

19 (B) Assurance that the local plan meets essential criteria and approval required by appropriate
20 entities and meets appropriate systems and planning connections; and

21 (C) Review of state expenditures of resources allocated to the local commissions on children and
22 families.

23 (b) The state commission shall develop the process under this subsection in consultation with
24 other entities involved in the review and approval process.

25 (c) The state commission shall act on any waiver request from a local commission within 90 days
26 after receipt of the request.

27 (d) The state commission may disapprove a local plan for failure to address the elements de-
28 scribed in paragraph (a) of this subsection within 90 days after receipt of the request.

29 (5) The state commission, in coordination with the local commissions on children and families,
30 shall:

31 (a) Assist the local commissions in the development and implementation of performance meas-
32 ures and outcomes for evaluating services at the local level;

33 (b) Monitor the progress in meeting intermediate outcome targets in the local coordinated
34 comprehensive plans;

35 (c) In conjunction with the Department of Human Services and using the staff resources and
36 other resources of the state commission, educate, inform and provide technical assistance to local
37 commissions, including but not limited to technical assistance with:

38 (A) Federal and state laws, regulations and rules, and changes therein, governing the use of
39 federal and state funds;

40 (B) Facilitation;

41 (C) Planning;

42 (D) Policy development;

43 (E) Proven practices of effectiveness;

44 (F) Local systems development;

45 (G) Community problem solving and mobilization; and

1 (H) Other services, as appropriate;

2 (d) Conduct research and disseminate information to local commissions on children and families;

3 (e) Negotiate federal waivers in consultation with the Department of Human Services; and

4 (f) Develop a process for reviewing requests for waivers from requirements of the state com-
5 mission. Requests for waivers shall be granted or denied as a part of the approval process for a local
6 coordinated comprehensive plan. The state commission shall not grant a request for waiver that al-
7 lows funds to be used for any purpose other than early childhood prevention, intervention and
8 treatment programs.

9 (6) The state commission shall employ a staff director who shall be responsible for hiring and
10 supervising any additional personnel necessary to assist the state commission in performing its du-
11 ties. The staff director shall be responsible for management functions of the state commission sub-
12 ject to policy direction by the state commission.

13 (7) To the extent that federal funding is not jeopardized, the State Commission on Children and
14 Families shall enter into an interagency agreement with the Department of Human Services in
15 which they agree on a system to:

16 (a) Distribute all Title XX Social Services Block Grant funds;

17 (b) Ensure that federal and state requirements are met for federal funds administered by the
18 state commission; and

19 (c) Carry out the necessary auditing, monitoring and information requirements for federal funds
20 distributed by the state commission.

21 (8) In addition to the authority under subsection (5)(e) of this section, the state commission may
22 direct the Department of Human Services or the appropriate state department providing services for
23 children and families to negotiate federal waivers. If the Department of Human Services or any
24 other state agency does not pursue a federal waiver recommended by the state commission, the state
25 commission may ask the Governor to direct the Department of Human Services or other state
26 agency to apply for and negotiate the waiver.

27 (9) If the Department of Human Services or any other state agency refuses to distribute state
28 or federal funds as requested by the state commission, the state commission may ask the Governor
29 to direct the Department of Human Services or other state agency to distribute the funds.

30 (10) The programs shall be funded as fully as possible by Title XX of the federal Social Security
31 Act, consistent with the terms and conditions of the block grant program and the local coordinated
32 comprehensive plans that reflect community priorities established by the local planning process.

33 (11) In conjunction with the Department of Human Services, the state commission, as soon as
34 possible, shall develop a plan to re-engineer and integrate the data processing systems related to
35 children's programs with the objective of making management information more accessible. The
36 state commission shall make regular presentations to the Joint Legislative Committee on Informa-
37 tion Management and Technology on its progress in developing and implementing the plan.

38 (12) Before each regular session of the Legislative Assembly, the state commission shall report,
39 to the Governor and to the appropriate joint interim committee as determined by the Speaker of the
40 House of Representatives and the President of the Senate, the following:

41 (a) Any additional proposals contained in "A Positive Future for Oregon's Children and
42 Families" by the 1991-1992 Oregon Children's Care Team Interim Task Force that should be under-
43 taken;

44 (b) The status in all counties of local service systems related to the health and wellness of
45 children and the adequacy of financial resources to deliver services;

1 (c) The progress in achieving desired outcomes, including but not limited to the statewide
2 guidelines set by the state commission under ORS 417.710 (1);

3 (d) Barriers to achieving intermediate and high-level outcome targets as identified in local co-
4 ordinated comprehensive plans;

5 (e) Proposed solutions to barriers identified under paragraph (d) of this subsection, including
6 proven, effective and innovative strategies; and

7 (f) County and community mobilization to increase public awareness and involvement and fund-
8 ing of community determined priorities.

9 (13)(a) The state commission may solicit, accept and receive federal moneys or moneys or other
10 property from persons or corporations, public or private, for the purpose of carrying out the pro-
11 visions of ORS 417.705 to 417.801 and 419A.170.

12 (b) All federal moneys collected or received under paragraph (a) of this subsection shall be ac-
13 cepted and transferred or expended by the state commission upon such terms and conditions as are
14 prescribed by the federal government.

15 (c) All moneys and other property accepted by the state commission under this subsection shall
16 be transferred, expended or used upon such terms and conditions as are prescribed by the donor in
17 a manner consistent with applicable law.

18 (14) The state commission shall:

19 (a) Implement the recommendations of the Juvenile Crime Prevention Advisory Committee, as
20 approved by the Governor; and

21 (b) In cooperation with other state and federal agencies, coordinate technical assistance efforts
22 on a statewide and county-specific basis relating to juvenile crime prevention programs and services.

23 (15) The state commission may contract with local governments or other entities to administer
24 juvenile crime prevention programs and services. In accordance with the applicable provisions of
25 ORS chapter 183, the state commission may adopt rules necessary for the administration of juvenile
26 crime prevention programs and services.

27 **SECTION 362.** ORS 417.795 is amended to read:

28 417.795. (1) The State Commission on Children and Families established under ORS 417.730 shall
29 establish Healthy Start Family Support Services programs through contracts entered into by local
30 commissions on children and families in all counties of this state as funding becomes available.

31 (2) These programs shall be nonstigmatizing, voluntary and designed to achieve the appropriate
32 early childhood benchmarks and shall:

33 (a) Ensure that express written consent is obtained from the family prior to any release of in-
34 formation that is protected by federal or state law and before the family receives any services;

35 (b) Ensure that services are voluntary and that, if a family chooses not to accept services or
36 ends services, there are no adverse consequences for those decisions;

37 (c) Offer a voluntary comprehensive screening and risk assessment of all newly born children
38 and their families;

39 (d) Ensure that the disclosure of information gathered in conjunction with the voluntary com-
40 prehensive screening and risk assessment of children and their families is limited pursuant to ORS
41 417.728 (6) to the following purposes:

42 (A) Providing services under the programs to children and families who give their express
43 written consent;

44 (B) Providing statistical data that are not personally identifiable;

45 (C) Accomplishing other purposes for which the family has given express written consent; and

- 1 (D) Meeting the requirements of mandatory state and federal disclosure laws;
- 2 (e) Ensure that risk factors used in the risk assessment are limited to those risk factors that
3 have been shown by research to be associated with poor outcomes for children and families;
- 4 (f) Identify, as early as possible, families that would benefit most from the programs;
- 5 (g) Provide parenting education and support services, including but not limited to community-
6 based home visiting services and primary health care services;
- 7 (h) Provide other supports, including but not limited to referral to and linking of community and
8 public services for children and families such as mental health services, alcohol and drug treatment
9 programs that meet the standards promulgated by the *[Department of Human Services]* **Oregon**
10 **Health Authority** pursuant to ORS 430.357, child care, food, housing and transportation;
- 11 (i) Coordinate services for children consistent with the voluntary local early childhood system
12 plan developed pursuant to ORS 417.777;
- 13 (j) Provide follow-up services and supports from birth through five years of age;
- 14 (k) Integrate data with any common data system for early childhood programs implemented
15 pursuant to section 7, chapter 831, Oregon Laws 2001;
- 16 (L) Be included in a statewide independent evaluation to document:
- 17 (A) Level of screening and assessment;
- 18 (B) Incidence of child abuse and neglect;
- 19 (C) Change in parenting skills; and
- 20 (D) Rate of child development;
- 21 (m) Be included in a statewide training program in the dynamics of the skills needed to provide
22 early childhood services, such as assessment and home visiting; and
- 23 (n) Meet voluntary statewide and local early childhood system quality assurance and quality
24 improvement standards.
- 25 (3) The Healthy Start Family Support Services programs, local health departments and other
26 providers of prenatal and perinatal services in counties, as part of the voluntary local early child-
27 hood system, shall:
- 28 (a) Identify existing services and describe and prioritize additional services necessary for a
29 voluntary home visit system;
- 30 (b) Build on existing programs;
- 31 (c) Maximize the use of volunteers and other community resources that support all families;
- 32 (d) Target, at a minimum, all first birth families in the county; and
- 33 (e) Ensure that home visiting services provided by local health departments for children and
34 pregnant women support and are coordinated with local Healthy Start Family Support Services
35 programs.
- 36 (4) Through a Healthy Start Family Support Services program, a trained family support worker
37 or nurse shall be assigned to each family assessed as at risk that consents to receive services
38 through the worker or nurse. The worker or nurse shall conduct home visits and assist the family
39 in gaining access to needed services.
- 40 (5) The services required by this section shall be provided by hospitals, public or private entities
41 or organizations, or any combination thereof, capable of providing all or part of the family risk as-
42 sessment and the follow-up services. In granting a contract, a local commission may utilize
43 collaborative contracting or requests for proposals and shall take into consideration the most ef-
44 fective and consistent service delivery system.
- 45 (6) The family risk assessment and follow-up services for families at risk shall be provided by

1 trained family support workers or nurses organized in teams supervised by a manager and including
2 a family services coordinator who is available to consult.

3 (7) Each Healthy Start Family Support Services program shall adopt disciplinary procedures for
4 family support workers, nurses and other employees of the program. The procedures shall provide
5 appropriate disciplinary actions for family support workers, nurses and other employees who violate
6 federal or state law or the policies of the program.

7 **SECTION 363.** ORS 417.845 is amended to read:

8 417.845. (1) The Juvenile Crime Prevention Advisory Committee is created within the State
9 Commission on Children and Families.

10 (2) The committee shall have the following members:

11 (a) The Director of the Oregon Youth Authority or a designee of the director;

12 (b) The staff director of the State Commission on Children and Families or a designee of the staff
13 director;

14 (c) The Director of [*Human Services*] **the Oregon Health Authority** or one or more designees
15 of the director, one of whom has expertise in treatment and prevention of substance abuse;

16 (d) The executive director of the Oregon Criminal Justice Commission or a designee of the
17 executive director;

18 (e) The Superintendent of Public Instruction or a designee of the superintendent;

19 (f) The Superintendent of State Police or a designee of the superintendent;

20 (g) The Director of the Department of Corrections or a designee of the director;

21 (h) One designee of the Governor;

22 (i) One member appointed by the President of the Senate, who shall be a member of the Senate
23 and who shall be a nonvoting, advisory member;

24 (j) One member appointed by the Speaker of the House of Representatives, who shall be a
25 member of the House of Representatives and who shall be a nonvoting, advisory member; and

26 (k) One designee of the Chief Justice of the Supreme Court from the Judicial Department who
27 serves as a nonvoting member to provide information and support the partnership role of the courts
28 in an effective comprehensive statewide approach to high-risk youth and their families.

29 (3) In addition to the members listed in subsection (2) of this section, the Governor shall appoint
30 the following members who shall be representative of the geographic and cultural diversity of the
31 state:

32 (a) To represent local public and private entities:

33 (A) A county commissioner;

34 (B) A local juvenile director;

35 (C) A director of a local commission on children and families;

36 (D) Two law enforcement officials;

37 (E) A county mental health director;

38 (F) An alcohol and drug abuse professional;

39 (G) A school superintendent;

40 (H) A private youth service provider; and

41 (I) An elected city official;

42 (b) A researcher;

43 (c) A citizen member; and

44 (d) Other members as determined by the Governor.

45 (4) Each member of the committee appointed by the Governor under subsection (3) of this sec-

1 tion shall serve a term of four years. Members appointed by the Governor shall serve at the pleasure
2 of the Governor. A vacancy in the office of any member appointed by the Governor under subsection
3 (3) of this section shall be filled by the Governor by appointment for the unexpired term.

4 (5) The Governor shall select one of the members of the committee as chairperson and one of
5 its members as vice chairperson.

6 (6) The committee shall meet at times, places and intervals deemed advisable by a majority of
7 the members.

8 (7) The State Commission on Children and Families shall provide staff support to the committee.

9 **SECTION 364.** ORS 419B.005 is amended to read:

10 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

11 (1)(a) "Abuse" means:

12 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
13 which has been caused by other than accidental means, including any injury which appears to be
14 at variance with the explanation given of the injury.

15 (B) Any mental injury to a child, which shall include only observable and substantial impairment
16 of the child's mental or psychological ability to function caused by cruelty to the child, with due
17 regard to the culture of the child.

18 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
19 tration and incest, as those acts are defined in ORS chapter 163.

20 (D) Sexual abuse, as defined in ORS chapter 163.

21 (E) Sexual exploitation, including but not limited to:

22 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
23 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
24 in the performing for people to observe or the photographing, filming, tape recording or other ex-
25 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
26 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
27 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
28 which is designed to serve educational or other legitimate purposes; and

29 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in
30 ORS chapter 167.

31 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
32 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
33 welfare of the child.

34 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
35 to the child's health or welfare.

36 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

37 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
38 methamphetamines are being manufactured.

39 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child
40 to a substantial risk of harm to the child's health or safety.

41 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
42 conditions described in paragraph (a) of this subsection.

43 (2) "Child" means an unmarried person who is under 18 years of age.

44 (3) "Public or private official" means:

45 (a) Physician, including any intern or resident.

- 1 (b) Dentist.
 - 2 (c) School employee.
 - 3 (d) Licensed practical nurse or registered nurse.
 - 4 (e) Employee of the Department of Human Services, **Oregon Health Authority**, State Commis-
 - 5 sion on Children and Families, Child Care Division of the Employment Department, the Oregon
 - 6 Youth Authority, a county health department, a community mental health [and] **program, a com-**
 - 7 **munity** developmental disabilities program, a county juvenile department, a licensed child-caring
 - 8 agency or an alcohol and drug treatment program.
 - 9 (f) Peace officer.
 - 10 (g) Psychologist.
 - 11 (h) Member of the clergy.
 - 12 (i) Licensed clinical social worker.
 - 13 (j) Optometrist.
 - 14 (k) Chiropractor.
 - 15 (L) Certified provider of foster care, or an employee thereof.
 - 16 (m) Attorney.
 - 17 (n) Naturopathic physician.
 - 18 (o) Licensed professional counselor.
 - 19 (p) Licensed marriage and family therapist.
 - 20 (q) Firefighter or emergency medical technician.
 - 21 (r) A court appointed special advocate, as defined in ORS 419A.004.
 - 22 (s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
 - 23 (t) Member of the Legislative Assembly.
 - 24 (4) "Law enforcement agency" means:
 - 25 (a) Any city or municipal police department.
 - 26 (b) Any county sheriff's office.
 - 27 (c) The Oregon State Police.
 - 28 (d) A county juvenile department.
- 29 **SECTION 365.** ORS 419B.839 is amended to read:
- 30 419B.839. (1) Summons in proceedings to establish jurisdiction under ORS 419B.100 must be
- 31 served on:
- 32 (a) The parents of the child without regard to who has legal or physical custody of the child;
 - 33 (b) The legal guardian of the child;
 - 34 (c) A putative father of the child who satisfies the criteria set out in ORS 419B.875 (1)(a)(C),
 - 35 except as provided in subsection (4) of this section;
 - 36 (d) A putative father of the child if notice of the initiation of filiation or paternity proceedings
 - 37 was on file with the Center for Health Statistics of the [*Department of Human Services*] **Oregon**
 - 38 **Health Authority** prior to the initiation of the juvenile court proceedings, except as provided in
 - 39 subsection (4) of this section;
 - 40 (e) The person who has physical custody of the child, if the child is not in the physical custody
 - 41 of a parent; and
 - 42 (f) The child, if the child is 12 years of age or older.

43 (2) If it appears to the court that the welfare of the child or of the public requires that the child

44 immediately be taken into custody, the court may indorse an order on the summons directing the

45 officer serving it to take the child into custody.

1 (3) Summons may be issued requiring the appearance of any person whose presence the court
2 deems necessary.

3 (4) Summons under subsection (1) of this section is not required to be given to a putative father
4 whom a court of competent jurisdiction has found not to be the child's legal father or who has filed
5 a petition for filiation that was dismissed if no appeal from the judgment or order is pending.

6 (5) If a guardian ad litem has been appointed for a parent under ORS 419B.231, a copy of a
7 summons served on the parent under this section must be provided to the guardian ad litem.

8 **SECTION 366.** ORS 419C.239 is amended to read:

9 419C.239. (1) A formal accountability agreement shall:

10 (a) Be completed within a period of time not to exceed one year;

11 (b) Be voluntarily entered into by all parties;

12 (c) Be revocable by the youth at any time by a written revocation;

13 (d) Be revocable by the juvenile department in the event the department has reasonable cause
14 to believe the youth has failed to carry out the terms of the formal accountability agreement or has
15 committed a subsequent offense;

16 (e) Not be used as evidence against the youth at any adjudicatory hearing;

17 (f) Be executed in writing and expressed in language understandable to the persons involved;

18 (g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal
19 guardian, and the youth's counsel, if any;

20 (h) Become part of the youth's juvenile department record; and

21 (i) When the youth has been charged with having committed the youth's first violation of a
22 provision under ORS 475.860 (3)(b) or 475.864 (3) and unless the juvenile department determines that
23 it would be inappropriate in the particular case:

24 (A) Require the youth to participate in a diagnostic assessment and an information or treatment
25 program as recommended by the assessment. The agencies or organizations providing assessment or
26 programs of information or treatment must be the same as those designated by the court under ORS
27 419C.443 (1) and must meet the standards set by the Director of [*Human Services*] **the Oregon**
28 **Health Authority**. The parent of the youth shall pay the cost of the youth's participation in the
29 program based upon the ability of the parent to pay.

30 (B) Monitor the youth's progress in the program which shall be the responsibility of the diag-
31 nostic assessment agency or organization. It shall make a report to the juvenile department stating
32 the youth's successful completion or failure to complete all or any part of the program specified by
33 the diagnostic assessment. The form of the report shall be determined by agreement between the
34 juvenile department and the diagnostic assessment agency or organization. The juvenile department
35 shall make the report a part of the record of the case.

36 (2) Notwithstanding any other provision of law, the following information contained in a formal
37 accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

38 (a) The name and date of birth of the youth;

39 (b) The act alleged; and

40 (c) The portion of the agreement providing for the disposition of the youth.

41 **SECTION 367.** ORS 419C.443 is amended to read:

42 419C.443. (1) Except when otherwise provided in subsection (3) of this section, when a youth
43 offender has been found to be within the jurisdiction of the court under ORS 419C.005 for a first
44 violation of the provisions under ORS 475.860 (3)(b) or 475.864 (3), the court shall order an evalu-
45 ation and designate agencies or organizations to perform diagnostic assessment and provide pro-

1 grams of information and treatment. The designated agencies or organizations must meet the
 2 standards set by the Director of [*Human Services*] **the Oregon Health Authority**. Whenever possi-
 3 ble, the court shall designate agencies or organizations to perform the diagnostic assessment that
 4 are separate from those that may be designated to carry out a program of information or treatment.
 5 The parent of the youth offender shall pay the cost of the youth offender's participation in the pro-
 6 gram based upon the ability of the parent to pay. The petition shall be dismissed by the court upon
 7 written certification of the youth offender's successful completion of the program from the desig-
 8 nated agency or organization providing the information and treatment.

9 (2) Monitoring the youth offender's progress in the program shall be the responsibility of the
 10 diagnostic assessment agency or organization. The agency or organization shall make a report to the
 11 court stating the youth offender's successful completion or failure to complete all or any part of the
 12 program specified by the diagnostic assessment. The form of the report shall be determined by
 13 agreement between the court and the diagnostic assessment agency or organization. The court shall
 14 make the report a part of the record of the case.

15 (3) The court is not required to make the disposition required by subsection (1) of this section
 16 if the court determines that the disposition is inappropriate in the case or if the court finds that the
 17 youth offender has previously entered into a formal accountability agreement under ORS 419C.239
 18 (1)(i).

19 **SECTION 368.** ORS 419C.507 is amended to read:

20 419C.507. The court may, in lieu of or in addition to any disposition under this chapter, direct
 21 that a youth offender be examined or treated by a physician, psychiatrist or psychologist, or receive
 22 other special care or treatment in a hospital or other suitable facility. If the court determines that
 23 mental health examination and treatment should be provided by services delivered through the
 24 [*Department of Human Services, the department*] **Oregon Health Authority, the Oregon Health**
 25 **Authority** shall determine the appropriate placement or services in consultation with the court, the
 26 Oregon Youth Authority and other affected agencies. If the youth authority or another affected
 27 agency objects to the type of placement or services, the court shall determine the appropriate type
 28 of placement or service. During the examination or treatment of the youth offender, the
 29 [*department*] **Oregon Health Authority** may, if appropriate, be appointed guardian of the youth
 30 offender.

31 **SECTION 369.** ORS 419C.529 is amended to read:

32 419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds
 33 by a preponderance of the evidence that the young person, at the time of disposition, has a serious
 34 mental condition or has a mental disease or defect other than a serious mental condition and pre-
 35 sents a substantial danger to others, requiring conditional release or commitment to a hospital or
 36 facility designated on an individual case basis by the Department of Human Services **or the Oregon**
 37 **Health Authority** as provided in subsection (6) of this section, the court shall order the young
 38 person placed under the jurisdiction of the Psychiatric Security Review Board.

39 (2) The court shall determine whether the young person should be committed to a hospital or
 40 facility designated on an individual case basis by the department **or the authority**, as provided in
 41 subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel
 42 of the Psychiatric Security Review Board as follows:

43 (a) If the court finds that the young person is not a proper subject for conditional release, the
 44 court shall order the young person committed to a secure hospital or a secure intensive community
 45 inpatient facility designated on an individual case basis by the department **or the authority**, as

1 provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing
 2 before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and
 3 419C.542 and shall order the young person placed under the jurisdiction of the board.

4 (b) If the court finds that the young person can be adequately controlled with supervision and
 5 treatment services if conditionally released and that necessary supervision and treatment services
 6 are available, the court may order the young person conditionally released, subject to those super-
 7 visory orders of the court that are in the best interests of justice and the young person. The court
 8 shall designate a qualified mental health or developmental disabilities treatment provider or state,
 9 county or local agency to supervise the young person on release, subject to those conditions as the
 10 court directs in the order for conditional release. Prior to the designation, the court shall notify the
 11 qualified mental health or developmental disabilities treatment provider or agency to whom condi-
 12 tional release is contemplated and provide the qualified mental health or developmental disabilities
 13 treatment provider or agency an opportunity to be heard before the court. After receiving an order
 14 entered under this paragraph, the qualified mental health or developmental disabilities treatment
 15 provider or agency designated shall assume supervision of the young person subject to the direction
 16 of the juvenile panel. The qualified mental health or developmental disabilities treatment provider
 17 or agency designated as supervisor shall report in writing no less than once per month to the ju-
 18 venile panel concerning the supervised young person's compliance with the conditions of release.

19 (c) For purposes of determining whether to order commitment to a hospital or facility or con-
 20 ditional release, the primary concern of the court is the protection of society.

21 (3) In determining whether a young person should be conditionally released, the court may order
 22 examinations or evaluations deemed necessary.

23 (4) Upon placing a young person on conditional release and ordering the young person placed
 24 under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's
 25 conditional release order, the supervisor designated and all other conditions of release pending a
 26 hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540
 27 and 419C.542.

28 (5) When making an order under this section, the court shall:

29 (a) Determine whether the parent or guardian of the young person is able and willing to assist
 30 the young person in obtaining necessary mental health or developmental disabilities services and is
 31 willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or
 32 guardian:

33 (A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
 34 ocable consent form in which the parent agrees to any placement decision made by the juvenile
 35 panel.

36 (B) Is unable or unwilling to do so, the court shall order that the young person be placed in the
 37 legal custody of the Department of Human Services for the purpose of obtaining necessary [*mental*
 38 *health or*] developmental disabilities services **or the Oregon Health Authority for the purpose**
 39 **of obtaining necessary mental health services.**

40 (b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to
 41 be notified of any board hearings concerning the young person and of any conditional release, dis-
 42 charge or escape of the young person.

43 (c) Include in the order a list of the persons who wish to be notified of any board hearing con-
 44 cerning the young person.

45 (d) Determine on the record the act committed by the young person for which the young person

1 was found responsible except for insanity.

2 (e) State on the record the mental disease or defect on which the young person relied for the
3 responsible except for insanity defense.

4 (6) When the department designates **a facility for the commitment of a developmentally**
5 **disabled young person under this section, or the authority designates** a hospital or facility for
6 commitment of a **mentally ill** young person under this section, the department **and the authority**
7 shall take into account the care and treatment needs of the young person, the resources [*of the de-*
8 *partment*] **available to the department or the authority** and the safety of the public.

9 **SECTION 370.** ORS 419C.530 is amended to read:

10 419C.530. The juvenile panel of the Psychiatric Security Review Board exercises continuing ju-
11 risdiction over a young person committed to, or retained in, a hospital or facility designated by the
12 Department of Human Services **or the Oregon Health Authority** under ORS 419C.529. If the board
13 determines after review that the placement of a young person in the particular hospital or facility
14 is so inappropriate as to create a substantial danger to others, the board may direct the department
15 **or the authority** to place the young person in a specific type of facility or direct specific care or
16 supervision, but the actual placement of the young person is the responsibility of the department
17 **or the authority.**

18 **SECTION 371.** ORS 419C.532 is amended to read:

19 419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings
20 on an application for discharge, conditional release, commitment or modification filed under or re-
21 quired by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the
22 juvenile panel.

23 (2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the
24 young person:

25 (a) Has a serious mental condition; or

26 (b) Has a mental disease or defect other than a serious mental condition and presents a sub-
27 stantial danger to others.

28 (3) The juvenile panel shall order a young person discharged from commitment or conditional
29 release if the juvenile panel finds that the young person:

30 (a) No longer has a mental disease or defect; or

31 (b) Has a mental disease or defect other than a serious mental condition but no longer presents
32 a substantial danger to others.

33 (4) The juvenile panel shall order a young person conditionally released subject to ORS 419C.538
34 if the juvenile panel finds that:

35 (a) The young person:

36 (A) Has a serious mental condition; or

37 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
38 stantial danger to others;

39 (b) The young person can be adequately controlled with treatment services as a condition of
40 release; and

41 (c) Necessary supervision and treatment services are available.

42 (5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
43 facility designated by the Department of Human Services **or the Oregon Health Authority** for
44 custody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the
45 young person:

1 (a)(A) Has a serious mental condition; or

2 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
3 stantial danger to others; and

4 (b) Cannot be adequately controlled if conditionally released.

5 (6) In determining whether a young person should be committed to or retained in a hospital or
6 facility, conditionally released or discharged, the primary concern of the juvenile panel is the pro-
7 tection of society.

8 (7) In a hearing before the juvenile panel, a young person who has a mental disease or defect
9 in a state of remission is considered to have a mental disease or defect if the mental disease or
10 defect may, with reasonable medical probability, occasionally become active.

11 (8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
12 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
13 child psychology to examine the young person and submit a written report to the juvenile panel.
14 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
15 limited to, an opinion as to whether the young person:

16 (a)(A) Has a serious mental condition; or

17 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
18 stantial danger to others; and

19 (b) Could be adequately controlled with treatment services as a condition of release.

20 (9) The juvenile panel may make a determination regarding discharge or conditional release
21 based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3).
22 If a member of the juvenile panel desires further information from the examining psychiatrist or li-
23 censed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or
24 psychologist to give testimony.

25 (10) The juvenile panel shall consider all available evidence that is material, relevant and reli-
26 able regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the
27 record of the juvenile court adjudication, information supplied by the attorney representing the state
28 or by any other interested person, including the young person, information concerning the young
29 person's mental condition and the entire psychiatric and juvenile court history of the young person.
30 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
31 serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of
32 the witness from whom received. The officer presiding at the hearing shall administer oaths and
33 affirmations to witnesses.

34 (11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance
35 of the evidence.

36 (12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section
37 within a reasonable time prior to the hearing to:

38 (A) The young person about whom the hearing is being conducted;

39 (B) The attorney representing the young person;

40 (C) The young person's parents or guardians, if known;

41 (D) The person having legal custody of the young person;

42 (E) The Attorney General or other attorney representing the state, if any; and

43 (F) The district attorney and the court or juvenile department of the county in which the young
44 person was adjudicated.

45 (b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:

1 (A) The time, place and location of the hearing;

2 (B) The nature of the hearing, the specific action for which the hearing has been requested, the
3 issues to be considered at the hearing and a reference to the particular sections of the statutes and
4 rules involved;

5 (C) A statement of the authority and jurisdiction under which the hearing is to be held; and

6 (D) A statement of all rights under subsection (13) of this section.

7 (13) A young person about whom a hearing is being held has the right:

8 (a) To appear at all proceedings held under this section, except juvenile panel deliberations.

9 (b) To cross-examine all witnesses appearing to testify at the hearing.

10 (c) To subpoena witnesses and documents as provided in ORS 161.395.

11 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
12 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
13 nancially eligible, to have suitable counsel appointed at state expense.

14 (e) To examine all information, documents and reports that the juvenile panel considers and, if
15 the information, documents and reports are available to the juvenile panel before the hearing, to
16 examine them prior to the hearing.

17 (14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all
18 hearings before the juvenile panel.

19 (15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
20 the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain
21 additional information or testimony or for other good cause shown.

22 (16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written
23 notice of the juvenile panel's decision to the young person, the attorney representing the young
24 person, the young person's parents or guardians, if known, the person having legal custody of the
25 young person, the district attorney of the county in which the young person was adjudicated and
26 the Attorney General or other attorney representing the state, if any.

27 (17) The juvenile panel shall maintain and keep current the medical, social and delinquency
28 history of all young persons. The juvenile panel shall determine the confidentiality of records
29 maintained by the juvenile panel pursuant to ORS 192.501 to 192.505.

30 **SECTION 372.** ORS 419C.533 is amended to read:

31 419C.533. (1) The juvenile panel of the Psychiatric Security Review Board, by rule pursuant to
32 ORS 183.325 to 183.410 and not inconsistent with law, may implement its policies and set out its
33 procedure and practice requirements and may promulgate such interpretive rules as the panel deems
34 necessary or appropriate to carry out its statutory responsibilities.

35 (2) The juvenile panel of the Psychiatric Security Review Board shall adopt rules defining the
36 type of dangerous behavior that requires the temporary placement of a young person with mental
37 retardation in a secure hospital or facility.

38 (3) The juvenile panel of the Psychiatric Security Review Board shall consult with the Depart-
39 ment of Human Services **about proposed rules relating to developmental disabilities and the**
40 **Oregon Health Authority about proposed rules relating to mental illness** before issuing pro-
41 posed rules for public comment and before adopting rules under this section.

42 **SECTION 373.** ORS 419C.538 is amended to read:

43 419C.538. (1) When the juvenile panel of the Psychiatric Security Review Board orders a young
44 person conditionally released under ORS 419C.532 (4), the juvenile panel may designate a qualified
45 mental health or developmental disabilities treatment provider or state, county or local agency to

1 supervise the young person on release subject to those conditions as the juvenile panel directs in
2 the order for conditional release. Prior to the designation, the juvenile panel shall notify the quali-
3 fied mental health or developmental disabilities treatment provider or agency to whom conditional
4 release is contemplated and provide the qualified mental health or developmental disabilities treat-
5 ment provider or agency an opportunity to be heard before the juvenile panel. After receiving an
6 order entered under ORS 419C.532 (4), the qualified mental health or developmental disabilities
7 treatment provider or agency designated shall assume supervision of the young person pursuant to
8 the direction of the juvenile panel.

9 (2) Conditions of release contained in orders entered under ORS 419C.532 (4) may be modified
10 from time to time and conditional release may be terminated by order of the juvenile panel as pro-
11 vided in ORS 419C.532 and 419C.542.

12 (3)(a) As a condition of release, the juvenile panel may require the young person to report to
13 any state, county or local mental health or developmental disabilities facility for evaluation. When-
14 ever medical, psychiatric or psychological treatment is recommended, the juvenile panel may order
15 the young person, as a condition of release, to cooperate with and accept the treatment of the fa-
16 cility.

17 (b) The facility to which the young person has been referred for evaluation shall perform the
18 evaluation and submit a written report of its findings to the juvenile panel. If the facility finds that
19 treatment of the young person is appropriate, the facility shall include its recommendations for
20 treatment in the report to the juvenile panel.

21 (c) Whenever treatment is provided by the facility, the facility shall furnish reports to the ju-
22 venile panel on a regular basis concerning the progress of the young person.

23 (d) The facility shall comply with any other conditions of release prescribed by order of the ju-
24 venile panel.

25 (4) If at any time it appears to the juvenile panel or the chairperson of the juvenile panel that
26 a young person has violated the terms of conditional release or that the mental health of the young
27 person has changed, the juvenile panel or the chairperson of the juvenile panel may order the young
28 person returned to a hospital or facility designated by the Department of Human Services **or the**
29 **Oregon Health Authority** for evaluation and treatment. A written order of the juvenile panel, or
30 the chairperson of the juvenile panel on behalf of the juvenile panel, is sufficient warrant for any
31 peace officer to take the young person into custody and transport the young person accordingly. A
32 peace officer shall execute the order, and the young person shall be returned as soon as practicable
33 to a facility designated by the department **or the authority**. Within 20 days following the return
34 of the young person to the facility designated by the department **or the authority**, the juvenile
35 panel shall conduct a hearing. At a hearing required by this subsection, the state has the burden
36 of proving the young person's lack of fitness for conditional release.

37 (5) The community mental health [*and*] **program director, the community** developmental dis-
38 abilities program director, the director of the facility providing treatment for the young person on
39 conditional release, a peace officer or a person responsible for the supervision of a young person
40 on conditional release may take a young person into custody or request that the young person be
41 taken into custody if there is reasonable cause to believe the young person presents a substantial
42 danger to others and that the young person is in need of immediate custody, supervision and treat-
43 ment. A young person taken into custody under this subsection must immediately be transported to
44 a hospital or facility designated by the department **or the authority**. Within 20 days following the
45 return of the young person to the facility designated by the department **or the authority**, the ju-

1 juvenile panel shall conduct a hearing. At a hearing required by this subsection, the state has the
2 burden of proving the young person's lack of fitness for conditional release.

3 (6)(a) A young person conditionally released under ORS 419C.532 (4) may apply to the juvenile
4 panel for discharge from or modification of an order of conditional release on the ground that the
5 young person no longer has a mental disease or defect or, if affected by a mental disease or defect
6 other than a serious mental condition, no longer presents a substantial danger to others and no
7 longer requires supervision or treatment services. Within 60 days after receiving an application
8 under this paragraph, the juvenile panel shall conduct a hearing. At a hearing required by this
9 paragraph, the young person has the burden of proving the young person's fitness for discharge or
10 modification of the order of conditional release. A young person may not apply for discharge or
11 modification of conditional release more often than once every six months.

12 (b) Upon application by any qualified mental health or developmental disabilities treatment
13 provider or state, county or local agency responsible for supervision or treatment services pursuant
14 to an order of conditional release, the juvenile panel shall conduct a hearing to determine if the
15 conditions of release should be continued, modified or terminated. The application must be accom-
16 panied by a report setting forth the facts supporting the application. At a hearing required by this
17 paragraph, the state has the burden of proving the young person's lack of fitness for discharge or
18 modification of the order of conditional release.

19 **SECTION 374.** ORS 419C.542 is amended to read:

20 419C.542. (1) A young person committed by the court under ORS 419C.529 to a hospital or fa-
21 cility designated by the Department of Human Services **or the Oregon Health Authority** may not
22 be held in the hospital or facility for more than 90 days from the date of the court's commitment
23 order without an initial hearing before the juvenile panel of the Psychiatric Security Review Board
24 to determine whether the young person should be discharged or conditionally released.

25 (2) A young person may not be held pursuant to an order under ORS 419C.532 (5) for a period
26 of time exceeding one year without a hearing before the juvenile panel to determine whether the
27 young person should be discharged or conditionally released.

28 (3) When a young person has spent three years on conditional release, the juvenile panel shall
29 bring the young person before the juvenile panel no later than 30 days after the expiration of the
30 three-year period. The juvenile panel shall review the young person's status and determine whether
31 the young person should be discharged from the jurisdiction of the board.

32 (4) Notwithstanding the fact that a young person who is brought before the juvenile panel under
33 subsection (3) of this section continues to have a serious mental condition, the juvenile panel may
34 discharge the young person if the young person did not exhibit behaviors that presented a substan-
35 tial danger to others during the period of conditional release and no longer requires supervision by
36 the juvenile panel.

37 **SECTION 375.** ORS 420.505 is amended to read:

38 420.505. (1) A youth offender at a youth correction facility may apply for admission to a hospital
39 or facility designated by the Department of Human Services **or the Oregon Health Authority**. The
40 application may be made on behalf of the youth offender by the parents or legal guardian of the
41 youth offender. However, the superintendent shall not be required to cause the examination of a
42 youth offender who applies under this section more often than once in six months.

43 (2) Within five working days after receipt of the application, the superintendent of the youth
44 correction facility shall cause the youth offender to be examined by one or more qualified persons
45 at the facility and shall request the examination of the youth offender by one or more qualified

1 persons employed or designated by the department **or the Oregon Health Authority**. The exam-
2 ination conducted or authorized by the department **or the Oregon Health Authority** shall take
3 place within five working days after receipt of the request from the superintendent. The examiners
4 shall prepare separate reports and shall submit such reports to the superintendent. A copy of the
5 reports shall be given to the applicant.

6 (3) If the superintendent finds that there is a probable cause to believe that the youth offender
7 has a mental illness and that it would be in the best interests of the youth offender to be admitted
8 to a hospital or facility designated by the department **or the Oregon Health Authority**, the su-
9 perintendent shall notify the department **or the Oregon Health Authority** and shall order the
10 youth offender transferred pursuant to ORS 179.473.

11 (4) No youth offender at a youth correction facility voluntarily admitted to a hospital or facility
12 designated by the department **or the Oregon Health Authority** shall be detained therein more than
13 72 hours after the youth offender is of the age specified in ORS 420A.010 (5) setting the age limits
14 for which the Oregon Youth Authority may retain legal and physical custody of the youth offender
15 and has given notice in writing of the desire of the youth offender to be released. If the youth
16 offender is under the age specified in ORS 420A.010 (5) setting the age limits for which the Oregon
17 Youth Authority may retain legal and physical custody of the youth offender, the youth offender
18 may be returned to the youth correction facility after notice in writing has been given by the parent
19 or legal guardian of the youth offender, that such parent or guardian desires that the youth offender
20 be discharged from the hospital or facility designated by the department **or the Oregon Health**
21 **Authority**.

22 **SECTION 376.** ORS 420.870 is amended to read:

23 420.870. Approval of the youth care center by the Oregon Youth Authority, required by ORS
24 420.865, shall be based on reasonable and satisfactory assurance that:

25 (1) Adequate physical facilities exist which comply with applicable rules of the Department of
26 Human Services, **the Oregon Health Authority** and the State Fire Marshal.

27 (2) There is employment of capable and trained or experienced personnel.

28 (3) The youth care programs include educational, vocational, recreational and counseling op-
29 portunities that will be in the best interests of the youth.

30 (4) A county must demonstrate that an adequate probation system for youths exists in the
31 county in order to be eligible for state support for a youth care center.

32 **SECTION 377.** ORS 420A.135 is amended to read:

33 420A.135. (1) The Oregon Youth Authority may establish up to five secure regional youth facil-
34 ities.

35 (2) A secure regional youth facility shall:

36 (a) Provide secure incarceration;

37 (b) Provide education and job and life skills training including, but not limited to, anger man-
38 agement and self-control; and

39 (c) Include a drug and alcohol treatment component that meets the standards promulgated by
40 the [Department of Human Services] **Oregon Health Authority** pursuant to ORS 430.357.

41 (3) The Director of the Oregon Youth Authority is solely responsible for determining which
42 persons committed to, or placed in the custody of, the youth authority are eligible to participate in,
43 and are accepted for placement in, a secure regional youth facility. The juvenile court may recom-
44 mend to the Oregon Youth Authority that a youth offender be placed in a secure regional youth
45 facility, but the recommendation is not binding on the youth authority.

1 **SECTION 378.** ORS 420A.145 is amended to read:

2 420A.145. (1) The Oregon Youth Authority may establish up to eight regional youth account-
3 ability camps.

4 (2) A regional youth accountability camp shall:

5 (a) Be based on a military basic training model that includes discipline, physical work, physical
6 exercise and military drill;

7 (b) Provide for cognitive restructuring in conformance with generally accepted rehabilitative
8 standards; and

9 (c) Include a drug and alcohol treatment component that meets the standards promulgated by
10 the [Department of Human Services] **Oregon Health Authority** pursuant to ORS 430.357.

11 (3) The youth authority may contract with all of the governing bodies of the counties in a region
12 to administer cooperatively a regional youth accountability camp subject to the provisions of ORS
13 420.011, 420.014, 420A.108 and 420A.111 (5).

14 (4) The youth authority may contract with any private agency to administer a regional youth
15 accountability camp subject to the provisions of ORS 420A.108 and 420A.111 (5).

16 **SECTION 379.** ORS 420A.155 is amended to read:

17 420A.155. (1) The Oregon Youth Authority may establish up to four regional residential acade-
18 mies.

19 (2) A regional residential academy shall:

20 (a) Provide a secure, closed residential campus;

21 (b) Provide year-round education, job and life skills training, vocational training and appren-
22 ticeship programs; and

23 (c) Include a drug and alcohol treatment component that meets the standards promulgated by
24 the [Department of Human Services] **Oregon Health Authority** pursuant to ORS 430.357.

25 (3) The youth authority may contract with all of the governing bodies of the counties in a region
26 to administer cooperatively a regional residential academy subject to the provisions of ORS 420.011,
27 420.014, 420A.108 and 420A.111 (5).

28 (4) The youth authority may contract with any private agency to administer a regional resi-
29 dential academy subject to the provisions of ORS 420A.108 and 420A.111 (5).

30 (5) The Director of the Oregon Youth Authority is solely responsible for determining which
31 persons committed to, or placed in the physical custody of, the youth authority are eligible to par-
32 ticipate in, and are accepted for, a regional residential academy. The juvenile court may recommend
33 to the Oregon Youth Authority that a youth offender be placed in a regional residential academy,
34 but the recommendation is not binding on the youth authority.

35 **SECTION 380.** ORS 421.504 is amended to read:

36 421.504. (1) The Department of Corrections, in consultation with the Oregon Criminal Justice
37 Commission, shall establish a special alternative incarceration program stressing a highly structured
38 and regimented routine. The program:

39 (a) Shall reflect evidence-based practices;

40 (b) Shall include a component of intensive self-discipline, physical work and physical exercise;

41 (c) Shall provide for cognitive restructuring in conformance with generally accepted
42 rehabilitative standards;

43 (d) May include a drug and alcohol treatment component that meets the standards promulgated
44 by the [Department of Human Services] **Oregon Health Authority** pursuant to ORS 430.357; and

45 (e) Shall be at least 270 days' duration.

1 (2) The department shall provide capital improvements and capital construction necessary for
2 the implementation of the program.

3 (3) Notwithstanding subsection (1) of this section, the department may convert the special al-
4 ternative incarceration program required by this section into an intensive alternative incarceration
5 addiction program as described in ORS 421.506 if the department determines that the needs of
6 offenders in the department's custody would be better served by an intensive alternative
7 incarceration addiction program than by the special alternative incarceration program.

8 **SECTION 381.** ORS 426.005 is amended to read:

9 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

10 (a) [*Department*] means the *Department of Human Services*] **"Authority" means the Oregon**
11 **Health Authority.**

12 (b) "Director of the facility" means a superintendent of a state mental hospital, the chief of
13 psychiatric services in a community hospital or the person in charge of treatment and rehabilitation
14 programs at other treatment facilities.

15 (c) "Facility" means a state mental hospital, community hospital, residential facility,
16 detoxification center, day treatment facility or such other facility as the [*department*] **authority**
17 determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification,
18 social services or rehabilitation for committed mentally ill persons.

19 (d) "Mentally ill person" means a person who, because of a mental disorder, is one or more of
20 the following:

21 (A) Dangerous to self or others.

22 (B) Unable to provide for basic personal needs and is not receiving such care as is necessary
23 for health or safety.

24 (C) A person:

25 (i) With a chronic mental illness, as defined in ORS 426.495;

26 (ii) Who, within the previous three years, has twice been placed in a hospital or approved in-
27 patient facility by the [*department*] **authority** under ORS 426.060;

28 (iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led
29 to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii)
30 of this subparagraph; and

31 (iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or
32 mentally deteriorate so that the person will become a person described under either subparagraph
33 (A) or (B) of this paragraph or both.

34 (e) "Nonhospital facility" means any facility, other than a hospital, that is approved by the [*de-*
35 *partment*] **authority** to provide adequate security, psychiatric, nursing and other services to persons
36 under ORS 426.232 or 426.233.

37 (f) "Prehearing period of detention" means a period of time calculated from the initiation of
38 custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

39 (2) Whenever a community mental health [*and developmental disabilities program*] director, di-
40 rector of the facility, superintendent of a state hospital or administrator of a facility is referred to,
41 the reference includes any designee such person has designated to act on the person's behalf in the
42 exercise of duties.

43 **SECTION 382.** ORS 426.010 is amended to read:

44 426.010. Except as otherwise ordered by the [*Department of Human Services*] **Oregon Health**
45 **Authority** pursuant to ORS 179.325, the Oregon State Hospital in Salem, Marion County, and the

1 Blue Mountain Recovery Center in Pendleton, Umatilla County, shall be used as state hospitals for
 2 the care and treatment of mentally ill persons who are assigned to the care of such institutions by
 3 the *[department]* **authority** or who have previously been committed to such institutions.

4 **SECTION 383.** ORS 426.020 is amended to read:

5 426.020. The superintendent of a hospital referred to in ORS 426.010 shall be a person the *[De-*
 6 *partment of Human Services]* **Oregon Health Authority** considers qualified to administer the hos-
 7 pital. If the superintendent of any hospital is a physician licensed by the Oregon Medical Board, the
 8 superintendent shall serve as chief medical officer. If the superintendent is not a physician, the Di-
 9 rector of *[Human Services]* **the Oregon Health Authority** or the designee of the director shall ap-
 10 point a physician to serve as chief medical officer who shall be in the unclassified service.

11 **SECTION 384.** ORS 426.060 is amended to read:

12 426.060. (1) Commitments to the *[Department of Human Services]* **Oregon Health Authority**
 13 shall be made only by the judge of a circuit court in a county of this state.

14 (2) The following is a nonexclusive list of powers the *[department]* **authority** may exercise con-
 15 cerning the placement of persons committed or persons receiving emergency care and treatment
 16 under ORS 426.070, 426.228 to 426.235 or 426.237:

17 (a) In its discretion and for reasons which are satisfactory to the *[department]* **authority**, the
 18 *[department]* **authority** may direct any court-committed person to the facility best able to treat the
 19 person. The *[authority of the department]* **decision of the authority** on such matters shall be final.

20 (b) At any time, for good cause and in the best interest of the mentally ill person, the *[depart-*
 21 *ment]* **authority** may transfer a committed person from one facility to another. When transferring
 22 a person under this paragraph, the *[department]* **authority** shall make the transfer:

23 (A) If the transfer is from a facility in one class to a facility of the same class, as provided by
 24 rule of the *[department]* **authority**;

25 (B) If the transfer is from a facility in one class to a facility in a less restrictive class, by fol-
 26 lowing the procedures for trial visits under ORS 426.273; and

27 (C) If the transfer is from a facility in one class to a facility in a more restrictive class, by fol-
 28 lowing the procedures under ORS 426.275.

29 (c) At any time, for good cause and in the best interest of the mentally ill person, the *[depart-*
 30 *ment]* **authority** may transfer a person receiving emergency care and treatment under ORS 426.070
 31 or 426.228 to 426.235, or intensive treatment under ORS 426.237, between hospitals and nonhospital
 32 facilities approved by the *[department]* **authority** to provide emergency care or treatment as defined
 33 by rule of the *[department]* **authority**.

34 (d) Pursuant to its rules, the *[department]* **authority** may delegate to a community mental health
 35 *[and developmental disabilities]* program director the responsibility for assignment of mentally ill
 36 persons to suitable facilities or transfer between such facilities under conditions which the *[depart-*
 37 *ment]* **authority** may define.

38 **SECTION 385.** ORS 426.070 is amended to read:

39 426.070. (1) Any of the following may initiate commitment procedures under this section by giv-
 40 ing the notice described under subsection (2) of this section:

41 (a) Two persons;

42 (b) The county health officer; or

43 (c) Any magistrate.

44 (2) For purposes of subsection (1) of this section, the notice must comply with the following:

45 (a) It must be in writing under oath;

1 (b) It must be given to the community mental health [*and developmental disabilities*] program
2 director or a designee of the director in the county where the allegedly mentally ill person resides;

3 (c) It must state that a person within the county other than the person giving the notice is a
4 mentally ill person and is in need of treatment, care or custody;

5 (d) If the commitment proceeding is initiated by two persons under subsection (1)(a) of this sec-
6 tion, it may include a request that the court notify the two persons:

7 (A) Of the issuance or nonissuance of a warrant under this section; or

8 (B) Of the court's determination under ORS 426.130 (1); and

9 (e) If the notice contains a request under paragraph (d) of this subsection, it must also include
10 the addresses of the two persons making the request.

11 (3) Upon receipt of a notice under subsections (1) and (2) of this section or when notified by a
12 circuit court that the court received notice under ORS 426.234, the community mental health [*and*
13 *developmental disabilities*] program director, or designee of the director, shall:

14 (a) Immediately notify the judge of the court having jurisdiction for that county under ORS
15 426.060 of the notification described in subsections (1) and (2) of this section.

16 (b) Immediately notify the [*Department of Human Services*] **Oregon Health Authority** if com-
17 mitment is proposed because the person appears to be a mentally ill person, as defined in ORS
18 426.005 (1)(d)(C). When such notice is received, the [*department*] **authority** may verify, to the extent
19 known by the [*department*] **authority**, whether or not the person meets the criteria described in ORS
20 426.005 (1)(d)(C)(i) and (ii) and so inform the community mental health [*and developmental*
21 *disabilities*] program director or designee of the director.

22 (c) Initiate an investigation under ORS 426.074 to determine whether there is probable cause to
23 believe that the person is in fact a mentally ill person.

24 (4) Upon completion, a recommendation based upon the investigation report under ORS 426.074
25 shall be promptly submitted to the court. If the community mental health [*and developmental disa-*
26 *bilities*] program director determines that probable cause does not exist to believe that a person
27 released from detention under ORS 426.234 (2)(c) or (3)(b) is a mentally ill person, the community
28 mental health [*and developmental disabilities*] program director shall not submit a recommendation
29 to the court.

30 (5) When the court receives notice under subsection (3) of this section:

31 (a) If the court, following the investigation, concludes that there is probable cause to believe
32 that the person investigated is a mentally ill person, it shall, through the issuance of a citation as
33 provided in ORS 426.090, cause the person to be brought before it at a time and place as it may
34 direct, for a hearing under ORS 426.095 to determine whether the person is mentally ill. The person
35 shall be given the opportunity to appear voluntarily at the hearing unless the person fails to appear
36 or unless the person is detained pursuant to paragraph (b) of this subsection.

37 (b)(A) The judge may cause the allegedly mentally ill person to be taken into custody pending
38 the investigation or hearing by issuing a warrant of detention under this subsection. A judge may
39 only issue a warrant under this subsection if the court finds that there is probable cause to believe
40 that failure to take the person into custody would pose serious harm or danger to the person or to
41 others.

42 (B) To cause the custody of a person under this paragraph, the judge must issue a warrant of
43 detention to the community mental health [*and developmental disabilities*] program director or
44 designee, the sheriff of the county or designee, directing that person to take the allegedly mentally
45 ill person into custody and produce the person at the time and place stated in the warrant.

1 (C) At the time the person is taken into custody, the person shall be informed by the community
2 mental health [*and developmental disabilities*] program director, the sheriff or a designee of the fol-
3 lowing:

4 (i) The person's rights with regard to representation by or appointment of counsel as described
5 in ORS 426.100;

6 (ii) The warning under ORS 426.123; and

7 (iii) The person's right, if the community mental health [*and developmental disabilities*] program
8 director, sheriff or designee reasonably suspects that the person is a foreign national, to communi-
9 cate with an official from the consulate of the person's country. A community mental health [*and*
10 *developmental disabilities*] program director, sheriff or designee is not civilly or criminally liable for
11 failure to provide the information required by this sub-subparagraph. Failure to provide the infor-
12 mation required by this sub-subparagraph does not in itself constitute grounds for the exclusion of
13 evidence that would otherwise be admissible in a proceeding.

14 (D) The court may make any orders for the care and custody of the person prior to the hearing
15 as it considers necessary.

16 (c) If the notice includes a request under subsection (2)(d)(A) of this section, the court shall
17 notify the two persons of the issuance or nonissuance of a warrant under this subsection.

18 **SECTION 386.** ORS 426.072 is amended to read:

19 426.072. (1) A hospital or nonhospital facility and a treating physician must comply with the
20 following when an allegedly mentally ill person is placed in custody at the hospital or nonhospital
21 facility:

22 (a) By a warrant of detention under ORS 426.070;

23 (b) By a peace officer under ORS 426.228 or other person authorized under ORS 426.233; or

24 (c) By a physician under ORS 426.232.

25 (2) In circumstances described under subsection (1) of this section, the hospital or nonhospital
26 facility and treating physician must comply with the following:

27 (a) The person shall receive the care, custody and treatment required for mental and physical
28 health and safety;

29 (b) The treating physician shall report any care, custody and treatment to the court as required
30 in ORS 426.075;

31 (c) All methods of treatment, including the prescription and administration of drugs, shall be the
32 sole responsibility of the treating physician. However, the person shall not be subject to
33 electroshock therapy or unduly hazardous treatment and shall receive usual and customary treat-
34 ment in accordance with medical standards in the community;

35 (d) The treating physician shall be notified immediately of any use of mechanical restraints on
36 the person. Every use of a mechanical restraint and the reasons therefor shall be made a part of the
37 clinical record of the person over the signature of the treating physician; and

38 (e) The treating physician shall give the person the warning under ORS 426.123 at times the
39 treating physician determines the person will reasonably understand the notice. This paragraph only
40 requires the notice to be given as often as the physician determines is necessary to assure that the
41 person is given an opportunity to be aware of the notice.

42 (3) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules necessary
43 to carry out this section, including rules regarding the content of the medical record compiled dur-
44 ing the current period of custody.

45 **SECTION 387.** ORS 426.074 is amended to read:

1 426.074. The following is applicable to an investigation initiated by a community mental health
2 [and developmental disabilities] program director, or a designee of the director, as part of commit-
3 ment procedures under ORS 426.070 and 426.228 to 426.235:

4 (1) If the allegedly mentally ill person is held in custody before the hearing the investigation
5 shall be completed at least 24 hours before the hearing under ORS 426.095, otherwise the investi-
6 gation shall comply with the following time schedule:

7 (a) If the allegedly mentally ill person can be located, the investigator shall contact the person
8 within three judicial days from the date the community mental health [and developmental
9 disabilities] program director or a designee receives a notice under ORS 426.070 alleging that the
10 person is mentally ill.

11 (b) Within 15 days from the date the community mental health [and developmental disabilities]
12 program director or a designee receives a notice under ORS 426.070 alleging that a person is men-
13 tally ill, one of the following shall occur:

14 (A) The investigation shall be completed and submitted to the court.

15 (B) An application for extension shall be made to the court under paragraph (c) of this sub-
16 section.

17 (c) The community mental health [and developmental disabilities] program director, a designee
18 or the investigator may file for an extension of the time under paragraph (b) of this subsection only
19 if one of the following occurs:

20 (A) A treatment option less restrictive than involuntary in-patient commitment is actively being
21 pursued.

22 (B) The allegedly mentally ill person cannot be located.

23 (d) A court may grant an extension under paragraph (c) of this subsection for a time and upon
24 the terms and conditions the court considers appropriate.

25 (2) This subsection establishes a nonexclusive list of provisions applicable to the content of the
26 investigation, as follows:

27 (a) The investigation conducted should, where appropriate, include an interview or examination
28 of the allegedly mentally ill person in the home of the person or other place familiar to the person.

29 (b) Whether or not the allegedly mentally ill person consents, the investigation should include
30 interviews with any persons that the investigator has probable cause to believe have pertinent in-
31 formation regarding the investigation. If the allegedly mentally ill person objects to the contact with
32 any person, the objection shall be noted in the investigator's report.

33 (c) The investigator shall be allowed access to physicians, nurses or social workers and to
34 medical records compiled during the current involuntary prehearing period of detention to determine
35 probable cause and to develop alternatives to commitment. If commitment is proposed because the
36 person appears to be a mentally ill person as defined in ORS 426.005 (1)(d)(C), the investigator shall
37 be allowed access to medical records necessary to verify the existence of criteria described in ORS
38 426.005 (1)(d)(C). The investigator shall include pertinent parts of the medical record in the investi-
39 gation report. Records and communications described in this paragraph and communications related
40 thereto are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

41 (3) A copy of the investigation report shall be provided as soon as possible, but in no event later
42 than 24 hours prior to the hearing, to the allegedly mentally ill person and to that person's counsel.
43 Copies shall likewise be provided to counsel assisting the court, to the examiners and to the court
44 for use in questioning witnesses.

45 **SECTION 388.** ORS 426.075 is amended to read:

1 426.075. This section establishes procedures that are required to be followed before the hearing
2 if a court, under ORS 426.070, orders a hearing under ORS 426.095. The following apply as described:

3 (1) The court shall be fully advised of all drugs and other treatment known to have been ad-
4 ministered to the allegedly mentally ill person that may substantially affect the ability of the person
5 to prepare for or function effectively at the hearing. The following shall advise the court as re-
6 quired by this subsection:

7 (a) When not otherwise provided by paragraph (b) of this subsection, the community mental
8 health [*and developmental disabilities*] program director or designee.

9 (b) When the person has been detained by a warrant of detention under ORS 426.070, 426.180,
10 426.228, 426.232 or 426.233, the treating physician.

11 (2) The court shall appoint examiners under ORS 426.110 sufficiently long before the hearing so
12 that they may begin their preparation for the hearing. The records established by the [*Department*
13 *of Human Services*] **Oregon Health Authority** by rule and the investigation report shall be made
14 available to the examiners at least 24 hours before the hearing in order that the examiners may
15 review the medical record and have an opportunity to inquire of the medical personnel concerning
16 the treatment of the allegedly mentally ill person relating to the detention period prior to the
17 hearing.

18 (3) The medical record described in subsection (2) of this section shall be made available to
19 counsel for the allegedly mentally ill person at least 24 hours prior to the hearing.

20 (4) When requested by a party to the action, the party's attorney shall subpoena physicians who
21 are or have been treating the allegedly mentally ill person. Any treating physician subpoenaed under
22 this subsection shall be subpoenaed as an expert witness.

23 **SECTION 389.** ORS 426.095 is amended to read:

24 426.095. The following is applicable to a commitment hearing held by a court under ORS 426.070:

25 (1) The hearing may be held in a hospital, the person's home or in some other place convenient
26 to the court and the allegedly mentally ill person.

27 (2) The court shall hold the hearing at the time established according to the following:

28 (a) Except as provided by paragraph (b) or (c) of this subsection, a hearing shall be held five
29 judicial days from the day a court under ORS 426.070 issues a citation provided under ORS 426.090.

30 (b) Except as provided by paragraph (c) of this subsection, if a person is detained by a warrant
31 of detention under ORS 426.070, a hearing shall be held within five judicial days of the commence-
32 ment of detention.

33 (c) If requested under this paragraph, the court, for good cause, may postpone the hearing for
34 not more than five judicial days in order to allow preparation for the hearing. The court may make
35 orders for the care and custody of the person during a postponement as it deems necessary. If a
36 person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and the
37 hearing is postponed under this paragraph, the court, for good cause, may allow the person to be
38 detained during the postponement if the postponement is requested by the person or the legal
39 counsel of the person. Any of the following may request a postponement under this paragraph:

40 (A) The allegedly mentally ill person.

41 (B) The legal counsel or guardian of the allegedly mentally ill person.

42 (C) The person representing the state's interest.

43 (3) The allegedly mentally ill person and the person representing the state's interest shall have
44 the right to cross-examine all the following:

45 (a) Witnesses.

1 (b) The person conducting the investigation.

2 (c) The examining physicians or other qualified persons recommended by the [*Department of*
3 *Human Services*] **Oregon Health Authority** who have examined the person.

4 (4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 shall not apply to and the court may
5 consider as evidence any of the following:

6 (a) Medical records for the current involuntary prehearing period of detention.

7 (b) Statements attributed by the maker of the medical records or the investigation report to
8 witnesses concerning their own observations in the absence of objection or if such persons are
9 produced as witnesses at the hearing available for cross-examination.

10 (c) The testimony of any treating physicians, nurses or social workers for the prehearing period
11 of detention. Any treating physician, nurse or social worker who is subpoenaed as a witness for the
12 proceeding shall testify as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and
13 40.425 and is subject to treatment as an expert witness in the payment of witness fees and costs.

14 (d) The investigation report prepared under ORS 426.074. Subject to the following, the investi-
15 gation report shall be introduced in evidence:

16 (A) Introduction of the report under this paragraph does not require the consent of the allegedly
17 mentally ill person.

18 (B) Upon objection by any party to the action, the court shall exclude any part of the investi-
19 gation report that may be excluded under the Oregon Evidence Code on grounds other than those
20 set forth in ORS 40.230, 40.235, 40.240 or 40.250.

21 (C) Neither the investigation report nor any part thereof shall be introduced into evidence under
22 this paragraph unless the investigator is present during the proceeding to be cross-examined or un-
23 less the presence of the investigator is waived by the allegedly mentally ill person or counsel for
24 the allegedly mentally ill person.

25 **SECTION 390.** ORS 426.110 is amended to read:

26 426.110. The following requirements relating to the appointment of examiners for purposes of a
27 hearing under ORS 426.095 apply as described:

28 (1) The judge shall appoint one qualified examiner. If requested, the judge shall appoint one
29 additional qualified examiner. A request for an additional examiner under this subsection must be
30 made in writing and must be made by the allegedly mentally ill person or the attorney for the
31 allegedly mentally ill person.

32 (2) To be qualified for purposes of this section, an examiner must meet all of the following
33 qualifications:

34 (a) The person must agree to be an examiner.

35 (b) The person must be one of the following:

36 (A) A physician licensed by the Oregon Medical Board who is competent to practice psychiatry
37 as provided by the [*Department of Human Services*] **Oregon Health Authority** by rule.

38 (B) Certified as a mental health examiner qualified to make examinations for involuntary com-
39 mitment proceedings by the [*department*] **authority**. The [*department has authority to*] **authority**
40 **may** establish, by rule, requirements for certification as a mental health examiner for purposes of
41 this subparagraph.

42 (3) The cost of examiners under this section shall be paid as provided under ORS 426.250.

43 **SECTION 391.** ORS 426.120 is amended to read:

44 426.120. (1) Persons appointed under ORS 426.110 to conduct the examination shall do the fol-
45 lowing:

1 (a) Examine the person as to mental condition;

2 (b) Initiate the examination process prior to the hearing. Any failure to comply with this par-
3 agraph shall not, in itself, constitute sufficient grounds to challenge the examination conducted by
4 an examiner;

5 (c) Make their separate reports in writing, under oath, to the court; and

6 (d) Upon completion of the hearing, file the reports with the clerk of the court.

7 (2) The following is a nonexclusive list of requirements relating to the content of examination
8 reports prepared under subsection (1) of this section:

9 (a) If the examining persons find, and show by their reports, that the person examined is a
10 mentally ill person, the reports shall include a recommendation as to the type of treatment facility
11 best calculated to help the person recover from mental illness.

12 (b) Each report shall also advise the court whether in the opinion of the examiner the mentally
13 ill person would cooperate with and benefit from a program of voluntary treatment.

14 (c) Reports shall contain the information required by the [*Department of Human Services*]
15 **Oregon Health Authority** by rule. The [*department*] **authority** shall adopt rules necessary to carry
16 out this paragraph.

17 (3) The examiner shall be allowed access to physicians, nurses or social workers and to medical
18 records compiled during the current involuntary prehearing period of detention and the investi-
19 gation report. Records and communications described in this subsection and communications related
20 thereto are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

21 **SECTION 392.** ORS 426.127 is amended to read:

22 426.127. The following provisions are applicable to outpatient commitment under ORS 426.130
23 as described:

24 (1) The [*Department of Human Services*] **Oregon Health Authority** may only place a person in
25 an outpatient commitment if an adequate treatment facility is available.

26 (2) Conditions for the outpatient commitment shall be set at the time of the hearing under ORS
27 426.095 by the community mental health [*and developmental disabilities*] program director, or a
28 designee for the director, for the county in which the hearing takes place. The conditions shall in-
29 clude, but not be limited to, the following:

30 (a) Provision for outpatient care.

31 (b) A designation of a facility, service or other provider to provide care or treatment.

32 (3) A copy of the conditions shall be given to all of the persons described in ORS 426.278.

33 (4) Any outpatient commitment ordered under this section is subject to the provisions under
34 ORS 426.275.

35 (5) The community mental health [*and developmental disabilities*] program director or designee,
36 for the county where a person is on outpatient commitment, may modify the conditions for outpa-
37 tient commitment when a modification is in the best interest of the person. The community mental
38 health [*and developmental disabilities*] program director or designee shall send notification of such
39 changes and the reasons for the changes to all those who received a copy of the original conditions
40 under ORS 426.278.

41 **SECTION 393.** ORS 426.130 is amended to read:

42 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examining per-
43 sons, the court shall determine whether the person is mentally ill. If, in the opinion of the court, the
44 person is:

45 (a) Not mentally ill, the person shall be discharged forthwith.

1 (b) Mentally ill based upon clear and convincing evidence, the court:

2 (A) Shall order the release of the individual and dismiss the case if:

3 (i) The mentally ill person is willing and able to participate in treatment on a voluntary basis;
4 and

5 (ii) The court finds that the person will probably do so.

6 (B) May order conditional release under this subparagraph subject to the qualifications and re-
7 quirements under ORS 426.125. If the court orders conditional release under this subparagraph, the
8 court shall establish a period of commitment for the conditional release.

9 (C) May order commitment of the individual to the [*Department of Human Services*] **Oregon**
10 **Health Authority** for treatment if, in the opinion of the court, subparagraph (A) or (B) of this
11 paragraph is not in the best interest of the mentally ill person. If the court orders commitment
12 under this subparagraph:

13 (i) The court shall establish a period of commitment.

14 (ii) The [*department*] **authority** may place the committed person in outpatient commitment under
15 ORS 426.127.

16 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the
17 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self
18 or others or to the community at large as a result of the person's mental or psychological state as
19 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
20 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
21 a court makes an order under this subparagraph, the court shall cause a copy of the order to be
22 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data
23 System.

24 (2) A court that orders a conditional release or a commitment under this section shall establish
25 a period of commitment for the person subject to the order. Any period of commitment ordered for
26 commitment or conditional release under this section shall be for a period of time not to exceed 180
27 days.

28 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a) and if the notice in-
29 cluded a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court's
30 determination under subsection (1) of this section.

31 **SECTION 394.** ORS 426.140 is amended to read:

32 426.140. (1) No person, not incarcerated upon a criminal charge, who has been adjudged a men-
33 tally ill person or one against whom commitment proceedings have been instituted shall be confined
34 in any prison, jail or other enclosure where those charged with a crime or a violation of a municipal
35 ordinance are incarcerated, unless the person represents an immediate and serious danger to staff
36 or physical facilities of a hospital or other facility approved by the [*Department of Human Services*]
37 **Oregon Health Authority** for the care, custody and treatment of the person.

38 (2) No allegedly mentally ill person who has been taken into custody shall be confined, either
39 before or after the commitment hearing, without an attendant in direct charge of the person; and,
40 if not confined in a community hospital, the sheriff or community mental health [*and developmental*
41 *disabilities*] program director having the person in custody shall select some suitable person to act
42 as attendant in quarters suitable for the comfortable, safe and humane confinement of the person
43 and approved by the [*department*] **authority**.

44 **SECTION 395.** ORS 426.150 is amended to read:

45 426.150. (1) Upon receipt of the order of commitment, the [*Department of Human Services*]

1 **Oregon Health Authority** or its designee shall take the mentally ill person into its custody, and
 2 insure the safekeeping and proper care of the person until delivery is made to an assigned treatment
 3 facility or its representative. The representative of the treating facility to which the person has been
 4 assigned, accompanied by any assistants the [department] **authority** or its designee may deem nec-
 5 essary, shall proceed to the place where the person is to be delivered into custody, and upon demand
 6 shall be given custody of the mentally ill person, together with the certified record required by ORS
 7 426.170. The representative shall issue appropriate receipts therefor and immediately proceed to
 8 transport the committed mentally ill person safely to the facility to which the person has been as-
 9 signed by the [department] **authority** and there make delivery of the person and the record to the
 10 director or a designated employee of the facility. In taking custody of the person, the [department]
 11 **authority**, its designee, or the representative of the facility has all the powers provided by ORS
 12 133.225 and 161.255 and may require the assistance of any peace officer or other person.

13 (2) The committing judge, upon approval of the examining physicians or other qualified persons
 14 as recommended by the [department] **authority** and upon request of a guardian, friend or relative
 15 of the mentally ill person, may authorize the guardian, friend or relative to transport the person to
 16 the designated facility when the committing judge determines that means of transportation would
 17 not be detrimental to the welfare of the mentally ill person or to the public.

18 **SECTION 396.** ORS 426.170 is amended to read:

19 426.170. If any person is adjudged mentally ill and ordered committed to the [Department of
 20 Human Services] **Oregon Health Authority**, a copy of the complete record in the case, certified to
 21 by the court clerk or court administrator, shall be given to the health officer of the county, or to
 22 the sheriff, for delivery to the director of the facility to which such mentally ill person is assigned.
 23 The record shall include the name, residence, nativity, sex and age of such mentally ill person and
 24 all other information that may be required by the rules and regulations promulgated by the [de-
 25 partment] **authority**.

26 **SECTION 397.** ORS 426.180 is amended to read:

27 426.180. (1) This section applies to commitments of a person from a reservation for land-based
 28 tribes of Native Americans when, under federal law, the state does not have jurisdiction of com-
 29 mitments on the reservation.

30 (2) When this section is applicable as provided under subsection (1) of this section, a person
 31 alleged to be mentally ill by affidavit of two other persons may be admitted to a state hospital for
 32 persons with mental illness for emergency treatment, care and custody, provided such affidavit in-
 33 cludes or is accompanied by all of the following:

34 (a) The circumstances constituting the emergency.

35 (b) Written application for admission to the hospital, executed in duplicate.

36 (c) A certificate to the effect that the person is so mentally ill as to be in need of immediate
 37 hospitalization.

38 (d) A medical history, including the name, condition, sex and age of the person.

39 (e) The name and address of the nearest relative or legal guardian, if any, of the person.

40 (3) The certificates, applications and medical histories shall be made upon forms prescribed by
 41 the [Department of Human Services] **Oregon Health Authority** and shall be executed by the county
 42 health officer or by two physicians licensed by the Oregon Medical Board, none of whom shall be
 43 related to the person by blood or marriage.

44 (4) When a person is admitted to a state hospital under this section, any physician treating the
 45 person shall give the person the warning under ORS 426.123.

1 (5) This section may be applied as provided by agreement with the ruling body of the reserva-
 2 tion. Payment of costs for a commitment made under this section shall be as provided under ORS
 3 426.250.

4 **SECTION 398.** ORS 426.217 is amended to read:

5 426.217. At any time after commitment by the court, the person, with the approval of the [*De-*
 6 *partment of Human Services*] **Oregon Health Authority** or its designee, may change the status of
 7 the person to that of a voluntary patient. Notwithstanding ORS 426.220, any person who alters sta-
 8 tus to that of a voluntary patient under this section shall be released from the treating facility
 9 within 72 hours of the request of the person for release.

10 **SECTION 399.** ORS 426.220 is amended to read:

11 426.220. (1) Pursuant to rules and regulations promulgated by the [*Department of Human*
 12 *Services*] **Oregon Health Authority**, the superintendent of any state hospital for the treatment and
 13 care of persons with mental illness may admit and hospitalize therein as a patient, any person who
 14 may have a nervous disorder or a mental illness, and who voluntarily has made written application
 15 for such admission. No person under the age of 18 years shall be admitted as a patient to any such
 16 state hospital unless an application therefor in behalf of the person has been executed by the parent,
 17 adult next of kin or legal guardian of the person. Except when a period of longer hospitalization has
 18 been imposed as a condition of admission, pursuant to rules and regulations of the [*department*]
 19 **authority**, no person voluntarily admitted to any state hospital shall be detained therein more than
 20 72 hours after the person, if at least 18 years of age, has given notice in writing of a desire to be
 21 discharged therefrom, or, if the patient is under the age of 18 years, after notice in writing has been
 22 given by the parent, adult next of kin or legal guardian of the person that such parent, adult next
 23 of kin or legal guardian desires that such person be discharged therefrom.

24 (2) Any person voluntarily admitted to a state hospital pursuant to this section may upon ap-
 25 plication and notice to the superintendent of the hospital concerned, be granted a temporary leave
 26 of absence from the hospital if such leave, in the opinion of the superintendent, will not interfere
 27 with the successful treatment or examination of the applicant for leave.

28 (3) Upon admission or discharge of a minor to or from a state hospital the superintendent shall
 29 immediately notify the parent or guardian.

30 **SECTION 400.** ORS 426.223 is amended to read:

31 426.223. In retaking custody of a mentally ill person who has been committed to the [*Department*
 32 *of Human Services*] **Oregon Health Authority** under ORS 426.130 and who has, without lawful au-
 33 thority, left the custody of the facility to which the person has been assigned under ORS 426.060,
 34 or in the case of an allegedly mentally ill person who is in custody under ORS 426.070, 426.095,
 35 426.228 to 426.235 or 426.237 at a hospital or nonhospital facility and who has, without lawful au-
 36 thority, left the hospital or nonhospital facility, the facility director or designee has all the powers
 37 provided by ORS 133.225 and 161.255 and may require the assistance of any peace officer or other
 38 person.

39 **SECTION 401.** ORS 426.225 is amended to read:

40 426.225. (1) If any person who has been committed to the [*Department of Human Services*]
 41 **Oregon Health Authority** under ORS 426.127 or 426.130 (1)(b)(B) or (C) requests, during this period
 42 of commitment, voluntary admission to a state hospital, the superintendent shall cause the person
 43 to be examined immediately by a physician. If the physician finds the person to be in need of im-
 44 mediate care or treatment for mental illness, the person shall be voluntarily admitted upon request
 45 of the person.

1 (2) If any person who has been committed to the [department] **authority** under ORS 426.127 or
2 426.130 (1)(b)(B) or (C) requests, during this period of commitment, voluntary admission to a facility
3 approved by the [department] **authority**, the administrator of the facility shall cause the person to
4 be examined immediately by a physician. If the physician finds the person to be in need of immediate
5 care or treatment for mental illness, and the [department] **authority** grants approval, the person
6 shall be voluntarily admitted upon request of the person.

7 **SECTION 402.** ORS 426.228 is amended to read:

8 426.228. (1) A peace officer may take into custody a person who the officer has probable cause
9 to believe is dangerous to self or to any other person and is in need of immediate care, custody or
10 treatment for mental illness. As directed by the community mental health [and developmental disa-
11 bilities] program director, a peace officer shall remove a person taken into custody under this sec-
12 tion to the nearest hospital or nonhospital facility approved by the [Department of Human Services]
13 **Oregon Health Authority**. The officer shall prepare a written report and deliver it to the treating
14 physician. The report shall state:

15 (a) The reason for custody;

16 (b) The date, time and place the person was taken into custody; and

17 (c) The name of the community mental health [and developmental disabilities] program director
18 and a telephone number where the director may be reached at all times.

19 (2) A peace officer shall take a person into custody when the community mental health [and
20 developmental disabilities] program director, pursuant to ORS 426.233, notifies the peace officer that
21 the director has probable cause to believe that the person is imminently dangerous to self or to any
22 other person. As directed by the community mental health [and developmental disabilities] program
23 director, the peace officer shall remove the person to a hospital or nonhospital facility approved by
24 the [department] **authority**. The community mental health [and developmental disabilities] program
25 director shall prepare a written report that the peace officer shall deliver to the treating physician.
26 The report shall state:

27 (a) The reason for custody;

28 (b) The date, time and place the person was taken into custody; and

29 (c) The name of the community mental health [and developmental disabilities] program director
30 and a telephone number where the director may be reached at all times.

31 (3) If more than one hour will be required to transport the person to the hospital or nonhospital
32 facility from the location where the person was taken into custody, the peace officer shall obtain,
33 if possible, a certificate from a physician licensed by the Oregon Medical Board stating that the
34 travel will not be detrimental to the person's physical health and that the person is dangerous to
35 self or to any other person and is in need of immediate care or treatment for mental illness. The
36 physician shall have personally examined the allegedly mentally ill person within 24 hours prior to
37 signing the certificate.

38 (4) When a peace officer or other authorized person, acting under this section, delivers a person
39 to a hospital or nonhospital facility, a physician licensed by the Oregon Medical Board shall exam-
40 ine the person immediately. If the physician finds the person to be in need of emergency care or
41 treatment for mental illness, the physician shall proceed under ORS 426.232, otherwise the person
42 shall not be retained in custody. If the person is to be released from custody, the peace officer or
43 the community mental health [and developmental disabilities] program director shall return the per-
44 son to the place where the person was taken into custody unless the person declines that service.

45 (5) A peace officer may transfer a person in custody under this section to the custody of a per-

1 son authorized by the county governing body under ORS 426.233 (3). The peace officer may meet the
2 authorized person at any location that is in accordance with ORS 426.140 to effect the transfer.
3 When transferring a person in custody to an authorized person, the peace officer shall deliver the
4 report required under subsections (1) and (2) of this section to the authorized person.

5 (6) A person authorized under ORS 426.233 (3) shall take a person into custody when directed
6 to do so by a peace officer or by a community mental health [*and developmental disabilities*] program
7 director under ORS 426.233.

8 (7) A person authorized under ORS 426.233 (3) shall perform the duties of the peace officer or
9 the community mental health [*and developmental disabilities*] program director required by this sec-
10 tion and ORS 426.233 if the peace officer or the director has not already done so.

11 (8) A person authorized under ORS 426.233 (3) may transfer a person in custody under this
12 section to the custody of another person authorized under ORS 426.233 (3) or a peace officer. The
13 authorized person transferring custody may meet another authorized person or a peace officer at
14 any location that is in accordance with ORS 426.140 to effect the transfer.

15 (9)(a) When a peace officer takes a person into custody under this section, and the peace officer
16 reasonably suspects that the person is a foreign national, the peace officer shall inform the person
17 of the person's right to communicate with an official from the consulate of the person's country.

18 (b) A peace officer is not civilly or criminally liable for failure to provide the information re-
19 quired by this subsection. Failure to provide the information required by this subsection does not
20 in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a
21 proceeding.

22 **SECTION 403.** ORS 426.231 is amended to read:

23 426.231. (1) A physician licensed by the Oregon Medical Board may hold a person for transpor-
24 tation to a treatment facility for up to 12 hours in a health care facility licensed under ORS chapter
25 431 and approved by the [*Department of Human Services*] **Oregon Health Authority** if:

26 (a) The physician believes the person is dangerous to self or to any other person and is in need
27 of emergency care or treatment for mental illness;

28 (b) The physician is not related to the person by blood or marriage; and

29 (c) An admitting physician at the receiving facility consents to the transporting.

30 (2) Before transporting the person, the physician shall prepare a written statement that:

31 (a) The physician has examined the person within the preceding 12 hours;

32 (b) An admitting physician at the receiving facility has consented to the transporting of the
33 person for examination and admission if appropriate; and

34 (c) The physician believes the person is dangerous to self or to any other person and is in need
35 of emergency care or treatment for mental illness.

36 (3) The written statement required by subsection (2) of this section authorizes a peace officer,
37 a person authorized under ORS 426.233 or the designee of a community mental health [*and develop-*
38 *mental disabilities*] program director to transport a person to the treatment facility indicated on the
39 statement.

40 **SECTION 404.** ORS 426.232 is amended to read:

41 426.232. (1) When a physician licensed to practice medicine by the Oregon Medical Board be-
42 lieves a person who is brought to a hospital or nonhospital facility by a peace officer under ORS
43 426.228, a person authorized under ORS 426.233 or a person who is at a hospital or nonhospital fa-
44 cility is dangerous to self or to any other person and is in need of emergency care or treatment for
45 mental illness, the physician may do one of the following:

1 (a) After consulting with a physician or a qualified mental health professional, as defined by rule
2 of the [*Department of Human Services*] **Oregon Health Authority**, detain the person and cause the
3 person to be admitted or, if the person is already admitted, cause the person to be retained in a
4 hospital where the physician has admitting privileges or is on staff. Neither the physician nor the
5 qualified mental health professional may be related by blood or marriage to the person.

6 (b) Approve the person for emergency care or treatment at a nonhospital facility approved by
7 the [*department*] **authority**.

8 (2) When approving a person for emergency care or treatment at a nonhospital facility under
9 this section, the physician shall notify immediately the community mental health [*and developmental*
10 *disabilities*] program director in the county where the person was taken into custody and maintain
11 the person, if the person is being held at a hospital, for as long as is feasible given the needs of the
12 person for mental or physical health or safety. However, under no circumstances may the person
13 be held for longer than five judicial days.

14 **SECTION 405.** ORS 426.233 is amended to read:

15 426.233. (1)(a) A community mental health [*and developmental disabilities*] program director op-
16 erating under ORS 430.610 to 430.695 or a designee thereof, under authorization of a county gov-
17 erning body, may take one of the actions listed in paragraph (b) of this subsection when the
18 community mental health [*and developmental disabilities*] program director or designee has probable
19 cause to believe a person:

20 (A) Is dangerous to self or to any other person and is in need of immediate care, custody or
21 treatment for mental illness; or

22 (B)(i) Is a mentally ill person placed on conditional release under ORS 426.125, outpatient com-
23 mitment under ORS 426.127 or trial visit under ORS 426.273; and

24 (ii) Is dangerous to self or to any other person or is unable to provide for basic personal needs
25 and is not receiving the care that is necessary for health and safety and is in need of immediate
26 care, custody or treatment for mental illness.

27 (b) The community mental health [*and developmental disabilities*] program director or designee
28 under the circumstances set out in paragraph (a) of this subsection may:

29 (A) Notify a peace officer to take the person into custody and direct the officer to remove the
30 person to a hospital or nonhospital facility approved by the [*Department of Human Services*] **Oregon**
31 **Health Authority**;

32 (B) Authorize involuntary admission of, or, if already admitted, cause to be involuntarily re-
33 tained in a nonhospital facility approved by the [*department*] **authority**, a person approved for care
34 or treatment at a nonhospital facility by a physician under ORS 426.232;

35 (C) Notify a person authorized under subsection (3) of this section to take the person into cus-
36 tody and direct the authorized person to remove the person in custody to a hospital or nonhospital
37 facility approved by the [*department*] **authority**;

38 (D) Direct a person authorized under subsection (3) of this section to transport a person in
39 custody from a hospital or a nonhospital facility approved by the [*department*] **authority** to another
40 hospital or nonhospital facility approved by the [*department*] **authority** as provided under ORS
41 426.235; or

42 (E) Direct a person authorized under subsection (3) of this section to transport a person in
43 custody from a facility approved by the [*department*] **authority** to another facility approved by the
44 [*department*] **authority** as provided under ORS 426.060.

45 (2) A designee under subsection (1) of this section must be recommended by the community

1 mental health [*and developmental disabilities*] program director, meet the standards established by
2 rule of the [*department*] **authority** and be approved by the county governing body before assuming
3 the authority permitted under subsection (1) of this section.

4 (3) The county governing body may, upon recommendation by the community mental health [*and*
5 *developmental disabilities*] program director, authorize any person to provide custody and secure
6 transportation services for a person in custody under ORS 426.228. In authorizing a person under
7 this subsection, the county governing body shall grant the person the authority to do the following:

8 (a) Accept custody from a peace officer of a person in custody under ORS 426.228;

9 (b) Take custody of a person upon notification by the community mental health [*and develop-*
10 *mental disabilities*] program director under the provisions of this section;

11 (c) Remove a person in custody to an approved hospital or nonhospital facility as directed by
12 the community mental health [*and developmental disabilities*] program director;

13 (d) Transfer a person in custody to another person authorized under this subsection or a peace
14 officer;

15 (e) Transfer a person in custody from a hospital or nonhospital facility to another hospital fa-
16 cility or nonhospital facility when directed to do so by the community mental health [*and develop-*
17 *mental disabilities*] program director; and

18 (f) Retain a person in custody at the approved hospital or nonhospital facility until a physician
19 makes a determination under ORS 426.232.

20 (4) A person authorized under subsection (3) of this section must be recommended by the com-
21 munity mental health [*and developmental disabilities*] program director, meet the standards estab-
22 lished by rule of the [*department*] **authority** and be approved by the governing body before assuming
23 the authority granted under this section.

24 (5) The costs of transporting a person as authorized under ORS 426.060, 426.228 or 426.235 by
25 a person authorized under subsection (3) of this section shall be the responsibility of the county
26 whose peace officer or community mental health [*and developmental disabilities*] program director
27 directs the authorized person to take custody of a person and to transport the person to a facility
28 approved by the [*department*] **authority**, but the county shall not be responsible for costs that ex-
29 ceed the amount provided by the state for that transportation. A person authorized to act under
30 subsection (3) of this section shall charge the cost of emergency medical transportation to, and
31 collect that cost from, the person, third party payers or otherwise legally responsible persons or
32 agencies in the same manner that costs for the transportation of other persons are charged and
33 collected.

34 **SECTION 406.** ORS 426.234 is amended to read:

35 426.234. (1) At the time a person is admitted to or retained in a hospital or nonhospital facility
36 under ORS 426.232 or 426.233, a physician, nurse or qualified mental health professional at the
37 hospital or nonhospital facility shall:

38 (a) Inform the person of the person's right to representation by or appointment of counsel as
39 described in ORS 426.100;

40 (b) Give the person the warning under ORS 426.123;

41 (c) Immediately examine the allegedly mentally ill person;

42 (d) Set forth, in writing, the condition of the person and the need for emergency care or treat-
43 ment; and

44 (e) If the physician, nurse or qualified mental health professional reasonably suspects that the
45 person is a foreign national, inform the person of the person's right to communicate with an official

1 from the consulate of the person's country. A physician, nurse or qualified mental health profes-
2 sional is not civilly or criminally liable for failure to provide the information required by this par-
3 agraph. Failure to provide the information required by this paragraph does not in itself constitute
4 grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

5 (2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the
6 physician shall contact the community mental health [*and developmental disabilities*] program direc-
7 tor of the county in which the person resides, if the county of residence is different from the county
8 in which the hospital is located. The community mental health [*and developmental disabilities*] pro-
9 gram director may request that the physician notify the circuit court in the county in which the
10 person resides. If the community mental health [*and developmental disabilities*] program director does
11 not make the request authorized by this paragraph, the physician shall notify, immediately and in
12 writing, the circuit court in the county in which the person is hospitalized.

13 (b) At the time the person is admitted to a hospital under ORS 426.232 after being brought to
14 the hospital by a peace officer under ORS 426.228, the physician shall contact the community mental
15 health [*and developmental disabilities*] program director of the county in which the person is hospi-
16 talized. The community mental health [*and developmental disabilities*] program director of the county
17 in which the person is hospitalized may request that the physician notify the circuit court in the
18 county in which the person is hospitalized. If the community mental health [*and developmental dis-*
19 *abilities*] program director does not make the request authorized by this paragraph, the physician
20 shall notify, immediately and in writing, the circuit court in the county in which the person was
21 taken into custody.

22 (c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the physician responsible
23 for a person admitted or retained under ORS 426.232 determines that the person is not dangerous
24 to self or others and is not in need of emergency care or treatment for mental illness, the physician
25 may release the person from the detention authorized by ORS 426.232. The physician shall imme-
26 diately notify the circuit court notified under this subsection and the community mental health [*and*
27 *developmental disabilities*] program director of the person's release from detention.

28 (3)(a) At the time the person is admitted to or retained in a nonhospital facility under ORS
29 426.233, the community mental health [*and developmental disabilities*] program director in the county
30 where the person was taken into custody shall contact the community mental health [*and develop-*
31 *mental disabilities*] program director of the county in which the person resides, if the county of
32 residence is different from the county in which the person was taken into custody. The community
33 mental health [*and developmental disabilities*] program director of the county in which the person
34 resides may request that the community mental health [*and developmental disabilities*] program di-
35 rector of the county in which the person was taken into custody notify the circuit court in the
36 county where the person resides. Otherwise, the community mental health [*and developmental disa-*
37 *bilities*] program director of the county in which the person was taken into custody shall notify,
38 immediately and in writing, the circuit court in the county in which the person was taken into
39 custody.

40 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health
41 [*and developmental disabilities*] program director, after consultation with a physician, determines
42 that a person admitted or retained under ORS 426.233 is not dangerous to self or others and is not
43 in need of immediate care, custody or treatment for mental illness, the community mental health
44 [*and developmental disabilities*] program director may release the person from detention. The com-
45 munity mental health [*and developmental disabilities*] program director shall immediately notify the

1 circuit court originally notified under paragraph (a) of this subsection of the person's release from
2 detention.

3 (4) When the judge of the circuit court receives notice under subsection (2) or (3) of this section,
4 the judge immediately shall commence proceedings under ORS 426.070 to 426.130. In a county having
5 a population of 100,000 or more, and when feasible in a county with a lesser population, the com-
6 munity mental health [*and developmental disabilities*] program director or designee who directs the
7 peace officer or other authorized person to take a person into custody under ORS 426.233 shall not
8 also conduct the investigation as provided for under ORS 426.074. Except when a person is being
9 held under ORS 426.237 (1)(b), a person shall not be held under ORS 426.232 or 426.233 for more than
10 five judicial days without a hearing being held under ORS 426.070 to 426.130.

11 (5) When the judge of the circuit court receives notice under subsection (2)(c) or (3)(b) of this
12 section that a person has been released, and unless the court receives the recommendation required
13 by ORS 426.070 (4), the judge shall dismiss the case no later than 14 days after the date the person
14 was initially detained.

15 **SECTION 407.** ORS 426.235 is amended to read:

16 426.235. (1) The community mental health [*and developmental disabilities*] program director may
17 transfer a person in custody under ORS 426.232, 426.233 or 426.237 (1)(b) to a hospital or nonhospital
18 facility approved by the [*Department of Human Services*] **Oregon Health Authority** at any time
19 during the period of detention.

20 (2) A person in custody at a hospital may be transferred from the hospital only with the consent
21 of the treating physician and when the director of a nonhospital facility approved by the
22 [*department*] **authority** agrees to admit the person.

23 (3) A person in custody at a nonhospital facility approved by the [*department*] **authority** may
24 be transferred to a hospital approved by the [*department*] **authority** only when a physician with
25 admitting privileges agrees to admit the person.

26 (4) In transporting a person between a hospital and nonhospital facility under this section, the
27 community mental health [*and developmental disabilities*] program director has all the powers pro-
28 vided in ORS 133.225 and 161.255 and may compel the assistance of any peace officer or other per-
29 son.

30 (5) When a person is transferred under this section, the community mental health [*and develop-*
31 *mental disabilities*] program director shall notify immediately the court notified under ORS 426.234
32 (2) or (3) of the fact of the transfer and of the location of the person.

33 **SECTION 408.** ORS 426.236 is amended to read:

34 426.236. The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules nec-
35 essary to carry out the provisions of ORS 426.155 and 426.228 to 426.238.

36 **SECTION 409.** ORS 426.237 is amended to read:

37 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
38 or 426.233, the community mental health [*and developmental disabilities*] program director shall do
39 one of the following:

40 (a) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court not
41 proceed further in the matter if the community mental health [*and developmental disabilities*] pro-
42 gram director does not believe the person is a mentally ill person.

43 (b) No later than three judicial days after initiation of a prehearing period of detention as pro-
44 vided in ORS 426.070, 426.140, 426.232 or 426.233, certify the detained person for a 14-day period of
45 intensive treatment if:

1 (A) The community mental health [*and developmental disabilities*] program director and a psy-
2 chiatrist, as defined by rule by the [*Department of Human Services*] **Oregon Health Authority**, have
3 probable cause to believe the person is a mentally ill person;

4 (B) The community mental health [*and developmental disabilities*] program director in the county
5 where the person resides verbally approves the arrangements for payment for the services at the
6 hospital or nonhospital facility; and

7 (C) The community mental health [*and developmental disabilities*] program director locates a
8 hospital or nonhospital facility that:

9 (i) Is approved by the [*department*] **authority** and the community mental health [*and develop-*
10 *mental disabilities*] program director in the county where the person resides; and

11 (ii) Can, in the opinion of the community mental health [*and developmental disabilities*] program
12 director and the psychiatrist, provide intensive care or treatment for mental illness necessary and
13 sufficient to meet the emergency psychiatric needs of the person.

14 (c) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court
15 hold a hearing under ORS 426.070 to 426.130 if the community mental health [*and developmental*
16 *disabilities*] program director has probable cause to believe the person is a mentally ill person.

17 (2)(a) If the circuit court adopts the recommendation of the community mental health [*and de-*
18 *velopmental disabilities*] program director under subsection (1)(a) of this section, the circuit court
19 shall enter an order releasing the person and dismissing the case. Unless the person agrees to vol-
20 untary treatment, if the person is being detained in a:

21 (A) Nonhospital facility, the community mental health [*and developmental disabilities*] program
22 director shall make discharge plans and insure the discharge of the person.

23 (B) Hospital, the treating physician shall make discharge plans and discharge the person.

24 (b) Upon release of the person, the community mental health [*and developmental disabilities*]
25 program director shall attempt to notify the person's next of kin if the person consents to the no-
26 tification.

27 (3)(a) If the detained person is certified for treatment under subsection (1)(b) of this section, the
28 community mental health [*and developmental disabilities*] program director shall:

29 (A) Deliver immediately a certificate to the court having jurisdiction under ORS 426.060; and

30 (B) Orally inform the person of the certification and deliver a copy of the certificate to the
31 person.

32 (b) The certificate required by paragraph (a) of this subsection shall include:

33 (A) A written statement under oath by the community mental health [*and developmental disa-*
34 *bilities*] program director and the psychiatrist that they have probable cause to believe the person
35 is a mentally ill person in need of care or treatment for mental illness;

36 (B) A treatment plan that describes, in general terms, the types of treatment and medication to
37 be provided to the person during the 14-day period of intensive treatment;

38 (C) A notice of the person's right to an attorney and that an attorney will be appointed by the
39 court or as otherwise obtained under ORS 426.100 (3);

40 (D) A notice that the person has a right to request and be provided a hearing under ORS 426.070
41 to 426.130 at any time during the 14-day period; and

42 (E) The date and time the copy of the certificate was delivered to the person.

43 (c) Immediately upon receipt of a certificate under paragraph (a) of this subsection, the court
44 shall notify the person's attorney or appoint an attorney for the person if the person cannot afford
45 one. Within 24 hours of the time the certificate is delivered to the court, the person's attorney shall

1 review the certificate with the person. If the person and the person's attorney consent to the cer-
 2 tification within one judicial day of the time the certificate is delivered to the circuit court and,
 3 except as provided in subsection (4) of this section, the court shall postpone the hearing required
 4 by ORS 426.070 to 426.130 for 14 days.

5 (d) When a person is certified for treatment under subsection (1)(b) of this section and accepts
 6 the certification:

7 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the
 8 prescription and administration of drugs, shall be the sole responsibility of the treating physician.
 9 However, the person shall not be subject to electroshock therapy or unduly hazardous treatment and
 10 shall receive usual and customary treatment in accordance with medical standards in the commu-
 11 nity.

12 (B) Except when the person expressly refuses treatment, the treating physician shall treat the
 13 person within the scope of the treatment plan provided the person under paragraph (b) of this sub-
 14 section. The person's refusal of treatment constitutes sufficient grounds for the community mental
 15 health [*and developmental disabilities*] program director to request a hearing as provided in sub-
 16 section (4)(a) of this section.

17 (C) If the person is in a hospital and the community mental health [*and developmental*
 18 *disabilities*] program director locates a nonhospital facility, approved by the [*department*]
 19 **authority**, that, in the opinion of the community mental health [*and developmental disabilities*] pro-
 20 gram director and the treating physician, can provide care or treatment for mental illness necessary
 21 and sufficient to meet the emergency psychiatric needs of the person, the treating physician shall
 22 discharge the person from the hospital and the community mental health [*and developmental disa-*
 23 *bilities*] program director shall remove the person to the nonhospital facility for the remainder of the
 24 14-day intensive treatment period. If, however, in the opinion of the treating physician, the person's
 25 condition requires the person to receive medical care or treatment, the physician shall retain the
 26 person in the hospital.

27 (D) If the person is in a nonhospital facility, the community mental health [*and developmental*
 28 *disabilities*] program director shall transfer the person to a hospital approved by the [*department*]
 29 **authority** under the following conditions:

30 (i) If, in the opinion of a physician, the person's condition requires the person to receive medical
 31 care or treatment in a hospital; and

32 (ii) The physician agrees to admit the person to a hospital, approved by the [*department*] **au-**
 33 **thority**, where the physician has admitting privileges.

34 (E) If the person is transferred as provided in subparagraph (C) or (D) of this paragraph, the
 35 community mental health [*and developmental disabilities*] program director shall notify the circuit
 36 court, in the county where the certificate was filed, of the location of the person. The person may
 37 appeal the transfer as provided by rules of the [*department*] **authority**.

38 (e) If the person is in a hospital, the treating physician may discharge the person at any time
 39 during the 14-day period. The treating physician shall confer with the community mental health [*and*
 40 *developmental disabilities*] program director and the person's next of kin, if the person consents to
 41 the consultation, prior to discharging the person. Immediately upon discharge of the person, the
 42 treating physician shall notify the court in the county in which the certificate was filed initially.

43 (f) If the person is in a nonhospital facility, the community mental health [*and developmental*
 44 *disabilities*] program director may discharge the person at any time during the 14-day period. The
 45 community mental health [*and developmental disabilities*] program director shall consult with the

1 treating physician and the person's next of kin, if the person consents to the consultation, prior to
 2 discharging the person. Immediately upon discharge of the person, the community mental health [*and*
 3 *developmental disabilities*] program director shall notify the court in the county in which the certif-
 4 icate was filed initially.

5 (g) The person may agree to voluntary treatment at any time during the 14-day period. When a
 6 person agrees to voluntary treatment under this paragraph, the community mental health [*and de-*
 7 *velopmental disabilities*] program director immediately shall notify the court in the county in which
 8 the certificate was filed initially.

9 (h) A person consenting to 14 days of treatment under subsection (3)(c) of this section shall not
 10 be held longer than 14 days from the time of consenting without a hearing as provided in ORS
 11 426.070 to 426.130.

12 (i) When the court receives notification under paragraph (e), (f) or (g) of this subsection, the
 13 court shall dismiss the case.

14 (4) The judge of the circuit court shall immediately commence proceedings under ORS 426.070
 15 to 426.130 when:

16 (a) The person consenting to 14 days of treatment or the community mental health [*and devel-*
 17 *opmental disabilities*] program director requests a hearing. The hearing shall be held without un-
 18 reasonable delay. In no case shall the person be held in a hospital or nonhospital facility longer than
 19 five judicial days after the request for a hearing is made without a hearing being held under ORS
 20 426.070 to 426.130.

21 (b) The community mental health [*and developmental disabilities*] program director acts under
 22 subsection (1)(c) of this section. In no case shall the person be held longer than five judicial days
 23 without a hearing under this subsection.

24 **SECTION 410.** ORS 426.238 is amended to read:

25 426.238. The [*Department of Human Services*] **Oregon Health Authority** may assign classifica-
 26 tions, as defined by rule of the [*department*] **authority**, to facilities that provide care and treatment
 27 for persons committed to the [*department*] **authority** under ORS 426.130 or provide emergency care
 28 or treatment for persons pursuant to ORS 426.070, 426.228 to 426.235 or 426.237. The [*department*]
 29 **authority** may authorize a facility to retake custody of a person who unlawfully leaves a facility
 30 as provided in ORS 426.223.

31 **SECTION 411.** ORS 426.241 is amended to read:

32 426.241. (1) The cost of emergency psychiatric care, custody and treatment related to or result-
 33 ing from such psychiatric condition, provided by a hospital or other facility approved by the [*De-*
 34 *partment of Human Services*] **Oregon Health Authority** and the community mental health [*and*
 35 *developmental disabilities*] program director of the county in which the facility is located, except a
 36 state mental hospital, for an allegedly mentally ill person admitted or detained under ORS 426.070,
 37 426.140, 426.228, 426.232 or 426.233, or for a mentally ill person admitted or detained under ORS
 38 426.150, 426.223, 426.273, 426.275 or 426.292, shall be paid by the county of which the person is a
 39 resident from state funds provided it for this purpose. The county is responsible for the cost when
 40 state funds available therefor are exhausted. The hospital or other facility shall charge to and col-
 41 lect from the person, third party payers or other persons or agencies otherwise legally responsible
 42 therefor, the costs of the emergency care, custody and treatment, as it would for any other patient,
 43 and any funds received shall be applied as an offset to the cost of the services provided under this
 44 section.

45 (2) If any person is admitted to or detained in a state mental hospital under ORS 426.070,

1 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency care, custody or treatment, the
 2 [department] **authority** shall charge to and collect from the person, third party payers or other
 3 persons or agencies otherwise legally responsible therefor, the costs as it would for other patients
 4 of the state mental hospitals under the provisions of ORS 179.610 to 179.770.

5 (3) If any person is adjudged mentally ill under the provisions of ORS 426.130, and the person
 6 receives care and treatment in a state mental hospital, the person, third party payers or other per-
 7 sons or agencies otherwise legally responsible therefor, shall be required to pay for the costs of the
 8 hospitalization at the state hospital, as provided by ORS 179.610 to 179.770, if financially able to do
 9 so.

10 (4) For purposes of this section and ORS 426.310 “resident” means resident of the county in
 11 which the person maintains a current mailing address or, if the person does not maintain a current
 12 mailing address within the state, the county in which the person is found, or the county in which
 13 a court-committed mentally ill person has been conditionally released.

14 (5)(a) The [department] **authority** may deny payment for part or all of the emergency psychiatric
 15 services provided by a hospital or nonhospital facility under ORS 426.232, 426.233 or 426.237 when
 16 the [department] **authority** finds, upon review, that the allegedly mentally ill person’s condition did
 17 not meet the admission criteria in ORS 426.232 (1), 426.233 (1) or 426.237 (1)(b)(A). The payer re-
 18 sponsible under this section shall make a request for denial of payment for emergency psychiatric
 19 services provided under ORS 426.232, 426.233 or 426.237 in writing to the [department] **authority**.

20 (b) The [department] **authority** may require the following to provide [*the department with any*
 21 *information the department determines*] **the authority with any information that the authority**
 22 **determines is** necessary to review a request for denial of payment made under this subsection [*and*
 23 *to make a finding,*] or to conduct a review of emergency psychiatric services for the purpose of
 24 planning or defining [*standards in department rule*] **authority rules:**

25 (A) A hospital or nonhospital facility approved under ORS 426.228 to 426.235 or 426.237.

26 (B) A physician or a person providing emergency psychiatric services under ORS 426.228 to
 27 426.235 or 426.237.

28 (c) The [department] **authority** shall adopt rules necessary to carry out the purposes of this
 29 subsection.

30 **SECTION 412.** ORS 426.250 is amended to read:

31 426.250. The following is a nonexclusive list of responsibilities for payment of various costs re-
 32 lated to commitment proceedings under this chapter and ORS 430.397 to 430.401 as described:

33 (1) Any physician or qualified person recommended by the [*Department of Human Services*]
 34 **Oregon Health Authority** who is employed under ORS 426.110 to make an examination as to the
 35 mental condition of a person alleged to be mentally ill shall be allowed a fee as the court in its
 36 discretion determines reasonable for the examination.

37 (2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal
 38 cases, and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to
 39 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in
 40 ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the
 41 witness is responsible for payment of the cost of the subpoena and payment for the attendance of
 42 the witness at a hearing. When the witness has been subpoenaed on behalf of an allegedly mentally
 43 ill person who is represented by appointed counsel, the fees and costs allowed for that witness shall
 44 be paid pursuant to ORS 135.055. If the costs of witnesses subpoenaed by the allegedly mentally ill
 45 person are paid as provided under this subsection, the procedure for subpoenaing witnesses shall

1 comply with ORS 136.570.

2 (3) If a person with a right to a counsel under ORS 426.100 is determined to be financially eli-
3 gible for appointed counsel at state expense, the public defense services executive director shall
4 determine and pay, as provided in ORS 135.055, the reasonable expenses related to the represen-
5 tation of the person and compensation for legal counsel. The expenses and compensation so allowed
6 shall be paid by the public defense services executive director from funds available for the purpose.

7 (4) The *[department]* **authority** shall pay the costs of expenses incurred under ORS 426.100 by
8 the Attorney General's office. Any costs for district attorneys or other counsel appointed to assume
9 responsibility for presenting the state's case shall be paid by the county where the commitment
10 hearing is held, subject to reimbursement under ORS 426.310.

11 (5) All costs incurred in connection with a proceeding under ORS 426.200, including the costs
12 of transportation, commitment and delivery of the person, shall be paid by the county of which the
13 person is a resident; or, if the person is not a resident of this state, then by the county from which
14 the emergency admission was made.

15 (6) All costs incurred in connection with a proceeding under ORS 426.180 for the commitment
16 of a person from a reservation for land-based tribes of Native Americans, including the cost of
17 transportation, commitment and delivery of the person, shall be paid by the ruling body of the res-
18 ervation of which the person is a resident.

19 **SECTION 413.** ORS 426.273 is amended to read:

20 426.273. (1) During a period of commitment of a patient under ORS 426.130, the *[Department of*
21 *Human Services]* **Oregon Health Authority** may grant a trial visit to the patient for a period of
22 time and under any conditions the *[department]* **authority** shall establish. The *[department]* **au-**
23 **thority** shall only grant a trial visit under this section if the trial visit is agreed to by the commu-
24 nity mental health *[and developmental disabilities]* program director, or the designee of the director,
25 for the county in which the person would reside.

26 (2) When in the opinion of the *[department]* **authority**, the committed person can be appropri-
27 ately served by outpatient care during the period of commitment, the outpatient care may be re-
28 quired as a condition for trial visit for a period which, when added to the inpatient treatment period,
29 shall not exceed the period of commitment. If outpatient care is required as a condition for a trial
30 visit, the conditions shall include a designation of a facility, service or other provider to provide
31 care or treatment.

32 (3) A copy of the conditions for trial visit shall be given to all of the persons listed in ORS
33 426.278.

34 (4) Any trial visit granted under this section is subject to the provisions under ORS 426.275.

35 (5) The director of the community mental health *[and developmental disabilities]* program, or
36 designee, of the county in which a person who is on trial visit lives while on trial visit may modify
37 the conditions for continued trial visit when such modification is in the best interest of the person.
38 The director shall send notification of such changes and the reasons for the changes to all those
39 who received a copy of the original conditions under ORS 426.278.

40 **SECTION 414.** ORS 426.275 is amended to read:

41 426.275. The following are applicable to placements of mentally ill persons that are made as
42 conditional release under ORS 426.125, outpatient commitments under ORS 426.127 or trial visits
43 under ORS 426.273 as described:

44 (1) If the person responsible under this subsection determines that the mentally ill person is
45 failing to adhere to the terms and conditions of the placement, the responsible person shall notify

1 the court having jurisdiction that the mentally ill person is not adhering to the terms and conditions
2 of the placement. If the placement is an outpatient commitment under ORS 426.127 or a trial visit
3 under ORS 426.273, the notifications shall include a copy of the conditions for the placement. The
4 person responsible for notifying the court under this subsection is as follows:

5 (a) For conditional releases under ORS 426.125, the guardian, relative or friend in whose care
6 the mentally ill person is conditionally released.

7 (b) For outpatient commitments under ORS 426.127, the community mental health [*and develop-*
8 *mental disabilities*] program director, or designee of the director, of the county in which the person
9 on outpatient commitment lives.

10 (c) For trial visits under ORS 426.273, the community mental health [*and developmental disabil-*
11 *ities*] program director, or designee of the director, of the county in which the person on trial visit
12 is to receive outpatient treatment.

13 (2) On its own motion, the court with jurisdiction of a mentally ill person on such placement
14 may cause the person to be brought before it for a hearing to determine whether the person is or
15 is not adhering to the terms and conditions of the placement. The person shall have the same rights
16 with respect to notice, detention stay, hearing and counsel as for a hearing held under ORS 426.095.
17 The court shall hold the hearing within five judicial days of the date the mentally ill person receives
18 notice under this section. The court may allow postponement and detention during postponement as
19 provided under ORS 426.095.

20 (3) Pursuant to the determination of the court upon hearing under this section, a person on
21 placement shall either continue the placement on the same or modified conditions or shall be re-
22 turned to the [*Department of Human Services*] **Oregon Health Authority** for involuntary care and
23 treatment on an inpatient basis subject to discharge at the end of the commitment period or as
24 otherwise provided under this chapter and ORS 430.397 to 430.401.

25 (4) If the person on placement is living in a county other than the county of the court that es-
26 tablished the current period of commitment under ORS 426.130 during which the trial visit, condi-
27 tional release or outpatient commitment takes place, the court establishing the current period of
28 commitment shall transfer jurisdiction to the appropriate court of the county in which the person
29 is living while on the placement and the court receiving the transfer shall accept jurisdiction.

30 (5) The court may proceed as provided in ORS 426.307 or this section when the court:

31 (a) Receives notice under ORS 426.070 or 426.228 to 426.235; and

32 (b) Determines that the person is a mentally ill person on conditional release under ORS 426.125,
33 outpatient commitment under ORS 426.127 or trial visit under ORS 426.273.

34 **SECTION 415.** ORS 426.278 is amended to read:

35 426.278. The following persons shall be given a copy of the conditions of a placement of a men-
36 tally ill person that is made as an outpatient commitment under ORS 426.127 or as a trial visit under
37 ORS 426.273:

38 (1) The committed person;

39 (2) The community mental health [*and developmental disabilities*] program director, or designee
40 of the director, of the county in which the committed person is to receive outpatient treatment;

41 (3) The director of any facility, service or other provider designated to provide care or treat-
42 ment;

43 (4) The court of current commitment; and

44 (5) The appropriate court of the county in which the committed person lives during the com-
45 mitment period if the person is living in a different county than the county of the court that made

1 the current commitment.

2 **SECTION 416.** ORS 426.292 is amended to read:

3 426.292. Nothing in this chapter and ORS 430.397 to 430.401 prohibits the [*Department of Human*
4 *Services*] **Oregon Health Authority** from releasing a person from a hospital or other facility in
5 which the person is being treated prior to the expiration of the period of commitment under ORS
6 426.130 when, in the opinion of the director of the facility or treating physician, the person is no
7 longer mentally ill.

8 **SECTION 417.** ORS 426.300 is amended to read:

9 426.300. (1) The [*Department of Human Services*] **Oregon Health Authority** shall, by filing a
10 written certificate with the last committing court and the court of residence, discharge any patient
11 from court commitment, except one held upon an order of a court or judge having criminal juris-
12 diction in an action or proceeding arising out of criminal offense when in its opinion the individual
13 is no longer a mentally ill person or when in its opinion the transfer of the individual to a voluntary
14 status is in the best interest of the treatment of the patient.

15 (2) The [*department*] **authority** may sign applications for public assistance on behalf of those
16 patients who may be eligible for public assistance.

17 **SECTION 418.** ORS 426.301 is amended to read:

18 426.301. (1) At the end of the 180-day period of commitment, any person whose status has not
19 been changed to voluntary shall be released unless the [*Department of Human Services*] **Oregon**
20 **Health Authority** certifies to the court in the county where the treating facility is located that the
21 person is still mentally ill and in need of further treatment. The [*department*] **authority**, pursuant
22 to its rules, may delegate to the director of the treating facility the responsibility for making the
23 certification. The director of the treating facility shall consult with the community mental health
24 [*and developmental disabilities*] program director of the county of residence prior to making the
25 certification. If the certification is made, the person will not be released, but the director of the
26 treating facility shall immediately issue a copy of the certification to the person and to the com-
27 munity mental health [*and developmental disabilities*] program director of the county of residence.

28 (2) The certification shall be served upon the person by the director of the facility wherein the
29 person is confined or the designee of the director. The director of the facility shall inform the court
30 in writing that service has been made and the date thereof.

31 (3) The certification shall advise the person of all the following:

32 (a) That the [*department*] **authority** or facility has requested that commitment be continued for
33 an additional period of time.

34 (b) That the person may consult with legal counsel and that legal counsel will be provided for
35 the person without cost if the person is unable to afford legal counsel.

36 (c) That the person may protest this further commitment within 14 days, and if the person does
37 not commitment will be continued for an indefinite period of time up to 180 days.

38 (d) That if the person does protest a further period of commitment, the person is entitled to a
39 hearing before the court on whether commitment should be continued.

40 (e) That the person may protest either orally or in writing by signing the form accompanying
41 the certification; that the person is entitled to have a physician or other qualified person as re-
42 commended by the [*department*] **authority**, other than a member of the staff at the facility where
43 the person is confined, examine the person and report to the court the results of the examination.

44 (f) That the person may subpoena witnesses and offer evidence on behalf of the person at the
45 hearing.

1 (g) That if the person is without funds to retain legal counsel or an examining physician or
2 qualified person as recommended by the [department] **authority**, the court will appoint legal counsel,
3 a physician or other qualified person.

4 (4) Nothing in subsection (3) of this section requires the giving of the warning under ORS
5 426.123.

6 (5) The person serving the certification shall read and deliver the certification to the person and
7 ask whether the person protests a further period of commitment. The person may protest further
8 commitment either orally or by signing a simple protest form to be given to the person with the
9 certification. If the person does not protest a further period of commitment within 14 days of service
10 of the certification, the [department] **authority** or facility shall so notify the court and the court
11 shall, without further hearing, order the commitment of the person for an additional indefinite period
12 of time up to 180 days.

13 **SECTION 419.** ORS 426.303 is amended to read:

14 426.303. When the person protests a further period of commitment the [*Department of Human*
15 *Services*] **Oregon Health Authority** or facility designated in accordance with ORS 426.301 shall
16 immediately notify the court and the court shall have the person brought before it and shall again
17 advise the person that the [department] **authority** or facility has requested that commitment be
18 continued for an additional period of time and that if the person does not protest this commitment
19 the commitment will be continued for an indefinite period of time up to 180 days. The person shall
20 also be informed of the rights set forth in ORS 426.301.

21 **SECTION 420.** ORS 426.307 is amended to read:

22 426.307. If the person requests a hearing under ORS 426.301 or if the court proceeds under ORS
23 426.275 (5), the following provisions apply as described:

24 (1) The hearing shall be conducted as promptly as possible and at a time and place as the court
25 may direct.

26 (2) If the person requests a continuance in order to prepare for the hearing or to obtain legal
27 counsel to represent the person, the court may grant postponement and detention during
28 postponement as provided under ORS 426.095.

29 (3) The person has the right to representation by or appointment of counsel as provided under
30 ORS 426.100 subject to ORS 135.055, 151.216 and 151.219.

31 (4) If the person requests an examination by a physician or other qualified person as recom-
32 mended by the [*Department of Human Services*] **Oregon Health Authority** and is without funds to
33 retain a physician or other qualified person for purposes of the examination, the court shall appoint
34 a physician or other qualified person, other than a member of the staff from the facility where the
35 person is confined, to examine the person at no expense to the person and to report to the court the
36 results of the examination.

37 (5) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 do not apply to the use of medical
38 records from the current period of commitment or to testimony related to such records or period
39 of commitment in connection with hearings under this section. The court may consider as evidence
40 such reports and testimony.

41 (6) The court shall then conduct a hearing and after hearing the evidence and reviewing the
42 recommendations of the treating and examining physicians or other qualified persons, the court shall
43 determine whether the person is still a mentally ill person and in need of further treatment. If in
44 the opinion of the court the individual is still a mentally ill person by clear and convincing evidence
45 and in need of further treatment, the court may order commitment to the [department] **authority** for

1 an additional indefinite period of time up to 180 days.

2 (7) At the end of the 180-day period, the person shall be released unless the [*department*] **au-**
3 **thority** or facility again certifies to the committing court that the person is still a mentally ill
4 person and in need of further treatment, in which event the procedures set forth in ORS 426.301 to
5 426.307 shall be followed.

6 **SECTION 421.** ORS 426.330 is amended to read:

7 426.330. (1) The special funds authorized for the use of the superintendents of the Oregon State
8 Hospital, the Blue Mountain Recovery Center and the Eastern Oregon Training Center to better
9 enable them promptly to meet the advances and expenses necessary in the matter of transferring
10 patients to the state hospitals are continued in existence. The superintendents shall present their
11 claims monthly with [*proper vouchers attached, showing*] **vouchers that show** the expenditures from
12 the special funds during the preceding month [, *which claims, when approved by the Department of*
13 *Human Services, shall be paid by warrant upon the State Treasurer against the fund appropriated to*
14 *cover the cost of transporting these patients.*] **to:**

15 (a) **The Oregon Health Authority for the transfer of patients to the Oregon State Hospital**
16 **or the Blue Mountain Recovery Center; and**

17 (b) **The Department of Human Services for the transfer of patients to the Eastern**
18 **Oregon Training Center.**

19 (2) **Against the fund appropriated to cover the cost of transporting patients, the State**
20 **Treasurer shall pay:**

21 (a) **The claims of the superintendents of the Oregon State Hospital and the Blue Moun-**
22 **tain Recovery Center that have been approved by the Oregon Health Authority; and**

23 (b) **The claims of the superintendent of the Eastern Oregon Training Center that have**
24 **been approved by the Department of Human Services.**

25 **SECTION 422.** ORS 426.335 is amended to read:

26 426.335. The following limitations on liability and circumstances are applicable to situations
27 within this chapter and ORS 430.397 to 430.401:

28 (1) None of the following shall in any way be held criminally or civilly liable for the making of
29 the notification under ORS 426.070, provided the person acts in good faith, on probable cause and
30 without malice:

31 (a) The community mental health [*and developmental disabilities*] program director or designee
32 of the director.

33 (b) The two petitioning persons.

34 (c) The county health officer.

35 (d) Any magistrate.

36 (e) Any peace officer or parole and probation officer.

37 (f) Any physician attending the allegedly mentally ill person.

38 (g) The physician attached to a hospital or institution wherein the allegedly mentally ill person
39 is a patient.

40 (2) The person conducting the investigation under ORS 426.070 and 426.074 shall not be held
41 criminally or civilly liable for conducting the investigation, provided the investigator acts in good
42 faith, on probable cause and without malice.

43 (3) The person representing the state's interest under ORS 426.100 shall not be held criminally
44 or civilly liable for performing responsibilities under ORS 426.100 as long as the person acts in good
45 faith and without malice.

1 (4) No person appointed under ORS 426.110 to conduct an examination under ORS 426.120 shall
2 be held criminally or civilly liable for actions pursuant to ORS 426.120 if the examiner acts in good
3 faith and without malice.

4 (5) No physician, hospital or judge shall be held criminally or civilly liable for actions pursuant
5 to ORS 426.228, 426.231, 426.232, 426.234 or 426.235 if the physician, hospital or judge acts in good
6 faith, on probable cause and without malice.

7 (6) No peace officer, person authorized under ORS 426.233, community mental health director
8 or designee, hospital or other facility, physician or judge shall in any way be held criminally or
9 civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual or facility acts in good
10 faith, on probable cause and without malice.

11 (7) Any guardian, relative or friend of a mentally ill person who assumes responsibility for the
12 mentally ill person under a conditional release under ORS 426.125 shall not be liable for any dam-
13 ages that are sustained by any person on account of the misconduct of the mentally ill person while
14 on conditional release if the guardian, relative or friend acts in good faith and without malice.

15 (8) The persons designated in this subsection shall not be liable for damages that are sustained
16 by any person or property on account of the misconduct of a mentally ill person while the mentally
17 ill person is on outpatient commitment under ORS 426.127 if the designated person acts without
18 willful and wanton neglect of duty. This subsection is applicable to all of the following:

19 (a) The community mental health [*and developmental disabilities*] program director and the
20 designee of the director for the county in which the committed person resides.

21 (b) The superintendent or director of any staff of any facility where the mentally ill person re-
22 ceives treatment during the outpatient commitment.

23 (c) The Director of [*Human Services*] **the Oregon Health Authority**.

24 (d) The physician and the facility granting an outpatient commitment to a patient.

25 (9) For trial visits granted under ORS 426.273 and 426.275:

26 (a) None of the following shall be liable for a patient's expenses while on trial visit:

27 (A) The physician and the facility granting a trial visit to a patient;

28 (B) The superintendent or director of the facility granting a trial visit;

29 (C) The Director of [*Human Services*] **the Oregon Health Authority**; and

30 (D) The chief medical officer of the facility.

31 (b) The following persons shall not be liable for damages that are sustained by any person on
32 account of the misconduct of such patient while on trial visit if the person acts without willful and
33 wanton neglect of duty:

34 (A) The community mental health [*and developmental disabilities*] program director for the
35 county in which the person resides;

36 (B) The superintendent, director or chief medical officer of any facility granting a trial visit to
37 a patient;

38 (C) The physician responsible for the patient's trial visit;

39 (D) The Director of [*Human Services*] **the Oregon Health Authority**; or

40 (E) The employees and agents of persons listed in this paragraph.

41 **SECTION 423.** ORS 426.370 is amended to read:

42 426.370. A community mental health [*and developmental disabilities*] program director or
43 designee may withhold information obtained during an investigation under ORS 426.070, 426.228,
44 426.232, 426.233 or 426.234 if the community mental health [*and developmental disabilities*] program
45 director determines:

1 (1) That information was not included in its investigation report or otherwise used in a material
2 way to support a determination by the community mental health [*and developmental disabilities*]
3 program director that there was probable cause to believe a person was a mentally ill person; and

4 (2) Release of the information would constitute a clear and immediate danger to any person.

5 **SECTION 424.** ORS 426.385 is amended to read:

6 426.385. (1) Every mentally ill person committed to the [*Department of Human Services*] **Oregon**
7 **Health Authority** shall have the right to:

8 (a) Communicate freely in person and by reasonable access to telephones;

9 (b) Send and receive sealed mail, except that this right may be limited for security reasons in
10 state institutions as described in ORS 426.010;

11 (c) Wear the clothing of the person;

12 (d) Keep personal possessions, including toilet articles;

13 (e) Religious freedom;

14 (f) A private storage area with free access thereto;

15 (g) Be furnished with a reasonable supply of writing materials and stamps;

16 (h) A written treatment plan, kept current with the progress of the person;

17 (i) Be represented by counsel whenever the substantial rights of the person may be affected;

18 (j) Petition for a writ of habeas corpus;

19 (k) Not be required to perform routine labor tasks of the facility except those essential for
20 treatment;

21 (L) Be given reasonable compensation for all work performed other than personal housekeeping
22 duties;

23 (m) Daily access to fresh air and the outdoors, except that this right may be limited when it
24 would create significant risk of harm to the person or others;

25 (n) Such other rights as may be specified by rule; and

26 (o) Exercise all civil rights in the same manner and with the same effect as one not admitted
27 to the facility, including, but not limited to, the right to dispose of real property, execute instru-
28 ments, make purchases, enter contractual relationships, and vote, unless the person has been adju-
29 dicated incompetent and has not been restored to legal capacity. Disposal of personal property in
30 possession of the person in a state institution described in ORS 426.010 is subject to limitation for
31 security reasons.

32 (2)(a) A person must be immediately informed, verbally and in writing, of any limitation:

33 (A) Of the right to send or receive sealed mail under subsection (1)(b) of this section;

34 (B) Regarding the disposal of personal property under subsection (1)(o) of this section; and

35 (C) Of the right to daily access to fresh air and the outdoors under subsection (1)(m) of this
36 section.

37 (b) Any limitation under this subsection and the reasons for the limitation must be stated in the
38 person's written treatment plan.

39 (c) The person has the right to challenge any limitation under this subsection pursuant to rules
40 adopted by the [*department*] **authority**. The person must be informed, verbally and in writing, of this
41 right.

42 (3) Mentally ill persons committed to the [*department*] **authority** shall have the right to be free
43 from potentially unusual or hazardous treatment procedures, including convulsive therapy, unless
44 they have given their express and informed consent or authorized the treatment pursuant to ORS
45 127.700 to 127.737. This right may be denied to such persons for good cause as defined in adminis-

1 trative rule only by the director of the facility in which the person is confined, but only after con-
2 sultation with and approval of an independent examining physician. Any denial shall be entered into
3 the patient's treatment record and shall include the reasons for the denial. No patient shall be
4 subjected to psychosurgery, as defined in ORS 677.190 (22)(b).

5 (4) Mechanical restraints shall not be applied to a person admitted to a facility unless it is de-
6 termined by the chief medical officer of the facility or designee to be required by the medical needs
7 of the person. Every use of a mechanical restraint and the reasons therefor shall be made a part
8 of the clinical record of the person over the signature of the chief medical officer of the facility or
9 designee.

10 (5) Nothing in this section prevents the [*department*] **authority** from acting to exclude
11 contraband from its facilities and to prevent possession or use of contraband in its facilities.

12 (6) As used in this section:

13 (a) "Contraband" has the meaning given that term in ORS 162.135.

14 (b) "Security reasons" means the protection of the mentally ill person from serious and imme-
15 diate harm and the protection of others from threats or harassment as defined by rule of the [*de-*
16 *partment*] **authority**.

17 **SECTION 425.** ORS 426.395 is amended to read:

18 426.395. A simple and clear statement of rights guaranteed to patients committed to the [*De-*
19 *partment of Human Services*] **Oregon Health Authority** shall be prominently posted in each room
20 frequented by patients in all facilities housing such patients. A copy of the statement shall be given
21 to each patient upon admission and sent, upon request, to the legal counsel, guardian, relative or
22 friend of the patient. The statement shall include the name, address and telephone number of the
23 system described in ORS 192.517 (1).

24 **SECTION 426.** ORS 426.415 is amended to read:

25 426.415. (1) The Director of [*Human Services*] **the Oregon Health Authority** may adopt rules
26 establishing requirements and procedures for licensing persons who may order, monitor and evaluate
27 the use of restraint and seclusion in facilities providing intensive mental health treatment services
28 to individuals under 21 years of age.

29 (2) A license may not be issued or renewed under rules adopted under this section unless the
30 person applying for the license or renewal:

31 (a) Is employed by or providing services under contract with a provider that is certified by the
32 [*Department of Human Services*] **Oregon Health Authority** to provide intensive mental health
33 treatment services for individuals under 21 years of age;

34 (b) Has successfully completed an emergency safety intervention training program approved by
35 the director;

36 (c) Provides documented evidence of the person's ability to assess the psychological and physical
37 well-being of individuals under 21 years of age;

38 (d) Meets other qualifications established by the director by rule for qualified mental health
39 professionals; and

40 (e) Demonstrates knowledge of federal and state rules governing the use of restraint and seclu-
41 sion in intensive mental health treatment programs for individuals under 21 years of age.

42 (3) The rules described in subsection (1) of this section shall:

43 (a) Specify procedures for issuing and renewing licenses;

44 (b) Establish a term of licensure;

45 (c) Require a person issued a license to satisfy annual training requirements relating to emer-

1 agency safety intervention procedures;

2 (d) Specify grounds for denial, suspension or revocation of a license;

3 (e) Set any license or renewal fees the director determines are necessary; and

4 (f) Specify any other licensing provisions the director determines are necessary to comply with
5 federal law or regulations or to operate a licensing system described in this section.

6 **SECTION 427.** ORS 426.495 is amended to read:

7 426.495. (1) As used in ORS 426.490 to 426.500, unless the context requires otherwise:

8 (a) "Case manager" means a person who works on a continuing basis with a person with a
9 chronic mental illness and is responsible for assuring the continuity of the various services called
10 for in the discharge plan of the person with a chronic mental illness including services for basic
11 personal maintenance, mental and personal treatment, and appropriate education and employment.

12 (b) "Discharge plan" means a written plan prepared jointly with the person with a chronic
13 mental illness, mental health staff and case manager prior to discharge, prescribing for the basic
14 and special needs of the person upon release from the hospital.

15 (c) "Person with a chronic mental illness" means an individual who is:

16 (A) Eighteen years of age or older; and

17 (B) Diagnosed by a psychiatrist, a licensed clinical psychologist or a nonmedical examiner cer-
18 tified by the [*Department of Human Services*] **Oregon Health Authority** as having chronic
19 schizophrenia, a chronic major affective disorder, a chronic paranoid disorder or another chronic
20 psychotic mental disorder other than those caused by substance abuse.

21 (2) For purposes of providing services in the community, the [*department*] **authority** may adopt
22 rules consistent with accepted professional practices in the fields of psychology and psychiatry to
23 specify other criteria for determining who is a person with a chronic mental illness.

24 **SECTION 428.** ORS 426.500 is amended to read:

25 426.500. For the purpose of carrying out the policy and intent of ORS 426.490 to 426.500, the
26 [*Department of Human Services*] **Oregon Health Authority** shall:

27 (1) Adopt rules for the administration of ORS 426.490 to 426.500;

28 (2) Prepare a written discharge plan for each person with a chronic mental illness who is a
29 patient at a state mental institution or who is committed to the [*department*] **authority** pursuant to
30 ORS 426.005 to 426.223 and 426.241 to 426.380;

31 (3) Ensure that case managers are provided for each person with a chronic mental illness de-
32 scribed in subsection (2) of this section; and

33 (4) Disburse from any available funds:

34 (a) Funds for one LINC model in the area served by F. H. Dammasch State Hospital and one
35 LINC model in the area served by the Oregon State Hospital licensed under ORS 443.415;

36 (b) Discretionary funds for services necessary to implement a discharge plan, including but not
37 limited to transportation, medication, recreation and socialization; and

38 (c) Funds to provide day treatment services, community psychiatric inpatient services, and work
39 activity services for persons with chronic mental illness when needed.

40 **SECTION 429.** ORS 426.502 is amended to read:

41 426.502. As used in ORS 426.502 to 426.508:

42 (1) "**Authority**" means the **Oregon Health Authority**.

43 [(1)] (2) "Community housing" means property and related equipment that are used or could be
44 used to house persons with chronic mental illness and their care providers. "Community housing"
45 includes single-family housing and multiple-unit residential housing.

1 [(2)] (3) “Construct” means to build, install, assemble, expand, alter, convert, replace or relocate.
2 “Construct” includes to install equipment and to prepare a site.

3 [(3) “Department” means the Department of Human Services.]

4 (4) “Equipment” means furnishings, fixtures or appliances that are used or could be used to
5 provide care in community housing.

6 (5) “Multiple-unit residential housing” means housing that provides two or more living units and
7 spaces for common use by the occupants in social and recreational activities. “Multiple-unit resi-
8 dential housing” may include nonhousing facilities incidental or appurtenant to the housing that, in
9 the determination of the [department] **authority**, improve the quality of the housing.

10 (6) “Person with a chronic mental illness” has the meaning given that term in ORS 426.495.

11 (7) “Single-family housing” means a detached living unit with common living room and dining
12 facilities for at least three occupants with chronic mental illness. “Single-family housing” may in-
13 clude nonhousing facilities incidental or appurtenant to the housing that, in the determination of the
14 [department] **authority**, improve the quality of the housing.

15 **SECTION 430.** ORS 426.504 is amended to read:

16 426.504. (1) The [Department of Human Services] **Oregon Health Authority** may, through con-
17 tract or otherwise, acquire, purchase, receive, hold, exchange, demolish, construct, lease, maintain,
18 repair, replace, improve and equip community housing for the purpose of housing persons with
19 chronic mental illness.

20 (2) The [department] **authority** may dispose of community housing acquired under subsection (1)
21 of this section in a public or private sale, upon such terms and conditions as the [department] **au-**
22 **thority** considers advisable to increase the quality and quantity of community housing available for
23 persons with chronic mental illness. Except as provided in subsection (3) of this section, in any in-
24 strument conveying fee title to community housing, the [department] **authority** shall include lan-
25 guage that restricts the use of the community housing to housing for persons with chronic mental
26 illness. Such restriction is not a violation of ORS 93.270.

27 (3) If the [department] **authority** determines that community housing acquired under subsection
28 (1) of this section is no longer suitable for use as community housing, the [department] **authority**
29 may sell or otherwise dispose of the community housing without including in any instrument con-
30 veying fee title to the community housing any language that restricts the use of the community
31 housing. Proceeds from the sale or disposition of community housing under this subsection are con-
32 sidered proceeds described in ORS 426.506 (4)(c).

33 (4) When exercising the [authority] **power** granted to the [department] **authority** under this
34 section, the [department] **authority** is not subject to ORS chapter 273 or ORS 270.100 to 270.190,
35 276.900 to 276.915 or 279A.250 to 279A.290.

36 **SECTION 431.** ORS 426.506 is amended to read:

37 426.506. (1) There is created in the State Treasury, separate and distinct from the General Fund,
38 the Community Mental Health Housing Fund. All earnings on investments of moneys in the Com-
39 munity Mental Health Housing Fund shall accrue to the fund. Interest earned on moneys in the
40 fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the
41 [Department of Human Services] **Oregon Health Authority** to carry out the provisions of ORS
42 426.504.

43 (2) The Community Mental Health Housing Fund shall be administered by the [department] **au-**
44 **thority** to provide housing for persons with chronic mental illness. As used in this subsection,
45 “housing” may include acquisition, maintenance, repair, furnishings and equipment.

1 (3)(a) There is established within the Community Mental Health Housing Fund a Community
2 Housing Trust Account. With approval of the State Treasurer and upon request of the Director of
3 [Human Services] **the Oregon Health Authority**, moneys in the account may be invested as pro-
4 vided in ORS 293.701 to 293.820.

5 (b) Notwithstanding the provisions of ORS 270.150, the [department] **authority** shall deposit into
6 the Community Housing Trust Account the proceeds, less costs to the state, received by the [de-
7 partment] **authority** from the sale of F. H. Dammasch State Hospital property under ORS 426.508.
8 The [department] **authority** may expend, for the purposes set forth in ORS 426.504, any earnings
9 credited to the account, including any interest earned on moneys deposited in the account, and up
10 to five percent of the sale proceeds initially credited to the account by the Oregon Department of
11 Administrative Services. At least 95 percent of the sale proceeds shall remain in the account in
12 perpetuity. Proceeds deposited in the account may not be commingled with proceeds from the sale
13 of any surplus real property owned, operated or controlled by the [Department of Human Services]
14 **authority** and used as a state training center.

15 (c) Interest earned on moneys in the Community Housing Trust Account may be expended in the
16 following manner:

17 (A) Seventy percent of interest earned on deposits in the account shall be expended for com-
18 munity housing purposes; and

19 (B) Thirty percent of interest earned on deposits in the account shall be expended for institu-
20 tional housing purposes.

21 (d) Interest earned on deposits in the Community Housing Trust Account shall not be used to
22 support operating expenses of the [department] **authority**.

23 (4) The Community Mental Health Housing Fund shall consist of:

24 (a) Moneys appropriated to the fund by the Legislative Assembly;

25 (b) Sale proceeds and earnings from the account under subsection (3) of this section;

26 (c) Proceeds from the sale, transfer or lease of any surplus real property owned, operated or
27 controlled by the [department] **authority** and used as community housing;

28 (d) Moneys reallocated from other areas of the [department's] **authority's** budget;

29 (e) Interest and earnings credited to the fund; and

30 (f) Gifts of money or other property from any source, to be used for the purposes of developing
31 housing for persons with chronic mental illness.

32 (5) The [department] **authority** shall adopt policies:

33 (a) To establish priorities for the use of moneys in the Community Mental Health Housing Fund
34 for the sole purpose of developing housing for persons with chronic mental illness;

35 (b) To match public and private moneys available from other sources for developing housing for
36 persons with chronic mental illness; and

37 (c) To administer the fund in a manner that will not exceed the State Treasury's maximum cost
38 per transaction.

39 (6) The [Department of Human Services] **authority** shall collaborate with the Housing and
40 Community Services Department to ensure the highest return and best value for community housing
41 from the Community Mental Health Housing Fund.

42 (7) The [Department of Human Services] **authority** shall provide a report of revenues to and
43 expenditures from the Community Mental Health Housing Fund as part of its budget submission to
44 the Governor and Legislative Assembly under ORS chapter 291.

45 **SECTION 432.** ORS 426.508 is amended to read:

1 426.508. (1) Notwithstanding ORS 421.611 to 421.630 or any actions taken under ORS 421.611 to
2 421.630, the Department of Corrections shall transfer the real property known as the F. H.
3 Dammasch State Hospital and all improvements to the Oregon Department of Administrative Ser-
4 vices to be sold for the benefit of the [*Department of Human Services*] **Oregon Health Authority**.

5 (2)(a) Notwithstanding ORS 270.100 to 270.190, and except as provided in subsection (4) of this
6 section, the Oregon Department of Administrative Services shall sell or otherwise convey the real
7 property known as the F. H. Dammasch State Hospital in a manner consistent with the provisions
8 of this section. Conveyance shall not include transfer to a state agency. The sale price of the real
9 property shall equal or exceed the fair market value of the real property. The Oregon Department
10 of Administrative Services shall engage the services of a licensed real estate broker or principal real
11 estate broker to facilitate the sale of the real property.

12 (b) The Oregon Department of Administrative Services shall retain from the sale or other
13 conveyance of the real property those costs incurred by the state in selling or conveying the real
14 property, including costs incurred by the Department of Corrections in transferring the real prop-
15 erty to the Oregon Department of Administrative Services. The remaining proceeds from the sale
16 or other conveyance shall be transferred to the Community Housing Trust Account created under
17 ORS 426.506 (3).

18 (3) Redevelopment of the real property formerly occupied by the F. H. Dammasch State Hospital
19 shall be consistent with the Dammasch Area Transportation Efficient Land Use Plan developed by
20 Clackamas County, the City of Wilsonville, the Oregon Department of Administrative Services, the
21 Department of Land Conservation and Development, the Department of Transportation, the State
22 Housing Council, the [*Department of Human Services*] **Oregon Health Authority** and the Depart-
23 ment of State Lands.

24 (4) The Oregon Department of Administrative Services shall reserve from the sale of the real
25 property under subsection (2) of this section not more than 10 acres. The real property reserved
26 from sale shall be transferred to the [*Department of Human Services for use by the Department of*
27 *Human Services to develop community housing for persons with chronic mental illness. The Oregon*
28 *Department of Administrative Services and the Department of Human Services shall jointly coordinate*
29 *with the City of Wilsonville to identify the real property reserved from sale under this subsection*]
30 **Oregon Health Authority for use by the authority to develop community housing for persons**
31 **with chronic mental illness. The department and the authority shall jointly coordinate with**
32 **the City of Wilsonville to identify the real property reserved from sale under this**
33 **subsection.**

34 **SECTION 433.** ORS 426.650 is amended to read:

35 426.650. (1) Pursuant to rules promulgated by the [*Department of Human Services*] **Oregon**
36 **Health Authority**, the superintendent of any state hospital for the treatment and care of persons
37 with mental illness may admit and hospitalize therein as a patient any person in need of medical
38 or mental therapeutic treatment as a sexually dangerous person who voluntarily has made written
39 application for such admission. No person under the age of 18 years shall be admitted as a patient
40 to any such state hospital unless an application therefor in behalf of the person has been executed
41 by the parent, adult next of kin or legal guardian of the person. Pursuant to rules and regulations
42 of the [*department*] **authority**, no person voluntarily admitted to any state hospital shall be detained
43 therein more than 72 hours after the person, if at least 18 years of age, has given notice in writing
44 of desire to be discharged therefrom, or, if the patient is under the age of 18 years, after notice in
45 writing has been given by the parent, adult next of kin or legal guardian of the person that such

1 parent, adult next of kin or legal guardian desires that such person be discharged therefrom.

2 (2) Any person voluntarily admitted to a state facility pursuant to this section may upon appli-
3 cation and notice to the superintendent of the institution concerned, be granted a temporary leave
4 of absence from the institution if such leave, in the opinion of the chief medical officer, will not
5 interfere with the successful treatment or examination of the applicant.

6 **SECTION 434.** ORS 426.670 is amended to read:

7 426.670. The [*Department of Human Services*] **Oregon Health Authority** hereby is directed and
8 authorized to establish and operate treatment programs, either separately within an existing state
9 Department of Corrections institution, as part of an existing program within [*a Department of Hu-*
10 *man Services*] **an Oregon Health Authority** institution, or in specified and approved sites in the
11 community to receive, treat, study and retain in custody, as required, such sexually dangerous per-
12 sons as are committed under ORS 426.510 to 426.670.

13 **SECTION 435.** ORS 426.675 is amended to read:

14 426.675. (1) When a defendant has been convicted of a sexual offense under ORS 163.305 to
15 163.467 or 163.525 and there is probable cause to believe the defendant is a sexually dangerous
16 person, the court prior to imposing sentence may continue the time for sentencing and commit the
17 defendant to a facility designated under ORS 426.670 for a period not to exceed 30 days for evalu-
18 ation and report.

19 (2) If the facility reports to the court that the defendant is a sexually dangerous person and that
20 treatment available may reduce the risk of future sexual offenses, the court shall hold a hearing to
21 determine by clear and convincing evidence that the defendant is a sexually dangerous person. The
22 state and the defendant shall have the right to call and cross-examine witnesses at such hearing.
23 The defendant may waive the hearing required by this subsection.

24 (3) If the court finds that the defendant is a sexually dangerous person and that treatment is
25 available which will reduce the risk of future sexual offenses, it may, in its discretion at the time
26 of sentencing:

27 (a) Sentence the defendant to probation on the condition that the person participate in and
28 successfully complete a treatment program for sexually dangerous persons pursuant to ORS 426.670;

29 (b) Impose a sentence of imprisonment with the order that the defendant be assigned by the
30 Director of the Department of Corrections to participate in a treatment program for sexually dan-
31 gerous persons pursuant to ORS 426.670. The Department of Corrections and [*Department of Human*
32 *Services*] **the Oregon Health Authority** shall jointly adopt administrative rules to coordinate as-
33 signment and treatment of prisoners under this subsection; or

34 (c) Impose any other sentence authorized by law.

35 **SECTION 436.** ORS 426.680 is amended to read:

36 426.680. (1) The superintendent of the facility designated under ORS 426.670 to receive commit-
37 ments for medical or mental therapeutic treatment of sexually dangerous persons may grant a trial
38 visit to a defendant committed as a condition of probation where:

39 (a) The trial visit is not inconsistent with the terms and conditions of probation; and

40 (b) The trial visit is agreed to by the community mental health [*and developmental disabilities*]
41 program director for the county in which the person would reside.

42 (2) Trial visit here shall correspond to trial visit as described in ORS 426.273 to 426.292 and
43 426.335, except that the length of a trial visit may be for the duration of the period of probation,
44 subject to the consent of the sentencing court.

45 **SECTION 437.** ORS 427.104 is amended to read:

1 427.104. The Department of Human Services with funds appropriated for that purpose by the
2 legislature, shall establish and operate a Developmental Disability Diagnosis and Evaluation Service
3 for people with mental retardation or developmental disabilities. The Developmental Disability Di-
4 agnosis and Evaluation Service shall provide all or part of diagnostic evaluations, as defined in ORS
5 427.105, when complete evaluations are not available through community [*mental health and*] devel-
6 opmental disabilities programs, and the Developmental Disability Diagnosis and Evaluation Service
7 shall:

8 (1) Provide consultation and training to community [*mental health and*] developmental disabili-
9 ties programs in the development of local diagnosis and evaluation services;

10 (2) Develop and periodically revise department standards and procedures for diagnosis and
11 evaluation services;

12 (3) Coordinate diagnostic evaluations statewide to minimize duplication of tests and examina-
13 tions;

14 (4) Approve applications for admission to the training center;

15 (5) Provide necessary information to the State Training Center Review Board when a decision
16 of the Developmental Disability Diagnosis and Evaluation Service regarding admission to the state
17 training center is appealed by the person, the parents or legal guardian of the person;

18 (6) Provide consultation to appropriate agencies and individuals regarding persons evaluated;
19 and

20 (7) Process and coordinate all placements of residents from the state training center.

21 **SECTION 438.** ORS 427.112 is amended to read:

22 427.112. A general hospital, community [*mental health and*] developmental disabilities program,
23 or other facility, except a state training center, providing diagnostic evaluations under ORS 427.105
24 shall charge to and collect from the person, third party payers, or other persons or agencies other-
25 wise legally responsible therefor, the costs of the diagnostic evaluation or emergency care, custody
26 and treatment, as the facility would for any other client or resident.

27 **SECTION 439.** ORS 427.180 is amended to read:

28 427.180. (1) A person shall be admitted to a state training center only after:

29 (a) The person has either been committed to the Department of Human Services as a mentally
30 retarded person under ORS 427.290, or an application for admission has been filed either by the
31 person or by another in the manner set forth in ORS 427.185;

32 (b) The person has undergone a diagnostic evaluation as defined in ORS 427.105 and the com-
33 pleted evaluation has been provided to the Developmental Disability Diagnosis and Evaluation Ser-
34 vice established under ORS 427.104; and

35 (c) Either the Developmental Disability Diagnosis and Evaluation Service or, upon appeal, the
36 Director of Human Services finds that the person meets the requirements set out in subsection (2)
37 of this section and approves the person for admission.

38 (2) A person shall be approved for admission under subsection (1)(c) of this section if the fol-
39 lowing conditions exist:

40 (a) The person is mentally retarded;

41 (b) Programs and services needed by the person are available in a training center and compa-
42 rable services are not available in community [*mental health and*] developmental disabilities pro-
43 grams or other human service agencies;

44 (c) Admission to a state training center is the best available plan and in the best interest of the
45 person, family of the person and the community; and

1 (d) Space is available or may become available within a reasonable time in an appropriate unit
2 of a state training center.

3 **SECTION 440.** ORS 427.185 is amended to read:

4 427.185. (1) A person seeking admission to a state training center shall apply on forms and in
5 the manner established by the Department of Human Services, to the community [*mental health*
6 *and*] developmental disabilities program serving the area in which the applicant currently resides.
7 If the person seeking admission is a minor or is incapacitated, the application shall be made by the
8 person's parents or guardian or by the person entitled to custody.

9 (2) Upon receipt of an application, the community [*mental health and*] developmental disabilities
10 program shall provide or arrange a diagnostic evaluation, meeting the requirements set forth in ORS
11 427.105, of the person on whose behalf the application for admission is made at a facility approved
12 by the department. The community [*mental health and*] developmental disabilities program or its
13 designee shall schedule a date for the diagnostic evaluation and notify the applicant or person
14 having custody. No person shall be kept in residence in a training center for a diagnostic evaluation
15 longer than 10 business days.

16 (3) The costs of transportation to the community [*mental health and*] developmental disabilities
17 program or designated facility shall be paid by the applicant. The cost of maintenance for any period
18 of residence in a training center shall be determined as provided for in ORS 179.610 to 179.770 and
19 paid by the applicant or other persons or agencies legally responsible.

20 **SECTION 441.** ORS 427.190 is amended to read:

21 427.190. (1) Upon receipt of a completed diagnostic evaluation, the community [*mental health*
22 *and*] developmental disabilities program shall forward the completed application and the completed
23 diagnostic evaluation to the Developmental Disability Diagnosis and Evaluation Service.

24 (2) Upon receipt of a completed application and diagnostic evaluation from the community
25 [*mental health and*] developmental disabilities program, the Developmental Disability Diagnosis and
26 Evaluation Service shall promptly determine the eligibility and priority for admission in accordance
27 with ORS 427.180 and 427.195.

28 (3) When space in an appropriate unit of a training center becomes available for a person oth-
29 erwise eligible for admission under ORS 427.180, the Developmental Disability Diagnosis and Eval-
30 uation Service shall notify the applicant or, if the person is committed, the director of the
31 community [*mental health and*] developmental disabilities program in the county of the person's
32 residence that the person has been accepted for admission. The notice shall establish the date when
33 the admission is to be made. If the person does not appear at the designated training center within
34 15 days after the date established for admission, the application of the person may be canceled by
35 the Developmental Disability Diagnosis and Evaluation Service.

36 (4) A person applying for admission to a state training center or, if the person is a minor or
37 incapacitated, the person applying for admission on behalf of the minor or incapacitated person may
38 appeal any decision of the Developmental Disability Diagnosis and Evaluation Service regarding
39 admission to the Director of Human Services. The appeal shall be filed within 30 days of receipt of
40 notice of the decision and shall set forth the reasons for the appeal. The director shall convene the
41 State Training Center Review Board, established under ORS 427.205, within 30 days of receipt of the
42 appeal. The board shall advise the director regarding disposition of the appeal, and the director shall
43 make a decision on the appeal within 30 days of the meeting of the board. The decision of the di-
44 rector shall be final.

45 **SECTION 442.** ORS 427.235 is amended to read:

1 427.235. (1) Any two persons may notify the judge of the court having probate jurisdiction for
 2 the county or the circuit court, if it is not the probate court but its jurisdiction has been extended
 3 to include commitment of the mentally retarded under ORS 3.275, that a person within the county
 4 is a mentally retarded person in need of commitment for residential care, treatment and training.
 5 Such notice shall be in writing and sworn to before an officer qualified to administer an oath and
 6 shall set forth the facts sufficient to show the need for investigation. The circuit court shall forward
 7 notice to the community [*mental health and*] developmental disabilities program director in the
 8 county if it finds the notice sufficient to show the need for investigation. The director or the
 9 designee of the director shall immediately investigate to determine whether the person is in fact a
 10 mentally retarded person. However, if the petition for commitment is from a state training center,
 11 the duties of the community [*mental health and*] developmental disabilities program director under
 12 ORS 427.235 to 427.270, 427.280 and 427.285 shall be the responsibility of the superintendent of the
 13 state training center or the designee of the superintendent.

14 (2) Any person who acts in good faith shall not be held civilly liable for making of the notifi-
 15 cation under subsection (1) of this section.

16 (3) Any investigation conducted by the community [*mental health and*] developmental disabilities
 17 program director or the designee of the director under subsection (1) of this section shall commence
 18 with an interview or examination of the allegedly mentally retarded person, where possible, in the
 19 home of the allegedly mentally retarded person or other place familiar to the allegedly mentally
 20 retarded person. Further investigation if warranted shall include a diagnostic evaluation as defined
 21 in ORS 427.105 and may also include interviews with the allegedly mentally retarded person's rela-
 22 tives, neighbors, teachers and physician. The investigation shall also determine if any alternatives
 23 to commitment are available. The investigator shall also determine and recommend to the court
 24 whether the person is incapacitated and in need of a guardian or conservator.

25 (4) The investigation report shall be submitted to the court within 30 days of receipt of notice
 26 from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also be
 27 made available to the Developmental Disability Diagnosis and Evaluation Service and to the
 28 allegedly mentally retarded person and, where the allegedly mentally retarded person is a minor or
 29 incapacitated, to the parents of the allegedly mentally retarded person or guardian as soon as pos-
 30 sible after its completion but in any case prior to a hearing held under ORS 427.245.

31 (5) Any person conducting an evaluation or investigation under this section shall in no way be
 32 held civilly liable for conducting the investigation or performing the diagnostic evaluation.

33 (6) If requested by a person conducting an investigation under this section, a physician who has
 34 examined the allegedly mentally retarded person may, with patient authorization or in response to
 35 a court order, provide any relevant information the physician has regarding the allegedly mentally
 36 retarded person.

37 **SECTION 443.** ORS 427.245 is amended to read:

38 427.245. (1) If the court, following receipt of an investigation report under ORS 427.235, con-
 39 cludes that there is probable cause to believe that the subject of the investigation is in fact a
 40 mentally retarded person, it shall, through the issuance of a citation as provided in subsection (2)
 41 of this section, cause the person to be brought before it at such time and place as it may direct for
 42 a hearing to determine whether the person is mentally retarded. The person shall be given the op-
 43 portunity to appear at the hearing. If the person is detained pursuant to ORS 427.255, the court shall
 44 hold the hearing within seven judicial days.

45 (2) Upon a determination under subsection (1) of this section that probable cause exists to be-

1 lieve that the person is in fact a mentally retarded person, the judge shall cause a citation to issue
2 to the person or, if the person is a minor or incapacitated, to the parent or legal guardian of the
3 person. The citation shall state the specific reasons the person is believed to be mentally retarded.
4 The citation shall also contain a notice of the time and place of the commitment hearing, the right
5 to legal counsel, the right to have legal counsel appointed if the person is unable to afford legal
6 counsel, the right to have legal counsel appointed immediately if so requested, the right to subpoena
7 witnesses in behalf of the person to testify at the hearing, the right to cross-examine all witnesses
8 and such other information as the court may direct. The citation shall be served on the person by
9 the community [*mental health and*] developmental disabilities program director or the designee of the
10 director delivering a duly certified copy of the original to the person prior to the hearing. The
11 person, the parents of the person or the legal guardian of the person shall have the opportunity to
12 consult with legal counsel prior to being brought before the court. The community [*mental health*
13 *and*] developmental disabilities program director or the designee of the director shall advise the
14 person of the purpose of the citation and the possible consequences of the proceeding.

15 **SECTION 444.** ORS 427.255 is amended to read:

16 427.255. (1) If the court finds that there is probable cause to believe that failure to take an
17 allegedly mentally retarded person into custody pending an investigation or hearing would pose an
18 imminent and serious danger to the person or to others, the judge may issue a warrant of detention
19 to either the community [*mental health and*] developmental disabilities program director or the
20 sheriff of the county directing that the person or the designee of the person take the allegedly
21 mentally retarded person into custody and produce the mentally retarded person at the time and
22 place stated in the warrant. At the time the person is taken into custody, the person taking the
23 person into custody shall advise the allegedly mentally retarded person or, if the allegedly mentally
24 retarded person is incapacitated or a minor, the parents or guardian of the allegedly mentally re-
25 tarded person of the person's right to counsel, to have legal counsel appointed if the allegedly
26 mentally retarded person is unable to afford legal counsel, and, if requested, to have legal counsel
27 appointed immediately.

28 (2) A person taken into custody under subsection (1) of this section shall be provided all care,
29 custody, evaluation and treatment required for the mental and physical health and safety of the
30 person and the director of the facility retaining custody shall report any care, custody, evaluation
31 or treatment provided the person to the court as required by ORS 427.280. Any diagnostic evaluation
32 performed on such person shall be consistent with Department of Human Services rules and ORS
33 427.105. Any prescription or administration of drugs shall be the sole responsibility of the treating
34 physician. The allegedly mentally retarded person shall have the right to the least hazardous treat-
35 ment procedures while in custody, and the treating physician shall be notified immediately of the
36 use of any mechanical restraints on the person. A note of each use of mechanical restraint and the
37 reasons therefor shall be made a part of the person's clinical record over the signature of the
38 treating physician.

39 **SECTION 445.** ORS 427.275 is amended to read:

40 427.275. (1) Any physician or psychologist employed by the judge to make a diagnostic evalu-
41 ation of a person alleged to be mentally retarded shall be allowed a fee as the court in its discretion
42 determines reasonable for the evaluation. The costs of the evaluation shall be paid by the county
43 of residence of the person or, if the person has no residence within the state, by the county in which
44 the person is taken into custody. The county shall not be held responsible for the costs of prior
45 examinations or tests reported to the court, or of diagnostic evaluations performed or arranged by

1 the community [*mental health and*] developmental disabilities program or Department of Human
2 Services.

3 (2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal
4 cases and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to
5 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in
6 ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the
7 witness is responsible for payment of the cost of the subpoena and payment for the attendance of
8 the witness at a hearing. When the witness has been subpoenaed on behalf of an allegedly mentally
9 retarded person who is represented by appointed counsel, the fees and costs allowed for that witness
10 shall be paid pursuant to ORS 135.055.

11 **SECTION 446.** ORS 427.280 is amended to read:

12 427.280. The court shall be fully advised by the community [*mental health and*] developmental
13 disabilities program director or, when the person has been detained under ORS 427.255, by the di-
14 rector of the facility retaining custody of all treatment known to have been administered to the
15 allegedly mentally retarded person after a citation has been issued to the person.

16 **SECTION 447.** ORS 427.300 is amended to read:

17 427.300. (1) The Department of Human Services may, at its discretion, direct any court-
18 committed mentally retarded person to the facility best able to treat and train the person. The au-
19 thority of the department on such matters shall be final.

20 (2) At any time, for good cause and in the best interest of the mentally retarded person, the
21 department may decide to transfer a resident from one facility to another or discharge a resident
22 as no longer in need of residential care, treatment or training in a state training center. Fifteen days
23 prior to department action, the department shall notify the resident and the parent, guardian or
24 person entitled to custody of the resident by certified mail of its decision. The notice shall indicate
25 the right of the aforementioned parties to appeal this decision to the State Training Center Review
26 Board in writing within 10 days after receipt of notice. Within 30 days from the date the appeal is
27 received by the department, the State Training Center Review Board shall hold a hearing at which
28 the department and the person having filed the appeal shall present their case and shall communi-
29 cate its recommendation to the Director of Human Services pursuant to ORS 427.205 (4)(b); and the
30 director shall communicate the decision of the director by certified mail to the appealing party.

31 (3) The department, pursuant to its rules, may delegate to a community [*mental health and*] de-
32 velopmental disabilities program director the responsibility for assignment of mentally retarded
33 persons to suitable facilities or transfer between such facilities under conditions which the depart-
34 ment may define. Any voluntary client or resident shall be released from the treating or training
35 facility within 15 business days of the request of the client or resident for release, unless commit-
36 ment procedures are initiated under ORS 427.235.

37 **SECTION 448.** ORS 427.306 is amended to read:

38 427.306. (1) No person, not incarcerated upon a criminal charge, who has been alleged or
39 adjudged a mentally retarded person shall be confined in any prison, jail or other enclosure where
40 those charged with a crime or a violation of a municipal ordinance are incarcerated.

41 (2) No person alleged or adjudged a mentally retarded person, not incarcerated on a criminal
42 charge, shall be confined without an attendant in charge of the person. If not confined in a com-
43 munity hospital, the community [*mental health and*] developmental disabilities program director or
44 sheriff having the person in custody shall select some suitable person to act as attendant in quarters
45 suitable for the comfortable, safe and humane confinement of the person. The person shall be de-

1 tained in the least restrictive setting consistent with the person's emotional and physical needs and
2 the protection of others.

3 **SECTION 449.** ORS 428.210 is amended to read:

4 428.210. As used in ORS 428.210 to 428.270:

5 **(1) "Authority" means the Oregon Health Authority.**

6 [(1)] **(2) "Department" means the Department of Human Services.**

7 [(2)] **(3) "Foreign hospital" means an institution in any other state which corresponds to the**
8 **institutions defined in subsection [(7)] (8) of this section.**

9 [(3)] **(4) "Nonresident" means any person who is not a resident of this state as defined in sub-**
10 **section [(6)] (7) of this section.**

11 [(4)] **(5) "Other state" includes all the states, territories, possessions, commonwealths and**
12 **agencies of the United States and the District of Columbia, with the exception of the State of**
13 **Oregon.**

14 [(5)] **(6) "Patient" means any person who has been committed by a court of competent jurisdic-**
15 **tion to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150 (1969**
16 **Replacement Part), 136.160 (1969 Replacement Part), 161.341 or 161.370.**

17 [(6)] **(7) "Resident of this state" means a person who has lived in this state continuously for a**
18 **period of one year and who has not acquired legal residence in any other state by living contin-**
19 **uously therein for at least one year subsequent to the residence of the person in this state. However,**
20 **a service man or woman on active duty in the Armed Forces of the United States who was domiciled**
21 **in Oregon upon entry into active duty and who has acquired no other domicile shall be entitled to**
22 **have his or her children considered a resident of this state so long as no other domicile is acquired**
23 **by the service man or woman.**

24 [(7)] **(8) "State hospital" means any institution listed in ORS 426.010 or 427.010.**

25 **SECTION 450.** ORS 428.220 is amended to read:

26 428.220. (1) In determining whether or not any person committed by a court of competent jurisdic-
27 tion to a state hospital or foreign hospital is a resident of this state:

28 (a) The time spent in a state hospital or foreign hospital or on parole therefrom shall not be
29 counted in determining the residence of such person in this or any other state.

30 (b) The residence of such person at the time of commitment shall remain the residence of the
31 person for the duration of the commitment of the person.

32 (2) The Department of Human Services may give written authorization for the admission to [*a*
33 *state hospital whenever*] **the Eastern Oregon Training Center whenever:**

34 (a) The residence of any person cannot be established after reasonable and diligent investigation
35 and effort.

36 (b) The peculiar circumstances of a case, in the judgment of the department, provide a sufficient
37 reason for the suspension of the residence requirement provided by ORS 428.210 [(6)] (7).

38 **(3) The Oregon Health Authority may give written authorization for the admission to the**
39 **Blue Mountain Recovery Center or the Oregon State Hospital whenever:**

40 (a) **The residence of any person cannot be established after reasonable and diligent in-**
41 **vestigation and effort.**

42 (b) **The peculiar circumstances of a case, in the judgment of the authority, provide a**
43 **sufficient reason for the suspension of the residence requirement provided by ORS 428.210**
44 **(7).**

45 **SECTION 451.** ORS 428.230 is amended to read:

1 428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the Department of Human
2 Services **and the Oregon Health Authority** shall return nonresident patients to any other state in
3 which they may have legal residence.

4 (2) The department may give written authorization for the return to [*a state hospital*] **the**
5 **Eastern Oregon Training Center** of a resident of Oregon who has been committed by a court of
6 competent jurisdiction to a foreign hospital.

7 (3) The superintendent of [*any state hospital*] **the Eastern Oregon Training Center** shall admit
8 and care for any person eligible for admission pursuant to subsection (2) of this section or ORS
9 428.220 (2) upon receipt of a certified copy of the commitment papers and the written authorization
10 of the department.

11 (4) **The authority may give written authorization for the return to the Blue Mountain**
12 **Recovery Center or the Oregon State Hospital of a resident of Oregon who has been com-**
13 **mitted by a court of competent jurisdiction to a foreign hospital.**

14 (5) **The superintendent of the Blue Mountain Recovery Center or the Oregon State Hos-**
15 **pital shall admit and care for any person eligible for admission pursuant to subsection (4)**
16 **of this section or ORS 428.220 (3) upon receipt of a certified copy of the commitment papers**
17 **and the written authorization of the authority.**

18 **SECTION 452.** ORS 428.240 is amended to read:

19 428.240. (1) For the purpose of facilitating the return of nonresident patients, the Department
20 of Human Services may enter into a reciprocal agreement with any other state for the mutual ex-
21 change of persons committed by a court of competent jurisdiction to [*any state hospital or*] **the**
22 **Eastern Oregon Training Center or a foreign hospital**, whose legal residence is in the other's ju-
23 risdiction.

24 (2) **For the purpose of facilitating the return of nonresident patients, the Oregon Health**
25 **Authority may enter into a reciprocal agreement with any other state for the mutual ex-**
26 **change of persons committed by a court of competent jurisdiction to the Blue Mountain**
27 **Recovery Center, the Oregon State Hospital or a foreign hospital, whose legal residence is**
28 **in the other's jurisdiction.**

29 [(2)] (3) In such agreements, the department **or authority** may:

30 (a) Only for purposes of mutual exchange with the other state, vary the period of residence re-
31 quired by ORS 428.210 [(6)] (7).

32 (b) Provide for the arbitration of disputes arising out of the mutual exchange of such persons
33 between this state and any other state.

34 **SECTION 453.** ORS 428.260 is amended to read:

35 428.260. (1) For the purpose of carrying out the provisions of ORS 428.210 to 428.270, the De-
36 partment of Human Services **or the Oregon Health Authority** may employ all help necessary in
37 arranging for and transporting nonresident patients.

38 (2) The cost and expense of providing such assistance and all expenses incurred in effecting the
39 transportation of such patients shall be paid from funds appropriated for that purpose upon vouchers
40 approved by the [*department and the superintendent of the state hospital from which such patients are*
41 *transported*] **department, the authority or the superintendent of the Eastern Oregon Training**
42 **Center, the Blue Mountain Recovery Center or the Oregon State Hospital.**

43 **SECTION 454.** ORS 428.270 is amended to read:

44 428.270. (1) Any person, except an officer, agent or employee of a common carrier acting in the
45 line of duty, who brings or in any way aids in bringing into this state any patient without the

1 written authorization of the Department of Human Services **or the Oregon Health Authority**, shall
2 be liable to this state for all expenses incurred in the care of such patient and in the transportation
3 of such patient to the other state where the patient legally resides.

4 (2) Hospitals and sanitariums, other than state hospitals, that care for and treat persons with
5 mental illness or mental retardation shall be responsible for the return of those persons to their
6 places of residence or domicile outside the state if they are brought into this state for treatment
7 and care and are discharged from such institutions without being fully recovered.

8 (3) Failure to comply with the provisions of subsection (2) of this section shall render the person
9 operating the hospital or sanitarium liable to reimburse the state for all expenses incurred in the
10 care, maintenance and return of the persons with mental illness or mental retardation to their
11 places of residence or domicile outside the state.

12 **SECTION 455.** ORS 428.310 is amended to read:

13 428.310. The Department of Human Services **or the Oregon Health Authority** may execute and
14 terminate a compact on behalf of the State of Oregon with any state, territory or possession of the
15 United States, the District of Columbia and the Commonwealth of Puerto Rico joining therein, in the
16 form substantially as follows:

17 _____
18
19 The contracting states solemnly agree that:

20 **ARTICLE I**

21 The party states find that the proper and expeditious treatment of the mentally ill and mentally
22 deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and
23 society as a whole. Further, the party states find that the necessity of and desirability for furnishing
24 such care and treatment bears no primary relation to the residence or citizenship of the patient but
25 that, on the contrary, the controlling factors of community safety and humanitarianism require that
26 facilities and services be made available for all who are in need of them. Consequently, it is the
27 purpose of this compact and of the party states to provide the necessary legal basis for the
28 institutionalization or other appropriate care and treatment of the mentally ill and mentally defi-
29 cient under a system that recognizes the paramount importance of patient welfare and to establish
30 the responsibilities of the party states in terms of such welfare.

31 **ARTICLE II**

32 As used in this compact:

33 (a) "Sending state" shall mean a party state from which a patient is transported pursuant to the
34 provisions of the compact or from which it is contemplated that a patient may be so sent.

35 (b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the
36 provisions of the compact or to which it is contemplated that a patient may be so sent.

37 (c) "Institution" shall mean any hospital or other facility maintained by a party state or political
38 subdivision thereof for the care and treatment of mental illness or mental deficiency.

39 (d) "Patient" shall mean any person subject to or eligible as determined by the laws of the
40 sending state, for institutionalization or other care, treatment or supervision pursuant to the pro-
41 visions of this compact.

42 (e) "After-care" shall mean care, treatment and services provided a patient, as defined herein,
43 on convalescent status or conditional release.

44 (f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires
45 care and treatment for his own welfare, or the welfare of others, or of the community.

1 (g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical author-
2 ities to such extent that a person so afflicted is incapable of managing himself and his affairs, but
3 shall not include mental illness as defined herein.

4 (h) "State" shall mean any state, territory or possession of the United States, the District of
5 Columbia and the Commonwealth of Puerto Rico.

6 ARTICLE III

7 (a) Whenever a person physically present in any party state shall be in need of
8 institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for
9 care and treatment in an institution in that state irrespective of the residence, settlement or citi-
10 zenship qualifications of the person.

11 (b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient
12 may be transferred to an institution in another state whenever there are factors based upon clinical
13 determinations indicating that the care and treatment of said patient would be facilitated or im-
14 proved thereby. Any such institutionalization may be for the entire period of care and treatment or
15 for any portion or portions thereof. The factors referred to in this paragraph shall include the pa-
16 tient's full record with due regard for the location of the patient's family, character of the illness
17 and probable duration thereof, and such other factors as shall be considered appropriate.

18 (c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b)
19 of this article unless the sending state has given advance notice of its intention to send the patient;
20 furnished all available medical and other pertinent records concerning the patient; given the quali-
21 fied medical or other appropriate clinical authorities of the receiving state an opportunity to ex-
22 amine the patient if said authorities so wish; and unless the receiving state shall agree to accept
23 the patient.

24 (d) In the event that the laws of the receiving state establish a system of priorities for the ad-
25 mission of patients, an interstate patient under this compact shall receive the same priority as a
26 local patient and shall be taken in the same order and at the same time that the patient would be
27 taken if the patient were a local patient.

28 (e) Pursuant to this compact, the determination as to the suitable place of institutionalization
29 for a patient may be reviewed at any time and such further transfer of the patient may be made as
30 seems likely to be in the best interest of the patient.

31 ARTICLE IV

32 (a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall
33 be determined that the patient should receive after-care or supervision, such care or supervision
34 may be provided in a receiving state. If the medical or other appropriate clinical authorities having
35 responsibility for the care and treatment of the patient in the sending state shall have reason to
36 believe that after-care in another state would be in the best interest of the patient and would not
37 jeopardize the public safety, they shall request the appropriate authorities in the receiving state to
38 investigate the desirability of affording the patient such after-care in said receiving state, and such
39 investigation shall be made with all reasonable speed. The request for investigation shall be ac-
40 companied by complete information concerning the patient's intended place of residence and the
41 identity of the person in whose charge it is proposed to place the patient, the complete medical
42 history of the patient, and such other documents as may be pertinent.

43 (b) If the medical or other appropriate clinical authorities having responsibility for the care and
44 treatment of the patient in the sending state and the appropriate authorities in the receiving state
45 find that the best interest of the patient would be served thereby, and if the public safety would not

1 be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

2 (c) In supervising, treating or caring for a patient on after-care pursuant to the terms of this
3 article, a receiving state shall employ the same standards of visitation, examination, care and
4 treatment that it employs for similar local patients.

5 ARTICLE V

6 Whenever a dangerous or potentially dangerous patient escapes from an institution in any party
7 state, that state shall promptly notify all appropriate authorities within and without the jurisdiction
8 of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee.
9 Immediately upon the apprehension and identification of any such dangerous or potentially danger-
10 ous patient, the patient shall be detained in the state where found pending disposition in accordance
11 with law.

12 ARTICLE VI

13 The duly accredited officers of any state party to this compact, upon the establishment of their
14 authority and the identity of the patient, shall be permitted to transport any patient being moved
15 pursuant to this compact through any and all states party to this compact, without interference.

16 ARTICLE VII

17 (a) No person shall be deemed a patient of more than one institution at any given time. Com-
18 pletion of transfer of any patient to an institution in a receiving state shall have the effect of mak-
19 ing the person a patient of the institution in the receiving state.

20 (b) The sending state shall pay all costs of and incidental to the transportation of any patient
21 pursuant to this compact, but any two or more party states may, by making a specific agreement for
22 that purpose, arrange for a different allocation of costs as among themselves.

23 (c) No provision of this compact shall be construed to alter or affect any internal relationships
24 among the departments, agencies and officers of and in the government of a party state, or between
25 a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

26 (d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof
27 from asserting any right against any person, agency or other entity in regard to costs for which
28 such party state or subdivision thereof may be responsible pursuant to any provision of this com-
29 pact.

30 (e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between
31 a party state and a nonparty state relating to institutionalization, care or treatment of the mentally
32 ill or mentally deficient, or any statutory authority pursuant to which such agreements may be
33 made.

34 ARTICLE VIII

35 (a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the
36 rights, duties and responsibilities of any patient's guardian on the guardian's own behalf or in re-
37 spect of any patient for whom the guardian may serve, except that where the transfer of any patient
38 to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian,
39 any court of competent jurisdiction in the receiving state may make such supplemental or substitute
40 appointment and the court which appointed the previous guardian shall upon being duly advised of
41 the new appointment, and upon the satisfactory completion of such accounting and other acts as
42 such court may by law require, relieve the previous guardian of power and responsibility to what-
43 ever extent shall be appropriate in the circumstances; provided, however, that in the case of any
44 patient having settlement in the sending state, the court of competent jurisdiction in the sending
45 state shall have the sole discretion to relieve a guardian appointed by it or continue the power and

1 responsibility of the guardian, whichever it shall deem advisable. The court in the receiving state
2 may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in
3 the sending state in lieu of making a supplemental or substitute appointment.

4 (b) The term "guardian" as used in paragraph (a) of this article shall include any guardian,
5 trustee, legal committee, conservator or other person or agency however denominated who is
6 charged by law with responsibility for the property of a patient.

7 ARTICLE IX

8 (a) No provision of this compact except Article V shall apply to any person institutionalized
9 while under sentence in a penal or correctional institution or while subject to trial on a criminal
10 charge, or whose institutionalization is due to the commission of an offense for which, in the absence
11 of mental illness or mental deficiency, said person would be subject to incarceration in a penal or
12 correctional institution.

13 (b) To every extent possible, it shall be the policy of states party to this compact that no patient
14 shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition,
15 be taken to a suitable institutional facility for mental illness or mental deficiency.

16 ARTICLE X

17 (a) Each party state shall appoint a "compact administrator" who, on behalf of the state of the
18 compact administrator, shall act as general coordinator of activities under the compact in the state
19 of the compact administrator and who shall receive copies of all reports, correspondence, and other
20 documents relating to any patient processed under the compact by the state of the compact admin-
21 istrator either in the capacity of sending or receiving state. The compact administrator or the duly
22 designated representative of the compact administrator shall be the official with whom other party
23 states shall deal in any matter relating to the compact or any patient processed thereunder.

24 (b) The compact administrators of the respective party states shall have power to promulgate
25 reasonable rules and regulations to carry out more effectively the terms and provisions of this
26 compact.

27 ARTICLE XI

28 The duly constituted administrative authorities of any two or more party states may enter into
29 supplementary agreements for the provision of any service or facility or for the maintenance of any
30 institution on a joint or cooperative basis whenever the states concerned shall find that such
31 agreements will improve services, facilities, or institutional care and treatment in the fields of
32 mental illness or mental deficiency. No such supplementary agreement shall be construed so as to
33 relieve any party state of any obligation which it otherwise would have under other provisions of
34 this compact.

35 ARTICLE XII

36 This compact shall enter into full force and effect as to any state when entered into according
37 to law and such state shall thereafter be a party thereto with any and all states legally joining
38 therein.

39 ARTICLE XIII

40 (a) A state party to this compact may withdraw therefrom as provided by law and such
41 renunciation shall be by the same authority which executed it. Such withdrawal shall take effect
42 one year after notice thereof has been communicated officially and in writing to the governors and
43 compact administrators of all other party states. However, the withdrawal of any state shall not
44 change the status of any patient who has been sent to said state or sent out of said state pursuant
45 to the provisions of the compact.

1 (b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any sup-
2 plementary agreement made pursuant to Article XI shall be in accordance with the terms of such
3 agreement.

4 ARTICLE XIV

5 This compact shall be liberally construed so as to effectuate the purposes thereof. The pro-
6 visions of this compact shall be severable and if any phrase, clause, sentence or provision of this
7 compact is declared to be contrary to the constitution of any party state or of the United States or
8 the applicability thereof to any government, agency, person or circumstance is held invalid, the va-
9 lidity of the remainder of this compact and the applicability thereof to any government, agency,
10 person or circumstance shall not be affected thereby. If this compact shall be held contrary to the
11 constitution of any state party thereto, the compact shall remain in full force and effect as to the
12 remaining states and in full force and effect as to the state affected as to all severable matters.

13
14
15 **SECTION 456.** ORS 428.320 is amended to read:

16 428.320. (1) **[The] When the person who is the subject of the compact is being transported**
17 **to or from the Eastern Oregon Training Center, the** Department of Human Services shall carry
18 out the duties of compact administrator, may promulgate rules and regulations to carry out more
19 effectively the terms of the compact, and may enter into supplementary agreements with appropriate
20 officials of other states pursuant to Articles VII and XI of the compact. The power of termination
21 of the compact formerly vested in the Board of Control under ORS 428.310 is vested in the depart-
22 ment.

23 **(2) When the person who is the subject of the compact is being transported to or from**
24 **the Blue Mountain Recovery Center or the Oregon State Hospital, the Oregon Health Au-**
25 **thority shall carry out the duties of compact administrator, may promulgate rules and reg-**
26 **ulations to carry out more effectively the terms of the compact, and may enter into**
27 **supplementary agreements with appropriate officials of other states pursuant to Articles VII**
28 **and XI of the compact. The power of termination of the compact formerly vested in the**
29 **Board of Control under ORS 428.310 is vested in the authority.**

30 **SECTION 457.** ORS 428.330 is amended to read:

31 428.330. (1) The Department of Human Services **or the Oregon Health Authority** may comply
32 with the terms of the Interstate Compact on Mental Health in dealing with a state which is not a
33 party of the interstate compact.

34 (2) When the department **or the authority** acts under subsection (1) of this section, the term
35 “party state,” as used in the Interstate Compact on Mental Health, includes states which are not
36 parties of the interstate compact.

37 **SECTION 458.** ORS 430.010 is amended to read:

38 430.010. As used in ORS 430.010 to 430.050, 430.140 to 430.170, 430.265, 430.270 and 430.610 to
39 430.695:

40 **(1) “Authority” means the Oregon Health Authority.**

41 **[(1)] (2) “Department” means the Department of Human Services.**

42 **[(2)] (3) “Health facility” means a facility licensed as required by ORS 441.015 or a facility ac-**
43 **credited by the Joint Commission on Accreditation of Hospitals, either of which provides full-day**
44 **or part-day acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and**
45 **is licensed to admit persons requiring 24-hour nursing care.**

1 [(3)] (4) “Residential facility” or “day or partial hospitalization program” means a program or
2 facility providing an organized full-day or part-day program of treatment. Such a program or facility
3 shall be licensed, approved, established, maintained, contracted with or operated by the
4 [department] **authority** under:

5 (a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

6 (b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

7 (c) ORS 430.610 to 430.880 for mental or emotional disturbances.

8 [(4)] (5) “Outpatient service” means:

9 (a) A program or service providing treatment by appointment and by medical or osteopathic
10 physicians licensed by the Oregon Medical Board under ORS 677.010 to 677.450; psychologists li-
11 censed by the State Board of Psychologist Examiners under ORS 675.010 to 675.150; nurse practi-
12 tioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410; or clinical
13 social workers licensed by the State Board of Clinical Social Workers under ORS 675.510 to 675.600;
14 or

15 (b) A program or service providing treatment by appointment that is licensed, approved, estab-
16 lished, maintained, contracted with or operated by the [department] **authority** under:

17 (A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

18 (B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

19 (C) ORS 430.610 to 430.880 for mental or emotional disturbances.

20 **SECTION 459.** ORS 430.021 is amended to read:

21 430.021. Subject to ORS 417.300 and 417.305:

22 (1) The Department of Human Services shall:

23 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for
24 persons with [mental or emotional disturbances, mental retardation, developmental disabilities,
25 alcoholism or drug dependence] **mental retardation or developmental disabilities**; and].

26 (b) Promote, correlate and coordinate the [mental health and] developmental disabilities activ-
27 ities of all governmental organizations throughout the state in which there is any direct contact
28 with [mental health and] developmental disabilities programs.

29 (c) **Establish, coordinate, assist and direct a community developmental disabilities pro-**
30 **gram in cooperation with local government units and integrate such a program with the**
31 **state developmental disabilities program.**

32 (d) **Promote public education in this state concerning developmental disabilities and act**
33 **as the liaison center for work with all interested public and private groups and agencies in**
34 **the field of developmental disabilities services.**

35 (2) The Oregon Health Authority shall:

36 (a) **Direct, promote, correlate and coordinate all the activities, duties and direct services**
37 **for persons with mental or emotional disturbances, alcoholism or drug dependence.**

38 (b) **Promote, correlate and coordinate the mental health activities of all governmental**
39 **organizations throughout the state in which there is any direct contact with mental health**
40 **programs.**

41 (c) **Establish, coordinate, assist and direct a community mental health program in coop-**
42 **eration with local government units and integrate such a program with the state mental**
43 **health program.**

44 (d) **Promote public education in this state concerning mental health and act as the liaison**
45 **center for work with all interested public and private groups and agencies in the field of**

1 **mental health services.**

2 [(2)] (3) The department **and the authority** shall develop cooperative programs with interested
3 private groups throughout the state to effect better community awareness and action in the *[field]*
4 **fields** of mental health and developmental disabilities, and encourage and assist in all necessary
5 ways community general hospitals to establish psychiatric services.

6 [(3)] (4) To the greatest extent possible, the least costly settings for treatment, outpatient ser-
7 vices and residential facilities shall be widely available and utilized except when contraindicated
8 because of individual health care needs. State agencies that purchase treatment for mental or emo-
9 tional disturbances shall develop criteria consistent with this policy. In reviewing applications for
10 certificates of need, the Director of *[Human Services]* **the Oregon Health Authority** shall take this
11 policy into account.

12 [(4) *The department shall establish, coordinate, assist and direct a community mental health and*
13 *developmental disabilities program in cooperation with local government units and integrate such a*
14 *program with the total state mental and developmental disabilities health program.*]

15 [(5) *The department shall promote public education in the state concerning mental health and de-*
16 *velopmental disabilities and act as the liaison center for work with all interested public and private*
17 *groups and agencies in the field of mental health and developmental disabilities services.*]

18 [(6)] (5) The department **and the authority** shall accept the custody of persons committed to its
19 care by the courts of this state.

20 [(7)] (6) The *[department]* **authority** shall adopt rules to require a facility and a nonhospital fa-
21 cility as those terms are defined in ORS 426.005, and a provider that employs a person described in
22 ORS 426.415, if subject to *[department]* **authority** rules regarding the use of restraint or seclusion
23 during the course of mental health treatment of a child or adult, to report to the *[department]* **au-**
24 **thority** each calendar quarter the number of incidents involving the use of restraint or seclusion.
25 The aggregate data shall be made available to the public.

26 **SECTION 460.** ORS 430.030 is amended to read:

27 430.030. The enumeration of duties, functions and powers under ORS 430.021 shall not be deemed
28 exclusive nor construed as a limitation on the powers and authority vested in the Department of
29 Human Services **or the Oregon Health Authority** by other provisions of law.

30 **SECTION 461.** ORS 430.050 is amended to read:

31 430.050. (1) The Director of *[Human Services]* **the Oregon Health Authority**, with the approval
32 of the Governor, shall appoint at least 15 but not more than 20 members of a Mental Health Advi-
33 sory Board, composed of both lay and professionally trained individuals, qualified by training or
34 experience to study the problems of mental health and make recommendations for the development
35 of policies and procedures with respect to the state mental health programs. The membership shall
36 provide balanced representation of program areas and shall include persons who represent the in-
37 terests of children. At least four members of the board shall be persons with disabilities who shall
38 serve as the Disability Issues Advisory Committee which is hereby established. The members of the
39 board shall serve for terms of four years and are entitled to compensation and expenses as provided
40 in ORS 292.495. The director may remove any member of the board for misconduct, incapacity or
41 neglect of duty.

42 (2) The *[Department of Human Services]* **Oregon Health Authority** shall adopt rules specifying
43 the duties of the board. In addition to those duties assigned by rule, the board shall assist the *[de-*
44 *partment]* **authority** in planning and preparation of administrative rules for the assumption of re-
45 sponsibility for psychiatric care in state and community hospitals by community mental health *[and*

1 *developmental disabilities*] programs, in accordance with ORS 430.630 (3)(e).

2 (3) The board shall meet at least once each quarter.

3 (4) The director may make provision for technical and clerical assistance to the Mental Health
4 Advisory Board and for the expenses of such assistance.

5 (5) The Disability Issues Advisory Committee shall meet at least once annually to make recom-
6 mendations to the Mental Health Advisory Board.

7 (6) As used in this section, "person with a disability" means any person who:

8 (a) Has a physical or mental impairment which substantially limits one or more major life ac-
9 tivities;

10 (b) Has a record of such an impairment; or

11 (c) Is regarded as having such an impairment.

12 **SECTION 462.** ORS 430.071 is amended to read:

13 430.071. The [*Department of Human Services*] **Oregon Health Authority** shall adopt a policy
14 that supports and promotes self-determination for persons receiving mental health services. The
15 policy shall be designed to remove barriers that:

16 (1) Segregate persons with disabilities from full participation in the community in the most in-
17 tegrated setting in accordance with the United States Supreme Court decision in *Olmstead v. L.C.*,
18 527 U.S. 581 (1999); and

19 (2) Prevent persons with disabilities from enjoying a meaningful life, the benefits of community
20 involvement and citizen rights guaranteed by law.

21 **SECTION 463.** ORS 430.073 is amended to read:

22 430.073. (1) As used in this section and ORS 430.075, "consumer" means a person who has re-
23 ceived or is receiving mental health or addiction services.

24 (2) The Director of [*Human Services*] **the Oregon Health Authority** shall establish a Consumer
25 Advisory Council to advise the director on the provision of mental health services by the [*Depart-*
26 *ment of Human Services*] **Oregon Health Authority**. The council may review, evaluate and provide
27 feedback on all site reviews related to mental health services provided by the [*department*] **au-**
28 **thority**.

29 (3) The director shall appoint 15 to 25 consumers to the council. In making appointments, the
30 director shall strive to balance the representation according to geographic areas of the state and
31 age.

32 (4) The [*department*] **authority** shall provide administrative support to the council.

33 (5) Members of the council are not entitled to compensation or reimbursement of expenses under
34 ORS 292.495.

35 **SECTION 464.** ORS 430.078 is amended to read:

36 430.078. The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules to
37 implement ORS 430.071 to 430.075.

38 **SECTION 465.** ORS 430.140 is amended to read:

39 430.140. (1) The [*Department of Human Services*] **Oregon Health Authority** is designated as the
40 state agency to apply to and receive from the federal government or any agency thereof such grants
41 for promoting mental health, including grants for mental hygiene programs, as may be available to
42 this state or any of its political subdivisions or agencies.

43 (2) For the purposes of subsection (1) of this section, the [*department is designated the Mental*
44 *Health Authority for the State of Oregon and*] **authority** shall:

45 (a) Disburse or supervise the disbursement of all funds made available at any time by the federal

1 government or this state for those purposes, except the funds made available by the state for the
2 care of dependent or delinquent children in public or private institutions.

3 (b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made
4 statewide in application insofar as reasonably feasible, possible or permissible, and shall be so de-
5 vised as to meet the approval of the federal government or any of its agencies, not inconsistent with
6 the laws of the state.

7 **SECTION 466.** ORS 430.160 is amended to read:

8 430.160. All funds [*applied for and received by the Department of Human Services and*] allotted
9 to the state by the Surgeon General, the Treasury Department, or other agency of the United States
10 for the construction and operation of community facilities in carrying out the state plan for the
11 promotion of mental health [*and retardation*] **or developmental disability** services, shall be depos-
12 ited with the State Treasurer and shall be credited to a special account in the State Treasury, sep-
13 arate from the General Fund, to be used as a depository for such federal funds. Such funds hereby
14 are continuously appropriated and shall be expended solely for the purpose of construction and op-
15 eration of community facilities and in accordance with the plan upon which the allotment to the
16 state was based.

17 **SECTION 467.** ORS 430.165 is amended to read:

18 430.165. The [*Department of Human Services*] **Oregon Health Authority** may prescribe fee
19 schedules for any of the programs that it establishes and operates under ORS 430.265, 430.306 to
20 430.375, 430.405, 430.415, 430.850 to 430.880, 813.500 and 813.510. The fees shall be charged and col-
21 lected by the [*department*] **authority** in the same manner as charges are collected under ORS
22 179.610 to 179.770. When the [*department*] **authority** acts under this section, "person in a state in-
23 stitution" or "person at a state institution" or any similar phrase, as defined in ORS 179.610, in-
24 cludes a person who receives services from a program for which fee schedules are established under
25 this section.

26 **SECTION 468.** ORS 430.170 is amended to read:

27 430.170. (1) On request of the Department of Human Services, the Oregon Department of Ad-
28 ministrative Services shall draw on amounts appropriated to the Department of Human Services for
29 operating expenses for use by the Department of Human Services as a revolving fund. **Claims for**
30 **reimbursement of amounts paid from the revolving fund shall be submitted to the Depart-**
31 **ment of Human Services and the Oregon Department of Administrative Services for ap-**
32 **proval. When such claims have been approved by the Department of Human Services and the**
33 **Oregon Department of Administrative Services, a payment covering them shall be drawn in**
34 **favor of the Department of Human Services and charged against the appropriate fund or**
35 **account, and shall be used to reimburse the revolving fund.**

36 (2) **On request of the Oregon Health Authority, the Oregon Department of Administrative**
37 **Services shall draw on amounts appropriated to the authority for operating expenses for use**
38 **by the authority as a revolving fund. Claims for reimbursement of amounts paid from the**
39 **revolving fund shall be submitted to the authority and the Oregon Department of Adminis-**
40 **trative Services for approval. When such claims have been approved by the authority and the**
41 **Oregon Department of Administrative Services, a payment covering them shall be drawn in**
42 **favor of the authority and charged against the appropriate fund or account, and shall be used**
43 **to reimburse the revolving fund.**

44 (3) [*The revolving fund*] **A revolving fund established under subsection (1) or (2) of this**
45 **section** shall not exceed the aggregate sum of \$25,000 including unreimbursed advances. The re-

1 volving fund shall be deposited with the State Treasurer to be held in a special account against
 2 which the Department of Human Services **or the Oregon Health Authority** may draw checks. The
 3 Department of Human Services **or the authority** may establish petty cash funds within the revolving
 4 ing fund by drawing checks upon the revolving fund payable to the custodians of the petty cash
 5 funds.

6 [(2)] (4) [*The revolving fund*] **A revolving fund established under subsections (1) or (2) of**
 7 **this section** may be used by the Department of Human Services **or the authority** to pay incidental
 8 expenses for which the Department of Human Services **or the authority** has appropriated funds.

9 [(3)] *Claims for reimbursement of amounts paid from the revolving fund shall be submitted to the*
 10 *Department of Human Services and the Oregon Department of Administrative Services for approval.*
 11 *When such claims have been approved by the Department of Human Services and the Oregon Depart-*
 12 *ment of Administrative Services, a payment covering them shall be drawn in favor of the Department*
 13 *of Human Services and charged against the appropriate fund or account, and shall be used to reim-*
 14 *burse the revolving fund.]*

15 **SECTION 469.** ORS 430.195 is amended to read:

16 430.195. (1) The Department of Human Services may receive funds that are the property of the
 17 department's clients or are contributed for the use of the department's clients. The department shall
 18 deposit such funds in trust accounts established under ORS 293.445. Interest earned by a trust ac-
 19 count shall be credited to the account.

20 **(2) The Oregon Health Authority may receive funds that are the property of the author-**
 21 **ity's clients or are contributed for the use of the authority's clients. The authority shall**
 22 **deposit such funds in trust accounts established under ORS 293.445. Interest earned by a**
 23 **trust account shall be credited to the account.**

24 [(2)] (3) Disbursements from a trust account shall be made for purposes for which the contribu-
 25 tions or payments were made to the department **or the authority**. When such purposes include the
 26 care or maintenance of a client, the department [*may reimburse itself*] **or the authority may draw**
 27 **reimbursements from the account to pay** for care and services provided to the client.

28 [(3)] (4) The department **or the authority** may by interagency agreement authorize another
 29 state agency to exercise the authority granted under this section. Any system of accounts used for
 30 purposes of this subsection shall provide detailed accountability for each receipt and disbursement
 31 of funds for each client. The department **and the authority** shall remain accountable for the proper
 32 handling of the trust accounts authorized by this section.

33 **SECTION 470.** ORS 430.205 is amended to read:

34 430.205. As used in this section and ORS 430.210:

35 (1) "Facility" means any of the following [*which*] **that** are licensed or certified by the Depart-
 36 ment of Human Services **or the Oregon Health Authority** or [*which*] **that** contract with [*that de-*
 37 *partment or a program*] **the department or authority** for the provision of services:

- 38 (a) A health care facility as defined in ORS 442.015;
- 39 (b) A domiciliary care facility as defined in ORS 443.205;
- 40 (c) A residential facility as defined in ORS 443.400; or
- 41 (d) An adult foster home as defined in ORS 443.705.

42 (2) "Person" means an individual who has a mental illness or developmental disability and re-
 43 ceives services from a program or facility.

44 (3) "Program" means a community mental health [*and*] **program or a community** develop-
 45 mental disabilities program as described in ORS 430.610 to 430.695 and agencies with which [*it*] **the**

1 **program** contracts to provide services.

2 (4) "Services" means mental health [*and*] **services or** developmental disabilities services pro-
3 vided under ORS 430.630.

4 **SECTION 471.** ORS 430.210 is amended to read:

5 430.210. (1) While receiving services, every person shall have the right to:

6 (a) Choose from available services those which are appropriate, consistent with the plan devel-
7 oped in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and
8 under conditions that are least restrictive to the person's liberty, that are least intrusive to the
9 person and that provide for the greatest degree of independence.

10 (b) An individualized written service plan, services based upon that plan and periodic review
11 and reassessment of service needs.

12 (c) Ongoing participation in planning of services in a manner appropriate to the person's capa-
13 bilities, including the right to participate in the development and periodic revision of the plan de-
14 scribed in paragraph (b) of this subsection, and the right to be provided with a reasonable
15 explanation of all service considerations.

16 (d) Not receive services without informed voluntary written consent except in a medical emer-
17 gency or as otherwise permitted by law.

18 (e) Not participate in experimentation without informed voluntary written consent.

19 (f) Receive medication only for the person's individual clinical needs.

20 (g) Not be involuntarily terminated or transferred from services without prior notice, notifica-
21 tion of available sources of necessary continued services and exercise of a grievance procedure.

22 (h) A humane service environment that affords reasonable protection from harm, reasonable
23 privacy and daily access to fresh air and the outdoors, except that such access may be limited when
24 it would create significant risk of harm to the person or others.

25 (i) Be free from abuse or neglect and to report any incident of abuse without being subject to
26 retaliation.

27 (j) Religious freedom.

28 (k) Not be required to perform labor, except personal housekeeping duties, without reasonable
29 and lawful compensation.

30 (L) Visit with family members, friends, advocates and legal and medical professionals.

31 (m) Exercise all rights set forth in ORS [*426.385 and*] 427.031 if the individual is committed to
32 the Department of Human Services.

33 **(n) Exercise all rights set forth in ORS 426.385 if the individual is committed to the**
34 **Oregon Health Authority.**

35 [*n*] **(o)** Be informed at the start of services and periodically thereafter of the rights guaranteed
36 by this section and the procedures for reporting abuse, and to have these rights and procedures,
37 including the name, address and telephone number of the system described in ORS 192.517 (1),
38 prominently posted in a location readily accessible to the person and made available to the person's
39 guardian and any representative designated by the person.

40 [*o*] **(p)** Assert grievances with respect to infringement of the rights described in this section,
41 including the right to have such grievances considered in a fair, timely and impartial grievance
42 procedure.

43 [*p*] **(q)** Have access to and communicate privately with any public or private rights protection
44 program or rights advocate.

45 [*q*] **(r)** Exercise all rights described in this section without any form of reprisal or punishment.

1 (2) An individual who is receiving developmental disability services under ORS 430.630 has the
2 right to be informed and have the individual's guardian and any representative designated by the
3 individual be informed that a family member has contacted the [department] **Department of Human**
4 **Services** to determine the location of the individual, and to be informed of the name and contact
5 information, if known, of the family member.

6 (3) The rights described in this section are in addition to, and do not limit, all other statutory
7 and constitutional rights which are afforded all citizens including, but not limited to, the right to
8 vote, marry, have or not have children, own and dispose of property, enter into contracts and exe-
9 cute documents.

10 (4) The rights described in this section may be asserted and exercised by the person, the per-
11 son's guardian and any representative designated by the person.

12 (5) Nothing in this section may be construed to alter any legal rights and responsibilities be-
13 tween parent and child.

14 **SECTION 472.** ORS 430.215 is amended to read:

15 430.215. (1) The Department of Human Services shall be responsible for[:]

16 [(1)] planning, policy development, administration and delivery of services to children with de-
17 velopmental disabilities and their families. Services to children with developmental disabilities may
18 include, but are not limited to, case management, family support, crisis and diversion services, in-
19 tensive in-home services, and residential and foster care services.[: and]

20 (2) **The Oregon Health Authority shall be responsible for** psychiatric residential and day
21 treatment services for children with mental or emotional disturbances.

22 **SECTION 473.** ORS 430.240 is amended to read:

23 430.240. The [Department of Human Services] **Oregon Health Authority** in developing treatment
24 programs for drug-dependent persons shall develop programs that assist drug-dependent persons to
25 become persons who are able to live healthy and productive lives without the use of any natural
26 or synthetic opiates.

27 **SECTION 474.** ORS 430.255 is amended to read:

28 430.255. (1)(a) There is created in the office of the Governor the Governor's Council on Alcohol
29 and Drug Abuse Programs. The council shall consist of not more than 11 members who are ap-
30 pointed by the Governor for terms of four years. Members are eligible for one reappointment.
31 Members must be without conflicting interests and as representative as possible of:

32 (A) Geographic regions of the state;

33 (B) At-risk populations, including among others, youth, the elderly, minorities and women;

34 (C) Knowledgeable professionals, such as pharmacists, physicians, attorneys and the like who
35 are not necessarily representatives of professional organizations, but who may be recovering;

36 (D) Knowledgeable nonprofessionals who may represent advocate groups and who may be re-
37 covering; and

38 (E) Local advisory groups.

39 (b) In addition to the members appointed to the council under paragraph (a) of this subsection,
40 the council shall include:

41 (A) One member appointed by the President of the Senate, who shall be a member of the Senate
42 and who shall be a nonvoting, advisory member; and

43 (B) One member appointed by the Speaker of the House of Representatives, who shall be a
44 member of the House of Representatives and who shall be a nonvoting, advisory member.

45 (2) The duties of the Governor's Council on Alcohol and Drug Abuse Programs are to:

1 (a) Assess the economic and social impact of alcohol and drug abuse on the State of Oregon and
2 report the findings and recommendations to the Governor by January 1 of each even-numbered year.

3 (b) Review and make recommendations to the Governor on the goals, financing, priorities and
4 a state plan for prevention, intervention and treatment of alcohol and drug abuse problems, which
5 encompasses all appropriate state agencies and is consistent with ORS 430.258, by January 1 of each
6 even-numbered year.

7 (c) Review alcohol and drug abuse programs and make recommendations to the Governor on the
8 effectiveness and priorities for improvements of all such prevention and treatment programs for al-
9cohol and drug problems engaged in or financed through state agencies by January 1 of each even-
10 numbered year.

11 (d) Review and approve the components of the local coordinated comprehensive plan created
12 pursuant to ORS 417.775 that address alcohol and other drug prevention and treatment plans de-
13 veloped under ORS 430.258.

14 (e) Work to ensure broad-based citizen involvement in the planning and execution of the alcohol
15 and drug prevention and treatment plans at both the state and local level.

16 (3) Members of the council are entitled to compensation and expenses as provided under ORS
17 292.495.

18 (4) The Governor may remove any member for misconduct, incapacity or neglect of duty.

19 (5) The Director of [*Human Services*] **the Oregon Health Authority** shall provide the technical
20 and financial support as is required and authorized by the Legislative Assembly and as is necessary
21 to carry out this section and ORS [*409.010,*] 430.250, 430.257, 430.258, 430.259, 430.270, 430.290,
22 430.359, 430.368, 430.535 and 430.630.

23 **SECTION 475.** ORS 430.257 is amended to read:

24 430.257. (1) The Legislative Assembly finds that alcohol and other drug use, abuse and addiction:

25 (a) Pose significant social and public health problems for Oregon;

26 (b) Impact the budgets and workloads of state and local agencies that provide services for chil-
27 dren and families and contribute to incidences of crime, violence, accidents and deaths, as well as
28 reducing worker productivity; and

29 (c) Contribute substantially to the problems faced by a significant number of persons served by
30 the Department of Human Services, Department of Corrections, **Oregon Health Authority**, Oregon
31 Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on Children
32 and Families.

33 (2) The Department of Human Services, Department of Corrections, **Oregon Health Authority**,
34 Oregon Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on
35 Children and Families shall contribute to the development of a comprehensive state plan for alcohol
36 and other drug prevention, intervention and treatment services.

37 (3) The administrative heads of the Department of Education, Department of Human Services,
38 **Oregon Health Authority**, Oregon State Police, Department of Transportation, Oregon Liquor
39 Control Commission, Juvenile Crime Prevention Advisory Committee and State Commission on
40 Children and Families shall each designate an individual, or in the instance of multidivisional de-
41 partments, individuals, to serve as liaison to and assist the Governor's Council on Alcohol and Drug
42 Abuse Programs in meeting the policies, duties and responsibilities set forth in this section and ORS
43 [*409.010,*] 430.250, 430.255, 430.258, 430.259, 430.270, 430.290, 430.359, 430.368, 430.535 and 430.630.

44 **SECTION 476.** ORS 430.259 is amended to read:

45 430.259. All state agencies providing alcohol and other drug prevention and treatment services

1 and strategies, or purchasing prevention and treatment services and strategies from local community
2 providers approved or licensed by the [*Department of Human Services*] **Oregon Health Authority**,
3 shall coordinate with the office to report expenditures and client data for the purposes of service
4 capacity utilization and monitoring resources and outcomes coordination in the statewide plan of
5 services and strategies for alcohol and other drug prevention and treatment for children and families
6 prepared under ORS 430.258.

7 **SECTION 477.** ORS 430.265 is amended to read:

8 430.265. The [*Department of Human Services*] **Oregon Health Authority** is authorized to con-
9 tract with the federal government for services to alcohol and drug-dependent persons who are either
10 residents or nonresidents of the State of Oregon.

11 **SECTION 478.** ORS 430.270 is amended to read:

12 430.270. The [*Department of Human Services*] **Oregon Health Authority**, in consultation with
13 the Governor's Council on Alcohol and Drug Abuse Programs, shall take such means as it considers
14 most effective to bring to the attention of the general public, employers, the professional community
15 and particularly the youth of the state, the harmful effects to the individual and society of the ir-
16 responsible use of alcoholic beverages, controlled substances and other chemicals, and substances
17 with abuse potential.

18 **SECTION 479.** ORS 430.290 is amended to read:

19 430.290. (1) The objective of this section is to prevent alcoholism and drug dependency.

20 (2) To carry out the objective of this section, the [*Department of Human Services*] **Oregon**
21 **Health Authority** shall:

22 (a) Consult with and be advised by the Governor's Council on Alcohol and Drug Abuse Programs
23 and the Mental Health Advisory Board in identifying program priorities for the primary prevention
24 of alcoholism and drug dependency.

25 (b) Solicit program proposals that address identified priorities from agencies, associations, indi-
26 viduals or any political subdivision of this state and award and distribute moneys under this section
27 in accordance with the provisions of this section.

28 (3) Every applicant for a grant to develop a primary prevention of alcoholism program shall be
29 assisted in its preparation by the local alcohol planning committee, if there be one, operating in the
30 area to which the application relates. Every applicant shall establish to the satisfaction of the [*de-*
31 *partment*] **authority** that the committee was actively involved in the development and preparation
32 of such program.

33 (4) Every grant applicant shall include the recommendations of the local alcohol planning com-
34 mittee, if there be one, operating in the area. The [*department*] **authority** shall take the recommen-
35 dations of the local alcohol planning committee into consideration before making or refusing a grant.

36 **SECTION 480.** ORS 430.306 is amended to read:

37 430.306. As used in ORS 430.315 to 430.335, 430.397 and 430.399, unless the context requires
38 otherwise:

39 (1) "Alcoholic" means any person who has lost the ability to control the use of alcoholic
40 beverages, or who uses alcoholic beverages to the extent that the health of the person or that of
41 others is substantially impaired or endangered or the social or economic function of the person is
42 substantially disrupted. An alcoholic may be physically dependent, a condition in which the body
43 requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or
44 psychologically dependent, a condition characterized by an overwhelming mental desire for contin-
45 ued use of alcoholic beverages.

1 (2) "Applicant" means a city, county or any combination thereof.

2 (3) [*Department*] means the *Department of Human Services*.] "**Authority**" means the **Oregon**
3 **Health Authority**.

4 (4) "Detoxification center" means a publicly or privately operated profit or nonprofit facility
5 approved by the [*department*] **authority** that provides emergency care or treatment for alcoholics
6 or drug-dependent persons.

7 (5) "Director of the treatment facility" means the person in charge of treatment and rehabili-
8 tation programs at a treatment facility.

9 (6) "Drug-dependent person" means one who has lost the ability to control the personal use of
10 controlled substances or other substances with abuse potential, or who uses such substances or
11 controlled substances to the extent that the health of the person or that of others is substantially
12 impaired or endangered or the social or economic function of the person is substantially disrupted.
13 A drug-dependent person may be physically dependent, a condition in which the body requires a
14 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,
15 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-
16 tinued use of a drug or controlled substance.

17 (7) "Halfway house" means a publicly or privately operated profit or nonprofit, residential fa-
18 cility approved by the [*department*] **authority** that provides rehabilitative care and treatment for
19 alcoholics or drug-dependent persons.

20 (8) "Local alcoholism planning committee" means a committee appointed or designated by the
21 county governing body under ORS 430.342.

22 (9) "Other treatment facility" includes outpatient facilities, inpatient facilities and such other
23 facilities as the [*department*] **authority** determines suitable, any of which may provide diagnosis and
24 evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-
25 dependent persons and which operate in the form of a general hospital, a state hospital, a foster
26 home, a hostel, a clinic or other suitable form approved by the [*department*] **authority**.

27 **SECTION 481.** ORS 430.315 is amended to read:

28 430.315. The Legislative Assembly finds alcoholism or drug dependence is an illness. The alco-
29 holic or drug-dependent person is ill and should be afforded treatment for that illness. To the
30 greatest extent possible, the least costly settings for treatment, outpatient services and residential
31 facilities shall be widely available and utilized except when contraindicated because of individual
32 health care needs. State agencies that purchase treatment for alcoholism or drug dependence shall
33 develop criteria consistent with this policy in consultation with the [*Department of Human*
34 *Services*] **Oregon Health Authority**. In reviewing applications for certificate of need, the Director
35 of [*Human Services*] **the Oregon Health Authority** shall take this policy into account.

36 **SECTION 482.** ORS 430.335 is amended to read:

37 430.335. Subject to the availability of funds therefor, the [*Department of Human Services*] **Oregon**
38 **Health Authority** may:

39 (1) Provide directly through publicly operated treatment facilities, which shall not be considered
40 to be state institutions, or by contract with publicly or privately operated profit or nonprofit treat-
41 ment facilities, for the care of alcoholics or drug-dependent persons.

42 (2) Sponsor and encourage research of alcoholism and drug dependence.

43 (3) Seek to coordinate public and private programs relating to alcoholism and drug dependence.

44 (4) Apply for federally granted funds available for study or prevention and treatment of
45 alcoholism and drug dependence.

1 (5) Directly or by contract with public or private entities, administer financial assistance, loan
2 and other programs to assist the development of drug and alcohol free housing.

3 **SECTION 483.** ORS 430.342 is amended to read:

4 430.342. (1) The governing body of each county or combination of counties in a mental health
5 administrative area, as designated by the [*Department of Human Services*] **Oregon Health Author-**
6 **ity**, shall appoint a local alcoholism planning committee or shall designate an already existing body
7 to act as the local alcoholism planning committee.

8 (2) The committee shall identify needs and establish priorities for alcoholism services. In doing
9 so, it shall coordinate its activities with existing community mental health planning bodies.

10 (3) Members of the committee shall be representative of the geographic area and shall be per-
11 sons with interest or experience in developing programs dealing with alcohol problems. The mem-
12 bership of the committee shall include a number of minority members which reasonably reflects the
13 proportion of the need for alcoholism treatment and rehabilitation services of minorities in the
14 community.

15 **SECTION 484.** ORS 430.345 is amended to read:

16 430.345. Upon application therefor, the [*Department of Human Services*] **Oregon Health Au-**
17 **thority** may make grants from funds specifically appropriated for the purposes of carrying out ORS
18 430.345 to 430.380 to any applicant for the establishment, operation and maintenance of alcohol and
19 drug abuse prevention, early intervention and treatment services. When necessary, a portion of the
20 appropriated funds may be designated by the [*department*] **authority** for training and technical as-
21 sistance, or additional funds may be appropriated for this purpose. Alcohol and drug abuse pre-
22 vention, early intervention and treatment services shall be approved if the applicant establishes to
23 the satisfaction of the [*department*] **authority**:

24 (1) The adequacy of the services to accomplish the goals of the applicant and the program goals
25 are consonant with the purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 and
26 goals of the State Plan for Alcohol Problems.

27 (2) The community need for the services as documented in the annual community mental health
28 plan.

29 (3) That an appropriate operating relationship exists, or will exist with other community facili-
30 ties able to assist in providing alcohol and drug abuse prevention, early intervention and treatment
31 services, including nearby detoxification centers and halfway houses.

32 (4) That the services comply with the rules adopted by the [*department*] **authority** pursuant to
33 ORS 430.357.

34 **SECTION 485.** ORS 430.350 is amended to read:

35 430.350. (1) Every applicant for a grant made under ORS 430.345 to 430.380 shall be assisted in
36 the preparation and development of alcohol and drug abuse prevention, early intervention and
37 treatment services by the local planning committee operating in the area to which the application
38 relates. Every application shall establish to the satisfaction of the [*Department of Human Services*]
39 **Oregon Health Authority** that the committee was actively involved in the development and prep-
40 aration of such program.

41 (2) The [*department*] **authority** shall require of every applicant for a grant made under ORS
42 430.345 to 430.380 the recommendation of the local planning committee in the area to which the
43 application relates. The [*department*] **authority** shall take such recommendation into consideration
44 before making or refusing grants under ORS 430.345 to 430.380.

45 **SECTION 486.** ORS 430.357 is amended to read:

1 430.357. (1) The [*Department of Human Services*] **Oregon Health Authority** shall make all nec-
 2 essary and proper rules governing the administration of ORS 430.345 to 430.380, including but not
 3 limited to standards, consistent with modern knowledge about alcohol and drug abuse prevention,
 4 early intervention and treatment services.

5 (2) All standards and guidelines adopted by the [*Department of Human Services*] **authority** to
 6 implement programs authorized under ORS 430.345 to 430.380 shall be adopted as rules pursuant to
 7 ORS chapter 183 regardless of whether they come within the definition of rule in ORS 183.310 (8).

8 **SECTION 487.** ORS 430.359 is amended to read:

9 430.359. (1) Upon approval of an application, the [*Department of Human Services*] **Oregon Health**
 10 **Authority** shall enter into a matching fund relationship with the applicant. In all cases the amount
 11 granted by the [*department*] **authority** under the matching formula shall not exceed 50 percent of
 12 the total estimated costs, as approved by the [*department*] **authority**, of the alcohol and drug abuse
 13 prevention, early intervention and treatment services.

14 (2) The amount of state funds shall be apportioned among the applicants according to the com-
 15 munity need of the applicant for services as compared with the community needs of all applicants.
 16 In evaluating the community needs of the applicant, the [*department*] **authority**, in consultation with
 17 the Governor's Council on Alcohol and Drug Abuse Programs, shall give priority consideration to
 18 those applications that identify and include alcohol and drug abuse prevention, early intervention
 19 and treatment services aimed at providing services to minorities with a significant population of
 20 affected persons. The funds granted shall be distributed monthly.

21 (3) Federal funds at the disposal of an applicant for use in providing alcohol and drug abuse
 22 prevention, early intervention and treatment services may be counted toward the percentage con-
 23 tribution of an applicant.

24 (4) An applicant that is, at the time of a grant made under this section, expending funds appro-
 25 priated by its governing body for the alcohol and drug abuse prevention, early intervention and
 26 treatment services shall, as a condition to the receipt of funds under this section, maintain its fi-
 27 nancial contribution to these programs at an amount not less than the preceding year. However, the
 28 financial contribution requirement may be waived in its entirety or in part in any year by the [*De-*
 29 *partment of Human Services*] **authority** because of:

30 (a) The severe financial hardship that would be imposed to maintain the contribution in full or
 31 in part;

32 (b) The application of any special funds for the alcohol and drug abuse prevention, early inter-
 33 vention and treatment services in the prior year when such funds are not available in the current
 34 year;

35 (c) The application of federal funds, including but not limited to general revenue sharing, dis-
 36 tributions from the Oregon and California land grant fund and block grant funds to the alcohol and
 37 drug abuse prevention, early intervention and treatment services in the prior year when such funds
 38 are not available for such application in the current year; or

39 (d) The application of fund balances resulting from fees, donations or underexpenditures in a
 40 given year of the funds appropriated to counties pursuant to ORS 430.380 (2) to the alcohol and drug
 41 abuse prevention, early intervention and treatment services in the prior year when such funds are
 42 not available for such application in the current year.

43 (5) Any moneys received by an applicant from fees, contributions or other sources for alcohol
 44 and drug abuse prevention, early intervention and treatment services for service purposes, including
 45 federal funds, shall be considered a portion of an applicant's contribution for the purpose of deter-

1 mining the matching fund formula relationship. All moneys so received shall only be used for the
2 purposes of carrying out ORS 430.345 to 430.380.

3 (6) Grants made pursuant to ORS 430.345 to 430.380 shall be paid from funds specifically ap-
4 propriated therefor and shall be paid in the same manner as other claims against the state are paid.

5 **SECTION 488.** ORS 430.364 is amended to read:

6 430.364. Within the limits of available funds, in giving priority consideration under ORS 430.359
7 (2), the [*Department of Human Services*] **Oregon Health Authority** shall:

8 (1) Identify all applications containing funding proposals for minority programs and assess the
9 extent to which such funding proposals address the needs of minorities as stated in ORS 430.362,
10 adjusting such amounts as it deems justified on the basis of the facts presented for its consideration
11 and such additional information as may be necessary to determine an appropriate level of funding
12 for such programs, and award such funds to those applicants for the purposes stated in the appli-
13 cation; and

14 (2) After making a determination of the appropriate level of funding minority programs under
15 subsection (1) of this section, assess the remaining portions of all applications containing minority
16 program funding proposals together with applications which do not contain funding proposals for
17 minority programs on the basis of the remaining community need stated in ORS 430.345, adjusting
18 such amounts as it deems justified on the basis of the facts presented for its consideration and such
19 additional information as may be necessary to determine an appropriate level of funding such pro-
20 grams, and award such funds to those applicants.

21 **SECTION 489.** ORS 430.366 is amended to read:

22 430.366. (1) Every proposal for alcohol and drug abuse prevention, early intervention and treat-
23 ment services received from an applicant shall contain:

24 (a) A clear statement of the goals and objectives of the program for the following fiscal year,
25 including the number of persons to be served and methods of measuring the success of services
26 rendered;

27 (b) A description of services to be funded; and

28 (c) A statement of the minorities to be served, if a minority program.

29 (2) Thirty days before the end of each fiscal year, every service funded under ORS 430.306,
30 430.338 to 430.380, 471.810, 473.030 and 473.050 shall file a concise progress report with the [*De-*
31 *partment of Human Services*] **Oregon Health Authority**, including a narrative statement of progress
32 made in meeting its goals and objectives for the year.

33 (3) The [*department*] **authority** shall assemble all progress reports received in each biennium
34 and transmit them to the succeeding session of the Legislative Assembly.

35 **SECTION 490.** ORS 430.368 is amended to read:

36 430.368. (1) Any alcohol and drug abuse prevention, early intervention and treatment service,
37 including but not limited to minority programs, aggrieved by any final action of an applicant with
38 regard to requesting funding for the program from the [*Department of Human Services*] **Oregon**
39 **Health Authority**, may appeal the applicant's action to the Director of [*Human Services*] **the**
40 **Oregon Health Authority** within 30 days of the action. For the purposes of this section "final
41 action" means the submission of the applicant's compiled funding requests to the [*department*] **au-**
42 **thority**. The director shall review, in consultation with the Governor's Council on Alcohol and Drug
43 Abuse Programs, all appealed actions for compliance with the purposes and requirements of ORS
44 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050, including but not limited to ORS 430.338 (5).

45 (2) The director shall act on all appeals within 60 days of filing, or before the time of the [*de-*

1 *partment's*] **authority's** decision on the applicant's funding request, whichever is less. The director
 2 is not required to follow procedures for hearing a contested case, but shall set forth written findings
 3 justifying the action. The decision of the director shall be final, and shall not be subject to judicial
 4 review.

5 **SECTION 491.** ORS 430.375 is amended to read:

6 430.375. The [*Department of Human Services*] **Oregon Health Authority** shall recommend fee
 7 schedules to be used in determining the dollar fee to charge a person admitted to approved alcohol
 8 and drug abuse prevention, early intervention and treatment services for the expenses incurred by
 9 the service in offering alcohol and drug abuse prevention, early intervention and treatment services.
 10 An individual facility may adopt the schedules developed by the [*department*] **authority** or may,
 11 subject to the approval of the [*department*] **authority**, develop and adopt its own fee schedules. The
 12 fee schedules adopted by each facility shall be applied uniformly to all persons admitted to the fa-
 13 cility and shall be based on the costs of a person's alcohol and drug abuse prevention, early inter-
 14 vention and treatment services and the ability of the person to pay. The person admitted shall be
 15 liable to the facility only to the extent indicated by the fee schedules.

16 **SECTION 492.** ORS 430.380 is amended to read:

17 430.380. (1) There is established in the General Fund of the State Treasury an account to be
 18 known as the Mental Health Alcoholism and Drug Services Account. Moneys deposited in the ac-
 19 count are continuously appropriated for the purposes of ORS 430.345 to 430.380. Moneys deposited
 20 in the account may be invested in the manner prescribed in ORS 293.701 to 293.820.

21 (2) Forty percent of the moneys in the Mental Health Alcoholism and Drug Services Account
 22 shall be continuously appropriated to the counties on the basis of population. The counties must use
 23 the moneys for the establishment, operation and maintenance of alcohol and drug abuse prevention,
 24 early intervention and treatment services and for local matching funds under ORS 430.345 to
 25 430.380.

26 (3) Forty percent of the moneys shall be continuously appropriated to the [*Department of Human*
 27 *Services*] **Oregon Health Authority** to be used for state matching funds to counties for alcohol and
 28 drug abuse prevention, early intervention and treatment services pursuant to ORS 430.345 to
 29 430.380.

30 (4) Twenty percent of the moneys shall be continuously appropriated to the [*Department of Hu-*
 31 *man Services*] **Oregon Health Authority** to be used for alcohol and drug abuse prevention, early
 32 intervention and treatment services for inmates of correctional and penal institutions and for
 33 parolees therefrom and for probationers as provided pursuant to rules of the [*department*]
 34 **authority**. However, prior to expenditure of moneys under this subsection, the [*department*] **au-**
 35 **thority** must present its program plans for approval to the appropriate legislative body which is
 36 either the Joint Ways and Means Committee during a session of the Legislative Assembly or the
 37 Emergency Board during the interim between sessions.

38 **SECTION 493.** ORS 430.395 is amended to read:

39 430.395. (1) Subject to the availability of funds, the [*Department of Human Services*] **Oregon**
 40 **Health Authority** may fund regional centers for the treatment of adolescents with drug and alcohol
 41 dependencies.

42 (2) The [*Department of Human Services*] **authority** shall define by rule a minimum number of
 43 inpatient beds and outpatient slots necessary for effective treatment and economic operation of any
 44 regional center funded by state funds.

45 (3) The areas to be served by any treatment facility shall be determined by the following:

- 1 (a) Areas that demonstrate the most need;
- 2 (b) Areas with no treatment program or an inadequate program; and
- 3 (c) Areas where there is strong, organized community support for youth treatment programs.

4 (4) The area need is determined by:

- 5 (a) Current area youth admissions to treatment programs;
- 6 (b) Per capita consumption of alcohol in the area;
- 7 (c) Percentage of area population between 10 and 18 years of age;
- 8 (d) Whether the area has effective, specialized outpatient and early intervention services in
- 9 place;
- 10 (e) Whether the area suffers high unemployment and economic depression; and
- 11 (f) Other evidence of need.

12 (5) As used in this section, "regional center" means a community residential treatment facility

13 including intensive residential and outpatient care for adolescents with drug and alcohol dependen-

14 cies.

15 **SECTION 494.** ORS 430.397 is amended to read:

16 430.397. Any person may voluntarily apply for admission to any treatment facility, as defined in

17 ORS 430.306, operated pursuant to rules of the [*Department of Human Services*] **Oregon Health**

18 **Authority**. The director of the treatment facility shall determine whether the person shall be ad-

19 mitted as a patient, or referred to another appropriate treatment facility or denied referral or ad-

20 mission. If the person is under 18 years of age or an incompetent, the director of the treatment

21 facility shall notify the person's parents or guardian of the admission or referral.

22 **SECTION 495.** ORS 430.420 is amended to read:

23 430.420. (1) In collaboration with local seizing agencies, the district attorney, the local public

24 safety coordinating council and the local mental health advisory committee, a local alcoholism

25 planning committee appointed or designated pursuant to ORS 430.342 shall develop a plan to inte-

26 grate drug treatment services into the criminal justice system for offenders who commit nonviolent

27 felony drug possession offenses. The plan may also include property offenders as provided for under

28 ORS 475.245. The plan developed under this subsection must be incorporated into the local coordi-

29 nated comprehensive plan required by ORS 417.775.

30 (2)(a) A plan may include, but need not be limited to, programs that occur before adjudication,

31 after adjudication as part of a sentence of probation or as part of a conditional discharge.

32 (b) A plan must include, but need not be limited to:

33 (A) A description of local criminal justice and treatment coordination efforts;

34 (B) A description of the method by which local, state and federal treatment resources are pri-

35 oritized and allocated to meet the needs of the drug abusing offender population;

36 (C) The principles that guide criminal justice strategies for supervision and treatment of drug

37 abusing offenders and the purchase of treatment services from local community providers;

38 (D) The desired outcomes for criminal justice strategies for supervision and treatment of drug

39 abusing offenders and the provision of treatment services and identification of a method for moni-

40 toring and reporting the outcomes; and

41 (E) Consistent standards for measuring the success of criminal justice strategies for supervision

42 and treatment of drug abusing offenders and the provision of treatment.

43 (3) A program must include, but need not be limited to:

44 (a) Ongoing oversight of the participant;

45 (b) Frequent monitoring to determine whether a participant is using controlled substances un-

1 lawfully; and

2 (c) A coordinated strategy governing responses to a participant's compliance or noncompliance
3 with the program.

4 (4) The local alcoholism planning committee shall submit the plan to the [*Department of Human*
5 *Services*] **Oregon Health Authority** and shall provide the county board of commissioners with a
6 copy of the plan.

7 **SECTION 496.** ORS 430.422 is amended to read:

8 430.422. The Drug Prevention and Education Fund is established separate and distinct from the
9 General Fund. The Drug Prevention and Education Fund consists of moneys deposited in the fund
10 under ORS 131.597 and 430.426, and other moneys as may be appropriated to the fund by law. The
11 moneys in the Drug Prevention and Education Fund are continuously appropriated to the [*Depart-*
12 *ment of Human Services*] **Oregon Health Authority** for the purpose of assisting counties in paying
13 the costs incurred by the counties in providing drug treatment services pursuant to plans submitted
14 under ORS 430.420.

15 **SECTION 497.** ORS 430.424 is amended to read:

16 430.424. The [*Department of Human Services*] **Oregon Health Authority** shall distribute moneys
17 in the Drug Prevention and Education Fund established in ORS 430.422 based on a review of the
18 plans submitted to the office under ORS 430.420. Funding criteria include, but need not be limited
19 to, whether the plan includes the existence or development of a drug treatment court or a drug di-
20 version program.

21 **SECTION 498.** ORS 430.426 is amended to read:

22 430.426. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules
23 necessary to carry out the provisions of ORS 430.420 to 430.426.

24 (2) The [*department*] **authority** may accept gifts, grants and donations from any source, public
25 or private. Moneys accepted under this section must be deposited in the Drug Prevention and Edu-
26 cation Fund to be used for the purposes for which the fund is established.

27 **SECTION 499.** ORS 430.450 is amended to read:

28 430.450. As used in ORS 430.450 to 430.555, unless the context requires otherwise:

29 (1) **"Authority" means the Oregon Health Authority.**

30 [(1)] (2) "Community diversion plan" means a system of services approved and monitored by the
31 [*Department of Human Services*] **Oregon Health Authority** in accordance with approved county
32 mental health plans, which may include but need not be limited to, medical, educational, vocational,
33 social and psychological services, training, counseling, provision for residential care, and other
34 rehabilitative services designed to benefit the defendant and protect the public.

35 [(2)] (3) "Crimes of violence against the person" means criminal homicide, assault and related
36 offenses as defined in ORS 163.165 to 163.208, rape and sexual abuse, incest, or any other crime in-
37 volving the use of a deadly weapon or which results in physical harm or death to a victim.

38 [(3)] "*Department*" means the *Department of Human Services*.]

39 (4) "Diversion" means the referral or transfer from the criminal justice system into a program
40 of treatment or rehabilitation of a defendant diagnosed as drug dependent and in need of treatment
41 at [*department*] **authority** approved sites, on the condition that the defendant successfully fulfills the
42 specified obligations of a program designed for rehabilitation.

43 (5) "Diversion coordinator" means a person designated by a county mental health program di-
44 rector to work with the criminal justice system and health care delivery system to screen defendants
45 who may be suitable for diversion; to coordinate the formulation of individual diversion plans for

1 such defendants; and to report to the court the performance of those defendants being treated under
2 an individual diversion plan.

3 (6) "Director of the treatment facility" means the person in charge of treatment and rehabili-
4 tation programs at the treatment facility.

5 (7) "Drug abuse" means repetitive, excessive use of a drug or controlled substance short of de-
6 pendence, without medical supervision, which may have a detrimental effect on the individual or
7 society.

8 (8) "Drug-dependent person" means one who has lost the ability to control the personal use of
9 controlled substances or other substances with abuse potential, or who uses such substances or
10 controlled substances to the extent that the health of the person or that of others is substantially
11 impaired or endangered or the social or economic function of the person is substantially disrupted.
12 A drug-dependent person may be physically dependent, a condition in which the body requires a
13 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,
14 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-
15 tinued use of a drug or controlled substance.

16 (9) "Evaluation" means any diagnostic procedures used in the determination of drug dependency,
17 and may include but are not limited to chemical testing, medical examinations and interviews.

18 (10) "Individual diversion plan" means a system of services tailored to the individual's unique
19 needs as identified in the evaluation, which may include but need not be limited to medical, educa-
20 tional, vocational, social and psychological services, training, counseling, provision for residential
21 care, and other rehabilitative services designed to benefit the defendant and protect the public. The
22 plan shall include appropriate methods for monitoring the individual's progress toward achievement
23 of the defined treatment objectives and shall also include periodic review by the court.

24 (11) "Treatment facility" means detoxification centers, outpatient clinics, residential care facili-
25 ties, hospitals and such other facilities determined to be suitable by the [*Department of Human Ser-*
26 *VICES*] **authority**, any of which may provide diagnosis and evaluation, medical care, detoxification,
27 social services or rehabilitation.

28 **SECTION 500.** ORS 430.535 is amended to read:

29 430.535. (1) The [*Department of Human Services*] **Oregon Health Authority** and the Governor's
30 Council on Alcohol and Drug Abuse Programs shall, subject to the availability of funds, develop
31 bilingual forms to assist non-English-speaking persons in understanding their rights under ORS
32 430.450 to 430.555.

33 (2) The [*department*] **authority** shall assist county mental health programs in the development
34 of comprehensive and coordinated identification, evaluation, treatment, education and rehabilitation
35 services for the drug-dependent person. The State Plan for Drug Problems shall be consistent with
36 such system.

37 **SECTION 501.** ORS 430.540 is amended to read:

38 430.540. (1) The county mental health program director shall designate sites for evaluation in
39 the county plan of individuals who may be or are known to be drug dependent. The [*Department of*
40 *Human Services*] **Oregon Health Authority** shall establish standards for such sites and periodically
41 publish a list of approved sites.

42 (2) The costs of evaluation shall be borne by the county of appropriate jurisdiction.

43 **SECTION 502.** ORS 430.545 is amended to read:

44 430.545. (1) Evaluation sites provided for under ORS 430.450 to 430.555 shall conduct such pro-
45 cedures as may be necessary to determine if an individual is a drug-dependent person. A person shall

1 be evaluated only with that person's written consent. Subject to approval of the [Department of
2 Human Services] **Oregon Health Authority**, the director of a treatment facility or the director of
3 an evaluation site may designate personnel to provide treatment or evaluation as appropriate under
4 the lawful limitations of their certification, licensure or professional practice.

5 (2) Antagonist drugs may be administered for diagnosis of addiction by a registered nurse at an
6 approved site when the nurse has completed required training and a physician is available on call.
7 Antagonist drugs shall not be administered without informed written consent of the person.

8 **SECTION 503.** ORS 430.560 is amended to read:

9 430.560. (1) The [Department of Human Services] **Oregon Health Authority** shall establish for
10 drug-dependent persons treatment programs that involve:

11 (a) Detoxification;

12 (b) Detoxification with acupuncture and counseling; and

13 (c) The supplying of synthetic opiates to such persons under close supervision and control.
14 However, the supplying of synthetic opiates shall be used only when detoxification or detoxification
15 with acupuncture and counseling has proven ineffective or upon a written request of a physician
16 licensed by the Oregon Medical Board showing medical need for synthetic opiates if the request is
17 approved in writing by the parole and probation officer, if any, of the drug-dependent person. The
18 copy of the request and the approval must be included in the client's permanent treatment and re-
19 leasing authority records.

20 (2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a
21 pregnant woman with her informed consent without prior resort to the treatment programs de-
22 scribed in subsection (1)(a) and (b) of this section.

23 (3) In establishing the programs authorized by subsection (1) of this section, the [Department of
24 Human Services] **Oregon Health Authority** may enter into contracts with detoxification programs,
25 physicians licensed by the Oregon Medical Board, acupuncturists, counselors, licensed pharmacies
26 and any agency of this state or a political subdivision in this state to conduct the required exam-
27 inations and to supply the services used in the programs.

28 (4) The [department] **authority** shall establish rules of eligibility for the programs authorized by
29 ORS 430.565 and this section, considering such factors as residency, duration of dependency on
30 drugs or controlled substances, failure of previous attempts at abstinence and other relevant factors.
31 The [department] **authority** shall establish reasonable fees for participation in the programs.

32 (5) Pursuant to ORS chapter 183, the [department] **authority** shall adopt rules governing the
33 administration of the programs authorized by ORS 430.565 and this section.

34 **SECTION 504.** ORS 430.565 is amended to read:

35 430.565. The provisions of any law restricting the use, possession, control or administration of
36 a controlled substance shall not apply to any physician, pharmacist or other person while partic-
37 ipating in the program authorized by ORS 430.560 (1)(c) so long as the physician, pharmacist or
38 other person complies with provisions of ORS 430.560 and this section and the rules of the [Depart-
39 ment of Human Services] **Oregon Health Authority** made pursuant to ORS 430.560 and this section.

40 **SECTION 505.** ORS 430.570 is amended to read:

41 430.570. The [Department of Human Services] **Oregon Health Authority** shall cause information
42 concerning the usefulness and feasibility of opiate inhibitors to be made available to persons in-
43 volved in administering diversion programs, corrections programs and other programs for drug de-
44 pendent persons.

45 **SECTION 506.** ORS 430.610 is amended to read:

1 430.610. It is declared to be the policy and intent of the Legislative Assembly that:

2 (1) Subject to the availability of funds, [*mental health*] services should be available to all persons
3 with mental or emotional disturbances, mental retardation, developmental disabilities, alcoholism or
4 drug dependence, and persons who are alcohol or drug abusers, regardless of age, county of resi-
5 dence or ability to pay;

6 (2) The Department of Human Services, **the Oregon Health Authority** and other state agencies
7 shall conduct their activities in the least costly and most efficient manner so that delivery of ser-
8 vices to persons with mental or emotional disturbances, mental retardation, developmental disabili-
9 ties, alcoholism or drug dependence, and persons who are alcohol or drug abusers, shall be effective
10 and coordinated;

11 (3) To the greatest extent possible, mental health **and developmental disabilities** services shall
12 be delivered in the community where the person lives in order to achieve maximum coordination of
13 services and minimum disruption in the life of the person; and

14 (4) The State of Oregon shall encourage, aid and financially assist its county governments in the
15 establishment and development of community mental health [*and*] **programs or community** devel-
16 opmental disabilities programs, including but not limited to, treatment and rehabilitation services for
17 persons with mental or emotional disturbances, mental retardation, developmental disabilities,
18 alcoholism or drug dependence, and persons who are alcohol or drug abusers, and prevention of
19 these problems through county administered community mental health [*and*] **programs or commu-**
20 **nity** developmental disabilities programs.

21 **SECTION 507.** ORS 430.620 is amended to read:

22 430.620. (1) The county court or board of county commissioners, or its representatives desig-
23 nated by it for the purpose, of any county, on behalf of the county, may:

24 (a) In conformity with the rules of the Department of Human Services, establish and operate,
25 or contract with a public agency or private corporation for, a community [*mental health and*] de-
26 velopmental disabilities program.

27 **(b) In conformity with the rules of the Oregon Health Authority, establish and operate,**
28 **or contract with a public agency or private corporation for, a community mental health**
29 **program.**

30 [(b)] (c) Cooperate, coordinate or act jointly with any other county or counties or any appro-
31 priate officer or agency of such counties in establishing and operating or contracting for a commu-
32 nity mental health [*and*] **program or community** developmental disabilities program to service all
33 such counties in conformity with the regulations of the department **or the authority.**

34 [(c)] (d) Expend county moneys for the purposes referred to in paragraph (a) [*or (b)*], **(b) or (c)**
35 of this subsection.

36 [(d)] (e) Accept and use or expend property or moneys from any public or private source made
37 available for the purposes referred to in paragraph (a) [*or (b)*], **(b) or (c)** of this subsection.

38 (2) All officers and agencies of a county, upon request, shall cooperate insofar as possible with
39 the county court or board of county commissioners, or its designated representatives, in conducting
40 programs and carrying on and coordinating activities under subsection (1) of this section.

41 **SECTION 508.** ORS 430.630 is amended to read:

42 430.630. (1) [*In addition to any other requirements that may be established by rule by the Depart-*
43 *ment of Human Services and subject to the availability of funds, each community mental health and*
44 *developmental disabilities program]* **Each community mental health program and community**
45 **developmental disabilities program, subject to the availability of funds,** shall provide the fol-

1 lowing basic services to persons with mental retardation, developmental disabilities, alcoholism or
2 drug dependence, and persons who are alcohol or drug abusers:

3 (a) Outpatient services;

4 (b) Aftercare for persons released from hospitals and training centers;

5 (c) Training, case and program consultation and education for community agencies, related
6 professions and the public;

7 (d) Guidance and assistance to other human service agencies for joint development of prevention
8 programs and activities to reduce factors causing mental retardation, developmental disabilities, al-
9cohol abuse, alcoholism, drug abuse and drug dependence; and

10 (e) Age-appropriate treatment options for older adults.

11 (2) As alternatives to state hospitalization, it is the responsibility of the community mental
12 health *[and]* **or community** developmental disabilities program to ensure that, subject to the avail-
13 ability of funds, the following services for persons with mental retardation, developmental disabili-
14 ties, alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available
15 when needed *[and approved by the Department of Human Services]*:

16 (a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention
17 and prehospital screening examination;

18 (b) Care and treatment for a portion of the day or night, which may include day treatment
19 centers, work activity centers and preschool programs;

20 (c) Residential care and treatment in facilities such as halfway houses, detoxification centers
21 and other community living facilities;

22 (d) Continuity of care, such as that provided by service coordinators, community case develop-
23 ment specialists and core staff of federally assisted community mental health centers;

24 (e) Inpatient treatment in community hospitals; and

25 (f) Other alternative services to state hospitalization as defined by the Department **of Human**
26 **Services or the Oregon Health Authority.**

27 (3) *[In addition to any other requirements that may be established by rule of the department, each*
28 *community mental health and developmental disabilities]* **Each community mental health** program,
29 subject to the availability of funds, shall provide or ensure the provision of the following services
30 to persons with mental or emotional disturbances:

31 (a) Screening and evaluation to determine the client's service needs;

32 (b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances,
33 including the costs of investigations and prehearing detention in community hospitals or other fa-
34cilities approved by the *[department]* **authority** for persons involved in involuntary commitment
35 procedures;

36 (c) Vocational and social services that are appropriate for the client's age, designed to improve
37 the client's vocational, social, educational and recreational functioning;

38 (d) Continuity of care to link the client to housing and appropriate and available health and
39 social service needs;

40 (e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4)
41 of this section;

42 (f) Residential services;

43 (g) Medication monitoring;

44 (h) Individual, family and group counseling and therapy;

45 (i) Public education and information;

1 (j) Prevention of mental or emotional disturbances and promotion of mental health;

2 (k) Consultation with other community agencies;

3 (L) Preventive mental health services for children and adolescents, including primary prevention
4 efforts, early identification and early intervention services. Preventive services should be patterned
5 after service models that have demonstrated effectiveness in reducing the incidence of emotional,
6 behavioral and cognitive disorders in children. As used in this paragraph:

7 (A) "Early identification" means detecting emotional disturbance in its initial developmental
8 stage;

9 (B) "Early intervention services" for children at risk of later development of emotional disturb-
10 ances means programs and activities for children and their families that promote conditions, oppor-
11 tunities and experiences that encourage and develop emotional stability, self-sufficiency and
12 increased personal competence; and

13 (C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring
14 by addressing issues early so that disturbances do not have an opportunity to develop; and

15 (m) Preventive mental health services for older adults, including primary prevention efforts,
16 early identification and early intervention services. Preventive services should be patterned after
17 service models that have demonstrated effectiveness in reducing the incidence of emotional and be-
18 havioral disorders and suicide attempts in older adults. As used in this paragraph:

19 (A) "Early identification" means detecting emotional disturbance in its initial developmental
20 stage;

21 (B) "Early intervention services" for older adults at risk of development of emotional disturb-
22 ances means programs and activities for older adults and their families that promote conditions,
23 opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and
24 increased personal competence and that deter suicide; and

25 (C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring
26 by addressing issues early so that disturbances do not have an opportunity to develop.

27 (4) A community mental health [*and developmental disabilities*] program shall assume responsi-
28 bility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) of this
29 section, in the following circumstances:

30 (a) The person receiving care is a resident of the county served by the program. For purposes
31 of this paragraph, "resident" means the resident of a county in which the person maintains a current
32 mailing address or, if the person does not maintain a current mailing address within the state, the
33 county in which the person is found, or the county in which a court-committed person with a mental
34 illness has been conditionally released.

35 (b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or
36 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon
37 State Hospital, or has been hospitalized as the result of a revocation of conditional release.

38 (c) Payment is made for the first 60 consecutive days of hospitalization.

39 (d) The hospital has collected all available patient payments and third-party reimbursements.

40 (e) In the case of a community hospital, the [*department*] **authority** has approved the hospital
41 for the care of persons with mental or emotional disturbances, the community mental health [*and*
42 *developmental disabilities*] program has a contract with the hospital for the psychiatric care of resi-
43 dents and a representative of the program approves voluntary or involuntary admissions to the
44 hospital prior to admission.

45 (5) Subject to the review and approval of the [*department, a community mental health and*] **De-**

1 **partment of Human Services, a** developmental disabilities program may initiate additional ser-
 2 vices after the services defined in this section are provided.

3 **(6) Subject to the review and approval of the Oregon Health Authority, a mental health**
 4 **program may initiate additional services after the services defined in this section are pro-**
 5 **vided.**

6 [(6)] (7) Each community mental health [*and*] **program and community** developmental disabili-
 7 ties program and the state hospital serving the program's geographic area shall enter into a written
 8 agreement concerning the policies and procedures to be followed by the program and the hospital
 9 when a patient is admitted to, and discharged from, the hospital and during the period of
 10 hospitalization.

11 [(7)] (8) Each community mental health [*and developmental disabilities*] program shall have a
 12 mental health advisory committee, appointed by the board of county commissioners or the county
 13 court or, if two or more counties have combined to provide mental health services, the boards or
 14 courts of the participating counties or, in the case of a Native American reservation, the tribal
 15 council.

16 [(8)] (9) A community mental health [*and developmental disabilities*] program may request and
 17 the [*department*] **authority** may grant a waiver regarding provision of one or more of the services
 18 described in subsection (3) of this section upon a showing by the county and a determination by the
 19 [*department*] **authority** that persons with mental or emotional disturbances in that county would be
 20 better served and unnecessary institutionalization avoided.

21 [(9)] (10) Each community mental health [*and developmental disabilities*] program shall cooperate
 22 fully with the Governor's Council on Alcohol and Drug Abuse Programs in the performance of its
 23 duties.

24 [(10)(a)] (11)(a) As used in this subsection, "local mental health authority" means one of the
 25 following entities:

26 (A) The board of county commissioners of one or more counties that establishes or operates a
 27 community mental health [*and developmental disabilities*] program;

28 (B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects
 29 to enter into an agreement to provide mental health services; or

30 (C) A regional local mental health authority comprised of two or more boards of county com-
 31 missioners.

32 (b) Each local mental health authority that provides mental health services shall determine the
 33 need for local mental health services and adopt a comprehensive local plan for the delivery of
 34 mental health services for children, families, adults and older adults that describes the methods by
 35 which the local mental health authority shall provide those services. The local mental health au-
 36 thority shall review and revise the local plan biennially. The purpose of the local plan is to create
 37 a blueprint to provide mental health services that are directed by and responsive to the mental
 38 health needs of individuals in the community served by the local plan.

39 (c) The local plan shall identify ways to:

40 (A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this
 41 subsection;

42 (B) Maximize resources for consumers and minimize administrative expenses;

43 (C) Provide supported employment and other vocational opportunities for consumers;

44 (D) Determine the most appropriate service provider among a range of qualified providers;

45 (E) Ensure that appropriate mental health referrals are made;

- 1 (F) Address local housing needs for persons with mental health disorders;
- 2 (G) Develop a process for discharge from state and local psychiatric hospitals and transition
3 planning between levels of care or components of the system of care;
- 4 (H) Provide peer support services, including but not limited to drop-in centers and paid peer
5 support;
- 6 (I) Provide transportation supports; and
- 7 (J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile
8 corrections systems and local mental health programs to ensure that persons with mental illness
9 who come into contact with the justice and corrections systems receive needed care and to ensure
10 continuity of services for adults and juveniles leaving the corrections system.
- 11 (d) When developing a local plan, a local mental health authority shall:
- 12 (A) Coordinate with the budgetary cycles of state and local governments that provide the local
13 mental health authority with funding for mental health services;
- 14 (B) Involve consumers, advocates, families, service providers, schools and other interested par-
15 ties in the planning process;
- 16 (C) Coordinate with the local public safety coordinating council to address the services de-
17 scribed in paragraph (c)(J) of this subsection;
- 18 (D) Conduct a population based needs assessment to determine the types of services needed lo-
19 cally;
- 20 (E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by
21 the local plan;
- 22 (F) Describe the anticipated outcomes of services and the actions to be achieved in the local
23 plan;
- 24 (G) Ensure that the local plan coordinates planning, funding and services with:
- 25 (i) The educational needs of children, adults and older adults;
- 26 (ii) Providers of social supports, including but not limited to housing, employment, transportation
27 and education; and
- 28 (iii) Providers of physical health and medical services;
- 29 (H) Describe how funds, other than state resources, may be used to support and implement the
30 local plan;
- 31 (I) Demonstrate ways to integrate local services and administrative functions in order to support
32 integrated service delivery in the local plan; and
- 33 (J) Involve the local mental health advisory committees described in subsection [(7)] (8) of this
34 section.
- 35 (e) The local plan must describe how the local mental health authority will ensure the delivery
36 of and be accountable for clinically appropriate services in a continuum of care based on consumer
37 needs. The local plan shall include, but not be limited to, services providing the following levels of
38 care:
- 39 (A) Twenty-four-hour crisis services;
- 40 (B) Secure and nonsecure extended psychiatric care;
- 41 (C) Secure and nonsecure acute psychiatric care;
- 42 (D) Twenty-four-hour supervised structured treatment;
- 43 (E) Psychiatric day treatment;
- 44 (F) Treatments that maximize client independence;
- 45 (G) Family and peer support and self-help services;

1 (H) Support services;

2 (I) Prevention and early intervention services;

3 (J) Transition assistance between levels of care;

4 (K) Dual diagnosis services;

5 (L) Access to placement in state-funded psychiatric hospital beds;

6 (M) Precommitment and civil commitment in accordance with ORS chapter 426; and

7 (N) Outreach to older adults at locations appropriate for making contact with older adults, in-
8 cluding senior centers, long term care facilities and personal residences.

9 (f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the
10 local mental health authority shall collaborate with the local public safety coordinating council to
11 address the following:

12 (A) Training for all law enforcement officers on ways to recognize and interact with persons
13 with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

14 (B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative
15 to custodial arrests;

16 (C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and
17 the identity of persons of concern and offering mental health services to those in custody;

18 (D) Developing a voluntary diversion program to provide an alternative for persons with mental
19 illness in the criminal and juvenile justice systems; and

20 (E) Developing mental health services, including housing, for persons with mental illness prior
21 to and upon release from custody.

22 (g) Services described in the local plan shall:

23 (A) Address the vision, values and guiding principles described in the Report to the Governor
24 from the Mental Health Alignment Workgroup, January 2001;

25 (B) Be provided to children, older adults and families as close to their homes as possible;

26 (C) Be culturally appropriate and competent;

27 (D) Be, for children, older adults and adults with mental health needs, from providers appropri-
28 ate to deliver those services;

29 (E) Be delivered in an integrated service delivery system with integrated service sites or pro-
30 cesses, and with the use of integrated service teams;

31 (F) Ensure consumer choice among a range of qualified providers in the community;

32 (G) Be distributed geographically;

33 (H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

34 (I) Maximize early identification and early intervention;

35 (J) Ensure appropriate transition planning between providers and service delivery systems, with
36 an emphasis on transition between children and adult mental health services;

37 (K) Be based on the ability of a client to pay;

38 (L) Be delivered collaboratively;

39 (M) Use age-appropriate, research-based quality indicators;

40 (N) Use best-practice innovations; and

41 (O) Be delivered using a community-based, multisystem approach.

42 (h) A local mental health authority shall submit to the [*Department of Human Services*] **Oregon**
43 **Health Authority** a copy of the local plan and biennial revisions adopted under paragraph (b) of
44 this subsection at time intervals established by the [*department*] **authority**.

45 (i) Each local commission on children and families shall reference the local plan for the delivery

1 of mental health services in the local coordinated comprehensive plan created pursuant to ORS
2 417.775.

3 **SECTION 509.** ORS 430.632 is amended to read:

4 430.632. A local mental health authority shall submit to the [*Department of Human Services*]
5 **Oregon Health Authority** by October 1 of each even-numbered year a report on the implementation
6 of the comprehensive local plan adopted under ORS 430.630 [(10)] (11).

7 **SECTION 510.** ORS 430.635 is amended to read:

8 430.635. The children's mental health programs of the [*Department of Human Services*] **Oregon**
9 **Health Authority** shall address preventive services under ORS 430.630 (3)(L). The [*department*]
10 **authority** budget shall give high priority to such services.

11 **SECTION 511.** ORS 430.640 is amended to read:

12 430.640. (1) The [*Department of Human Services*] **Oregon Health Authority**, in carrying out the
13 legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

14 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
15 of community mental health [*and developmental disabilities*] programs operated or contracted for by
16 one or more counties.

17 (b) If a county declines to operate or contract for a community mental health [*and developmental*]
18 [*disabilities*] program, contract with another public agency or private corporation to provide the
19 program. The county must be provided with an opportunity to review and comment.

20 (c) In an emergency situation when no community mental health [*and developmental*]
21 [*disabilities*] program is operating within a county or when a county is unable to provide a service
22 essential to public health and safety, operate the program or service on a temporary basis.

23 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
24 contract with the tribal council for the establishment and operation of a community mental health
25 [*and developmental disabilities*] program in the same manner [*that the department*] **in which the au-**
26 **thority** contracts with a county court or board of county commissioners.

27 (e) If a county agrees, contract with a public agency or private corporation for all services
28 within one or more of the following program areas: [*Mental or emotional disturbances, drug abuse,*
29 *mental retardation or other developmental disabilities and alcohol abuse and alcoholism*]

30 **(A) Mental or emotional disturbances.**

31 **(B) Drug abuse.**

32 **(C) Alcohol abuse and alcoholism.**

33 (f) Approve or disapprove the biennial plan and budget information for the establishment and
34 operation of each community mental health [*and developmental disabilities*] program. Subsequent
35 amendments to or modifications of an approved plan or budget information involving more than 10
36 percent of the state funds provided for services under ORS 430.630 may not be placed in effect
37 without prior approval of the [*department*] **authority**. However, an amendment or modification af-
38 fecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the
39 program for persons with mental or emotional disturbances[, *or within the portion for persons with*
40 *mental retardation or developmental disabilities*] or within the portion for persons with alcohol or
41 drug dependence may be made without [*department*] **authority** approval.

42 (g) Make all necessary and proper rules to govern the establishment and operation of community
43 mental health [*and developmental disabilities*] programs, including adopting rules defining the range
44 and nature of the services which shall or may be provided under ORS 430.630.

45 (h) Collect data and evaluate services in the state hospitals in accordance with the same meth-

1 ods prescribed for community mental health [*and developmental disabilities*] programs under ORS
2 430.665.

3 (i) Develop guidelines that include, for the development of comprehensive local plans in consul-
4 tation with local mental health authorities:

5 (A) The use of integrated services;

6 (B) The outcomes expected from services and programs provided;

7 (C) Incentives to reduce the use of state hospitals;

8 (D) Mechanisms for local sharing of risk for state hospitalization;

9 (E) The provision of clinically appropriate levels of care based on an assessment of the mental
10 health needs of consumers;

11 (F) The transition of consumers between levels of care; and

12 (G) The development, maintenance and continuation of older adult mental health programs with
13 mental health professionals trained in geriatrics.

14 (j) Work with local mental health authorities to provide incentives for community-based care
15 whenever appropriate while simultaneously ensuring adequate statewide capacity.

16 (k) Provide technical assistance and information regarding state and federal requirements to
17 local mental health authorities throughout the local planning process required under ORS 430.630
18 [(10)] (11).

19 (L) Provide incentives for local mental health authorities to enhance or increase vocational
20 placements for adults with mental health needs.

21 (m) Develop or adopt nationally recognized system-level performance measures, linked to the
22 Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children,
23 adults and older adults, including but not limited to quality and appropriateness of services, out-
24 comes from services, structure and management of local plans, prevention of mental health disorders
25 and integration of mental health services with other needed supports.

26 (n) Develop standardized criteria for each level of care described in ORS 430.630 [(10)] (11), in-
27 cluding protocols for implementation of local plans, strength-based mental health assessment and
28 case planning.

29 (o) Develop a comprehensive long-term plan for providing appropriate and adequate mental
30 health treatment and services to children, adults and older adults that is derived from the needs
31 identified in local plans, is consistent with the vision, values and guiding principles in the Report
32 to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the
33 need for and the role of state hospitals.

34 (p) Report biennially to the Governor and the Legislative Assembly on the progress of the local
35 planning process and the implementation of the local plans adopted under ORS 430.630 [(10)(b)]
36 (11)(b) and the state planning process described in paragraph (o) of this subsection, and on the
37 performance measures and performance data available under paragraph (m) of this subsection.

38 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate
39 prevalence and demand for mental health services using the most current nationally recognized
40 models and data.

41 (r) Encourage the development of regional local mental health authorities comprised of two or
42 more boards of county commissioners that establish or operate a community mental health [*and de-*
43 *velopmental disabilities*] program.

44 (2) The [*department*] **Oregon Health Authority** may provide technical assistance and other in-
45 centives to assist in the planning, development and implementation of regional local mental health

1 authorities whenever the [department] **Oregon Health Authority** determines that a regional ap-
2 proach will optimize the comprehensive local plan described under ORS 430.630 [(10)] (11).

3 **(3) The Department of Human Services in carrying out the legislative policy declared in**
4 **ORS 430.610, subject to the availability of funds, shall:**

5 **(a) Assist Oregon counties and groups of Oregon counties in the establishment and fi-**
6 **nancing of community developmental disabilities programs operated or contracted for by one**
7 **or more counties.**

8 **(b) If a county declines to operate or contract for a community developmental disabilities**
9 **program, contract with another public agency or private corporation to provide the program.**
10 **The county must be provided with an opportunity to review and comment.**

11 **(c) In an emergency situation when no community developmental disabilities program is**
12 **operating within a county, operate the program or service on a temporary basis.**

13 **(d) At the request of the tribal council of a federally recognized tribe of Native Ameri-**
14 **cans, contract with the tribal council for the establishment and operation of a community**
15 **developmental disabilities program in the same manner in which the department contracts**
16 **with a county court or board of county commissioners.**

17 **(e) If a county agrees, contract with a public agency or private corporation for all de-**
18 **velopmental disabilities services.**

19 **(f) Approve or disapprove the biennial plan and budget information for the establishment**
20 **and operation of each community developmental disabilities program. Subsequent amend-**
21 **ments to or modifications of an approved plan or budget information involving more than 10**
22 **percent of the state funds provided for services under ORS 430.630 may not be placed in ef-**
23 **fect without prior approval of the department. However, an amendment or modification af-**
24 **fecting 10 percent or less of state funds for services under ORS 430.630 within the portion**
25 **of the program for persons with developmental disabilities may be made without department**
26 **approval.**

27 **(g) Make all necessary and proper rules to govern the establishment and operation of**
28 **community developmental disabilities programs.**

29 [(3)] **(4) The enumeration of duties and functions in [subsection (1)] subsections (1) and (2) of**
30 **this section shall not be deemed exclusive nor construed as a limitation on the powers and authority**
31 **vested in the department or the authority by other provisions of law.**

32 **SECTION 512. ORS 430.665 is amended to read:**

33 430.665. (1) In order to improve services to persons with mental or emotional disturbances and
34 provide information for uniform analysis, each community mental health [and developmental disabili-
35 ties] program shall collect and report data and evaluate programs in accordance with methods
36 prescribed by the [Department of Human Services] **Oregon Health Authority** after consultation with
37 the program directors.

38 (2) Information collected by the [department] **authority** under subsection (1) of this section shall
39 include, but need not be limited to:

40 (a) Numbers of persons served;

41 (b) Ages of persons served;

42 (c) Types of services provided; and

43 (d) Cost of services.

44 (3) Within the limits of available funds allocated for the administration of community mental
45 health [and developmental disabilities] programs, community mental health [and developmental disa-

1 *bilities*] programs shall collect data and evaluate programs with moneys provided by the [*department.*
 2 *The department*] **authority. The authority** shall distribute funds so that programs within the same
 3 population grouping shall receive equal amounts of funds. The population groupings are:

- 4 (a) More than 400,000 population.
- 5 (b) Less than 400,000 but more than 100,000.
- 6 (c) Less than 100,000 but more than 50,000.
- 7 (d) Less than 50,000.

8 (4) During the first biennium that a new service is funded by the [*department*] **authority**, two
 9 percent of the service funds shall be set aside for use in data collection and evaluation of the ser-
 10 vice. Thereafter, the service shall be evaluated as a part of the total community mental health pro-
 11 gram.

12 **SECTION 513.** ORS 430.670 is amended to read:

13 430.670. (1) A community [*mental health and*] developmental disabilities program may provide
 14 services by contracting [*therefor*] with a public agency, private corporation or individual. All ele-
 15 ments of service provided for in the contract shall be considered as a part of a community [*mental*
 16 *health*] **developmental disabilities** program for all purposes of ORS 430.610 to 430.695. Contracts
 17 authorized by this section shall comply with rules adopted by the Department of Human Services.

18 **(2) A community mental health program may provide services by contracting with a**
 19 **public agency, private corporation or individual. All elements of service provided for in the**
 20 **contract shall be considered as a part of a community mental health program for all pur-**
 21 **poses of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules**
 22 **adopted by the Oregon Health Authority.**

23 [(2)] **(3) A private corporation that contracts with a county, [or] the Department of Human**
 24 **Services or the Oregon Health Authority** to operate a community mental health [*and*] **program**
 25 **or community** developmental disabilities program shall provide an opportunity for competition
 26 among private care providers when awarding subcontracts for provision of services described in
 27 ORS 430.630 (1) to (3).

28 [(3)] **(4) In keeping with the principles of family support expressed in ORS 417.342 and**
 29 **notwithstanding subsection [(2)] (3) of this section or ORS 291.047 (3), an entity operating a com-**
 30 **munity mental health [and] program or community** developmental disabilities program may pur-
 31 chase services for an individual from a service provider without first providing an opportunity for
 32 competition among other service providers if the service provider is selected by the individual, the
 33 individual's family or the individual's guardian, as long as the service provider has been approved
 34 by the department **or the authority** to provide such service.

35 **SECTION 514.** ORS 430.672 is amended to read:

36 430.672. (1) Except for community mental health [*and*] **programs or community** developmental
 37 disabilities programs operated by the county, a county may impose only standards, requirements and
 38 conditions for mental health [*and*] **or** developmental disabilities programs that are substantially
 39 similar to the standards, requirements and conditions established for such programs by the Depart-
 40 ment of Human Services **or the Oregon Health Authority.**

41 (2) When a county contracts with a public agency or private corporation for a community men-
 42 tal health [*and*] **program or community** developmental disabilities program, the county shall in-
 43 clude in the contract only terms that are substantially similar to model contract terms developed
 44 by the department **under ORS 430.640 (3)(g) or the authority** under ORS 430.640 (1)(g). The county
 45 may not add contractual requirements, including qualifications for contractor selection, that are

1 nonessential to the services provided under ORS 430.630. The county may add contract requirements
 2 that the county considers necessary to ensure the siting and maintenance of facilities of the com-
 3 munity mental health *[and]* **program or community** developmental disabilities program.

4 (3) The provisions of subsections (1) and (2) of this section apply only insofar as funds are pro-
 5 vided by the department to the county for *[community mental health and developmental disabilities*
 6 *programs]* **community developmental disabilities programs or by the authority to the county**
 7 **for community mental health programs.**

8 *[(4) As used in this section, "community mental health and developmental disabilities program"*
 9 *includes those program elements that serve only persons with developmental disabilities.]*

10 **SECTION 515.** ORS 430.673 is amended to read:

11 430.673. (1) When a dispute exists between a county and a community *[mental health and]* de-
 12 velopmental disabilities program that is a private corporation or individual regarding the terms of
 13 their contract or the interpretation of an administrative rule of the Department of Human Services
 14 relating to department programs under this chapter, either party may request mediation under rules
 15 adopted by the department.

16 **(2) When a dispute exists between a county and a community mental health program that**
 17 **is a private corporation or individual regarding the terms of their contract or the interpre-**
 18 **tation of an administrative rule of the Oregon Health Authority relating to authority pro-**
 19 **grams under this chapter, either party may request mediation under rules adopted by the**
 20 **authority.**

21 *[(2)]* **(3)** A county may not retaliate against a community mental health *[and]* **program or**
 22 **community** developmental disabilities program solely because the program:

23 (a) Requested mediation under subsection (1) **or** **(2)** of this section;

24 (b) Requested dispute resolution or filed an appeal under rules adopted by the department *[under*
 25 *this section with respect to a dispute described in subsection (1) of this section]* **or the authority;** or

26 (c) Initiated a contested case proceeding otherwise available under ORS chapter 183 with re-
 27 spect to a dispute described in subsection (1) **or** **(2)** of this section.

28 *[(3)]* **(4)** For purposes of this section, "retaliate" means an adverse action taken by a county
 29 against a community mental health *[and]* **program or a community** developmental disabilities
 30 program to:

31 (a) Materially alter or terminate the contract between the county and the community mental
 32 health *[and]* **program or community** developmental disabilities program; or

33 (b) Fail to renew the contract between the county and the community mental health *[and]* **pro-**
 34 **gram or community** developmental disabilities program.

35 *[(4)]* **(5)** Notwithstanding any other remedy provided by law, a community mental health *[and]*
 36 **program or community** developmental disabilities program against which a county has retaliated
 37 in violation of subsection *[(2)]* **(3)** of this section may bring an action against the county for actual
 38 damages or \$1,000, whichever is greater. The court shall award reasonable attorney fees to the
 39 prevailing party in an action under this subsection. An action described in this section shall be
 40 considered a tort claim under ORS 30.260 to 30.300. Except as provided in this section, the pro-
 41 visions of ORS 30.260 to 30.300 apply to an action described in this section.

42 *[(5)]* **(6)** In accordance with any applicable provision of ORS chapter 183, the department **or the**
 43 **authority** may adopt rules to carry out the provisions of this section.

44 **SECTION 516.** ORS 430.675 is amended to read:

45 430.675. Within the limits of available funds, community mental health *[and developmental disa-*

1 *bilities*] programs shall provide those services as defined in ORS 430.630 (3)(a) to (h) to persons in
2 the following order of priority:

3 (1) Those persons who, in accordance with the assessment of professionals in the field of mental
4 health, are at immediate risk of hospitalization for the treatment of mental or emotional disturb-
5 ances or are in need of continuing services to avoid hospitalization or pose a hazard to the health
6 and safety of themselves, including the potential for suicide, or others and those persons under 18
7 years of age who, in accordance with the assessment of professionals in the field of mental health,
8 are at immediate risk of removal from their homes for treatment of mental or emotional disturbances
9 or exhibit behavior indicating high risk of developing disturbances of a severe or persistent nature;

10 (2) Those persons who, because of the nature of their **mental** illness, their geographic location
11 or their family income, are least capable of obtaining assistance from the private sector; and

12 (3) Those persons who, in accordance with the assessment of professionals in the field of mental
13 health, are experiencing mental or emotional disturbances but will not require hospitalization in the
14 foreseeable future.

15 **SECTION 517.** ORS 430.685 is amended to read:

16 430.685. In allocating funds for community mental health [*and developmental disabilities*] pro-
17 grams affecting persons with mental or emotional disturbances, the [*Department of Human Services*]
18 **Oregon Health Authority** shall observe the following priorities:

19 (1) To [*assure*] **ensure** the establishment and operation of community mental health [*and devel-*
20 *opmental disabilities*] programs for persons with mental or emotional disturbances in every ge-
21 ographic area of the state to provide some services in each category of services described in ORS
22 430.630 (3) unless a waiver has been granted;

23 (2) To [*assure*] **ensure** survival of services that address the needs of persons within the priority
24 of services under ORS 430.675 and that meet [*department*] **authority** standards;

25 (3) To develop the interest and capacity of community mental health [*and developmental disa-*
26 *bilities*] programs to provide new or expanded services to meet the needs for services under ORS
27 430.675 and to promote the equal availability of such services throughout the state; and

28 (4) To encourage and assist in the development of model projects to test new services and in-
29 novative methods of service delivery.

30 **SECTION 518.** ORS 430.690 is amended to read:

31 430.690. (1) Within the limits of state funds, community mental health [*and*] **program services**
32 **or community** developmental disabilities program services shall be funded as follows:

33 (a) Services defined in ORS 430.630 (1) and (2) shall be funded up to 100 percent with state funds.

34 (b) State funds available for payments to community mental health [*and developmental disabili-*
35 *ties*] programs for services under ORS 430.630 (3) shall be paid by the [*Department of Human*
36 *Services*] **Oregon Health Authority** to the programs under the priorities set forth in ORS 430.685.

37 (2) If a group of counties acts jointly to operate a community mental health [*and*] **program or**
38 **community** developmental disabilities program, state funds shall be allocated, and the counties'
39 contributions shall be prorated, in accordance with the agreement establishing the program.

40 (3) The counties or other entities operating community mental health [*and*] **programs or com-**
41 **munity** developmental disabilities programs shall not be required to match funds granted under
42 subsections (1) and (2) of this section. However, the [*department*] **Department of Human Services**
43 **or the Oregon Health Authority** may require matching funds if they are required as a condition
44 of receipt of federal funds and the county or entity agrees to match funds.

45 (4) A reasonable portion of state funds granted under subsection (1)(b) of this section may be

1 expended by community mental health *[and developmental disabilities]* programs and their subcon-
 2 tractors for expenses incurred in administering services.

3 **SECTION 519.** ORS 430.693 is amended to read:

4 430.693. (1) If the *[Department of Human Services]* **Oregon Health Authority** uses a formula for
 5 allocating to counties moneys *[described in subsection (3) of this section]*, and if the formula includes
 6 population as a factor in determining the amount of each allocation, the *[department]* **authority**
 7 shall calculate the formula annually using the most current population data that is available.

8 (2) The *[department]* **authority** shall use as the source of the population data required by sub-
 9 section (1) of this section the primary population research center that is part of the Oregon Uni-
 10 versity System.

11 *[(3) Subsection (1) of this section applies to moneys allocated to counties for community mental*
 12 *health and addiction services.]*

13 **SECTION 520.** ORS 430.695 is amended to read:

14 430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any
 15 source, except client resources applied toward the cost of care in group homes for persons with
 16 *[mental retardation or]* mental illness and client resources and third-party payments for community
 17 psychiatric inpatient care, received by a community mental health *[and developmental disabilities]*
 18 program are not an offset to the costs of the services and may not be applied to reduce the pro-
 19 gram's eligibility for state funds, providing the funds are expended for mental health services ap-
 20 proved by the *[Department of Human Services]* **Oregon Health Authority**.

21 (2) Within the limits of available funds, the *[department]* **authority** may contract for specialized,
 22 statewide and regional services including but not limited to group homes for persons with *[mental*
 23 *retardation or]* mental or emotional disturbances, day and residential treatment programs for chil-
 24 dren and adolescents with mental or emotional disturbances and community services for clients of
 25 the Psychiatric Security Review Board.

26 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the
 27 Social Security Act by the Department of Human Services **or the Oregon Health Authority**, for
 28 *[services rendered by the community mental health and developmental disabilities program and interest*
 29 *earned on the funds]* **mental health services or developmental disabilities services and interest**
 30 **earned on those fees and reimbursements** shall be retained by the *[program]* **community mental**
 31 **health program or community developmental disabilities program** and expended for any service
 32 that meets the standards of *[the department]* **ORS 430.630**.

33 **SECTION 521.** ORS 430.705 is amended to read:

34 430.705. Notwithstanding ORS 430.640, the State of Oregon, through the *[Department of Human*
 35 *Services]* **Oregon Health Authority**, may establish the necessary facilities and provide comprehen-
 36 sive mental health services for children throughout the state. These services may include, but need
 37 not be limited to:

38 (1) The prevention of mental illness, emotional disturbances and drug dependency in children;
 39 and

40 (2) The treatment of children with mental illness, emotional disturbances and drug dependency.

41 **SECTION 522.** ORS 430.715 is amended to read:

42 430.715. The *[Department of Human Services]* **Oregon Health Authority** may contract for gen-
 43 eral hospital services and may provide or contract with public or private agencies or persons to
 44 provide child care and residential treatment programs to implement the objectives of ORS 430.705.
 45 The *[Department of Human Services]* **authority** may also purchase or contract for specific services

1 and supplies for treatment of individual children.

2 **SECTION 523.** ORS 430.725 is amended to read:

3 430.725. The [*Department of Human Services*] **Oregon Health Authority** shall have authority to
4 contract with private, nonprofit agencies and persons for receipt of grants-in-aid and other funds to
5 be applied to child mental health service programs.

6 **SECTION 524.** ORS 430.735 is amended to read:

7 430.735. As used in ORS 430.735 to 430.765:

8 (1) "Abuse" means one or more of the following:

9 (a) Any death caused by other than accidental or natural means.

10 (b) Any physical injury caused by other than accidental means, or that appears to be at variance
11 with the explanation given of the injury.

12 (c) Willful infliction of physical pain or injury.

13 (d) Sexual harassment or exploitation, including but not limited to any sexual contact between
14 an employee of a facility or community program and an adult.

15 (e) Neglect that leads to physical harm through withholding of services necessary to maintain
16 health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the
17 state or a community program to provide services due to a lack of funding available to provide the
18 services.

19 (2) "Adult" means a person 18 years of age or older with:

20 (a) A developmental disability who is currently receiving services from a community program
21 or facility or was previously determined eligible for services as an adult by a community program
22 or facility; or

23 (b) A mental illness who is receiving services from a community program or facility.

24 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-
25 tation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and
26 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to
27 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides
28 for the greatest degree of independence.

29 (4) "Care provider" means an individual or facility that has assumed responsibility for all or a
30 portion of the care of an adult as a result of a contract or agreement.

31 (5) "Community program" means a community mental health [*and*] **program or a community**
32 developmental disabilities program as established in ORS 430.610 to 430.695.

33 (6) "Department" means the Department of Human Services.

34 (7) "Facility" means a residential treatment home or facility, residential care facility, adult fos-
35 ter home, residential training home or facility or crisis respite facility.

36 (8) "Law enforcement agency" means:

37 (a) Any city or municipal police department;

38 (b) Any county sheriff's office;

39 (c) The Oregon State Police; or

40 (d) Any district attorney.

41 (9) "Public or private official" means:

42 (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or
43 podiatric physician and surgeon, including any intern or resident;

44 (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an
45 in-home health service;

1 (c) Employee of the Department of Human Services **or Oregon Health Authority**, county health
2 department, community mental health [and] **program or community** developmental disabilities
3 program or private agency contracting with a public body to provide any community mental health
4 service;

5 (d) Peace officer;

6 (e) Member of the clergy;

7 (f) Licensed clinical social worker;

8 (g) Physical, speech or occupational therapist;

9 (h) Information and referral, outreach or crisis worker;

10 (i) Attorney;

11 (j) Licensed professional counselor or licensed marriage and family therapist; or

12 (k) Any public official who comes in contact with adults in the performance of the official's du-
13 ties.

14 **SECTION 525.** ORS 430.850 is amended to read:

15 430.850. (1) Subject to the availability of funds therefor, the [*Department of Human Services*]
16 **Oregon Health Authority** may establish and administer a treatment program with courts, with the
17 consent of the judge thereof, for any person convicted of driving under the influence of alcohol, or
18 of any crime committed while the defendant was intoxicated when the judge has probable cause to
19 believe the person is an alcoholic or problem drinker and would benefit from treatment, who is eli-
20 gible under subsection (2) of this section to participate in such program. The program shall involve
21 medical and mental treatment to include at least the supplying of disulfiram or any other agent that
22 interferes with normal metabolic degradation of alcohol in the body resulting in an increase in
23 acetaldehyde concentrate in the blood, at regular intervals and under close supervision and control.

24 (2) A person eligible to participate in the program is a person who:

25 (a) Has been convicted of driving under the influence of alcohol if such conviction has not been
26 appealed, or if such conviction has been appealed, whose conviction has been sustained upon appeal;
27 or

28 (b) Has been convicted of any crime committed while the defendant was intoxicated if such
29 conviction has not been reversed on appeal, and when the judge has probable cause to believe the
30 person is an alcoholic or problem drinker and would benefit from treatment; and

31 (c) Has been referred by the participating court to the [*Department of Human Services*] **au-**
32 **thority** for participation in the treatment program; and

33 (d) Prior to sentencing, has been medically evaluated by the [*Department of Human Services*]
34 **authority** and accepted by the [*department*] **authority** as a participant in the program; and

35 (e) Has consented as a condition to probation to participate in the program; and

36 (f) Has been sentenced to probation by the court, a condition of which probation is participation
37 in the program according to the rules adopted by the [*Department of Human Services*] **authority**
38 under ORS 430.870.

39 **SECTION 526.** ORS 430.860 is amended to read:

40 430.860. The [*Department of Human Services*] **Oregon Health Authority** may:

41 (1) Accept for medical evaluation any person meeting the conditions defined in ORS 430.850
42 (2)(a) or (b) and referred for participation in the program by a participating court, cause such med-
43 ical evaluation to be made and report the results of the evaluation to the referring court;

44 (2) Within the limitation of funds available to the program, accept any person as a participant
45 in the program who is eligible under ORS 430.850 (2) and whose medical evaluation shows the person

1 suitable to participate in the program; and

2 (3) Report to the referring court the progress of, and any violation of rules of the [department]
3 **authority** adopted under ORS 430.870 by, a participant.

4 **SECTION 527.** ORS 430.870 is amended to read:

5 430.870. The [Department of Human Services] **Oregon Health Authority** shall adopt rules nec-
6 essary to the efficient administration and functioning of the program and rules regulating the con-
7 duct of participants in the program. Rules regulating the conduct of participants in the program
8 shall include but not be limited to rules requiring participants to keep appointments and the time,
9 place and frequency of any dosages.

10 **SECTION 528.** ORS 430.880 is amended to read:

11 430.880. (1) The [Department of Human Services] **Oregon Health Authority** may accept gifts and
12 apply for and accept grants or services from the federal government or any of its agencies, from
13 associations, individuals and private corporations to carry out the purposes of ORS 430.850 to
14 430.880.

15 (2) All moneys received by the [department] **authority** under ORS 430.850 to 430.880 shall be
16 paid into the State Treasury and deposited in the General Fund to the credit of a special account.
17 Such moneys are appropriated continuously to the [department] **authority** for the purposes of ORS
18 430.850 to 430.880.

19 **SECTION 529.** ORS 430.920 is amended to read:

20 430.920. (1) The attending health care provider shall perform during the first trimester of preg-
21 nancy or as early as possible a risk assessment which shall include an assessment for drug and al-
22 cohol usage. If the results of the assessment indicate that the patient uses or abuses drugs or
23 alcohol or uses unlawful controlled substances, the provider shall tell the patient about the potential
24 health effects of continued substance abuse and recommend counseling by a trained drug or alcohol
25 abuse counselor.

26 (2) The provider shall supply to the local public health administrator demographic information
27 concerning patients described in subsection (1) of this section without revealing the identity of the
28 patients. The local administrator shall use forms prescribed by the [Department of Human Services]
29 **Oregon Health Authority** and shall send copies of the forms and any compilation made from the
30 forms to the [Department of Human Services] **authority** at such times as the [department] **authority**
31 may require by rule.

32 (3) The provider, if otherwise authorized, may administer or prescribe controlled substances that
33 relieve withdrawal symptoms and assist the patient in reducing the need for unlawful controlled
34 substances according to medically acceptable practices.

35 **SECTION 530.** ORS 430.925 is amended to read:

36 430.925. Subject to the availability of federal funds, the [Department of Human Services] **Oregon**
37 **Health Authority** shall design and place in operation as soon as possible after August 5, 1989, two
38 demonstration pilot projects in local health departments to alleviate the health related problems of
39 pregnant and postpartum women and their infants which arise from substance use. One project shall
40 be within a metropolitan statistical area and one project shall be in a rural area outside of a met-
41 ropolitan statistical area. The project designs shall take account of the findings, policies and intent
42 of ORS 430.900 to 430.930. Projects shall incorporate promising or innovative services and activities
43 intended to realize the following goals:

44 (1) Promote the involvement and coordinated participation of multiple organizations in the de-
45 livery of comprehensive services for substance-using pregnant and postpartum women and their in-

1 fants;

2 (2) Increase the availability and accessibility of prevention, early intervention and treatment
3 services for these populations;

4 (3) Improve the identification of substance-using women and their recruitment into and retention
5 in appropriate treatment programs;

6 (4) Decrease the incidence and prevalence of drug and alcohol use among pregnant and
7 postpartum women;

8 (5) Decrease the incidence of pregnancy among women who use alcohol and other drugs through
9 intensive family planning counseling and referral;

10 (6) Improve the birth outcomes of women who used alcohol and other drugs during pregnancy
11 and to decrease the incidence of infants affected by maternal substance use;

12 (7) Reduce the severity of impairment among children born to substance-using women; and

13 (8) Promote continuing education among health providers to improve identification of pregnant
14 women at risk of substance abuse or abusing substances and improved services to these women and
15 their infants.

16 **SECTION 531.** ORS 430.955 is amended to read:

17 430.955. (1) The [*Department of Human Services*] **Oregon Health Authority** and the Oregon
18 Health and Science University shall develop a standardized screening instrument designed to iden-
19 tify the use of substances during pregnancy.

20 (2) The [*department*] **authority** and the Oregon Health and Science University shall request the
21 boards responsible for the licensing of health care providers and appropriate professional organiza-
22 tions to work with them to conduct a series of training sessions for health professionals who provide
23 maternity care on how to assess drug use in pregnancy.

24 **SECTION 532.** ORS 431.035 is amended to read:

25 431.035. (1) The Director of [*Human Services*] **the Oregon Health Authority** may delegate to
26 any of the officers and employees of the [*Department of Human Services*] **Oregon Health Authority**
27 the exercise or discharge in the director's name of any power, duty or function of whatever char-
28 acter vested in or imposed upon the director by the laws of Oregon. However, the power to admin-
29 ister oaths and affirmations, subpoena witnesses, take evidence and require the production of books,
30 papers, correspondence, memoranda, agreements or other documents or records may be exercised
31 by an officer or employee of the [*department*] **authority** only when specifically delegated in writing
32 by the director.

33 (2) The official act of any such person so acting in the director's name and by the authority of
34 the director shall be deemed to be an official act of the director.

35 (3)(a) The Director of [*Human Services*] **the Oregon Health Authority** shall appoint a Public
36 Health Director to perform the duties and exercise authority over public health emergency matters
37 in the state and other duties as assigned by the director [*of Human Services*]. The director [*of Hu-*
38 *man Services*] may appoint the same person to serve as both the Public Health Director and the
39 Public Health Officer appointed under ORS 431.045.

40 (b) The Public Health Director shall be an assistant director appointed by the Director of [*Hu-*
41 *man Services*] **the Oregon Health Authority** in accordance with ORS 409.130.

42 (c) The Public Health Director shall delegate to an employee of the [*department*] **authority** the
43 duties, powers and functions granted to the Public Health Director by ORS 431.264 and 433.443 in
44 the event of the absence from the state or the unavailability of the director. The delegation must
45 be in writing.

1 **SECTION 533.** ORS 431.045 is amended to read:

2 431.045. The Director of [*Human Services*] **the Oregon Health Authority** shall appoint a phy-
3 sician licensed by the Oregon Medical Board and certified by the American Board of Preventive
4 Medicine who shall serve as the Public Health Officer and be responsible for the medical and
5 paramedical aspects of the health programs within the [*Department of Human Services*] **Oregon**
6 **Health Authority.**

7 **SECTION 534.** ORS 431.110 is amended to read:

8 431.110. Subject to ORS 417.300 and 417.305, the [*Department of Human Services*] **Oregon Health**
9 **Authority** shall:

10 (1) Have direct supervision of all matters relating to the preservation of life and health of the
11 people of the state.

12 (2) Keep the vital statistics and other health related statistics of the state.

13 (3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention
14 of diseases, especially of epidemics.

15 (4) Investigate, conduct hearings and issue findings in connection with annexations proposed by
16 cities as provided in ORS 222.840 to 222.915.

17 (5) Have full power in the control of all communicable diseases.

18 (6) Have authority to send a representative of the [*department*] **authority** to any part of the
19 state when deemed necessary.

20 (7) From time to time, publish and distribute to the public in such form as the [*department*] **au-**
21 **thority** determines, such information as in its judgment may be useful in carrying on the work or
22 purposes for which the [*department*] **authority** was established.

23 (8) Carry out the duties imposed on the [*department*] **authority** under ORS chapter 690.

24 **SECTION 535.** ORS 431.120 is amended to read:

25 431.120. The [*Department of Human Services*] **Oregon Health Authority** shall:

26 (1) Enforce state health policies and rules.

27 (2) Have the custody of all books, papers, documents and other property belonging to the State
28 Health Commission, which may be deposited in the [*department's*] **authority's** office.

29 (3) Give any instructions that may be necessary, and forward them to the various local public
30 health administrators throughout the state.

31 (4) Routinely conduct epidemiological investigations for each case of sudden infant death syn-
32 drome including, but not limited to, the identification of risk factors such as birth weight, maternal
33 age, prenatal care, history of apnea and socioeconomic characteristics. The [*department*] **authority**
34 may conduct the investigations through local health departments only upon adoption by rule of a
35 uniform epidemiological data collection method.

36 (5) Adopt rules related to loans and grants awarded under ORS 285B.560 to 285B.599 or 541.700
37 to 541.855 for the improvement of drinking water systems for the purpose of maintaining compliance
38 with applicable state and federal drinking water quality standards. In adopting rules under this
39 subsection, the [*Department of Human Services*] **authority** shall coordinate the [*department's*] **au-**
40 **thority's** rulemaking process with the Water Resources Department and the Economic and Com-
41 munity Development Department in order to ensure that rules adopted under this subsection are
42 consistent with rules adopted under ORS 285B.563 and 541.845.

43 (6) Control health care capital expenditures by administering the state certificate of need pro-
44 gram pursuant to ORS 442.325 to 442.344.

45 **SECTION 536.** ORS 431.150 is amended to read:

1 431.150. (1) The local public health administrators are charged with the strict and thorough
 2 enforcement of the public health laws of this state in their districts, under the supervision and di-
 3 rection of the [*Department of Human Services*] **Oregon Health Authority**. They shall make an im-
 4 mediate report to the [*department*] **authority** of any violation of such laws coming to their notice
 5 by observation, or upon the complaint of any person, or otherwise.

6 (2) The [*department*] **authority** is charged with the thorough and efficient execution of the
 7 public health laws of this state in every part of the state, and with supervisory powers over all local
 8 public health administrators, to the end that all the requirements are complied with.

9 (3) The [*department*] **authority** may investigate cases of irregularity or violation of law. All local
 10 public health administrators shall aid the [*department*] **authority**, upon request, in such investi-
 11 gation.

12 (4) When any case of violation of the public health laws of this state is reported to any district
 13 attorney or official acting in said capacity, such official shall forthwith initiate and promptly follow
 14 up the necessary proceedings against the parties responsible for the alleged violations of law.

15 (5) Upon request of the [*department*] **authority**, the Attorney General shall likewise assist in the
 16 enforcement of the public health laws of this state.

17 **SECTION 537.** ORS 431.155 is amended to read:

18 431.155. (1) Whenever it appears to the [*Department of Human Services*] **Oregon Health Au-**
 19 **thority** that any person is engaged or about to engage in any acts or practices that constitute a
 20 violation of any statute relating to public health administered by the [*department*] **authority**, or any
 21 rule or order issued thereunder, the [*department*] **authority** may institute proceedings in the circuit
 22 courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise,
 23 restraining such person, or its officers, agents, employees and representatives from further violation
 24 of such statute, rule or order, and enjoining upon them obedience thereto.

25 (2) The provisions of this section are in addition to and not in substitution of any other
 26 enforcement provisions contained in any statute administered by the [*department*] **authority**.

27 **SECTION 538.** ORS 431.157 is amended to read:

28 431.157. Pursuant to ORS 448.100 (1) and 446.425 (1), the county is delegated the authority
 29 granted to the Director of [*Human Services*] **the Oregon Health Authority** in ORS 431.155.

30 **SECTION 539.** ORS 431.170 is amended to read:

31 431.170. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall take direct
 32 charge of the functions that are necessary to preserve the public health in any county or district
 33 whenever any county or district official fails or refuses to administer or enforce the public health
 34 laws or rules that the director or board is charged to enforce.

35 (2) The director may call to the aid of the director such assistance as is necessary for the
 36 enforcement of such statutes and rules, the expense of which shall be borne by the county or district
 37 making the use of this procedure necessary, to be paid out of the respective county or district
 38 treasury upon vouchers properly certified by the director.

39 **SECTION 540.** ORS 431.175 is amended to read:

40 431.175. If necessary, the Director of [*Human Services*] **the Oregon Health Authority** or a
 41 designee thereof, the State Fire Marshal or a designee thereof or an officer of a law enforcement
 42 agency may appear before any magistrate empowered to issue warrants in criminal cases, and re-
 43 quire such magistrate to issue a warrant, directing it to any sheriff or deputy or any constable or
 44 police officer, to enter the described property or to remove any person or obstacle, or to defend any
 45 threatened violence to the director or a designee thereof, the State Fire Marshal or a designee

1 thereof or an officer, upon entering private property, or to assist the director in any way.

2 **SECTION 541.** ORS 431.180 is amended to read:

3 431.180. Nothing in the public health laws shall be construed to empower or authorize the [*De-*
4 *partment of Human Services*] **Oregon Health Authority** or its representatives, or any county or
5 district board of health or its representatives to interfere in any manner with the individual's right
6 to select the physician or mode of treatment of the choice of the individual, nor interfere with the
7 practice of any person whose religion treats or administers to people who are sick or suffering by
8 purely spiritual means. However, sanitary laws and rules must be complied with.

9 **SECTION 542.** ORS 431.190 is amended to read:

10 431.190. The Director of [*Human Services*] **the Oregon Health Authority** shall appoint, not
11 later than 60 days after October 4, 1977, an advisory board to study the practices and procedures
12 of the health care professions in this state and to recommend rules relating to the auditing of health
13 care practices in hospitals which will:

14 (1) Promote standard record keeping by hospitals and persons practicing any of the healing arts
15 in hospitals;

16 (2) Establish those criteria most appropriate for determining the proper objects of such auditing;
17 and

18 (3) Insure auditing of those practices and procedures most relevant to the causes and occurrence
19 of professional negligence in hospitals.

20 **SECTION 543.** ORS 431.195 is amended to read:

21 431.195. (1) There is established the Oregon Public Health Advisory Board to serve as an advi-
22 sory body to the [*Director of Human Services*] **Oregon Health Authority Board**.

23 (2) The members of the [*board*] **Oregon Public Health Advisory Board** shall be residents of this
24 state and shall be appointed by the Governor. The [*board*] **Oregon Public Health Advisory Board**
25 shall consist of 15 members at least one-half of whom shall be public members broadly representing
26 the state as a whole and the others to include representatives of local government and public and
27 private health providers.

28 (3) The Oregon Public Health Advisory Board shall:

29 (a) Advise the [*director*] **Oregon Health Authority Board** on policy matters related to the op-
30 eration of the [*Department of Human Services*] **Oregon Health Authority**.

31 (b) Provide a review of statewide public health issues and make recommendations to the [*direc-*
32 *tor*] **Oregon Health Authority Board**.

33 (c) Participate in public health policy development.

34 (4) Members shall be appointed for four-year terms. No person shall serve more than two con-
35 secutive terms.

36 (5) The [*board*] **Oregon Public Health Advisory Board** shall meet at least quarterly.

37 (6) Members of the [*board*] **Oregon Public Health Advisory Board** shall be entitled to com-
38 pensation and expenses as provided in ORS 292.495.

39 (7) Vacancies on the [*board*] **Oregon Public Health Advisory Board** shall be filled by ap-
40 pointments of the Governor for the unexpired term.

41 **SECTION 544.** ORS 431.210 is amended to read:

42 431.210. (1) There is established in the General Fund the Public Health Account, classified sep-
43 arately as to federal and other moneys.

44 (2) All fines, fees, penalties, federal apportionments or contributions and other moneys received
45 by the [*Department of Human Services*] **Oregon Health Authority** relating to public health shall be

1 turned over to the State Treasurer not later than the 10th day of the calendar month next suc-
2 ceeding their receipt by the [department] **authority** and shall be credited to the Public Health Ac-
3 count.

4 (3) All moneys credited to the Public Health Account are continuously appropriated to the [de-
5 partment] **authority** for the payment of expenses of the [department] **authority**.

6 **SECTION 545.** ORS 431.220 is amended to read:

7 431.220. The [Department of Human Services] **Oregon Health Authority** shall keep a record of
8 all moneys deposited in the Public Health Account. This record shall indicate by separate cumula-
9 tive accounts the source from which the moneys are derived and the individual activity or program
10 against which each withdrawal is charged.

11 **SECTION 546.** ORS 431.230 is amended to read:

12 431.230. (1) The [Director of Human Services] **Oregon Health Authority** may request the Oregon
13 Department of Administrative Services to, and when so requested, the Oregon Department of Ad-
14 ministrative Services shall, draw a payment on the Public Health Account in favor of the Director
15 of [Human Services] **the Oregon Health Authority** in a sum not exceeding \$25,000, which sum shall
16 be used by the director as an emergency or revolving fund.

17 (2) The emergency or revolving fund shall be deposited with the State Treasurer, and shall be
18 at the disposal of the director [of Human Services]. It may be used to pay advances for salaries,
19 travel expenses or any other proper claim against, or expense of, the [Department of Human
20 Services] **authority** or the health-related licensing boards for whom the [department] **authority**
21 provides accounting services.

22 (3) Claims for reimbursement of advances paid from the emergency or revolving fund shall be
23 submitted to the [department] **authority** for approval. When such claims are so approved, payments
24 covering them shall be drawn in favor of the director [of Human Services] and charged against the
25 appropriate fund or account, and shall be used to reimburse the emergency or revolving fund.

26 (4) The [department] **authority** may establish petty cash funds within the emergency or revolv-
27 ing fund by drawing checks upon the emergency or revolving fund payable to the custodians of the
28 petty cash funds.

29 **SECTION 547.** ORS 431.250 is amended to read:

30 431.250. (1) The [Department of Human Services] **Oregon Health Authority** hereby is designated
31 as the state agency to apply to and receive from the federal government or any agency thereof such
32 grants for promoting public health and the prevention of disease, including grants for cancer control
33 and industrial hygiene programs, as may be available to this state or any of its political subdivisions
34 or agencies.

35 (2) For the purposes of subsection (1) of this section, the [department] **authority** shall:

36 (a) Disburse or supervise the disbursement of all funds made available at any time by the federal
37 government or this state for those purposes.

38 (b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made
39 statewide in application insofar as reasonably feasible, possible or permissible, and shall be so de-
40 vised as to meet the approval of the federal government or any of its agencies, not inconsistent with
41 the laws of the state.

42 **SECTION 548.** ORS 431.260 is amended to read:

43 431.260. As used in ORS 431.035 to 431.530:

44 (1) "Children's facility" has the meaning given that term in ORS 433.235.

45 (2) "Communicable disease" means a disease or condition, the infectious agent of which may be

1 transmitted by any means from one person or from an animal to another person, that may result in
2 illness, death or severe disability.

3 (3) "Condition of public health importance" means a disease, syndrome, symptom, injury or other
4 threat to public health that is identifiable on an individual or community level.

5 (4) "Disease outbreak" means a significant or notable increase in the number of cases of a dis-
6 ease or other condition of public health importance.

7 (5) "Epidemic" means the occurrence in a community or region of a group of similar conditions
8 of public health importance that are in excess of normal expectancy and derived from a common or
9 propagated source.

10 (6) "Local public health administrator" means the public health administrator of a county or
11 health district appointed under ORS 431.418 or the authorized representative of that public health
12 administrator.

13 (7) "Local public health authority" means a county government, or a health district created
14 under ORS 431.414 or a person or agency a county or health district has contracted with to act as
15 the local public health authority.

16 (8) "Public health law" means any statute, rule or local ordinance that has the purpose of pro-
17 moting or protecting the public health and that establishes the authority of the [*Department of Hu-*
18 *man Services*] **Oregon Health Authority**, the Public Health Director, the Public Health Officer, a
19 local public health authority or local public health administrator to enforce the statute, rule or local
20 ordinance.

21 (9) "Public health measure" means a test, medical examination, treatment, isolation, quarantine
22 or other measure imposed on an individual or group of individuals in order to prevent the spread
23 of or exposure to a communicable disease, toxic substance or transmissible agent.

24 (10) "Reportable disease" means a disease or condition, the reporting of which enables a public
25 health authority to take action to protect or to benefit the public health.

26 (11) "School" has the meaning given that term in ORS 433.235.

27 (12) "Specimen" means blood, sputum, urine, stool or other bodily fluids and wastes, tissues, and
28 cultures necessary to perform required tests.

29 (13) "Test" means any diagnostic or investigative analyses or medical procedures that determine
30 the presence or absence of, or exposure to, a condition of potential public health importance, or its
31 precursor in an individual.

32 (14) "Toxic substance" means a substance that may cause illness, disability or death to persons
33 who are exposed to it.

34 **SECTION 549.** ORS 431.262 is amended to read:

35 431.262. (1) The [*Department of Human Services*] **Oregon Health Authority** and local public
36 health administrators shall have the power to enforce public health laws. The enforcement powers
37 authorized by this section include, but are not limited to, the authority to:

38 (a) Investigate possible violations of public health laws;

39 (b) Issue subpoenas requiring testimony or the production of physical or other evidence;

40 (c) Issue administrative orders to enforce compliance with public health laws;

41 (d) Issue a notice of violation of a public health law and impose a civil penalty as established
42 by rule not to exceed \$500 a day per violation;

43 (e) Enter private property at any reasonable time with consent of the owner or custodian of the
44 property to inspect, investigate, evaluate or conduct tests, or take specimens or samples for testing,
45 as may be reasonably necessary to determine compliance with any public health law;

1 (f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens or
2 samples for testing as may be reasonably necessary to determine compliance with the provisions of
3 any public health law;

4 (g) Seek an administrative warrant from an appropriate court authorizing the inspection, inves-
5 tigation, evaluation or testing, or taking of specimens or samples for testing, if denied entry to
6 property;

7 (h) Restrict access to contaminated property;

8 (i) Require removal or abatement of a toxic substance on any property and prescribe the proper
9 measures for the removal or abatement;

10 (j) Maintain a civil action to enforce compliance with public health laws, including a petition
11 to a court for an order imposing a public health measure appropriate to the public health threat
12 presented;

13 (k) Refer any possible criminal violations of public health laws to a district attorney or other
14 appropriate law enforcement official; and

15 (L) Request the Attorney General to assist in the enforcement of the public health laws.

16 (2) Any administrative actions undertaken by the state under this section shall comply with the
17 provisions of ORS chapter 183.

18 (3) State and local law enforcement officials, to the extent resources are available, must assist
19 the *[Department of Human Services]* **Oregon Health Authority** and local public health administra-
20 tors in ensuring compliance with administrative or judicial orders issued pursuant to this section.

21 (4) Nothing in this section shall be construed to limit any other enforcement authority granted
22 by law to a local public health authority or to the state.

23 **SECTION 550.** ORS 431.264 is amended to read:

24 431.264. (1) Unless the Governor has declared a public health emergency under ORS 433.441, the
25 Public Health Director may, upon approval of the Governor or the designee of the Governor, take
26 the public health actions described in subsection (2) of this section if the Public Health Director
27 determines that:

28 (a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition
29 of public health importance has affected more than one county;

30 (B) There is an immediate need for a consistent response from the state in order to adequately
31 protect the public health;

32 (C) The resources of the local public health authority or authorities are likely to be quickly
33 overwhelmed or unable to effectively manage the required response; and

34 (D) There is a significant risk to the public health; or

35 (b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition
36 of public health importance is reported in Oregon and is an issue of significant regional or national
37 concern or is an issue for which there is significant involvement from federal authorities requiring
38 state-federal coordination.

39 (2) The Public Health Director, after making the determinations required under subsection (1)
40 of this section, may take the following public health actions:

41 (a) Coordinate the public health response across jurisdictions.

42 (b) Prescribe measures for the:

43 (A) Identification, assessment and control of the communicable disease or reportable disease,
44 disease outbreak, epidemic or other condition of public health importance; and

45 (B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics,

1 antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

2 (c) After consultation with appropriate medical experts, create and require the use of diagnostic
3 and treatment guidelines and provide notice of those guidelines to health care providers, institutions
4 and facilities.

5 (d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent
6 the introduction or spread of a communicable disease or reportable disease, unless:

7 (A) The person has a medical diagnosis for which a vaccination is contraindicated; or

8 (B) The person has a religious or conscientious objection to the required treatments or
9 prophylactic measures.

10 (e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or
11 school under the jurisdiction of the board. The authority granted to the Public Health Director un-
12 der this paragraph supersedes the authority granted to the district school board under ORS 332.075
13 to the extent the authority granted to the board is inconsistent with the authority granted to the
14 director.

15 (f) Issue guidelines for private businesses regarding appropriate work restrictions.

16 (g) Organize public information activities regarding the public health response to circumstances
17 described in subsection (1) of this section.

18 (h) Adopt reporting requirements for, and provide notice of those reporting requirements to,
19 health care providers, institutions and facilities for the purpose of obtaining information directly
20 related to the public health threat presented.

21 (i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and
22 other pharmaceutical agents, medical supplies or personal protective equipment.

23 (3) The authority granted to the Public Health Director under this section is not intended to
24 override the general authority provided to a local public health authority except as already per-
25 mitted by law, or under the circumstances described in subsection (1) of this section.

26 (4) If the [*Department of Human Services*] **Oregon Health Authority** adopts temporary rules to
27 implement subsection (2) of this section, the rules adopted are not subject to the provisions of ORS
28 183.335 (6)(a). The [*department*] **authority** may amend the temporary rules adopted under this sub-
29 section as often as is necessary to respond to the public health threat.

30 (5) If it is necessary for the [*department*] **authority** to purchase antitoxins, serums, vaccines,
31 immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or per-
32 sonal protective equipment, the purchases are not subject to the provisions of ORS chapter 279A,
33 279B or 279C.

34 (6) If property is taken under the authority granted to the Public Health Director under sub-
35 section (2) of this section, the owner of the property is entitled to reasonable compensation from the
36 state.

37 **SECTION 551.** ORS 431.270 is amended to read:

38 431.270. (1) The [*Department of Human Services*] **Oregon Health Authority** shall educate resi-
39 dents of this state about:

40 (a) The need for bone marrow donors;

41 (b) The procedures required to become registered as a potential bone marrow donor, including
42 procedures for determining a person's tissue type; and

43 (c) The medical procedures a donor must undergo to donate bone marrow or other sources of
44 blood stem cells.

45 (2) The [*Department of Human Services*] **Oregon Health Authority** shall make special efforts to

1 educate and recruit citizens of Oregon with a special emphasis on minority populations to volunteer
2 as potential bone marrow donors. Means of communication may include use of press, radio and
3 television, and placement of educational materials in appropriate health care facilities, blood banks
4 and state and local agencies. The [*Department of Human Services*] **Oregon Health Authority** in
5 conjunction with the Department of Transportation shall make educational materials available at
6 all places where driver licenses are issued or renewed.

7 **SECTION 552.** ORS 431.290 is amended to read:

8 431.290. (1) There is established a Spinal Cord Injury Research Board consisting of 11 members
9 appointed by the Governor.

10 (2) The term of office of each member is four years, but a member serves at the pleasure of the
11 Governor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor
12 shall make an appointment to become immediately effective for the unexpired term.

13 (3) The appointment of a member to the board is subject to confirmation by the Senate in the
14 manner prescribed in ORS 171.562 and 171.565.

15 (4) The members of the Spinal Cord Injury Research Board shall be citizens of this state who
16 are well informed on the issues relating to spinal cord injuries and related disabilities. Members
17 may include, but are not limited to:

18 (a) A minimum of five health professionals with clinical practice experience in each of the
19 practice fields of neuroscience, neurology, neurosurgery, neuropharmacology and spinal cord
20 rehabilitative medicine;

21 (b) A representative of the Oregon Disabilities Commission;

22 (c) A representative of a disabilities advocacy organization or an individual who advocates on
23 behalf of persons with spinal cord injuries;

24 (d) A representative of the [*Department of Human Services*] **Oregon Health Authority**;

25 (e) Members of the Legislative Assembly; and

26 (f) A person with a spinal cord injury.

27 (5) The board shall elect one of its members as chairperson and another as vice chairperson, for
28 such terms and with such duties and powers necessary for the performance of the functions of such
29 offices as the board determines.

30 (6) The board shall meet at least once every three months at a place, day and hour determined
31 by the chairperson. The board also shall meet at other times and places specified by the call of the
32 chairperson or of a majority of the members of the board.

33 (7) In accordance with applicable provisions of ORS chapter 183, the board may adopt rules
34 necessary for the administration of the grant program and fund described in ORS 431.292 and
35 431.294.

36 **SECTION 553.** ORS 431.310 is amended to read:

37 431.310. (1) For the better protection of the public health the laboratory of the [*Department of*
38 *Human Services*] **Oregon Health Authority** shall make bacteriological and other examinations of
39 water, milk, blood, secretions or tissues required by any state, county or city institution, or officer,
40 and may make such examinations for any licensed physician in accordance with the rules of the
41 [*department*] **authority**.

42 (2) The [*department*] **authority** shall establish by rule and collect fees for tests performed in the
43 state public health laboratory, not to exceed:

44 (a) \$50 per test for tests other than newborn screening tests; and

45 (b) \$30 per specimen for newborn screening tests.

1 (3) All money received for such tests shall be deposited in the Public Health Account to be used
2 for expenses of the state public health laboratory.

3 **SECTION 554.** ORS 431.330 is amended to read:

4 431.330. (1) The Conference of Local Health Officials is created. The conference shall consist
5 of all local health officers and public health administrators, appointed pursuant to ORS 431.418 and
6 such other local health personnel as may be included by the rules of the conference.

7 (2) The Conference of Local Health Officials shall select one of its members as chairperson,
8 another as vice chairperson and another as secretary with such powers and duties necessary to the
9 performance of the functions of such offices as the conference shall determine. The chairperson, af-
10 ter consultation with the Director of [*Human Services*] **the Oregon Health Authority**, shall appoint
11 from the conference membership an executive committee. The executive committee with the chair-
12 person shall advise the director in the administration of ORS 431.330 to 431.350.

13 **SECTION 555.** ORS 431.335 is amended to read:

14 431.335. (1) The Conference of Local Health Officials shall meet at least annually at a place, day
15 and hour determined by the executive committee and the Director of [*Human Services*] **the Oregon**
16 **Health Authority**. The conference may meet specially at such other times as the director or the
17 executive committee considers necessary.

18 (2) The director shall cause at least 10 days' notice of each meeting date to be given to the
19 members. The chairperson or an authorized representative of the chairperson shall preside at all
20 meetings of the conference.

21 (3) Each conference member shall receive from the local board which the conference member
22 represents from funds available under ORS 431.510, the actual and necessary travel and other ex-
23 penses incurred by the conference member in attendance at no more than two meetings of the con-
24 ference per year. Additionally, subject to applicable law regulating travel and other expenses for
25 state officers, a local health official who is a member of the executive committee of the conference
26 or who is the chairperson shall receive from funds available to the [*Department of Human Services*]
27 **Oregon Health Authority**, actual and necessary travel and other expenses for attendance at no
28 more than six meetings per year of the executive committee called by the [*department*] **authority**.

29 **SECTION 556.** ORS 431.340 is amended to read:

30 431.340. The Conference of Local Health Officials may submit to the [*Department of Human*
31 *Services*] **Oregon Health Authority** such recommendations on the rules and standards specified in
32 ORS 431.345 and 431.350.

33 **SECTION 557.** ORS 431.345 is amended to read:

34 431.345. In order to establish criteria for local boards of health to qualify for such financial as-
35 sistance as may be made available, the [*Department of Human Services*] **Oregon Health Authority**,
36 upon receipt of written approval from the Conference of Local Health Officials shall adopt minimum
37 standards governing:

38 (1) Education and experience for professional and technical personnel employed in local health
39 departments, such standards to be consistent with any applicable merit system.

40 (2) Organization, operation and extent of activities which are required or expected of local
41 health departments to carry out their responsibilities in implementing the public health laws of this
42 state and the rules of the [*Department of Human Services*] **Oregon Health Authority**.

43 **SECTION 558.** ORS 431.350 is amended to read:

44 431.350. Upon receipt of written approval from the Conference of Local Health Officials the
45 [*Department of Human Services*] **Oregon Health Authority** shall adopt rules necessary for the ad-

1 ministration of ORS 431.330 to 431.350.

2 **SECTION 559.** ORS 431.375 is amended to read:

3 431.375. (1) The Legislative Assembly of the State of Oregon finds that each citizen of this state
4 is entitled to basic public health services which promote and preserve the health of the people of
5 Oregon. To provide for basic public health services the state, in partnership with county govern-
6 ments, shall maintain and improve public health services through county or district administered
7 public health programs.

8 (2) County governments or health districts established under ORS 431.414 are the local public
9 health authority responsible for management of local public health services unless the county con-
10 tracts with private persons or an agency to act as the local public health authority or the county
11 relinquishes authority to the state. If authority is relinquished, the state may then contract with
12 private persons or an agency or perform the services.

13 (3) All expenditure of public funds utilized to provide public health services on the local level
14 must be approved by the local public health authority unless the county has relinquished authority
15 to the state or an exception has been approved by the *[Department of Human Services]* **Oregon**
16 **Health Authority** with the concurrence of the Conference of Local Health Officials.

17 (4) The *[Department of Human Services]* **Oregon Health Authority**:

18 (a) Shall contract for the provision of maternal and child public health services with any tribal
19 governing council of a federally recognized Indian tribe that requests to receive funding and to de-
20 liver services under the federal Title V Maternal and Child Health Services Block Grant Program.

21 (b) May contract directly with any tribal governing council of a federally recognized Indian
22 tribe for provision of public health services and programs not required under paragraph (a) of this
23 subsection.

24 (5) Contracts authorized by subsection (4) of this section must specify that:

25 (a) Payments will be made to the tribe on a per capita or other equitable formula basis;

26 (b) The tribe must provide services that are comparable to the services provided by a local
27 public health authority; and

28 (c) The tribe must comply with any state or federal requirements with which a local public
29 health authority providing the same services must comply.

30 **SECTION 560.** ORS 431.380 is amended to read:

31 431.380. (1) From funds available to the *[Department of Human Services]* **Oregon Health Au-**
32 **thority** for local public health purposes, regardless of the source, the *[department]* **authority** shall
33 provide payments to the local public health authority on a per capita or other equitable formula
34 basis to be used for public health services. Funding formulas shall be determined by the
35 *[department]* **authority** with the concurrence of the Conference of Local Health Officials.

36 (2) With respect to counties that have established joint public health services with another
37 county, either by agreement or the formation of a district board of health, distribution of funds made
38 available under the provisions of this section shall be prorated to such counties as provided by
39 agreement or under ORS 431.510.

40 **SECTION 561.** ORS 431.385 is amended to read:

41 431.385. (1) The local public health authority shall submit an annual plan to the *[Department of*
42 *Human Services]* **Oregon Health Authority** for performing services pursuant to ORS 431.375 to
43 431.385 and 431.416. The annual plan shall be submitted no later than May 1 of each year or on a
44 date mutually agreeable to the *[department]* **authority** and the local public health authority.

45 (2) If the local public health authority decides not to submit an annual plan under the provisions

1 of ORS 431.375 to 431.385 and 431.416, the [department] **authority** shall become the local public
2 health authority for that county or health district.

3 (3) The [department] **authority** shall review and approve or disapprove each plan. Variances to
4 the local public health plan must be approved by the [department] **authority**. In consultation with
5 the Conference of Local Health Officials, the [department] **authority** shall establish the elements of
6 a plan and an appeals process whereby a local health authority may obtain a hearing if its plan is
7 disapproved.

8 (4) Each local commission on children and families shall reference the local public health plan
9 in the local coordinated comprehensive plan created pursuant to ORS 417.775.

10 **SECTION 562.** ORS 431.415 is amended to read:

11 431.415. (1) The district or county board of health is the policymaking body of the county or
12 district in implementing the duties of local departments of health under ORS 431.416.

13 (2) The district or county board of health shall adopt rules necessary to carry out its policies
14 under subsection (1) of this section. The county or district board of health shall adopt no rule or
15 policy which is inconsistent with or less strict than any public health law or rule of the [Department
16 of Human Services] **Oregon Health Authority**.

17 (3) With the permission of the county governing body, a county board may, and with the per-
18 mission of the governing bodies of the counties involved, a district board may, adopt schedules of
19 fees for public health services reasonably calculated not to exceed the cost of the services per-
20 formed. The health department shall charge fees in accordance with such schedule or schedules
21 adopted.

22 **SECTION 563.** ORS 431.416 is amended to read:

23 431.416. The local public health authority or health district shall:

24 (1) Administer and enforce the rules of the local public health authority or the health district
25 and public health laws and rules of the [Department of Human Services] **Oregon Health**
26 **Authority**.

27 (2) Assure activities necessary for the preservation of health or prevention of disease in the area
28 under its jurisdiction as provided in the annual plan of the authority or district are performed.
29 These activities shall include but not be limited to:

30 (a) Epidemiology and control of preventable diseases and disorders;

31 (b) Parent and child health services, including family planning clinics as described in ORS
32 435.205;

33 (c) Collection and reporting of health statistics;

34 (d) Health information and referral services; and

35 (e) Environmental health services.

36 **SECTION 564.** ORS 431.418 is amended to read:

37 431.418. (1) Each district board of health shall appoint a qualified public health administrator
38 to supervise the activities of the district in accordance with law. Each county governing body in a
39 county that has created a county board of health under ORS 431.412 shall appoint a qualified public
40 health administrator to supervise the activities of the county health department in accordance with
41 law. In making such appointment, the district or county board of health shall consider standards for
42 selection of administrators prescribed by the [Department of Human Services] **Oregon Health Au-**
43 **thority**.

44 (2) When the public health administrator is a physician licensed by the Oregon Medical Board,
45 the administrator shall serve as health officer for the district or county board of health. When the

1 public health administrator is not a physician licensed by the Oregon Medical Board, the adminis-
2 trator will employ or otherwise contract for services with a health officer who shall be a licensed
3 physician and who will perform those specific medical responsibilities requiring the services of a
4 physician and shall be responsible to the public health administrator for the medical and
5 paramedical aspects of the health programs.

6 (3) The public health administrator shall:

7 (a) Serve as the executive secretary of the district or county health board, act as the adminis-
8 trator of the district or county health department and supervise the officers and employees ap-
9 pointed under paragraph (b) of this subsection.

10 (b) Appoint with the approval of the health board, administrators, medical officers, public health
11 nurses, environmental health specialists and such other employees as are necessary to carry out the
12 duties and responsibilities of the office.

13 (c) Provide the board at appropriate intervals information concerning the activities of the
14 county health department and submit an annual budget for the approval of the county governing
15 body except that, in the case of the district public health administrator, the budget shall be sub-
16 mitted to the governing bodies of the participating counties for approval.

17 (d) Act as the agent of the [*Department of Human Services*] **Oregon Health Authority** in en-
18 forcing state public health laws and rules of the [*Department of Human Services*] **authority**, includ-
19 ing such sanitary inspection of hospitals and related institutions as may be requested by the
20 [*Department of Human Services*] **authority**.

21 (e) Perform such other duties as may be required by law.

22 (4) The public health administrator shall serve until removed by the appointing board. The
23 public health administrator shall engage in no occupation which conflicts with official duties and
24 shall devote sufficient time to duties as public health administrator as may be necessary to fulfill
25 the requirements of subsection (3) of this section. However, if the board of health is not created
26 under ORS 431.412, it may, with the approval of the Director of [*Human Services*] **the Oregon**
27 **Health Authority**, require less than full-time service of the public health administrator.

28 (5) The public health administrator shall receive a salary fixed by the appointing board and shall
29 be reimbursed for actual and necessary expenses incurred in the performance of duties.

30 **SECTION 565.** ORS 431.530 is amended to read:

31 431.530. (1) The local public health administrator may take any action which the [*Department*
32 *of Human Services*] **Oregon Health Authority** or its director could have taken, if an emergency
33 endangering the public health occurs within the jurisdiction of any local public health administrator
34 and:

35 (a) The circumstances of the emergency are such that the [*department*] **authority** or its director
36 cannot take action in time to meet the emergency; and

37 (b) Delay in taking action to meet the emergency will increase the hazard to public health.

38 (2) Any local public health administrator who acts under subsection (1) of this section shall re-
39 port the facts constituting the emergency and any action taken under the authority granted by
40 subsection (1) of this section to the Director of [*Human Services*] **the Oregon Health Authority** by
41 the fastest possible means.

42 **SECTION 566.** ORS 431.550 is amended to read:

43 431.550. Nothing in ORS 431.412, 431.418 and this section shall be construed to limit the au-
44 thority of the [*Department of Human Services*] **Oregon Health Authority** to require facts and sta-
45 tistics from local public health administrators under its general supervisory power over all matters

1 relating to the preservation of life and health of the people of the state.

2 **SECTION 567.** ORS 431.607 is amended to read:

3 431.607. In cooperation with representatives of the emergency medical services professions, the
4 [Department of Human Services] **Oregon Health Authority** shall develop a comprehensive emer-
5 gency medical services and trauma system. The [department] **authority** shall report progress on the
6 system to the Legislative Assembly.

7 **SECTION 568.** ORS 431.609 is amended to read:

8 431.609. (1) With the advice of the State Trauma Advisory Board, the [Department of Human
9 Services] **Oregon Health Authority** shall:

10 (a) Develop and monitor a statewide trauma system; and

11 (b) Designate within the state, trauma areas consistent with local resources, geography and
12 current patient referral patterns.

13 (2) Each trauma area shall have:

14 (a) Central medical control for all field care and transportation consistent with geographic and
15 current communications capability.

16 (b) The development of triage protocols.

17 (c) One or more hospitals categorized according to trauma care capabilities using standards
18 adopted by the [department] **authority** by rule. Such rules shall be modeled after the American
19 College of Surgeons Committee on Trauma standards.

20 (d) The establishment of area trauma advisory boards to develop trauma system plans for each
21 trauma area.

22 (3) On and after July 1, 1986, the [department] **authority** may designate trauma system hospitals
23 in accordance with area trauma advisory board plans which meet state objectives and standards.

24 (4) Trauma system plans shall be implemented by June 30, 1987, in Health Systems Area I, and
25 June 30, 1988, in Health Systems Areas II and III.

26 **SECTION 569.** ORS 431.611 is amended to read:

27 431.611. (1) Prior to approval and implementation of area trauma plans submitted to the [De-
28 partment of Human Services] **Oregon Health Authority** by area trauma advisory boards, the [de-
29 partment] **authority** shall adopt rules pursuant to ORS chapter 183 which specify state trauma
30 objectives and standards, hospital categorization criteria and criteria and procedures to be utilized
31 in designating trauma system hospitals.

32 (2) For approved area trauma plans recommending designation of trauma system hospitals, the
33 [department] **authority** rules shall provide for:

34 (a) The transport of a member of a health maintenance organization, or other managed health
35 care system, as defined by rule, to a hospital that contracts with the health maintenance organiza-
36 tion when central medical control determines that the condition of the member permits such trans-
37 port; and

38 (b) The development and utilization of protocols between designated trauma hospitals and health
39 maintenance organizations, or other managed health care systems, as defined by rule, including no-
40 tification of admission of a member to a designated trauma hospital within 48 hours of admission,
41 and coordinated discharge planning between a designated trauma hospital and a hospital that con-
42 tracts with a health maintenance organization to facilitate transfer of the member when the medical
43 condition of the member permits.

44 **SECTION 570.** ORS 431.613 is amended to read:

45 431.613. (1) Area trauma advisory boards shall meet as often as necessary to identify specific

1 trauma area needs and problems and propose to the [*Department of Human Services*] **Oregon Health**
 2 **Authority** area trauma system plans and changes that meet state standards and objectives. The
 3 [*department*] **authority** acting with the advice of the State Trauma Advisory Board will have the
 4 authority to implement these plans.

5 (2) In concurrence with the Governor, the [*department*] **authority** shall select members for each
 6 area from lists submitted by local associations of emergency medical technicians, emergency nurses,
 7 emergency physicians, surgeons, hospital administrators, emergency medical services agencies and
 8 citizens at large. Members shall be broadly representative of the trauma area as a whole and shall
 9 consist of at least 15 members per area trauma advisory board, including:

10 (a) Three surgeons;

11 (b) Two physicians serving as emergency physicians;

12 (c) Two hospital administrators from different hospitals;

13 (d) Two nurses serving as emergency nurses;

14 (e) Two emergency medical technicians serving different emergency medical services;

15 (f) Two representatives of the public at large selected from among those submitting letters of
 16 application in response to public notice by the [*department*] **authority**. Public members shall not
 17 have an economic interest in any decision of the health care service areas;

18 (g) One representative of any bordering state which is included within the patient referral area;

19 (h) One anesthesiologist; and

20 (i) One ambulance service owner or operator or both.

21 **SECTION 571.** ORS 431.619 is amended to read:

22 431.619. The [*Department of Human Services*] **Oregon Health Authority** shall continuously
 23 identify the causes of trauma in Oregon, and propose programs of prevention thereof for consider-
 24 ation by the Legislative Assembly or others.

25 **SECTION 572.** ORS 431.623 is amended to read:

26 431.623. (1) The Emergency Medical Services and Trauma Systems Program is created within the
 27 [*Department of Human Services*] **Oregon Health Authority** for the purpose of administering and
 28 regulating ambulances, training and certifying emergency medical technicians, establishing and
 29 maintaining emergency medical systems including trauma systems and obtaining appropriate data
 30 from the Oregon Injury Registry as necessary for trauma reimbursement, system quality assurance
 31 and assuring cost efficiency.

32 (2) For purposes of ORS 431.607 to 431.619 and ORS chapter 682, the duties vested in the [*de-*
 33 *partment*] **authority** shall be performed by the Emergency Medical Services and Trauma Systems
 34 Program.

35 (3) The program shall be administered by a director.

36 (4) With moneys transferred to the program by ORS 442.625, the program shall apply those
 37 moneys to:

38 (a) Developing state and regional standards of care;

39 (b) Developing a statewide educational curriculum to teach standards of care;

40 (c) Implementing quality improvement programs;

41 (d) Creating a statewide data system for prehospital care; and

42 (e) Providing ancillary services to enhance Oregon's emergency medical service system.

43 **SECTION 573.** ORS 431.627 is amended to read:

44 431.627. (1) In addition to and not in lieu of ORS 431.607 to 431.617, the [*Department of Human*
 45 *Services*] **Oregon Health Authority** shall designate trauma centers in areas that are within the

1 jurisdiction of trauma advisory boards other than in the area within the jurisdiction of area trauma
2 advisory board 1.

3 (2) The *[department]* **authority** shall enter into contracts with designated trauma centers and
4 monitor and assure quality of care and appropriate costs for trauma patients meeting trauma system
5 entry criteria.

6 (3) All findings and conclusions, interviews, reports, studies, communications and statements
7 procured by or furnished to the *[department]* **authority**, the State Trauma Advisory Board or an
8 area trauma advisory board in connection with obtaining the data necessary to perform patient care
9 quality assurance functions shall be confidential pursuant to ORS 192.501 to 192.505.

10 (4)(a) All data received or compiled by the State Trauma Advisory Board or any area trauma
11 advisory board in conjunction with *[department]* **authority** monitoring and assuring quality of
12 trauma patient care shall be confidential and privileged, nondiscoverable and inadmissible in any
13 proceeding. No person serving on or communicating information to the State Trauma Advisory
14 Board or an area trauma advisory board shall be examined as to any such communications or to the
15 findings or recommendations of such board. A person serving on or communicating information to
16 the State Trauma Advisory Board or an area trauma advisory board shall not be subject to an
17 action for civil damages for actions taken or statements made in good faith. Nothing in this section
18 affects the admissibility in evidence of a party's medical records not otherwise confidential or priv-
19 ileged dealing with the party's medical care. The confidentiality provisions of ORS 41.675 and 41.685
20 shall also apply to the monitoring and quality assurance activities of the State Trauma Advisory
21 Board, area trauma advisory boards and the *[department]* **authority**.

22 (b) As used in this section, "data" includes but is not limited to written reports, notes, records
23 and recommendations.

24 (5) Final reports by the *[department]* **authority**, the State Trauma Advisory Board and area
25 trauma advisory boards shall be available to the public.

26 (6) The *[department]* **authority** shall publish a biennial report of the Emergency Medical Ser-
27 vices and Trauma Systems Program and trauma systems activities.

28 **SECTION 574.** ORS 431.633 is amended to read:

29 431.633. (1) Designated trauma centers and providers, physical rehabilitation centers, alcohol
30 and drug rehabilitation centers and ambulances shall develop a monthly log of all unsponsored, in-
31 adequately insured trauma system patients determined by the hospital to have an injury severity
32 score greater than or equal to 13, and submit monthly to the Emergency Medical Services and
33 Trauma Systems Program the true costs and unpaid balance for the care of these patients.

34 (2) No reimbursement for these patients shall occur until:

35 (a) All information required by the Emergency Medical Services and Trauma Systems Program
36 rules is submitted to the Oregon Injury Registry; and

37 (b) The Emergency Medical Services and Trauma Systems Program confirms that the injury se-
38 verity score, as defined by the *[Department of Human Services]* **Oregon Health Authority** by rule,
39 is greater than or equal to 13.

40 (3) The Emergency Medical Services and Trauma Systems Program shall cause providers to be
41 reimbursed in the following decreasing order of priority:

42 (a) Designated trauma centers and providers;

43 (b) Physical rehabilitation centers;

44 (c) Alcohol and drug rehabilitation centers; and

45 (d) Ambulances.

1 (4) Subject to the availability of funds, the Emergency Medical Services and Trauma Systems
2 Program shall cause the designated trauma centers and providers to be paid first in full. Subsequent
3 providers shall be paid from the balance remaining according to priority.

4 (5) Any matching funds, available pursuant to the federal Trauma Care Systems and Develop-
5 ment Act of 1990 (H.R. 1602), that are available for purposes of the Emergency Medical Services and
6 Trauma Systems Program may be used for related studies and projects and reimbursement for un-
7 compensated care.

8 **SECTION 575.** ORS 431.671 is amended to read:

9 431.671. (1) Subject to available funding from gifts, grants or donations, the Emergency Medical
10 Services for Children Program is established in the [*Department of Human Services*] **Oregon Health**
11 **Authority**. The Emergency Medical Services for Children Program shall operate in cooperation with
12 the Emergency Medical Services and Trauma Systems Program to promote the delivery of emer-
13 gency medical and trauma services to the children of Oregon.

14 (2) The [*Department of Human Services*] **Oregon Health Authority** shall:

15 (a) Employ or contract with professional, technical, research and clerical staff as required to
16 implement this section.

17 (b) Provide technical assistance to the State Trauma Advisory Board on the integration of an
18 emergency medical services for children program into the statewide emergency medical services and
19 trauma system.

20 (c) Provide advice and technical assistance to area trauma advisory boards on the integration
21 of an emergency medical services for children program into area trauma system plans.

22 (d) Establish an Emergency Medical Services for Children Advisory Committee.

23 (e) Establish guidelines for:

24 (A) The approval of emergency and critical care medical service facilities for pediatric care, and
25 for the designation of specialized regional pediatric critical care centers and pediatric trauma care
26 centers.

27 (B) Referring children to appropriate emergency or critical care medical facilities.

28 (C) Necessary prehospital and other pediatric emergency and critical care medical service
29 equipment.

30 (D) Developing a coordinated system that will allow children to receive appropriate initial sta-
31 bilization and treatment with timely provision of, or referral to, the appropriate level of care, in-
32 cluding critical care, trauma care or pediatric subspecialty care.

33 (E) Protocols for prehospital and hospital facilities encompassing all levels of pediatric emer-
34 gency services, pediatric critical care and pediatric trauma care.

35 (F) Rehabilitation services for critically ill or injured children.

36 (G) An interfacility transfer system for critically ill or injured children.

37 (H) Initial and continuing professional education programs for emergency medical services per-
38 sonnel, including training in the emergency care of infants and children.

39 (I) A public education program concerning the Emergency Medical Services for Children Pro-
40 gram including information on emergency access telephone numbers.

41 (J) The collection and analysis of statewide pediatric emergency and critical care medical ser-
42 vices data from emergency and critical care medical service facilities for the purpose of quality
43 improvement by such facilities, subject to relevant confidentiality requirements.

44 (K) The establishment of cooperative interstate relationships to facilitate the provision of ap-
45 propriate care for pediatric patients who must cross state borders to receive emergency and critical

1 care services.

2 (L) Coordination and cooperation between the Emergency Medical Services for Children Pro-
3 gram and other public and private organizations interested or involved in emergency and critical
4 care for children.

5 **SECTION 576.** ORS 431.705 is amended to read:

6 431.705. As used in ORS 431.705 to 431.760, unless the context requires otherwise:

7 (1) "Affected territory" means an area that is the subject of a proceedings under ORS 431.705
8 to 431.760 where there is a danger to public health or an alleged danger to public health.

9 (2) "Boundary commission" means a local government boundary commission created under ORS
10 199.410 to 199.430, 199.435 to 199.464, 199.480 to 199.505 and 199.510.

11 (3) "Commission" means the Environmental Quality Commission.

12 (4) "Danger to public health" means a condition which is conducive to the propagation of
13 communicable or contagious disease-producing organisms and which presents a reasonably clear
14 possibility that the public generally is being exposed to disease-caused physical suffering or illness,
15 including a condition such as:

16 (a) Impure or inadequate domestic water.

17 (b) Inadequate installations for the disposal or treatment of sewage, garbage or other contam-
18 inated or putrefying waste.

19 (c) Inadequate improvements for drainage of surface water and other fluid substances.

20 [(5) "*Department*" means the *Department of Human Services*.]

21 [(6) "*Director*" means the *Director of Human Services*.]

22 [(7)] (5) "District" means any one of the following:

23 (a) A metropolitan service district formed under ORS chapter 268.

24 (b) A county service district formed under ORS chapter 451.

25 (c) A sanitary district formed under ORS 450.005 to 450.245.

26 (d) A sanitary authority, water authority or joint water and sanitary authority formed under
27 ORS 450.600 to 450.989.

28 (e) A domestic water supply district formed under ORS chapter 264.

29 [(8)] (6) "Requesting body" means the county court, or local or district board of health that
30 makes a request under ORS 431.715.

31 [(9)] (7) "Service facilities" means water or sewer installations or works.

32 **SECTION 577.** ORS 431.710 is amended to read:

33 431.710. (1) ORS 431.705 to 431.760 shall not apply if the affected territory could be subject to
34 an annexation proceeding under ORS 222.840 to 222.915.

35 (2) If the [*Department of Human Services*] **Oregon Health Authority**, in accordance with ORS
36 431.705 to 431.760, finds that a danger to public health exists within the affected territory and that
37 such danger could be removed or alleviated by the construction, maintenance and operation of ser-
38 vice facilities, the [*department*] **authority** shall initiate proceedings for the formation of or
39 annexation to a district to serve the affected territory. If the affected territory is located within a
40 district that has the authority to provide the service facilities, the [*department*] **authority** shall or-
41 der the district to provide service facilities in the affected territory.

42 **SECTION 578.** ORS 431.715 is amended to read:

43 431.715. (1) The county court or the local or district board of health having jurisdiction over
44 territory where it believes conditions dangerous to the public health exist shall adopt a resolution
45 requesting the [*Department of Human Services*] **Oregon Health Authority** to initiate proceedings for

1 the formation of a district or annexation of territory to, or delivery of appropriate water or sewer
2 services by, an existing district without vote or consent in the affected territory. The resolution
3 shall:

4 (a) Describe the boundaries of the affected territory;

5 (b) Describe the conditions alleged to be causing a danger to public health;

6 (c) Request the [*department*] **authority** to ascertain whether conditions dangerous to public
7 health exist in the affected territory and whether such conditions could be removed or alleviated
8 by the provision of service facilities; and either

9 (d) Recommend a district that the affected territory could be included in or annexed to for the
10 purpose of providing the requested service facilities; or

11 (e) Recommend that an existing district provide service facilities in the affected territory.

12 (2) The requesting body shall cause a certified copy of the resolution, together with the time
13 schedule and preliminary plans and specifications, prepared in accordance with subsection (3) of this
14 section, to be forwarded to the [*department*] **authority**.

15 (3) The requesting body shall cause a study to be made and preliminary plans and specifications
16 prepared for the service facilities considered necessary to remove or alleviate the conditions causing
17 a danger to public health. The requesting body shall prepare a schedule setting out the steps nec-
18 cessary to put the facilities into operation and the time required for each step in implementation of
19 the plans.

20 (4) If the preliminary plans involve facilities that are subject to the jurisdiction of the Environ-
21 mental Quality Commission, a copy of the documents submitted to the [*department*] **authority** under
22 subsection (2) of this section shall be submitted to the commission for review, in accordance with
23 ORS 431.725, of those facilities that are subject to its jurisdiction. No order or findings shall be
24 adopted under ORS 431.735 or 431.756 until the plans of the requesting body for such facilities, if
25 any, have been approved by the commission.

26 **SECTION 579.** ORS 431.720 is amended to read:

27 431.720. (1) Upon receipt of the documents submitted under ORS 431.715 (4), the Environmental
28 Quality Commission shall review them to determine whether the conditions dangerous to public
29 health within the affected territory could be removed or alleviated by the provision of service fa-
30 cilities that are subject to the jurisdiction of the commission.

31 (2) If the commission considers such proposed facilities and the time schedule for installation
32 of such facilities adequate to remove or alleviate the dangerous conditions, it shall approve the part
33 of the plans that are subject to its jurisdiction and certify its approval to the [*Department of Human*
34 *Services*] **Oregon Health Authority**.

35 (3) If the commission considers the proposed facilities or time schedule inadequate, it shall dis-
36 approve the part of the plans that are subject to its jurisdiction and certify its disapproval to the
37 [*department*] **authority**. The commission shall also inform the requesting body of its approval or
38 disapproval and, in case of disapproval, of the particular matters causing the disapproval. The re-
39 questing body may then submit additional or revised plans.

40 **SECTION 580.** ORS 431.725 is amended to read:

41 431.725. (1) Upon receipt of the certified copy of a resolution adopted under ORS 431.715, the
42 [*Department of Human Services*] **Oregon Health Authority** shall contact the requesting body within
43 30 days of receipt of the request and schedule the review and investigation of conditions in the af-
44 fected territory. The [*department*] **authority** shall review and investigate conditions in the affected
45 territory in accordance with the agreed upon schedule unless both parties agree to an extension. If

1 it finds substantial evidence that a danger to public health exists in the territory, it shall issue an
 2 order setting a time and place for a hearing on the resolution. The hearing shall be held within the
 3 affected territory, or at a place near the territory if there is no suitable place within the territory
 4 at which to hold the hearing, not less than 30 or more than 50 days after the date of the order.

5 (2) Upon issuance of an order for a hearing, the [*department*] **authority** shall immediately give
 6 notice of the time and place of the hearing on the resolution by publishing the order and resolution
 7 in a newspaper of general circulation within the territory once each week for two successive weeks
 8 and by posting copies of the order in four public places within the territory prior to the hearing.

9 **SECTION 581.** ORS 431.730 is amended to read:

10 431.730. (1) At the hearing on the resolution, any interested person shall be given a reasonable
 11 opportunity to be heard or to present written statements. The hearing shall be for the sole purpose
 12 of determining whether a danger to public health exists due to conditions in the affected territory
 13 and whether such conditions could be removed or alleviated by the provision of service facilities.
 14 Hearings under this section shall be conducted by an administrative law judge assigned from the
 15 Office of Administrative Hearings established under ORS 183.605. It shall be conducted in accord-
 16 ance with the provisions of ORS chapter 183. The [*Department of Human Services*] **Oregon Health**
 17 **Authority** shall publish a notice of the issuance of said findings and recommendations in the
 18 newspaper utilized for the notice of hearing under ORS 431.725 (2) advising of the opportunity for
 19 presentation of a petition under subsection (2) of this section.

20 (2) Within 15 days after the publication of notice of issuance of findings in accordance with
 21 subsection (1) of this section, any person who may be affected by the findings, or the affected dis-
 22 trict, may petition the Director of [*Human Services*] **the Oregon Health Authority** according to
 23 rules of the [*department*] **authority** to present written or oral arguments relative to the proposal.
 24 If a petition is received, the director may set a time and place for receipt of argument.

25 **SECTION 582.** ORS 431.735 is amended to read:

26 431.735. (1) If the Director of [*Human Services*] **the Oregon Health Authority** after investi-
 27 gation finds that no danger to public health exists because of conditions within the affected terri-
 28 tory, or that such a danger does exist but the conditions causing it could not be removed or
 29 alleviated by the provision of service facilities, the director shall issue an order terminating the
 30 proceedings under ORS 431.705 to 431.760 with reference to the affected territory.

31 (2) If the director finds, after investigation and the hearing required by ORS 431.725, that a
 32 danger to public health exists because of conditions within the territory, and that such conditions
 33 could be removed or alleviated by the provisions of service facilities in accordance with the plans
 34 and specifications and the time schedule proposed, the director shall enter findings in an order, di-
 35 rected to the officers described by ORS 431.740, setting out the service facilities to be provided.

36 (3) If the director determines that a danger to public health exists because of conditions within
 37 only part of the affected territory, or that such conditions could be removed or alleviated in only
 38 part of the affected territory by the provision of service facilities, the director may, subject to con-
 39 ditions stated in ORS 431.705 to 431.760, reduce the boundaries of the affected territory to that part
 40 which presents a danger or in which the conditions could be removed or alleviated if the area to
 41 be excluded would not be surrounded by the territory remaining to be annexed and would not be
 42 directly served by the sanitary, water or other facilities necessary to remove or alleviate the danger
 43 to public health existing within the territory remaining to be annexed. The findings shall describe
 44 the boundaries of the area as reduced by the director.

45 (4) In determining whether to exclude any area the director may consider whether or not such

1 exclusion would unduly interfere with the removal or alleviation of the danger to public health in
 2 the area remaining to be annexed and whether the exclusion would result in an illogical boundary
 3 for the provision of services.

4 (5) The requesting body or the boundary commission shall, when requested, aid in the determi-
 5 nations made under subsections (3) and (4) of this section and, if necessary, cause a study to be
 6 made.

7 **SECTION 583.** ORS 431.740 is amended to read:

8 431.740. (1) If a boundary commission has jurisdiction of the affected territory, the Director of
 9 [*Human Services*] **the Oregon Health Authority** shall file the findings and order with such bound-
 10 ary commission. If the affected territory is not within the jurisdiction of a boundary commission, the
 11 director shall file the findings and order with the county court of the county having jurisdiction of
 12 the territory.

13 (2) The [*Department of Human Services*] **Oregon Health Authority** and the Environmental
 14 Quality Commission shall use their applicable powers of enforcement to insure that the service fa-
 15 cilities are constructed or installed in conformance with the approved plans and schedules.

16 **SECTION 584.** ORS 431.745 is amended to read:

17 431.745. (1) At any time after the adoption of a resolution under ORS 431.715, a petition, signed
 18 by not less than 51 percent of the electors registered in the affected territory, may be filed with the
 19 [*Department of Human Services*] **Oregon Health Authority**. The petition shall suggest an alterna-
 20 tive plan to the proposed formation or annexation for removal or alleviation of the conditions dan-
 21 gerous to public health. The petition shall state the intent of the residents to seek annexation to
 22 an existing city or special district authorized by law to provide service facilities necessary to re-
 23 move or alleviate the dangerous conditions. The petition shall be accompanied by a proposed plan
 24 which shall state the type of facilities to be constructed, a proposed means of financing the facilities
 25 and an estimate of the time required to construct such facilities and place them in operation.

26 (2) Upon receipt of the petition, the [*department*] **authority** shall immediately forward a copy
 27 of the petition to the Environmental Quality Commission, if the plan accompanying the petition in-
 28 volves facilities that are subject to the jurisdiction of the commission. The [*department*] **authority**
 29 also shall forward a copy of the petition to the requesting body and to the county court or boundary
 30 commission where the [*department*] **authority** filed its findings under ORS 431.740 and direct the
 31 county court or boundary commission to stay the proceedings pending the review permitted under
 32 this section and ORS 431.750.

33 **SECTION 585.** ORS 431.750 is amended to read:

34 431.750. (1) If the alternative plan submitted under ORS 431.745 (1) involves service facilities
 35 that are subject to the jurisdiction of the commission, the alternative plan shall be submitted to and
 36 reviewed by the Environmental Quality Commission and shall be approved or rejected by the com-
 37 mission within 30 days from the date of filing with the [*Department of Human Services*] **Oregon**
 38 **Health Authority**. In reviewing the alternative plan, the commission shall consider whether, in its
 39 judgment, the plan contains a preferable alternative for the alleviation or removal of the conditions
 40 dangerous to public health. If the commission determines that the original plan provides the better
 41 and most expeditious method of removing or alleviating the dangerous conditions, it shall disapprove
 42 the alternative plan and inform the [*department*] **authority** of its decision. The [*department*] **au-**
 43 **thority** shall order the proceedings on the finding filed under ORS 431.740 to resume.

44 (2) If the commission finds that the alternative plan provides a preferable method of alleviating
 45 or removing the dangerous conditions, the petitioners shall be granted six months within which to

1 present to the commission information showing:

2 (a) That the affected territory has annexed to a city or special district authorized by law to
3 provide the service facilities necessary to remove or alleviate the dangerous conditions, and that the
4 financing of the extension of such facilities to the territory has been assured.

5 (b) Detailed plans and specifications for the construction of such facilities.

6 (c) A time schedule for the construction of such facilities.

7 (d) That such facilities, if constructed, will remove or alleviate the conditions dangerous to
8 public health in a manner as satisfactory and expeditious as would be accomplished by the formation
9 or annexation proposed by the original plans.

10 (3) The commission shall review the plan presented to it by the petitioners under subsection (2)
11 of this section and shall promptly certify to the [department] **authority** whether the requirements
12 of subsection (2) of this section have been met. If the requirements have been met, the [department]
13 **authority** shall certify the alternative plan to the county court or boundary commission having ju-
14 risdiction and direct it to proceed in accordance with the alternative plan and in lieu of the plans
15 filed under ORS 431.740. If the requirements of subsection (2) of this section are not met by the
16 petitioners, the [department] **authority** shall certify that fact to the county court or boundary com-
17 mission having jurisdiction and direct it to continue the proceedings on the plans filed under ORS
18 431.740.

19 **SECTION 586.** ORS 431.760 is amended to read:

20 431.760. (1) A person who owns property or resides within affected territory that is subject to
21 proceedings under the provisions of ORS 431.705 to 431.760 shall not participate in an official ca-
22 pacity in any investigation, hearing or recommendation relating to such proceedings. If the Director
23 of [Human Services] **the Oregon Health Authority** is such a person, the director shall so inform
24 the Governor, who shall appoint another person to fulfill the duties of the director in any investi-
25 gation, hearing or recommendation relating to the such proceeding.

26 (2) Subsection (1) of this section does not excuse a member of a county court from voting on the
27 order required by ORS 198.792 (2) or 451.445 (1).

28 **SECTION 587.** Section 2, chapter 460, Oregon Laws 2007, is amended to read:

29 **Sec. 2.** (1) The [Department of Human Services] **Oregon Health Authority** shall develop, by the
30 year 2009, a strategic plan to start to slow the rate of diabetes caused by obesity and other envi-
31 ronmental factors by the year 2010.

32 (2) The [department] **authority** shall collaborate with the American Diabetes Association, the
33 Oregon Diabetes Coalition and others such as:

34 (a) Health care professionals and researchers specializing in diabetes and obesity prevention,
35 treatment or research;

36 (b) Diabetes educators;

37 (c) Representatives of medical schools or schools of public health;

38 (d) High school and post-secondary institution health educators;

39 (e) Representatives from geographic areas and other population groups at higher risk of
40 diabetes;

41 (f) Representatives of community-based organizations involved in providing education about or
42 awareness of diabetes; and

43 (g) Other individuals the [department] **authority** determines are necessary.

44 (3) The plan developed by the [department] **authority** shall include but not be limited to:

45 (a) Identification of environmental factors that encourage or support physical activity and

1 healthy eating habits;

2 (b) Identification of preventative strategies that are effective and culturally competent and that
3 meet the populations most at risk for developing diabetes;

4 (c) Recommendations for evidence-based screening;

5 (d) Recommendations for redesigning and financing primary care practices that would facilitate
6 adoption of the Chronic Care Model for screening for diabetes, support for patient self-management
7 and regular reporting of preventative clinical screening results;

8 (e) Identification of actions to be taken to reduce the morbidity and mortality from diabetes by
9 the year 2015 and a time frame for taking those actions; and

10 (f) Recommendations to the Seventy-fifth Legislative Assembly on statutory changes and funding
11 needed to achieve the [department's] **authority's** plan.

12 **SECTION 588.** ORS 431.825 is amended to read:

13 431.825. The [Department of Human Services] **Oregon Health Authority** shall provide to the
14 counties of this state pamphlets described in ORS 106.081. The [department] **authority** may produce
15 such pamphlets with moneys available for the purpose or may accept a gift of such pamphlets from
16 any public or private source if the content is acceptable to the [department] **authority**.

17 **SECTION 589.** ORS 431.827 is amended to read:

18 431.827. The [Department of Human Services] **Oregon Health Authority** shall establish and im-
19 plement appropriate education, prevention and outreach activities in communities that traditionally
20 practice female circumcision, excision or infibulation for the purpose of informing:

21 (1) Those communities of the health risks and emotional trauma inflicted by the practices;

22 (2) Those communities and the medical community as to the existence and ramifications of ORS
23 163.207; and

24 (3) Those communities that the practices constitute physical injuries to a child for purposes of
25 ORS 419B.005.

26 **SECTION 590.** ORS 431.830 is amended to read:

27 431.830. (1) The [Department of Human Services] **Oregon Health Authority** shall establish an
28 acquired immune deficiency syndrome program:

29 (a) To provide education and prevention services to its clients; and

30 (b) To provide education and prevention services to the public.

31 (2) Programs authorized by this section may be operated by the [department] **authority** directly
32 or under contract with public and private agencies.

33 **SECTION 591.** ORS 431.831 is amended to read:

34 431.831. (1) The [Department of Human Services] **Oregon Health Authority** shall develop a
35 program to reimburse smoking cessation program providers for services provided to residents of this
36 state who are not insured for smoking cessation costs.

37 (2) The [department] **authority** shall adopt rules for the program established under subsection
38 (1) of this section that include but are not limited to criteria for provider and participant eligibility
39 and other program specifications. The rules shall establish a maximum reimbursement limit for each
40 participant.

41 (3) Costs for smoking cessation programs funded under subsection (1) of this section are eligible
42 for reimbursement from funds received by the State of Oregon from tobacco products manufacturers
43 under the Master Settlement Agreement of 1998.

44 **SECTION 592.** ORS 431.832 is amended to read:

45 431.832. (1) There is established in the General Fund the Tobacco Use Reduction Account.

1 (2) Amounts credited to the Tobacco Use Reduction Account are continuously appropriated to
2 the [Department of Human Services] **Oregon Health Authority** for the funding of prevention and
3 education programs designed to reduce cigarette and tobacco use.

4 **SECTION 593.** ORS 431.834 is amended to read:

5 431.834. The [Department of Human Services] **Oregon Health Authority** shall develop and adopt
6 rules for awarding grants to programs for educating the public on the risk of tobacco use, including
7 but not limited to:

8 (1) Educating children on the health hazards and consequences of tobacco use; and

9 (2) Promoting enrollment in smoking cessation programs and programs that prevent smoking-
10 related diseases including cancer and other diseases of the heart, lungs and mouth.

11 **SECTION 594.** ORS 431.836 is amended to read:

12 431.836. During each biennium, the [Department of Human Services] **Oregon Health Authority**
13 shall prepare a report regarding the awarding of grants from the Tobacco Use Reduction Account
14 and the formation of public-private partnerships in connection with the receipt of funds from the
15 account. The [department] **authority** shall present the report to the Governor and to those commit-
16 tees of the Legislative Assembly to which matters of public health are assigned.

17 **SECTION 595.** ORS 431.853 is amended to read:

18 431.853. (1) The [Department of Human Services] **Oregon Health Authority** shall:

19 (a) Coordinate with law enforcement agencies to conduct random, unannounced inspections of
20 Oregon wholesalers and retailers of tobacco products to insure compliance with Oregon laws de-
21 signed to discourage the use of tobacco by minors including ORS 163.575, 163.580, 167.400, 167.402
22 and 431.840; and

23 (b) Submit a report describing:

24 (A) The activities carried out to enforce the laws listed in paragraph (a) of this subsection
25 during the previous fiscal year;

26 (B) The extent of success achieved in reducing the availability of tobacco products to minors;
27 and

28 (C) The strategies to be utilized for enforcing the laws listed in paragraph (a) of this subsection
29 during the year following the report.

30 (2) The [Department of Human Services] **Oregon Health Authority** shall adopt rules concerning
31 random inspections of places that sell tobacco products consistent with section 1921, Public Law
32 102-321, 1992. The rules shall provide that inspections may take place:

33 (a) Only in areas open to the public;

34 (b) Only during hours that tobacco products are sold or distributed; and

35 (c) No more frequently than once a month in any single establishment unless a compliance
36 problem exists or is suspected.

37 **SECTION 596.** ORS 431.890 is amended to read:

38 431.890. (1) The Poison Prevention Task Force is created in the Poison Center of the Oregon
39 Health and Science University and consists of five members as follows:

40 (a) The Medical Director of the Oregon Poison Center or designee, who shall serve as chair-
41 person.

42 (b) The Director of [Human Services] **the Oregon Health Authority** or a designee.

43 (c) A pediatrician licensed under ORS chapter 677, appointed by the Governor.

44 (d) A chemist from an academic institution, appointed by the Governor.

45 (e) A representative of a manufacturer of toxic household products, appointed by the Governor.

1 (2) Each member shall serve without compensation.

2 (3) The task force shall meet as considered necessary by the chairperson or on the call of three
3 members of the task force.

4 (4) The task force shall meet for the purposes of reviewing, granting or denying requests for
5 exemptions from and extensions of the requirements of ORS 431.870 to 431.915.

6 (5) The task force shall obtain and evaluate statewide poisoning incidence and severity data
7 over a period of every two years for the purpose of making recommendations for the addition or
8 deletion of products to ORS 431.885.

9 **SECTION 597.** ORS 431.915 is amended to read:

10 431.915. (1) Any person who violates any provision of ORS 431.870 to 431.915 shall be liable for
11 a civil penalty not to exceed \$5,000 for each day of violation, which shall be assessed and recovered
12 in a civil action brought by the [*Department of Human Services*] **Oregon Health Authority**.

13 (2) All civil penalties collected pursuant to subsection (1) of this section shall be deposited in
14 the General Fund.

15 **SECTION 598.** ORS 431.920 is amended to read:

16 431.920. The [*Department of Human Services*] **Oregon Health Authority** shall:

17 (1) Develop accreditation programs for training providers;

18 (2) Prescribe the requirements for and the manner of testing the competency of license appli-
19 cants for the protection of the public and as required by federal law;

20 (3) Prescribe those actions or circumstances that constitute failure to achieve or maintain
21 competency, or that otherwise are contrary to the public interest, for which the agency may refuse
22 to issue or renew or may suspend or revoke a certification;

23 (4) Develop and conduct programs to screen blood lead levels, to identify hazards and to educate
24 the public, including parents, residential dwelling owners and child care facility operators, about the
25 dangers of lead-based paint hazards and of appropriate precautions that should be taken to reduce
26 the possibility of childhood lead poisoning; and

27 (5) Impose fees to the extent necessary to pay the costs of the following:

28 (a) Certification of training curriculums, up to \$1,500;

29 (b) Annual renewal of training providers and curriculums, up to \$500;

30 (c) Certification of trainers, up to \$500;

31 (d) Annual renewal of trainer's certification, up to \$250; and

32 (e) Certification test, up to \$85.

33 **SECTION 599.** ORS 431.940 is amended to read:

34 431.940. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt by rule
35 standards and a system of registration for tanning devices. Any entity doing business in this state
36 as a tanning facility shall register the tanning devices with the [*department*] **authority** in a manner
37 prescribed by rule.

38 (2) The registration shall include payment of an annual registration fee, not to exceed \$100 per
39 tanning device, prescribed by rule in an amount sufficient to cover the costs of administering the
40 regulatory program.

41 (3) The [*department*] **authority** may conduct inspections of tanning facilities to ensure compli-
42 ance with ORS 431.925 to 431.955.

43 **SECTION 600.** ORS 431.945 is amended to read:

44 431.945. (1) A tanning facility shall give each customer a written statement warning that:

45 (a) Not wearing the protective eye wear provided to each customer by the tanning facility may

1 cause damage to the eyes.

2 (b) Overexposure to the tanning process causes burns.

3 (c) Repeated exposure to the tanning process may cause skin cancer or premature aging of the
4 skin, or both.

5 (d) Abnormal skin sensitivity or burning may result from the tanning process if the customer is
6 also consuming or using certain:

7 (A) Foods.

8 (B) Cosmetics.

9 (C) Medications such as tranquilizers, antibiotics, diuretics, high blood pressure medication,
10 antineoplastics or birth control pills.

11 (e) Any person taking a prescription or over-the-counter drug should consult a physician before
12 using a tanning device.

13 (2) In addition to giving customers the written statement required by subsection (1) of this sec-
14 tion, the tanning facility shall post a warning sign in any area where a tanning device is used. The
15 [Department of Human Services] **Oregon Health Authority** shall adopt by rule the language for the
16 warning sign.

17 **SECTION 601.** ORS 431.950 is amended to read:

18 431.950. The [Department of Human Services] **Oregon Health Authority** may impose a civil
19 penalty in an amount not to exceed \$500 for a violation of ORS 431.925 to 431.955 or rules of the
20 [department] **authority** adopted pursuant to ORS 431.925 to 431.955. Civil penalties under this sec-
21 tion shall be imposed in the manner provided by ORS 183.745.

22 **SECTION 602.** ORS 431.955 is amended to read:

23 431.955. Except as otherwise provided by law, all fees and other moneys received by the [De-
24 partment of Human Services] **Oregon Health Authority** pursuant to ORS 431.925 to 431.955 shall
25 be paid into the State Treasury and placed to the credit of the Public Health Account and are
26 continuously appropriated to the [department] **authority** for the purposes of carrying out the pro-
27 visions of ORS 431.925 to 431.955. If moneys received under ORS 431.925 to 431.955 are in excess
28 of moneys required to administer the program authorized by ORS 431.925 to 431.955, the moneys
29 may be used by the [department] **authority** to meet expenses of other programs administered by the
30 [department] **authority** if an appropriate expenditure increase is approved by the Emergency Board.

31 **SECTION 603.** ORS 431.990 is amended to read:

32 431.990. Unless otherwise specifically provided by any other statute, failure to obey any rules
33 relating to public health of the [Department of Human Services] **Oregon Health Authority** or failure
34 to obey any lawful written order relating to public health issued by the Director of [Human
35 Services] **the Oregon Health Authority** or any district or county public health administrator is a
36 Class A misdemeanor.

37 **SECTION 604.** ORS 432.005, as amended by section 16, chapter 99, Oregon Laws 2007, is
38 amended to read:

39 432.005. As used in this chapter, unless the context requires otherwise:

40 (1) **“Authority” means the Oregon Health Authority.**

41 [(1)] (2) **“Dead body” means a human body or such parts of such human body from the condition**
42 **of which it reasonably may be concluded that death occurred.**

43 [(2) *“Department” means the Department of Human Services.*]

44 (3) **“Director” means the Director of [Human Services.] the Oregon Health Authority.**

45 (4) **“Divorce” means dissolution of a marriage.**

1 (5) "Fetal death" means death prior to the complete expulsion or extraction from its mother of
2 a product of human conception, irrespective of the duration of pregnancy. The death is indicated
3 by the fact that after such expulsion or extraction the fetus does not breathe or show any other
4 evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement
5 of the voluntary muscles.

6 (6) "File" means the presentation and acceptance of a vital record or vital report provided for
7 in this chapter by the Center for Health Statistics.

8 (7) "Final disposition" means the burial, interment, cremation, removal from the state or other
9 authorized disposition of a dead body or fetus, except that when removal from the state is conducted
10 by the holder of a certificate of removal registration issued under ORS 692.270, the final disposition
11 may not be considered complete until the certificate of death is filed.

12 (8) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine
13 pregnancy with the intention other than to produce a live-born infant and that does not result in a
14 live birth.

15 (9) "Institution" means any establishment, public or private, that provides inpatient or outpa-
16 tient medical, surgical or diagnostic care or treatment or nursing, custodial or domiciliary care, or
17 to which persons are committed by law.

18 (10) "Live birth" means the complete expulsion or extraction from its mother of a product of
19 human conception, irrespective of the duration of pregnancy, that, after such expulsion or ex-
20 traction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the
21 umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has
22 been cut or the placenta is attached.

23 (11) "Person acting as a funeral service practitioner" means:

24 (a) A person other than a funeral service practitioner licensed under ORS 692.045, including but
25 not limited to a relative, friend or other interested party, who performs the duties of a funeral ser-
26 vice practitioner without payment; or

27 (b) A funeral service practitioner who files death certificates in another state if the funeral
28 service practitioner is employed by a funeral establishment licensed in another state and registered
29 with the State Mortuary and Cemetery Board under ORS 692.270.

30 (12) "Physician" means a person authorized or licensed under the laws of this state to practice
31 medicine, osteopathy, chiropractic or naturopathic medicine.

32 (13) "Registration" means the process by which vital records and vital reports are completed,
33 filed and incorporated into the official records of the Center for Health Statistics.

34 (14) "State registrar" means the State Registrar of the Center for Health Statistics.

35 (15) "System of vital statistics" means the registration, collection, preservation, amendment and
36 certification of vital records and vital reports; the collection of other reports required by this
37 chapter, and activities related thereto including the tabulation, analysis, dissemination and publica-
38 tion of vital statistics and training in the use of health data.

39 (16) "Vital records" means certificates or reports of birth, death, marriage, declaration of do-
40 mestic partnership, dissolution of marriage or domestic partnership and data related thereto.

41 (17) "Vital reports" means reports of fetal death, induced termination of pregnancy, suicide at-
42 tempts by persons under 18 years of age and survey and questionnaire documents and data related
43 thereto.

44 (18) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal
45 death, induced termination of pregnancy, marriage, declaration of domestic partnership, dissolution

1 of marriage, dissolution of domestic partnership, suicide attempts by persons under 18 years of age
2 and related reports.

3 **SECTION 605.** ORS 432.010 is amended to read:

4 432.010. (1) The [*Department of Human Services*] **Oregon Health Authority** shall establish the
5 Center for Health Statistics, which shall install, maintain and operate the system of vital statistics
6 throughout this state in cooperation with appropriate units of local government. The Center for
7 Health Statistics shall be responsible for the proper administration of the system of vital statistics
8 and for the preservation and security of its official records.

9 (2) In order to promote and maintain nationwide uniformity in the system of vital statistics, the
10 State Registrar of the Center for Health Statistics may refer to the 1992 federal revision of the
11 Model State Vital Statistics Act and Regulations for recommendations regarding the forms of cer-
12 tificates and reports required by this chapter.

13 (3) Each certificate, report and other document required by this chapter shall be on a form or
14 in a format prescribed by the state registrar.

15 (4) All vital records shall contain the date of filing.

16 (5) Information required in certificates, forms, records or reports authorized by this chapter may
17 be filed, verified, registered and stored by photographic, electronic or other means as prescribed by
18 the state registrar.

19 **SECTION 606.** ORS 432.015 is amended to read:

20 432.015. The State Registrar of the Center for Health Statistics, under the supervision of the
21 Director of [*Human Services*] **the Oregon Health Authority**, in compliance with ORS chapter 183,
22 shall adopt rules necessary to the installation and efficient performance of an adequate system of
23 vital and public health statistics including rules for the return of evidence affecting delayed certif-
24 icates, or affecting alteration of a certificate, after the certificate has been filed with the state
25 registrar.

26 **SECTION 607.** ORS 432.020 is amended to read:

27 432.020. The Director of [*Human Services*] **the Oregon Health Authority** shall appoint the
28 State Registrar of the Center for Health Statistics who shall qualify in accordance with standards
29 of education and experience as the director shall determine.

30 **SECTION 608.** ORS 432.025 is amended to read:

31 432.025. The State Registrar of the Center for Health Statistics, with the approval of the Di-
32 rector of [*Human Services*] **the Oregon Health Authority**, may appoint, when necessary, assistant
33 state registrars who shall be assistants to the state registrar.

34 **SECTION 609.** ORS 432.030 is amended to read:

35 432.030. (1) The State Registrar of the Center for Health Statistics shall:

36 (a) Under the supervision of the Director of [*Human Services*] **the Oregon Health Authority**,
37 have charge of the Center for Health Statistics.

38 (b) Administer and enforce the provisions of this chapter and the rules adopted pursuant thereto
39 for the efficient administration of the system of vital statistics.

40 (c) Direct and supervise the system of vital statistics and the Center for Health Statistics and
41 be custodian of its records.

42 (d) Direct, supervise and control the activities of all persons when they are engaged in activities
43 pertaining to the operation of the system of vital statistics.

44 (e) Conduct training programs to promote uniformity of policy and procedures throughout the
45 state in matters pertaining to the system of vital statistics.

1 (f) Prescribe, furnish and distribute such forms as are required by this chapter and the rules
2 adopted pursuant thereto or prescribe other means for transmission of data to accomplish the pur-
3 pose of complete and accurate reporting and registration.

4 (g) Prepare and publish reports of vital statistics of this state and such other reports as may
5 be required by the [*Department of Human Services*] **Oregon Health Authority**.

6 (h) Provide to local health agencies such copies of or data derived from certificates and reports
7 required under this chapter as the state registrar shall determine are necessary for local health
8 planning and program activities. The state registrar shall establish a schedule with each local health
9 agency for transmittal of the copies or data. The copies or data shall remain the property of the
10 Center for Health Statistics and the uses that may be made of them shall be determined by the state
11 registrar.

12 (i) Provide local health agencies training and consultation in working with health data.

13 (2) The state registrar may delegate such functions and duties vested in the state registrar to
14 employees of the Center for Health Statistics and to employees of any office established or desig-
15 nated under ORS 432.035.

16 **SECTION 610.** ORS 432.060 is amended to read:

17 432.060. (1)(a) All information procured by or furnished to the [*Department of Human Services*]
18 **Oregon Health Authority**, any federal public health agency or any nonprofit health agency that is
19 exempt from taxation under the laws of this state or procured by any agency, organization or person
20 acting jointly with or at the request of the [*department*] **authority**, in connection with special
21 epidemiologic morbidity and mortality studies, is confidential, nondiscoverable and inadmissible in
22 any proceeding and is exempt from disclosure under ORS 192.410 to 192.505. A person communicat-
23 ing information in connection with special epidemiologic morbidity and mortality studies pursuant
24 to this subsection may not be examined about the communication or the information.

25 (b) Nothing in this subsection affects the confidentiality or admissibility into evidence of data
26 not otherwise confidential or privileged that is obtained from sources other than the [*department*]
27 **authority**.

28 (c) As used in this subsection, "information" includes, but is not limited to, written reports,
29 notes, records, statements and studies.

30 (2) The furnishing of morbidity and mortality information to the [*department*] **authority** or
31 health agency, to its authorized representatives or to any other agency, organization or person co-
32 operating in a special epidemiologic study, does not subject any hospital, sanitarium, rest home,
33 nursing home or other organization or person furnishing such information to an action for damages.

34 (3) Subsection (1) of this section does not prevent the [*department*] **authority** or a health agency
35 from publishing:

36 (a) Statistical compilations and reports relating to special epidemiologic morbidity and mortality
37 studies, if such compilations and reports do not identify individual cases and sources of information.

38 (b) General morbidity and mortality studies customarily and continuously conducted by the [*de-*
39 *partment*] **authority** or health agency that do not involve patient identification.

40 (4) Nothing in this section prevents disposition of records described in subsection (1) of this
41 section pursuant to ORS 192.105.

42 **SECTION 611.** ORS 432.085 is amended to read:

43 432.085. The [*Department of Human Services*] **Oregon Health Authority** shall adopt, taking into
44 consideration local service needs and interests, rules to allow a county registrar to sell, within six
45 months of the date of the event occurring in the county, certified copies of birth certificates and

1 death certificates.

2 **SECTION 612.** ORS 432.119 is amended to read:

3 432.119. (1) Abstracts of birth and death certificates as provided in ORS 432.105 are public re-
4 cords and open to public inspection except as provided in this section. The county registrar shall
5 mark the abstract of birth in a manner designated by the State Registrar of the Center for Health
6 Statistics to indicate that the record is not to be used by any person compiling a list for publication
7 or a business contact list under the following conditions:

8 (a) If a birth certificate indicates any of the following:

9 (A) The father of the child is not identified.

10 (B) The infant dies after birth.

11 (C) Congenital anomaly is reported.

12 (D) Maternal disability or death is indicated.

13 (b) If the parent of the infant requests that the record not be made available for publication or
14 business contact lists.

15 (2) The [*Department of Human Services*] **Oregon Health Authority** or local health department,
16 as provided in ORS 431.416, may use any birth record or abstract as a source of information for
17 activities necessary for the preservation of health or prevention of disease.

18 **SECTION 613.** ORS 432.146 is amended to read:

19 432.146. Except as provided in ORS 432.090 and 432.312, subject to the review of the Oregon
20 Department of Administrative Services, the [*Department of Human Services*] **Oregon Health Au-**
21 **thority** shall establish all fees for services or records provided under ORS 432.005 to 432.165. The
22 fees and charges established under this section shall be authorized by the Legislative Assembly for
23 the [*department's*] **authority's** budget, as the budget may be modified by the Emergency Board.

24 **SECTION 614.** ORS 432.240 is amended to read:

25 432.240. (1) Upon receipt of a written application to the state registrar, any adopted person 21
26 years of age and older born in the State of Oregon shall be issued a certified copy of his/her unal-
27 tered, original and unamended certificate of birth in the custody of the state registrar, with proce-
28 dures, filing fees, and waiting periods identical to those imposed upon nonadopted citizens of the
29 State of Oregon pursuant to ORS 432.121 and 432.146. Contains no exceptions.

30 (2) A birth parent may at any time request from the State Registrar of the Center for Health
31 Statistics or from a voluntary adoption registry a Contact Preference Form that shall accompany a
32 birth certificate issued under subsection (1) of this section. The Contact Preference Form shall pro-
33 vide the following information to be completed at the option of the birth parent:

34 _____
35
36 (a) I would like to be contacted;

37 (b) I would prefer to be contacted only through an intermediary; or

38 (c) I prefer not to be contacted at this time. If I decide later that I would like to be contacted,
39 I will register with the voluntary adoption registry. I have completed an updated medical history
40 and have filed it with the voluntary adoption registry. Attached is a certificate from the voluntary
41 adoption registry verifying receipt of the updated medical history.

42 _____
43
44 (3) The certificate from the voluntary adoption registry verifying receipt of an updated medical
45 history under subsection (2) of this section shall be in a form prescribed by the [*Department of Hu-*

1 *man Services*] **Oregon Health Authority** and shall be supplied upon request of the birth parent by
2 the voluntary adoption registry.

3 (4) When the State Registrar of the Center for Health Statistics receives a completed Contact
4 Preference Form from a birth parent, the state registrar shall match the Contact Preference Form
5 with the adopted person's sealed file. The Contact Preference Form shall be placed in the adopted
6 person's sealed file when a match is made.

7 (5) A completed Contact Preference Form shall be confidential and shall be placed in a secure
8 file until a match with the adopted person's sealed file is made and the Contact Preference Form is
9 placed in the adopted person's file.

10 (6) Only those persons who are authorized to process applications made under subsection (1) of
11 this section may process Contact Preference Forms.

12 **SECTION 615.** ORS 432.287 is amended to read:

13 432.287. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall adopt by rule
14 a form of a voluntary acknowledgment of paternity that includes the minimum requirements speci-
15 fied by the United States Secretary of Health and Human Services. When the form is signed by both
16 biological parents and witnessed by a third party, the form establishes paternity for all purposes
17 when filed with the State Registrar of the Center for Health Statistics, provided there is no male
18 parent already named on the birth certificate. Establishment of paternity under this section is sub-
19 ject to the provisions and the requirements in ORS 109.070. When there is no other male named as
20 father on the child's birth certificate, the filing of such voluntary acknowledgment of paternity form
21 shall cause the state registrar to place the name of the male parent who has signed the voluntary
22 acknowledgment of paternity form on the birth certificate of the child or, if appropriate, issue a new
23 birth certificate containing the name of the child's male parent, as that parent is named in the vol-
24 untary acknowledgment of paternity form. When signed by both parents in the health care facility
25 of the child's birth within five days after the birth, the voluntary acknowledgment of paternity form
26 is not a sworn document. When thus signed, a staff member of the health care facility shall witness
27 the signatures of the parents. In all other circumstances, the form is a sworn document. The filing
28 of the voluntary acknowledgment of paternity form created by this section is subject to the payment
29 of any fees that may apply.

30 (2) The voluntary acknowledgment of paternity form must contain:

31 (a) A statement of rights and responsibilities including any rights afforded to a minor parent;

32 (b) A statement of the alternatives to and consequences of signing the acknowledgment;

33 (c) Instructions on how to file the form with the state registrar and information about any fee
34 required;

35 (d) Lines for the Social Security numbers and addresses of the parents; and

36 (e) A statement that the rights, responsibilities, alternatives and consequences listed on the ac-
37 knowledgment were read to the parties prior to signing the acknowledgment.

38 (3) Upon request, the state registrar shall provide a copy of any voluntary acknowledgment of
39 paternity form to the state agency responsible for administration of the child support enforcement
40 program created under Title IV-D of the Social Security Act. The duty imposed upon the state
41 registrar by this section is limited to birth certificates executed and filed with the state registrar
42 after October 1, 1995.

43 **SECTION 616.** ORS 432.312 is amended to read:

44 432.312. (1) The [*Department of Human Services*] **Oregon Health Authority** shall impose and
45 collect a filing fee of \$7 for each certificate of death. Of the fee, \$2 shall be deposited to the credit

1 of the Public Health Account and used to carry out the purposes of ORS 97.170 (5) and \$5 shall be
2 deposited to the credit of the State Mortuary and Cemetery Board Account and used in the same
3 manner as funds credited to the account under ORS 692.375.

4 (2) The expenditures under ORS 97.170 (5) and 692.375 shall not exceed the funds collected under
5 subsection (1) of this section, and in no event shall expenditure on the administration of the funds
6 exceed five percent of the moneys collected.

7 **SECTION 617.** ORS 432.317 is amended to read:

8 432.317. (1) The funeral service practitioner or person acting as a funeral service practitioner
9 who first assumes possession of a dead body or fetus shall make a written report to the county
10 registrar in the county in which death occurred or in which the body or fetus was found within 24
11 hours after taking possession of the body or fetus. The report shall be on a form prescribed and
12 furnished by the State Registrar of the Center for Health Statistics and in accordance with rules
13 adopted by the [*Department of Human Services*] **Oregon Health Authority**.

14 (2) Prior to final disposition of the body, the funeral service practitioner or person acting as a
15 funeral service practitioner who first assumes custody of a dead body shall, prior to final disposition
16 of the body, obtain written authorization for final disposition of the body from the physician, physi-
17 cian assistant practicing under the supervision of a person licensed to practice medicine under ORS
18 chapter 677, certified nurse practitioner or medical examiner who certifies the cause of death as
19 provided in ORS 432.307 (3) on a form prescribed and furnished by the state registrar. If the funeral
20 service practitioner or person acting as a funeral service practitioner is unable to obtain such
21 written authorization prior to final disposition of the body, the practitioner or person, with the oral
22 consent of the physician, the physician assistant, the nurse practitioner, the medical examiner or a
23 licensed health professional authorized to give such consent on behalf of the physician or medical
24 examiner who is responsible for certifying the cause of death, may authorize final disposition of the
25 body on a form prescribed and furnished by the state registrar.

26 (3) Prior to final disposition of a fetus, irrespective of the duration of pregnancy, the funeral
27 service practitioner, the person in charge of the institution or other person assuming responsibility
28 for final disposition of the fetus shall authorize final disposition of the fetus on a form prescribed
29 and furnished or approved by the state registrar.

30 (4) With the consent of the physician, physician assistant practicing under the supervision of a
31 person licensed to practice medicine under ORS chapter 677, nurse practitioner or medical examiner
32 who is to certify the cause of death, a dead body may be moved from the place of death for the
33 purpose of being prepared for final disposition.

34 (5) An authorization for final disposition issued under the laws of another state which accom-
35 panies a dead body or fetus brought into this state shall be authority for final disposition of the body
36 or fetus in this state. Permits for transporting a body or fetus out of another state issued under the
37 laws of another state shall be authority for transporting a body or fetus into Oregon.

38 (6) No sexton or other person in charge of any place in which interment or other disposition
39 of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus
40 unless it is accompanied by authorization for final disposition.

41 (7) Each person in charge of any place for final disposition shall include in the authorization the
42 date of disposition and shall complete and return all authorizations to the county registrar within
43 10 days after the date of the disposition. When there is no person in charge of the place for final
44 disposition, a responsible party other than the funeral service practitioner or person acting as a
45 funeral service practitioner shall complete and return the authorization to the county registrar

1 within 10 days after the date of disposition.

2 (8) Authorization for disinterment and reinterment shall be required prior to disinterment of a
3 dead body or fetus. The authorization shall be issued by the state registrar to a licensed funeral
4 service practitioner or person acting as a funeral service practitioner, upon proper application.

5 (9) Prior to removing a dead body or fetus from the State of Oregon under ORS 692.270, a person
6 acting as a funeral service practitioner as defined in ORS 432.005 (11)(b) shall submit a written no-
7 tice of removal to the county registrar in the county in which death occurred or in which the body
8 or fetus was found. The notice shall be on a form prescribed and furnished by the State Registrar
9 of the Center for Health Statistics and in accordance with rules adopted by the [*Department of Hu-
10 man Services*] **Oregon Health Authority**. A copy of the written notice of removal shall serve as a
11 transit permit for the remains of the decedent named on the notice.

12 **SECTION 618.** ORS 432.500 is amended to read:

13 432.500. As used in ORS 432.510 to 432.550 and 432.900:

14 (1) "Clinical laboratory" means a facility where microbiological, serological, chemical,
15 hematological, immunohematological, immunological, toxicological, cytogenetical, exfoliative
16 cytological, histological, pathological or other examinations are performed on material derived from
17 the human body, for the purpose of diagnosis, prevention of disease or treatment of patients by
18 physicians, dentists and other persons who are authorized by license to diagnose or treat humans.

19 (2) "Department" means the Department of Human Services or its authorized representative.

20 (3) "Health care facility" means a hospital, as defined in ORS 442.015 [(19)], or an ambulatory
21 surgical center, as defined in ORS 442.015.

22 (4) "Practitioner" means any person whose professional license allows the person to diagnose
23 or treat cancer in patients.

24 **SECTION 619.** ORS 432.510 is amended to read:

25 432.510. (1) The [*Department of Human Services*] **Oregon Health Authority** shall establish a
26 uniform, statewide, population-based registry system for the collection of information determining
27 the incidence of cancer and benign tumors of the brain and central nervous system and related data.
28 The purpose of the registry shall be to provide information to design, target, monitor, facilitate and
29 evaluate efforts to determine the causes or sources of cancer and benign tumors among the residents
30 of Oregon and to reduce the burden of cancer and benign tumors in Oregon. Such efforts may in-
31 clude but are not limited to:

32 (a) Targeting populations in need of cancer screening services or evaluating screening or other
33 cancer control services;

34 (b) Supporting the operation of hospital registries in monitoring and upgrading the care and the
35 end results of treatment for cancer and benign tumors;

36 (c) Investigating suspected clusters or excesses of cancer and benign tumors both in occupa-
37 tional settings and in the state's environment generally;

38 (d) Conducting studies to identify cancer hazards to the public health and cancer hazard reme-
39 dies; and

40 (e) Projecting the benefits or costs of alternative policies regarding the prevention or treatment
41 of cancer and benign tumors.

42 (2) The [*department*] **authority** shall adopt rules necessary to carry out the purposes of ORS
43 432.510 to 432.550 and 432.900, including but not limited to designating which types of cancer and
44 benign tumors of the brain and central nervous system are reportable to the statewide registry, the
45 data to be reported, the data reporting standards and format and the effective date after which re-

1 porting by health care facilities, clinical laboratories and practitioners shall be required. When
 2 adopting rules under this subsection, the *[department]* **authority** shall, to the greatest extent prac-
 3 ticable, conform the rules to the standards and procedures established by the American College of
 4 Surgeons Commission on Cancer, with the goal of achieving uniformity in the collection and re-
 5 porting of data.

6 (3) The *[department]* **authority** shall:

7 (a) Conduct a program of epidemiologic analyses of registry data collected under subsection (1)
 8 of this section to assess control, prevention, treatment and causation of cancer and benign tumors
 9 in Oregon; and

10 (b) Utilize the data to promote, facilitate and evaluate programs designed to reduce the burden
 11 of cancer and benign tumors among the residents of Oregon.

12 (4) The *[department]* **authority** shall:

13 (a) Collaborate in studies of cancer and benign tumors with clinicians and epidemiologists and
 14 publish reports on the results of such studies; and

15 (b) Cooperate with the National Institutes of Health and the Centers for Disease Control and
 16 Prevention in providing incidence data for cancer and benign tumors.

17 (5) The *[department]* **authority** shall establish a training program for the personnel of partic-
 18 ipating health care facilities and a quality control program for data for cancer and benign tumors
 19 reported to the state registry.

20 **SECTION 620.** ORS 432.520 is amended to read:

21 432.520. (1) Except as provided in subsection (2) of this section, any health care facility in which
 22 patients are diagnosed or provided treatment for cancer or benign tumors of the brain and central
 23 nervous system shall report each case of cancer or benign tumors of the brain and central nervous
 24 system to the *[Department of Human Services]* **Oregon Health Authority** within a time period and
 25 in a format prescribed by the *[department]* **authority**. The *[department]* **authority** shall provide, at
 26 cost, reporting services to any health care facility at the option of the health care facility. Health
 27 care facilities may also purchase reporting services from another facility or commercial vendor. If
 28 a health care facility is unable to report in conformance with the format and standards prescribed
 29 by the *[department]* **authority**, the *[department]* **authority** may, after consultation with the health
 30 care facility, elect to activate its reporting service for the facility. When activated, the
 31 *[department]* **authority** may enter the facility, obtain the information and report it in conformance
 32 with the appropriate format and standards. In these instances, the facility shall reimburse the *[de-*
 33 *partment]* **authority** or its authorized representative for the cost of obtaining and reporting the in-
 34 formation.

35 (2) Upon application to the *[department]* **authority** by a health care facility, the *[department]*
 36 **authority** shall grant to the health care facility an extension of time in which to meet the reporting
 37 requirements of this section. In no event shall the extension of time exceed two years from the date
 38 of application.

39 (3) Any practitioner diagnosing or providing treatment to patients with cancer or benign tumors
 40 of the brain and central nervous system shall report each case to the *[department]* **authority** or its
 41 authorized representative within a time period and in a format prescribed by the *[department]* **au-**
 42 **thority**. Those cases diagnosed or treated at an Oregon health care facility or previously admitted
 43 to an Oregon health care facility for diagnosis or treatment of that instance of cancer or benign
 44 tumors of the brain and central nervous system shall be considered by the *[department]* **authority**
 45 to have been reported by the health care practitioner.

1 (4) Any clinical laboratory diagnosing cases of cancer or benign tumors of the brain and central
 2 nervous system shall report each case to the [department] **authority** or its authorized representative
 3 within a time period and in a format prescribed by the [department] **authority**.

4 (5) For the purpose of assuring the accuracy and completeness of reported data, the
 5 [department] **authority** shall have the right to periodically review all records that would:

6 (a) Identify cases of cancer and benign tumors, the treatment of the cancer or benign tumors
 7 or the medical status of any patient identified as being treated for cancer or benign tumors; or

8 (b) Establish characteristics of the cancer or benign tumors.

9 (6) The [department] **authority** may conduct special studies of cancer morbidity and mortality.
 10 As part of such studies, registry personnel may obtain additional information that applies to a pa-
 11 tient's cancer or benign tumors and that may be in the medical record of the patient. The record
 12 holder may either provide the requested information to the registry personnel or provide the regis-
 13 try personnel access to the relevant portions of the patient's medical record. Neither the
 14 [department] **authority** nor the record holder shall bill the other for the cost of providing or ob-
 15 taining this information.

16 **SECTION 621.** ORS 432.530 is amended to read:

17 432.530. (1) All identifying information regarding individual patients, health care facilities and
 18 practitioners reported pursuant to ORS 432.520 shall be confidential and privileged. Except as re-
 19 quired in connection with the administration or enforcement of public health laws or rules, no public
 20 health official, employee or agent shall be examined in an administrative or judicial proceeding as
 21 to the existence or contents of data collected under the registry system for cancer and benign tu-
 22 mors of the brain and central nervous system.

23 (2) All additional information reported in connection with a special study shall be confidential
 24 and privileged and shall be used solely for the purposes of the study, as provided by ORS 432.060.
 25 Nothing in this section shall prevent the [Department of Human Services] **Oregon Health Authority**
 26 from publishing statistical compilations relating to morbidity and mortality studies that do not
 27 identify individual cases or prevent use of this data by third parties to conduct research as provided
 28 by ORS 432.540 (1).

29 **SECTION 622.** ORS 432.540 is amended to read:

30 432.540. (1) The [Department of Human Services] **Oregon Health Authority** shall adopt rules
 31 under which confidential data may be used by third parties to conduct research and studies for the
 32 public good. Research and studies conducted using confidential data from the statewide registry
 33 must be reviewed and approved by the Committee for the Protection of Human Research Subjects
 34 established in accordance with 45 C.F.R. 46.

35 (2) The [department] **authority** may enter into agreements to exchange information with other
 36 registries for cancer and benign tumors of the brain and central nervous system in order to obtain
 37 complete reports of Oregon residents diagnosed or treated in other states and to provide information
 38 to other states regarding the residents of other states diagnosed or treated in Oregon. Prior to
 39 providing information to any other registry, the [department] **authority** shall ensure that the recip-
 40 ient registry has comparable confidentiality protections.

41 **SECTION 623.** ORS 432.900 is amended to read:

42 432.900. (1) In addition to any other liability or penalty provided by law, the Director of [Human
 43 Services] **the Oregon Health Authority** may impose a civil penalty on any person for willful failure
 44 to comply with any part of ORS 432.520. A civil penalty may be imposed against a health care fa-
 45 cility for each day compliance is refused. The penalty shall be \$50 per day for the first 30 days and

1 \$500 per day thereafter. A civil penalty of \$50 may be imposed against a practitioner for each day
2 compliance is refused.

3 (2) Any fines collected pursuant to subsection (1) of this section shall be paid into the State
4 Treasury and deposited in the General Fund.

5 (3) Civil penalties described in subsection (1) of this section shall be imposed in the manner
6 provided in ORS 183.745.

7 **SECTION 624.** ORS 433.001 is amended to read:

8 433.001. As used in ORS 433.001 to 433.045 and 433.110 to 433.770 unless the context requires
9 otherwise:

10 (1) **“Authority” means the Oregon Health Authority.**

11 [(1)] (2) “Communicable disease” has the meaning given that term in ORS 431.260.

12 [(2)] (3) “Condition of public health importance” has the meaning given that term in ORS
13 431.260.

14 [(3)] *“Department” means the Department of Human Services.*

15 (4) “Director” means the Director of [*Human Services*] **the Oregon Health Authority.**

16 (5) “Isolation” means the physical separation and confinement of a person or group of persons
17 who are infected or reasonably believed to be infected with a communicable disease or possibly
18 communicable disease from nonisolated persons to prevent or limit the transmission of the disease
19 to nonisolated persons.

20 (6) “Local public health administrator” has the meaning given that term in ORS 431.260.

21 (7) “Local public health authority” has the meaning given that term in ORS 431.260.

22 (8) “Property” means animals, inanimate objects, vessels, public conveyances, buildings and all
23 other real or personal property.

24 (9) “Public health measure” has the meaning given that term in ORS 431.260.

25 (10) “Quarantine” means the physical separation and confinement of a person or group of per-
26 sons who have been or may have been exposed to a communicable disease or possibly communicable
27 disease and who do not show signs or symptoms of a communicable disease, from persons who have
28 not been exposed to a communicable disease or possibly communicable disease, to prevent or limit
29 the transmission of the disease to other persons.

30 (11) “Reportable disease” has the meaning given that term in ORS 431.260.

31 (12) “Toxic substance” has the meaning given that term in ORS 431.260.

32 **SECTION 625.** ORS 433.004 is amended to read:

33 433.004. (1) The [*Department of Human Services*] **Oregon Health Authority** shall by rule:

34 (a) Specify reportable diseases;

35 (b) Identify those categories of persons who must report reportable diseases and the circum-
36 stances under which the reports must be made;

37 (c) Prescribe the procedures and forms for making such reports and transmitting the reports to
38 the [*department*] **authority**; and

39 (d) Prescribe measures for investigating the source and controlling reportable diseases.

40 (2) Persons required under the rules to report reportable diseases shall do so by reporting to the
41 local public health administrator. The local public health administrator shall transmit such reports
42 to the [*department*] **authority**.

43 (3) In addition to other grounds for which a state agency may exercise disciplinary action
44 against its licensees or certificate holders, the substantial or repeated failure of a licensee or cer-
45 tificate holder to report when required to do so under subsection (2) of this section shall be cause

1 for the exercise of any of the agency's disciplinary powers.

2 (4) Any person making a report under this section is immune from any civil or criminal liability
3 that might otherwise be incurred or imposed with respect to the making of a report under this sec-
4 tion or to the contents of the report.

5 **SECTION 626.** ORS 433.006 is amended to read:

6 433.006. In response to each report of a reportable disease, the local public health administrator
7 shall assure that investigations and control measures, as prescribed by [*Department of Human Ser-*
8 *vices*] **Oregon Health Authority** rule, shall be conducted.

9 **SECTION 627.** ORS 433.008 is amended to read:

10 433.008. (1) Notwithstanding ORS 192.410 to 192.505, the [*Department of Human Services*] **Oregon**
11 **Health Authority**, the local public health administrator, all officers and employees thereof and all
12 persons to whom disclosures are made under this subsection or subsection (2) of this section shall
13 not disclose the name or address of, or otherwise disclose the identity of, any person reported under
14 ORS 433.004 except to officers or employees of federal, state or local government public health
15 agencies as may be necessary for the administration or enforcement of public health laws or rules.

16 (2) If the [*department*] **authority** or local public health administrator has determined that a re-
17 ported person's disease or condition is in a contagious state and that the person is violating the
18 rules of the [*department*] **authority** pertaining to control of that disease, it may disclose that per-
19 son's name and address to persons other than those stated in subsection (1) of this section if clear
20 and convincing evidence in the particular instance requires disclosure to avoid a clear and imme-
21 diate danger to other individuals or to the public generally. A decision not to disclose information
22 under this subsection, if made in good faith, shall not subject the entity or person withholding the
23 information to any liability.

24 (3) Except where required in connection with the administration or enforcement of public health
25 laws or rules, no public health official or employee shall be examined in an administrative or judicial
26 proceeding as to the existence or contents of a report under ORS 433.004 or any record thereof.

27 (4) The disclosures and examination prohibited by this section may otherwise be authorized by
28 the specific written consent of the person who is the subject of the report or the authorized repre-
29 sentative of the person.

30 **SECTION 628.** ORS 433.010 is amended to read:

31 433.010. (1) No person shall willfully cause the spread of any communicable disease within this
32 state.

33 (2) Whenever Oregon Revised Statutes require a person to secure a health certificate, such
34 certificate shall be acquired from a physician licensed by the Oregon Medical Board or the Board
35 of Naturopathic Examiners in accordance with the rules of the [*Department of Human Services*]
36 **Oregon Health Authority**.

37 **SECTION 629.** ORS 433.012 is amended to read:

38 433.012. The [*Department of Human Services*] **Oregon Health Authority** shall provide the nec-
39 essary laboratory examinations requested by local health departments for the diagnosis of those
40 communicable diseases identified by rule of the [*department*] **authority** to be a reportable disease.

41 **SECTION 630.** ORS 433.017 is amended to read:

42 433.017. (1) Every licensed physician attending a pregnant woman in this state for conditions
43 relating to her pregnancy during the period of gestation or at the time of delivery shall, as required
44 by rule of the [*Department of Human Services*] **Oregon Health Authority**, take or cause to be taken
45 a sample of blood of every woman so attended at the time of the first professional visit or within

1 10 days thereafter. The blood specimen thus obtained shall be submitted to a licensed laboratory for
 2 such tests related to any infectious condition which may affect a pregnant woman or fetus, as the
 3 *[department]* **authority** shall by rule require, including but not limited to an HIV test as defined in
 4 ORS 433.045.

5 (2) Every other person permitted by law to attend a pregnant woman in this state, but not per-
 6 mitted by law to take blood samples, shall, as required by rule of the *[department]* **authority**, cause
 7 a sample of blood of such pregnant woman to be taken by a licensed physician, and have such
 8 sample submitted to a licensed laboratory for the tests described under subsection (1) of this section.

9 (3) In all cases under subsections (1) and (2) of this section the physician shall request consent
 10 of the patient to take a blood sample. No sample shall be taken without such consent.

11 **SECTION 631.** ORS 433.035 is amended to read:

12 433.035. (1)(a) The Public Health Director or a local public health administrator may require
 13 testing or medical examination of any person who may have, or may have been exposed to, a
 14 communicable disease identified by rule of the *[Department of Human Services]* **Oregon Health**
 15 **Authority** to be a reportable disease, a new or uncommon disease of potential public health signif-
 16 icance, or a condition that is the basis of a state of public health emergency declared by the Gov-
 17 ernor as authorized by ORS 433.441. The Public Health Director or the local public health
 18 administrator must issue a written order for testing or medical examination pursuant to this section.

19 (b) A written order must:

20 (A) Include findings stating the communicable disease that the Public Health Director or the
 21 local public health administrator believes the person has and the reasons for that belief.

22 (B) State whether medical or laboratory confirmation of the disease is feasible and possible and
 23 whether such confirmation would enable control measures to be taken to minimize infection of oth-
 24 ers with the disease.

25 (C) Include a statement that the person may refuse to submit to the testing or medical exam-
 26 ination and that if the testing or examination is refused, the Public Health Director or the local
 27 public health administrator may seek the imposition of a public health measure, including isolation
 28 or quarantine pursuant to ORS 433.121 or 433.123.

29 (2) When a person is directed to submit to a test or examination under this section and the
 30 person agrees to do so, the person shall submit to any testing or examination as may be necessary
 31 to establish the presence or absence of the communicable disease for which the testing or exam-
 32 ination was directed. The examination shall be carried out by the local health officer or a physician
 33 licensed by the Oregon Medical Board or the Board of Naturopathic Examiners. A written report
 34 of the results of the test or examination shall be provided to the person ordering the test or exam-
 35 ination, and upon request, to the person tested or examined. Laboratory examinations, if any, shall
 36 be carried out by the laboratory of the *[department]* **authority** whenever the examinations are
 37 within the scope of the tests conducted by the laboratory. If treatment is needed, the person or the
 38 parent or guardian of the person shall be liable for the costs of treatment based on the examination
 39 carried out under this section, if the person liable is able to pay the treatment costs. Cost of any
 40 examination performed by a physician in private practice shall be paid from public funds available
 41 to the local public health administrator, if any, or from county funds available for general govern-
 42 mental expenses in the county that the local public health administrator serves or in the county
 43 where the person tested or examined resides if the local public health administrator serves more
 44 than one county or the test or examination was ordered by the Public Health Director or local
 45 public health administrator.

1 (3) If a person has a communicable disease, a new or uncommon disease of potential public
 2 health significance, or a condition that is the basis of a state of public health emergency, the Public
 3 Health Director or the local public health administrator may issue an order requiring the person to
 4 complete an appropriate prescribed course of medication or other treatment for the communicable
 5 disease, including directly observed therapy if appropriate, and to follow infection control provisions
 6 for the disease. The order shall also include statements that the person may refuse the medication
 7 or other treatment and that the person's failure to comply with the order issued under this sub-
 8 section may result in the Public Health Director or the local public health administrator seeking the
 9 imposition of a public health measure, including isolation or quarantine as authorized by ORS
 10 433.121 and 433.123.

11 (4) The Public Health Director or the local public health administrator must make every effort
 12 to obtain voluntary compliance from a person for any testing, medical examination and treatment
 13 required under this section.

14 (5) Any action taken by the Public Health Director or the local public health administrator un-
 15 der this section to compel testing, medical examination or treatment of a person who has a
 16 communicable disease, a new or uncommon disease of potential public health significance, or a
 17 condition that is the basis of a state of public health emergency must be the least restrictive alter-
 18 native available to accomplish the results necessary to minimize the transmission of the disease to
 19 others.

20 **SECTION 632.** ORS 433.040 is amended to read:

21 433.040. (1) As used in this section, "vaccine" includes vaccines, immune products and
 22 chemoprophylactic medications.

23 (2) When the State Health Officer of the [*Department of Human Services*] **Oregon Health Au-**
 24 **thority** determines that there is clear evidence that adverse and avoidable health outcomes from a
 25 preventable and acute communicable disease are expected to affect identifiable categories of high-
 26 risk individuals throughout Oregon and that assistance with the administration of vaccine is war-
 27 ranted due to a vaccine shortage to protect or treat such individuals, the health officer shall
 28 implement the Oregon Vaccine Education and Prioritization Plan as provided in subsection (3) of
 29 this section.

30 (3) The [*Department of Human Services*] **authority** shall develop and adopt by rule the Oregon
 31 Vaccine Education and Prioritization Plan to protect the public health during a vaccine shortage.
 32 The plan shall consist of:

33 (a) Guidelines for physicians, nurses, hospitals, health systems, pharmacies and others that hold
 34 vaccines for the distribution and administration of vaccines. The guidelines shall include, but are
 35 not limited to, a definition of high-risk groups for priority protection or treatment in the event a
 36 vaccine shortage is imminent;

37 (b) Rules for imposing a civil penalty of \$500 against persons who knowingly violate the guide-
 38 lines for each repeat violation of the guidelines; and

39 (c) Procedures for:

40 (A) Mobilizing public and private health resources to assist in vaccine distribution and admin-
 41 istration; and

42 (B) Notifying health professional regulatory boards and licensing authorities of repeated vio-
 43 lations of the guidelines by health professionals regulated by the board or licensed by the **licensing**
 44 authority.

45 (4) If the [*department*] **Oregon Health Authority** adopts temporary rules to implement sub-

1 section (2) of this section, the rules adopted are not subject to the requirements of ORS 183.335
 2 (6)(a). The [*department*] **authority** may amend the temporary rules adopted pursuant to subsection
 3 (3) of this section as often as is necessary to respond to a vaccine shortage.

4 **SECTION 633.** ORS 433.045 is amended to read:

5 433.045. (1) Except as provided in ORS 433.017, 433.055 (3) and 433.080, no person shall subject
 6 the blood of an individual to an HIV test without first obtaining informed consent as described in
 7 subsection (2) or (7) of this section.

8 (2) A physician licensed under ORS chapter 677 shall comply with the requirement of subsection
 9 (1) of this section through the procedure in ORS 677.097. Any other licensed health care provider
 10 or facility shall comply with the requirement of subsection (1) of this section through a procedure
 11 substantially similar to that specified in ORS 677.097. Any other person shall comply with this re-
 12 quirement through use of such forms, procedures and educational materials as the [*Department of*
 13 *Human Services*] **Oregon Health Authority** shall specify.

14 (3) Regardless of the manner of receipt or the source of the information, including information
 15 received from the tested individual, no person shall disclose or be compelled to disclose the identity
 16 of any individual upon whom an HIV-related test is performed, or the results of such a test in a
 17 manner which permits identification of the subject of the test, except as required or permitted by
 18 federal law, the law of this state or any rule, including any [*Department of Human Services*] **au-**
 19 **thority** rule considered necessary for public health or health care purposes, or as authorized by the
 20 individual whose blood is tested.

21 (4) Any person who complies with the requirements of this section shall not be subject to an
 22 action for civil damages.

23 (5) An HIV test shall be considered diagnosis of venereal disease for purposes of ORS 109.610.

24 (6) As used in this section:

25 (a) "HIV test" means a test of an individual for the presence of human immunodeficiency virus
 26 (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance spe-
 27 cifically indicating infection with HIV.

28 (b) "Person" includes but is not limited to any health care provider, health care facility, clinical
 29 laboratory, blood or sperm bank, insurer, insurance producer, insurance-support organization, as
 30 defined in ORS 746.600, government agency, employer, research organization or agent of any of
 31 them. For purposes of subsection (3) of this section, "person" does not include an individual acting
 32 in a private capacity and not in an employment, occupational or professional capacity.

33 (7) Whenever an insurer, insurance producer or insurance-support organization asks an appli-
 34 cant for insurance to take an HIV test in connection with an application for insurance, the use of
 35 such a test must be revealed to the applicant and the written consent thereof obtained. The consent
 36 form shall disclose the purpose of the test and the persons to whom the results may be disclosed.

37 **SECTION 634.** ORS 433.055 is amended to read:

38 433.055. (1) The [*Department of Human Services*] **Oregon Health Authority** shall conduct
 39 studies of the prevalence of the HIV infection in this state. Its findings shall be reported to the
 40 Public Health Advisory Board, the Conference of Local Health Officials, the Emergency Board and
 41 other interested bodies at regular intervals, commencing in January 1988. The [*Department of Hu-*
 42 *man Services*] **authority** may cause the prevalence study of persons sentenced to the Department
 43 of Corrections of this state, as defined in ORS 421.005, to be made.

44 (2) The [*Department of Human Services*] **authority** shall contract with an appropriate education
 45 agency to prepare a curriculum regarding HIV infection, acquired immune deficiency syndrome

1 (AIDS) and prevention of the spread of AIDS for all school districts and offer workshops to prepare
2 teachers and parents to implement the curriculum. The [department] **authority** shall award incentive
3 grants from funds available therefor to school districts to encourage use of the curriculum in the
4 schools.

5 (3) Prior informed consent to HIV antibody testing need not be obtained from an individual if
6 the test is for the purpose of research as authorized by the [Department of Human Services] **au-**
7 **thority** and if the testing is performed in a manner by which the identity of the test subject is not
8 known, and may not be retrieved by the researcher.

9 **SECTION 635.** ORS 433.060 is amended to read:

10 433.060. As used in ORS 433.060 to 433.085 unless the context requires otherwise:

11 (1) [*“Department” means the Department of Human Services*] **“Authority” means the Oregon**
12 **Health Authority.**

13 (2) “Health care facility” means a facility as defined in ORS 442.015 and a mental health facility,
14 alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 and
15 430.397 to 430.401 or ORS chapter 430.

16 (3) “Hepatitis test” means a test of an individual for the presence of hepatitis B or C or for any
17 other substance specifically indicating the presence of hepatitis B or C.

18 (4) “HIV test” means a test of an individual for the presence of human immunodeficiency virus
19 (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance spe-
20 cifically indicating infection with HIV.

21 (5) “Licensed health care provider” or “health care provider” means a person licensed or certi-
22 fied to provide health care under ORS chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, or
23 under comparable statutes of any other state.

24 (6) “Local public health administrator” means the public health administrator of the county or
25 district health department for the jurisdiction in which the reported substantial exposure occurred.

26 (7) “Local public health officer” means the health officer, as described in ORS 431.418, of the
27 county or district health department for the jurisdiction in which the substantial exposure occurred.

28 (8) “Occupational exposure” means a substantial exposure of a worker in the course of the
29 worker’s occupation.

30 (9) “Source person” means a person who is the source of the blood or body fluid in the instance
31 of a substantial exposure of another person.

32 (10) “Substantial exposure” means an exposure to blood or certain body fluids as defined by rule
33 of the [Department of Human Services] **authority** to have a potential for transmitting the human
34 immunodeficiency virus based upon current scientific information.

35 (11) “Worker” means a person who is licensed or certified to provide health care under ORS
36 chapters 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a
37 licensed health care provider or of a clinical laboratory, as defined in ORS 438.010 [(1)], a firefighter,
38 a law enforcement officer, as defined in ORS 414.805, a corrections officer or a parole and probation
39 officer.

40 **SECTION 636.** ORS 433.065 is amended to read:

41 433.065. (1) The [Department of Human Services] **Oregon Health Authority** shall by rule pre-
42 scribe procedures:

43 (a) Whereby a worker who has experienced an occupational exposure may request or cause to
44 be requested the source person’s voluntary informed consent to an HIV test;

45 (b) Whereby a person who, while being administered health care, has experienced a substantial

1 exposure from a worker shall be given notice of such exposure and be given opportunity to request
2 or cause to be requested the worker's voluntary informed consent to an HIV test; and

3 (c) Whereby a person who has experienced a substantial exposure shall be offered information
4 about HIV infection, methods of preventing HIV infection and HIV tests.

5 (2) Rules prescribing procedures under subsection (1)(a) of this section may require the partic-
6 ipation or intervention of the health care facility and licensed health care provider providing care
7 to the source person and may require the further participation or intervention of the local public
8 health administrator or local public health officer.

9 (3) Where the source person under subsection (1)(a) of this section is not known to be under the
10 care of a health care facility or provider or cannot be located, and in the case of procedures under
11 subsection (2) of this section, the rules may require the participation and intervention of the local
12 public health administrator.

13 (4) The rules under this section may also include, but need not be limited to, time frames within
14 which the notice and other procedures are to be performed and by whom, prescribed forms for re-
15 porting of exposures, and for recording of results of procedures undertaken and restrictions upon
16 disclosure of such reports and records only to specific persons.

17 **SECTION 637.** ORS 433.075 is amended to read:

18 433.075. (1) The informed consent provisions of ORS 433.045 (1) and (2) apply to any request for
19 consent to an HIV test under rules adopted pursuant to ORS 433.065.

20 (2) When a source person is deceased, consent for voluntary informed consent under ORS
21 433.065 shall be from the next of kin.

22 (3) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065,
23 the exposed person requesting the test, or the exposed person's employer in the case of an occupa-
24 tional exposure, shall be responsible for the cost of the testing.

25 (4) Where an employer provides a program of prevention, education and testing for HIV expo-
26 sures for its employees, the employee to be tested under the provisions of this Act shall comply with
27 the procedures provided by such program. Such program must be approved by the [*Department of*
28 *Human Services*] **Oregon Health Authority**.

29 (5) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065,
30 the results shall be reported confidentially to the person who suffered the substantial exposure giv-
31 ing rise to the test.

32 (6) The confidentiality provisions of ORS 433.045 (3) apply to any person who receives an HIV
33 test result pursuant to ORS 433.080 or rules adopted under ORS 433.065. Any person who complies
34 with the requirements of this subsection shall not be subject to an action for damages.

35 **SECTION 638.** ORS 433.080 is amended to read:

36 433.080. When the [*Department of Human Services*] **Oregon Health Authority** declares by rule
37 that mandatory testing of source persons could help a defined class of workers from being infected
38 or infecting others with the human immunodeficiency virus, the following apply:

39 (1) When a source person, after having been first requested to consent to testing by rules
40 adopted under ORS 433.065, has refused or within a time period prescribed by rule of the
41 [*department*] **authority** has failed to submit to the requested test, except when the exposed person
42 has knowledge that the exposed person has a history of a positive HIV test, the exposed person may
43 seek mandatory testing of the source person by filing a petition with the circuit court for the county
44 in which the exposure occurred. The form for the petition shall be as prescribed by the
45 [*department*] **authority** and shall be obtained from the local public health department.

1 (2) The petition shall name the source person as the respondent and shall include a short and
2 plain statement of facts alleging:

3 (a) The petitioner is a worker subjected to an occupational exposure or a person who has been
4 subjected to a substantial exposure by a worker administering health care and the respondent is the
5 source person;

6 (b) The petitioner is in the class of workers defined by rule of the [*Department of Human Ser-*
7 *vices*] **authority** under this section;

8 (c) All procedures for obtaining the respondent's consent to an HIV test by rules adopted under
9 ORS 433.065 have been exhausted by the petitioner and the respondent has refused to consent to the
10 test, or within the time period prescribed by rule of the [*department*] **authority** has failed to submit
11 to the test;

12 (d) The petitioner has no knowledge that the petitioner has a history of a positive HIV test and
13 has since the exposure, within a time period prescribed by rule of the [*department*] **authority**, sub-
14 mitted a specimen from the petitioner for an HIV test; and

15 (e) The injury that petitioner is suffering or will suffer if the source person is not ordered to
16 submit to an HIV test.

17 (3) The petition shall be accompanied by the certificate of the local public health administrator
18 declaring that, based upon information in the possession of the administrator, the facts stated in the
19 allegations under subsection (2)(a), (b) and (c) of this section are true.

20 (4) Upon the filing of the petition, the court shall issue a citation to the respondent stating the
21 nature of the proceedings, the statutes involved and the relief requested and, that if the respondent
22 does not appear at the time and place for hearing stated in the citation, that the court will order
23 the relief requested in the petition.

24 (5) The citation shall be served on the respondent together with a copy of the petition by the
25 county sheriff or deputy. The person serving the citation and petition shall, immediately after ser-
26 vice thereof, make a return showing the time, place and manner of such service and file it with the
27 clerk of the court.

28 (6) The hearing shall be held within three days of the service of the citation upon the respond-
29 ent. The court may for good cause allow an additional period of 48 hours if additional time is re-
30 quested by the respondent.

31 (7) Both the petitioner and the local public health administrator certifying to the matter alleged
32 in the petition shall appear at the hearing. The hearing of the case shall be informal with the object
33 of resolving the issue before the court promptly and economically between the parties. The parties
34 shall be entitled to subpoena witnesses, to offer evidence and to cross-examine. The judge may ex-
35 amine witnesses to insure a full inquiry into the facts necessary for a determination of the matter
36 before the court.

37 (8) After hearing all of the evidence, the court shall determine the truth of the allegations con-
38 tained in the petition. The court shall order the respondent to submit to the requested test by a
39 licensed health care provider without delay if, based upon clear and convincing evidence, the court
40 finds that:

41 (a) The allegations in the petition are true;

42 (b) The injury the petitioner is suffering or will suffer is an injury that only the relief requested
43 will adequately remedy; and

44 (c) The interest of the petitioner in obtaining the relief clearly outweighs the privacy interest
45 of the respondent in withholding consent.

1 (9) If the court does not make the finding described in subsection (8) of this section, the court
2 shall dismiss the petition.

3 (10) Failure to obey the order of the court shall be subject to contempt proceedings pursuant
4 to law.

5 **SECTION 639.** ORS 433.085 is amended to read:

6 433.085. (1) Notwithstanding any other provision of law, any employee of the Department of
7 Corrections, law enforcement officer as defined in ORS 414.805, parole and probation officer, cor-
8 rections officer, emergency medical technician, licensed health care provider, firefighter or
9 paramedic who in the performance of the individual's official duties comes into contact with the
10 bodily fluids of another person may seek to have the source person tested for HIV and hepatitis B
11 or C by petitioning the circuit court for an order compelling the testing.

12 (2) The petition submitted to the court must set forth the facts and circumstances of the contact
13 and the reasons the petitioner and a medically trained person representing the petitioner, if avail-
14 able, believe the exposure was substantial and the testing would be appropriate. The petition must
15 also include information sufficient to identify the alleged source person and the location of the al-
16 leged source person, if known. The court shall hold an ex parte hearing in person or by telephone
17 on the day of receipt of the petition, if possible, or within a reasonable period not to exceed three
18 judicial days. Upon a showing that the petitioner has been exposed to the bodily fluids of another
19 person and the circumstances create probable cause to conclude that a significant possibility exists
20 that the petitioner has been exposed to HIV or hepatitis B or C, the court shall order the testing
21 of the source person.

22 (3) If the court orders a test under subsection (2) of this section:

23 (a) The order shall direct the source person to allow the required test to be performed by a li-
24 censed health care provider without delay and may specify a time when the test must be completed.
25 If the source person is in custody or otherwise subject to the legal control of another person, the
26 order may be directed to the agency with custody of, or the other person with legal control over,
27 the source person and direct the agency or other person to provide the source person with a copy
28 of the order and ensure that the required test is performed.

29 (b) The petitioner shall designate a physician or nurse practitioner to receive the test results
30 on behalf of the petitioner.

31 (c) The order must inform the source person, agency or other person of who is to receive the
32 results of the test and of how to obtain payment for costs under subsection (6) of this section.

33 (d) The order shall be served on the source person, or the agency with custody of or other
34 person with legal control over the source person, in the manner directed by the court. The court
35 may provide for service of the order by any means appropriate to the circumstances of the source
36 person, including but not limited to service by the petitioner or by directing the sheriff to serve the
37 order. Any costs of service shall be paid as provided under subsection (6) of this section.

38 (e) The order is enforceable through the contempt powers of the court.

39 (4) The results of any test ordered under this section are confidential and subject to the
40 confidentiality provisions of ORS 433.045 (3). The results shall be made available only to those per-
41 sons authorized under ORS 433.045 (3) and to the petitioner, any physician or nurse practitioner
42 designated by the petitioner to receive the results, the *[Department of Human Services]* **Oregon**
43 **Health Authority** and the source person.

44 (5) If the test results are negative, the court may order the source person to submit to additional
45 testing six months after the first test was conducted.

1 (6) No charge or filing fee may be imposed for the filing of a petition under this section. The
2 cost of any testing ordered under this section shall be the responsibility of the employer of the
3 petitioner.

4 **SECTION 640.** ORS 433.090 is amended to read:

5 433.090. As used in ORS 433.090 to 433.102:

6 (1) "Authorized user" means a person or entity authorized to provide information to or to re-
7 ceive information from an immunization registry or immunization tracking and recall system under
8 ORS 433.090 to 433.102. "Authorized user" includes, but is not limited to, licensed health care pro-
9 viders, health care institutions, insurance carriers, the Oregon medical assistance program, parents
10 or guardians of children under 18 years of age, clients 18 years of age or older, post-secondary ed-
11 ucation institutions, schools, children's facilities, local health departments, the [*Department of Hu-*
12 *man Services*] **Oregon Health Authority** and agents of the [*department*] **authority**.

13 (2) "Children's facility" has the meaning given that term in ORS 433.235.

14 (3) "Client" means any person registered with any Oregon immunization tracking and recall
15 system.

16 (4) "Immunization record" includes but is not limited to the following:

- 17 (a) Any immunization received;
- 18 (b) Date immunization was received;
- 19 (c) Complication or side effect associated with immunization;
- 20 (d) Date and place of birth of a client;
- 21 (e) Hospital where a client was born;
- 22 (f) Client's name; and
- 23 (g) Mother's name.

24 (5) "Immunization registry" means any listing of clients and information relating to their im-
25 munization status, without regard to whether the registry is maintained in this state or elsewhere.

26 (6) "Immunization tracking and recall record" includes but is not limited to the client's name,
27 address of the parent or guardian of the client, telephone number, insurance carrier, health care
28 provider and other information needed to send reminder cards to, place telephone calls to or per-
29 sonally contact the client or the parent or the guardian of a client for the purposes of informing the
30 client, parent or guardian that the client is late in receiving the recommended immunizations.

31 (7) "Local health department" has the meaning given that term in ORS 433.235.

32 (8) "Parent or guardian" has the meaning given the term "parent" in ORS 433.235.

33 (9) "Post-secondary education institution" means:

34 (a) A state institution of higher education under the jurisdiction of the State Board of Higher
35 Education;

- 36 (b) A community college operated under ORS chapter 341;
- 37 (c) A school or division of Oregon Health and Science University; or
- 38 (d) An Oregon-based, generally accredited, private institution of higher education.

39 (10) "Provider" means a physician or a health care professional who is acting within the scope
40 of his or her licensure and responsible for providing immunization services or for coordinating im-
41 munization services within a clinic, public health site, school or other immunization site.

42 (11) "School" has the meaning given that term in ORS 433.235.

43 (12) "Tracking and recall system" means a system attached to an immunization registry designed
44 to contact clients listed in the immunization registry for the purposes of assisting in the completion
45 of the immunization series in a timely manner.

1 **SECTION 641.** ORS 433.094 is amended to read:

2 433.094. The [*Department of Human Services*] **Oregon Health Authority**, a local health depart-
3 ment, or both, or their agents or other providers may develop an immunization registry and an as-
4 sociated tracking and recall system to include, but not be limited to, children and young adults. This
5 system shall include, but not be limited to, the following:

6 (1) Registering all clients born in, living in or receiving services in this state;

7 (2) Tracking and updating immunization histories of the registered clients;

8 (3) Allowing a provider to provide information to and obtain information from the immunization
9 and immunization tracking and recall records contained in an immunization registry without the
10 consent of the client or the parent or guardian of the client;

11 (4) Allowing an immunization record of a client to be released to authorized users;

12 (5) Notifying in writing the parent or guardian of a client, at least through five years of age,
13 when the tracking and recall system indicates that a client has missed a scheduled immunization
14 and, if the client has not been immunized after two notifications, arranging to have the parent or
15 guardian contacted personally;

16 (6) Integrating with any immunization registry and its associated tracking and recall systems;
17 and

18 (7) Working with health care providers to develop easy information transfer systems.

19 **SECTION 642.** ORS 433.100 is amended to read:

20 433.100. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules
21 pertaining to the development and implementation of the immunization registries and their associ-
22 ated tracking and recall systems. The rules shall include a process that allows a client who is 18
23 years of age or older, a custodial parent or guardian to control the transfer of information from the
24 immunization record or the immunization tracking and recall record when such control is necessary
25 to protect the health or safety of the family or the client.

26 (2) Nothing in this section requires the consent of a parent or guardian prior to enrolling the
27 child in the registry or restricts the registry from providing tracking and recall information to a
28 custodial parent or guardian.

29 (3)(a) Pursuant to rules adopted by the [*department, the department*] **authority, the authority**
30 may charge fees to authorized users, except hospitals, schools and individual health care providers,
31 for services requested from an immunization registry, including associated tracking and recall sys-
32 tems maintained by the [*department*] **authority**. Authorized users may make voluntary contributions
33 to the [*department*] **authority** to help support the operation of an immunization registry established
34 under ORS 433.094.

35 (b) Fees authorized under paragraph (a) of this subsection shall be assessed only against man-
36 aged care organizations, health maintenance organizations, physician organizations and insurance
37 carriers that are using the information from the registries for quality improvement activities for
38 their privately insured patients.

39 (c) All moneys received by the [*department*] **authority** under this section shall be paid into the
40 State Treasury and placed in the General Fund to the credit of the Public Health Account. Such
41 moneys are continuously appropriated to the [*department*] **authority** and shall be used only for the
42 administration and enforcement of ORS 433.090 to 433.102.

43 **SECTION 643.** ORS 433.110 is amended to read:

44 433.110. Every physician or nurse attending a person affected with any communicable disease
45 shall use all precautionary measures to prevent the spread of the disease as the [*Department of*

1 *Human Services*] **Oregon Health Authority** may prescribe by rule.

2 **SECTION 644.** ORS 433.133 is amended to read:

3 433.133. (1)(a) Any person or group of persons who is isolated or quarantined pursuant to ORS
4 433.121 or 433.123 may apply to the court for an order to show cause why the individual or group
5 should not be released.

6 (b) The court shall rule on the application to show cause within 48 hours of the filing of the
7 application.

8 (c) The court must grant the application if there is a reasonable basis to support the allegations
9 in the application, and the court shall schedule a hearing on the order requiring the [*Department*
10 *of Human Services*] **Oregon Health Authority** to appear and to show cause within five working
11 days of the filing of the application.

12 (d) The issuance of an order to show cause and ordering the [*department*] **authority** to appear
13 and show cause does not stay or enjoin an isolation or quarantine order.

14 (2)(a) A person or group of persons who is isolated or quarantined may request a hearing in the
15 court for remedies regarding breaches of the conditions of isolation or quarantine required by ORS
16 433.128.

17 (b) The court must hold a hearing if there is a reasonable basis to believe there has been a
18 breach of the conditions of isolation or quarantine required by ORS 433.128.

19 (c) A request for a hearing shall not stay or enjoin an order for isolation or quarantine.

20 (d) Upon receipt of a request under this subsection alleging extraordinary circumstances justi-
21 fying the immediate granting of relief, the court shall hold a hearing on the matters alleged as soon
22 as practicable.

23 (e) If a hearing is not granted under paragraph (c) of this subsection, the court shall hold a
24 hearing on the matters alleged within five days from receipt of the request.

25 (3) In any proceedings brought for relief under this section, in extraordinary circumstances and
26 for good cause shown, or with consent of the petitioner or petitioners the Public Health Director
27 or local public health administrator may move the court to extend the time for a hearing. The court
28 in its discretion may grant the extension giving due regard to the rights of the affected persons, the
29 protection of the public health, the severity of the emergency and the availability of necessary wit-
30 nesses and evidence.

31 (4) If a person or group of persons who is detained cannot personally appear before the court
32 because such an appearance poses a risk of serious harm to others, the court proceeding may be
33 conducted by legal counsel for the person or group of persons and be held at a location or via any
34 means that allows all parties to fully participate.

35 (5) If the court finds, by clear and convincing evidence, that a person or group of persons no
36 longer poses a serious risk to the health and safety to others, the court may order the release of
37 that person or group of persons from isolation or quarantine.

38 (6) If the court finds by clear and convincing evidence that a person or group of persons is not
39 being held in accordance with the conditions of isolation or quarantine required by ORS 433.128, the
40 court may order an appropriate remedy to ensure compliance with ORS 433.128.

41 **SECTION 645.** ORS 433.140 is amended to read:

42 433.140. (1) The expenses incurred under ORS 433.128, when properly certified by the local
43 public health administrator, shall be paid by the person who is isolated or quarantined, when the
44 person is able to pay the expenses.

45 (2) The [*Department of Human Services*] **Oregon Health Authority** may provide general assist-

1 ance, including medical care for the person who is isolated or quarantined, on the basis of need,
2 provided that no payment shall be made for the care of any such person in or under the care of any
3 public institution or public agency or municipality.

4 **SECTION 646.** ORS 433.220 is amended to read:

5 433.220. (1) If upon inspection pursuant to ORS 433.216, there is discovered among the passen-
6 gers or goods being transported by any public or private conveyance the existence of any
7 communicable disease or toxic substance that presents a substantial threat to public health, the
8 Public Health Director, under rules of the [*Department of Human Services*] **Oregon Health Au-**
9 **thority**, may:

10 (a) Issue an order for testing, medical examination or treatment under ORS 433.035.

11 (b) Isolate or quarantine such persons or goods in accordance with ORS 433.121, 433.123 or
12 433.142.

13 (c) [*Cause the passengers and material in the involved conveyance to be subjected to requirements*
14 *by the Department of Human Services*] **Require the passengers and persons conveying materials**
15 **to follow the authority's rules** for the control of the specific communicable disease or prevention
16 of harm to the public health from the toxic substance.

17 (d) Offer free immunization in those diseases to which such prophylactic treatment is applicable
18 to all persons exposed in any conveyance.

19 (2) Should any question arise as to the existence of any emergency, the Public Health Director
20 shall have final jurisdiction.

21 **SECTION 647.** ORS 433.235 is amended to read:

22 433.235. As used in ORS 433.235 to 433.284:

23 (1) "Administrator" means the principal or other person having general control and supervision
24 of a school or children's facility.

25 (2) "Children's facility" or "facility" means:

26 (a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except
27 as exempted by rule of the [*Department of Human Services*] **Oregon Health Authority**;

28 (b) A program operated by, or sharing the premises with, a certified child care facility, school
29 or post-secondary institution where care is provided to children, six weeks of age to kindergarten
30 entry, except as exempted by rule of the [*department*] **authority**; or

31 (c) A program providing child care or educational services to children, six weeks of age to
32 kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the
33 [*department*] **authority**.

34 (3) "Local health department" means the district or county board of health, public health officer,
35 public health administrator or health department having jurisdiction within the area.

36 (4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

37 (5) "Physician" means a physician licensed by the Oregon Medical Board or by the Board of
38 Naturopathic Examiners or a physician similarly licensed by another state or country in which the
39 physician practices or a commissioned medical officer of the Armed Forces or Public Health Service
40 of the United States.

41 (6) "School" means a public, private, parochial, charter or alternative educational program of-
42 fering kindergarten through grade 12 or any part thereof, except as exempted by rule of the [*De-*
43 *partment of Human Services*] **authority**.

44 **SECTION 648.** ORS 433.245 is amended to read:

45 433.245. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall appoint a

1 committee to advise the [*Department of Human Services*] **Oregon Health Authority** on the admin-
2 istration of the provisions of ORS 433.235 to 433.284, including the adoption of rules pursuant to
3 ORS 433.269 (2), 433.273, 433.282 and 433.283.

4 (2) Members of the committee appointed pursuant to subsection (1) of this section shall include,
5 but need not be limited to, representatives of **the Oregon Health Authority**, the Department of
6 Human Services, the Department of Education, public, private and parochial schools, children's fa-
7 cilities, institutions of post-secondary education, education service districts, local health depart-
8 ments, the boards of county commissioners or county courts and the public.

9 **SECTION 649.** ORS 433.255 is amended to read:

10 433.255. Except in strict conformity with the rules of the [*Department of Human Services*]
11 **Oregon Health Authority**, no child or employee shall be permitted to be in any school or children's
12 facility when:

13 (1) That child or employee has any restrictable disease;

14 (2) That child or employee comes from any house in which exists any restrictable disease; or

15 (3) That child has been excluded as provided in ORS 433.267 (5) or (7).

16 **SECTION 650.** ORS 433.260 is amended to read:

17 433.260. (1) Whenever any administrator has reason to suspect that any child or employee has
18 or has been exposed to any restrictable disease and is required by the rules of the [*Department of*
19 *Human Services*] **Oregon Health Authority** to be excluded from a school or children's facility, the
20 administrator shall send such person home and, if the disease is one that must be reported to the
21 [*department*] **authority**, report the occurrence to the local health department by the most direct
22 means available.

23 (2) Any person excluded under subsection (1) of this section may not be permitted to be in the
24 school or facility until the person presents a certificate from a physician, nurse practitioner, local
25 health department nurse or school nurse stating that the person does not have or is not a carrier
26 of any restrictable disease.

27 **SECTION 651.** ORS 433.267 is amended to read:

28 433.267. (1) As a condition of attendance in any school or children's facility in this state, every
29 child through grade 12 shall submit to the administrator one of the following statements unless the
30 school or facility which the child attends already has on file a record which indicates that the child
31 has received immunizations against the restrictable diseases prescribed by rules of the [*Department*
32 *of Human Services*] **Oregon Health Authority** as provided in ORS 433.273:

33 (a) A statement signed by the parent, a practitioner of the healing arts who has within the scope
34 of the practitioner's license the authority to administer immunizations or a representative of the
35 local health department certifying the immunizations the child has received;

36 (b) A statement signed by a physician or a representative of the local health department that
37 the child should be exempted from receiving specified immunization because of indicated medical
38 diagnosis; or

39 (c) A statement signed by the parent that the child has not been immunized as described in
40 paragraph (a) of this subsection because the child is being reared as an adherent to a religion the
41 teachings of which are opposed to such immunization.

42 (2)(a) A newly entering child or a transferring child shall be required to submit the statement
43 described in subsection (1) of this section prior to attending the school or facility.

44 (b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the
45 United States must submit the statement required by subsection (1) of this section not later than the

1 exclusion date set by rule of the *[department]* **authority**.

2 (3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age
3 of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf
4 otherwise requiring the signatures of parents under subsection (1) of this section.

5 (4) The administrator shall conduct a primary evaluation of the records submitted pursuant to
6 subsection (1) of this section to determine whether the child is entitled to begin attendance by rea-
7 son of having submitted a statement that complies with the requirements of subsection (1) of this
8 section.

9 (5) If the records do not meet the initial minimum requirements established by rule, the child
10 may not be allowed to attend until the requirements are met. If the records meet the initial minimum
11 requirements, the child shall be allowed to attend.

12 (6) At the time specified by the *[department]* **authority** by rule, records for children meeting the
13 initial minimum requirements and records previously on file shall be reviewed for completion of re-
14 quirements by the administrator to determine whether the child is entitled to continue in attend-
15 ance. If the records do not comply, the administrator shall notify the local health department and
16 shall transmit any records concerning the child's immunization status to the local health depart-
17 ment.

18 (7) The local health department shall provide for a secondary evaluation of the records to de-
19 termine whether the child should be excluded for noncompliance with the requirements stated in
20 subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local
21 health department shall issue an exclusion order and shall send copies of the order to the parent
22 or the person who is emancipated or has reached the age of majority and the administrator. On the
23 effective date of the order, the administrator shall exclude the child from the school or facility and
24 not allow the child to attend the school or facility until the requirements of this section have been
25 met.

26 (8) The administrator shall readmit the child to the school or facility when in the judgment of
27 the local health department the child is in compliance with the requirements of this section.

28 (9) The administrator shall be responsible for updating the statement described in subsection
29 (1)(a) of this section as necessary to reflect the current status of the immunization of the child and
30 the time at which the child comes into compliance with immunizations against the restrictable dis-
31 eases prescribed by rules of the *[department]* **authority** pursuant to ORS 433.273.

32 (10) Nothing in this section shall be construed as relieving agencies, in addition to school dis-
33 tricts, which are involved in the maintenance and evaluation of immunization records on April 27,
34 1981, from continuing responsibility for these activities.

35 (11) All statements required by this section shall be on forms approved or provided by the *[de-*
36 *partment]* **authority**.

37 (12) In lieu of signed statements from practitioners of the healing arts, the *[department]* **au-**
38 **thority** may accept immunization record updates using practitioner documented immunization re-
39 cords generated by electronic means or on *[practitioner letterhead but unsigned, if the department]*
40 **unsigned practitioner letterhead if the authority** determines such records are accurate.

41 (13) As used in this section:

42 (a) "Newly entering child" means a child who is initially attending:

43 (A) A facility in this state;

44 (B) A school at the entry grade level;

45 (C) Either a school at any grade level or a facility from homeschooling; or

1 (D) A school at any grade level or a facility after entering the United States from another
2 country.

3 (b) "Transferring child" means a child moving from:

4 (A) One facility to another facility;

5 (B) One school in this state to another school in this state when the move is not the result of
6 a normal progression of grade level; or

7 (C) A school in another state to a school in this state.

8 **SECTION 652.** ORS 433.269 is amended to read:

9 433.269. (1) Local health departments shall make available immunizations to be administered
10 under the direction of the local health officer in convenient areas and at convenient times. No per-
11 son shall be refused service because of inability to pay.

12 (2) The local health department and all schools and children's facilities shall report annually to
13 the *[Department of Human Services as specified in the rules of the Department of Human Services on*
14 *the number of children in the area served and those children who are susceptible to restrictable disease*
15 *as prescribed by rules of the Department of Human Services pursuant to ORS 433.273 by reason of*
16 *noncompliance]* **Oregon Health Authority on the number of children in the area served and the**
17 **number of children who are susceptible to restrictable disease as prescribed by the authori-**
18 **ty's rules pursuant to ORS 433.273.** A child exempted under ORS 433.267 shall be considered to
19 be susceptible.

20 (3) The administrator shall maintain immunization records of children, including children in at-
21 tendance conditionally because of incomplete immunization schedules and children exempted under
22 ORS 433.267.

23 **SECTION 653.** ORS 433.271 is amended to read:

24 433.271. The *[Department of Human Services]* **Oregon Health Authority** may not purchase or
25 distribute a pediatric vaccine necessary for school entry immunization requirements if the vaccine
26 contains thimerosal, unless thimerosal is detectable only in trace amounts or no other vaccine for
27 the same purpose is commercially available in a form that does not contain thimerosal. The *[de-*
28 *partment]* **authority** may purchase and distribute a pediatric vaccine that contains thimerosal if no
29 other vaccine for the same purpose is commercially available in a form that does not contain
30 thimerosal.

31 **SECTION 654.** ORS 433.273 is amended to read:

32 433.273. The *[Department of Human Services]* **Oregon Health Authority** shall adopt rules per-
33 taining to the implementation of ORS 433.235 to 433.284, which shall include, but need not be limited
34 to:

35 (1) The definition of "restrictable" disease;

36 (2) The required immunization against diseases, including rubella, considered to be dangerous
37 to the public health under ORS 433.267;

38 (3) The time schedule for immunization;

39 (4) The approved means of immunization;

40 (5) The procedures and time schedule whereby children may be excluded from attendance in
41 schools or facilities, including service of notice to parents;

42 (6) The manner in which immunization records for children are established, evaluated and
43 maintained;

44 (7) The exempted schools and children's facilities; and

45 (8) The implementation of ORS 433.282 and 433.283.

1 **SECTION 655.** ORS 433.285 is amended to read:

2 433.285. (1) It hereby is declared to be a matter of public policy of the State of Oregon that in
3 the interest of public health and the prevention of mental retardation, every infant, shall be given
4 tests approved by the [Department of Human Services] **Oregon Health Authority** for the detection
5 of the disease of phenylketonuria and other metabolic diseases.

6 (2) The [Department of Human Services] **authority** by rule shall specify the diseases for which
7 infants shall be tested under subsection (1) of this section, the appropriate time following delivery
8 for collecting specimens, the manner in which the specimens are to be submitted, the persons re-
9 sponsible for submitting the specimens, the methods of testing and the manner of payment of the
10 fees.

11 (3) The testing required by subsection (1) of this section shall not be required if the infant is
12 being reared as an adherent to a religion the teachings of which are opposed to such testing. The
13 person responsible for submitting specimens under the rules of the [Department of Human Services]
14 **authority** shall be responsible for submitting a statement signed by the infant's parent that the in-
15 fant is being so reared. The [department] **authority** by rule shall prescribe the form of the statement.

16 (4) The [Department of Human Services] **authority** shall adopt by rule a procedure whereby the
17 fees established under subsection (2) of this section shall be waived and no infant refused service
18 because of the parent's inability to pay the fee.

19 (5) The [Department of Human Services] **authority** by rule shall prescribe the procedure to be
20 followed in cases where initial testing for metabolic diseases is administered too early to detect
21 these diseases, where the sample submitted for testing is improperly collected and where a sample
22 shows an abnormal result. The [Department of Human Services] **authority**, within the limits of funds
23 available from fees collected under this section, shall institute a pilot program for follow-up on ab-
24 normal test results.

25 **SECTION 656.** ORS 433.290 is amended to read:

26 433.290. (1) The Legislative Assembly finds that many newborn children are given their first
27 tests for metabolic diseases too early for the detection of these diseases because parents remove
28 these newborn infants from the hospital before the optimum testing period commences. To assure
29 proper first testing and follow-up testing and increase knowledge about the nature and results of
30 these diseases, the [Department of Human Services] **Oregon Health Authority** shall institute and
31 carry on an intensive educational program among physicians, hospitals, public health nurses, the
32 parents of newborn children and the public concerning the disease of phenylketonuria and other
33 metabolic diseases. This educational program shall include information concerning:

34 (a) The nature of these diseases; and

35 (b) Examinations for the detection of these diseases in infancy in order that measures may be
36 taken to prevent the mental retardation resulting from these diseases.

37 (2) The [Department of Human Services] **authority** shall make a special effort specifically to in-
38 form expectant parents and parents of newborn children of the necessity of newborn infants receiv-
39 ing appropriate tests within the optimum time range after birth to prevent the mental retardation
40 or other serious complications resulting from these diseases.

41 **SECTION 657.** ORS 433.295 is amended to read:

42 433.295. (1) All physicians, public health nurses and the administrators of hospitals shall report
43 the discovery of cases of phenylketonuria to the [Department of Human Services] **Oregon Health**
44 **Authority**.

45 (2) The [Department of Human Services] shall furnish all physicians, public health nurses and

1 *hospitals forms on which the result of tests for phenylketonuria shall be reported to the Department*
2 *of Human Services]* **authority shall furnish forms that all physicians, public health nurses and**
3 **hospitals shall use to report to the authority the test results for phenylketonuria.**

4 **SECTION 658.** ORS 433.312 is amended to read:

5 433.312. (1) The [*Department of Human Services*] **Oregon Health Authority** in consultation with
6 the Oregon Pediatric Society by rule shall establish the appropriate dosage of vitamin K and the
7 procedures for administering vitamin K which may be either by injection or orally.

8 (2) The [*Department of Human Services*] **authority** in cooperation with the licensing boards es-
9 tablished in ORS chapters 677, 684 and 685 shall notify their licensees of these rules. Any associ-
10 ation of midwives shall also be notified.

11 **SECTION 659.** ORS 433.314 is amended to read:

12 433.314. The [*Department of Human Services*] **Oregon Health Authority** shall institute and
13 carry on an educational program among medical and naturopathic physicians, chiropractors,
14 midwives, potential parents and the public concerning the need for newborn infants to receive
15 vitamin K within 24 hours after birth.

16 **SECTION 660.** ORS 433.321 is amended to read:

17 433.321. (1) In all Oregon hospitals and birthing centers with more than 200 live births per year,
18 each newborn child shall receive a newborn hearing screening test within one month of the date
19 of birth. A hospital or birthing center shall attempt to conduct the test required under this sub-
20 section prior to the discharge of the child from the facility.

21 (2) All Oregon hospitals and birthing centers with fewer than 200 live births per year shall
22 provide the parent or guardian of a newborn child with the appropriate information furnished by the
23 [*Department of Human Services*] **Oregon Health Authority** concerning the importance of newborn
24 hearing screening tests.

25 (3) All Oregon hospitals and birthing centers conducting newborn hearing screening tests shall,
26 within 10 days of the test:

27 (a) Notify the parent or guardian and the health care provider for the newborn child of the test
28 results;

29 (b) With the results of the test, provide names and contact information for diagnostic facilities
30 in the community; and

31 (c) Report to the [*department*] **authority** the results of the test for the newborn child and in-
32 formation identifying the newborn child.

33 (4) A diagnostic facility conducting newborn hearing tests shall report, within 10 days of the
34 test, to the [*department*] **authority** the results of the test for the newborn child and information
35 identifying the newborn child.

36 (5) Each public and private educational institution that provides early intervention services as
37 defined in ORS 343.035 shall disclose to the [*department*] **authority** information identifying the
38 children referred to the educational institution with diagnosed hearing loss and the enrollment sta-
39 tus of the children. The institution may disclose to the [*department*] **authority** additional information
40 regarding children with hearing loss who are receiving early intervention services if the educational
41 institution has obtained consent to disclose the information.

42 (6) The [*department*] **authority**, in collaboration with the Child Development and Rehabilitation
43 Center of the Oregon Health and Science University shall, on an annual basis, provide to all Oregon
44 hospitals and birthing centers the following information:

45 (a) A description of the responsibilities created by this section;

1 (b) A list of appropriate screening devices and descriptions of training protocols to ensure that
2 staff members are adequately trained in the use of screening equipment;

3 (c) A list of newborn hearing screening testing and diagnostic facilities;

4 (d) A list of public and private educational institutions that provide early intervention services
5 and a description of the geographic area served by each institution; and

6 (e) Other information related to newborn hearing screening tests that the [department] **author-**
7 **ity** deems appropriate.

8 (7) A hospital or birthing center directed to provide newborn hearing screening tests under this
9 section is exempt from providing such services if the parent or guardian of the newborn child ob-
10 jects to the testing procedure on the grounds that the procedure conflicts with the religious tenets
11 and practices of the parent or guardian. The parent or guardian must sign a statement that the
12 newborn infant is being so reared.

13 (8) No newborn child may be refused the procedure described in subsection (1) of this section
14 because of an inability of the parent or guardian to pay for the procedure.

15 **SECTION 661.** ORS 433.323 is amended to read:

16 433.323. (1) As used in this section:

17 (a) “Newborn hearing screening test registry” means a listing of newborn children and infor-
18 mation related to their newborn hearing screening tests.

19 (b) “Tracking and recall system” means a system attached to the newborn hearing screening test
20 registry designed to contact the parent or guardian of a newborn child listed in the newborn hearing
21 screening test registry for the purposes of assisting in testing and in enrollment of the newborn
22 child in early intervention services in a timely manner.

23 (2) The [Department of Human Services] **Oregon Health Authority** shall implement a newborn
24 hearing screening test registry and tracking and recall system. The registry and system shall in-
25 clude, but are not limited to, the following:

26 (a) Information on the results of newborn hearing screening tests performed at Oregon hospitals,
27 birthing centers and diagnostic facilities.

28 (b) Notification of the parent or guardian and the health care provider of a newborn child and
29 of the local public health agency of the county in which the parent or guardian resides when the
30 system indicates that a newborn child has not received a newborn hearing screening test, has been
31 referred to a diagnostic facility for a diagnostic evaluation but has not received the evaluation or
32 has been diagnosed with hearing loss but has not been enrolled in an educational institution pro-
33 viding early intervention services.

34 (3) The [department] **authority** shall adopt rules:

35 (a) Implementing this section and ORS 433.321;

36 (b) Ensuring the privacy of individuals about whom information is collected pursuant to this
37 section and ORS 433.321; and

38 (c) Specifying the forms to be used by hospitals, birthing centers, diagnostic facilities and edu-
39 cational institutions to provide the information required under this section and ORS 433.321.

40 (4) The [department] **authority** shall analyze the information collected under this section to de-
41 termine the efficacy of this section and ORS 433.321 in identifying hearing loss in the newborn child
42 population and enrolling newborn children in early intervention services.

43 (5) The [department] **authority** shall issue an annual report detailing the results of newborn
44 hearing screening tests, diagnostic evaluations and participation in early intervention services.

45 (6) The [department] **authority** shall implement the newborn hearing screening test registry

1 within existing resources. The *[department]* **authority** may accept contributions of funds and assist-
 2 ance from the United States Government or its agencies or from any other source, public or private,
 3 and agree to conditions not inconsistent with the purposes of the registry.

4 **SECTION 662.** ORS 433.326 is amended to read:

5 433.326. The purpose of ORS 433.321, 433.323 and 433.327 and section 4, chapter 240, Oregon
 6 Laws 2003, is to waive the requirement of authorization to disclose information from, or provide
 7 information to, the record of a newborn child in the newborn hearing screening test registry and to
 8 waive confidentiality in regard to this information. The waiver allows providers, the *[Department of*
 9 *Human Services]* **Oregon Health Authority** and local health departments and their agents, parents
 10 or guardians and diagnostic facilities to share information from the newborn hearing screening test
 11 registry without violating confidentiality. The newborn hearing screening test registry and the as-
 12 sociated tracking and recall system are designed to increase early and appropriate intervention to
 13 minimize delays in developing language skills by the children of this state.

14 **SECTION 663.** ORS 433.345 is amended to read:

15 433.345. (1) If an animal bites a person and the bite causes a break in the skin, or if an animal
 16 is suspected of rabies or has been in close contact with an animal suspected of rabies, the facts shall
 17 be immediately reported to the local health officer by any person having direct knowledge.

18 (2) The *[Department of Human Services]* **Oregon Health Authority**, in consultation with the
 19 State Department of Agriculture, shall promulgate rules relating to the handling and disposition of
 20 animals that have bitten a person or are suspected of rabies or that have been in close contact with
 21 an animal suspected of rabies. Such rules may include requirements for confinement, isolation and
 22 inoculation. Owners or persons in possession of animals subject to such rules, shall handle or dis-
 23 pose or allow the handling or disposal of such animals strictly in accordance with such rules.

24 **SECTION 664.** ORS 433.350 is amended to read:

25 433.350. When confinement and observation of an animal for purposes of determining infection
 26 with rabies will not avoid the necessity of the application of painful or possibly dangerous preven-
 27 tative treatment to a person who has been bitten or scratched by such animal, the Director of
 28 *[Human Services]* **the Oregon Health Authority** may order possession of the animal to be imme-
 29 diately relinquished to the director or to the authorized representative of the director and may order
 30 the animal destroyed for examination of its bodily tissues.

31 **SECTION 665.** ORS 433.355 is amended to read:

32 433.355. (1) In the event of the refusal of the owner or person in possession of an animal to
 33 comply with an order of the Director of *[Human Services]* **the Oregon Health Authority** under ORS
 34 433.350, the *[Director of Human Services]* **director** or the authorized representative of the director
 35 may petition the circuit court of the county in which such animal is located for an order requiring
 36 such owner or person to comply with such order.

37 (2) The petition shall be verified and shall set forth the facts relative to the refusal to comply
 38 with the order. A copy of the petition shall be served upon the owner or person in possession of the
 39 animal in the manner provided for service of summons in civil actions. Such owner or person in
 40 possession shall appear and answer the petition at a time and place set by the court in an order, a
 41 copy of which shall be served with the petition, directing the defendant to appear at such time and
 42 place, and to then and there show cause, if any, why an order directing compliance with the order
 43 of the *[Director of Human Services]* **director** should not be granted. The time set by the court for
 44 the hearing to show cause shall be made with due regard for the circumstances of the person or
 45 persons who have been subjected to the bite or scratch of the animal and whose health or life may

1 be in jeopardy.

2 (3) If the owner or person in possession fails to appear or the court either with or without such
3 appearance finds the allegations of the petition are true and the order of the [*Director of Human*
4 *Services*] **director** is necessary under ORS 433.350, the court shall enter its order requiring the
5 owner or person in possession of such animal to comply with the order of the [*Director of Human*
6 *Services*] **director**.

7 (4) The sheriff of the county in which the animal is located shall execute such order by serving
8 upon the owner or person in possession a copy thereof duly certified to by the clerk of the circuit
9 court and by enforcing the provisions thereof.

10 **SECTION 666.** ORS 433.360 is amended to read:

11 433.360. (1) Whenever a case of animal rabies occurs, the fact shall be reported to the Director
12 of [*Human Services*] **the Oregon Health Authority** and to the State Department of Agriculture
13 immediately.

14 (2) The [*State Department of Agriculture in consultation with the Director of Human Services shall*
15 *establish such quarantine under ORS chapter 596 as the State Department of Agriculture and the Di-*
16 *rector of Human Services may deem*] **department, in consultation with the Oregon Health Au-**
17 **thority, shall establish a quarantine pursuant to ORS chapter 596 if the department and the**
18 **authority find that a quarantine is necessary.**

19 (3) The [*State Department of Agriculture and the Director of Human Services*] **department and**
20 **the authority** may contract with counties for the purpose of carrying out the provisions of ORS
21 433.350, 433.355 and subsection (2) of this section.

22 **SECTION 667.** ORS 433.365 is amended to read:

23 433.365. (1) A dog that has permanent canine teeth or that is six months of age or older must
24 be inoculated against rabies, unless specifically exempted by rule of the [*Department of Human Ser-*
25 *vices*] **Oregon Health Authority** or the State Department of Agriculture.

26 (2) Unless pursuant to conditions specified in ORS 430.357, any rules of the [*State Department*
27 *of Agriculture or the Director of Human Services*] **department or the authority** with respect to in-
28 oculation shall:

29 (a) Not apply to animals brought temporarily into the state for periods of less than 30 days but
30 may require that the animals be kept under strict supervision by the owners of the animals.

31 (b) Not apply to dogs or to any other animal specifically exempted from the inoculation re-
32 quirement by rule of the [*Department of Human Services or the State Department of Agriculture*] **de-**
33 **partment or the authority.**

34 (3) The costs of all such required inoculations shall be borne by the owners of the animal.

35 **SECTION 668.** ORS 433.367 is amended to read:

36 433.367. The [*Department of Human Services*] **Oregon Health Authority** shall be responsible for
37 development and coordination of vaccination clinics at sufficient and reasonable times at various
38 locations throughout the state for the inoculation of dogs against rabies. Costs of vaccination shall
39 be borne by the dog owner.

40 **SECTION 669.** ORS 433.370 is amended to read:

41 433.370. Every veterinarian inoculating an animal against rabies shall supply to the owner evi-
42 dence of inoculation which shall consist of a certificate issued and signed by the veterinarian. The
43 form of the certificate shall be prescribed by the [*Department of Human Services*] **Oregon Health**
44 **Authority.**

45 **SECTION 670.** ORS 433.375 is amended to read:

1 433.375. (1) The owner of the animal shall present by mail or otherwise the inoculation certifi-
2 cate, together with the fee fixed pursuant to ORS 433.380, if any, to the clerk of the county in which
3 the owner resides.

4 (2) The county shall upon receipt of the fee and presentation of the certificate issue to the
5 owner a serial-numbered tag, legibly identifying its expiration date as such date is determined in
6 accordance with rules of the [*Department of Human Services*] **Oregon Health Authority** relating to
7 intervals of inoculation. The tag shall be designed for and shall be attached to a collar or harness
8 which shall be worn by the dog for which the tag and certificate is issued at all times when off or
9 outside the premises of the owner. Whenever an original tag is lost, mutilated or destroyed, upon
10 application and payment of the fee prescribed under ORS 433.380, if any, a replacement tag, to be
11 dated, designed and worn as the original, shall be issued.

12 (3) No official of any county shall issue a license for a dog until the official has been shown a
13 proper certification, or its equivalent, of a rabies inoculation.

14 (4) If the county files the certificate upon which a tag is issued, it shall be cross-referenced to
15 the tag number. If the certificate is not filed, the county shall keep an appropriate record of the
16 expiration date and number, if any, of the certificate cross-referenced to the tag number.
17 Notwithstanding ORS 205.320 (1), a fee is not required for filing the certificate.

18 (5) Unexpired tags shall be honored in all counties when the animal is in transit or where the
19 owner has established a new residence.

20 (6) The provisions of this section apply to a city, rather than a county, in a city which has a
21 dog licensing program.

22 **SECTION 671.** ORS 433.407 is amended to read:

23 433.407. As used in ORS 433.407 to 433.423 unless the context requires otherwise:

24 (1) [*“Department” means the Department of Human Services*] **“Authority” means the Oregon**
25 **Health Authority.**

26 (2) “Health care facility” means a facility as defined in ORS 442.015 and a mental health facility,
27 alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 and
28 430.397 to 430.401 or ORS chapter 430.

29 (3) “Worker” means a person who is licensed or certified to provide health care under ORS
30 chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a li-
31 censed health care provider or of a clinical laboratory as defined in ORS 438.010 [(1)], a firefighter,
32 a law enforcement officer as defined in ORS 414.805, a corrections officer or a parole and probation
33 officer.

34 **SECTION 672.** ORS 433.419 is amended to read:

35 433.419. When a local health department or the [*Department of Human Services*] **Oregon Health**
36 **Authority** learns of a case or suspected case of an infectious disease which may have exposed a
37 worker to risk of infection, the local health department or the [*Department of Human Services*] **au-**
38 **thority** shall make every reasonable effort to notify the worker and employer of the exposure as
39 soon as medically appropriate given the urgency of the disease or suspected disease. Notification
40 shall include recommendations to the worker and employer that are medically appropriate.

41 **SECTION 673.** ORS 433.423 is amended to read:

42 433.423. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules
43 implementing ORS 433.407 to 433.423. Such rules shall include, but need not be limited to:

- 44 (a) The development of curriculum dealing with the exposure of workers to infectious diseases;
45 (b) Development and conduct of training programs for local health department personnel to

1 prepare them to train workers about the subject of infectious diseases;

2 (c) Information on the manner in which infectious diseases are transmitted; and

3 (d) Guidelines that can assist workers and their employers in distinguishing between conditions
4 in which such workers are or are not at risk with respect to infectious diseases.

5 (2) The rules adopted by the [*Department of Human Services*] **authority** shall require that im-
6 plementation of ORS 433.407 to 433.423 be accomplished in such a manner as to protect the
7 confidentiality of persons with infectious diseases and workers exposed to such persons.

8 **SECTION 674.** ORS 433.443 is amended to read:

9 433.443. (1)(a) During a public health emergency proclaimed under ORS 433.441, the Public
10 Health Director may, as necessary to appropriately respond to the public health emergency:

11 (A) Adopt reporting requirements for and provide notice of those requirements to health care
12 providers, institutions and facilities for the purpose of obtaining information directly related to the
13 public health emergency;

14 (B) After consultation with appropriate medical experts, create and require the use of diagnostic
15 and treatment protocols to respond to the public health emergency and provide notice of those
16 protocols to health care providers, institutions and facilities;

17 (C) Order, or authorize local public health administrators to order, public health measures ap-
18 propriate to the public health threat presented;

19 (D) Upon approval of the Governor, take other actions necessary to address the public health
20 emergency and provide notice of those actions to health care providers, institutions and facilities,
21 including public health actions authorized by ORS 431.264;

22 (E) Take any enforcement action authorized by ORS 431.262, including the imposition of civil
23 penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to
24 comply with requirements resulting from actions taken in accordance with the powers granted to
25 the Public Health Director under subparagraphs (A), (B) and (D) of this paragraph; and

26 (F) The authority granted to the Public Health Director under this section:

27 (i) Supersedes any authority granted to a local public health authority if the local public health
28 authority acts in a manner inconsistent with guidelines established or rules adopted by the director
29 under this section; and

30 (ii) Does not supersede the general authority granted to a local public health authority or a
31 local public health administrator except as authorized by law or necessary to respond to a public
32 health emergency.

33 (b) The authority of the Public Health Director to take administrative action, and the effec-
34 tiveness of any action taken, under paragraph (a)(A), (B), (D), (E) and (F) of this subsection termi-
35 nates upon the expiration of the proclaimed state of public health emergency, unless the actions are
36 continued under other applicable law.

37 (2) Civil penalties under subsection (1) of this section shall be imposed in the manner provided
38 in ORS 183.745. The Public Health Director must establish that the individual, institution or facility
39 subject to the civil penalty had actual notice of the action taken that is the basis for the penalty.
40 The maximum aggregate total for penalties that may be imposed against an individual, institution
41 or facility under subsection (1) of this section is \$500 for each day of violation, regardless of the
42 number of violations of subsection (1) of this section that occurred on each day of violation.

43 (3)(a) During a proclaimed state of public health emergency, the Public Health Director and lo-
44 cal public health administrators shall be given immediate access to individually identifiable health
45 information necessary to:

- 1 (A) Determine the causes of an illness related to the public health emergency;
- 2 (B) Identify persons at risk;
- 3 (C) Identify patterns of transmission;
- 4 (D) Provide treatment; and
- 5 (E) Take steps to control the disease.

6 (b) Individually identifiable health information accessed as provided by paragraph (a) of this
7 subsection may not be used for conducting nonemergency epidemiologic research or to identify
8 persons at risk for post-traumatic mental health problems, or for any other purpose except the pur-
9 poses listed in paragraph (a) of this subsection.

10 (c) Individually identifiable health information obtained by the Public Health Director or local
11 public health administrators under this subsection may not be disclosed without written authori-
12 zation of the identified individual except:

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

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

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

18 (D) Directly to a health care provider for the evaluation or treatment of a condition that is the
19 subject of a proclamation of a state of public health emergency issued under ORS 433.441.

20 (d) Upon expiration of the state of public health emergency, the Public Health Director or local
21 public health administrators may not use or disclose any individually identifiable health information
22 that has been obtained under this section. If a state of emergency that is related to the state of
23 public health emergency has been declared under ORS 401.055, the Public Health Director and local
24 public health administrators may continue to use any individually identifiable information obtained
25 as provided under this section until termination of the state of emergency.

26 (4) As used in this section:

27 (a) "Covered entity" means:

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

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

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

32 (D) The state medical assistance program; and

33 (E) A health care provider.

34 (b) "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 technologist licensed under ORS 688.405 to 688.605 or an employee of the
17 radiologic 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 743A.184; 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 (c) "Individual" means a natural person.
- 33 (d) "Individually identifiable health information" means any oral or written health information
34 in any form or medium that is:
- 35 (A) Created or received by a covered entity, an employer or a health care provider that is not
36 a covered entity; and
- 37 (B) Identifiable to an individual, including demographic information that identifies the individual,
38 or for which there is a reasonable basis to believe the information can be used to identify an indi-
39 vidual, and that relates to:
- 40 (i) The past, present or future physical or mental health or condition of an individual;
- 41 (ii) The provision of health care to an individual; or
- 42 (iii) The past, present or future payment for the provision of health care to an individual.
- 43 (e) "Legal representative" means attorney at law, person holding a general power of attorney,
44 guardian, conservator or any person appointed by a court to manage the personal or financial affairs
45 of a person, or agency legally responsible for the welfare or support of a person.

1 (5) All civil penalties recovered under this section shall be paid into the State Treasury and
2 credited to the General Fund and are available for general governmental expenses.

3 (6) The Public Health Director may request assistance in enforcing orders issued pursuant to
4 this section from state or local law enforcement authorities. If so requested by the Public Health
5 Director, state and local law enforcement authorities, to the extent resources are available, shall
6 assist in enforcing orders issued pursuant to this section.

7 (7) If the [*Department of Human Services*] **Oregon Health Authority** adopts temporary rules to
8 implement the provisions of this section, the rules adopted are not subject to the provisions of ORS
9 183.335 (6)(a). The [*department*] **authority** may amend temporary rules adopted pursuant to this
10 subsection as often as necessary to respond to the public health emergency.

11 **SECTION 675.** ORS 433.452 is amended to read:

12 433.452. (1) If the Public Health Director or the local public health administrator reasonably
13 believes a person within the jurisdiction of the director or the administrator may have been exposed
14 to a communicable disease identified by rule of the [*Department of Human Services*] **Oregon Health**
15 **Authority** to be a reportable disease or condition or a condition that is the basis for a state of
16 public health emergency declared by the Governor as authorized by ORS 433.441, the person may
17 be detained for as long as reasonably necessary for the director or administrator to convey infor-
18 mation to the person regarding the communicable disease or condition and to obtain contact infor-
19 mation, including but not limited to the person's residence and employment addresses, date of birth,
20 telephone numbers and any other contact information required by the director or administrator.

21 (2) If a person detained under subsection (1) of this section refuses to provide the information
22 requested, the director or administrator may impose a public health measure appropriate to the
23 public health threat presented pursuant to ORS 433.035, 433.121 and 433.123.

24 **SECTION 676.** ORS 433.511 is amended to read:

25 433.511. Subject to available funds, the [*Department of Human Services*] **Oregon Health Au-**
26 **thority** may establish a broad public information program to educate the public on indoor air
27 pollutants, their identities, causes and effects, and on effective practical methods for preventing,
28 detecting and correcting the causes of indoor air pollution.

29 **SECTION 677.** ORS 433.517 is amended to read:

30 433.517. Subject to available funds, the [*Department of Human Services*] **Oregon Health Au-**
31 **thority** may conduct field investigations and epidemiological studies to quantify the extent of indoor
32 air pollution levels and public exposure in Oregon. Field investigations shall be conducted in a
33 manner that does not compete with the business of private contractors. Epidemiological studies may
34 be conducted to look for the causes of illness and collect and analyze data to identify trends and
35 health impacts, especially where national information on significant potential problems is lacking.

36 **SECTION 678.** ORS 433.521 is amended to read:

37 433.521. (1) Based upon the recommendations of the Indoor Air Pollution Task Force, the [*De-*
38 *partment of Human Services*] **Oregon Health Authority** may establish indoor air quality standards
39 for significant indoor air pollutants. If established, the standards:

- 40 (a) Shall include an adequate margin of safety;
41 (b) Shall be adequate to protect the population, including sensitive groups; and
42 (c) May be revised as appropriate.

43 (2) If established, indoor air quality standards shall be at least for the following significant in-
44 door air pollutants:

- 45 (a) Particulate matter;

- 1 (b) Aldehydes;
- 2 (c) Radon;
- 3 (d) Carbon monoxide;
- 4 (e) Carbon dioxide;
- 5 (f) Ozone; and
- 6 (g) Water vapor.

7 (3) In developing the indoor air quality standards, the *[Department of Human Services]* **authority**
8 shall consult with the Department of Environmental Quality, the Department of Consumer and
9 Business Services and the Indoor Air Pollution Task Force.

10 (4) The standards established by the *[Department of Human Services]* **authority** shall not take
11 effect before July 1, 1991. The *[Department of Human Services]* **authority** shall seek voluntary
12 compliance with the standards.

13 **SECTION 679.** ORS 433.526 is amended to read:

14 433.526. (1) The *[Department of Human Services]* **Oregon Health Authority** may establish by
15 rule a public recognition program for office workplaces, buildings and public areas that consistently
16 meet the indoor air quality requirements of ORS 433.502 to 433.526, 455.445 and 468A.775 to
17 468A.785. Any workplace, building or public area that qualifies for such recognition may display a
18 notice indicating that the building exceeds the requirements of Oregon's indoor clean air statutes.

19 (2) To qualify for recognition under this section, an office workplace, building or public area
20 shall:

21 (a) Comply with all applicable provisions of ORS 433.835 to 433.875;

22 (b) Demonstrate a consistent pattern of compliance in meeting all indoor air quality standards
23 and other requirements of ORS 433.502 to 433.526, 455.445 and 468A.775 to 468A.785; and

24 (c) Demonstrate to the satisfaction of the *[Department of Human Services]* **authority** that all
25 technically and economically practicable steps have been taken to minimize significant sources of
26 indoor air pollution.

27 (3) The *[Department of Human Services]* **authority** by rule may establish a fee to be submitted
28 by the owner or responsible party of a building, workplace or public area who requests certification
29 under this section. The fee shall be an amount sufficient to pay the *[department's]* **authority's** costs
30 in carrying out the provisions of this section.

31 **SECTION 680.** ORS 433.715 is amended to read:

32 433.715. No person having delivered merchandise, such as clothing, wearing apparel of every
33 description, hair goods, brushes, rubber goods, books, mattresses, blankets, sheets, pillows or other
34 kinds of bedding, to any person or institution at or thereafter taken to any place where any
35 communicable disease exists or may exist, after the delivery of such merchandise, shall intermingle
36 the same with the goods for sale or offer the same for sale or sell the same, or receive any mer-
37 chandise from any place or premises where any communicable disease exists or has existed, and
38 intermingle such goods with other goods for sale or offer the same for sale or sell the same, until
39 such goods have been thoroughly disinfected in accordance with the rules and regulations of the
40 *[Department of Human Services]* **Oregon Health Authority**.

41 **SECTION 681.** ORS 433.750 is amended to read:

42 433.750. (1) The governing body of a county in which an outdoor mass gathering is to take place
43 shall issue a permit upon application when the organizer demonstrates compliance with or the
44 ability to comply with the health and safety rules governing outdoor mass gatherings to be regulated
45 according to the anticipated crowd and adopted by the *[Department of Human Services]* **Oregon**

1 **Health Authority.** The application shall include all of the following:

2 (a) Name and address of the applicant.

3 (b) Legal description of the place of the proposed gathering.

4 (c) Date of the proposed gathering.

5 (d) Estimated attendance at the proposed gathering.

6 (e) Nature of the proposed gathering.

7 (f) Such other appropriate information as the county governing body may require in order to
8 insure compliance with rules of the [*Department of Human Services*] **authority.**

9 (2) Notice of the application shall be sent by the county governing body to the county sheriff
10 or county chief law enforcement officer, the county health officer and the chief of the fire district
11 in which the gathering is to be held.

12 (3) Each officer receiving notice of the application under subsection (2) of this section who
13 wishes to comment on the application shall submit such comment in writing to the county governing
14 body not later than the hearing date. The comment may include recommendations related to the
15 official functions of the officer as to granting the permit and any recommended conditions that
16 should be imposed.

17 (4) The county governing body shall hold a public hearing on the issue of compliance with this
18 section. Notice of the time and place of such hearing including a general explanation of the matter
19 to be considered shall be published at least 10 calendar days before the hearing in a newspaper of
20 general circulation in the county or, if there is none, it shall be posted in at least three public places
21 in the county.

22 (5) Any decision of a county governing body on an application for a permit to hold an outdoor
23 mass gathering may be appealed to a circuit court for the county as provided in ORS 34.020 to
24 34.100.

25 (6) A county governing body may charge permit applicants a fee reasonably calculated to reim-
26 burse the county for its reasonable and necessary costs in receiving, processing and reviewing ap-
27 plications for permits to hold outdoor mass gatherings. However, a fee authorized by this subsection
28 shall not exceed \$5,000 and shall not be charged when the governing body finds, by a preponderance
29 of the evidence presented to the governing body, that the applicant is unable to reimburse the gov-
30 erning body.

31 **SECTION 682.** ORS 433.760 is amended to read:

32 433.760. Notwithstanding any other provisions of law, the [*Department of Human Services*]
33 **Oregon Health Authority** shall, in accordance with the provisions of ORS chapter 183, make rules
34 regulated according to anticipated crowds with respect to health and safety at outdoor mass gath-
35 erings which provide for:

36 (1) Adequate water supply, drainage and sewerage facilities;

37 (2) Adequate toilet facilities;

38 (3) Adequate refuse storage and disposal facilities;

39 (4) Adequate food and sanitary food service, if supplied;

40 (5) Adequate emergency medical facilities and communication systems;

41 (6) Adequate fire protection; and

42 (7) Adequate security personnel and traffic control.

43 **SECTION 683.** ORS 433.810 is amended to read:

44 433.810. The [*Department of Human Services*] **Oregon Health Authority** shall:

45 (1) Adopt rules necessary for the administration of ORS 433.800 to 433.830 including defining

1 circumstances under which 433.800 to 433.815 and 433.825 shall apply. The *[department]* **authority**
2 shall include input from the educational system, health care provider organizations and other in-
3 terested parties when adopting rules or amending those rules.

4 (2) Develop or approve protocols for educational training as described in ORS 433.815, including
5 the use of mechanisms for periodic retraining of individuals, and provide the protocols for educa-
6 tional training upon request to schools, health care professionals, parents or guardians of students
7 or other interested parties.

8 **SECTION 684.** ORS 433.835, as amended by section 1, chapter 602, Oregon Laws 2007, is
9 amended to read:

10 433.835. As used in ORS 433.835 to 433.875:

11 (1) “Cigar bar” means a business that:

12 (a) Has on-site sales of cigars as defined in ORS 323.500;

13 (b) Has a humidor on the premises;

14 (c) Allows the smoking of cigars on the premises but prohibits the smoking of all other tobacco
15 products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes as defined
16 in ORS 323.010 and cigarillos as defined by the *[Department of Human Services]* **Oregon Health**
17 **Authority** by rule;

18 (d) Has been issued and operates under a full on-premises sales license issued under ORS
19 471.175;

20 (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the
21 prohibition;

22 (f) Does not offer video lottery games as authorized under ORS 461.217;

23 (g) Has a maximum seating capacity of 40 persons;

24 (h) Has a ventilation system that is certified by the assistant to the State Fire Marshal de-
25 scribed in ORS 476.060 for the jurisdiction in which the cigar bar is located as adequate to remove
26 the cigar smoke in the cigar bar and vents the smoke from the cigar bar in a manner that prevents
27 the smoke from entering any other establishment; and

28 (i) Requires all employees to read and sign a document that explains the dangers of exposure
29 to secondhand smoke.

30 (2) “Enclosed area” means all space between a floor and a ceiling that is enclosed on three or
31 more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that
32 extend from the floor to the ceiling.

33 (3) “Place of employment” means every enclosed area under the control of a public or private
34 employer that employees frequent during the course of employment, including but not limited to
35 work areas, employee lounges, vehicles that are operated in the course of an employer’s business
36 that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafe-
37 terias, hallways, meeting rooms, elevators and stairways. “Place of employment” does not include a
38 private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility
39 providing adult day care as defined in ORS 410.490.

40 (4) “Public place” means any enclosed area open to the public.

41 (5) “Smoke shop” means a business that:

42 (a) Is primarily engaged in the sale of tobacco products and smoking instruments, with at least
43 75 percent of the gross revenues of the business resulting from such sales;

44 (b) Prohibits persons under 18 years of age from entering the premises;

45 (c) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting

1 on the premises;

2 (d) Does not sell or offer on-premises consumption of alcoholic beverages; and

3 (e) Is a stand-alone business with no other businesses or residential property attached to the
4 premises.

5 (6) "Smoking instrument" means any cigar, cigarette, pipe or other smoking equipment.

6 **SECTION 685.** ORS 433.850, as amended by section 4, chapter 602, Oregon Laws 2007, is
7 amended to read:

8 433.850. (1) An employer shall provide a place of employment that is free of tobacco smoke for
9 all employees.

10 (2) Notwithstanding subsection (1) of this section:

11 (a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the
12 sleeping rooms of the hotel or motel as rooms in which smoking is permitted.

13 (b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces
14 designated for traditional ceremonies in accordance with the American Indian Religious Freedom
15 Act, 42 U.S.C. 1996.

16 (c) Smoking is permitted in a smoke shop.

17 (d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least
18 \$5,000 for the calendar year ending December 31, 2006.

19 (3) An employer, except in those places described in subsection (2) of this section, shall post
20 signs that provide notice of the provisions of ORS 433.835 to 433.875.

21 **SECTION 686.** ORS 433.855, as amended by section 5, chapter 602, Oregon Laws 2007, is
22 amended to read:

23 433.855. (1) The [*Department of Human Services*] **Oregon Health Authority**, in accordance with
24 the provisions of ORS chapter 183:

25 (a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875 and
26 433.990 (5);

27 (b) Shall be responsible for compliance with such rules; and

28 (c) May impose a civil penalty not to exceed the amount specified in ORS 433.990 (5) for each
29 violation of a rule of the [*department*] **authority** applicable to ORS 433.845 or 433.850, to be col-
30 lected in the manner provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into
31 the State Treasury and credited to the Tobacco Use Reduction Account established under ORS
32 431.832.

33 (2) In carrying out its duties under this section, the [*Department of Human Services*] **authority**
34 is not authorized to require any changes in ventilation or barriers in any public place or place of
35 employment. However, nothing in this subsection is intended to limit the [*authority of the*
36 *department*] **power of the authority** to impose any requirements under any other provision of law.

37 (3) In public places which the [*Department of Human Services*] **authority** regularly inspects, the
38 [*Department of Human Services*] **authority** shall check for compliance with the provisions of ORS
39 433.835 to 433.875 and 433.990 (5). In other public places and places of employment, the [*Department*
40 *of Human Services*] **authority** shall respond in writing or orally by telephone to complaints, notify-
41 ing the proprietor or person in charge of responsibilities of the proprietor or person in charge under
42 ORS 433.835 to 433.875 and 433.990 (5). If repeated complaints are received, the [*Department of Hu-*
43 *man Services*] **authority** may take appropriate action to ensure compliance.

44 (4) When a county has received delegation of the duties and responsibilities under ORS 446.425
45 and 448.100, or contracted with the [*Department of Human Services*] **authority** under ORS 190.110,

1 the county shall be responsible for enforcing the provisions of ORS 433.835 to 433.875 and 433.990
2 (5) [that are applicable to those licensed facilities and shall have the same authority as the Department
3 of Human Services for such enforcement] **and shall have the same enforcement power as the**
4 **authority.**

5 **SECTION 687.** ORS 433.860 is amended to read:

6 433.860. The [Department of Human Services] **Oregon Health Authority** or local board of health
7 may institute an action in the circuit court of the county where the violation occurred to enjoin
8 repeated violations of ORS 433.850.

9 **SECTION 688.** ORS 433.990, as amended by section 7, chapter 602, Oregon Laws 2007, is
10 amended to read:

11 433.990. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A
12 misdemeanor.

13 (2) Violation of ORS 433.010 is punishable, upon conviction, by imprisonment in the custody of
14 the Department of Corrections for not more than three years.

15 (3) Violation of ORS 433.035 is punishable upon conviction by a fine of not less than \$10 nor
16 more than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both.

17 (4) Violation of ORS 433.131 is a Class D violation punishable by fines totaling not more than
18 \$50 per day, not to exceed \$1,000 in any 30-day period.

19 (5) Violation of ORS 433.850 is a Class A violation punishable by a fine of not more than \$500
20 per day. Fines imposed against a single employer under this subsection may not exceed \$2,000 in
21 any 30-day period.

22 (6) Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful order
23 of the Director of [Human Services] **the Oregon Health Authority** issued under ORS 433.350 is a
24 Class C misdemeanor.

25 (7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon con-
26 viction, by a fine of not more than \$10,000.

27 **SECTION 689.** ORS 435.090 is amended to read:

28 435.090. (1) Goods of the class specified in ORS 435.010 shall be sold at wholesale or at retail
29 in this state only if they:

30 (a) Specifically identify the manufacturer, date of manufacture or an expiration date and the
31 distributor thereof by firm name and address on the container in which the goods are sold or are
32 intended to be distributed. All such goods manufactured after December 31, 1994, shall bear an ex-
33 piration date.

34 (b) Comply with the standards as to such goods, respecting grade and quality, prescribed by the
35 [Department of Human Services] **Oregon Health Authority** under ORS 435.100.

36 (2) Relative to drugs or medicinal preparations intended or having special utility for the pre-
37 vention of conception, each individual container manufactured for sale in Oregon must bear the date
38 of manufacture or an expiration date. All such drugs or medicinal preparations manufactured after
39 December 31, 1994, shall bear an expiration date.

40 **SECTION 690.** ORS 435.100 is amended to read:

41 435.100. (1) The [Department of Human Services] **Oregon Health Authority** shall adopt and
42 promulgate from time to time and have jurisdiction over the establishing of such standards relating
43 to and governing the articles and medicinal preparations mentioned in ORS 435.010 as may be
44 deemed necessary by the [department] **authority** in the interest of disease prevention.

45 (2) The State Board of Pharmacy may adopt other rules to enforce and carry out the provisions

1 of ORS 435.010 to 435.130 in cooperation with the *[department]* **authority**.

2 (3) The *[department]* **authority** shall cause to have published the brand names of all goods of the
3 class specified in ORS 435.010 that comply with the standards prescribed under subsection (1) of this
4 section.

5 **SECTION 691.** ORS 435.105 is amended to read:

6 435.105. In lieu of its own inspection program, the State Board of Pharmacy may enter into an
7 agreement with the *[Department of Human Services]* **Oregon Health Authority** or a county or dis-
8 trict board of health. The agreement shall authorize the *[department]* **authority** or the board to
9 make inspections of the condom stock to determine that the stock consists only of brands that
10 comply with standards promulgated under ORS 435.100 (1). The agreement shall include authority
11 to enforce applicable rules of the State Board of Pharmacy and the *[department]* **authority** and such
12 rules of the board shall be considered rules of the *[department]* **authority** or the county or district
13 board of health.

14 **SECTION 692.** ORS 435.205 is amended to read:

15 435.205. (1) The *[Department of Human Services]* **Oregon Health Authority** and every county
16 health department shall offer family planning and birth control services within the limits of available
17 funds. Both agencies jointly may offer such services. The Director of *[Human Services]* **the Oregon**
18 **Health Authority** or a designee shall initiate and conduct discussions of family planning with each
19 person who might have an interest in and benefit from such service. The *[Department of Human*
20 *Services]* **authority** shall furnish consultation and assistance to county health departments.

21 (2) Family planning and birth control services may include interviews with trained personnel;
22 distribution of literature; referral to a licensed physician for consultation, examination, medical
23 treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, the
24 initial supply of a drug or other medical preparation, contraceptive devices and similar products.

25 (3) Any literature, charts or other family planning and birth control information offered under
26 this section in counties in which a significant segment of the population does not speak English shall
27 be made available in the appropriate foreign language for that segment of the population.

28 (4) In carrying out its duties under this section, and with the consent of the county governing
29 body, any county health department may adopt a fee schedule for services provided by the county
30 health department. The fees shall be reasonably calculated not to exceed costs of services provided
31 and may be adjusted on a sliding scale reflecting ability to pay.

32 (5) The county health department shall collect fees according to the schedule adopted under
33 subsection (4) of this section. Such fees may be used to meet the expenses of providing the services
34 authorized by this section.

35 **SECTION 693.** ORS 435.225 is amended to read:

36 435.225. Any employee of the *[Department of Human Services]* **Oregon Health Authority** may
37 refuse to accept the duty of offering family planning and birth control services to the extent that
38 such duty is contrary to the personal or religious beliefs of the employee. However, such employee
39 shall notify the immediate supervisor in writing of such refusal in order that arrangements may be
40 made for eligible persons to obtain such information and services from another employee. Such re-
41 fusal shall not be grounds for any disciplinary action, for dismissal, for any interdepartmental
42 transfer, for any other discrimination in employment, or for suspension from employment, or for any
43 loss in pay or other benefits.

44 **SECTION 694.** ORS 435.254 is amended to read:

45 435.254. (1) A hospital providing care to a female victim of sexual assault shall:

1 (a) Promptly provide the victim with unbiased, medically and factually accurate written and oral
2 information about emergency contraception;

3 (b) Promptly orally inform the victim of her option to be provided emergency contraception at
4 the hospital; and

5 (c) If requested by the victim and if not medically contraindicated, provide the victim with
6 emergency contraception immediately at the hospital, notwithstanding section 2, chapter 789,
7 Oregon Laws 2003.

8 (2)(a) In collaboration with victim advocates, other interested parties and nonprofit organiza-
9 tions that provide intervention and support services to victims of sexual assault and their families,
10 the [*Department of Human Services*] **Oregon Health Authority** shall develop, prepare and produce
11 informational materials relating to emergency contraception for the prevention of pregnancy in
12 victims of sexual assault for distribution to and use in all hospital emergency departments in the
13 state, in quantities sufficient to comply with the requirements of this section.

14 (b) The Director of [*Human Services*] **the Oregon Health Authority**, in collaboration with
15 community sexual assault programs and other relevant stakeholders, may approve informational
16 materials developed, prepared and produced by other entities for the purposes of paragraph (a) of
17 this subsection.

18 (c) All informational materials must:

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

20 (B) Contain an explanation of emergency contraception, including its use, safety and effective-
21 ness in preventing pregnancy, including but not limited to the following facts:

22 (i) Emergency contraception has been approved by the United States Food and Drug Adminis-
23 tration as an over-the-counter medication for women 18 years of age or older and is a safe and ef-
24 fective way to prevent pregnancy after unprotected sexual intercourse or after contraceptive failure,
25 if taken in a timely manner.

26 (ii) Emergency contraception is more effective the sooner it is taken.

27 (iii) Emergency contraception will not disrupt an established pregnancy.

28 (3) The [*department*] **authority** shall respond to complaints of violations of ORS 435.256 in ac-
29 cordance with ORS 441.057.

30 (4) The [*department*] **authority** shall incorporate the requirements of this section in rules
31 adopted pursuant to ORS 441.055 that prescribe the care to be given to patients at hospitals.

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

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

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

37 (b) Information that leading professional organizations, such as the American College of
38 Obstetricians and Gynecologists, and agencies with expertise in the field recognize as accurate and
39 objective.

40 **SECTION 695.** ORS 435.256 is amended to read:

41 435.256. The [*Department of Human Services*] **Oregon Health Authority** may impose a civil
42 penalty against a hospital for each violation of the rules adopted under ORS 435.254. A civil penalty
43 imposed under this section may not exceed \$1,000 for each violation upon inspection or each sub-
44 stantiated complaint filed.

45 **SECTION 696.** ORS 437.010 is amended to read:

1 437.010. Any representative of a religious denomination, householder, nurse, parent, guardian
 2 or other person attending to, or in any way having knowledge of the existence of a case of
 3 pulmonary tuberculosis, including the affected person, must immediately report the fact to the [*De-*
 4 *partment of Human Services*] **Oregon Health Authority**. The names and addresses of all persons
 5 reported as having pulmonary tuberculosis shall be recorded [*in the office of the department*] **with**
 6 **the authority**.

7 **SECTION 697.** ORS 437.030 is amended to read:

8 437.030. The [*Department of Human Services*] **Oregon Health Authority** shall, upon receiving
 9 a report that any person has tuberculosis, make such investigation of the case as is necessary to
 10 determine whether or not the person reported has communicable tuberculosis. Upon finding that any
 11 person has communicable tuberculosis, the [*department*] **authority** shall exercise such control over
 12 the affected person and contacts with other persons as may be necessary for the protection of the
 13 public health, pursuant to its rules and regulations. In exercising such control over any person who
 14 has communicable tuberculosis the [*department*] **authority** may make such rules or orders governing
 15 such person's conduct as are necessary to prevent the spread of the disease.

16 **SECTION 698.** ORS 438.010 is amended to read:

17 438.010. As used in ORS 438.010 to 438.510, unless the context requires otherwise:

18 (1) **"Authority" means the Oregon Health Authority.**

19 [(1)] (2) "Clinical laboratory" or "laboratory" means a facility where the microbiological,
 20 serological, chemical, hematological, immunohematological, immunological, toxicological,
 21 cytogenetical, exfoliative cytological, histological, pathological or other examinations are performed
 22 on materials derived from the human body, for the purpose of diagnosis, prevention of disease or
 23 treatment of patients by physicians, dentists and other persons who are authorized by license to
 24 diagnose or treat humans.

25 [(2)] (3) "Clinical laboratory specialty" or "laboratory specialty" means the examination of ma-
 26 terials derived from the human body for the purpose of diagnosis and treatment of patients or as-
 27 sessment of health, employing one of the following sciences: Serology, microbiology, chemistry,
 28 hematology, immunohematology, immunology, toxicology, cytogenetics, exfoliative cytology,
 29 histology or pathology.

30 [(3)] (4) "Clinician" means a nurse practitioner licensed and certified by the Oregon State Board
 31 of Nursing, or a physician assistant licensed by the Oregon Medical Board.

32 [(4)] (5) "Custody chain" means the handling of specimens in a way that supports legal testimony
 33 to prove that the sample integrity and identification of the sample have not been violated, as well
 34 as the documentation describing those procedures from specimen collection to the final report.

35 [(5)] (6) "Dentist" means a person licensed to practice dentistry by the Oregon Board of
 36 Dentistry.

37 [(6)] "*Department*" means the *Department of Human Services*.]

38 (7) "Director of clinical laboratory" or "director" means the person who plans, organizes, directs
 39 and participates in any or all of the technical operations of a clinical laboratory, including but not
 40 limited to reviewing laboratory procedures and their results, training and supervising laboratory
 41 personnel, and evaluating the technical competency of such personnel.

42 (8) "Health screen testing" means tests performed for the purpose of identifying health risks,
 43 providing health information and referring the person being tested to medical care.

44 (9) "High complexity laboratory" means a facility that performs testing classified as highly
 45 complex in the specialties of microbiology, chemistry, hematology, diagnostic immunology,

1 immunoematology, clinical cytogenetics, cytology, histopathology, oral pathology, pathology,
2 radiobioassay and histocompatibility and that may also perform moderate complexity tests and
3 waived tests.

4 (10) "High complexity test" means a procedure performed on materials derived from the human
5 body that meet the criteria for this category of testing in the specialties of microbiology, chemistry,
6 hematology, immunoematology, diagnostic immunology, clinical cytogenetics, cytology,
7 histopathology, oral pathology, pathology, radiobioassay and histocompatibility as established by the
8 [department] **authority**.

9 (11) "Laboratory evaluation system" means a system of testing clinical laboratory methods,
10 procedures and proficiency by periodic performance and reporting on test specimens submitted for
11 examination.

12 (12) "Moderate complexity laboratory" means a facility that performs testing classified as mod-
13 erately complex in the specialties of microbiology, hematology, chemistry, immunoematology or di-
14 agnostic immunology and may also perform any waived test.

15 (13) "Moderate complexity test" means a procedure performed on materials derived from the
16 human body that meet the criteria for this category of testing in the specialties of microbiology,
17 hematology, chemistry, immunoematology or diagnostic immunology as established by the [depart-
18 ment] **authority**.

19 (14) "Operator of a substances of abuse on-site screening facility" or "operator" means the per-
20 son who plans, organizes, directs and participates in any or all of the technical and administrative
21 operations of a substances of abuse on-site screening facility.

22 (15) "Owner of a clinical laboratory" means the person who owns the clinical laboratory, or a
23 county or municipality operating a clinical laboratory or the owner of any institution operating a
24 clinical laboratory.

25 (16) "Physician" means a person licensed to practice medicine by the Oregon Medical Board.

26 (17) "Physician performed microscopy procedure" means a test personally performed by a phy-
27 sician or other clinician during a patient's visit on a specimen obtained during the examination of
28 the patient.

29 (18) "Physician performed microscopy procedures" means a limited group of tests that are per-
30 formed only by a physician or clinician.

31 (19) "Specimen" means materials derived from a human being or body.

32 (20) "Substances of abuse" means ethanol and controlled substances, except those used as al-
33 lowed by law and as defined in ORS chapter 475 or as used in ORS 689.005.

34 (21) "Substances of abuse on-site screening facility" or "on-site facility" means a location where
35 on-site tests are performed on specimens for the purpose of screening for the detection of substances
36 of abuse.

37 (22) "Substances of abuse on-site screening test" or "on-site test" means a substances of abuse
38 test that is easily portable and can meet the requirements of the federal Food and Drug Adminis-
39 tration for commercial distribution or an alcohol screening test that meets the requirements of the
40 conforming products list found in the United States Department of Transportation National Highway
41 Traffic Safety Administration Docket No. 94-004 and meets the standards of the United States De-
42 partment of Transportation Alcohol Testing Procedure, 49 C.F.R. part 40, in effect on October 23,
43 1999.

44 (23) "Waived test" means a procedure performed on materials derived from the human body that
45 meet the criteria for this category of testing as established by the [department] **authority**.

1 **SECTION 699.** ORS 438.060 is amended to read:

2 438.060. Notwithstanding ORS 438.050, any person performing health screen testing must obtain
3 a permit under ORS 438.150 (5). However, an employer providing health screen testing to employees
4 of the employer is exempt from the applications of ORS 438.010, 438.130, 438.150 and this section if
5 such employer contracts for the testing through a licensed physician, a clinical laboratory or a
6 hospital, which is a permittee of the [*Department of Human Services*] **Oregon Health Authority** as
7 provided in this section.

8 **SECTION 700.** ORS 438.070 is amended to read:

9 438.070. The [*Department of Human Services*] **Oregon Health Authority** shall establish by rule
10 the qualifications and responsibilities of technical and clinical consultants, general and technical
11 supervisors and testing personnel. A person is qualified to act as a technical or clinical consultant,
12 a general or technical supervisor, or a testing person in a clinical laboratory if the person meets
13 the requirements established by the [*department*] **authority**. Rules adopted under this section shall
14 not be more stringent than comparable rules adopted under the Clinical Laboratory Improvement
15 Amendments of 1988 (P.L. 100-578; 42 U.S.C. 201 and 263a).

16 **SECTION 701.** ORS 438.110 is amended to read:

17 438.110. (1) The [*Department of Human Services*] **Oregon Health Authority** shall establish four
18 levels of laboratory licenses as follows:

- 19 (a) A high complexity laboratory license;
- 20 (b) A moderate complexity laboratory license;
- 21 (c) A physician performed microscopy laboratory license; and
- 22 (d) A waived laboratory license.

23 (2) The [*department*] **authority** shall issue and renew licenses required under ORS 438.040 for
24 any or all clinical laboratory specialties to the owners of clinical laboratories who demonstrate to
25 the satisfaction of the [*department*] **authority** that:

- 26 (a) The clinical laboratory is in compliance with ORS 438.010 to 438.510 and the rules of the
27 [*department*] **authority** adopted under ORS 438.450;
- 28 (b) The laboratory is adequately equipped to perform proficiently within the scope of its license;
- 29 (c) The clinical laboratory has facilities for retaining and does retain complete laboratory re-
30 cords for an appropriate length of time as the [*department*] **authority** by rule may require; and
- 31 (d) The clinical laboratory meets the standards of the [*department*] **authority** for safety, sanitary
32 conditions, plumbing, ventilation, handling of specimens, maintenance of equipment and requirements
33 of general hygiene to insure protection of the public health.

34 **SECTION 702.** ORS 438.120 is amended to read:

35 438.120. (1) In determining the specialties that are authorized to be performed in a clinical lab-
36 oratory, the [*Department of Human Services*] **Oregon Health Authority** shall consider laboratory
37 personnel, with particular emphasis on the qualifications of the director, laboratory equipment and
38 any other relevant factors affecting the ability of the laboratory to perform different laboratory
39 specialties.

40 (2) No laboratory shall be licensed to perform examinations in the fields of surgical pathology,
41 autopsy pathology, exfoliative cytology, or immunohematology, [*except as the Department of Human*
42 *Services may establish exemptions from the requirements of this subsection in the field of*
43 *immunohematology,*] unless its director is a physician or dentist specifically qualified in these fields.
44 **The authority may establish exemptions from the requirements of this subsection for the**
45 **field of immunohematology.**

1 (3) The list of waived tests, physician performed microscopy procedures and moderate and high
2 complexity tests shall be established by the [*department*] **authority**.

3 **SECTION 703.** ORS 438.130 is amended to read:

4 438.130. (1) The application for a license for a clinical laboratory shall be made on forms pro-
5 vided by the [*Department of Human Services*] **Oregon Health Authority** and shall be executed by
6 the owner or one of the owners or by an officer of the firm or corporation owning the clinical labo-
7 ratory, or in the case of a county or municipality, by the public official responsible for operation
8 of the laboratory, or in the case of an institution, by the administrator of the institution. The ap-
9 plication shall contain the names of the owner, the director or directors of the clinical laboratory,
10 the location and physical description of the clinical laboratory, the laboratory specialties for which
11 a license is requested and such other information as the [*department*] **authority** may require.

12 (2)(a) The application shall be accompanied by an annual or biennial license fee to be estab-
13 lished by the [*department*] **authority**. The fee shall be based on test volume, test complexity, the
14 number of specialties performed and private laboratory accreditation. For each level of laboratory
15 testing, the fee shall be not more than 100 percent of the corresponding fee charged by the federal
16 laboratory certification program known as the Clinical Laboratory Improvement Amendments of
17 1988 (P.L. 100-578, 42 U.S.C. 201 and 263a) in effect on July 1, 1999. The fee for substance of abuse
18 screening laboratories not certified under the Clinical Laboratory Improvement Amendments of 1988
19 shall be comparable to the clinical laboratory fee established under this section.

20 (b) The [*department*] **authority** may establish prorated fees for licenses issued for a year or less
21 and when there is a change in the laboratory's owner, director or address. A prorated license fee
22 shall be issued to a laboratory accredited by an organization recognized by the [*department*] **au-**
23 **thority**.

24 (3) Unless sooner voided, suspended or revoked, all licenses issued under this section expire on
25 June 30 of the one-year or two-year cycle following the date of issuance or on such date as may be
26 specified by [*department*] **authority** rule. Licenses issued under this section shall be renewable in
27 the manner prescribed by the [*department*] **authority**.

28 (4) Subject to prior approval of the Oregon Department of Administrative Services and a report
29 to the Emergency Board prior to adopting the fees and charges, the fees and charges established
30 under this section shall not exceed the cost of administering the regulatory program of the [*De-*
31 *partment of Human Services*] **authority** pertaining to the purpose for which the fee or charge is es-
32 tablished, as authorized by the Legislative Assembly within the [*department's*] **authority's** budget,
33 as the budget may be modified by the Emergency Board.

34 **SECTION 704.** ORS 438.140 is amended to read:

35 438.140. (1) A license issued to the owner of a clinical laboratory shall show on its face the
36 names of the owners and directors, the location of the laboratory and the clinical laboratory spe-
37 cialties authorized under the license. The license shall be displayed at all times in a prominent place
38 in the laboratory.

39 (2) A license issued to the owner of a clinical laboratory is not transferable. The license of the
40 laboratory is voided 30 days after a change in its director if it has only one director or if all di-
41 rectors change or a change in the ownership or in the location of the laboratory. In case of death
42 of a director, immediate notification to the Director of [*Human Services*] **the Oregon Health Au-**
43 **thority** or a designee who shall be empowered to issue a special temporary permit of 30 days' du-
44 ration issued to a designated substitute director is required. If a license is voided or a special
45 temporary permit is issued under this section, a new license application, accompanied by the

1 nonrefundable license fee prescribed in ORS 438.130, shall be filed with the [Department of Human
2 Services] **authority**.

3 **SECTION 705.** ORS 438.150 is amended to read:

4 438.150. (1) In addition to the license of a clinical laboratory required by ORS 438.040, the [De-
5 partment of Human Services] **Oregon Health Authority** may issue a temporary permit valid for a
6 period, to be determined by the [department] **authority**, from the date of issuance in any or all
7 clinical laboratory specialties upon payment of the respective required fees as described in ORS
8 438.130 (2).

9 (2) In issuing the temporary permit, the [department] **authority** may require that:

10 (a) Plans for compliance with applicable laws and rules be submitted with the application for the
11 temporary permit;

12 (b) During the period in which the temporary permit is in effect periodic reports be submitted
13 on the progress of the plans for compliance; and

14 (c) Special temporary provisions specified by the [department] **authority** upon application of the
15 temporary permit be maintained for the protection of the public.

16 (3) If at any time the [department] **authority** determines that the clinical laboratory can no
17 longer operate in a manner that protects the public health and safety or that the requirements im-
18 posed under subsection (2) of this section are not being maintained, the [department] **authority** shall
19 cancel the temporary permit.

20 (4) One renewal of the temporary permit may be granted if deemed to be in the best interest
21 of public health by the [department] **authority**. The fee for renewal is the respective required fee
22 as described in ORS 438.130 (2).

23 (5) The [department] **authority** may issue permits for health screen testing.

24 (6) The [department] **authority** by rule shall specify:

25 (a) Appropriate quality assurance procedures;

26 (b) Personnel qualifications;

27 (c) Standards for counseling and referral of persons being tested;

28 (d) Tests a health testing service may conduct;

29 (e) The procedure for applying for a permit; and

30 (f) The procedure for reporting to the [department] **authority** the location of all health screening
31 facilities.

32 (7) The [department] **authority** by rule may specify the maximum length of time a health screen
33 testing service may remain in one location.

34 **SECTION 706.** ORS 438.160 is amended to read:

35 438.160. Subject to ORS chapter 183, the [Department of Human Services] **Oregon Health Au-**
36 **thority** may refuse to issue or renew the license, or may suspend or revoke the license or health
37 screen testing permit, of a clinical laboratory if it finds that the owner or director has:

38 (1) Intentionally made false statements on an application for a clinical laboratory license or any
39 other documents required by the [department] **authority**, or made any misrepresentation in seeking
40 to obtain or retain a license.

41 (2) Demonstrated incompetence as defined pursuant to regulations promulgated after public
42 hearing.

43 (3) Intentionally falsified any report.

44 (4) Referred a specimen for examination to a nonlicensed or an unlicensed clinical laboratory
45 in this state unless the laboratory is exempt from the application of ORS 438.010 to 438.510.

1 (5) Misrepresented the scope of laboratory service offered by the clinical laboratory or the
2 clinical laboratory specialties authorized by the license.

3 (6) Rendered a report on clinical laboratory work actually performed in another clinical labo-
4 ratory without designating the name and address of the clinical laboratory in which the test was
5 performed.

6 (7) Knowingly had professional connection with or permitted the use of the name of the licensed
7 clinical laboratory or its director by a clinical laboratory that is required to but has not obtained
8 a license.

9 (8) Failed to perform or cause to be performed within the time specified analysis of test samples
10 as authorized by ORS 438.320, or failed to report on the results of such analysis within the specified
11 time.

12 (9) Failed to permit within a reasonable time the entry or inspection authorized by ORS 438.310.

13 (10) Failed to continue to meet requirements of ORS 438.110 and 438.120.

14 (11) Violated any provision of ORS 438.010 to 438.510.

15 **SECTION 707.** ORS 438.210 is amended to read:

16 438.210. A person is qualified to act as a laboratory director of a clinical laboratory if:

17 (1) The person is a pathologist certified in clinical or anatomical pathology by a national or-
18 ganization or organizations recognized by the [*Department of Human Services*] **Oregon Health Au-**
19 **thority**, or is a physician who possesses qualifications equivalent to those required for such
20 certification;

21 (2) The person is a physician who possesses special qualifications that enable the person to
22 perform as a laboratory director, or is directing a laboratory on January 1, 1970;

23 (3) The person has an earned degree of Doctor of Science or Doctor of Philosophy, or an ac-
24 ceptable degree as determined by the [*department*] **authority**, from an accredited college or univer-
25 sity, with a major in the chemical, physical, or biological sciences and possesses special
26 qualifications as described in the administrative rules of the [*department*] **authority** that enable the
27 person to perform as a laboratory director;

28 (4) The person is a member of a group of five or more physicians who operate on November 4,
29 1993, a laboratory performing work only on their patients and is the member designated by the
30 group to be the director; or

31 (5) The person was responsible for the direction of a clinical laboratory for at least 12 months
32 within the five years preceding January 1, 1970, and has had at least two years of pertinent clinical
33 laboratory experience, as determined by the [*department*] **authority**.

34 **SECTION 708.** ORS 438.310 is amended to read:

35 438.310. (1) The [*Department of Human Services*] **Oregon Health Authority** or its authorized
36 representative may:

37 (a) At reasonable times enter the premises of a clinical laboratory licensed or subject to being
38 licensed under ORS 438.010 to 438.510 to inspect the facilities, methods, procedures, materials, staff,
39 equipment, laboratory results and records of the clinical laboratory.

40 (b) Require the owner or director to submit reports on the operations and procedures of the
41 laboratory.

42 (c) Require the owner or director to submit initial laboratory findings indicative of
43 communicable disease as defined by law or by rule. Each report shall include the name of the person
44 from whom the specimen was obtained, if the name was reported to the laboratory, and the name
45 and address of the physician for whom such examination or test was made. Such reports shall not

1 be construed as constituting a diagnosis nor shall any laboratory making such report be held liable
2 under the laws of this state for having violated a trust or confidential relationship.

3 (2) The Director of [*Human Services*] **the Oregon Health Authority** or a designee, the [*depart-*
4 *ment*] **authority**, or any employee thereof, shall not disclose information contained in reports on
5 communicable diseases submitted to the [*department*] **authority** under subsection (1) of this section
6 except as such information is made available to employees of the [*department*] **authority** and to local
7 health officers for purposes of administering the public health laws of this state. However, informa-
8 tion contained in such reports may be used in compiling statistical and other data in which persons
9 are not identified by name or otherwise.

10 (3) The [*department*] **authority** shall by rule set standards for the recognition of private labo-
11 ratory accrediting organizations whose standards meet or exceed federal standards. A laboratory
12 that is accredited by a private laboratory accrediting organization recognized by the [*department*]
13 **authority** under this section may submit proof of such accreditation to the [*department*] **authority**.
14 Upon receipt of such proof, the [*department*] **authority** shall issue a license pursuant to ORS
15 438.130.

16 **SECTION 709.** ORS 438.320 is amended to read:

17 438.320. (1) The [*Department of Human Services*] **Oregon Health Authority** shall institute a
18 laboratory evaluation system, as defined in ORS 438.010, and shall make such rules as are necessary
19 to insure quality control of laboratory work.

20 (2) As part of this system, the [*department*] **authority** may require each laboratory to:

21 (a) Participate in on-site inspection and testing;

22 (b) Analyze test samples submitted by the [*department*] **authority** prior to, during or subsequent
23 to the inspection; and

24 (c) Contract with, at the laboratory's own expense, [*a department-approved*] **an authority-**
25 **approved** source of test samples for such test samples to be submitted periodically to the laboratory
26 and to be returned to that source for grading after testing. The test results shall be made available
27 to the [*department*] **authority**.

28 (3) The procedures under subsection (2) of this section shall be referred to as external quality
29 control. The samples are to be tested by regularly assigned personnel using routine methods. The
30 test samples shall be confined to the specialty of the laboratory as indicated on the license. A
31 specified time shall be allowed for such testing and reporting of the results and shall be the time
32 required under conditions of normal operation.

33 (4) In addition to external quality control, each clinical laboratory shall establish an internal
34 laboratory quality control system pursuant to rules of the [*department*] **authority** including but not
35 necessarily limited to the testing of reference or control sera and other biological samples, verifying
36 concurrent calibration standards and control charts recordings, and reporting on its control system
37 as required by the [*department*] **authority**.

38 **SECTION 710.** ORS 438.420 is amended to read:

39 438.420. When the control or release of a case contact or carrier of a communicable disease is
40 dependent on laboratory findings, the health officer may require such findings to be obtained by a
41 clinical laboratory licensed by the [*Department of Human Services*] **Oregon Health Authority**.

42 **SECTION 711.** ORS 438.435 is amended to read:

43 438.435. (1) In addition to duties which a clinical laboratory may perform under ORS 438.010 to
44 438.510, a laboratory is authorized to perform appropriate tests, examinations or analyses on mate-
45 rials derived from the human body for the purpose of detecting substances of abuse in the body. All

1 laboratories performing the tests, examinations or analyses must be licensed under the provisions
 2 of ORS 438.010 to 438.510 and must employ qualified technical personnel to perform the tests, ex-
 3 aminations and analyses.

4 (2) In order to perform such tests, examinations or analyses, the laboratory may examine speci-
 5 mens submitted by persons other than those described in ORS 438.430 (1) and shall report the result
 6 of any test, examination or analysis to the person who submitted the specimen. When the substance
 7 of abuse test is for nonmedical employment or pre-employment purposes, and a written request is
 8 provided, the test result shall be reported to the person from whom the specimen was originally
 9 obtained.

10 (3) When the specimen of a person tested for substances of abuse is submitted to the laboratory
 11 and the test result is positive, the laboratory shall perform a confirming test which has been desig-
 12 nated by rule of the *[Department of Human Services]* **Oregon Health Authority** as the best available
 13 technology for use to determine whether or not the substance of abuse identified by the first test
 14 is present in the specimen prior to reporting the test results.

15 (4) The *[department]* **authority** by rule shall set standards for special category laboratories that
 16 engage only in the initial testing for substances of abuse in the body, including registration proce-
 17 dures for such laboratories and personnel.

18 (5) The operator of a substances of abuse on-site screening facility may use substances of abuse
 19 on-site screening tests if the test results are not for use in diagnosing or preventing disease and are
 20 not for use by physicians, dentists or other licensed health care professionals in treating humans.
 21 Any entity using the test shall pay a yearly filing fee, not to exceed \$50, and file a registration form
 22 as provided by rule of the *[department]* **authority** that:

23 (a) States the current name and address of the entity, the telephone number of the entity, if any,
 24 and the name of a contact individual at each on-site facility operated by the entity; and

25 (b) Certifies that:

26 (A) The tests are being administered according to the federal Food and Drug Administration
 27 package insert that accompanies the test;

28 (B) The tests are being administered according to the instructions of the manufacturer;

29 (C) Custody chain procedures are being followed;

30 (D) Operators of the substances of abuse on-site screening facility are trained in the use of the
 31 substances of abuse on-site screening tests by the manufacturer; and

32 (E) If the substances of abuse on-site screening facility obtains a positive test result on a spec-
 33 imen and the entity indicates that the test result is to be used to deny or deprive any person of
 34 employment or any benefit, or may otherwise result in adverse employment action, the same speci-
 35 men shall be submitted to a clinical laboratory licensed under ORS 438.110 and 438.150 or an
 36 equivalent out-of-state facility and the presence of a substance of abuse confirmed prior to release
 37 of the on-site test result.

38 (6) The *[department]* **authority** by rule shall set reasonable standards for the screening by
 39 correctional agencies of inmates within state and local correctional facilities and offenders on
 40 parole, probation or post-prison supervision for substances of abuse. The standards shall include, but
 41 not be limited to, the establishment of written procedures and protocols, the qualifications and
 42 training of individuals who perform screening tests, the approval of specific technologies and the
 43 minimum requirements for record keeping, quality control and confirmation of positive screening
 44 results.

45 (7) If an initial test by a special category laboratory under subsection (4) of this section or a

1 special category screening under subsection (6) of this section shows a result indicating the presence
2 of a substance of abuse in the body, a confirmatory test shall be conducted in a licensed clinical
3 laboratory if the results are to be used to deprive or deny any person of any employment or benefit.
4 If a screening test of an inmate of a state or local correctional facility is positive for a substance
5 of abuse, the inmate may be held in a secure facility pending the outcome of the confirmatory test.
6 If the confirmatory test is positive, the inmate may be held in a secure facility pending the outcome
7 of any hearing to determine what action will be taken.

8 (8) If any test for substances of abuse is performed outside this state the results of which are
9 to be used to deprive or deny any person any employment or any benefit, the person desiring to use
10 the test shall have the burden to show that the testing procedure used meets or exceeds the testing
11 standards of this state.

12 **SECTION 712.** ORS 438.440 is amended to read:

13 438.440. All moneys received by the [*Department of Human Services*] **Oregon Health Authority**
14 under ORS 438.010 to 438.510 and 438.990 shall be credited to the Public Health Account and shall
15 be used for payment of the expenses of the [*department*] **authority** in administering the provisions
16 of ORS 438.010 to 438.510 and 438.990.

17 **SECTION 713.** ORS 438.450 is amended to read:

18 438.450. The [*Department of Human Services*] **Oregon Health Authority** shall make such rules
19 as are necessary for carrying out ORS 438.010 to 438.510 in accordance with ORS 183.330.

20 **SECTION 714.** ORS 438.605 is amended to read:

21 438.605. As used in ORS 438.605 to 438.620, 448.280 and 448.285:

22 (1) "Accrediting authority" means the official accrediting authority for the Oregon environ-
23 mental laboratory accreditation program comprised of the Director of [*Human Services or*] **the**
24 **Oregon Health Authority or** designee, the Director of the Department of Environmental Quality
25 or designee and the Director of Agriculture or designee.

26 (2) [*"Department" means the Department of Human Services*] **'Authority' means the Oregon**
27 **Health Authority.**

28 (3) "Environmental laboratory" means a fixed location or mobile facility that performs chemical,
29 physical, radiological, microbiological or biological testing of environmental samples or the col-
30 lection of environmental samples.

31 (4) "Environmental testing" means laboratory analysis of any matter, pollutant, contaminant or
32 hazardous substance subject to regulation pursuant to:

33 (a) Rules adopted or enforced by the [*Department of Human Services*] **Oregon Health**
34 **Authority**, the Department of Environmental Quality or the State Department of Agriculture; or

35 (b) A federal environmental statute or regulation administered or enforced by the United States
36 Environmental Protection Agency.

37 **SECTION 715.** ORS 438.610 is amended to read:

38 438.610. (1) The [*Department of Human Services*] **Oregon Health Authority**, in concurrence with
39 the accrediting authority, may adopt by rule standards for any laboratory seeking accreditation and
40 performing environmental testing for a fee or for determining compliance with environmental stat-
41 utes, rules or regulations.

42 (2) In developing standards under subsection (1) of this section, the [*department*] **authority** shall
43 cooperate with and may seek advice from the United States Environmental Protection Agency and
44 any other state or federal agency that may have adopted rules or regulations for environmental
45 monitoring.

1 (3) The standards adopted under this section may address testing and sampling procedures or
 2 methods, record keeping, disposal or retention of testing materials or samples, or any other practice
 3 related to work performed by an environmental laboratory.

4 **SECTION 716.** ORS 438.615 is amended to read:

5 438.615. The [*Department of Human Services*] **Oregon Health Authority**, in concurrence with
 6 the accrediting authority, shall establish by rule and implement an environmental laboratory ac-
 7 creditation program. The standards for accreditation may be equivalent to, but may not exceed,
 8 standards adopted by national accreditation programs.

9 **SECTION 717.** ORS 438.620 is amended to read:

10 438.620. (1) In conjunction with the environmental laboratory accreditation program established
 11 under ORS 438.615, the [*Department of Human Services*] **Oregon Health Authority** may establish
 12 and collect a fee for laboratory accreditation under the program. A fee imposed under this section
 13 shall not exceed the cost of administering the program.

14 (2) Prior to imposing the fee under subsection (1) of this section, the [*Department of Human*
 15 *Services*] **authority** shall obtain the approval of the Oregon Department of Administrative Services
 16 and report to the appropriate legislative committee.

17 (3) All moneys collected by the [*Department of Human Services*] **Oregon Health Authority** un-
 18 der this section shall be deposited in a dedicated account of the [*department*] **authority**. Such
 19 moneys are continuously appropriated to the [*Department of Human Services*] **Oregon Health Au-**
 20 **thority** to pay the costs of the [*Department of Human Services*] **authority**, the State Department of
 21 Agriculture and the Department of Environmental Quality in administering the environmental labo-
 22 ratory accreditation program established under ORS 438.615.

23 **SECTION 718.** ORS 440.420 is amended to read:

24 440.420. (1) The Medicaid Upper Payment Limit Account is established in the State Treasury
 25 separate and distinct from the General Fund. Moneys in the account are continuously appropriated
 26 to the Oregon Department of Administrative Services for health-related programs.

27 (2) The [*Department of Human Services*] **Oregon Health Authority** shall transfer to the
 28 Medicaid Upper Payment Limit Account that portion of the payment received by the [*department*]
 29 **authority** from health districts in this state under the Proportionate Share Incentive Adjustment
 30 State Plan Amendment to the State Medicaid Plan and under intergovernmental agreements with the
 31 health districts that is attributable to the federal funds portion of the total payment made by the
 32 [*department*] **authority** to the health districts during the biennium.

33 **SECTION 719.** ORS 441.017 is amended to read:

34 441.017. For purposes of licensing health care facilities, health care facility, as defined in ORS
 35 442.015, does not include:

36 (1) Facilities established by ORS 430.306 to 430.335 for treatment of alcoholism or drug abuse;
 37 and

38 (2) Community mental health [*and*] **programs or** development disabilities programs established
 39 under ORS 430.610 to 430.695.

40 **SECTION 720.** ORS 441.020 is amended to read:

41 441.020. (1) Licenses for [*health care facilities including long term care facilities, as defined in*
 42 *ORS 442.015, shall be obtained from the Department of Human Services*] **health care facilities, ex-**
 43 **cept long term facilities as defined in ORS 442.015, must be obtained from the Oregon Health**
 44 **Authority.**

45 (2) **Licenses for long term care facilities must be obtained from the Department of Hu-**

1 **man Services.**

2 [(2)] (3) Applications shall be upon such forms and shall contain such information as the au-
3 **thority or the** department may reasonably require, which may include affirmative evidence of abil-
4 ity to comply with such reasonable standards and rules as may lawfully be prescribed under ORS
5 441.055.

6 [(3)] (4) Each application shall be accompanied by the license fee. If the license is denied, the
7 fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State
8 Treasury to the credit of [*the Department of Human Services Account for carrying out the functions*
9 *under ORS 441.015 to 441.063 and 431.607 to 431.619.*]:

10 (a) **The Oregon Health Authority Fund for the purpose of carrying out the functions of**
11 **the Oregon Health Authority under ORS 441.015 to 441.063; or**

12 (b) **The Department of Human Services Account for the purpose of carrying out the**
13 **functions of the Department of Human Services under ORS 441.015 to 441.063 and 431.607 to**
14 **431.619.**

15 [(4)] (5) Except as otherwise provided in subsection (5) of this section, for hospitals with:

- 16 (a) Fewer than 26 beds, the annual license fee shall be \$750.
- 17 (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.
- 18 (c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$1,900.
- 19 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.
- 20 (e) Two hundred or more beds, the annual license fee shall be \$3,400.

21 [(5)] (6) For long term care facilities with:

- 22 (a) Fewer than 16 beds, the annual license fee shall be up to \$120.
- 23 (b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.
- 24 (c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.
- 25 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to
26 \$450.
- 27 (e) Two hundred beds or more, the annual license fee shall be up to \$580.

28 [(6)] (7) For special inpatient care facilities with:

- 29 (a) Fewer than 26 beds, the annual license fee shall be \$750.
- 30 (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.
- 31 (c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be \$1,900.
- 32 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.
- 33 (e) Two hundred beds or more, the annual license fee shall be \$3,400.

34 [(7)] (8) For ambulatory surgical centers, the annual license fee shall be \$1,000.

35 [(8)] (9) For birthing centers, the annual license fee shall be \$250.

36 [(9)] (10) For outpatient renal dialysis facilities, the annual license fee shall be \$1,500.

37 [(10)] (11) During the time the licenses remain in force holders thereof are not required to pay
38 inspection fees to any county, city or other municipality.

39 [(11)] (12) Any health care facility license may be indorsed to permit operation at more than one
40 location. In such case the applicable license fee shall be the sum of the license fees which would
41 be applicable if each location were separately licensed.

42 [(12)] (13) Licenses for health maintenance organizations shall be obtained from the Director of
43 the Department of Consumer and Business Services pursuant to ORS 731.072.

44 **SECTION 721.** ORS 441.022 is amended to read:

45 441.022. In determining whether to license a health care facility [*pursuant to ORS 441.025, the*

1 *Department of Human Services*] **or long term care facility pursuant to ORS 441.025, the Oregon**
 2 **Health Authority or the Department of Human Services** shall consider only factors relating to
 3 the health and safety of individuals to be cared for therein and [*shall*] **may** not consider whether
 4 the health care facility **or long term care facility** is or will be a governmental, charitable or other
 5 nonprofit institution or whether [*it*] **the facility** is or will be an institution for profit.

6 **SECTION 722.** ORS 441.025 is amended to read:

7 441.025. (1) **Upon receipt of an application to operate a health care facility and the license**
 8 **fee, the Oregon Health Authority shall issue a license if it finds that the applicant and health**
 9 **care facility comply with ORS 441.015 to 441.063 and 441.085 and the rules of the authority**
 10 **provided that the authority does not receive within the time specified a certificate of non-**
 11 **compliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS**
 12 **479.215.**

13 [(1)] (2) Upon receipt of an application **to operate a long term care facility** and the license
 14 fee, the Department of Human Services shall issue a license if [*it*] **the department** finds that the
 15 applicant and [*health*] **long term** care facility comply with ORS 441.015 to 441.063, 441.085 and
 16 441.087 and the rules of the department provided that it does not receive within the time specified
 17 a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority
 18 pursuant to ORS 479.215.

19 [(2)] (3) Each license, unless sooner suspended or revoked, shall be renewable annually for the
 20 calendar year upon payment of the fee, provided that a certificate of noncompliance has not been
 21 issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

22 [(3)] (4) Each license shall be issued only for the premises and persons or governmental units
 23 named in the application and shall not be transferable or assignable.

24 [(4)] (5) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed
 25 by rule of the **authority or the** department.

26 [(5)] (6) No license shall be issued or renewed for any health care facility or health maintenance
 27 organization that offers or proposes to develop a new health service unless a certificate of need has
 28 first been issued therefor pursuant to ORS 442.340 (1987 Replacement Part) or approval has been
 29 granted under ORS 442.315 or section 9, chapter 1034, Oregon Laws 1989.

30 [(6)] (7) No license shall be issued or renewed for any skilled nursing facility or intermediate
 31 care facility, as defined in ORS 442.015, unless the applicant has included in the application the
 32 name and such other information as may be necessary to establish the identity and financial inter-
 33 ests of any person who has incidents of ownership in the facility representing an interest of 10
 34 percent or more thereof. If the person having such interest is a corporation, the name of any
 35 stockholder holding stock representing an interest in the facility of 10 percent or more shall also
 36 be included in the application. If the person having such interest is any other entity, the name of
 37 any member thereof having incidents of ownership representing an interest of 10 percent or more
 38 in the facility shall also be included in the application.

39 [(7)] (8) A license may be denied to any applicant for a license or renewal thereof or any
 40 stockholder of any such applicant who has incidents of ownership in the **health care facility or**
 41 **long term care** facility representing an interest of 10 percent or more thereof, or an interest of 10
 42 percent or more of a lease agreement for the facility, if during the five years prior to the application
 43 the applicant or any stockholder of the applicant had an interest of 10 percent or more in the fa-
 44 cility or of a lease for the facility and has divested that interest after receiving [*written notice from*
 45 *the department of intention*] **from the authority or the department written notice that the au-**

1 **thority or the department intends** to suspend or revoke the license or to decertify the [home]
2 **facility** from eligibility to receive payments for services provided under this section.

3 [(8)] (9) [No license shall be issued or renewed for any] **The Department of Human Services**
4 **may not issue or renew a license for a** long term care facility, as defined in ORS 442.015, unless
5 the applicant has included in the application the identity of any person who has incident of owner-
6 ship in the **long term care** facility who also has a financial interest in any pharmacy, as defined
7 in ORS 689.005.

8 **SECTION 723.** ORS 441.030 is amended to read:

9 441.030. (1) The **Oregon Health Authority or the** Department of Human Services, pursuant to
10 ORS 479.215, shall deny, suspend or revoke a license in any case where the State Fire Marshal, or
11 the representative of the State Fire Marshal, certifies that there is a failure to comply with all ap-
12 plicable laws, lawful ordinances and rules relating to safety from fire.

13 [(2) *The department may deny, suspend or revoke a license in any case where it finds that there*
14 *has been a substantial failure to comply with ORS 441.015 to 441.063, 441.085 or 441.087 or the rules*
15 *or minimum standards adopted under ORS 441.015 to 441.063, 441.085 or 441.087.*]

16 [(3) *The department may suspend or revoke a license issued under ORS 441.025 for failure to*
17 *comply with a department order arising from a health care facility's substantial lack of compliance with*
18 *the provisions of ORS 441.015 to 441.063, 441.084 to 441.087, 441.162 or 441.166 or the rules adopted*
19 *under ORS 441.015 to 441.063, 441.084 to 441.087, 441.162 or 441.166, or for failure to pay a civil*
20 *penalty imposed under ORS 441.170 or 441.710.*]

21 **(2) The authority may:**

22 **(a) Deny, suspend or revoke a health care facility's license in any case where it finds that**
23 **there has been a substantial failure to comply with ORS 441.015 to 441.063 and 441.085 or the**
24 **rules or minimum standards adopted under ORS 441.015 to 441.063 and 441.085; or**

25 **(b) Suspend or revoke a license issued under ORS 441.025 for failure to comply with an**
26 **authority order arising from a health care facility's substantial lack of compliance with the**
27 **provisions of ORS 441.015 to 441.063, 441.085, 441.162 or 441.166 or the rules adopted under**
28 **ORS 441.015 to 441.063, 441.085, 441.162 or 441.166, or for failure to pay a civil penalty imposed**
29 **under ORS 441.170.**

30 **(3) The department may:**

31 **(a) Deny, suspend or revoke a long term care facility's license in any case where it finds**
32 **that there has been a substantial failure to comply with ORS 441.015 to 441.063, 441.085 or**
33 **441.087 or the rules or minimum standards adopted under ORS 441.015 to 441.063, 441.085 or**
34 **441.087.**

35 **(b) Suspend or revoke a long term care facility's license issued under ORS 441.025 for**
36 **failure to comply with a department order arising from a long term care facility's substantial**
37 **lack of compliance with the provisions of ORS 441.015 to 441.063 or 441.084 to 441.087 or the**
38 **rules adopted under ORS 441.015 to 441.063 or 441.084 to 441.087, or for failure to pay a civil**
39 **penalty imposed under ORS 441.710.**

40 [(4)] (c) [The department may] Order a long term care facility licensed under ORS 441.025 to
41 restrict the admission of patients when the department finds an immediate threat to patient health
42 and safety arising from failure of the long term care facility to be in compliance with ORS 441.015
43 to 441.063 or 441.084 to 441.087 and the rules adopted under ORS 441.015 to 441.063 or 441.084 to
44 441.087.

45 [(5)] (4) Any long term care facility that has been ordered to restrict the admission of patients

1 pursuant to subsection [(4)] **(3)(c)** of this section shall post a notice of the restriction, provided by
2 the department, on all doors providing ingress to and egress from the facility, for the duration of
3 the restriction.

4 **SECTION 724.** ORS 441.037 is amended to read:

5 441.037. (1) When the **Oregon Health Authority or the** Department of Human Services pro-
6 poses to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity
7 for hearing shall be accorded as provided in ORS chapter 183.

8 (2) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and
9 orders shall be in accordance with ORS chapter 183.

10 **SECTION 725.** ORS 441.050 is amended to read:

11 441.050. (1) **Notwithstanding the existence and pursuit of any other remedy, the Oregon**
12 **Health Authority may, in the manner provided by law, maintain an action in the name of the**
13 **state for injunction or other process against any person or governmental unit to restrain**
14 **or prevent the establishment, conduct, management or operation of a health care facility or**
15 **health maintenance organization without a license.**

16 (2) Notwithstanding the existence and pursuit of any other remedy, the Department of Human
17 Services may, in the manner provided by law, maintain an action in the name of the state for in-
18 junction or other process against any person or governmental unit to restrain or prevent the es-
19 tablishment, conduct, management or operation of a [*health care facility or health maintenance*
20 *organization*] **long term care facility** without a license.

21 **SECTION 726.** ORS 441.055 is amended to read:

22 441.055. (1) [*The Department of Human Services shall adopt such rules with respect to the different*
23 *types of health care facilities as may be designed to further the accomplishment of the purposes of ORS*
24 *441.015 to 441.087.*] **To fulfill the purposes of ORS 441.015 to 441.087:**

25 (a) **The Oregon Health Authority shall adopt rules with respect to the different types of**
26 **health care facilities; and**

27 (b) **The Department of Human Services shall adopt rules with respect to long term care**
28 **facilities.**

29 (2) No rules shall require any specific food so long as the necessary nutritional food elements
30 are present.

31 [(2)] **(3)** Rules describing care given in health care facilities [*shall*] **or long term care facilities**
32 **must** include, but **need** not be limited to, standards of patient care or patient safety, adequate
33 professional staff organizations, training of staff for whom no other state regulation exists, suitable
34 delineation of professional privileges and adequate staff analyses of clinical records. The [*department*
35 *may in its discretion*] **authority or the department may** accept certificates by the Joint Commis-
36 sion on Accreditation of Hospitals or the Committee on Hospitals of the American Osteopathic As-
37 sociation as evidence of compliance with acceptable standards.

38 [(3)] **(4)** The governing body of each health **care facility or long term** care facility shall be
39 responsible for the operation of the facility, the selection of the medical staff and the quality of care
40 rendered in the facility. The governing body shall:

41 (a) Ensure that all health care personnel for whom state licenses, registrations or certificates
42 are required are currently licensed, registered or certified;

43 (b) Ensure that physicians admitted to practice in the facility are granted privileges consistent
44 with their individual training, experience and other qualifications;

45 (c) Ensure that procedures for granting, restricting and terminating privileges exist and that

1 such procedures are regularly reviewed to *[assure]* **ensure** their conformity to applicable law;

2 (d) Ensure that physicians admitted to practice in the facility are organized into a medical staff
3 in such a manner as to effectively review the professional practices of the facility for the purposes
4 of reducing morbidity and mortality and for the improvement of patient care; and

5 (e) Ensure that a physician is not denied medical staff membership or privileges at the facility
6 solely on the basis that the physician holds medical staff membership or privileges at another health
7 care facility.

8 *[(4)]* **(5)** The physicians organized into a medical staff pursuant to subsection *[(3)]* **(4)** of this
9 section shall propose medical staff bylaws to govern the medical staff. The bylaws shall include, but
10 not be limited to the following:

11 (a) Procedures for physicians admitted to practice in the facility to organize into a medical staff
12 pursuant to subsection *[(3)]* **(4)** of this section;

13 (b) Procedures for ensuring that physicians admitted to practice in the facility are granted
14 privileges consistent with their individual training, experience and other qualifications;

15 (c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or re-
16 move officers and other persons to carry out medical staff activities with accountability to the
17 governing body;

18 (d) Procedures for ensuring that physicians admitted to practice in the facility are currently li-
19 censed by the Oregon Medical Board;

20 (e) Procedures for ensuring that the facility's procedures for granting, restricting and terminat-
21 ing privileges are followed and that such procedures are regularly reviewed to assure their con-
22 formity to applicable law; and

23 (f) Procedures for ensuring that physicians provide services within the scope of the privileges
24 granted by the governing body.

25 *[(5)]* **(6)** Amendments to medical staff bylaws shall be accomplished through a cooperative pro-
26 cess involving both the medical staff and the governing body. Medical staff bylaws shall be adopted,
27 repealed or amended when approved by the medical staff and the governing body. Approval shall
28 not be unreasonably withheld by either. Neither the medical staff nor the governing body shall
29 withhold approval if such repeal, amendment or adoption is mandated by law, statute or regulation
30 or is necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or
31 if the failure to approve would subvert the stated moral or ethical purposes of the institution.

32 *[(6)]* **(7)** The Oregon Medical Board may appoint one or more physicians to conduct peer review
33 for a health care facility upon request of such review by all of the following:

34 (a) The physician whose practice is being reviewed.

35 (b) The executive committee of the health care facility's medical staff.

36 (c) The governing body of the health care facility.

37 *[(7)]* **(8)** The physicians appointed pursuant to subsection *[(6)]* **(7)** of this section shall be deemed
38 agents of the Oregon Medical Board, subject to the provisions of ORS 30.310 to 30.400 and shall
39 conduct peer review. Peer review shall be conducted pursuant to the bylaws of the requesting health
40 care facility.

41 *[(8)]* **(9)** Any person serving on or communicating information to a peer review committee shall
42 not be subject to an action for damages for action or communications or statements made in good
43 faith.

44 *[(9)]* **(10)** All findings and conclusions, interviews, reports, studies, communications and state-
45 ments procured by or furnished to the peer review committee in connection with a peer review are

1 confidential pursuant to ORS 192.501 to 192.505 and 192.690 and all data is privileged pursuant to
2 ORS 41.675.

3 [(10)] (11) Notwithstanding subsection [(9)] (10) of this section, a written report of the findings
4 and conclusions of the peer review shall be provided to the governing body of the health care fa-
5 cility who shall abide by the privileged and confidential provisions set forth in subsection [(9)] (10)
6 of this section.

7 [(11)] (12) Procedures for peer review established by subsections [(6) to (10)] (7) to (11) of this
8 section are exempt from ORS chapter 183.

9 [(12)] (13) [The department] **The authority** shall adopt by rule standards for rural hospitals, as
10 defined in ORS 442.470, that specifically address the provision of care to postpartum and newborn
11 patients so long as patient care is not adversely affected.

12 [(13)] (14) For purposes of this section, “physician” has the meaning given the term in ORS
13 677.010.

14 **SECTION 727.** ORS 441.057 is amended to read:

15 441.057. (1) Rules adopted [by the Department of Human Services] pursuant to ORS 441.055 shall
16 include procedures for the filing of complaints as to the standard of care in any health **care facility**
17 **or long term** care facility and provide for the confidentiality of the identity of any complainant.

18 (2) [No] **A health care facility or a long term** care facility, or person acting in the interest of
19 the facility, [shall] **may not** take any disciplinary or other adverse action against any employee who
20 in good faith brings evidence of inappropriate care or any other violation of law or rules to the at-
21 tention of the proper authority solely because of the employee’s action as described in this sub-
22 section.

23 (3) Any employee who has knowledge of inappropriate care or any other violation of law or
24 rules shall utilize established reporting procedures of the health **care facility or long term** care
25 facility administration before notifying [the department] **the Department of Human Services,**
26 **Oregon Health Authority** or other state agency of the alleged violation, unless the employee be-
27 lieves that patient health or safety is in immediate jeopardy or the employee makes the report to
28 the department **or the authority** under the confidentiality provisions of subsection (1) of this sec-
29 tion.

30 (4) The protection of health **care facility or long term** care facility employees under subsection
31 (2) of this section shall commence with the reporting of the alleged violation by the employee to the
32 administration of the health **care facility or long term** care facility or to the department, **au-**
33 **thority** or other state agency pursuant to subsection (3) of this section.

34 (5) Any person suffering loss or damage due to any violation of subsection (2) of this section has
35 a right of action for damages in addition to other appropriate remedy.

36 (6) The provisions of this section do not apply to a nursing staff, as defined in ORS 441.172, who
37 claims to be aggrieved by a violation of ORS 441.174 committed by a hospital.

38 **SECTION 728.** ORS 441.060 is amended to read:

39 441.060. (1) The **Oregon Health Authority and the** Department of Human Services shall make
40 or cause to be made such inspections as [it may] **the authority or the department** deem necessary.

41 (2) The [Department of Human Services] **authority and the department** may prescribe by rule
42 that any licensee or prospective applicant desiring to make specified types of alteration or addition
43 to its facilities or to construct new facilities shall, before commencing such alteration, addition or
44 new construction, either prior to or after receiving a certificate of need pursuant to ORS 442.340
45 (1987 Replacement Part), if required, submit plans and specifications therefor to the **authority or**

1 **the** department for preliminary inspection and approval or recommendations with respect to com-
 2 pliance with the rules authorized by ORS 441.055 and 443.420 and for compliance with National Fire
 3 Protection Association standards when the facility is also to be Medicare or Medicaid certified.

4 (3) The **authority or the** department may require by rule payment of a fee for project review
 5 services at a variable rate, dependent on total project cost.

6 (4) For health care facilities, the [*department*] **authority** shall develop a review fee schedule as
 7 minimally necessary to support the staffing level and expenses required to administer the program.

8 (5) **For long term care facilities and residential care facilities, the department shall de-**
 9 **velop a review fee schedule as minimally necessary to support the staffing level and expenses**
 10 **required to administer the program.** The fee for project review of residential care facilities shall
 11 equal two-thirds that required of health care facilities.

12 (6) The **authority or the** department may also conduct an on-site review of projects as a pre-
 13 requisite to licensure of new facilities, major renovations and expansions. The **authority and the**
 14 department shall, at least annually, with the advice of **the** facilities covered by [*this*] **the** review,
 15 present proposed rule changes regarding facility design and construction to such agencies for their
 16 consideration.

17 (7) [*The department*] **The authority** shall [*also*] publish a state submissions guide for health [*and*]
 18 [*residential*] care facility projects and advise project sponsors of applicable requirements of federal,
 19 state and local regulatory agencies.

20 (8) **The department shall publish a state submissions guide for long term care facility and**
 21 **residential care facility projects and advise project sponsors of applicable requirements of**
 22 **federal, state and local regulatory agencies.**

23 **SECTION 729.** ORS 441.062 is amended to read:

24 441.062. (1) In conducting inspections for the purpose of licensing health **care facilities and**
 25 **long term** care facilities under ORS 441.020, the **Oregon Health Authority and the** Department
 26 of Human Services shall avoid unnecessary facility disruption by coordinating inspections performed
 27 by the **authority or the** department with inspections performed by other federal, state and local
 28 agencies that have responsibility for health care facility **or long term care facility** licensure.

29 (2) Whenever possible, the **authority and the** department shall avoid duplication of inspections
 30 by accepting inspection reports or surveys prepared by other state agencies that have responsibility
 31 for health **care facility or long term** care facility licensure for purposes of the inspection required
 32 for licensure.

33 (3) The **authority and the** department shall adopt [*all*] rules necessary to implement this sec-
 34 tion.

35 **SECTION 730.** ORS 441.082 is amended to read:

36 441.082. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt by rule
 37 standards and a system of registration for every organ procurement organization, tissue bank and
 38 eye bank doing business in this state.

39 (2) An organ procurement organization, tissue bank or eye bank may not do business in this
 40 state unless it has registered with the [*department*] **authority**.

41 (3) Each organ procurement organization, tissue bank and eye bank shall provide to the [*de-*]
 42 [*partment*] **authority** at least every three years current documentation of designation, certification
 43 and inspection as evidence of compliance with national standards and requirements under federal
 44 law.

45 (4) The [*department*] **authority** may impose a civil penalty not to exceed \$1,000 against an organ

1 procurement organization, tissue bank or eye bank doing business in this state for failure to:

2 (a) Register with the [*department*] **authority**;

3 (b) Report loss of designation, accreditation or certification within 60 days of the loss; or

4 (c) Supply the [*department*] **authority** with requested current documentation of designation,
5 certification and inspection.

6 (5) Civil penalties under this section shall be imposed in the manner provided under ORS
7 183.745.

8 **SECTION 731.** ORS 441.085 is amended to read:

9 441.085. (1) The [*Department of Human Services*] **Oregon Health Authority** may by rule estab-
10 lish classifications and descriptions for [*the various types of*] health care facilities that are licensed
11 under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and
12 442.400 to 442.463, **except long term care facilities as defined in ORS 442.015.**

13 **(2) The Department of Human Services may by rule establish classifications and de-**
14 **scriptions for long term care facilities that are licensed under ORS 441.015 to 441.087 and**
15 **441.525 to 441.595.**

16 [(2)] (3) [*A health care facility licensed by*] **A health care facility licensed by the authority**
17 **and a long term care facility licensed by** the department shall neither assume a descriptive title
18 nor be represented under any descriptive title other than the classification title established by the
19 **authority or the** department and under which [*it*] **the facility** is licensed.

20 **SECTION 732.** ORS 441.094 is amended to read:

21 441.094. (1) No officer or employee of a hospital licensed by the [*Department of Human*
22 *Services*] **Oregon Health Authority** that has an emergency department may deny to a person an
23 appropriate medical screening examination within the capability of the emergency department, in-
24 cluding ancillary services routinely available to the emergency department, to determine whether
25 a need for emergency medical services exists.

26 (2) No officer or employee of a hospital licensed by the [*Department of Human Services*] **au-**
27 **thority** may deny to a person diagnosed by an admitting physician as being in need of emergency
28 medical services the emergency medical services customarily provided at the hospital because the
29 person is unable to establish the ability to pay for the services.

30 (3) Nothing in this section is intended to relieve a person of the obligation to pay for services
31 provided by a hospital.

32 (4) A hospital that does not have physician services available at the time of the emergency shall
33 not be in violation of this section if, after a reasonable good faith effort, a physician is unable to
34 provide or delegate the provision of emergency medical services.

35 (5) All prepaid capitated health service contracts executed by the [*Department of Human Ser-*
36 *vices*] **authority** and private health maintenance organizations and managed care organizations shall
37 include a provision that encourages a managed care plan to establish agreements with hospitals in
38 the plan's service area for payment of emergency screening examinations.

39 (6) As used in subsections (1) and (2) of this section, "emergency medical services" means med-
40 ical services that are usually and customarily available at the respective hospital and that must be
41 provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss
42 or impairment of the function of a bodily member or organ, or to provide care of a woman in her
43 labor where delivery is imminent if the hospital is so equipped and, if the hospital is not equipped,
44 to provide necessary treatment to allow the woman to travel to a more appropriate facility without
45 undue risk of serious harm.

1 **SECTION 733.** ORS 441.164 is amended to read:

2 441.164. Upon request of a hospital, the [*Department of Human Services*] **Oregon Health Au-**
3 **thority** may grant variances in the written staffing plan requirements based on patient care needs
4 or the nursing practices of the hospital.

5 **SECTION 734.** ORS 441.166 is amended to read:

6 441.166. (1) When a hospital learns about the need for replacement staff, the hospital shall make
7 every reasonable effort to obtain registered nurses, licensed practical nurses or certified nursing
8 assistants for unfilled hours or shifts before requiring a registered nurse, licensed practical nurse
9 or certified nursing assistant to work overtime.

10 (2) A hospital may not require a registered nurse, licensed practical nurse or certified nursing
11 assistant to work:

12 (a) Beyond the agreed-upon shift;

13 (b) More than 48 hours in any hospital-defined work week; or

14 (c) More than 12 consecutive hours in a 24-hour time period, except that a hospital may require
15 an additional hour of work beyond the 12 hours if:

16 (A) A staff vacancy for the next shift becomes known at the end of the current shift; or

17 (B) There is a potential harm to an assigned patient if the registered nurse, licensed practical
18 nurse or certified nursing assistant leaves the assignment or transfers care to another.

19 (3)(a) Time spent in required meetings or receiving education or training shall be included as
20 hours worked for purposes of subsection (2) of this section.

21 (b) Time spent on call but away from the premises of the employer may not be included as hours
22 worked for purposes of subsection (2) of this section.

23 (c) Time spent on call or on standby when the registered nurse, licensed practical nurse or
24 certified nursing assistant is required to be at the premises of the employer shall be included as
25 hours worked for purposes of subsection (2) of this section.

26 (4) The provisions of this section do not apply to nursing staff needs:

27 (a) In the event of a national or state emergency or circumstances requiring the implementation
28 of a facility disaster plan;

29 (b) In emergency circumstances identified by the [*Department of Human Services*] **Oregon**
30 **Health Authority** by rule; or

31 (c) If a hospital has made reasonable efforts to contact all of the on-call nursing staff or staffing
32 agencies on the list described in ORS 441.162 and is unable to obtain replacement staff in a timely
33 manner.

34 **SECTION 735.** ORS 441.170 is amended to read:

35 441.170. (1) The [*Department of Human Services*] **Oregon Health Authority** may impose civil
36 penalties in the manner provided in ORS 183.745 or suspend or revoke a license of a hospital for a
37 violation of any provision of ORS 441.162 or 441.166. The [*department*] **authority** shall adopt by rule
38 a schedule establishing the amount of civil penalty that may be imposed for any violation of ORS
39 441.162 or 441.166 when there is a reasonable belief that safe patient care has been or may be ne-
40 gatively impacted. A civil penalty imposed under this subsection may not exceed \$5,000. Each vio-
41 lation of a nursing staff plan shall be considered a separate violation. Any license that is suspended
42 or revoked under this subsection shall be suspended or revoked as provided in ORS 441.030.

43 (2) The [*department*] **authority** shall maintain for public inspection records of any civil penalties
44 or license suspensions or revocations imposed on hospitals penalized under subsection (1) of this
45 section.

1 (3) The [department] **authority** shall conduct an annual random audit of not less than seven
2 percent of all hospitals in this state solely to verify compliance with the requirements of ORS
3 441.162, 441.166 and 441.192. Surveys made by private accrediting organizations may not be used in
4 lieu of the audit required under this subsection. The [department] **authority** shall compile and
5 maintain for public inspection an annual report of the audit conducted under this subsection.

6 (4) The costs of the audit required under subsection (3) of this section may be paid out of funds
7 from licensing fees paid by hospitals under ORS 441.020.

8 **SECTION 736.** ORS 441.180 is amended to read:

9 441.180. (1) A hospital shall post a notice summarizing the provisions of ORS 441.162, 441.166,
10 441.168, 441.174, 441.176, 441.178 and 441.192 in a conspicuous place on the premises of the hospital.
11 The notice must be posted where notices to employees and applicants for employment are custom-
12 arily displayed.

13 (2) Any hospital that willfully violates this section is subject to a civil penalty not to exceed
14 \$500. Civil penalties under this section shall be imposed by the [Department of Human Services]
15 **Oregon Health Authority** in the manner provided by ORS 183.745.

16 **SECTION 737.** ORS 441.630 is amended to read:

17 441.630. As used in ORS 441.630 to 441.680 and 441.995:

18 (1) "Abuse" means:

19 (a) Any physical injury to a resident of a long term care facility which has been caused by other
20 than accidental means.

21 (b) Failure to provide basic care or services, which failure results in physical harm or unrea-
22 sonable discomfort or serious loss of human dignity.

23 (c) Sexual contact with a resident caused by an employee, agent or other resident of a long term
24 care facility by force, threat, duress or coercion.

25 (d) Illegal or improper use of a resident's resources for the personal profit or gain of another
26 person.

27 (e) Verbal or mental abuse as prohibited by federal law.

28 (f) Corporal punishment.

29 (g) Involuntary seclusion for convenience or discipline.

30 (2) "Abuse complaint" means any oral or written communication to the department, one of its
31 agents or a law enforcement agency alleging abuse.

32 (3) "Department" means the Department of Human Services or a designee of the department.

33 (4) "Facility" means a long term care facility, as defined in ORS 442.015.

34 (5) "Law enforcement agency" means:

35 (a) Any city or municipal police department.

36 (b) Any county sheriff's office.

37 (c) The Oregon State Police.

38 (d) Any district attorney.

39 (6) "Public or private official" means:

40 (a) Physician, including any intern or resident.

41 (b) Licensed practical nurse or registered nurse.

42 (c) Employee of the Department of Human Services, [county health department, community mental
43 health and developmental disabilities programs] **a community developmental disabilities program**
44 or a long term care facility or person who contracts to provide services to a long term care facility.

45 **(d) Employee of the Oregon Health Authority, county health department or community**

1 **mental health program.**

2 [(d)] (e) Peace officer.

3 [(e)] (f) Member of the clergy.

4 [(f)] (g) Licensed clinical social worker.

5 [(g)] (h) Physical, speech and occupational therapists.

6 [(h)] (i) Legal counsel for a resident or guardian or family member of the resident.

7 **SECTION 738.** ORS 441.705 is amended to read:

8 441.705. As used in ORS 441.705 to 441.745:

9 (1) "Direct patient care or feeding" means any care provided directly to or for any patient re-
10 lated to that patient's physical, medical and dietary well-being as defined by rules of [*the Department*
11 *of Human Services.*]:

12 (a) **The Department of Human Services when the facility is a long term care facility, as**
13 **defined in ORS 442.015, or a residential care facility, residential training facility or residential**
14 **training home, as those terms are defined in ORS 443.400; and**

15 (b) **The Oregon Health Authority if the facility is a residential treatment facility or a**
16 **residential treatment home, as defined in ORS 443.400.**

17 (2) "Person" means a licensee [*under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,*
18 *441.990, 442.342, 442.344 and 442.400 to 442.463, or a person whom the Director of Human Services*
19 *finds should be so licensed but is not, but does not include any employee of such licensee or person*]
20 **of a long term care facility, a residential care facility, a residential training facility, a resi-**
21 **dential treatment facility, a residential training home or a residential treatment home, or**
22 **an unlicensed person whom the Director of Human Services finds should be licensed to op-**
23 **erate a long term care facility, a residential care facility, a residential training facility or a**
24 **residential training home, or an unlicensed person whom the Director of the Oregon Health**
25 **Authority finds should be licensed to operate a residential treatment facility or residential**
26 **treatment home. "Person" does not mean an employee of a licensee or unlicensed person**
27 **whom the Director of Human Services or the Director of the Oregon Health Authority finds**
28 **should be licensed.**

29 (3) "Staff to patient ratio" means the number and training of persons providing direct patient
30 care as defined in rules of the [*department.*]:

31 (a) **Department if the facility is a long term care facility, a residential care or residential**
32 **training facility or a residential training home; or**

33 (b) **Authority if the facility is a residential treatment facility or a residential treatment**
34 **home.**

35 **SECTION 739.** ORS 441.710 is amended to read:

36 441.710. (1) In addition to any other liability or penalty provided by law, the Director of Human
37 Services may impose a civil penalty on a person for any of the following:

38 (a) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.087,
39 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 for a long term
40 care facility, as defined in ORS 442.015.

41 (b) Violation of any rule or general order of the Department of Human Services that pertains
42 to a long term care facility.

43 (c) Violation of any final order of the director that pertains specifically to the long term care
44 facility owned or operated by the person incurring the penalty.

45 (d) Violation of ORS 441.605 or of rules required to be adopted under ORS 441.610.

1 (e) Violation of ORS 443.880 or 443.881 **if the facility is a residential care facility, residential**
2 **training facility or residential training home.**

3 **(2) In addition to any other liability or penalty provided by law, the Director of the**
4 **Oregon Health Authority may impose a civil penalty on a person for a violation of ORS**
5 **441.880 or 441.881 if the facility is a residential treatment facility or a residential treatment**
6 **home.**

7 [(2)] **(3) [A civil penalty may not be imposed under this section] The Director of Human Ser-**
8 **VICES may not impose a penalty under subsection (1) of this section** for violations other than
9 those involving direct patient care or feeding, an adequate staff to patient ratio, sanitation involving
10 direct patient care or a violation of ORS 441.605 or 443.880 or 443.881 or of the rules required to
11 be adopted by ORS 441.610 unless a violation is found on two consecutive surveys of *[the]* a long
12 term care facility. The Director of **Human Services** in every case shall prescribe a reasonable time
13 for elimination of a violation:

14 (a) Not to exceed 30 days after first notice of a violation; or

15 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
16 in a plan of correction found acceptable by the director.

17 **(4) The Director of the Oregon Health Authority may not impose a penalty under sub-**
18 **section (2) of this section for violations other than those involving direct patient care or**
19 **feeding, an adequate staff to patient ratio, sanitation involving direct patient care or a vio-**
20 **lation of ORS 443.880 or 443.881. The Director of the Oregon Health Authority in every case**
21 **shall prescribe a reasonable time for elimination of a violation:**

22 (a) **Not to exceed 30 days after first notice of a violation; or**

23 (b) **In cases where the violation requires more than 30 days to correct, such time as is**
24 **specified in a plan of correction found acceptable by the director.**

25 **SECTION 740.** ORS 441.712 is amended to read:

26 441.712. (1) Any civil penalty under ORS 441.710 shall be imposed in the manner provided by
27 ORS 183.745.

28 (2) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 10 days
29 from the date of service of the notice in which to make written application for a hearing before *[the*
30 *Director of Human Services.]*:

31 (a) **The Director of Human Services if the facility is a long term care facility, residential**
32 **care facility, residential training facility or residential training home; or**

33 (b) **The Director of the Oregon Health Authority if the facility is a residential treatment**
34 **facility or residential treatment home.**

35 **SECTION 741.** ORS 441.715 is amended to read:

36 441.715. (1)(a) After public hearing, the Director of Human Services by rule shall adopt objective
37 criteria for establishing the civil penalty that may be imposed under ORS 441.710 **(1) and the Di-**
38 **rector of the Oregon Health Authority by rule shall adopt objective criteria for establishing**
39 **the civil penalty that may be imposed under ORS 441.710 (2).** However, the civil penalty may
40 not exceed \$500 for each violation, except as otherwise provided in ORS 441.637 and 441.995.

41 (b) Notwithstanding the limitations on the civil penalty in paragraph (a) of this subsection, for
42 any violation involving direct resident care or feeding, an adequate staff to resident ratio, sanitation
43 involving direct resident care or a violation of ORS 441.605 or rules required to be adopted under
44 ORS 441.610, a penalty may be imposed for each day the violation occurs in an amount not to exceed
45 \$500 per day.

1 (2) The penalties assessed under subsection (1) of this section [shall] **may** not exceed \$6,000 in
2 the aggregate or as otherwise required by federal law with respect to a single long term care facility
3 within any 90-day period.

4 **SECTION 742.** ORS 441.720 is amended to read:

5 441.720. A civil penalty imposed under ORS 441.710 may be remitted or reduced upon such terms
6 and conditions as **the Director of the Oregon Health Authority** or the Director of Human Ser-
7 vices considers proper and consistent with the public health and safety.

8 **SECTION 743.** ORS 441.750 is amended to read:

9 441.750. (1) Any hospital which treats as a patient a person under 18 years of age because the
10 person has attempted to commit suicide:

11 (a) Shall cause that person to be provided with information and referral to in-patient or out-
12 patient community resources, crisis intervention or other appropriate intervention by the patient's
13 attending physician, hospital social work staff or other appropriate staff.

14 (b) Shall report statistical information to the [Department of Human Services] **Oregon Health**
15 **Authority** about the person described in this subsection but is not required to report the name of
16 the person.

17 (2) Any disclosure authorized by this section or any unauthorized disclosure of information or
18 communications made privileged and confidential by this section shall not in any way abridge or
19 destroy the confidential or privileged character thereof except for the purposes for which any au-
20 thorized disclosure is made. Any person making a disclosure authorized by this section shall not be
21 liable therefor, notwithstanding any contrary provisions of law.

22 (3) No physician, hospital or hospital employee shall be held criminally or civilly liable for
23 action pursuant to this section, provided the physician, hospital or hospital employee acts in good
24 faith on probable cause and without malice.

25 **SECTION 744.** ORS 441.755 is amended to read:

26 441.755. (1) The [Department of Human Services] **Oregon Health Authority** shall prescribe a
27 form to be used by hospitals to make the report required by ORS 441.750 (1)(b) and shall prescribe
28 the frequency of such reports.

29 (2) The report form may include the name of the hospital reporting, the date of birth, race and
30 sex of person described in subsection (1) of this section, the suicide method used by the person and
31 known prior attempts in the past 12 months.

32 (3) The [department] **authority** shall compile the results from the reports and report the results
33 to the public.

34 **SECTION 745.** ORS 441.815, as amended by section 8, chapter 602, Oregon Laws 2007, is
35 amended to read:

36 441.815. (1) As used in this section, "hospital" has the meaning given the term in ORS 442.015.

37 (2) The administrator or person in charge of a hospital may not permit a person to smoke to-
38 bacco:

39 (a) In the hospital; or

40 (b) Within 10 feet of a doorway, open window or ventilation intake of the hospital.

41 (3) The Director of [Human Services] **the Oregon Health Authority** may impose a civil penalty
42 of not more than \$500 per day on a person for violation of subsection (2) of this section. Civil pen-
43 alties imposed against a person under this subsection may not exceed \$2,000 in any 30-day period.
44 Civil penalties imposed under this subsection shall be imposed in the manner provided by ORS
45 183.745.

1 (4) The *[Department of Human Services]* **Oregon Health Authority** may adopt rules necessary
2 for the administration of this section.

3 **SECTION 746.** ORS 441.990, as amended by section 9, chapter 602, Oregon Laws 2007, is
4 amended to read:

5 441.990. (1) Violation of ORS 441.015 (1) is a violation punishable, upon conviction, by a fine of
6 not more than \$100 for the first violation and not more than \$500 for each subsequent violation.
7 Each day of continuing violation after a first conviction shall be considered a subsequent violation.

8 (2) Any person who willfully prevents, interferes with, or attempts to impede in any way the
9 work of any duly authorized representative of the Department of Human Services in the lawful
10 carrying out of the provisions of ORS 441.087 (1) is guilty of a Class C misdemeanor.

11 (3) The removal of the notice required by ORS 441.030 [(5)] (4) by any person other than an of-
12 ficial of the department is a Class C misdemeanor.

13 **SECTION 747.** ORS 442.011 is amended to read:

14 442.011. (1) There is created in the *[Department of Human Services]* **Oregon Health Authority**
15 the Office for Oregon Health Policy and Research. The Administrator of the Office for Oregon
16 Health Policy and Research shall be appointed by the Governor and the appointment shall be subject
17 to Senate confirmation in the manner prescribed in ORS 171.562 and 171.565. The administrator shall
18 be an individual with demonstrated proficiency in planning and managing programs with complex
19 public policy and fiscal aspects such as those involved in the Oregon Health Plan. Before making
20 the appointment, the Governor must advise the President of the Senate and the Speaker of the
21 House of Representatives of the names of at least three finalists and shall consider their recom-
22 mendation in appointing the administrator.

23 (2) In carrying out the responsibilities and duties of the administrator, the administrator shall
24 consult with and be advised by the Oregon Health Policy Commission and the Oregon Health Fund
25 Board.

26 **SECTION 748.** ORS 442.011, as amended by section 15, chapter 697, Oregon Laws 2007, is
27 amended to read:

28 442.011. [(1)] There is created in the *[Department of Human Services]* **Oregon Health Authority**
29 the Office for Oregon Health Policy and Research. The Administrator of the Office for Oregon
30 Health Policy and Research shall be appointed by the Governor and the appointment shall be subject
31 to Senate confirmation in the manner prescribed in ORS 171.562 and 171.565. The administrator shall
32 be an individual with demonstrated proficiency in planning and managing programs with complex
33 public policy and fiscal aspects such as those involved in the Oregon Health Plan. Before making
34 the appointment, the Governor must advise the President of the Senate and the Speaker of the
35 House of Representatives of the names of at least three finalists and shall consider their recom-
36 mendation in appointing the administrator.

37 [(2) *In carrying out the responsibilities and duties of the administrator, the administrator shall*
38 *consult with and be advised by the Oregon Health Policy Commission.*]

39 **SECTION 749.** ORS 442.015 is amended to read:

40 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

41 (1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by
42 any means, including purchase, capital or operating lease, rental or donation, with intention of using
43 such equipment, supplies, components or facilities to provide health services in Oregon. When
44 equipment or other materials are obtained outside of this state, acquisition is considered to occur
45 when the equipment or other materials begin to be used in Oregon for the provision of health ser-

1 vices or when such services are offered for use in Oregon.

2 (2) "Adjusted admission" means the sum of all inpatient admissions divided by the ratio of in-
3 patient revenues to total patient revenues.

4 (3) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

5 (4) "Ambulatory surgical center" means a facility that performs outpatient surgery not routinely
6 or customarily performed in a physician's or dentist's office, and is able to meet health facility
7 licensure requirements.

8 (5) "Audited actual experience" means data contained within financial statements examined by
9 an independent, certified public accountant in accordance with generally accepted auditing stan-
10 dards.

11 (6) "Budget" means the projections by the hospital for a specified future time period of expen-
12 ditures and revenues with supporting statistical indicators.

13 (7) "Case mix" means a calculated index for each hospital, based on financial accounting and
14 case mix data collection as set forth in ORS 442.425, reflecting the relative costliness of that hos-
15 pital's mix of cases compared to a state or national mix of cases.

16 [(8) "*Commission*" means the Oregon Health Policy Commission.]

17 [(9) "*Department*" means the Department of Human Services of the State of Oregon.]

18 [(10)] (8) "Develop" means to undertake those activities that on their completion will result in
19 the offer of a new institutional health service or the incurring of a financial obligation, as defined
20 under applicable state law, in relation to the offering of such a health service.

21 [(11) "*Director*" means the Director of Human Services.]

22 [(12)] (9) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to
23 an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of
24 a donation or grant in lieu of an expenditure but not including any interest thereon.

25 [(13)] (10) "Freestanding birthing center" means a facility licensed for the primary purpose of
26 performing low risk deliveries.

27 [(14)] (11) "Governmental unit" means the state, or any county, municipality or other political
28 subdivision, or any related department, division, board or other agency.

29 [(15)] (12) "Gross revenue" means the sum of daily hospital service charges, ambulatory service
30 charges, ancillary service charges and other operating revenue. "Gross revenue" does not include
31 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

32 [(16)(a)] (13)(a) "Health care facility" means a hospital, a long term care facility, an ambulatory
33 surgical center, a freestanding birthing center or an outpatient renal dialysis facility.

34 (b) "Health care facility" does not mean:

35 (A) An establishment furnishing residential care or treatment not meeting federal intermediate
36 care standards, not following a primarily medical model of treatment, prohibited from admitting
37 persons requiring 24-hour nursing care and licensed or approved under the rules of the Department
38 of Human Services or the Department of Corrections; or

39 (B) An establishment furnishing primarily domiciliary care.

40 [(17)] (14) "Health maintenance organization" or "HMO" means a public organization or a pri-
41 vate organization organized under the laws of any state that:

42 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

43 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
44 cluding at least the following basic health care services:

45 (i) Usual physician services;

1 (ii) Hospitalization;

2 (iii) Laboratory;

3 (iv) X-ray;

4 (v) Emergency and preventive services; and

5 (vi) Out-of-area coverage;

6 (B) Is compensated, except for copayments, for the provision of the basic health care services
7 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic
8 rate basis; and

9 (C) Provides physicians' services primarily directly through physicians who are either employees
10 or partners of such organization, or through arrangements with individual physicians or one or more
11 groups of physicians organized on a group practice or individual practice basis.

12 [(18)] (15) "Health services" means clinically related diagnostic, treatment or rehabilitative
13 services, and includes alcohol, drug or controlled substance abuse and mental health services that
14 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

15 [(19)] (16) "Hospital" means a facility with an organized medical staff, with permanent facilities
16 that include inpatient beds and with medical services, including physician services and continuous
17 nursing services under the supervision of registered nurses, to provide diagnosis and medical or
18 surgical treatment primarily for but not limited to acutely ill patients and accident victims, to pro-
19 vide treatment for patients with mental illness or to provide treatment in special inpatient care fa-
20 cilities.

21 [(20)] (17) "Institutional health services" means health services provided in or through health
22 care facilities and includes the entities in or through which such services are provided.

23 [(21)] (18) "Intermediate care facility" means a facility that provides, on a regular basis,
24 health-related care and services to individuals who do not require the degree of care and treatment
25 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
26 or physical condition require care and services above the level of room and board that can be made
27 available to them only through institutional facilities.

28 [(22)] (19) "Long term care facility" means a facility with permanent facilities that include in-
29 patient beds, providing medical services, including nursing services but excluding surgical proce-
30 dures except as may be permitted by the rules of the Director of Human Services, to provide
31 treatment for two or more unrelated patients. "Long term care facility" includes skilled nursing fa-
32 cilities and intermediate care facilities but may not be construed to include facilities licensed and
33 operated pursuant to ORS 443.400 to 443.455.

34 [(23)] (20) "Major medical equipment" means medical equipment that is used to provide medical
35 and other health services and that costs more than \$1 million. "Major medical equipment" does not
36 include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical lab-
37 oratory services, if the clinical laboratory is independent of a physician's office and a hospital and
38 has been determined under Title XVIII of the Social Security Act to meet the requirements of par-
39 agraphs (10) and (11) of section 1861(s) of that Act.

40 [(24)] (21) "Net revenue" means gross revenue minus deductions from revenue.

41 [(25)] (22) "New hospital" means a facility that did not offer hospital services on a regular basis
42 within its service area within the prior 12-month period and is initiating or proposing to initiate
43 such services. "New hospital" also includes any replacement of an existing hospital that involves a
44 substantial increase or change in the services offered.

45 [(26)] (23) "New skilled nursing or intermediate care service or facility" means a service or fa-

1 cility that did not offer long term care services on a regular basis by or through the facility within
 2 the prior 12-month period and is initiating or proposing to initiate such services. “New skilled
 3 nursing or intermediate care service or facility” also includes the rebuilding of a long term care
 4 facility, the relocation of buildings that are a part of a long term care facility, the relocation of long
 5 term care beds from one facility to another or an increase in the number of beds of more than 10
 6 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

7 [(27)] (24) “Offer” means that the health care facility holds itself out as capable of providing,
 8 or as having the means for the provision of, specified health services.

9 [(28)] (25) “Operating expenses” means the sum of daily hospital service expenses, ambulatory
 10 service expenses, ancillary expenses and other operating expenses, excluding income taxes.

11 [(29)] (26) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
 12 vices directly to outpatients.

13 [(30)] (27) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
 14 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
 15 or instrumentality, including a municipal corporation, of a state.

16 [(31)] (28) “Skilled nursing facility” means a facility or a distinct part of a facility, that is pri-
 17 marily engaged in providing to inpatients skilled nursing care and related services for patients who
 18 require medical or nursing care, or an institution that provides rehabilitation services for the re-
 19 habilitation of individuals who are injured or sick or who have disabilities.

20 [(32)] (29) “Special inpatient care facility” means a facility with permanent inpatient beds and
 21 other facilities designed and utilized for special health care purposes, including but not limited to
 22 a rehabilitation center, a college infirmary, a chiropractic facility, a facility for the treatment of
 23 alcoholism or drug abuse, an inpatient care facility meeting the requirements of ORS 441.065, and
 24 any other establishment falling within a classification established by the [*Department of Human*
 25 *Services*] **Oregon Health Authority**, after determination of the need for such classification and the
 26 level and kind of health care appropriate for such classification.

27 [(33)] (30) “Total deductions from gross revenue” or “deductions from revenue” means re-
 28 ductions from gross revenue resulting from inability to collect payment of charges. Such reductions
 29 include bad debts, contractual adjustments, uncompensated care, administrative, courtesy and policy
 30 discounts and adjustments and other such revenue deductions. The deduction shall be net of the
 31 offset of restricted donations and grants for indigent care.

32 **SECTION 750.** ORS 442.045 is amended to read:

33 442.045. The Oregon Health Policy Commission shall perform the following functions:

34 (1) Develop a plan for and monitor the implementation of the state health policy.

35 (2) Act as the policy-making body for a statewide data clearinghouse established within the
 36 [*Department of Human Services*] **Oregon Health Authority** or among other state agencies as ap-
 37 propriate for the acquisition, compilation, correlation and dissemination of data from health care
 38 providers, other state and local agencies including the state Medicaid program, third-party payers
 39 and other appropriate sources in furtherance of the purpose and intent of the Legislative Assembly
 40 as expressed in ORS 442.025.

41 (3) Review reports provided at least biennially by the Administrator of the Office for Oregon
 42 Health Policy and Research on the findings, trends and long-term implications arising from data
 43 collected pursuant to ORS 442.120 and 442.400 to 442.463 and by the statewide data clearinghouse
 44 authorized by subsection (2) of this section.

45 (4) Provide a forum for discussion of health policy and health care issues facing the citizens of

1 the State of Oregon.

2 (5) Identify and analyze significant health policy and health care issues affecting the state and
3 make policy recommendations to the Governor.

4 (6) Prepare and submit to the Governor and the Legislative Assembly resolutions relating to
5 health policy and health care reform.

6 (7) Review State Medicaid Plan amendments, modifications in Medicaid operational protocols,
7 applications for waivers to the Centers for Medicare and Medicaid Services proposed by the [*De-*
8 *partment of Human Services*] **Oregon Health Authority** and administrative rules for the state's
9 medical assistance program and other health care programs.

10 (8) Act as the primary advisory committee to the Office for Oregon Health Policy and Research,
11 the Governor and the Legislative Assembly.

12 (9) Perform all other functions authorized or required by state law.

13 **SECTION 751.** ORS 442.315 is amended to read:

14 442.315. (1) Any new hospital or new skilled nursing or intermediate care service or facility not
15 excluded pursuant to ORS 441.065 shall obtain a certificate of need from the [*Department of Human*
16 *Services*] **Oregon Health Authority** prior to an offering or development.

17 (2) The [*department*] **authority** shall adopt rules specifying criteria and procedures for making
18 decisions as to the need for the new services or facilities.

19 (3)(a) An applicant for a certificate of need shall apply to the [*department*] **authority** on forms
20 provided for this purpose by [*department*] **authority** rule.

21 (b) An applicant shall pay a fee prescribed as provided in this section. Subject to the approval
22 of the Oregon Department of Administrative Services, the [*Department of Human Services*] **authority**
23 shall prescribe application fees, based on the complexity and scope of the proposed project.

24 (4) The [*Department of Human Services*] **authority** shall be the decision-making authority for the
25 purpose of certificates of need.

26 (5)(a) An applicant or any affected person who is dissatisfied with the proposed decision of the
27 [*department*] **authority** is entitled to an informal hearing in the course of review and before a final
28 decision is rendered.

29 (b) Following a final decision being rendered by the [*department*] **authority**, an applicant or any
30 affected person may request a reconsideration hearing pursuant to ORS chapter 183.

31 (c) In any proceeding brought by an affected person or an applicant challenging [*a department*]
32 **an authority** decision under this subsection, the [*department*] **authority** shall follow procedures
33 consistent with the provisions of ORS chapter 183 relating to a contested case.

34 (6) Once a certificate of need has been issued, it may not be revoked or rescinded unless it was
35 acquired by fraud or deceit. However, if the [*department*] **authority** finds that a person is offering
36 or developing a project that is not within the scope of the certificate of need, the [*department*] **au-**
37 **thority** may limit the project as specified in the issued certificate of need or reconsider the appli-
38 cation. A certificate of need is not transferable.

39 (7) Nothing in this section applies to any hospital, skilled nursing or intermediate care service
40 or facility that seeks to replace equipment with equipment of similar basic technological function
41 or an upgrade that improves the quality or cost-effectiveness of the service provided. Any person
42 acquiring such replacement or upgrade shall file a letter of intent for the project in accordance with
43 the rules of the [*department*] **authority** if the price of the replacement equipment or upgrade exceeds
44 \$1 million.

45 (8) Except as required in subsection (1) of this section for a new hospital or new skilled nursing

1 or intermediate care service or facility not operating as a Medicare swing bed program, nothing in
2 this section requires a rural hospital as defined in ORS 442.470 (5)(a)(A) and (B) to obtain a certifi-
3 cate of need.

4 (9) Nothing in this section applies to basic health services, but basic health services do not in-
5 clude:

- 6 (a) Magnetic resonance imaging scanners;
- 7 (b) Positron emission tomography scanners;
- 8 (c) Cardiac catheterization equipment;
- 9 (d) Megavoltage radiation therapy equipment;
- 10 (e) Extracorporeal shock wave lithotrippers;
- 11 (f) Neonatal intensive care;
- 12 (g) Burn care;
- 13 (h) Trauma care;
- 14 (i) Inpatient psychiatric services;
- 15 (j) Inpatient chemical dependency services;
- 16 (k) Inpatient rehabilitation services;
- 17 (L) Open heart surgery; or
- 18 (m) Organ transplant services.

19 (10) In addition to any other remedy provided by law, whenever it appears that any person is
20 engaged in, or is about to engage in, any acts that constitute a violation of this section, or any rule
21 or order issued by the [department] **authority** under this section, the [department] **authority** may
22 institute proceedings in the circuit courts to enforce obedience to such statute, rule or order by
23 injunction or by other processes, mandatory or otherwise.

24 (11) As used in this section, “basic health services” means health services offered in or through
25 a hospital licensed under ORS chapter 441, except skilled nursing or intermediate care nursing fa-
26 cilities or services and those services specified in subsection (9) of this section.

27 **SECTION 752.** ORS 442.325 is amended to read:

28 442.325. (1) A certificate of need shall be required for the development or establishment of a
29 health care facility of any new health maintenance organization.

30 (2) Any activity of a health maintenance organization which does not involve the direct delivery
31 of health services, as distinguished from arrangements for indirect delivery of health services
32 through contracts with providers, shall be exempt from certificate of need review.

33 (3) Nothing in ORS 244.050, 431.250, 441.015 to 441.087, 442.015 to 442.420 and 442.450 applies
34 to any decision of a health maintenance organization involving its organizational structure, its ar-
35 rangements for financing health services, the terms of its contracts with enrolled beneficiaries or
36 its scope of benefits.

37 (4) With the exception of certificate of need requirements, when applicable, the licensing and
38 regulation of health maintenance organizations shall be controlled by ORS 750.005 to 750.095 and
39 statutes incorporated by reference therein.

40 (5) It is the policy of ORS 244.050, 431.250, 441.015 to 441.087, 442.015 to 442.420 and 442.450 to
41 encourage the growth of health maintenance organizations as an alternative delivery system and to
42 provide the facilities for the provision of quality health care to the present and future members who
43 may enroll within their defined service area.

44 (6)(a) It is also the policy of ORS 244.050, 431.250, 441.015 to 441.087, 442.015 to 442.420 and
45 442.450 to consider the special needs and circumstances of health maintenance organizations. Such

1 needs and circumstances include the needs of and costs to members and projected members of the
 2 health maintenance organization in obtaining health services and the potential for a reduction in the
 3 use of inpatient care in the community through an extension of preventive health services and the
 4 provision of more systematic and comprehensive health services. The consideration of a new health
 5 service proposed by a health maintenance organization shall also address the availability and cost
 6 of obtaining the proposed new health service from the existing providers in the area that are not
 7 health maintenance organizations.

8 (b) The [*Department of Human Services*] **Oregon Health Authority** shall issue a certificate of
 9 need for beds, services or equipment to meet the needs or reasonably anticipated needs of members
 10 of health maintenance organizations when beds, services or equipment are not available from non-
 11 plan providers.

12 **SECTION 753.** ORS 442.342 is amended to read:

13 442.342. (1) Notwithstanding any other provision of law, a hospital licensed under ORS 441.025,
 14 in accordance with rules adopted by the [*Department of Human Services*] **Oregon Health**
 15 **Authority**, may apply for waiver from the provisions of ORS 442.325 and section 9, chapter 1034,
 16 Oregon Laws 1989, and the [*department*] **authority** shall grant such waiver if, for the most recently
 17 completed hospital fiscal year preceding the date of application for waiver and each succeeding fis-
 18 cal year thereafter, the percentage of qualified inpatient revenue is not less than that described in
 19 subsection (2) of this section.

20 (2)(a) The percentage of qualified inpatient revenue for the first year in which a hospital is
 21 granted a waiver under subsection (1) of this section shall not be less than 60 percent.

22 (b) The percentage in paragraph (a) of this subsection shall be increased by five percentage
 23 points in each succeeding hospital fiscal year until the percentage of qualified inpatient revenue
 24 equals or exceeds 75 percent.

25 (3) As used in this section:

26 (a) "Qualified inpatient revenue" means revenue earned from public and private payers for in-
 27 patient hospital services approved by the [*department*] **authority** pursuant to rules, including:

28 (A) Revenue earned pursuant to Title XVIII, United States Social Security Act, when such re-
 29 venue is based on diagnostic related group prices which include capital-related expenses or other
 30 risk-based payment programs as approved by the [*department*] **authority**;

31 (B) Revenue earned pursuant to Title XIX, United States Social Security Act, when such revenue
 32 is based on diagnostic related group prices which include capital-related expenses;

33 (C) Revenue earned under negotiated arrangements with public or private payers based on all-
 34 inclusive per diem rates for one or more hospital service categories;

35 (D) Revenue earned under negotiated arrangements with public or private payers based on all-
 36 inclusive per discharge or per admission rates related to diagnostic related groups or other service
 37 or intensity-related measures;

38 (E) Revenue earned under arrangements with one or more health maintenance organizations; or

39 (F) Other prospectively determined forms of inpatient hospital reimbursement approved in ad-
 40 vance by the [*department*] **authority** in accordance with rules.

41 (b) "Percentage of qualified inpatient revenue" means qualified inpatient revenue divided by
 42 total gross inpatient revenue as defined by administrative rule of the [*department*] **authority**.

43 (4)(a) The [*department*] **authority** shall hold a hearing to determine the cause if any hospital
 44 granted a waiver pursuant to subsection (1) of this section fails to reach the applicable percentage
 45 of qualified inpatient revenue in any subsequent fiscal year of the hospital.

1 (b) If the [department] **authority** finds that the failure was without just cause and that the
2 hospital has undertaken projects that, except for the provisions of this section would have been
3 subject to ORS 442.325 or section 9, chapter 1034, Oregon Laws 1989, the [department] **authority**
4 shall impose one of the penalties outlined in paragraph (c) of this subsection.

5 (c)(A) A one-time civil penalty of not less than \$25,000 or more than \$250,000; or

6 (B) An annual civil penalty equal to an amount not to exceed 110 percent of the net profit de-
7 rived from such project or projects for a period not to exceed five years.

8 (5) Nothing in this section shall be construed to permit a hospital to develop a new inpatient
9 hospital facility or provide new services authorized by facilities defined as “long term care
10 facility” under ORS 442.015 under a waiver granted pursuant to subsection (1) of this section.

11 **SECTION 754.** ORS 442.502 is amended to read:

12 442.502. (1) For purposes of determining the size of a rural hospital, beds certified by the [De-
13 partment of Human Services] **Oregon Health Authority** on the license of the hospital as special
14 inpatient care beds shall not be included.

15 (2) As used in this section, “special inpatient care beds” means beds that:

16 (a) Are used for the treatment of patients with mental illness or for the treatment of alcoholism
17 or drug abuse, or are located in a rehabilitation center, a college infirmary, a chiropractic facility,
18 a freestanding hospice facility, an infirmary for the homeless or an inpatient care facility described
19 in ORS 441.065;

20 (b) Are physically separate from acute inpatient care beds, at least by being located on separate
21 floors or wings of the same building;

22 (c) Are never used for acute patient care;

23 (d) Are staffed by dedicated direct care personnel for whom separate employment records are
24 maintained;

25 (e) Have separate medical directors; and

26 (f) Maintain separate admission, discharge and patient records.

27 **SECTION 755.** ORS 442.700 is amended to read:

28 442.700. As used in ORS 442.700 to 442.760:

29 (1) “Board of governors” means the governors of a cooperative program as described in ORS
30 442.720.

31 (2) “Cooperative program” means a program among two or more health care providers for the
32 purpose of providing heart and kidney transplant services including, but not limited to, the sharing,
33 allocation and referral of physicians, patients, personnel, instructional programs, support services,
34 facilities, medical, diagnostic, laboratory or therapeutic services, equipment, devices or supplies, and
35 other services traditionally offered by health care providers.

36 (3) “Director” means the Director of Human Services.

37 (4) “Health care provider” means a hospital, physician or entity, a significant part of whose
38 activities consist of providing hospital or physician services in this state. For purposes of the im-
39 munities provided by ORS 442.700 to 442.760 and 646.740, “health care provider” includes any offi-
40 cer, director, trustee, employee, or agent of, or any entity under common ownership and control
41 with, a health care provider.

42 (5) “Hospital” means a hospital, as defined in ORS 442.015 [(19)], or a long term care facility or
43 an ambulatory surgical center, as those terms are defined in ORS 442.015, that is licensed under
44 ORS 441.015 to 441.089. “Hospital” includes community health programs established under ORS
45 430.610 to 430.695.

1 (6) "Order" means a decision issued by the director under ORS 442.710 either approving or de-
2 denying an application for a cooperative program and includes modifications of an original order under
3 ORS 442.730 (3)(b) and ORS 442.740 (1) and (4).

4 (7) "Party to a cooperative program agreement" or "party" means an entity that enters into the
5 principal agreement to establish a cooperative program and applies for approval under ORS 442.700
6 to 442.760 and 646.740 and any other entity that, with the approval of the director, becomes a
7 member of a cooperative program.

8 (8) "Physician" means a physician defined in ORS 677.010 (13) and licensed under ORS chapter
9 677.

10 **SECTION 756.** ORS 442.705 is amended to read:

11 442.705. (1) The Legislative Assembly finds that direct competition among health care providers
12 in the field of heart and kidney transplant services may not result in the most cost efficient and
13 least expensive transplant services for the citizens of this state and that it is in the public interest
14 to allow cooperative programs among health care providers providing heart and kidney transplant
15 services.

16 (2) The Legislative Assembly declares that, to the extent provided in ORS 442.700 to 442.760, it
17 is the policy and intent of this state to displace competition among health care providers providing
18 heart and kidney transplant services by allowing health care providers to enter into cooperative
19 programs governing the provision of heart and kidney transplant services in order to achieve in
20 each instance the following goals:

21 (a) Reduction of, or protection against, rising costs of heart and kidney transplant services;

22 (b) Reduction of, or protection against, rising prices for heart and kidney transplant services;

23 (c) Improvement or maintenance of the quality of heart and kidney transplant services provided
24 in this state;

25 (d) Reduction of, or protection against, duplication of resources including, without limitation,
26 expensive medical specialists, medical equipment and sites of service;

27 (e) Improvement or maintenance of efficiency in the delivery of heart and kidney transplant
28 services;

29 (f) Improvement or maintenance of public access to heart and kidney transplant services;

30 (g) Increase in donations of organs for transplantation; and

31 (h) Improvement in the continuity of patient care.

32 (3) The Legislative Assembly further declares that the goals identified in subsection (2) of this
33 section represent the policies of this state.

34 (4) The Legislative Assembly further declares that once a cooperative program is approved un-
35 der ORS 442.700 to 442.760, there is an interest in insuring stability in the provision of health care
36 services by a cooperative program, to the extent stability is consistent with achieving the goals
37 identified in subsection (2) of this section.

38 (5) The Director of [*Human Services*] **the Oregon Health Authority** shall actively supervise the
39 cooperative program in accordance with authority under ORS 442.700 to 442.760 and 646.740.

40 **SECTION 757.** ORS 442.710 is amended to read:

41 442.710. (1) The Oregon Health and Science University and one or more entities, each of which
42 operates at least three hospitals in a single urban area in this state, may apply to the Director of
43 [*Human Services*] **the Oregon Health Authority** for approval of a cooperative program. The appli-
44 cation shall include an executed written copy of all agreements for the cooperative program.

45 (2) An application for approval of a cooperative program shall be made in the form and manner

1 and shall set forth any information regarding the proposed cooperative program that the director
2 may prescribe. The information shall include, but not be limited to:

3 (a) A list of the names of all health care providers who propose to provide heart and kidney
4 transplant services under the cooperative program, together with appropriate evidence of compli-
5 ance with any licensing or certification requirements for those health care providers to practice in
6 this state. In the case of employed physicians, the list and the information to be submitted may be
7 limited to the employer or organizational unit of the employer;

8 (b) A description of the activities to be conducted by the cooperative program;

9 (c) A description of proposed anticompetitive practices listed in ORS 442.715, any practices that
10 the parties anticipate will have significant anticompetitive effects and a description of practices of
11 the cooperative program affecting costs, prices, personnel positions, capital expenditures and allo-
12 cation of resources;

13 (d) A list of the goals identified in ORS 442.705 (2) that the cooperative program expects to
14 achieve;

15 (e) A description of the proposed places and manner of providing heart and kidney transplant
16 services and services related to heart and kidney transplants under the cooperative program;

17 (f) A proposed budget for operating the cooperative program;

18 (g) Satisfactory evidence of financial ability to deliver heart and kidney transplant services in
19 accordance with the cooperative program;

20 (h) The agreement that establishes the cooperative program and policies that shall govern it;
21 and

22 (i) Other information the director believes will assist in determining whether the cooperative
23 program will likely achieve the goals listed in ORS 442.705 (2).

24 (3) The director shall review the application in accordance with the provisions of this section
25 and shall grant, deny or request modification of the application within 90 days of the date the ap-
26 plication is filed. The director shall hold one or more public hearings on the application, which shall
27 conclude no later than 80 days after the date the application is filed. The decision of the director
28 on an application shall be considered an order in a contested case for the purposes of ORS chapter
29 183.

30 (4) The director shall approve an application made under subsection (2) of this section after:

31 (a) The applicants have demonstrated they will achieve at least six of the goals of ORS 442.700
32 to 442.760 and 646.740, including at least the goals identified in ORS 442.705 (2)(a) to (d); and

33 (b) The director has reviewed and approved the specifics of the anticompetitive activity expected
34 to be conducted by the cooperative program.

35 (5) In evaluating the application, the director shall consider whether a cooperative program will
36 contribute to or detract from achieving the goals listed in ORS 442.705 (2). The director may weigh
37 goals relating to circumstances that are likely to occur without the cooperative program, and re-
38 lating to existing circumstances. The director may also consider whether any alternative arrange-
39 ments would be less restrictive of competition while achieving the same goals.

40 (6) An order approving a cooperative program shall identify and define the limits of the per-
41 mitted activities for purposes of granting antitrust immunity under ORS 442.700 to 442.760.

42 (7) An order approving a cooperative program shall include:

43 (a) Approval of specific activities listed in ORS 442.715;

44 (b) Approval of activities the director anticipates will have substantial anticompetitive effects;

45 (c) Approval of the proposed budget of the cooperative program;

1 (d) The goals listed in ORS 442.705 (2) that the cooperative program is expected to achieve; and

2 (e) Approval of the cooperative program as described in the application and a finding that the
3 cooperative program is in the public interest.

4 (8) An order denying the application for a cooperative program shall identify the findings of fact
5 and reasons supporting denial.

6 (9) Either the director or all the parties to the cooperative program may request a modification
7 of an application made under this section. A request for a modification shall result in one extension
8 of 30 days after submission of the modified application. The director shall issue an order under this
9 section within 30 days after submission of the modified application.

10 **SECTION 758.** ORS 442.720 is amended to read:

11 442.720. (1) If the Director of [*Human Services*] **the Oregon Health Authority** issues an order
12 approving an application for a cooperative program under ORS 442.710, the director shall establish
13 a board of governors to govern the cooperative program. The board of governors shall not consti-
14 tute, for any purpose, a governmental agency.

15 (2) The board of governors shall consist of the president or other chief executive officer of each
16 health care provider that is a party to the cooperative program agreement and the director or a
17 designee of the director. The designee shall serve at the pleasure of the director. The designee shall
18 not have any economic or other interest in any of the health care providers associated with the
19 cooperative program.

20 (3) In governing the cooperative program, the board of governors shall develop policy and ap-
21 prove budgets for the implementation of the cooperative program.

22 (4) The director or designee of the director may reject any operating or capital budget of the
23 cooperative program upon a finding by the director that the budget is not consistent with the goals
24 listed in ORS 442.705 (2) that the cooperative program is expected to achieve.

25 **SECTION 759.** ORS 442.725 is amended to read:

26 442.725. Not later than 60 days following each anniversary date of the approval of a cooperative
27 program by the Director of [*Human Services*] **the Oregon Health Authority**, the board of governors
28 of the cooperative program shall deliver an annual report to the director. The report shall specif-
29 ically describe:

30 (1) How heart and kidney transplant services and related services of the cooperative program
31 are being provided in accordance with the order;

32 (2) Which of the goals identified in the order are being achieved and to what extent; and

33 (3) Any substantial changes in the cooperative program.

34 **SECTION 760.** ORS 442.730 is amended to read:

35 442.730. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall review and
36 evaluate the annual report delivered under ORS 442.725. The director shall:

37 (a) Determine the extent to which the cooperative program is achieving the goals identified in
38 the order;

39 (b) Review the activities being conducted to achieve the goals; and

40 (c) Determine whether each of the activities is still necessary and appropriate to achieve the
41 goals.

42 (2) If the director determines that additional information is needed for the review described in
43 subsection (1) of this section, the director may order the board of governors to provide the infor-
44 mation within a specified time.

45 (3) Within 60 days after receiving the annual report or any additional information ordered under

1 subsection (2) of this section, the director shall:

2 (a) Approve the report if the director determines that the cooperative program is operating in
3 accordance with the order and that the goals identified in the order are being adequately achieved
4 by the cooperative program;

5 (b) Modify the order as appropriate to adjust to changes in the cooperative program approved
6 by the director and approve the report as provided in paragraph (a) of this subsection;

7 (c) Order the board of governors to make remedial changes in anticompetitive activities not in
8 compliance with the order and request the board of governors to report on progress not later than
9 a deadline specified by the director;

10 (d) Revoke approval of the cooperative program; or

11 (e) Take any of the actions set forth in ORS 442.740.

12 **SECTION 761.** ORS 442.735 is amended to read:

13 442.735. (1) Any person may file a complaint with the Director of [*Human Services*] **the Oregon**
14 **Health Authority** requesting that a specific decision or action of a cooperative program supervised
15 by the director be reversed or modified, or that approval for all or part of the activities permitted
16 by the order be suspended or terminated. The complaint shall allege the reasons for the requested
17 action and shall include any evidence relating to the complaint.

18 (2) The director on the director's own initiative may at any time request information from the
19 board of governors concerning the activities of the cooperative program to determine whether the
20 cooperative program is in compliance with the order.

21 **SECTION 762.** ORS 442.740 is amended to read:

22 442.740. (1) During the review of the annual report described in ORS 442.730, after receiving a
23 complaint under ORS 442.735, or on the director's own initiative, the Director of [*Human Services*]
24 **the Oregon Health Authority** may take one or more of the following actions:

25 (a) If the director determines that a particular decision or action is not in accordance with the
26 order, or that the parties are engaging in anticompetitive activity not permitted by the order, the
27 director may direct the board of governors to identify and implement corrective action to insure
28 compliance with the order or may modify the order.

29 (b) If the director determines that the cooperative program is engaging in unlawful activity not
30 permitted by the order or is not complying with the directive given under paragraph (a) of this
31 subsection, the director may serve on the cooperative program a proposed order directing the co-
32 operative program to:

33 (A) Conform with the directive under paragraph (a) of this subsection; or

34 (B) Cease and desist from engaging in the activity.

35 (2) The cooperative program shall have up to 30 days to comply with a proposed order under
36 subsection (1)(b) of this section unless the board of governors demonstrates additional time is needed
37 for compliance.

38 (3) If the director determines that the participants in the cooperative program are in substantial
39 noncompliance with the cease and desist directive, the director may seek an appropriate injunction
40 in the circuit courts of Marion or Multnomah Counties.

41 (4) If the director determines that a sufficient number of the goals set forth in ORS 442.705 (2)
42 are not being achieved or that the cooperative program is engaging in activity not permitted by the
43 order, the director may suspend or terminate approval for all or part of the activities approved and
44 permitted by the order.

45 (5) A proposed order to be entered under subsection (1)(b) or (4) of this section may be served

1 upon the cooperative program without prior notice. The cooperative program may contest the pro-
2 posed order by filing a written request for a contested case hearing with the director not later than
3 20 days following the date of the proposed order. The proposed order shall become final if no request
4 for a hearing is received. Unless inconsistent with this subsection, the provisions of ORS chapter
5 183, as applicable, shall govern the hearing procedure and any judicial review.

6 (6) The only effect of an order suspending or terminating approval under ORS 442.700 to 442.760
7 shall be to withdraw the immunities granted under ORS 442.715 (3) for anticompetitive activity
8 permitted by the order and taken after the effective date of the order.

9 **SECTION 763.** ORS 442.745 is amended to read:

10 442.745. If parties to a cooperative program agreement provide the Director of [*Human*
11 *Services*] **the Oregon Health Authority** with written or oral information that is confidential or
12 otherwise protected from disclosure under Oregon law, the disclosures shall not be considered a
13 waiver of any right to protect the information from disclosure in other proceedings.

14 **SECTION 764.** ORS 442.750 is amended to read:

15 442.750. (1) Notwithstanding the provisions of ORS 646.705 to 646.836:

16 (a) A cooperative program for which approval has been granted under ORS 442.700 to 442.760
17 and 646.740 is a lawful program to the extent it engages in activities permitted by the order and
18 supervised by the Director of [*Human Services*] **the Oregon Health Authority** and is in compliance
19 with the order; and

20 (b) If the parties to a cooperative program apply to the director as provided in ORS 442.710, the
21 conduct of the parties and all other participants in negotiating or entering into a cooperative pro-
22 gram is lawful conduct.

23 (2) Subsection (1)(b) of this section does not apply to persons negotiating a cooperative program
24 if it can be demonstrated, by a preponderance of the evidence, that the persons do not or did not
25 intend to enter into a cooperative agreement.

26 (3) Nothing in ORS 442.700 to 442.760 and 646.740 shall be construed to immunize any person
27 from liability or impose liability where none would otherwise exist under federal or state antitrust
28 laws for conduct in negotiating and entering into a cooperative program for which no application
29 was filed with the director.

30 **SECTION 765.** ORS 442.755 is amended to read:

31 442.755. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall adopt rules
32 as may be necessary to carry out the provisions of ORS 442.700 to 442.760.

33 (2) The costs of program approval and supervision shall be paid by the parties to a cooperative
34 program agreement and the director shall set fees for application, annual review and supervision
35 as necessary to fund the director's supervision of the program.

36 **SECTION 766.** ORS 442.760 is amended to read:

37 442.760. Notwithstanding the provisions of ORS 183.310 (7) and 183.480, only a party to a coop-
38 erative program agreement or the Director of [*Human Services*] **the Oregon Health Authority** shall
39 be entitled to a contested case hearing or judicial review of an order issued pursuant to ORS 442.700
40 to 442.760 and 646.740.

41 **SECTION 767.** ORS 442.800 is amended to read:

42 442.800. (1) The Advisory Committee on Physician Credentialing Information is established
43 within the Office for Oregon Health Policy and Research. The committee consists of nine members
44 appointed by the Administrator of the Office for Oregon Health Policy and Research as follows:

45 (a) Three members who are physicians licensed by the Oregon Medical Board or representatives

1 of physician organizations doing business within the State of Oregon;

2 (b) Three representatives of hospitals licensed by the [*Department of Human Services*] **Oregon**
3 **Health Authority**; and

4 (c) Three representatives of health care service contractors that have been issued a certificate
5 of authority to transact health insurance in this state by the Department of Consumer and Business
6 Services.

7 (2) All members appointed pursuant to subsection (1) of this section shall be knowledgeable
8 about national standards relating to physician credentialing.

9 (3) The term of appointment for each member of the committee is three years. If, during a
10 member's term of appointment, the member no longer qualifies to serve as designated by the criteria
11 of subsection (1) of this section, the member must resign. If there is a vacancy for any cause, the
12 administrator shall make an appointment to become immediately effective for the unexpired term.

13 (4) Members of the committee are not entitled to compensation or reimbursement of expenses.

14 **SECTION 768.** ORS 442.807 is amended to read:

15 442.807. (1) Within 30 days of receiving the recommendations of the Advisory Committee on
16 Physician Credentialing Information, the Administrator of the Office for Oregon Health Policy and
17 Research shall forward the recommendations to the Director of the [*Department of Consumer and*
18 *Business Services and to the Director of Human Services*] **Oregon Health Authority**. The adminis-
19 trator shall request that the [*Department of Consumer and Business Services and the Department of*
20 *Human Services*] **Oregon Health Authority** adopt rules to carry out the efficient implementation
21 and enforcement of the recommendations of the committee.

22 (2) The [*Department of Consumer and Business Services and the Department of Human Services*]
23 **Oregon Health Authority** shall:

24 (a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures
25 Act, for the purpose of effectuating the provisions of ORS 442.800 to 442.807; and

26 (b) Consult with each other and with the administrator to ensure that the rules adopted by the
27 [*Department of Consumer and Business Services and the Department of Human Services*] **Oregon**
28 **Health Authority** are identical and are consistent with the recommendations developed pursuant
29 to ORS 442.805 for affected hospitals and health care service contractors.

30 (3) The uniform credentialing information required pursuant to the administrative rules of the
31 [*Department of Consumer and Business Services and the Department of Human Services*] **Oregon**
32 **Health Authority** represent the minimum uniform credentialing information required by the af-
33 fected hospitals and health care service contractors. Nothing in ORS 442.800 to 442.807 shall be in-
34 terpreted to prevent an affected hospital or health care service contractor from requesting
35 additional credentialing information from a licensed physician for the purpose of completing physi-
36 cian credentialing procedures used by the affected hospital or health care service contractor.

37 **SECTION 769.** ORS 443.005 is amended to read:

38 443.005. As used in ORS 443.005 to 443.095:

39 (1) **'Authority' means the Oregon Health Authority.**

40 [(1) "*Department*" means the *Department of Human Services*.]

41 (2) "Home health agency" means a public or private agency providing coordinated home health
42 services on a home visiting basis. "Home health agency" does not include:

43 (a) Any visiting nurse service or home health service conducted by and for those who rely upon
44 spiritual means through prayer alone for healing in accordance with the tenets and practices of a
45 recognized church or religious denomination.

1 (b) Those home health services offered by county health departments outside, and in addition to,
2 programs formally designated and funded as home health agencies.

3 (3) "Home health services" means items and services furnished to an individual by a home
4 health agency, or by others under arrangements with such agency, on a visiting basis, in a place
5 of temporary or permanent residence used as the individual's home for the purpose of maintaining
6 that individual at home.

7 **SECTION 770.** ORS 443.015 is amended to read:

8 443.015. No public or private agency or person shall establish, conduct or maintain a home
9 health agency or organization providing home health services for compensation, or hold itself out
10 to the public as a home health agency or organization, without first obtaining a license therefor
11 from the [*Department of Human Services*] **Oregon Health Authority**. The license shall be renewable
12 annually and is not transferable.

13 **SECTION 771.** ORS 443.035 is amended to read:

14 443.035. (1) The [*Department of Human Services*] **Oregon Health Authority** may grant a license
15 to a home health agency for a calendar year, may annually renew a license and may allow for a
16 change of ownership, upon payment of a fee as follows:

17 (a) For a new home health agency:

18 (A) \$1,000; and

19 (B) An additional \$1,000 for each subunit of a parent home health agency.

20 (b) For renewal of a license:

21 (A) \$600; and

22 (B) An additional \$600 for each subunit of a parent home health agency.

23 (c) For a change of ownership at a time other than the annual renewal date:

24 (A) \$500; and

25 (B) An additional \$500 for each subunit of a parent home health agency.

26 (2) Notwithstanding subsection (1)(c) of this section, the fee for a change in ownership shall be
27 \$100 if a change in ownership does not involve:

28 (a) The majority owner or partner; or

29 (b) The administrator operating the agency.

30 (3) All fees received pursuant to subsection (1) of this section shall be paid over to the State
31 Treasurer and credited to the Public Health Account. Such moneys are appropriated continuously
32 to the [*Department of Human Services*] **Oregon Health Authority** for the administration of ORS
33 443.005 to 443.095.

34 **SECTION 772.** ORS 443.045 is amended to read:

35 443.045. (1) The [*Department of Human Services*] **Oregon Health Authority** may deny, suspend
36 or revoke the license of any home health agency for failure to comply with ORS 443.005 to 443.095
37 or with the rules of the [*department*] **authority** as authorized by ORS 443.085.

38 (2) License denials, suspensions and revocations, adoption of rules and judicial review thereof
39 shall be in accordance with ORS chapter 183.

40 **SECTION 773.** ORS 443.055 is amended to read:

41 443.055. A home health agency shall have an organized governing body, or, if a subdivision of
42 a public or private agency or a multifunction organization, a clearly defined local body having re-
43 sponsibility for the conduct of the home health agency. Where the governing body is functionally
44 remote from the operation of the home health agency, the [*Department of Human Services*] **Oregon**
45 **Health Authority** may approve the designation of an appropriate part of the organization as the

1 governing body.

2 **SECTION 774.** ORS 443.085 is amended to read:

3 443.085. The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules re-
4 lating to the home health agencies licensed under ORS 443.005 to 443.095, governing:

5 (1) The qualifications of professional and ancillary personnel in order to adequately furnish
6 home health services;

7 (2) Standards for the organization and quality of patient care;

8 (3) Procedures for maintaining records; and

9 (4) Provision for contractual arrangements for professional and ancillary health services.

10 **SECTION 775.** ORS 443.205 is amended to read:

11 443.205. As used in ORS 443.215 and 443.225, “domiciliary care facilities” means facilities pro-
12 viding residential care to adults, including adult foster homes, group care facilities or residential
13 treatment, training or care facilities, established, contracted for or operated by the Department of
14 Human Services **or the Oregon Health Authority.**

15 **SECTION 776.** ORS 443.225 is amended to read:

16 443.225. (1) Except as otherwise provided by subsections (3) and (4) of this section, the capacity
17 of all domiciliary care facilities must be located throughout the state based on the relationship of
18 the population of the county in which the additional capacity is proposed to be located to the
19 number of persons originating from the county **who are** determined to be in need of domiciliary care
20 [*by the Department of Human Services*]. However, nothing in this subsection is intended to prevent
21 the placement of a person who is or was not a resident of the county in a domiciliary care facility
22 in the county.

23 **(2) The Department of Human Services shall determine the number of persons originat-**
24 **ing from a county who are in need of domiciliary care if the domiciliary care facility is an**
25 **adult foster home as defined in ORS 443.705, a residential care facility or residential training**
26 **facility as those terms are defined in ORS 443.400 or other group care facility.**

27 **(3) The Oregon Health Authority shall determine the number of persons originating from**
28 **a county who are in need of domiciliary care if the domiciliary care facility is a residential**
29 **treatment facility as defined in ORS 443.400.**

30 [(2)] (4) When a county is too sparsely populated to produce a meaningful ratio of county pop-
31 ulation to population in need, or a county is lacking necessary support services, the population of
32 two or more counties may be combined. The area of the combined counties may be considered a
33 county for purposes of subsection (1) of this section.

34 [(3)] (5) The computation required by subsection (1) of this section does not require reduction
35 in any domiciliary care facility capacity existing on October 4, 1977.

36 [(4)] (6) Subject to the appropriate licensing requirements, the governing body of a county may
37 authorize a domiciliary care facility located in the county to exceed the capacity limit imposed by
38 subsection (1) of this section upon:

39 (a) Request of an individual or organization operating or proposing to operate a domiciliary care
40 facility;

41 (b) Consultation with an advisory committee appointed by the governing body and consisting of
42 persons who are particularly interested in the type of domiciliary care facility contemplated; and

43 (c) Finding of good cause following notice and public hearing.

44 **SECTION 777.** ORS 443.400 is amended to read:

45 443.400. As used in ORS 443.400 to 443.455 and 443.991 [(2)], unless the context requires other-

1 wise:

2 (1) [*Department* means the Department of Human Services] **“Director” means the director of**
3 **the licensing agency for the residential facility.**

4 (2) [*Director* means the Director of Human Services] **“Licensing agency” means:**

5 **(a) The Department of Human Services, if the residential facility that is licensed, or that**
6 **the Director of Human Services determines should be licensed, is a residential care facility,**
7 **residential training facility or residential training home; or**

8 **(b) The Oregon Health Authority, if the residential facility that is licensed, or that the**
9 **Director of the Oregon Health Authority determines should be licensed, is a residential**
10 **treatment facility or residential treatment home.**

11 (3) “Resident” means any individual residing in a facility who receives residential care, treat-
12 ment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be a
13 resident if the individual is related by blood or marriage within the fourth degree as determined by
14 civil law to the person licensed to operate or maintain the facility.

15 (4) “Residential care” means services such as supervision; protection; assistance while bathing,
16 dressing, grooming or eating; management of money; transportation; recreation; and the providing
17 of room and board.

18 (5) “Residential care facility” means a facility that provides, for six or more socially dependent
19 individuals or individuals with physical disabilities, residential care in one or more buildings on
20 contiguous properties.

21 (6) “Residential facility” means a residential care facility, residential training facility, residen-
22 tial treatment facility, residential training home or residential treatment home.

23 (7) “Residential training facility” means a facility that provides, for six or more individuals with
24 mental retardation or other developmental disabilities, residential care and training in one or more
25 buildings on contiguous properties.

26 (8) “Residential training home” means a facility that provides, for five or fewer individuals with
27 mental retardation or other developmental disabilities, residential care and training in one or more
28 buildings on contiguous properties, when so certified and funded by the [*department*] **Department**
29 **of Human Services.**

30 (9) “Residential treatment facility” means a facility that provides, for six or more individuals
31 with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care
32 and treatment in one or more buildings on contiguous properties.

33 (10) “Residential treatment home” means a facility that provides for five or fewer individuals
34 with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care
35 and treatment in one or more buildings on contiguous properties.

36 (11) “Training” means the systematic, planned maintenance, development or enhancement of
37 self-care skills, social skills or independent living skills, or the planned sequence of systematic
38 interactions, activities or structured learning situations designed to meet each resident’s specified
39 needs in the areas of physical, social, emotional and intellectual growth.

40 (12) “Treatment” means a planned, individualized program of medical, psychological or
41 rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-
42 tional, physical or other symptoms or social, educational or vocational disabilities resulting from or
43 related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

44 **SECTION 778.** ORS 443.405 is amended to read:

45 443.405. For purposes of ORS 443.400 to 443.455 and 443.991 [(2)], “residential facility” does not

1 include:

2 (1) A residential school;

3 (2) A state or local correctional facility, other than a local facility for persons enrolled in work
4 release programs maintained under ORS 144.460;

5 (3) A youth correction facility as defined in ORS 420.005;

6 (4) A youth care center operated by a county juvenile department under administrative control
7 of a juvenile court pursuant to ORS 420.855 to 420.885;

8 (5) A juvenile detention facility as defined in ORS 419A.004;

9 (6) A nursing home;

10 (7) A hospital;

11 (8) A place primarily engaged in recreational activities;

12 (9) A foster home; or

13 (10) A place providing care and treatment on less than a 24-hour basis.

14 **SECTION 779.** ORS 443.410 is amended to read:

15 443.410. (1) A license issued by the Department of Human Services is required in order to op-
16 erate or maintain [*any residential facility for persons who have developmental, physical or psychiatric*
17 *disabilities or are socially dependent or alcohol or drug dependent*] **a residential care facility, resi-**
18 **dential training facility or residential training home.** In the case of a combination of residents,
19 the category of licensure shall be determined by the Director of Human Services.

20 (2) **A license issued by the Oregon Health Authority is required in order to operate or**
21 **maintain a residential treatment facility or residential treatment home.**

22 **SECTION 780.** ORS 443.415 is amended to read:

23 443.415. (1) Applications for licensure to maintain and operate a residential facility shall be
24 made to the Department of Human Services **or the Oregon Health Authority** on forms provided
25 for that purpose by the [*department*] **appropriate licensing agency.** Each application shall be ac-
26 companied by a fee of \$60 for facilities defined in ORS 443.400 (5), (7) and (9) and a fee of \$30 for
27 homes defined in ORS 443.400 (8) and (10). No fee is required of any governmentally operated resi-
28 dential facility.

29 (2) Upon receipt of an application and fee, the [*department*] **licensing agency** shall conduct an
30 investigation. The [*department*] **licensing agency** shall issue a license to any applicant for operation
31 of a residential facility in compliance with ORS 443.400 to 443.455 and the rules of the [*director*]
32 **licensing agency.** Licensure may be denied when a residential facility is not in compliance with
33 ORS 443.400 to 443.455 or the rules of the [*Director of Human Services*] **licensing agency.** Licensure
34 shall be denied if the State Fire Marshal or other authority has given notice of noncompliance of
35 facilities defined in ORS 443.400 (5), (7) and (9) pursuant to ORS 479.220.

36 **SECTION 781.** ORS 443.420, as amended by section 12, chapter 18, Oregon Laws 2008, is
37 amended to read:

38 443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the
39 [*Director of Human Services*] **director of the licensing agency,** be a person:

40 (a) Who demonstrates an understanding and acceptance of the rules governing residential facil-
41 ities;

42 (b) Mentally and physically capable of caring for such residents; and

43 (c) Who employs or utilizes only individuals whose presence does not jeopardize the health,
44 safety or welfare of residents.

45 (2) A residential facility shall not be operated or maintained in combination with a nursing home

1 or hospital unless licensed, maintained and operated as a separate and distinct part.

2 (3) All physical residential facilities used for residents shall meet applicable requirements of the
3 State Fire Marshal.

4 (4) Prior to licensure, a residential facility must be in substantial compliance with applicable
5 state and local laws, rules, codes, ordinances and permit requirements.

6 (5) Prior to licensure, a residential facility that proposes to house persons under the age of 21
7 years shall submit written proof of compliance with ORS 336.575 to the [*Department of Human Ser-*
8 *vices*] **licensing agency**.

9 (6) Prior to an initial licensure of a residential care facility, the [*department*] **licensing agency**
10 shall consider:

11 (a) The license applicant's history of regulatory compliance and operational experience;

12 (b) The need in the local community for the services offered by the license applicant, as dem-
13 onstrated by a market study produced by the license applicant;

14 (c) The willingness of the license applicant to serve underserved populations; and

15 (d) The willingness of the license applicant to contract with the [*department*] **Oregon Health**
16 **Authority** to provide services through the state medical assistance program.

17 **SECTION 782.** ORS 443.422 is amended to read:

18 443.422. (1) To prevent the perpetuation of segregated housing patterns, the Department of Hu-
19 man Services, **in consultation with the Oregon Health Authority**, shall determine the location
20 and type of licensed residential facilities and the location of facilities subject to the provisions of
21 ORS 169.690.

22 (2) Before a license is issued for a residential facility as defined in ORS 443.400, the issuing
23 agency shall determine the number and type of any other licensed residential facilities and the
24 number and type of facilities subject to the provisions of ORS 169.690 within a 1,200 foot radius.

25 (3) None of the data collected under this section shall be used in a manner that violates the Fair
26 Housing Amendments Act of 1988.

27 **SECTION 783.** ORS 443.425 is amended to read:

28 443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless
29 sooner revoked. Each license shall state the name of the person operating the residential facility;
30 the name of the person who owns the facility; the address of the premises to which the license ap-
31 plies and the maximum number of residents to be maintained in such residential facility at any time
32 whether the residential facility is licensed as a residential training facility, a residential treatment
33 facility, a residential care facility; a residential training home or residential treatment home and
34 such other information as the Department of Human Services **or the Oregon Health Authority**
35 considers necessary.

36 (2) A license is renewable upon submission of an application to the department **or the authority**
37 and payment of a fee of \$60 for facilities licensed under ORS 443.400 (5), (7) and (9) and a fee of \$30
38 for homes licensed under ORS 443.400 (8) and (10). No fee shall be required of a governmentally
39 operated residential facility. Filing of an application for renewal before the date of expiration of a
40 license extends the effective date of expiration of the license until the [*department*] **licensing agency**
41 has acted upon such application. The [*department*] **licensing agency** shall refuse to renew a license
42 if the facility is not substantially in compliance with all applicable laws and rules, or if the State
43 Fire Marshal or the authorized representative thereof has given notice of noncompliance of facilities
44 under ORS 443.400 (5), (7) and (9) pursuant to ORS 479.220.

45 **SECTION 784.** ORS 443.430 is amended to read:

1 443.430. (1) No license under ORS 443.415 is transferable or applicable to any location, residen-
2 tial facility or management other than that indicated on the application for licensure.

3 [(2) *All moneys collected under ORS 443.400 to 443.455 shall be deposited in a special account in*
4 *the General Fund, and are appropriated continuously for payment of expenses incurred by the De-*
5 *partment of Human Services in the administration of ORS 443.400 to 443.455.*]

6 **(2)(a) All moneys collected under ORS 443.400 to 443.455 for the purpose of licensing a**
7 **residential care facility, residential training facility or residential training home shall be de-**
8 **posited in a special account in the General Fund and are continuously appropriated for pay-**
9 **ment of expenses incurred by the Department of Human Services in administering ORS**
10 **443.400 to 443.455.**

11 **(b) All moneys collected under ORS 443.400 to 443.455 for the purpose of licensing a resi-**
12 **dential treatment facility or residential treatment home shall be deposited in a special ac-**
13 **count in the General Fund and are continuously appropriated for payment of expenses**
14 **incurred by the Oregon Health Authority in administering ORS 443.400 to 443.455.**

15 **SECTION 785.** ORS 443.435 is amended to read:

16 443.435. (1) The Director of Human Services or authorized representative shall periodically visit
17 and inspect every [*residential facility*] **residential care facility, residential training facility or**
18 **residential training home** to determine whether it is maintained and operated in accordance with
19 ORS 443.400 to 443.455 and the rules of the director, and to consult with and advise management
20 concerning methods of care, treatment, training, records, housing and equipment. Employees of the
21 Department of Human Services and the State Fire Marshal or authorized representative on request
22 shall be permitted access to the premises and records of individuals in [*a residential facility*] **the**
23 **facility or home that are** pertinent to fire safety.

24 **(2) The Director of the Oregon Health Authority or authorized representative shall peri-**
25 **odically visit and inspect every residential treatment facility or residential treatment home**
26 **to determine whether it is maintained and operated in accordance with ORS 443.400 to 443.455**
27 **and the rules of the director, and to consult with and advise management concerning meth-**
28 **ods of care, treatment, training, records, housing and equipment. Employees of the Oregon**
29 **Health Authority and the State Fire Marshal or authorized representative on request shall**
30 **be permitted access to the premises and records of individuals in the facility or home that**
31 **are pertinent to fire safety.**

32 **SECTION 786.** ORS 443.440 is amended to read:

33 443.440. The Department of Human Services **or the Oregon Health Authority** may revoke or
34 suspend the license of any residential facility that is not operated in accordance with ORS 443.400
35 to 443.455 or the rules adopted thereunder. Such revocation or suspension shall be taken in ac-
36 cordance with rules of the [*department*] **licensing agency** and ORS chapter 183. However, in cases
37 where an imminent danger to the health or safety of the residents exists, a license may be suspended
38 immediately pending a fair hearing not later than the 10th day after such suspension.

39 **SECTION 787.** ORS 443.445 is amended to read:

40 443.445. (1) No residential facility [*or home*] shall admit individuals who require continuous
41 nursing care except as provided in subsection (3) of this section.

42 (2) Except as provided in subsection (3) of this section, if any resident of a residential facility
43 [*or home*] requires nursing care for eight or more consecutive days or a physician or the designee
44 of a physician or a registered nurse certifies that continued nursing care is required, the resident
45 shall be transferred to an appropriate health care facility for as long as necessary.

1 (3) A resident of a residential [*facility or home*] **care facility, residential training facility or**
2 **residential training home** who requires nursing care in addition to training[, *treatment*] or care
3 needs, or any combination thereof, may be served by that facility or home with approval from the
4 Department of Human Services and in accordance with the rules of the department and consistent
5 with rules adopted by the Oregon State Board of Nursing under ORS 678.150 (9).

6 (4) **A resident of a residential treatment facility or residential treatment home who re-**
7 **quires nursing care in addition to treatment needs may be served by that facility or home**
8 **with approval from the Oregon Health Authority and in accordance with the rules of the**
9 **authority and consistent with rules adopted by the Oregon State Board of Nursing under**
10 **ORS 678.150 (9).**

11 [(4)] (5) No residential facility [*or home*] shall admit individuals of categories other than those
12 designated on its license without prior written consent of the [*department*] **licensing agency.**

13 [(5)] (6) In the case of residential facilities [*or homes*] supervised by and operated exclusively for
14 persons who rely upon prayer or spiritual means for healing in accordance with the creed or tenets
15 of a well-recognized church or religious denomination, no medical, psychological or rehabilitative
16 procedures shall be required.

17 **SECTION 788.** ORS 443.450 is amended to read:

18 443.450. (1) [*The Director of Human Services shall adopt rules governing*] **For a residential care**
19 **facility, residential training facility or residential training home, the Director of Human**
20 **Services shall adopt rules governing:**

- 21 (a) The physical properties of the [*residential facility*] **facility or home;**
22 (b) Storage, preparation and serving of food;
23 (c) Care[, *treatment*] or training to be provided;
24 (d) The number, experience and training of the staff; and
25 (e) Any other factors affecting the care[, *treatment*] or training provided.

26 (2) **For a residential treatment facility or residential treatment home, the Director of the**
27 **Oregon Health Authority shall adopt rules governing:**

- 28 (a) **The physical properties of the facility or home;**
29 (b) **Storage, preparation and serving of food;**
30 (c) **Treatment to be provided;**
31 (d) **The number, experience and training of the staff; and**
32 (e) **Any other factors affecting the treatment provided.**

33 [(2)] (3) Distinct rules shall be adopted for homes of five or fewer residents, for facilities of six
34 or more but fewer than 16 residents, and for facilities for 16 or more residents. The rules shall dif-
35 ferentiate among categories of residents.

36 [(3)] (4) For purposes of this section, “categories” refers to different populations of residents,
37 differentiated by, but not limited to, age and need, as defined **by the Department of Human Ser-**
38 **vices or the authority** by rule.

39 **SECTION 789.** ORS 443.455 is amended to read:

40 443.455. (1) For purposes of imposing civil penalties, residential facilities approved under ORS
41 443.400 to 443.455 are [*considered to be long-term care facilities, subject to ORS 441.705 to 441.745.*
42 *However, the Director of Human Services shall exercise the powers conferred under ORS 441.705 to*
43 *441.745. The director shall by rule prescribe a schedule of penalties appropriate to residential facilities*
44 *licensed under ORS 443.400 to 443.455.*] **subject to ORS 441.705 to 441.745.**

45 (2) **The Director of Human Services shall by rule prescribe a schedule of penalties for**

1 residential care facilities, residential training facilities and residential training homes that
2 are not in compliance with ORS 443.400 to 443.455.

3 (3) The Director of the Oregon Health Authority shall by rule prescribe a schedule of
4 penalties for residential treatment facilities and residential treatment homes that are not in
5 compliance with ORS 443.400 to 443.455.

6 **SECTION 790.** ORS 443.460 is amended to read:

7 443.460. (1) The *[director]* **Director of Human Services** may exempt from the license, inspection
8 and fee provisions of ORS 443.400 to 443.455 residential care facilities in those counties where there
9 is a county agency which provides similar programs for licensing and inspection that the director
10 finds are equal to or superior to the requirements of ORS 443.400 to 443.455.

11 (2) Pursuant to an exemption as provided in subsection (1) of this section, the director may
12 provide funds and other resources to the county necessary to enable the county to perform the li-
13 censing and inspection functions.

14 **SECTION 791.** ORS 443.715 is amended to read:

15 443.715. For purposes of ORS 443.705 to 443.825, "adult foster home" does not include:

16 (1) Any house, institution, hotel, or other similar place that supplies board and room only, or
17 room only, or board only, if no resident thereof requires any element of care.

18 (2) Any specialized living situation for persons with physical disabilities where the Department
19 of Human Services provides payment for personal care services other than to an adult foster home
20 provider.

21 (3) Any residential facility, as defined in ORS 443.400, licensed and funded by the department.

22 *[(4) Any residential treatment home, as defined in ORS 443.400, licensed and funded by the de-*
23 *partment.]*

24 **SECTION 792.** ORS 443.865 is amended to read:

25 443.865. (1) Upon the recommendation of the Oregon Hospice Association, the *[Department of*
26 *Human Services]* **Oregon Health Authority** shall enforce compliance with the provisions of ORS
27 443.860 (1), (3), (4) and (5).

28 (2) The *[Department of Human Services]* **authority** shall adopt rules pursuant to ORS chapter
29 183 to implement subsection (1) of this section. Depending upon the seriousness of the noncompli-
30 ance, the enforcement mechanisms to be used shall include, but not be limited to, the imposition of
31 civil penalties and the issuance of an order to cease operations.

32 **SECTION 793.** ORS 443.870 is amended to read:

33 443.870. (1) The Oregon Hospice Association shall maintain and operate a registry of all certified
34 and accredited hospice programs and all developing hospice programs and shall make such records
35 available to the public.

36 (2) Hospice programs on the registry shall provide utilization data requested by the Oregon
37 Hospice Association.

38 (3) The Oregon Hospice Association shall compile data received under subsection (2) of this
39 section and annually report the data to the *[Department of Human Services]* **Oregon Health Au-**
40 **thority.**

41 **SECTION 794.** ORS 443.885 is amended to read:

42 443.885. Any facility that provides care for patients or residents with Alzheimer's disease or
43 other dementia by means of an Alzheimer's care unit must register with the *[Department of Human*
44 *Services]* **Oregon Health Authority.**

45 **SECTION 795.** ORS 443.886 is amended to read:

1 443.886. (1) If a facility intends to provide care for patients or residents with Alzheimer's disease
2 or other dementia by means of an Alzheimer's care unit, the facility must obtain a special indorse-
3 ment on its license or registration.

4 (2) The [Department of Human Services] **Oregon Health Authority**, with [the] input from rep-
5 resentatives of advocate groups and the long term care industry, shall adopt by rule standards that
6 ensure that the special needs of any Alzheimer's patient or resident who is cared for in a special
7 unit are met and that quality care is provided. The standards must include but are not limited to
8 provisions for:

9 (a) Care planning, including physical design, staffing, staff training, safety, egress control, indi-
10 vidual care planning, admission policy, family involvement, therapeutic activities and social services;

11 (b) Continuity of basic care requirements; and

12 (c) Marketing and advertising of the availability of and services from Alzheimer's care units.

13 (3) The [department] **authority** shall adopt a fee schedule for indorsement, taking into account
14 the type of facility and the number of patients and residents.

15 (4) The [department] **authority** shall enforce rules adopted under subsection (2) of this section
16 and shall allow a licensee or registrant to retain the special indorsement required to care for pa-
17 tients and residents with Alzheimer's disease or other dementia only so long as the licensee or
18 registrant complies with the rules.

19 (5) The special indorsement may be suspended or revoked in the same manner as [the] a license
20 or registration is suspended or revoked.

21 (6) Unless a facility has obtained the indorsement required by subsection (1) of this section, the
22 facility shall not:

23 (a) Advertise the facility as providing an Alzheimer's care unit; or

24 (b) Market the facility as providing an Alzheimer's care unit.

25 (7) As used in this section:

26 (a) "Alzheimer's care unit" means a special care unit in a designated, separated area for patients
27 and residents with Alzheimer's disease or other dementia that is locked, segregated or secured to
28 prevent or limit access by a patient or resident outside the designated or separated area.

29 (b) "Facility" means a nursing home, residential care facility, assisted living facility or any other
30 like facility required to be licensed by the [department] **Department of Human Services or the**
31 **authority**.

32 (c) "Registry" means a facility will provide the [department] **authority** with information relating
33 to the Alzheimer's care unit including the number of residents in the unit, stage of dementia for each
34 resident, description of how services are provided, and length of time the unit has been operating.

35 **SECTION 796.** ORS 443.991 is amended to read:

36 443.991. (1) Violation of ORS 443.015 is punishable as a Class C misdemeanor.

37 (2) Violation of any provision of ORS 443.400 to 443.455 is a Class B misdemeanor.

38 (3) [In addition,] The Department of Human Services may commence an action to enjoin opera-
39 tion of a [residential facility] **residential care facility, residential training facility or residential**
40 **training home:**

41 (a) [When a residential facility] **If the facility or home** is operated without valid licensure; or

42 (b) After notice of revocation has been given and a reasonable time for placement of individuals
43 in other facilities **or homes** has been allowed.

44 (4) **The Oregon Health Authority may commence an action to enjoin operation of a resi-**
45 **dential treatment facility or residential treatment home:**

1 (a) If the facility or home is operated without valid licensure; or

2 (b) After notice of revocation has been given and a reasonable time for placement of in-
3 dividuals in other facilities or homes has been allowed.

4 [(3)] (5) Violation of ORS 443.725 is punishable as a Class C misdemeanor.

5 [(4)] (6) Violation of any provision of ORS 443.755 is a Class B misdemeanor. In addition, the
6 department may commence an action to enjoin operation of an adult foster home:

7 (a) When an adult foster home is operated without a valid license; or

8 (b) After notice of revocation has been given and a reasonable time for placement of individuals
9 in other facilities has been allowed.

10 [(5)] (7) Violation of ORS 443.881 is punishable as a Class C misdemeanor.

11 **SECTION 797.** ORS 444.300 is amended to read:

12 444.300. (1) Subject to available funding, including gifts, grants or donations, the [*Department of*
13 *Human Services*] **Oregon Health Authority** shall establish a uniform, statewide database for the
14 collection of information on Type I and Type II diabetes occurring in children in Oregon. The pur-
15 poses of the database shall be to collect and serve as a repository for data about the prevalence and
16 incidence of diabetes occurring in the pediatric population of this state and to make the data
17 available for scientific and medical research and for assistance in making decisions about the allo-
18 cation of public resources.

19 (2) The database established by subsection (1) of this section shall include data provided to the
20 [*department*] **authority** by schools and physicians as required by ORS 444.310 and 444.320.

21 (3) The [*department*] **authority** shall adopt rules:

22 (a) Necessary to carry out the purposes of ORS 444.300 to 444.330, including but not limited to
23 the reporting format and the effective date after which reporting by schools and physicians shall
24 be required; and

25 (b) Under which confidential data may be used by third parties to conduct research and studies
26 for the public good.

27 **SECTION 798.** ORS 444.310 is amended to read:

28 444.310. The [*Department of Human Services*] **Oregon Health Authority** shall conduct an annual
29 survey, to be completed by June 15, of all public schools, public charter schools and registered pri-
30 vate schools in Oregon to collect data about diabetes occurring in students. Each school surveyed
31 shall report to the [*department*] **authority** for each student enrolled at the school who has Type I
32 or Type II diabetes:

33 (1) The name and address of the student;

34 (2) The gender of the student;

35 (3) The date of birth of the student;

36 (4) The type of diabetes diagnosed; and

37 (5) The date of diagnosis.

38 **SECTION 799.** ORS 444.320 is amended to read:

39 444.320. (1) As used in this section, "child" means an individual 18 years of age or younger.

40 (2) In accordance with ORS 444.300, upon diagnosing or first treating a child with Type I or
41 Type II diabetes, a physician shall report to the [*Department of Human Services*] **Oregon Health**
42 **Authority**:

43 (a) The name and address of the child;

44 (b) The gender of the child;

45 (c) The date of birth of the child;

1 (d) The type of diabetes the child has; and

2 (e) The date of diagnosis or first treatment by the reporting physician.

3 **SECTION 800.** ORS 444.330 is amended to read:

4 444.330. All identifying information regarding individual children that is reported to the [*De-*
5 *partment of Human Services*] **Oregon Health Authority** pursuant to ORS 444.300 to 444.330 shall
6 be confidential and privileged. Except as required in connection with the administration or
7 enforcement of public health laws or rules, no public health official, employee, agent or other person
8 entitled to access or use data under ORS 444.300 to 444.330 shall be examined in an administrative
9 or judicial proceeding as to the existence or contents of data in the database established under ORS
10 444.300 to 444.330. Research and studies conducted using confidential data from the statewide data-
11 base must be reviewed and approved by the body used by the [*department*] **authority** as the Com-
12 mittee for the Protection of Human Research Subjects and established in accordance with 45 C.F.R.
13 46.

14 **SECTION 801.** ORS 445.010 is amended to read:

15 445.010. As used in this chapter, unless the context requires otherwise:

16 (1) "Ambulance operator" means any person operating an ambulance for hire.

17 **(2) "Authority" means the Oregon Health Authority.**

18 [(2)] **(3) "Care" means:**

19 (a) Treatment in and by a hospital.

20 (b) Professional services of a doctor.

21 (c) Professional services of a nurse.

22 (d) Medicines, substances, articles, appliances or physical therapy supplied on the prescription
23 or order of the doctor in charge of the case.

24 (e) Transportation and services by an ambulance operator.

25 (f) Supplying prosthetic appliances and services.

26 (g) Any combination of any two or more of the services listed in this subsection.

27 (h) Professional services of a licensed physical therapist.

28 [(3)] **(4) "Claimant" means a hospital, doctor, nurse, pharmacy, ambulance operator, supplier of**
29 **prosthetic appliances and services or licensed physical therapist, who supplies care to an indigent**
30 **patient, and who files a claim for charges therefor pursuant to this chapter. In respect of a hospital,**
31 **it includes the operator or managing officer thereof. "Claimant" also means an indigent patient, or**
32 **a personal representative of the patient after the death of the patient, but claims allowed shall be**
33 **paid directly to those who supply care to the indigent patient; and an indigent claimant, or personal**
34 **representative of the patient, has no right of appeal under ORS 445.160 (1969 Replacement Part).**

35 [(4) "*Department*" means the *Department of Human Services*.]

36 (5) "Doctor" means a person licensed by the appropriate board of this state to practice one or
37 more of the healing arts.

38 (6) "Hospital" includes nursing homes and means any institution that has a provider agreement
39 with the [*department*] **authority** and which admits and cares for patients suffering from motor ve-
40 hicle injuries and applies for the benefits of this chapter in the manner provided in ORS 445.110.

41 (7) "Indigent patient" means a person who has suffered a motor vehicle injury and who is unable
42 to pay the cost of the care supplied on account of such injury and, except in the case of a claim filed
43 after a claim arising out of the same motor vehicle injury has been allowed by the [*department*]
44 **authority** or finally adjudged affirmatively by a court on appeal, whose account therefor remains
45 unpaid at the expiration of 90 days after the termination of the care and who is not entitled to the

1 benefits of the Workers' Compensation Law of this state or any other state or country on account
2 of such injury.

3 (8) "Motor vehicle injury" means any personal injury suffered by a human being, and acci-
4 dentally caused in, by, or as the proximate result of, the movement of a motor vehicle on a public
5 way, street or highway within this state, whether the injured person is the operator of the vehicle,
6 a passenger in the same or another vehicle, a pedestrian or whatever the relationship of the injured
7 person to the movement of the vehicle, and whether or not the vehicle is under the control of a
8 human being at the time of the injury.

9 (9) "Nurse" means a person registered or licensed to practice nursing by the Oregon State
10 Board of Nursing.

11 (10) "Pharmacy" means a place of business licensed by the State Board of Pharmacy, where
12 drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or sold at retail.

13 (11) "Supplier of prosthetic appliances and services" means a place of business or person li-
14 censed to manufacture or supply prosthetic appliances and services.

15 (12) "Licensed physical therapist" means a physical therapist within the State of Oregon li-
16 censed by the Physical Therapist Licensing Board.

17 **SECTION 802.** ORS 445.030 is amended to read:

18 445.030. (1) There is created a fund to be known as the Motor Vehicle Accident Fund, to be held
19 and deposited by the State Treasurer in such banks as are authorized to receive deposits of the
20 General Fund.

21 (2) All moneys received by the [*Department of Human Services*] **Oregon Health Authority** under
22 this chapter shall forthwith be paid to the State Treasurer, and shall become a part of the fund.

23 (3) The following shall be paid from the fund:

24 (a) All claims and benefits allowed by the [*department*] **authority** or finally adjudged
25 affirmatively by a court on appeal in the amounts allowed or adjudged and within the limitations
26 of ORS 445.060 and 445.070.

27 (b) All expenses of litigation incurred by the [*department*] **authority** on any appeal.

28 (c) All court costs and disbursements assessed against the [*department*] **authority**.

29 (d) All salaries, clerk hire, advances and reimbursement of travel costs and expenses incurred
30 by the [*department*] **authority** in the administration of this chapter.

31 (e) Expenses incurred by the [*department*] **authority** in the administration of the Emergency
32 Medical Services and Trauma Systems Program created pursuant to ORS 431.623. The total amount
33 of all payments from the fund for purposes of this paragraph shall be equal to \$891,450 each
34 biennium.

35 (4) Liability for payment of claims or judgments thereon, or both, and expenses authorized by
36 this chapter shall be limited to the fund and all additions thereto made under this chapter.

37 **SECTION 803.** ORS 445.050 is amended to read:

38 445.050. The [*Department of Human Services*] **Oregon Health Authority** may:

39 (1) Hear and determine all questions within its jurisdiction.

40 (2) Promulgate and enforce all rules and regulations as may be proper in the administration and
41 enforcement of this chapter.

42 **SECTION 804.** ORS 445.070 is amended to read:

43 445.070. If it is made to appear to the [*Department of Human Services*] **Oregon Health Au-**
44 **thority** that the limitations of ORS 445.060 are not sufficient to provide necessary and adequate
45 care of an indigent patient and that the condition of the indigent patient warrants such action, the

1 [department] **authority**, in its sole discretion, the exercise of which shall be conclusive and not in
2 any wise subject to review, may authorize the supplying of additional care to the indigent patient
3 of the same type as the types of initial care authorized by this chapter and may pay for the same
4 from the Motor Vehicle Accident Fund. No claim for additional care shall be enforceable under this
5 chapter unless the [department] **authority** first approves and authorizes in writing the supplying of
6 such additional care. No single authorization shall be for more than:

7 (1) For additional care supplied by a hospital or hospitals, \$500.

8 (2) For additional care supplied by a doctor or doctors, \$300.

9 (3) For additional care supplied by a nurse or nurses, \$200.

10 (4) For additional care supplied by a pharmacy or pharmacies, \$100.

11 (5) For additional care supplied by an ambulance operator or ambulance operators, \$50.

12 (6) For additional care supplied by a supplier or suppliers of prosthetic appliances and services,
13 \$100.

14 (7) For additional care supplied by a licensed physical therapist or licensed physical therapists,
15 \$100.

16 **SECTION 805.** ORS 445.090 is amended to read:

17 445.090. (1) At the time of filing a claim under this chapter, the claimant shall submit to the
18 [Department of Human Services] **Oregon Health Authority** such information and data as the [de-
19 partment] **authority** may reasonably require.

20 (2) A claim filed under this chapter must be filed with the [department] **authority** within one
21 year after the termination of the care supplied by the claimant. However, in computing the time
22 there shall not be included that period beginning when any claim under ORS chapter 656 arising
23 out of the same motor vehicle accident is filed by the indigent patient with the [department] **au-**
24 **thority**, and ending when that claim has been finally decided.

25 **SECTION 806.** ORS 445.110 is amended to read:

26 445.110. Each claim shall be made in writing in the form prescribed by the [Department of Hu-
27 man Services] **Oregon Health Authority**, and shall show, and be accompanied by, the following
28 matters and things:

29 (1) The name and last-known post-office address of the person to whom care has been given.

30 (2) The number of days' care, with the dates of admission to the hospital and of discharge
31 therefrom or other termination of care.

32 (3) The amount of the claim.

33 (4) A statement in writing showing the effort made by the hospital to collect the amount of the
34 claim, the facts indicating the indigency of the patient, and the amount, if any, of money received
35 from the patient or others in payment of the account of the patient.

36 (5) If reasonably obtainable, the affidavit of the indigent patient or of the person or agency, if
37 any, responsible for the patient, and, if reasonably obtainable, the statement in writing of a public
38 or private agency engaged in the relief of the poor, verifying the indigency of the patient. If the
39 affidavit or statement does not accompany the claim, and it is alleged in the claim that such absence
40 is owing to the fact that the affidavit or statement is not reasonably obtainable, the claim shall set
41 forth the facts upon which such assertion is based.

42 (6) Any other information and data the [department] **authority** may reasonably require.

43 **SECTION 807.** ORS 445.130 is amended to read:

44 445.130. For the purposes of claims under ORS 445.110 and 445.120, an indigent patient who is
45 not otherwise able to pay the charges for care supplied shall not be deemed to be able to pay them

1 because a third person might be held liable in an action to recover damages on account of the motor
2 vehicle injury, if an action has not been commenced. If an action has been commenced, the claim
3 shall show that fact. In that event the *[Department of Human Services]* **Oregon Health Authority**
4 may suspend the determination of the claim until the action has been terminated and from time to
5 time require the claimant to supply such further information and data in respect of the action as the
6 *[department]* **authority** may deem necessary in order to determine the ultimate ability of the patient
7 to pay the charges for which the claim is filed.

8 **SECTION 808.** ORS 445.140 is amended to read:

9 445.140. The *[Department of Human Services]* **Oregon Health Authority** shall examine and audit
10 each claim filed with it under this chapter. From the information and data contained in the claim,
11 the reports of the claimant, the documents so accompanying and supporting the claim and such
12 other evidence as it may reasonably require or itself adduce, the *[department]* **authority** shall find
13 and determine:

14 (1) Whether or not the claim has been filed within the time limited in ORS 445.090.

15 (2) Whether or not the claim is predicated upon care supplied to a person suffering from a motor
16 vehicle injury.

17 (3) Whether or not the injured person is unable to pay the charges for which the claim is filed,
18 within the meaning of ORS 445.020.

19 (4) Whether or not the claimant has made reasonable and timely effort to effect collection of its
20 claim.

21 **SECTION 809.** ORS 445.150 is amended to read:

22 445.150. (1) If, in the matter of the claim, the *[Department of Human Services]* **Oregon Health**
23 **Authority** finds and determines in the affirmative in respect of items listed in ORS 445.140, *[it]* **the**
24 **authority** shall, by its order made and filed in the matter, allow the claim in such amount, not ex-
25 ceeding the limitations in ORS 445.060 and 445.070, less such amount as has been paid on the ac-
26 count.

27 (2) If in its judgment the maintenance of the solvency of the Motor Vehicle Accident Fund so
28 requires, the *[department]* **authority** may make payment in monthly installments of any claim which
29 has been allowed by it, or finally adjudged affirmatively by a court on appeal.

30 (3) If the *[department]* **authority** finds and determines in the negative in respect of any item
31 listed in ORS 445.140, *[it]* **the authority** shall, by its order made and filed therein, reject the claim.

32 (4) The *[department]* **authority** promptly shall serve the claimant with a copy of its order, ad-
33 dressed to the claimant at the claimant's last-known post-office address as shown by the records and
34 files of the *[department]* **authority**.

35 **SECTION 810.** ORS 445.180 is amended to read:

36 445.180. (1) If it comes to the knowledge of a claimant who has received payment of a claim
37 under this chapter that the patient in respect of whom the claim has been paid, or any other person
38 chargeable by law with the care or support of the patient, has been paid, or is able to pay, the
39 amount of the claim, the claimant shall diligently pursue such payment.

40 (2) A claimant who has received payment of a claim from the *[Department of Human Services]*
41 **Oregon Health Authority** under this chapter shall inform the *[department]* **authority** promptly and
42 in writing if:

43 (a) The claimant receives any payment from or on behalf of the patient in respect of whom the
44 claim has been paid or from any person chargeable by law with the care or support of the patient;

45 (b) The claimant knows or has reason to believe that the patient or any person chargeable by

1 law with the care or support of the patient is able to pay the amount of the claim or any part
2 thereof; or

3 (c) The claimant or any person on behalf of the claimant institutes an action against the patient
4 or any person chargeable by law with the care or support of the patient to recover all or part of
5 the amount of the claim.

6 (3) All moneys paid to or for the use or benefit of the claimant by or on behalf of the patient
7 shall, after deduction of the reasonable cost of recovering them, be paid to the *[department]* **au-**
8 **thority** for deposit in the Motor Vehicle Accident Fund.

9 **SECTION 811.** ORS 445.185 is amended to read:

10 445.185. When a claimant fails to pursue payment as required by ORS 445.180 or to pay to the
11 *[Department of Human Services]* **Oregon Health Authority** the amount required by ORS 445.180 to
12 be paid, the *[department]* **authority** shall, after 60 days, deduct the amount paid by it on the claim
13 from any subsequent payment made to the claimant unless it is made to appear to the satisfaction
14 of the *[department]* **authority** that:

15 (1) Upon due and diligent search and inquiry neither the patient nor any person chargeable by
16 law with the care or support of the patient can be found;

17 (2) An action against the patient or a person chargeable by law with the care or support of the
18 patient has been instituted and is pending; or

19 (3) An action has been prosecuted to final judgment, all legal remedies for satisfaction of the
20 judgment have been exhausted and the judgment has not been collected.

21 **SECTION 812.** ORS 446.310 is amended to read:

22 446.310. As used in ORS 446.310 to 446.350, unless the context requires otherwise:

23 (1) **“Authority” means the Oregon Health Authority.**

24 *[(1)]* (2) **“Camping vehicle”** means either a vacation trailer or a self-propelled vehicle or struc-
25 ture equipped with wheels for highway use and that is intended for human occupancy and is being
26 used for vacation and recreational purposes, but not for residential purposes, and is equipped with
27 plumbing, sink or toilet.

28 *[(2)]* (3) **“Construction”** means work regulated by the state building code as defined in ORS
29 455.010.

30 *[(3)]* **“Department”** means *the Department of Human Services.*

31 (4) **“Director”** means the Director of *[Human Services]* **the Oregon Health Authority.**

32 (5) **“Health official”** means a local public health administrator appointed pursuant to ORS
33 431.418.

34 (6) **“Hostel”** means any establishment having beds rented or kept for rent on a daily basis to
35 travelers for a charge or fee paid or to be paid for rental or use of facilities and that is operated,
36 managed or maintained under the sponsorship of a nonprofit organization that holds a valid ex-
37 emption from federal income taxes under the Internal Revenue Code of 1954 as amended.

38 (7) **“Organizational camp”** includes any area designated by the person establishing, operating,
39 managing or maintaining the same for recreational use by groups or organizations that include but
40 are not limited to youth camps, scout camps, summer camps, day camps, nature camps, survival
41 camps, athletic camps, camps that are operated and maintained under the guidance, supervision or
42 auspices of religious, public and private educational systems and community service organizations.

43 (8) **“Picnic park”** means any recreation park that is for day use only and provides no recreation
44 vehicle or overnight camping spaces.

45 (9) **“Recreation park”** means any area designated by the person establishing, operating, manag-

1 ing or maintaining the same for picnicking, overnight camping or use of recreational vehicles by the
2 general public or any segment of the public. "Recreation park" includes but is not limited to areas
3 open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license,
4 membership, association or common ownership and further includes, but is not limited to, those
5 areas divided into two or more lots, parcels, units or other interests for purposes of such use.

6 (10) "Regulating agency" means, with respect to a tourist facility, the [*Department of Human*
7 *Services*] **Oregon Health Authority**.

8 (11) "Tourist facility" means any travelers' accommodation, hostel, picnic park, recreation park
9 and organizational camp.

10 (12) "Travelers' accommodation" includes any establishment, which is not a hostel, having
11 rooms, apartments or sleeping facilities rented or kept for rent on a daily or weekly basis to trav-
12 elers or transients for a charge or fee paid or to be paid for rental or use of facilities.

13 **SECTION 813.** ORS 446.320 is amended to read:

14 446.320. (1) No person shall establish, operate, manage or maintain a tourist facility, without a
15 license from the Director of [*Human Services*] **the Oregon Health Authority**.

16 (2) Organizational camps operated under rental or leasehold agreements may be licensed either
17 to the landlord or to the tenant provided that the license holder shall be responsible for compliance
18 with ORS 446.310 to 446.350 and the rules adopted thereunder.

19 **SECTION 814.** ORS 446.321 is amended to read:

20 446.321. (1) Every applicant for licensing of a tourist facility as defined in ORS 446.310 and re-
21 quired by ORS 446.320 shall pay to the [*Department of Human Services*] **Oregon Health Authority**
22 a fee established by [*department*] **the authority** by rule. The fee may not exceed \$60, except that
23 recreation parks shall pay an additional fee not to exceed \$2 for each space.

24 (2) Rules adopted pursuant to subsection (1) of this section shall be adopted in accordance with
25 ORS chapter 183.

26 **SECTION 815.** ORS 446.322 is amended to read:

27 446.322. Upon receipt of a completed application on [*a Department of Human Services*] **an**
28 **Oregon Health Authority** form, required fee, and after representation by the applicant that the
29 facility is in compliance with the provisions of ORS 446.310 to 446.350, and the rules adopted pur-
30 suant thereto, and the requirements of the Department of Consumer and Business Services, the
31 [*Department of Human Services*] **authority** shall issue a license, unless there is reason to believe
32 noncompliance exists.

33 **SECTION 816.** ORS 446.324 is amended to read:

34 446.324. (1) If any applicant for licensing or any person to whom a license has been issued fails
35 to comply with the provisions of ORS 446.310 to 446.350 or with the rules adopted pursuant thereto,
36 the [*Department of Human Services*] **Oregon Health Authority** may deny issuance of, suspend or
37 revoke the license or assess a civil penalty.

38 (2) Hearings on the denial, suspension or revocation of a license or on assessing a civil penalty
39 shall be conducted as a contested case in accordance with ORS chapter 183.

40 **SECTION 817.** ORS 446.325 is amended to read:

41 446.325. (1) Public entities, private persons or nonprofit organizations described under ORS
42 446.265 (3), timber companies and private utilities shall not establish or operate a recreation park
43 without complying with the rules of the [*Department of Human Services*] **Oregon Health Authority**
44 and securing the approval of the Director of [*Human Services*] **the Oregon Health Authority** or
45 designee but shall be exempt from the licensing requirement of ORS 446.320. The director or

1 designee may delegate, to a health official having sufficient environmental health specialists, the
2 authority to approve such recreation parks.

3 (2) ORS 446.310 to 446.350 do not apply to:

4 (a) Any structure designed for and occupied as a single family residence in which no more than
5 two sleeping rooms are provided on a daily or weekly basis for the use of no more than a total of
6 six travelers or transients at any one time for a charge or fee paid or to be paid for the rental or
7 use of the facilities;

8 (b) Any temporary camping sites used solely and incidentally in the course of backpacking,
9 hiking, horseback packing, canoeing, rafting or other expedition, unless the expedition is part of an
10 organizational camp program; or

11 (c) A yurt, as defined in ORS 446.265, that is used as a living unit in transitional housing ac-
12 commodations.

13 **SECTION 818.** ORS 446.330 is amended to read:

14 446.330. In accordance with ORS chapter 183, the [*Department of Human Services*] **Oregon**
15 **Health Authority** may adopt any rules necessary for the administration of ORS 446.310 to 446.350
16 and 446.990, including but not limited to rules, concerning the construction, operation and use of
17 tourist facilities that are necessary to protect the health and welfare of persons using these facili-
18 ties. The rules shall pertain but not be restricted to water supply, final sewage disposal, surface
19 drainage, maintenance, insect and rodent control, garbage disposal, designation and maintenance of
20 camping space and the cleanliness of the premises.

21 **SECTION 819.** ORS 446.335 is amended to read:

22 446.335. (1) The Director of [*Human Services*] **the Oregon Health Authority** or designee may
23 inspect every tourist facility to determine whether it conforms with ORS 446.310 to 446.350 and the
24 rules adopted pursuant thereto. A person operating such facility shall permit the director or
25 designee access to all of the facility at any reasonable time.

26 (2) The operator of a seasonal facility which customarily is closed for 120 days or more in any
27 12-month period shall notify the director in writing of the intention to reopen at the beginning of
28 a season. Notice shall be given at least 30 days prior to the reopening.

29 **SECTION 820.** ORS 446.340 is amended to read:

30 446.340. (1) The owner or operator of a recreation park or organizational camp is responsible
31 for the sanitary condition of the park grounds and buildings.

32 (2) If sanitary facilities are not provided in a recreation park or organizational camp for the safe
33 disposal of sewage or other wastes from a camping vehicle, a notice shall be posted in a conspicuous
34 place stating that camping vehicles are permitted overnight only if the vehicle's waste holding tanks
35 are used.

36 (3) Notwithstanding ORS 446.330, the [*Department of Human Services*] **Oregon Health Author-**
37 **ity** shall not require an owner or operator of a recreation park or organizational camp to provide
38 both toilets and dumping stations.

39 **SECTION 821.** ORS 446.345 is amended to read:

40 446.345. No person shall:

41 (1) Use kitchen or toilet facilities in a camping vehicle being operated on a highway or parked
42 overnight at a place where sanitary facilities are not provided unless the person makes provision
43 whereby sewage and other waste materials can be held in watertight and sanitary containers of a
44 type approved by the [*Department of Human Services*] **Oregon Health Authority**.

45 (2) Empty a container described in subsection (1) of this section except into a public sewerage

1 system, septic tank or cesspool of a type approved by the [department] **authority**. However, in
 2 isolated areas where space is not available in a recreation park or organizational camp and such
 3 facilities are not available, these containers may be emptied into the ground if all sewage and other
 4 waste materials are buried at least one foot below the surface of the ground.

5 (3) When using a recreation park or organizational camp, create an insanitary condition or de-
 6 posit putrescible or nonputrescible waste any place other than in appropriate containers designated
 7 for such purposes.

8 **SECTION 822.** ORS 446.347 is amended to read:

9 446.347. (1) In addition to any other penalty provided by law, any person who violates any rule
 10 of the [Department of Human Services] **Oregon Health Authority** relating to the construction, op-
 11 eration or maintenance of a tourist facility or part thereof may incur a civil penalty not to exceed
 12 \$1,000 per violation.

13 (2) No civil penalty prescribed under subsection (1) of this section shall be imposed until the
 14 person incurring the penalty has received five days' advance notice in writing from the
 15 [department] **authority** or unless the person incurring the penalty shall otherwise have received
 16 actual notice of the violation not less than five days prior to the violation for which a penalty is
 17 imposed.

18 **SECTION 823.** ORS 446.348 is amended to read:

19 446.348. (1) The Director of [Human Services] **the Oregon Health Authority** shall adopt by rule
 20 a schedule or schedules establishing the amount of civil penalty that may be imposed for a partic-
 21 ular violation.

22 (2) The director may impose the penalty without hearing but only after the notice required by
 23 ORS 446.347 (2). In imposing a penalty pursuant to the schedule or schedules adopted pursuant to
 24 this section, the director shall consider the following factors:

25 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
 26 necessary or appropriate to correct any violation.

27 (b) Any prior violations of statutes, rules, orders and permits pertaining to the water system.

28 (c) The economic and financial conditions of the person incurring the penalty.

29 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
 30 conditions as the [Department of Human Services] **Oregon Health Authority** considers proper and
 31 consistent with the public health and safety.

32 **SECTION 824.** ORS 446.350 is amended to read:

33 446.350. The Tourist Facility Account is established in the General Fund of the State Treasury.
 34 All moneys received under ORS 446.310 to 446.350 by the Director of [Human Services] **the Oregon**
 35 **Health Authority** shall be credited to the Tourist Facility Account. All moneys in the account are
 36 appropriated continuously to the [Department of Human Services] **Oregon Health Authority** for the
 37 purpose of administering and enforcing ORS 446.310 to 446.350.

38 **SECTION 825.** ORS 446.425 is amended to read:

39 446.425. (1) The Director of [Human Services] **the Oregon Health Authority** shall delegate to
 40 any county board of commissioners which requests any of the [authority, responsibilities] **duties** and
 41 functions of the director under ORS 446.310, 446.320, 446.330 to 446.340, 446.345, 446.350 and 446.990
 42 if the director determines that the county is able to carry out the rules of the [Department of Human
 43 Services] **Oregon Health Authority** relating to fee collection, inspections, enforcement and issuance
 44 and revocation of permits and licenses in compliance with standards for enforcement by the counties
 45 and monitoring by the [department] **authority**. Such standards shall be established by the [depart-

1 *ment*] **authority** in consultation with the appropriate county officials and in accordance with ORS
 2 431.345. The [*department*] **authority** shall review and monitor each county's performance under this
 3 subsection. In accordance with ORS chapter 183, the director may suspend or rescind a delegation
 4 under this subsection. If it is determined that a county is not carrying out such rules or the dele-
 5 gation is suspended, the unexpended portion of the fees collected under subsection (2) of this section
 6 shall be available to the [*department*] **authority** for carrying out the [*authority, responsibility*] **duties**
 7 and functions under this section.

8 (2) The county may determine the amount of, and retain, any fee for any function undertaken
 9 pursuant to subsection (1) of this section. The amount of the fees shall not exceed the costs of ad-
 10 ministering the inspection program. The county, quarterly, shall remit 15 percent of an amount equal
 11 to the state licensing fee or 15 percent of the county license fee whichever is less, to the
 12 [*department*] **authority** for consultation service and maintenance of the statewide program.

13 (3) In any action, suit or proceeding arising out of county administration of functions pursuant
 14 to subsection (1) of this section and involving the validity of a rule adopted by the [*department, the*
 15 *department*] **authority, the authority** shall be made a party to the action, suit or proceeding.

16 **SECTION 826.** ORS 447.124 is amended to read:

17 447.124. For the purpose of enforcing ORS 447.118 and the rules adopted thereunder, the De-
 18 partment of Consumer and Business Services, with the assistance of the [*Department of Human*
 19 *Services*] **Oregon Health Authority**:

20 (1) May conduct periodic inspections of any compost toilet;

21 (2) Upon making a finding that a compost toilet is in violation of the rules adopted pursuant to
 22 ORS 447.118 (2), may issue an order requiring the owner of the dwelling served by the compost toilet
 23 to take action necessary to correct the violation; and

24 (3) Upon making a finding that a compost toilet presents or threatens to present a public health
 25 hazard creating an emergency requiring immediate action to protect the public health, safety or
 26 welfare, may issue an order requiring the owner of the dwelling served by the compost toilet to take
 27 any action necessary to remove such hazard or threat thereof. If such owner fails to take the actions
 28 required by such order, the [*Department of Consumer and Business Services*] **department** shall take
 29 such action, itself or by contract with outside parties, as necessary to remove the hazard or threat
 30 thereof. The department shall keep a record of all necessary expenses incurred by the department
 31 in carrying out such action, including a reasonable charge for costs incurred and equipment and
 32 materials utilized by the state. Any owner who fails to take action required by an order issued under
 33 this subsection shall be responsible for such necessary expenses incurred by the state. Based on the
 34 record compiled by the department, an owner responsible for expenses due to the failure of a man-
 35 ufacturer, distributor or person to comply with the rules adopted under ORS 447.118 (2) shall have
 36 a setoff against the bond or other security forfeited under ORS 447.118 (3) to the extent that such
 37 expenses are due to such failure of the manufacturer, distributor or person. The department shall
 38 make a finding and enter an order against the owner for the necessary expenses. Orders issued un-
 39 der this section may be appealed pursuant to ORS chapter 183 but not as a contested case. Any
 40 amount due the department under this subsection and not paid in full within 30 days after the order
 41 is entered, or, if the order is appealed, within 30 days after there is no further right to appeal, shall
 42 become a lien upon the dwelling of the owner. The department shall file a notice of the lien with
 43 the recording officer of the county in which the dwelling is located and the recording officer shall
 44 record the notice in a manner designed to appear in the mortgage records of the county.

45 (4) The department may contract with any state or local agency for the purpose of carrying out

1 the provisions of this section.

2 **SECTION 827.** ORS 448.005 is amended to read:

3 448.005. As used in ORS 448.005 to 448.090, unless the context requires otherwise:

4 (1) **“Authority” means the Oregon Health Authority.**

5 [(1)] (2) **“Bathhouse”** means a structure that contains dressing rooms, showers and toilet faci-
6 ties for use with an adjacent public swimming pool.

7 [(2)] *“Department” means the Department of Human Services.*

8 (3) **“Director”** means the Director of [*Human Services*] **the Oregon Health Authority.**

9 (4) **“Person”** has the meaning given that term in ORS 174.100, but also includes municipalities,
10 recreation districts, counties and state agencies or instrumentalities.

11 (5) **“Public spa pool”** means a public swimming pool or wading pool designed primarily to direct
12 water or air-enriched water under pressure onto the bather’s body with the intent of producing a
13 relaxing or therapeutic effect.

14 (6) **“Public swimming pool”** means an artificial structure, and its appurtenances, that contains
15 water more than two feet deep, is expressly designated or used with the knowledge and consent of
16 the owner or operator for swimming or recreational bathing, and is for the use of any segment of
17 the public. **“Public swimming pool”** includes, but is not limited to, swimming pools owned or oper-
18 ated by:

- 19 (a) Travelers’ accommodations;
- 20 (b) Recreation parks;
- 21 (c) Colleges;
- 22 (d) Schools;
- 23 (e) Organizational camps as defined in ORS 446.310;
- 24 (f) Clubs;
- 25 (g) Associations;
- 26 (h) Business establishments for their patrons or employees;
- 27 (i) Private persons and that are open to the public;
- 28 (j) Recreation districts;
- 29 (k) Municipalities;
- 30 (L) Counties; or
- 31 (m) State agencies.

32 (7) **“Public wading pool”** means an artificial structure, and its appurtenances, that contains
33 water less than two feet deep, is expressly designated or used with the knowledge and consent of
34 the owner or operator for wading or recreational bathing, and is for the use of any segment of the
35 public, whether limited to patrons of a companion facility or not.

36 (8) **“Recreation park”** means those facilities as defined by ORS 446.310.

37 (9) **“Travelers’ accommodation”** means those facilities as defined by ORS 446.310.

38 (10) **“Variance”** means written permission from the [*department*] **authority** for a public swim-
39 ming pool, public spa pool or public wading pool to be operated when it does not comply with all
40 the applicable rules for public swimming pools, public spa pools or public wading pools.

41 **SECTION 828.** ORS 448.011 is amended to read:

42 448.011. The [*Department of Human Services*] **Oregon Health Authority** shall make such rules
43 pertaining to the submission of plans for construction, issuance of permits, design, construction, size,
44 shape, purification equipment, piping, operation, sanitation and accident prevention for public
45 swimming pools, public spa pools, public wading pools and bathhouses as it deems necessary.

1 **SECTION 829.** ORS 448.020 is amended to read:

2 448.020. No person shall construct or perform a major alteration or reconstruction of a public
3 swimming pool, public spa pool, public wading pool or bathhouse without a permit to do so from the
4 [Department of Human Services] **Oregon Health Authority.**

5 **SECTION 830.** ORS 448.030 is amended to read:

6 448.030. (1) Any person desiring to construct any public swimming pool, public spa pool, public
7 wading pool or bathhouse shall file application for a permit to do so with the [Department of Human
8 Services] **Oregon Health Authority.**

9 (2) The application shall be accompanied by a description of the sources of water supply, amount
10 and quality of water available and intended to be used, method and manner of water purification,
11 treatment, disinfection, heating, regulating and cleaning, lifesaving apparatus, and measures to in-
12 sure safety of bathers, measures to insure personal cleanliness of bathers, methods and manner of
13 washing, disinfecting, drying and storing bathing apparel and towels, and all other information and
14 statistics that may be required by the [department. The department] **authority. The authority** shall
15 either approve or reject the application based upon the plans submitted and either issue or deny the
16 construction permit.

17 (3) After a construction permit is issued and upon request, the [department] **authority** shall
18 cause an investigation to be made of the proposed public swimming pool, public spa pool, public
19 wading pool or bathhouse. If the [department] **authority** determines that the public swimming pool,
20 public spa pool, public wading pool or bathhouse complies with the rules of the [department] **au-**
21 **thority**, it shall issue a final approval which shall authorize the issuance of a license.

22 (4) An applicant for a permit to construct a public swimming pool, public spa pool, public wading
23 pool or bathhouse to be owned, operated or maintained by a person for profit, or in conjunction with
24 a travelers' accommodation or recreation park, shall pay the [department] **authority** a plan review
25 fee of \$100 and a construction permit fee of \$200, which entitles the holder to two inspections to-
26 ward final approval. The [department] **authority** shall not impose any new standards after a second
27 or any subsequent inspection. For any subsequent construction inspection necessary, the permit
28 holder shall pay \$100 for each inspection.

29 **SECTION 831.** ORS 448.035 is amended to read:

30 448.035. (1) No person shall operate or maintain a public swimming pool, public spa pool, public
31 wading pool or bathhouse without a license to do so from the [Department of Human Services]
32 **Oregon Health Authority.**

33 (2) An annual fee of \$100 shall be paid for a license to operate a public swimming pool, public
34 spa pool, public wading pool or bathhouse. The annual fee for a license for a second or additional
35 public swimming pool, public spa pool, public wading pool or bathhouse, or any combination thereof,
36 on the same site shall be an amount equal to 60 percent of the fee for the first license.

37 (3) Licenses issued under this section expire annually on a date set by rule.

38 **SECTION 832.** ORS 448.037 is amended to read:

39 448.037. (1) A person applying for a variance shall submit a variance application accompanied
40 by a fee of \$150 to the [Department of Human Services. If the department] **Oregon Health Authority.**
41 **If the authority** approves the application, a variance shall be granted, stating the terms and con-
42 ditions thereof.

43 (2) The [department] **authority** may waive the fee for variance requests precipitated by change
44 in the [department's] **authority's** rules.

45 (3) The [department] **authority** may not delegate the responsibility under subsection (1) of this

1 section under the provision of ORS 448.100.

2 **SECTION 833.** ORS 448.040 is amended to read:

3 448.040. For the purposes of ORS 448.005 to 448.090, the Director of [*Human Services*] **the**
4 **Oregon Health Authority** may at all reasonable times enter upon any part of the premises of public
5 bathing and swimming places to make examination and investigation to determine the sanitary
6 conditions of such places and whether ORS 448.005 to 448.090 or the rules of the [*Department of*
7 *Human Services*] **Oregon Health Authority** pertaining to public swimming pools, public spa pools,
8 public wading pools or bathhouses are being violated.

9 **SECTION 834.** ORS 448.051 is amended to read:

10 448.051. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall inspect all
11 public swimming pools, public spa pools, public wading pools and bathhouses to determine the sani-
12 tary conditions of such places and whether ORS 448.005 to 448.090 and the rules of the [*Department*
13 *of Human Services*] **Oregon Health Authority** pertaining to public swimming pools, public spa
14 pools, public wading pools and bathhouses are being violated.

15 (2) If the director determines that a public swimming pool, public spa pool, public wading pool
16 or bathhouse is being operated or maintained in violation of the rules of the [*department*] **authority**
17 or is found to be insanitary, unclean or dangerous to public health or safety the director may sus-
18 pend, revoke or deny the permit or license issued under ORS 448.030 or 448.035 in accordance with
19 ORS chapter 183.

20 **SECTION 835.** ORS 448.060 is amended to read:

21 448.060. (1) No public swimming pool, public spa pool, public wading pool or bathhouse shall
22 remain open to the public after the permit or license to operate such facilities has been suspended,
23 denied or revoked.

24 (2) Any public swimming pool, public spa pool, public wading pool or bathhouse constructed,
25 operated or maintained contrary to ORS 448.005 to 448.090, is a public nuisance, dangerous to
26 health.

27 (3) Such nuisance may be abated or enjoined in an action brought by the Director of [*Human*
28 *Services*] **the Oregon Health Authority** or may be summarily abated in the manner provided by law
29 for the summary abatement of public nuisances dangerous to health.

30 **SECTION 836.** ORS 448.100 is amended to read:

31 448.100. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall delegate to
32 any county board of commissioners that requests any of the [*authority, responsibilities*] **duties** and
33 functions of the [*Director of Human Services*] **director** under ORS 448.005, 448.011, 448.020 to
34 448.035, 448.040 to 448.060 and this section if the director determines that the county is able to carry
35 out the rules of the [*Department of Human Services*] **Oregon Health Authority** relating to fee col-
36 lection, licensing, inspections, enforcement and issuance and revocation of permits and certificates
37 in compliance with standards for enforcement by the counties and monitoring by the [*department*]
38 **authority**. Such standards shall be established by the [*department*] **authority** in consultation with
39 the appropriate county officials and in accordance with ORS 431.345. The [*department*] **authority**
40 shall review and monitor each county's performance under this subsection. In accordance with ORS
41 chapter 183, the director may suspend or rescind a delegation under this subsection. If it is deter-
42 mined that a county is not carrying out such rules or the delegation is suspended, the unexpended
43 portion of the fees collected under subsection (2) of this section shall be available to the
44 [*department*] **authority** for carrying out the [*authority, responsibility*] **duties** and functions under this
45 section.

(2) The county may determine the amount of, and retain, any fee for any function undertaken pursuant to subsection (1) of this section or use the fee schedules pursuant to ORS 448.030 and 448.035. A county to whom licensing, inspection and enforcement authority has been delegated under this section shall collect and remit to the *[department]* **authority** a fee to support the activities of the *[department]* **authority** under this section. The fee shall be established by the *[department]* **authority** and the Conference of Local Health Officials based upon a budget and formula for funding activities described in this section. The *[department]* **authority** and the Conference of Local Health Officials shall consult with associations representing Oregon cities, special districts and the lodging industry in establishing the fee. In the event the *[department]* **authority** and the Conference of Local Health Officials cannot reach agreement on the budget and formula, the *[department]* **authority** shall submit its budget proposal to the Legislative Assembly.

(3) In any action, suit or proceeding arising out of county administration of functions pursuant to subsection (1) of this section and involving the validity of a rule promulgated by the *[department, the department]* **authority, the authority** shall be made a party to the action, suit or proceeding.

SECTION 837. ORS 448.115 is amended to read:

448.115. As used in ORS 448.115 to 448.285, 454.235 and 454.255 unless the context requires otherwise:

(1) **“Authority” means the Oregon Health Authority.**

[(1)] (2) **“Connection”** means the connection between a water system and a customer that enables the customer to receive potable water from the system.

[(2)] (3) **“Construction standards”** means criteria for constructing or installing water system facilities.

[(3)] *“Department” means the Department of Human Services.*

(4) **“Director”** means the Director of *[Human Services]* **the Oregon Health Authority.**

(5) **“Emergency”** means a condition resulting from an unusual calamity such as a flood, an earthquake or an accidental spill of hazardous material that can endanger the quality of the water produced by a water system.

(6) **“Operational requirements”** means requirements that prescribe the manner in which water systems must be operated.

(7) **“Permit”** means a document issued to a water system that authorizes it to commence or continue to operate in the State of Oregon and lists the conditions the system must meet to continue operating.

(8) **“Safe drinking water”** means water that is sufficiently free from biological, chemical, radiological or physical impurities such that individuals will not be exposed to disease or harmful physiological effects.

(9) **“Sanitary survey”** means an on-site review of the source, facilities, equipment, operation and maintenance of a water system, including related land uses, for the purpose of evaluating the capability of that water system to produce and distribute safe drinking water.

(10) **“Special master”** means the person appointed by the court to administrate the water system.

(11) **“Variance”** means permission from the agency for a water system to provide water that does not meet water quality standards.

(12) **“Water supplier”** means any person, group of persons, municipality, district, corporation or entity that owns or operates a water system.

(13) **“Water system”** means a system for the provision of water for human consumption through pipes or other constructed conveyances.

1 (14) "Waterborne disease" means disease caused by chemical, physical, radiological or biological
2 agents epidemiologically associated with infection, illness or disability that is transported to human
3 beings by water that has been ingested or through contact as in bathing or other domestic uses.

4 **SECTION 838.** ORS 448.119 is amended to read:

5 448.119. Before a water system is subject to regulation under ORS 448.119 to 448.285, 454.235
6 and 454.255, the system must have at least four service connections, or it must serve water to public
7 or commercial premises which are used by an average of at least 10 individuals daily at least 60
8 days each year. In a housing subdivision of four or more living units where the water service con-
9 nections of individual units are only two or three per water system, at the discretion of the Director
10 of [*Human Services, the Department of Human Services*] **the Oregon Health Authority, the Oregon**
11 **Health Authority** may regulate the water systems within the subdivision under ORS 448.119 to
12 448.285, 454.235 and 454.255.

13 **SECTION 839.** ORS 448.123 is amended to read:

14 448.123. (1) It is the purpose of ORS 448.119 to 448.285, 454.235 and 454.255 to:

- 15 (a) Ensure that all Oregonians have safe drinking water.
16 (b) Provide a simple and effective regulatory program for drinking water systems.
17 (c) Provide a means to improve inadequate drinking water systems.

18 (2) In carrying out the purpose set forth in subsection (1) of this section, the [*Department of*
19 *Human Services*] **Oregon Health Authority** shall act in accordance with the goal set forth in ORS
20 468B.155.

21 (3) If, in carrying out any duty prescribed by law, the [*department*] **authority** acquires informa-
22 tion related to ground water quality in Oregon, the [*department*] **authority** shall forward a copy of
23 the information to the centralized repository established pursuant to ORS 468B.167.

24 **SECTION 840.** ORS 448.131 is amended to read:

25 448.131. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt water
26 quality standards that are necessary to protect the public health through insuring safe drinking
27 water within a water system.

28 (2) In order to insure safe drinking water, the [*department*] **authority** shall prescribe:

29 (a) Construction standards governing the performance of a water system insofar as they relate
30 to the safety of drinking water.

31 (b) Standards for the operation of water systems in so far as they relate to the delivery of safe
32 drinking water.

33 (c) Other standards and requirements considered necessary by the [*department*] **authority** to
34 insure safe drinking water.

35 (3) The [*department*] **authority** shall require that construction and installation plans be submit-
36 ted and approved before construction begins on new systems or substantial improvements are made
37 to old systems. The [*department*] **authority** may adopt rules exempting certain water systems from
38 the plan review process.

39 (4) The [*department*] **authority** may impose and collect a fee from a water supplier for reviewing
40 construction and installation plans.

41 (5) Nothing in this section authorizes the [*department*] **authority** to require alterations of ex-
42 isting facilities unless alterations are necessary to insure safe drinking water.

43 **SECTION 841.** ORS 448.135 is amended to read:

44 448.135. (1) The [*Department of Human Services*] **Oregon Health Authority** may grant variances
45 from standards if:

1 (a) There is no unreasonable risk to health;

2 (b) The water supplier has provided sufficient evidence to confirm that the best available treat-
3 ment techniques are unable to treat the water in question so that it meets maximum contaminant
4 levels;

5 (c) The water supplier agrees to notify the customers of the water supplier at appropriate in-
6 tervals, as determined by the [*department*] **authority**, why the water system is, or remains, out of
7 compliance with standards;

8 (d) The water supplier agrees to adhere to a compliance schedule, if the [*department*] **authority**
9 prescribes one, which outlines how the water supplier intends to achieve compliance with standards.
10 If a schedule is prescribed, it must be reviewed and evaluated every three years; and

11 (e) The [*department*] **authority** has announced its intention to grant a variance and has either:

12 (A) Held a public hearing in the affected area prior to granting the variance; or

13 (B) Served notice of intent to grant the variance either personally, or by registered or certified
14 mail to all customers connected to the water system, or by publication in a newspaper in general
15 circulation in the area. If no hearing is requested within 10 days of the date that notice is given,
16 the [*department*] **authority** may grant the variance.

17 (2) The [*Department of Human Services*] **authority** may grant variances from standards requiring
18 the use of a specified water treatment technique if the [*department*] **authority**:

19 (a) Determines that the use of a specified water treatment technique is not necessary to protect
20 the public health based on the nature of the raw water source for a public water system;

21 (b) Has conditioned the variance as required by the federal Safe Drinking Water Act, 42 U.S.C.
22 300g-4;

23 (c) Has announced its intent to grant a variance and has either:

24 (A) Held a public hearing in the area prior to granting the variance; or

25 (B) Served notice of intent to grant the variance either personally, or by registered or certified
26 mail to all customers connected to the water system, or by publication in a newspaper in general
27 circulation in the area. If no hearing is requested within 10 days of the date that notice is given,
28 the [*department*] **authority** may grant the variance; and

29 (d) Promptly notifies the administrator of the United States Environmental Protection Agency
30 of any variance granted, as required by the federal Safe Drinking Water Act, 42 U.S.C. 300g-4.

31 **SECTION 842.** ORS 448.140 is amended to read:

32 448.140. A water system that does not comply with the rules and standards of the [*Department*
33 *of Human Services*] **Oregon Health Authority** shall be operated only after the water supplier has
34 received a permit for the system from the [*department*] **authority** if:

35 (1) The [*department*] **authority** has not granted a variance from standards as provided under
36 ORS 448.135 to the water supplier; and

37 (2) The water system is providing water that does not meet maximum contaminant standards as
38 determined by an investigation conducted by the [*department*] **authority** under ORS 448.150.

39 **SECTION 843.** ORS 448.145 is amended to read:

40 448.145. (1) A permit shall be issued by the [*Department of Human Services*] **Oregon Health**
41 **Authority** when there are economic or other compelling factors such that the water supplier is
42 unable to install the water treatment facilities or to meet the maximum contaminant levels.

43 (2) The [*department*] **authority** shall prescribe a compliance schedule, including interim meas-
44 ures to eliminate the risk to health, which sets a specific time limit for the water supplier operating
45 on a permit to install the water treatment facilities or to meet the maximum contaminant levels.

1 (3) For so long as the water supplier operates on a permit, *[it]* **the water supplier** must notify
2 its customers at least once every three months why the water system is, or remains, out of compli-
3 ance.

4 (4) When the *[department]* **authority** announces its intention to grant a permit, *[it]* **the au-**
5 **thority** shall:

6 (a) Hold a public hearing in the affected area prior to granting the permit; or

7 (b) Serve notice of intent to issue the permit either personally, or by registered or certified mail
8 to all customers connected to the water system, or by publication in a newspaper in general circu-
9 lation in the area. If no hearing is requested within 10 days of the date that notice is given, the
10 *[department]* **authority** may finalize the permit.

11 (5) The document evidencing the permit shall contain a statement of the conditions under which
12 the water system may operate.

13 **SECTION 844.** ORS 448.150 is amended to read:

14 448.150. (1) The *[Department of Human Services]* **Oregon Health Authority** shall:

15 (a) Conduct periodic sanitary surveys of drinking water systems and sources, take water samples
16 and inspect records to ensure that the systems are not creating an unreasonable risk to health. The
17 *[department]* **authority** shall provide written reports of such examinations to the local health ad-
18 ministrators and water suppliers. The *[department]* **authority** may impose a fee on water suppliers
19 to recover the costs of conducting the periodic sanitary surveys.

20 (b) Require regular water sampling by water suppliers to determine compliance with water
21 quality standards established by the *[department]* **authority**. These samples shall be analyzed in a
22 laboratory approved by the *[department]* **authority**. The results of the laboratory analysis of a
23 sample shall be reported to the *[department]* **authority** by the water supplier, unless direct labora-
24 tory reporting is authorized by the water supplier. The laboratory performing the analysis shall re-
25 port the validated results of the analysis directly to the *[department]* **authority** and to the water
26 supplier if the analysis shows that a sample contains contaminant levels in excess of any maximum
27 contaminant level specified in the water quality standards.

28 (c) Investigate any water system that fails to meet the water quality standards established by
29 the *[department]* **authority**.

30 (d) Require every water supplier that provides drinking water that is from a surface water
31 source to conduct sanitary surveys of the watershed as may be considered necessary by the *[de-*
32 *partment]* **authority** for the protection of public health. The water supplier shall make written re-
33 ports of such sanitary surveys of watersheds promptly to the *[department]* **authority** and to the local
34 health department.

35 (e) Investigate reports of waterborne disease pursuant to *[its authority under]* ORS 431.110 and
36 take necessary actions as provided for in ORS 446.310, 448.030, 448.115 to 448.285, 454.235, 454.255
37 and 455.680 to protect the public health and safety.

38 (f) Notify the Department of Environmental Quality of a potential ground water management
39 area if, as a result of its water sampling under paragraphs (a) to (e) of this subsection, the *[De-*
40 *partment of Human Services]* **authority** detects the presence in ground water of:

41 (A) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to
42 ORS 468B.165; or

43 (B) Any other contaminants at levels greater than 50 percent of the levels established pursuant
44 to ORS 468B.165.

45 (2) The notification required under subsection (1)(f) of this section shall identify the substances

1 detected in the ground water and all ground water aquifers that may be affected.

2 **SECTION 845.** ORS 448.153 is amended to read:

3 448.153. (1) The State Drinking Water Advisory Committee is created to advise and assist the
4 [*Department of Human Services*] **Oregon Health Authority** on policies related to the protection,
5 safety and regulation of public drinking water in Oregon.

6 (2) The committee created under this section shall consist of 15 members appointed by the
7 Public Health Officer. The officer shall make the appointments after considering nominees from:

- 8 (a) Public water systems of cities with a population greater than 100,000;
- 9 (b) Privately owned water systems;
- 10 (c) Environmental advocacy groups;
- 11 (d) The American Council of Engineering Companies of Oregon;
- 12 (e) The Conference of Local Health Officials created by ORS 431.330;
- 13 (f) The League of Oregon Cities;
- 14 (g) The League of Women Voters of Oregon;
- 15 (h) The Oregon Association of Water Utilities;
- 16 (i) The Oregon Environmental Health Association;
- 17 (j) The Oregon Environmental Laboratory Association;
- 18 (k) The Pacific Northwest Section of the American Water Works Association;
- 19 (L) The Special Districts Association of Oregon;
- 20 (m) Organizations representing plumbers or backflow testers;
- 21 (n) Water consumers; and
- 22 (o) Watershed councils.

23 (3) The committee shall adopt rules to govern its proceedings and shall select a chair and any
24 other officers it considers necessary.

25 (4) The members shall be appointed to serve for terms of three years. A vacancy on the com-
26 mittee shall be filled by appointment by the Public Health Officer for the unexpired term.

27 (5) The committee shall meet regularly four times a year at times and places fixed by the chair
28 of the committee. The committee may meet at other times specified by the chair or a majority of the
29 members of the committee.

30 (6) The [*Department of Human Services*] **Oregon Health Authority** shall provide assistance and
31 space for meetings as requested by the chair of the committee.

32 (7) Members of the committee shall be entitled to actual and necessary expenses as provided by
33 ORS 292.495 (2).

34 **SECTION 846.** ORS 448.155 is amended to read:

35 448.155. The [*Department of Human Services*] **Oregon Health Authority**:

36 (1) May provide technical assistance and organize, coordinate and conduct training for water
37 system personnel.

38 (2) Shall conduct a program designed to stimulate public participation in matters relating to
39 water systems through public presentations, dissemination of informational materials and other
40 similar efforts.

41 **SECTION 847.** ORS 448.160 is amended to read:

42 448.160. (1) The [*Department of Human Services*] **Oregon Health Authority** shall maintain a
43 plan outlining actions to be taken by the [*department*] **authority** during emergencies relating to
44 water systems.

45 (2) The [*department*] **authority** may require that a water supplier compile an emergency plan if

1 it appears necessary to the Director of [*Human Services*] **the Oregon Health Authority**.

2 **SECTION 848.** ORS 448.165 is amended to read:

3 448.165. (1) Counties may develop water service plans. These plans should encourage small water
4 systems to combine management functions and to consolidate where possible. Water service plans
5 must be in keeping with county land use plans.

6 (2) Cities or counties, whichever have authority to issue building permits, must certify that the
7 [*Department of Human Services*] **Oregon Health Authority** has approved the construction and in-
8 stallation plans of a proposed water system development and the development plan does not violate
9 city or county water service plans before issuing a building permit.

10 (3) Counties or boundary commissions are authorized to approve the formation, consolidation
11 and expansion of water systems not owned by cities in keeping with county and city plans. In doing
12 so, counties or boundary commissions should consider whether water service is extended in a logical
13 fashion and water systems have a financial base sufficient for operation and maintenance.

14 **SECTION 849.** ORS 448.170 is amended to read:

15 448.170. (1) The [*Department of Human Services*] **Oregon Health Authority** may enter into an
16 agreement with a local governmental unit for the local governmental unit to perform the duties of
17 the [*department*] **authority** under the Oregon Drinking Water Quality Act. The duration of the
18 agreement, the duties to be performed and the remuneration to be paid by the [*department*] **au-**
19 **thority** are subject to agreement by the [*department*] **authority** and the local governmental unit.

20 (2) In any action, suit or proceeding arising out of county administration of functions pursuant
21 to ORS 446.310, 448.030, 448.115 to 448.285, 454.235, 454.255, 455.170 and 757.005 and involving the
22 validity of a rule adopted by the [*department, the department*] **authority, the authority** shall be
23 made a party to the action, suit or proceeding.

24 **SECTION 850.** ORS 448.175 is amended to read:

25 448.175. Subject to ORS chapter 183, the [*Department of Human Services*] **Oregon Health Au-**
26 **thority:**

27 (1) Shall require that the water suppliers give public notice of violations in the water system.

28 (2) May refuse to allow expansion of or additional connections to a water system until the water
29 system meets water quality standards and requirements.

30 (3) May enter an order requiring a water supplier to acquire or construct a water system that
31 provides water [*meeting department*] **that meets the authority's** standards. When the order requires
32 a city to acquire a water system, the system must have the majority of its facilities within the city's
33 adopted urban growth boundary. When the order is entered upon a city, the procedure described in
34 ORS 454.235 to 454.255 shall be followed.

35 (4) May enter an order requiring a water supplier that fails to comply with the schedule pre-
36 scribed under ORS 448.140 to cease operation of the water system.

37 **SECTION 851.** ORS 448.180 is amended to read:

38 448.180. The [*Department of Human Services*] **Oregon Health Authority** may grant waivers on
39 construction standards if the [*department*] **authority** is satisfied there will be no unreasonable risk
40 to health.

41 **SECTION 852.** ORS 448.250 is amended to read:

42 448.250. (1) Whenever a water system or part thereof presents or threatens to present a public
43 health hazard requiring immediate action to protect the public health, safety and welfare, the Di-
44 rector of [*Human Services*] **the Oregon Health Authority** may request the district attorney of the
45 county wherein the system is located to institute an action. The action may be commenced without

1 the necessity of prior administrative procedures or hearing and entry of an order or at any time
2 during such administrative proceedings, if such proceedings have been commenced. The action may
3 petition for a mandatory injunction compelling the water supplier to cease and desist operation or
4 to make such improvements and corrections as are necessary to remove the public health hazard
5 or threat thereof.

6 (2)(a) If the water supplier refuses to comply with the order of the court, in addition to other
7 remedies, the court may appoint a special master to operate the water system. Costs of operation
8 and improvement during operation by the special master are to be charged to the water supplier and
9 may be collected by impounding revenue due to the water supplier from customers of the supplier;
10 or, if those funds are insufficient, from other revenues due to the water supplier.

11 (b) The court may require sale of a water system under a special master to a responsible party
12 if the water supplier refuses to comply with the standards and requirements of the [*Department of*
13 *Human Services*] **Oregon Health Authority**.

14 (3) Cases filed under provisions of this section or any appeal therefrom shall be given preference
15 on the docket over all other civil cases except those given an equal preference by statute.

16 (4) Nothing in this section is intended to prevent the maintenance of actions for legal or equi-
17 table remedies relating to private or public nuisance or for recovery of damages brought by private
18 persons or by the state on relation of any person.

19 **SECTION 853.** ORS 448.255 is amended to read:

20 448.255. (1) Whenever the Director of [*Human Services*] **the Oregon Health Authority** has
21 reasonable grounds to believe that a water system or part thereof is being operated or maintained
22 in violation of any rule adopted pursuant to ORS 448.115 to 448.285, 454.235 and 454.255, the director
23 shall give written notice to the water supplier responsible for the system.

24 (2) The notice required under subsection (1) of this section shall include the following:

25 (a) Citation of the rule allegedly violated;

26 (b) The manner and extent of the alleged violation; and

27 (c) A statement of the party's right to request a hearing.

28 (3) The notice shall be served personally or by registered or certified mail and shall be accom-
29 panied by an order of the director requiring remedial action which, if taken within the time specified
30 in the order, will effect compliance with the rule allegedly violated. The order shall become final
31 unless request for hearing is made by the party receiving the notice within 10 days from the date
32 of personal service or the date of mailing of the notice.

33 (4) The form of petition for hearing and the procedures employed in the hearing shall be con-
34 sistent with the requirements of ORS chapter 183 and shall be in accordance with rules adopted by
35 the [*Department of Human Services*] **Oregon Health Authority**.

36 (5) Hearings under this section shall be conducted by an administrative law judge assigned from
37 the Office of Administrative Hearings established under ORS 183.605.

38 (6) The order shall be affirmed or reversed by the director after hearing. A copy of the director's
39 decision setting forth findings of fact and conclusions shall be sent by registered or certified mail
40 to the petitioner or served personally upon the petitioner. An appeal from such decision may be
41 made as provided in ORS 183.480 relating to a contested case.

42 **SECTION 854.** ORS 448.268 is amended to read:

43 448.268. If, as a result of its activities under ORS 448.150, the [*Department of Human Services*]
44 **Oregon Health Authority** confirms the presence in ground water drinking water supplies of con-
45 taminants resulting at least in part from suspected nonpoint source activities, the [*department*] au-

1 **thority** shall declare an area of ground water concern. The declaration shall identify the substances
2 confirmed in the ground water and all ground water aquifers that may be affected.

3 **SECTION 855.** ORS 448.271 is amended to read:

4 448.271. (1) In any transaction for the sale or exchange of real estate that includes a well that
5 supplies ground water for domestic purposes, the seller of the real estate shall, upon accepting an
6 offer to purchase that real estate, have the well tested for nitrates and total coliform bacteria. The
7 [Department of Human Services] **Oregon Health Authority** also may require additional tests for
8 specific contaminants in an area of ground water concern or ground water management area. The
9 seller shall submit the results of the test required under this section to the [department]
10 **authority**.

11 (2) The failure of a seller to comply with the provisions of this section does not invalidate an
12 instrument of conveyance executed in the transaction.

13 **SECTION 856.** ORS 448.273 is amended to read:

14 448.273. The Legislative Assembly finds that an agreement between this state and the federal
15 government to assume primary enforcement responsibility in this state for the federal Safe Drinking
16 Water Act is in the best interest of this state, subject to the following assumptions:

17 (1) The federal government provides an annual program grant in an amount no less than that
18 allocated for the state in the 1984 fiscal year.

19 (2) The federal government provides technical assistance to this state, as requested, in emer-
20 gency situations and during outbreaks of waterborne diseases.

21 (3) The federal government must negotiate an annual work plan for the [Department of Human
22 Services] **Oregon Health Authority** that can be accomplished within the amount of program grant
23 funding available.

24 (4) The [Department of Human Services] **authority** adopts standards no less stringent than the
25 National Primary Drinking Water Regulations of the United States Environmental Protection
26 Agency.

27 (5) The [Department of Human Services] **authority** provides engineering assistance through re-
28 gional offices in at least four geographically distributed areas in this state.

29 (6) In cooperation with representatives of local health departments, the [Department of Human
30 Services] **authority** develops an equitable formula for distribution of available funds to support local
31 health department water programs.

32 (7) The primacy agreement may be canceled by the [Department of Human Services] **authority**,
33 upon 90 days' notice, if at any time the federal requirements exceed the amount of federal funding
34 and the cancellation is approved by the legislative review agency as defined in ORS 291.371 (1).

35 (8) The federal government can impose financial sanctions against this state if the state fails to
36 meet the objectives of the annual negotiated work plan without reasonable explanation by tying the
37 next annual funding to specific state production and by withholding of funds a possibility if contin-
38 ued unexplained failures occur but no sanction exists to interfere with other types of federal funding
39 in this state.

40 (9) The federal government may seek to enforce the safe drinking water standards if this state
41 fails to take timely compliance action against a public water system that violates such standards.

42 (10) Enforcement under subsection (9) of this section may be by injunctive relief or, in the case
43 of willful violation, civil penalties authorized by 42 U.S.C. 300g-3 (a) and (b).

44 **SECTION 857.** ORS 448.277 is amended to read:

45 448.277. The [Department of Human Services] **Oregon Health Authority** is authorized to enter

1 into an agreement with the federal government to administer the federal Safe Drinking Water Act
2 in this state. The agreement is subject to the legislative assumption stated in ORS 448.273. The
3 agreement shall remain in effect subject to annual renegotiation of the duties to be performed and
4 the remuneration to be received by the [department] **authority** except that it may be canceled by
5 the [department] **authority**, upon 90 days' notice, if at any time the federal requirements exceed the
6 amount of federal funding and the cancellation is approved by the legislative review agency as de-
7 fined in ORS 291.371 (1).

8 **SECTION 858.** ORS 448.278 is amended to read:

9 448.278. (1) The [Department of Human Services] **Oregon Health Authority** shall establish a
10 program for regulating cross connections and the backflow assemblies that are part of a water sys-
11 tem.

12 (2) The [department] **authority** may assess an annual fee on community water systems for the
13 purpose of implementing the cross connection and backflow assembly program established pursuant
14 to this section. The fee may not exceed:

- 15 (a) \$30 for a water system that has 15 to 99 service connections;
- 16 (b) \$75 for a water system that has 100 to 999 service connections;
- 17 (c) \$200 for a water system that has 1,000 to 9,999 service connections; or
- 18 (d) \$350 for a water system that has 10,000 or more service connections.

19 **SECTION 859.** ORS 448.279 is amended to read:

20 448.279. (1) The [Department of Human Services] **Oregon Health Authority** by rule shall estab-
21 lish a certification program for persons who inspect cross connections or test backflow assemblies.
22 The program shall include minimum qualifications necessary for a person to be certified to:

- 23 (a) Conduct a cross connection inspection; and
- 24 (b) Test a backflow assembly.

25 (2) Except for an employee of a water supplier as defined in ORS 448.115, a person certified
26 under this section must:

- 27 (a) Become licensed as a construction contractor with the Construction Contractors Board as
28 provided under ORS chapter 701; or
- 29 (b) Be employed by a landscape contracting business licensed under ORS 671.510 to 671.760.

30 (3) In conjunction with the certification program established under subsection (1) of this section,
31 the [department] **authority** may establish and collect a fee from an individual requesting certifi-
32 cation under the program. A fee imposed under this subsection:

- 33 (a) Is not refundable; and
- 34 (b) May not exceed the cost of administering the certification program of the [department] **au-**
35 **thority** for which purpose the fee is established, as authorized by the Legislative Assembly within
36 the budget of the [department] **authority** and as the budget may be modified by the Emergency
37 Board.

38 (4) The [department] **authority** may not require a journeyman plumber licensed under ORS
39 chapter 693 or an apprentice plumber, as defined in ORS 693.010, to obtain a certification for testing
40 backflow assemblies under the program established under this section.

41 (5) All moneys collected by the [department] **Oregon Health Authority** under this section shall
42 be deposited in the General Fund to the credit of an account of the [department] **authority**. Such
43 moneys are continuously appropriated to the [department] **Oregon Health Authority** to pay the cost
44 of administering the certification program established pursuant to this section and the cost of ad-
45 ministering water system cross connection and backflow assembly programs.

1 **SECTION 860.** ORS 448.280 is amended to read:

2 448.280. (1) In addition to any other penalty provided by law:

3 (a) Any person who violates any rule of the [*Department of Human Services*] **Oregon Health**
4 **Authority** relating to the construction, operation or maintenance of a water system or part thereof
5 shall incur a civil penalty not to exceed \$500 for each day of violation, except that a violation at
6 any water system that serves more than 10,000 people shall be subject to a civil penalty not to ex-
7 ceed \$1,000 for each day of violation.

8 (b) Any person who operates an environmental laboratory and who purports that the laboratory
9 is accredited under the environmental laboratory accreditation program established under ORS
10 438.615 when the laboratory is not accredited shall incur a civil penalty in accordance with the
11 schedule of penalties established by rule by the Director of [*Human Services*] **the Oregon Health**
12 **Authority**, in collaboration with the accrediting authority.

13 (2) No civil penalty prescribed under subsection (1) of this section shall be imposed until the
14 person incurring the penalty has received five days' advance notice in writing from the
15 [*department*] **authority** or unless the person incurring the penalty shall otherwise have received
16 actual notice of the violation not less than five days prior to the violation for which a penalty is
17 imposed.

18 **SECTION 861.** ORS 448.285 is amended to read:

19 448.285. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall adopt by rule
20 a schedule or schedules establishing the amount of civil penalty that may be imposed for a partic-
21 ular violation. No civil penalty shall exceed \$500 per day, except that a violation at any water sys-
22 tem that serves more than 10,000 people shall be subject to a civil penalty not to exceed \$1,000 for
23 each day of violation.

24 (2) The director may impose the penalty without hearing but only after the notice required by
25 ORS 448.280 (2). In imposing a penalty pursuant to the schedule or schedules adopted pursuant to
26 this section, the director shall consider the following factors:

27 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
28 necessary or appropriate to correct any violation.

29 (b) Any prior violations of statutes, rules, orders and permits pertaining to the water system.

30 (c) The economic and financial conditions of the person incurring the penalty.

31 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
32 conditions as the [*Department of Human Services*] **Oregon Health Authority** considers proper and
33 consistent with the public health and safety.

34 (4) In adopting rules or imposing penalties under this section for violations of ORS 448.280 (1)(b),
35 the director shall collaborate with the accrediting authority.

36 **SECTION 862.** ORS 448.295 is amended to read:

37 448.295. Subject to the authority of the [*Department of Human Services*] **Oregon Health Au-**
38 **thority**, for the purpose of protecting from pollution their domestic water supply sources, cities shall
39 have jurisdiction over all property:

40 (1) Occupied by the distribution system or by the domestic water supply sources by and from
41 which the city or any person or corporation provides water to the inhabitants of the city.

42 (2) Acquired, owned or occupied for the purpose of preserving or protecting the purity of the
43 domestic water supply source.

44 (3) Acquired, owned or occupied by cities within the areas draining into the domestic water
45 supply sources.

1 **SECTION 863.** ORS 448.315 is amended to read:

2 448.315. The mayor or authorities having control of the community water supply system sup-
3 plying the city may appoint special police officers who:

4 (1) After taking oath, shall have the powers of constables.

5 (2) May arrest with or without warrant any person committing, within the territory described
6 in ORS 448.295, for:

7 (a) Any offense against the purity of the domestic water supply source or the community water
8 supply system under state law or an ordinance of such city; or

9 (b) Any violation of any rule of the [*Department of Human Services*] **Oregon Health Authority**
10 or the authorities having control of the city water system for the protection of the purity of the
11 domestic water supply source or the community water supply system.

12 (3) May take any person arrested for any violation under this section before any court having
13 jurisdiction thereof to be proceeded with according to law.

14 (4) When on duty, shall wear in plain view a badge or shield bearing the words “Special
15 Police” and the name of the city for which appointed.

16 **SECTION 864.** ORS 448.330 is amended to read:

17 448.330. (1) The Director of [*Human Services*] **the Oregon Health Authority** may prohibit the
18 sale of water pipe used to carry potable water and solders, fillers or brazing material used in making
19 up joints and fittings in this state and the installation or use of water pipe used to carry potable
20 water and solders, fillers or brazing material used in making up joints and fittings in any private
21 or public potable water supply system or individual water user’s lines until such time as the director
22 determines that adequate standards exist and are practiced in the manufacture of water pipe used
23 to carry potable water and solders, fillers or brazing material used in making up joints and fittings
24 to insure that the pipe and solder do not present a present or potential threat to the public health
25 in this state.

26 (2) The director [*of Human Services*] shall adopt, by rule, product acceptability criteria for water
27 pipe used to carry potable water and solders, fillers or brazing material used in making up joints
28 and fittings for water supply purposes which insure that the pipe and solder do not present a threat
29 to the public health in this state. The [*Department of Human Services*] **Oregon Health Authority**
30 shall be responsible for the monitoring of the sale and use of water pipe used to carry potable water
31 and solders, fillers or brazing material used in making up joints and fittings for compliance with the
32 product acceptability criteria. The Department of Consumer and Business Services shall cooperate
33 with, and assist, the [*Department of Human Services*] **authority** in its monitoring efforts.

34 (3) No water pipe used to carry potable water or solders, fillers or brazing material used in
35 making up joints and fittings which does not conform to the product acceptability criteria adopted
36 under subsection (2) of this section shall be sold in this state or installed in any part of any public
37 or private potable water supply system or individual water user’s lines.

38 (4) Notwithstanding subsection (1) or (3) of this section, the director [*of Human Services*] may
39 grant exemptions from any prohibition of the sale or use of water pipe used to carry potable water
40 for the emergency repair or replacement of any existing part of a water supply system, or for the
41 necessary use by a well driller in the installation of a well. The director may require any person
42 using water pipe used to carry potable water under this subsection to notify the [*Department of*
43 *Human Services*] **authority** of the date and location of that use.

44 **SECTION 865.** ORS 448.407 is amended to read:

45 448.407. To aid and advise the Environmental Quality Commission and [*Department of Human*

1 *Services*] **the Oregon Health Authority** in the adoption of rules under ORS 448.410 and 448.450, the
2 Director of the Department of Environmental Quality and the Director of [*Human Services*] **the**
3 **Oregon Health Authority** shall appoint an advisory committee. The members of the committee
4 shall include but need not be limited to representatives of all types of water systems.

5 **SECTION 866.** ORS 448.409 is amended to read:

6 448.409. On or before January 1 of each odd-numbered year, the Department of Environmental
7 Quality and the [*Department of Human Services*] **Oregon Health Authority** shall develop and submit
8 a joint report to the Legislative Assembly. The report shall include, but need not be limited to:

9 (1) A summary of actions taken under ORS 448.405 to 448.465, 448.992 and 448.994;

10 (2) An evaluation of the effectiveness of such actions; and

11 (3) Any information and recommendations, including legislative recommendations the [*Depart-*
12 *ment of Environmental Quality or the Department of Human Services*] **department or the authority**
13 considers appropriate.

14 **SECTION 867.** ORS 448.410 is amended to read:

15 448.410. (1) The Environmental Quality Commission shall:

16 (a) Adopt rules necessary to carry out the provisions of ORS 448.410 to 448.430 and 448.992.

17 (b) Classify all sewage treatment works. In classifying the sewage treatment works, the com-
18 mission shall take into consideration size and type, character of wastewater to be treated and other
19 physical conditions affecting the sewage treatment works and the skill, knowledge and experience
20 required of an operator.

21 (c) Certify persons qualified to supervise the operation of sewage treatment works.

22 (d) Subject to the prior approval of the Oregon Department of Administrative Services and a
23 report to the Emergency Board prior to adopting the fee, establish a schedule of fees for certif-
24 ication under paragraph (c) of this subsection. The fees established under the schedule shall be
25 sufficient to pay the costs incurred by the Department of Environmental Quality in carrying out the
26 provisions of ORS 448.410 to 448.430 and 448.992 and shall be within the budget authorized by the
27 Legislative Assembly as that budget may be modified by the Emergency Board.

28 (2) The commission may grant a variance from the requirements of ORS 448.415, according to
29 criteria established by rule by the commission.

30 (3) In adopting rules under this section, the commission shall consult with the [*Department of*
31 *Human Services*] **Oregon Health Authority** in order to coordinate rules adopted under this section
32 with rules adopted by the [*Department of Human Services*] **authority** under ORS 448.450.

33 **SECTION 868.** ORS 448.450 is amended to read:

34 448.450. (1) The [*Department of Human Services*] **Oregon Health Authority** shall:

35 (a) Adopt rules necessary to carry out the provisions of ORS 448.450 to 448.465, 448.992 and
36 448.994.

37 (b) Classify all potable water treatment plants and water distribution systems actually used or
38 intended for use by the public. In classifying the potable water treatment plants and water distrib-
39 ution systems, the [*department*] **authority** shall take into consideration size and type, character of
40 water to be treated and other physical conditions affecting the treatment plants and distribution
41 systems and the skill, knowledge and experience required of an operator.

42 (c) Certify persons qualified to supervise the operation of a potable water treatment plant or a
43 water distribution system.

44 (d) Subject to the prior approval of the Oregon Department of Administrative Services and a
45 report to the Emergency Board prior to adopting the fee, establish a schedule of fees for certif-

1 ication under paragraph (c) of this subsection. The fees established under the schedule shall be
 2 sufficient to pay the cost of the [*Department of Human Services*] **authority** in carrying out the pro-
 3 visions of ORS 448.450 to 448.465, 448.992 and 448.994 and shall be within the budget authorized by
 4 the Legislative Assembly as that budget may be modified by the Emergency Board.

5 (2) Notwithstanding the authority of the [*Department of Human Services*] **Oregon Health Au-**
 6 **thority** to establish fees for certification under subsection (1)(d) of this section, the [*department*]
 7 **authority** will not establish fees for certification of operators of water systems serving ground wa-
 8 ter to fewer than 150 service connections.

9 (3) In adopting rules under this section, the [*Department of Human Services*] **authority** shall
 10 consult with the Department of Environmental Quality in order to coordinate rules adopted under
 11 this section with rules adopted by the Environmental Quality Commission under ORS 448.410.

12 **SECTION 869.** ORS 448.460 is amended to read:

13 448.460. On and after September 27, 1987, an operator holding a current Oregon water treatment
 14 certification issued under a voluntary certification program shall be considered certified under the
 15 program established under ORS 448.450 at the same classification and grade. Certification of oper-
 16 ators by any state that, as determined by the [*Department of Human Services*] **Oregon Health Au-**
 17 **thority**, accepts certifications made under ORS 448.450 to 448.465, 448.992 and 448.994, shall be
 18 accorded reciprocal treatment and shall be recognized as valid and sufficient within the purview of
 19 ORS 448.450 to 448.465, 448.992 and 448.994, if in the judgment of the Director of [*Human Services*]
 20 **the Oregon Health Authority**, the certification requirements of such state are substantially
 21 equivalent to the requirements of ORS 448.450 to 448.465, 448.992 and 448.994 or any rule adopted
 22 under ORS 448.450 to 448.465, 448.992 and 448.994.

23 **SECTION 870.** ORS 448.465 is amended to read:

24 448.465. Any fees collected pursuant to the schedule adopted under ORS 448.450 shall be de-
 25 posited in the General Fund of the State Treasury to the credit of the [*Department of Human Ser-*
 26 *VICES*] **Oregon Health Authority**. Such fees are continuously appropriated to the Department of
 27 Environmental Quality to pay the cost of administering the provisions of ORS 448.450 to 448.465,
 28 448.992 and 448.994.

29 **SECTION 871.** ORS 448.990 is amended to read:

30 448.990. (1) Violation of ORS 448.005 to 448.090 by any person, firm or corporation, whether
 31 acting as principal or agent, employer or employee, is punishable, upon conviction, by a fine of not
 32 less than \$25 nor more than \$500 or by imprisonment in the county jail not exceeding six months,
 33 or by both. Each day that the violation continues is a separate offense.

34 (2) Subject to ORS 153.022, violation of any of the following is punishable as a Class A
 35 misdemeanor:

36 (a) Any rule of the [*Department of Human Services*] **Oregon Health Authority** adopted pursuant
 37 to ORS 448.115 to 448.330.

38 (b) Any order issued by the [*department*] **authority** pursuant to ORS 448.175.

39 (c) ORS 448.265 or 448.315 (2)(a).

40 **SECTION 872.** ORS 450.165 is amended to read:

41 450.165. (1) Whenever the board deems it expedient or necessary to cause to be constructed
 42 sewers, drains or sewage treatment plants, the cost of which, in whole or in part, is to be paid either
 43 by the proceeds of the sale of bonds by the district or assessed against the property directly bene-
 44 fitted or by both methods in proportion, the board shall retain a registered professional engineer to
 45 prepare plans and specifications for the sewers, drains or sewage treatment plants, which plans and

1 specifications shall be filed in the office of the secretary of the district.

2 (2) The district board may, however, adopt any plans and specifications they see fit, provided
3 the plans have been prepared by a registered professional engineer and have been approved by the
4 [Department of Human Services] **Oregon Health Authority** and the Environmental Quality Com-
5 mission.

6 **SECTION 873.** ORS 450.845 is amended to read:

7 450.845. Whenever the board deems it expedient or necessary for the protection of the public
8 health, safety and welfare to cause to be constructed treatment plants or trunk or lateral sewers
9 or drains, or any combination thereof, the board shall determine the proposed boundaries of the area
10 to be directly benefited thereby and have a registered professional engineer prepare plans and
11 specifications for such plants, sewers or drains. Such plans and specifications must be approved by
12 the [Department of Human Services] **Oregon Health Authority** and the Environmental Quality
13 Commission and shall be filed in the office of the **sanitary** authority. Parcels of land which may be
14 served practicably by lateral sewers or drains connected with treatment plants or trunk sewers or
15 drains and are not adequately served by existing plants, sewers or drains, as the case may be, are
16 considered to be directly benefited by the plants, sewers or drains of the **sanitary** authority. If all
17 or any portion of the cost of construction is to be specially assessed against individual property, the
18 engineer shall include in the plans and specifications, a description of the location and assessed
19 value of each lot, tract or parcel of land, or portion thereof, to be specially benefited by the im-
20 provement, with the names of the record owners thereof and an estimate of the unit cost of the
21 improvement to the specially benefited property.

22 **SECTION 874.** ORS 451.445 is amended to read:

23 451.445. (1) When certified copy of the findings of the Director of [Human Services] **the Oregon**
24 **Health Authority** is filed with the county court as provided by ORS 431.740 or 431.750, the county
25 court shall, subject to ORS 198.792, proceed to form the district to provide the facilities described
26 in the findings and shall enter an order in accordance with ORS 451.485.

27 (2) The county court shall, within one year after making its order under ORS 451.485, prepare
28 plans and specifications for the service facilities proposed to be provided within the district and
29 proceed in accordance with the time schedule to construct or install the facilities.

30 (3) Notwithstanding the provisions of ORS 451.487, the order of the county court under ORS
31 451.485 is not subject to referendum if it is adopted in accordance with subsection (1) of this section
32 and as a result of proceedings conducted under ORS 431.705 to 431.760.

33 (4) Notwithstanding ORS 451.495, when service facilities are to be constructed for the purpose
34 of removing or alleviating a danger to public health and as a result of proceedings conducted by
35 ORS 431.705 to 431.760, if any portion of the cost of the service facilities is to be assessed against
36 the property directly benefited, ORS 451.495 (1)(c) does not apply to the general ordinance providing
37 for the method of assessment which must be adopted under ORS 451.495.

38 **SECTION 875.** ORS 452.151 is amended to read:

39 452.151. The board may request technical advice and information from the Oregon State Uni-
40 versity Agricultural Experiment Station and the [Department of Human Services] **Oregon Health**
41 **Authority** regarding methods and chemicals to be used in the control and extermination of rats and
42 public health vectors.

43 **SECTION 876.** ORS 452.300 is amended to read:

44 452.300. (1) The [Department of Human Services] **Oregon Health Authority** shall maintain a
45 program of public health vector control, which program shall include, but not be limited to:

1 (a) Monitoring and investigating public health vectors, vector habitats and vector-borne dis-
2 eases.

3 (b) Providing technical assistance and information to vector control districts, local vector con-
4 trol programs and the public.

5 (c) Maintaining training programs for vector control district personnel and other public health
6 personnel.

7 (d) Coordinating and assisting vector control district programs and other local programs in re-
8 search projects.

9 (e) Reviewing vector control program pesticide use plans submitted by agencies that intend to
10 use pesticides for vector control. Agencies must obtain [*department*] **authority** approval of their
11 annual pesticide use plan prior to pesticide applications.

12 (2) The [*department*] **authority** may provide an amount not to exceed \$5,000 per year in match-
13 ing funds to a district for a program to allow the district to carry out disease surveillance in co-
14 operation with public health personnel.

15 **SECTION 877.** ORS 452.530 is amended to read:

16 452.530. (1) Notwithstanding any other provisions of law the [*department*] **State Department**
17 **of Agriculture** shall administer and enforce the provisions of ORS 452.510 to 452.590.

18 (2) The department may make all rules and regulations for the administration of ORS 452.510
19 to 452.590, and provide the necessary forms to carry those sections into effect. This includes the
20 authority necessary to promulgate regulations affecting persons and property before, during or after
21 the department has detected, controlled or destroyed ragweed and to prevent the spreading or re-
22 growth of the weed.

23 (3) The department may cooperate with federal agencies, the Oregon State University, extension
24 service, the [*Department of Human Services*] **Oregon Health Authority** and all other public and
25 private agencies or organizations in the administration of ORS 452.510 to 452.590. The department
26 shall publish and furnish information and advice concerning the control of ragweed, the injurious
27 consequences of ragweed pollen and the necessity of preventing the further spread of this obnoxious
28 weed.

29 **SECTION 878.** ORS 453.001 is amended to read:

30 453.001. As used in ORS 453.001 to 453.185 and 453.605 to 453.807, unless the context requires
31 otherwise:

32 (1) **“Authority” means the Oregon Health Authority.**

33 [*(1) “Department” means the Department of Human Services.*]

34 (2) **“Director” means the Director of [*Human Services*] the Oregon Health Authority.**

35 **SECTION 879.** ORS 453.005 is amended to read:

36 453.005. As used in ORS 453.005 to 453.135 unless the context requires otherwise:

37 (1) **“Combustible” means any substance that has a flash point above 80 degrees Fahrenheit to**
38 **and including 140 degrees, as determined by the Tagliabue Open Cup Tester.**

39 (2) **“Commerce” means any and all commerce within the State of Oregon and subject to the ju-**
40 **risdiction thereof and includes the operation of any business or service establishment.**

41 (3) **“Corrosive” means any substance that in contact with living tissue will cause destruction**
42 **of tissue by chemical action, but does not refer to action on inanimate surfaces.**

43 (4) **“Electrical hazard” means an article that because of its design or manufacture may cause**
44 **personal injury or illness by electric shock when in normal use or when subjected to reasonably**
45 **foreseeable damage or abuse.**

1 (5) "Extremely flammable" means any substance that has a flash point at or below 20 degrees
2 Fahrenheit as determined by the Tagliabue Open Cup Tester.

3 (6) "Flammable" means any substance that has a flash point of above 20 degrees to and includ-
4 ing 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester.

5 (7) "Hazardous substance" means:

6 (a) Any substance that is toxic, corrosive, an irritant, a strong sensitizer, flammable,
7 combustible, or generates pressure through decomposition, heat or other means, if such substance
8 or mixture of substances may cause substantial personal injury or substantial illness during or as
9 a proximate result of any customary or reasonably foreseeable handling or use, including reasonably
10 foreseeable ingestion by children, or any substance that the Director of [*Human Services*] **the**
11 **Oregon Health Authority** finds, pursuant to the provisions of ORS 453.005 to 453.135, comes within
12 the definition of this paragraph.

13 (b) Any radioactive substance, if, with respect to such substance as used in a particular class
14 of article or as packaged, the director determines that the substance is sufficiently hazardous to
15 require labeling in accordance with ORS 453.005 to 453.135 in order to protect the public health.
16 However, "hazardous substance" does not include any source material, special nuclear material, or
17 by-product material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued
18 pursuant thereto by the Atomic Energy Commission.

19 (c) Any toy or other article intended for use by children that the director determines in ac-
20 cordance with ORS 453.055 presents an electrical, thermal or mechanical hazard.

21 (d) Any article that is not pesticide within the meaning of the Federal Insecticide, Fungicide,
22 and Rodenticide Act or regulated under ORS 616.335 to 616.385, but that is a hazardous substance
23 within the meaning of paragraph (a) of this subsection by reason of bearing or containing pesticide.

24 (e) The following brominated flame retardant chemicals:

25 (A) Pentabrominated diphenyl ether; and

26 (B) Octabrominated diphenyl ether.

27 (8) "Highly toxic" means any substance that falls within any of the following categories:

28 (a) Produces death within 14 days in one-half or more of a group of 10 or more laboratory white
29 rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram
30 of body weight, when orally administered;

31 (b) Produces death within 14 days in one-half or more of a group of 10 or more laboratory white
32 rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour
33 or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor
34 or two milligrams per liter by volume or less of mist or dust, provided such concentration is likely
35 to be encountered by humans when the substance is used in any reasonably foreseeable manner; or

36 (c) Produces death within 14 days in one-half or more of a group of 10 or more rabbits tested
37 in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous
38 contact with the bare skin for 24 hours or less.

39 (9) "Immediate container" does not include package liners.

40 (10) "Irritant" means any substance not corrosive within the meaning of subsection (3) of this
41 section, but that on immediate, prolonged, or repeated contact with normal living tissue will induce
42 a local inflammatory reaction.

43 (11) "Label" means a display of written, printed, or graphic matter upon the immediate container
44 of any substance, or in the case of an article that is unpackaged or is not packaged in an immediate
45 container intended or suitable for delivery to the ultimate consumer, a display of such matter di-

1 rectly on the article involved or on a tag or other suitable material affixed thereto, and a require-
2 ment made by or under authority of ORS 453.005 to 453.135 that any word, statement, or other
3 information appearing on the label shall not be considered to be complied with unless such word,
4 statement, or other information also appears on the outside container or wrapper, if any, unless it
5 is easily legible through the outside container or wrapper and on all accompanying literature where
6 there are directions for use, written or otherwise.

7 (12) "Mechanical hazard" means an article that in normal use or when subjected to reasonably
8 foreseeable damage or abuse presents an unreasonable risk of personal injury or illness, by its de-
9 sign or manufacture:

- 10 (a) From fracture, fragmentation, or disassembly of the article;
- 11 (b) From propulsion of the article or any part or accessory thereof;
- 12 (c) From points or other protrusions, surfaces, edges, openings, or closures;
- 13 (d) From moving parts;
- 14 (e) From lack or insufficiency of controls to reduce or stop motion;
- 15 (f) As a result of self-adhering characteristics of the article;
- 16 (g) Because the article or any part or accessory thereof may be aspirated or ingested;
- 17 (h) Because of instability; or
- 18 (i) Because of any other aspect of the article's design or manufacture.

19 (13) "Misbranded hazardous substance" means a hazardous substance that does not meet the
20 labeling requirements of ORS 453.035.

21 (14) "Poison" means:

- 22 (a) Arsenic and its preparations;
- 23 (b) Corrosive sublimate;
- 24 (c) Cyanides and preparations, including hydrocyanic acid;
- 25 (d) Hydrochloric acid and any preparation containing free or chemically unneutralized
26 hydrochloric acid (HCl) in a concentration of 10 percent or more;
- 27 (e) Nitric acid or any preparation containing free or chemically unneutralized nitric acid
28 (HNO₃) in a concentration of five percent or more;
- 29 (f) Strychnine;
- 30 (g) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid
31 (H₂SO₄) in a concentration of 10 percent or more;
- 32 (h) Solution of ammonia, U.S.P. 28 percent; or
- 33 (i) Carbolic acid.

34 (15) "Radioactive substance" means a substance that emits ionizing radiation.

35 (16) "Strong sensitizer" means a substance that will cause on normal living tissue, through an
36 allergic or photodynamic process, a hypersensitivity that becomes evident on reapplication of the
37 same substances and that is designated as such by the director [of *Human Services*].

38 (17) "Thermal hazard" means an article that, in normal use or when subjected to reasonably
39 foreseeable damage or abuse, because of its design or manufacture presents an unreasonable risk
40 of personal injury or illness because of heat as from heated parts, substances or surfaces.

41 (18) "Toxic substance" means any substance, other than radioactive substance, that has the ca-
42 pacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption
43 through any body surface.

44 **SECTION 880.** ORS 453.035 is amended to read:

45 453.035. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall adopt stan-

1 dards for the labeling of hazardous substances. The director may permit or require the use of a re-
2 cognized generic name or may require the common or usual name or the chemical name, if there is
3 no common or usual name, of the hazardous substance or of each component which the director finds
4 contributes substantially to its hazard.

5 (2) The director shall require:

6 (a) The word "Danger" on substances which are extremely flammable, corrosive or highly toxic;

7 (b) The word "Warning" or "Caution" on other hazardous substances;

8 (c) An affirmative statement of the principal hazard or hazards, such as "Flammable,"
9 "Combustible," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording
10 descriptive of the hazard;

11 (d) Precautionary measures describing the action to be followed or avoided, except when modi-
12 fied by rule of the director pursuant to subsection (4) of this section;

13 (e) Instruction, when necessary or appropriate, for first-aid treatment;

14 (f) The word "Poison" for any hazardous substance which is defined as "highly toxic" in ORS
15 453.005;

16 (g) Instructions for handling and storage of packages which require special care in handling or
17 storage;

18 (h) Adequate directions for the protection of children from the hazard if the article is intended
19 for use by children and is not a banned hazardous substance, or the statement "Keep out of the
20 reach of children," or its practical equivalent, if the article is not intended for use by children; and

21 (i) The name and place of business of the manufacturer, packer, distributor or seller.

22 (3) Any statement required by this section must be in the English language, located prominently
23 and in conspicuous and legible type in contrast by typography, layout or color with other printed
24 matter on the label.

25 (4) If the director finds that, because of the size of the package involved or because of the minor
26 hazard presented by the substance contained therein, or for other good and sufficient reasons, full
27 compliance with the labeling requirements otherwise applicable under ORS 453.005 to 453.135 and
28 453.990 (2) is impracticable or is not necessary for the adequate protection of the public health and
29 safety, the director may authorize the exemption of such substance from the requirements, to an
30 extent consistent with adequate protection of the public health and safety.

31 **SECTION 881.** ORS 453.055 is amended to read:

32 453.055. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall declare to
33 be a hazardous substance any substance or mixture of substances which the director finds to be
34 within the definition of hazardous substance in ORS 453.005.

35 (2) If the director finds that any hazardous substance is a misbranded hazardous substance, the
36 director shall require such reasonable variations or labeling requirements in addition to those re-
37 quired by ORS 453.035 as the director finds necessary for the protection of the public health and
38 safety. However, if the director finds that any hazardous substance cannot be labeled adequately to
39 protect the public health and safety, or the article presents an imminent danger to the public health
40 and safety, the director may declare the article to be a banned hazardous substance and require its
41 removal from commerce.

42 (3) If the director finds that a toy or other article intended for use by children is a hazardous
43 substance, bears or contains a hazardous substance in a manner as to be susceptible of access by
44 a child to whom the toy or other article is entrusted or presents an electrical, mechanical or ther-
45 mal hazard, the director shall declare a toy or other article to be a banned hazardous substance and

1 require its removal from commerce.

2 (4) If the director finds that any hazardous substance intended, or packaged in a form suitable,
3 for use in a household, notwithstanding cautionary labeling as required under ORS 453.005 to
4 453.135 and 453.990 (2), involves a degree or nature of the hazard by its presence or use in house-
5 holds that the protection of the public health and safety can be adequately served only by keeping
6 the substance out of the channels of commerce, the director shall declare the hazardous substance
7 to be a banned hazardous substance and require its removal from commerce.

8 (5) Any hazardous substance intended, or packaged in a form suitable for use in the household
9 or by children, which fails to bear a label in accordance with ORS 453.035 and the standards of the
10 director shall be deemed to be a misbranded hazardous substance.

11 (6) Any hazardous substance contained in a reused food, drug or cosmetic container is a mis-
12 branded hazardous substance.

13 **SECTION 882.** ORS 453.065 is amended to read:

14 453.065. (1) Whenever the Director of [*Human Services*] **the Oregon Health Authority** or a
15 designated representative finds or has probable cause to believe that any hazardous household sub-
16 stance is misbranded, or is a banned hazardous substance, the director or designated representative
17 shall affix to such article a tag or other appropriate marking, giving notice that such article is or
18 is suspected of being misbranded or is a banned hazardous substance, and has been detained or
19 embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise
20 until permission for removal or disposal is given by such agent or the court.

21 (2) When an article detained or embargoed under subsection (1) of this section has been found
22 to be misbranded or a banned hazardous substance, the director shall petition the circuit court of
23 the county within which the article is detained or embargoed for a label of condemnation of such
24 article. However, if the director or a designated representative finds that an article so detained or
25 embargoed is not misbranded or a banned hazardous substance, the director or designated repre-
26 sentative shall remove the tag or other marking.

27 (3) If the court finds that a detained or embargoed article is misbranded or a banned hazardous
28 substance, after entry of the judgment, the article shall be destroyed at the expense of the owner
29 or claimant thereof, under supervision of the director or a designated representative, and all court
30 costs and fees, and storage and other proper expenses, shall be taxed against the owner or claimant
31 of such article or the owner or claimant agent. However, when the misbranding can be corrected
32 by proper labeling of the article, after entry of the judgment and after such costs, fees, and expenses
33 have been paid and a good and sufficient bond or irrevocable letter of credit issued by an insured
34 institution, as defined in ORS 706.008, conditioned that such article shall be so labeled, has been
35 executed, the court may order that such article be delivered to the owner or claimant thereof for
36 such labeling under the supervision of an agent of the director. The expense of such supervision
37 shall be paid by claimant. The article shall be returned to the claimant on the representation to the
38 court by the director that the article is no longer in violation of ORS 453.005 to 453.135 and 453.990
39 (2), and that the expenses of such supervision have been paid.

40 **SECTION 883.** ORS 453.075 is amended to read:

41 453.075. (1) Any article or substance sold by its manufacturer, distributor, or dealer that is a
42 banned hazardous substance, whether or not it was such at the time of its sale, shall, in accordance
43 with rules of the Director of [*Human Services*] **the Oregon Health Authority**, be repurchased as
44 provided in this section.

45 (2) The manufacturer or distributor of any such article shall repurchase it from the person to

1 whom the manufacturer or distributor sold it, and shall:

2 (a) Refund to that person the purchase price paid for such article or substance;

3 (b) If that person has repurchased such article or substance pursuant to this paragraph or par-
4 agraph (a) of this subsection, reimburse the person for any amounts paid in accordance with this
5 section for the return of such article or substance in connection with its repurchase; and

6 (c) If the manufacturer requires the return of such article or substance in connection with the
7 repurchase of it, reimburse that person for any reasonable and necessary expenses incurred in re-
8 turning it to the manufacturer.

9 (3) In the case of any such article or substance sold at retail by a dealer, if the person who
10 purchased it from the dealer returns it to the dealer, the dealer shall refund to the purchaser the
11 purchase price paid for it and reimburse the person for any reasonable and necessary transportation
12 charges incurred in its return.

13 (4) As used in this section:

14 (a) "Distributor" includes a dealer who sells at wholesale an article or substance with respect
15 to that sale.

16 (b) "Manufacturer" includes an importer for resale.

17 **SECTION 884.** ORS 453.085 is amended to read:

18 453.085. A person may not perform any of the following acts:

19 (1) The introduction or delivery for introduction into commerce of any misbranded hazardous
20 substance or banned hazardous substance.

21 (2) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of
22 the label of a hazardous substance.

23 (3) The performance of any act with respect to a hazardous substance while the substance is in
24 commerce, or while the substance is held for sale or resale after shipment in commerce, that results
25 in the hazardous substance being a misbranded hazardous substance or a banned hazardous sub-
26 stance.

27 (4) The receipt of or delivery into commerce of any misbranded hazardous substance or banned
28 hazardous substance for pay or otherwise.

29 (5) The giving of a guarantee or undertaking that is false, except as a person who relied upon
30 a guarantee or undertaking to the same effect signed by, and containing the name and address of,
31 a person residing in the United States from whom the person received in good faith the hazardous
32 substance.

33 (6) The failure to permit entry or inspection as authorized by ORS 453.005 to 453.135 or to per-
34 mit access to and copying of any record as authorized by ORS 453.005 to 453.135.

35 (7) The introduction or delivery for introduction into commerce, or the receipt in commerce and
36 subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused
37 food, drug or cosmetic container or in a container that, though not a reused container, is identifiable
38 as a food, drug or cosmetic container by its labeling or by other identification.

39 (8) The use by any person to the advantage of the person, or the revealing other than to the
40 Director of [*Human Services*] **the Oregon Health Authority** or the authorized representative of the
41 director or to a court of any information acquired under authority of ORS 453.005 to 453.135 con-
42 cerning any method or process that is a trade secret entitled to protection.

43 (9) The sale or delivery of any poison to a minor under 18 years of age without the written order
44 of a person 21 years of age or over, which written order shall be retained in the records of the seller
45 and the poison register of the seller shall show by the name of the purchaser the fact that the sale

1 or delivery was to a minor on order of an adult and show the adult's name and address.

2 (10) The sale or delivery of completely denatured alcohol, methyl alcohol (methanol), canned
3 heat or other solidified forms of denatured alcohol, or any preparation containing those substances,
4 to be used for beverage purposes.

5 (11) The sale or delivery of any poison without making or causing to be made an entry in a
6 poison register of the seller in the manner required by law.

7 (12) The sale or delivery to any person of any poison without having learned by due inquiry that
8 such person is aware of the poisonous character thereof and that it is desired for a lawful purpose.

9 (13) The giving of a fictitious name or making any false representations to the seller or dealer
10 when buying any of the poisons.

11 (14) The sale or delivery to any person by anyone other than a pharmacist of a poison.

12 (15) The removal or disposal of any detained or embargoed article without permission of the
13 director [*of Human Services*] or a designated representative.

14 (16) The introduction or delivery for introduction into commerce of any product containing more
15 than one-tenth of one percent by mass of pentabrominated diphenyl ether or octabrominated
16 diphenyl ether. This subsection does not apply to:

17 (a) Used products; or

18 (b) Replacement parts for products introduced into commerce before January 1, 2006.

19 **SECTION 885.** ORS 453.095 is amended to read:

20 453.095. (1) The authority to adopt rules for the administration and enforcement of ORS 453.005
21 to 453.135 and 453.990 (2) is vested in the Director of [*Human Services*] **the Oregon Health Au-**
22 **thority** pursuant to ORS chapter 183.

23 (2) The director shall cause the rules adopted under ORS 453.005 to 453.135 and 453.990 (2) to
24 be no less strict than rules established pursuant to the Federal Hazardous Substances Act.

25 (3) The combustibility, and extreme flammability of solids and of the contents of self-pressurized
26 containers shall be determined by methods found by the director to be generally applicable to such
27 materials or containers, respectively, and established by the director.

28 (4) Before designating any substance as a strong sensitizer, the director, upon consideration of
29 the frequency of occurrence and severity of the reaction, shall find that the substance has a signif-
30 icant potential for causing hypersensitivity.

31 **SECTION 886.** ORS 453.105 is amended to read:

32 453.105. (1) For the purposes of enforcement of ORS 453.005 to 453.135 and 453.990 (2), the Di-
33 rector of [*Human Services*] **the Oregon Health Authority** or a designated representative upon
34 presenting appropriate credentials to the owner, operator or agent in charge, may:

35 (a) Enter, at reasonable times, any factory, warehouse or establishment in which hazardous
36 substances are manufactured, processed, packed, or held for introduction into commerce or are held
37 after such introduction, or to enter any vehicle being used to transport or hold such hazardous
38 substances in commerce.

39 (b) Inspect, at reasonable times, and within reasonable limits and in a reasonable manner, such
40 factory, warehouse, establishment or vehicle, and all pertinent equipment, finished and unfinished
41 materials, and labeling therein.

42 (c) Obtain samples of such materials or packages thereof, or of such labeling.

43 (2) If the director or a designated representative obtains any sample, prior to leaving the
44 premises, the director or designated representative shall pay or offer to pay the owner, operator,
45 or agent in charge for such sample and give a receipt describing the sample obtained.

1 **SECTION 887.** ORS 453.115 is amended to read:

2 453.115. (1) For the purpose of enforcing the provisions of ORS 453.005 to 453.135 and 453.990
3 (2), carriers engaged in commerce, and persons receiving hazardous substances in commerce or
4 holding such hazardous substances so received shall, upon request, permit the Director of [*Human*
5 *Services*] **the Oregon Health Authority** or a designated representative at reasonable times, to have
6 access to and to copy all records showing the movement in commerce of any such hazardous sub-
7 stances, or the holding thereof during or after such movement, and the quantity, shipper, and con-
8 signee thereof. Such request must be accompanied by a statement in writing specifying the nature
9 or kind of such hazardous substance to which such request relates.

10 (2) Evidence obtained under this section shall not be used in a criminal prosecution of the per-
11 son from whom obtained.

12 (3) Carriers shall not be subject to the other provisions of ORS 453.005 to 453.135 and 453.990
13 (2) by reason of their receipt, carriage, holding or delivery of hazardous substances in the usual
14 course of business as carriers.

15 **SECTION 888.** ORS 453.125 is amended to read:

16 453.125. In addition to the remedies provided in ORS 453.005 to 453.135 and 453.990 (2), the Di-
17 rector of [*Human Services*] **the Oregon Health Authority** may apply to the circuit court for, and
18 such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or per-
19 manent injunction restraining any person from violating any provision of ORS 453.085.

20 **SECTION 889.** ORS 453.135 is amended to read:

21 453.135. Before any violation of ORS 453.005 to 453.135 and 453.990 (2) is reported to any district
22 attorney or police official for the institution of a criminal proceeding, the person against whom such
23 proceeding is contemplated shall be given appropriate notice and an opportunity to present the
24 person's views before the Director of [*Human Services*] **the Oregon Health Authority** or the des-
25 ignated agent of the director, either orally or in writing, in person, or by attorney, with regard to
26 such contemplated proceeding.

27 **SECTION 890.** ORS 453.205 is amended to read:

28 453.205. As used in ORS 453.205 to 453.275:

29 (1) "Art or craft material" means any raw or processed material or manufactured product mar-
30 ketted or being represented by the manufacturer, repackager or principal importer as being suitable
31 for use in any phase of the creation of any work of visual or graphic art of any medium. "Art or
32 craft material" does not include economic poisons subject to the Federal Insecticide, Fungicide, and
33 Rodenticide Act (61 Stats. 163) or drugs, devices or cosmetics, which are subject to the Federal
34 Food, Drug and Cosmetics Act (52 Stats. 1040).

35 (2) "**Authority**" means **the Oregon Health Authority.**

36 [(2) "*Department*" means *the Department of Human Services.*]

37 (3) "Human carcinogen" means any substance listed as a human carcinogen by the International
38 Agency for Research on Cancer.

39 (4) "Medium" includes, but is not limited to, paintings, drawings, prints, sculpture, ceramics,
40 enamels, jewelry, stained glass, plastic sculpture, photographs and leather and textile goods.

41 (5) "Potential human carcinogen" means one of the following:

42 (a) Any substance which does not meet the definition of human carcinogen, but for which there
43 exists sufficient evidence of carcinogenicity in animals, as determined by the International Agency
44 for Research on Cancer.

45 (b) Any chemical shown to be changed by the human body into a human carcinogen.

1 (6) "Toxic substance causing chronic illness" means any of the following:

2 (a) Human carcinogens.

3 (b) Potential human carcinogens.

4 (c) Any substance included in the list of hazardous substances prepared by the Department of
5 Consumer and Business Services pursuant to the Hazard Communication Rule, Division 155,
6 notwithstanding exemptions made for substances on the list which are used in particular forms,
7 circumstances or concentrations, if the health hazard presented by the substance is not the subject
8 of label statements required by federal law.

9 **SECTION 891.** ORS 453.225 is amended to read:

10 453.225. For the purposes of ORS 453.205 to 453.275, an art or craft material shall be presumed
11 to contain an ingredient which is a toxic substance causing chronic illness if the ingredient, whether
12 an intentional ingredient or an impurity, is one percent or more by weight of the mixture or product,
13 or if the [*Department of Human Services*] **Oregon Health Authority** determines that the toxic or
14 carcinogenic properties of the art or craft material are such that labeling is necessary for the ade-
15 quate protection of the public health and safety.

16 **SECTION 892.** ORS 453.235 is amended to read:

17 453.235. (1) No person shall distribute any art or craft material containing toxic substances
18 causing chronic illness on which the person:

19 (a) Has failed to affix a conspicuous label containing the signal word "WARNING," to alert us-
20 ers of potential adverse health effects.

21 (b) Has failed to affix a conspicuous label warning of the health-related dangers of the art or
22 craft material. If a product contains:

23 (A) A human carcinogen, the warning shall contain the statement: "CANCER HAZARD! Over-
24 exposure may create cancer risk."

25 (B) A potential human carcinogen and does not contain a human carcinogen, the warning shall
26 contain the statement: "POSSIBLE CANCER HAZARD! Overexposure might create cancer risk."

27 (C) A toxic substance causing chronic illness, the warning shall contain, but not be limited to,
28 the following statement or statements where applicable:

29 (i) "May cause sterility or damage to reproductive organs."

30 (ii) "May cause birth defects or harm to developing fetus."

31 (iii) "May be excreted in human milk causing harm to nursing infant."

32 (iv) "May cause central nervous system depression or injury."

33 (v) "May cause numbness or weakness in the extremities."

34 (vi) "Overexposure may cause damage to (specify organ)."

35 (vii) "Heating above (specify degrees) may cause hazardous decomposition products."

36 (D) More than one chronically toxic substance, or if a single substance can cause more than one
37 chronic health effect, the required statements may be combined into one warning statement.

38 (c) Has failed to affix on the label a list of ingredients that are toxic substances causing chronic
39 illness.

40 (d) Has failed to affix on the label a statement or statements of safe use and storage in-
41 structions, conforming to the following list. The label shall contain, but not be limited to, as many
42 of the following risk statements as are applicable:

43 (A) "Keep out of reach of children."

44 (B) "When using, do not eat, drink or smoke."

45 (C) "Wash hands after use and before eating, drinking or smoking."

- 1 (D) "Keep container tightly closed."
2 (E) "Store in well-ventilated area."
3 (F) "Avoid contact with skin."
4 (G) "Wear protective clothing (specify type)."
5 (H) "Wear National Institute of Occupational Safety and Health (NIOSH) certified masks for
6 dusts, mists or fumes."
7 (I) "Wear NIOSH certified respirator with appropriate cartridge for (specify type)."
8 (J) "Wear NIOSH certified supplied air respirator."
9 (K) "Use window exhaust fan to remove vapors and ensure adequate ventilation (specify explo-
10 sion proof if necessary)."
11 (L) "Use local exhaust hood (specify type)."
12 (M) "Do not heat above (specify degrees) without adequate ventilation."
13 (N) "Do not use or mix with (specify material)."
14 (e) Has failed to affix on the label a statement on where to obtain more information, such as
15 "call your local poison control center for more health information."
16 (f) Has failed to affix on the label the name and address of the manufacturer.
17 (2)(a) If the information listed in subsection (1)(d) of this section cannot fit on the package label,
18 a package insert shall be required to convey all the necessary information to the consumer. In this
19 event, the label shall contain a statement to refer to the package insert, such as "CAUTION: See
20 package insert before use." The language on this insert shall be nontechnical and nonpromotional
21 in tone and content.
22 (b) For purposes of this subsection, "package insert" means a display of written, printed or
23 graphic matter upon a leaflet or suitable material accompanying the art supply.
24 (3) The requirements set forth in this section shall not be considered to be complied with unless
25 the required words, statements or other information appear on the outside container or wrapper, or
26 on a package insert that is easily legible through the outside container or wrapper and is painted
27 in a color in contrast with the product or the package containing the product.
28 (4) The [Department of Human Services] **Oregon Health Authority** may exempt a material from
29 full compliance with ORS 453.205 to 453.275. In considering this exemption, the [department] **au-**
30 **thority** shall take into consideration the potential for reasonably foreseeable misuse of a material
31 by a child.
32 (5) If an art or craft material complies with labeling standards D-4236 of the American Society
33 for Testing and Materials (ASTM), the material complies with the provisions of ORS 453.205 to
34 453.275, unless the [department] **authority** determines that the label on an art or craft material does
35 not satisfy the purposes of ORS 453.205 to 453.275.
36 **SECTION 893.** ORS 453.245 is amended to read:
37 453.245. (1) Art or craft material that is considered by the [Department of Human Services]
38 **Oregon Health Authority** to contain a toxic substance causing chronic illness may not be ordered
39 or purchased by a school or school district for use by students in kindergarten and grades 1 through
40 6.
41 (2) Any substance that is a toxic substance causing chronic illness may not be ordered or pur-
42 chased by a school or school district for use by students in grades 7 through 12 unless the substance
43 meets the labeling standards specified in ORS 453.235.
44 (3) If the [department] **authority** finds that, because the chronically toxic, carcinogenic or ra-
45 dioactive substances contained in an art or craft material cannot be ingested, inhaled or otherwise

1 absorbed into the body during any reasonably foreseeable use of the material in a way that could
2 pose a potential health risk, the [department] **authority** may exempt the material from these re-
3 quirements to the extent the [department] **authority** determines to be consistent with adequate
4 protection of the public health and safety.

5 **SECTION 894.** ORS 453.255 is amended to read:

6 453.255. (1) By June 1, 1986, the [Department of Human Services] **Oregon Health Authority**
7 shall develop a list of those art or craft materials which can be purchased or ordered for use in
8 kindergarten and in grades 1 through 6 and a list of materials which, while not currently sold or
9 manufactured, may be reasonably suspected to still exist at some schools. In developing the lists, the
10 [department] **authority** shall consult with manufacturers of art supplies, artists' groups, health or-
11 ganizations and toxicologists as the [department] **authority** considers appropriate.

12 (2) The Superintendent of Public Instruction shall distribute the lists to all school districts and
13 shall make the lists available to preschools, child care centers and other businesses and organiza-
14 tions which involve children in the use of art or craft materials.

15 (3) The superintendent shall inform school districts of the requirements of ORS 453.205 to
16 453.275 and shall encourage school districts to dispose of art or craft materials which may contain
17 human carcinogens, potential human carcinogens or toxic substances causing chronic illness, but
18 which are not affected by ORS 453.205 to 453.275.

19 **SECTION 895.** ORS 453.265 is amended to read:

20 453.265. (1) The manufacturer of any art or craft material sold, distributed, offered for sale or
21 exposed for sale in this state shall supply to a national poison control network approved by the
22 Director of [Human Services] **the Oregon Health Authority** the formulation information required
23 by that network for dissemination to poison control centers. Failure to file formulation information
24 with an approved poison control network is a violation of ORS 453.205 to 453.275.

25 (2) The requirements set forth in ORS 453.235 shall not be considered to be complied with unless
26 all required words, statements or other information accompany art or craft materials from man-
27 ufacturer to consumer, not excluding any distributor, packager or repackager.

28 **SECTION 896.** ORS 453.342 is amended to read:

29 453.342. Any fire department, emergency service personnel or law enforcement agency respond-
30 ing to an incident of injury to a human, wildlife, domestic animal or property resulting from a haz-
31 ardous substance emergency shall make a report of the incident, in writing, to the office of the State
32 Fire Marshal. The State Fire Marshal annually shall summarize all incidents reported to the State
33 Fire Marshal and the information received as a result of the survey conducted under ORS 453.317.
34 The State Fire Marshal shall submit a copy of the summary to:

- 35 (1) The Governor;
- 36 (2) The Legislative Assembly;
- 37 (3) The Department of Environmental Quality;
- 38 (4) The Department of Consumer and Business Services;
- 39 (5) The Department of Transportation;
- 40 [(6) *The Department of Human Services;*]
- 41 [(7)] (6) The Environmental Health Sciences Center at Oregon State University;
- 42 [(8)] (7) The Office of Emergency Management; *[and]*
- 43 (8) **The Oregon Health Authority; and**
- 44 (9) Every public library as defined in ORS 357.400.

45 **SECTION 897.** ORS 453.347 is amended to read:

1 453.347. (1) The State Fire Marshal shall assist with emergency response planning by appropri-
2 ate agencies of government at the local, state and national levels to assure that the response to a
3 hazardous substance fixed site or transportation accident is swift and appropriate to minimize dam-
4 age to any person, property or wildlife. This planning shall include assisting in and training for the
5 preparation of localized plans setting forth agency responsibilities for on-scene response.

6 (2) The State Fire Marshal may apply for funds as available to train, equip and maintain an
7 appropriate response capability at the state and local level.

8 (3) The State Fire Marshal shall issue certificates to local agency personnel who have completed
9 the training.

10 (4) To the extent practicable, the emergency preparedness and response program for hazardous
11 substances as provided in this section shall be consistent with the program for radioactive material,
12 wastes and substances developed by the State Department of Energy and [*Department of Human*
13 *Services*] **the Oregon Health Authority** under ORS chapters 453 and 469.

14 **SECTION 898.** ORS 453.370 is amended to read:

15 453.370. (1) In order to maintain and ensure the effectiveness of state programs established un-
16 der ORS 453.307 to 453.414, as well as to ensure the effectiveness of local efforts, a local government
17 may establish, enforce or enact a local community right to know regulatory program provided that
18 the local program complies with the requirements of this section.

19 (2) To the extent that a local program is supported in whole or in part by fees, those fees may
20 be set, imposed or assessed only by the local government that is implementing the local program.
21 Such fees are allowed only to the extent not otherwise prohibited or limited by law. Such fees:

22 (a) Shall be adopted by ordinance as a fee schedule, after notice and public hearing; and

23 (b) May not exceed \$2,000 for any single facility in any calendar year.

24 (3)(a) All local community right to know regulatory program enforcement, including but not
25 limited to penalties, may be imposed only by a local fire official or a board established by the local
26 government to implement the local community right to know regulatory program.

27 (b) Penalties for violations of a community right to know regulatory program may not exceed
28 \$1,000 per day and shall be assessed according to a schedule adopted by the local government after
29 notice and public hearing. Except when a local government has reasonable grounds to find that an
30 employer willfully and knowingly avoided compliance with the local program, and as long as the
31 employer submits the required information within 30 days following a written notification of non-
32 compliance, penalties shall be suspended if the employer has no history of violating the local pro-
33 gram.

34 (4) After notice and public hearing, the local government must determine that:

35 (a) Existing reporting to local, state or federal agencies is inadequate to meet the needs and
36 concerns of the local government;

37 (b) The state or federal government does not collect data that will provide substantially the
38 same information desired by the local government;

39 (c) The local government has asked the appropriate state agency to operate the program desired
40 by the local government and the state agency has not committed to do so within 180 days;

41 (d) The Department of Environmental Quality, the State Fire Marshal and the [*Department of*
42 *Human Services*] **Oregon Health Authority** have had an opportunity to comment on the proposed
43 program and the local government has responded to those comments; and

44 (e) The local government has provided an opportunity for written and oral public comment on
45 the proposed program.

1 (5) Any local government that operates a local community right to know regulatory program
2 shall:

3 (a) Provide for an opportunity to report data electronically;

4 (b) Place data reported under the program on the Internet with instructions for the general
5 public that explain the organization of the data; and

6 (c) Keep records of data usage and otherwise document interest in the collected data.

7 (6) Data and other information presented under a local community right to know regulatory
8 program:

9 (a) Shall clearly distinguish, where appropriate, public health interpretations from the raw data;

10 (b) May, where feasible, indicate specifically which hazardous substances and toxic substances
11 are being released into the local air, water and land; and

12 (c) Shall include locations where a person may obtain epidemiological statistics related to health
13 effects of the hazardous substances and toxic substances, if available.

14 (7) For any hazardous substance or toxic substance that a local government proposes to require
15 an employer to report under a local community right to know regulatory program established pur-
16 suant to this section, the local government shall seek written and oral public comment and provide
17 written notice to interested parties prior to adoption as a reporting requirement. The local govern-
18 ment must provide the public with an opportunity to comment on the appropriateness of reporting
19 on the proposed hazardous substance or toxic substance, including but not limited to commenting
20 on health and environmental considerations, economic concerns and feasibility of compliance. The
21 local government shall consider the comments before adopting a list or making additions to a list
22 of hazardous substances and toxic substances to be reported.

23 (8) In administering a local community right to know regulatory program, a local government
24 shall establish procedures to exempt, when reasonable, an entity from all or part of the local pro-
25 gram for the purpose of protecting trade secrets or where the local government determines that the
26 operations of the entity pose little or no risk to the public health or the environment.

27 (9) Except as prohibited by federal or state law, a local program may not differentiate between
28 public and private employers.

29 (10) Nothing in this section shall be construed to limit the authority of a local government to:

30 (a) Distribute information collected under the state Community Right to Know and Protection
31 Act; or

32 (b) Adopt or enforce a local ordinance, rule or regulation strictly necessary to comply with:

33 (A) The Uniform Building Code as adopted and amended by the Director of the Department of
34 Consumer and Business Services;

35 (B) A uniform fire code; or

36 (C) Any requirement of a state or federal statute, rule or regulation, including but not limited
37 to those controlling hazardous substances, toxic substances or other environmental contaminants.

38 **SECTION 899.** ORS 453.605 is amended to read:

39 453.605. **As used** in ORS 453.605 to 453.800, unless the context requires otherwise:

40 (1) **“Authority” means the Oregon Health Authority.**

41 [(1)] (2) **“By-product material”** means radioactive material, other than special nuclear material,
42 that is yielded or made radioactive by exposure to the radiation incident to the process of producing
43 or utilizing special nuclear material.

44 [(2)] **“Department”** means the Department of Human Services.]

45 (3) **“Director”** means the Director of [Human Services] **the Oregon Health Authority.**

1 (4) "Electronic product" means any manufactured product or device or component part of such
2 a product or device that has an electronic circuit which during operation can generate or emit a
3 physical field of radiation, such as, but not limited to microwave ovens, laser systems or diathermy
4 machines.

5 (5) "Federal government" means the United States or any agency or instrumentality of the
6 United States.

7 (6) "General license" means a license, effective under rules of the [*department*] **authority** with-
8 out the filing of an application, to acquire, own, possess, use or transfer a device or equipment that
9 produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material,
10 source material, special nuclear material or other radioactive material that occurs naturally or is
11 produced artificially.

12 (7) "Person" means any of the following other than the United States Atomic Energy Commis-
13 sion or any successor thereto:

14 (a) Individual, group, association, firm, partnership, corporation, trust, estate, agency or public
15 or private institution;

16 (b) Political subdivision or agency of this state;

17 (c) State other than this state or any political subdivision or agency of a state other than this
18 state; or

19 (d) The legal successor, representative, agent or agency of a person listed in paragraphs (a) to
20 (c) of this subsection.

21 (8) "Radiation" means:

22 (a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons
23 and other atomic or nuclear particles or rays.

24 (b) Any electromagnetic radiation that can be generated during the operations of electronic
25 products and that the [*department*] **authority** has determined to present a biological hazard to the
26 occupational or public health and safety but does not mean electromagnetic radiation that can be
27 generated during the operation of an electronic product that is licensed by the Federal Communi-
28 cations Commission.

29 (c) Any sonic, ultrasonic or infrasonic waves that are emitted from an electronic product as a
30 result of the operation of an electronic circuit in such product and that the [*department*] **authority**
31 has determined to present a biological hazard to the occupational or public health and safety.

32 (9) "Source material" means:

33 (a) Uranium, thorium or any other material that the [*department*] **authority** declares to be es-
34 sential to the production of special nuclear material by an order made after the United States
35 Atomic Energy Commission or any successor thereto has determined the material to be source ma-
36 terial; or

37 (b) Ore that contains such a concentration of one or more materials mentioned in paragraph (a)
38 of this subsection that the [*department*] **authority** declares the ore to be essential to the production
39 of special nuclear material by an order made after the United States Atomic Energy Commission
40 or any successor thereto has determined such ore to be source material.

41 (10) "Special nuclear material" means any of the following that is not source material:

42 (a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or any
43 other material that the [*department*] **authority** declares to be capable of releasing substantial
44 quantities of atomic energy by an order made after the United States Atomic Energy Commission
45 or any successor thereto has determined the material to be special nuclear material.

1 (b) Material artificially enriched by any material mentioned in paragraph (a) of this subsection.

2 (11) "Specific license" means a license, issued after application, to receive, acquire, own, pos-
3 sess, use, manufacture, produce or transfer a device or equipment that produces radiation, or a
4 quantity of, or a device or equipment that utilizes, by-product material, source material or special
5 nuclear material or other radioactive material that occurs naturally or is produced artificially.

6 (12) "X-ray machine" means a device or equipment that produces radiation when in operation
7 but does not utilize by-product material, source material, special nuclear material or other radioac-
8 tive material that occurs naturally or is produced artificially.

9 (13) "X-ray machine registration" means an authorization granted by the [department] **authority**
10 allowing the operation of an X-ray machine.

11 **SECTION 900.** ORS 453.635 is amended to read:

12 453.635. (1) The [Department of Human Services] **Oregon Health Authority** is the State Radi-
13 ation Control Agency, but ORS 453.605 to 453.800 do not apply to a radiation source while it is being
14 transported on a railroad car or in a motor vehicle subject to and in conformity with rules adopted
15 by the Department of Transportation nor do they apply to any matter other than transportation of
16 radiation sources within the authority of the Energy Facility Siting Council under ORS chapter 469.
17 To protect occupational and public health and safety against radiation hazards the [Department of
18 Human Services] **authority** shall:

19 (a) Develop programs to evaluate hazards associated with the use of radiation sources; and

20 (b) With due regard for compatibility with the regulatory programs of the federal government,
21 promulgate standards and make reasonable regulations relating to registration, licensing, use, han-
22 dling, transport, storage, disposal, other than disposal regulated by ORS 469.300 to 469.563, 469.590
23 to 469.619 and 469.930, and control of radiation sources, including but not limited to by-product
24 materials, source materials and special nuclear materials.

25 (2) To protect occupational and public health and safety against radiation hazards the [depart-
26 ment] **authority** or its authorized representative may:

27 (a) Advise, consult and cooperate with other agencies of this state, the federal government,
28 other states, interstate agencies, political subdivisions of this state or other states and with groups
29 concerned with control of radiation sources;

30 (b) Encourage, participate in or conduct studies, investigations, training, research or demon-
31 strations relating to control of radiation sources;

32 (c) Accept and administer loans, grants or other funds or gifts, conditional or otherwise, from
33 the federal government or from any other source, public or private;

34 (d) Collect and disseminate information relating to control of radiation sources; and

35 (e) Subject to any applicable provision of the State Personnel Relations Law, appoint officers
36 and employees and prescribe their duties and fix their compensation.

37 **SECTION 901.** ORS 453.645 is amended to read:

38 453.645. The Director of [Human Services] **the Oregon Health Authority** shall appoint a Radi-
39 ation Advisory Committee to advise the [Department of Human Services] **Oregon Health Authority**
40 on matters relating to radiological health and radiation protection. The committee shall consist of
41 eight persons who because of their training and experience are qualified to advise the [department]
42 **authority** on such matters and they shall serve at the pleasure of the director. The members of the
43 Radiation Advisory Committee are entitled to compensation and expenses as provided in ORS
44 292.495.

45 **SECTION 902.** ORS 453.665 is amended to read:

1 453.665. (1) Subject to subsection (2) of this section, the [*Department of Human Services*] **Oregon**
 2 **Health Authority** shall provide for the issuance, allowance, modification, amendment, revision,
 3 suspension and revocation of general and specific licenses that relate to by-product materials, source
 4 materials or special nuclear materials and to devices or equipment that utilize any of those materi-
 5 als. The [*department*] **authority** may not require a specific license for the use of an X-ray machine
 6 within the limits of the license by a licensed dentist, chiropractor or veterinarian or by a person li-
 7 censed to practice medicine, surgery, osteopathy, chiropractic, naturopathic medicine or any other
 8 system or method of healing. Otherwise the [*department*] **authority** may require registration or a
 9 general or specific license or both registration and a general or specific license with respect to any
 10 radiation source.

11 (2)(a) Each application for a specific license shall be in writing and shall state such information
 12 as the [*department*] **authority** by rule determines both to be necessary to decide the applicant's
 13 technical, insurance, financial or other qualifications and to be reasonable and necessary to protect
 14 occupational and public health and safety. At any time after the filing of the application for and
 15 before the expiration of a specific license the [*department*] **authority** may require further written
 16 statements, and may cause inspections to be made as the [*department*] **authority** considers neces-
 17 sary, to determine whether the license should be granted, denied, modified, amended, revised, sus-
 18 pended or revoked. An application for a specific license or any statement relating to that application
 19 or to any license must be signed by the applicant or licensee.

20 (b) Each license shall be in such form and contain terms and conditions the [*department*] **au-**
 21 **thority** considers necessary to protect the occupational and public health and safety.

22 (c) A general or specific license or right to possess or use a radiation source under a general
 23 or specific license may not be assigned in any manner without the approval of the [*department*]
 24 **authority**.

25 (d) The terms and conditions of any general or specific license may be modified, amended or
 26 revised by rule or order.

27 (e) Subject to any requirement for registration, the [*department*] **authority** may by rule recog-
 28 nize a license from any other state or from the federal government as compliance with a license
 29 requirement of this section or of ORS 453.635.

30 (f) When the [*department*] **authority** finds that a radiation source, a use of a radiation source,
 31 a user of a radiation source or a class of such sources, uses or users will not constitute a significant
 32 risk to the health and safety of the public, the [*department*] **authority** may exempt the source, use,
 33 user or class, as the case may be, from any requirement for registration or a license.

34 **SECTION 903.** ORS 453.675 is amended to read:

35 453.675. (1) When in the opinion of the Governor, such agreements will promote public health
 36 and safety and assist in the peaceful uses of radiation sources, the Governor on behalf of this state
 37 shall enter into agreements with the federal government providing for discontinuance of certain of
 38 the federal government's responsibilities with respect to radiation sources and the assumption
 39 thereof by this state.

40 (2) When a person immediately before the effective date of an agreement under subsection (1)
 41 of this section has a license from the federal government to do anything which relates to by-product
 42 material, source material or special nuclear material and which on the effective date of the agree-
 43 ment is subject to the control of this state, the person shall be considered to have a like license
 44 under ORS 453.605 to 453.800 until the expiration date specified in the license from the federal
 45 government or until the end of the 90th day after the person receives notice from the [*Department*]

1 of *Human Services*] **Oregon Health Authority** that the license will be considered expired, which-
 2 ever is earlier.

3 **SECTION 904.** ORS 453.685 is amended to read:

4 453.685. (1) The Director of [*Human Services*] **the Oregon Health Authority** may enter at any
 5 reasonable time upon any private or public property, with the permission of the owner or custodian,
 6 to determine whether there is compliance with ORS 453.605 to 453.800 and rules lawfully issued
 7 pursuant thereto. When such permission is not obtained or given, if the director has grounds to be-
 8 lieve that a violation of ORS 453.605 to 453.800 or rules lawfully issued pursuant thereto exists, the
 9 director may apply to the proper judicial officer for a warrant to enter upon the property for pur-
 10 poses of inspection, search or seizure consonant with the scope of ORS 453.605 to 453.800; except
 11 that in a case where the director has grounds to believe that a violation of ORS 453.605 to 453.800
 12 or rules pursuant thereto exists which presents a clear and present danger to the health, safety or
 13 security of the state or its citizens, the director may make such entry of property as is reasonable
 14 to abate the danger involved and for that purpose.

15 (2) Upon application to the proper judicial officer for a warrant to enter property under this
 16 section, the judicial officer shall forthwith summarily determine whether or not grounds to issue
 17 such warrant exists, and if the judicial officer finds such exists, the judicial officer shall immediately
 18 issue a warrant authorizing entry by the director upon the described property for the purposes of
 19 ORS 453.605 to 453.800. The director shall not be liable for injury or damage resulting from the
 20 action taken or authorized in good faith and without malice under the apparent authority of this
 21 section, even though such action is later judicially determined to be unlawful.

22 **SECTION 905.** ORS 453.695 is amended to read:

23 453.695. (1) When the [*Department of Human Services*] **Oregon Health Authority** by regulation
 24 so requires, any person who possesses or uses a radiation source shall cause to be made, in the
 25 manner prescribed by the [*department*] **authority**, records relating to the receipt, storage, transfer
 26 and disposition of the source and to such other matters as the [*department*] **authority** prescribes.

27 (2) Any person who possesses or uses a radiation source shall cause to be made, in the manner
 28 prescribed by the [*department*] **authority**, records showing the radiation exposure of any individual
 29 who is affected by such possession or use and for whom the [*department*] **authority** by regulation
 30 requires personnel monitoring.

31 (3)(a) Each person who possesses or uses a radiation source and who has reason to believe that
 32 any individual has received from that source radiation exposure in excess of the maximum permis-
 33 sible exposure established for an individual by regulations of the [*department*] **authority** shall give
 34 that individual notice of the possible exposure with a copy of any record of the exposure.

35 (b) Any person who possesses or uses a radiation source and who, in connection with that pos-
 36 session or use, employs an individual for whom the [*department*] **authority** by regulation requires
 37 personnel monitoring, in addition to any requirement of paragraph (a) of this subsection shall, if the
 38 individual so requests or if regulations of the [*department*] **authority** so require, give the individual
 39 a copy of the individual's personnel monitoring exposure record annually and at the end of the em-
 40 ployment.

41 (4) Upon the request of the [*department*] **authority** or its authorized representative, the custo-
 42 dian of any record required by this section shall give a copy of that record to the [*department*] **au-**
 43 **thority** or its authorized representative.

44 **SECTION 906.** ORS 453.705 is amended to read:

45 453.705. When a radiation source is in the possession, custody or control of any person who is

1 not equipped to observe or who fails to observe any applicable provision of or regulation pursuant
 2 to ORS 453.605 to 453.800, upon the issuance of an emergency order under ORS 453.807 the [*De-*
 3 *partment of Human Services*] **Oregon Health Authority** or its authorized representative may cause
 4 that source to be impounded.

5 **SECTION 907.** ORS 453.715 is amended to read:

6 453.715. When the [*Department of Human Services*] **Oregon Health Authority** in writing notifies
 7 the Attorney General that, in the judgment of the [*department*] **authority**, a person has engaged or
 8 is about to engage in any act or practice that constitutes or will constitute a violation of any pro-
 9 vision of or regulation pursuant to ORS 453.605 to 453.800, if the [*department*] **authority** so requests,
 10 the Attorney General shall apply to the circuit court for the county of that person's residence for
 11 an order enjoining such act or practice, or for an order directing compliance; and upon a showing
 12 by the [*department*] **authority** that that person has engaged or is about to engage in any such act
 13 or practice, the court may grant a permanent or temporary injunction or restraining order or other
 14 order.

15 **SECTION 908.** ORS 453.745 is amended to read:

16 453.745. (1) Subject to the approval of the Governor, to protect the public health and safety and
 17 to assist in the peaceful uses of radiation sources the [*Department of Human Services*] **Oregon**
 18 **Health Authority** may cooperate with the federal government, other states or interstate agencies
 19 to perform functions, including inspection, that relate to control of radiation sources.

20 (2) The [*department*] **authority** may institute programs to qualify personnel to carry out the
 21 provisions of ORS 453.605 to 453.800 and may make those personnel available for participation with
 22 the federal government, other states or interstate agencies in any program in furtherance of the
 23 purposes of ORS 453.605 to 453.800.

24 **SECTION 909.** ORS 453.752 is amended to read:

25 453.752. (1) An X-ray machine may not be operated unless the X-ray machine has a valid X-ray
 26 machine registration.

27 (2) Prior to issuance of an X-ray machine registration to a hospital, the X-ray machine shall be
 28 approved by an X-ray machine inspector employed by the [*Department of Human Services*] **Oregon**
 29 **Health Authority** or inspected by an accredited radiology inspector. The inspector shall also review
 30 procedures used during X-ray machine operation and the adequacy of the physical surroundings and
 31 equipment used in conjunction with operation of the X-ray machine.

32 (3) Prior to issuance of an X-ray machine registration to a facility other than a hospital, the
 33 X-ray machine shall be approved by an X-ray machine inspector employed by the [*department*] **au-**
 34 **thority**.

35 (4) An accredited radiology inspector conducting a registration inspection on a hospital X-ray
 36 machine shall conduct information gathering tests in the manner required by the [*department*] **au-**
 37 **thority**. The inspector shall make calculations in the manner prescribed by the [*department*] **au-**
 38 **thority** and shall enter the results and such other information as the [*department*] **authority** may
 39 require on a form provided by the [*department*] **authority**.

40 (5) The [*department*] **authority** shall evaluate the test results submitted by an accredited
 41 radiology inspector and shall grant a hospital X-ray machine registration provided that all standards
 42 adopted by rule of the [*department*] **authority** are met, a properly completed registration application
 43 has been submitted by the X-ray machine owner and all required fees have been paid.

44 (6) When an X-ray machine is registered by the [*department, the department*] **authority, the**
 45 **authority** shall issue the X-ray machine owner a document, sticker, plate or other device selected

1 by the [department] **authority** to evidence registration of the X-ray machine.

2 **SECTION 910.** ORS 453.754 is amended to read:

3 453.754. (1) Each application for an X-ray machine registration shall be in writing and shall state
4 such information as the [Department of Human Services] **Oregon Health Authority** by regulation
5 determines to be necessary. The application shall be accompanied by the registration fee due under
6 ORS 453.757.

7 (2) Not less than 90 nor more than 120 days prior to the expiration of an X-ray machine regis-
8 tration, the [department] **authority** shall mail notice to the X-ray machine owner of the pending
9 expiration of the registration. The notice shall inform the owner of the requirements for renewing
10 the registration.

11 **SECTION 911.** ORS 453.757 is amended to read:

12 453.757. (1) The [Department of Human Services] **Oregon Health Authority** shall charge a
13 biennial registration fee for a registration granted pursuant to ORS 453.752 in the following amounts
14 for:

15 (a) Hospital, radiological, chiropractic, osteopathic or medical X-ray machine, \$228.

16 (b) Hospital X-ray machine when X-ray machine inspection is performed by an accredited
17 radiology inspector, \$116.

18 (c) Industrial or podiatry X-ray machine, \$152.

19 (d) Dental, academic or veterinary X-ray machine, \$112.

20 (e) Microwave oven repair facility, \$112.

21 (2) The [Department of Human Services] **authority** shall charge an annual license fee for a spe-
22 cific license granted pursuant to ORS 453.665 that may not exceed \$3,000 as determined by rule of
23 the [Department of Human Services] **authority** and approved by the Oregon Department of Admin-
24 istrative Services.

25 (3) The fees prescribed by the [Department of Human Services] **authority** pursuant to sub-
26 sections (1)(e) and (2) of this section are due and payable as prescribed by rule of the [department]
27 **authority**.

28 (4) The [department] **authority** shall impose a \$264 fee for accreditation as a radiology inspector
29 and a biennial renewal fee of \$264.

30 (5) All moneys received by the [department] **authority** under subsections (1)(e) and (2) of this
31 section shall be paid into the State Treasury, deposited in the General Fund to the credit of the
32 Public Health Account, and used exclusively by the [department] **authority** for the purposes of ORS
33 453.605 to 453.800.

34 **SECTION 912.** ORS 453.761 is amended to read:

35 453.761. (1) An X-ray machine registration for a hospital radiological provider shall be valid for
36 two years, expiring in the second year on the last day of the month of issuance.

37 (2) An X-ray machine registration for a chiropractic, osteopathic or medical doctor office or
38 clinic shall be valid for two years, expiring in the second year on the last day of the month of is-
39 suance.

40 (3) An X-ray machine registration for a podiatry, dental or veterinary office or clinic or an ac-
41 ademic or industrial facility shall be valid for two years, expiring in the second year on the last day
42 of the month of issuance.

43 (4) Notwithstanding subsection (1), (2) or (3) of this section, the [Department of Human
44 Services] **Oregon Health Authority** shall, at the request of the X-ray machine owner, adjust the
45 registration expiration date of any X-ray machine to coincide with the registration expiration date

1 of other X-ray machines registered to the machine owner. The *[department]* **authority** shall prorate
2 the registration fee accordingly.

3 (5) If an X-ray machine or the physical surroundings or equipment associated with the operation
4 of the X-ray machine does not comply with one or more standards adopted by rule of the *[depart-*
5 *ment, the department]* **authority, the authority** may deny the registration or may grant a provi-
6 sional registration permitting temporary operation pending compliance with *[department]* **authority**
7 standards.

8 (6) The *[department]* **authority** may require that X-ray machines having a valid registration be
9 repaired, calibrated or modified or the physical surroundings or equipment used in conjunction with
10 the operation of the registered X-ray machine be changed to comply with new standards adopted by
11 rule of the *[department]* **authority** provided that compliance prior to expiration of the registration
12 is determined by the *[department]* **authority** to be necessary to protect occupational and public
13 health and safety.

14 (7) The *[department]* **authority** may deny, condition, suspend or revoke an X-ray machine regis-
15 tration if the *[department]* **authority** reasonably believes that the X-ray machine or the physical
16 surroundings or equipment used in conjunction with the operation of the X-ray machine presents a
17 danger to the health or safety of the operator or the public.

18 (8) An X-ray machine registration shall terminate if the X-ray machine is relocated for use in
19 a physical surrounding other than the physical surrounding the X-ray machine occupied when in-
20 spected.

21 **SECTION 913.** ORS 453.771 is amended to read:

22 453.771. Upon a complaint by any person, the *[Department of Human Services]* **Oregon Health**
23 **Authority** may investigate any alleged act prohibited by ORS 453.766. If, after investigation by *[a*
24 *department-employed]* **an authority-employed** X-ray machine inspector, the *[department]* **authority**
25 has reason to believe a prohibited act has been committed, the *[department]* **authority** may impose
26 a civil penalty. Any person subject to a civil penalty under this section may request a hearing before
27 the *[department]* **authority**. The hearing shall be conducted in accordance with ORS 183.413 to
28 183.470.

29 **SECTION 914.** ORS 453.775 is amended to read:

30 453.775. The *[Department of Human Services]* **Oregon Health Authority** shall:

31 (1) Develop programs to evaluate hazards associated with the use of X-ray machines.

32 (2) Promulgate standards and make reasonable regulations relating to the registration of X-ray
33 machines, X-ray machine operation, physical surroundings and equipment related to the operation
34 of X-ray machines, operator training and approved X-ray machine operating practices.

35 (3) Collect and disseminate information relating to proper X-ray machine operation.

36 (4) Provide technical assistance and safety information to X-ray machine users.

37 **SECTION 915.** ORS 453.780 is amended to read:

38 453.780. (1) All applicants for accreditation as radiology inspectors shall possess at a minimum
39 one of the following combinations of education and experience:

40 (a) One year of experience and one of the following:

41 (A) Certification by the American Board of Radiology or the American Board of Health Physics;

42 (B) A doctoral degree in a physical or biological science; or

43 (C) A Doctor of Medicine degree or a degree recognized by the *[Department of Human*
44 *Services]* **Oregon Health Authority** as an equally qualified health professional degree.

45 (b) Two years of experience and a master's degree in a physical or biological science.

1 (c) Four years of experience and a bachelor's degree in a physical or biological science.

2 (d) Six years of experience and an associate's degree in a physical or biological science.

3 (2) Experience required of an applicant includes, but is not limited to, measuring ionizing radi-
4 ation, evaluating radiation safety and documenting radiation protection needs.

5 (3) In addition to meeting the education and experience requirements of this section, applicants
6 shall be tested on knowledge of [department] **authority** rules governing the X-ray machine inspection
7 program, including but not limited to safety requirements and inspection procedures. Applicants
8 shall also complete such additional written or practical testing as the [department] **authority** may
9 require.

10 (4) A license shall not be issued to an applicant unless the applicant has paid all required fees.

11 **SECTION 916.** ORS 453.785 is amended to read:

12 453.785. (1) Accreditation as a radiology inspector shall be valid for two years and shall expire
13 in the second year on the last day of the month of issuance unless renewed.

14 (2) Accreditation may be renewed if the radiology inspector has complied with the continuing
15 education requirements adopted by rule of the [Department of Human Services] **Oregon Health**
16 **Authority** and has paid the renewal fee.

17 **SECTION 917.** ORS 453.790 is amended to read:

18 453.790. The [Department of Human Services] **Oregon Health Authority** may condition, suspend,
19 revoke or refuse to renew accreditation of a radiology inspector for the following reasons:

20 (1) Knowingly falsifying information included on the inspection report form supplied by the [de-
21 partment] **authority**.

22 (2) Substantially failing to comply with [department] **authority** procedures.

23 (3) Failing to meet [department] **authority** accuracy requirements.

24 (4) Such other grounds as the [department] **authority** may establish by rule.

25 **SECTION 918.** ORS 453.795 is amended to read:

26 453.795. The [Department of Human Services] **Oregon Health Authority** shall:

27 (1) Develop testing, training and continuing education standards for accredited radiology in-
28 spectors.

29 (2) Adopt rules for the proper inspection of X-ray machines for registration purposes and for
30 regulating the professional activities of accredited radiology inspectors.

31 (3) Develop and implement audit programs using [department-employed] **authority-employed** X-
32 ray machine inspectors to monitor accredited radiology inspector results and to monitor changes in
33 the performance of registered X-ray machines during the registration period. No charge shall be
34 made to an X-ray machine owner for an audit.

35 (4) Investigate and resolve complaints against accredited radiology inspectors and their em-
36 ployers.

37 **SECTION 919.** ORS 453.800 is amended to read:

38 453.800. (1) There is created in the General Fund of the State Treasury an X-ray Machine In-
39 spection Account. Moneys credited to the account are continuously appropriated to the [Department
40 of Human Services] **Oregon Health Authority** for the carrying out of ORS 453.752 to 453.795.

41 (2) All registration fees paid pursuant to ORS 453.757 (1) by owners of X-ray machines, all ap-
42 plication or renewal fees paid by applicants for accreditation as radiology inspectors under ORS
43 453.757 (4) and all civil penalties collected under ORS 453.771 are credited to the X-ray Machine
44 Inspection Account.

45 **SECTION 920.** ORS 453.805 is amended to read:

1 453.805. (1) Whenever it appears to the Director of [*Human Services*] **the Oregon Health Au-**
2 **thority** that a radiation source is presenting an imminent and substantial endangerment to the
3 health or safety of persons, the director may, without the necessity of prior administrative proce-
4 dures or hearing, enter an order requiring the person or persons responsible for the radiation source
5 to immediately take such action as is necessary to eliminate the endangerment. The director shall,
6 if requested, provide a prompt hearing after such order, in accordance with ORS chapter 183, after
7 which the order shall be continued, modified or revoked.

8 (2) If any person fails to comply with an order issued pursuant to subsection (1) of this section,
9 the circuit court for the county in which the radiation source is located shall compel compliance
10 with the order in the same manner as with an order of that court.

11 **SECTION 921.** ORS 453.807 is amended to read:

12 453.807. (1) Where the [*Department of Human Services*] **Oregon Health Authority** proposes to
13 refuse to issue or renew a license, to modify, amend, revise, revoke or suspend a license or to de-
14 termine compliance with or grant exemption from a regulation of the [*department*] **authority**, op-
15 portunity for hearing shall be accorded as provided in ORS chapter 183.

16 (2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules
17 and orders shall be in accordance with ORS chapter 183.

18 **SECTION 922.** ORS 453.864 is amended to read:

19 453.864. The Director of [*Human Services*] **the Oregon Health Authority** shall adopt rules to
20 carry out ORS 105.555, 431.175 and 453.855 to 453.912. The rules shall be developed in consultation
21 with:

22 (1) The State Fire Marshal or designee;

23 (2) The director of the Poison Control and Drug Information Program of the Oregon Health and
24 Science University, or a designee thereof;

25 (3) The Director of the Department of Environmental Quality, or a designee thereof;

26 (4) The Director of the Department of Consumer and Business Services, or a designee thereof;

27 (5) The Director of Transportation, or a designee thereof; and

28 (6) Any other governmental agency determined appropriate by the [*Department of Human Ser-*
29 *vices*] **Oregon Health Authority** whose advice and information is necessary for the formulation of
30 the rules authorized by this section.

31 **SECTION 923.** ORS 453.867 is amended to read:

32 453.867. (1) Unless determined fit for use, pursuant to ORS 105.555, 431.175 and 453.855 to
33 453.912 and rules of the [*Department of Human Services*] **Oregon Health Authority**, or as authorized
34 by ORS 453.870, no person shall transfer, sell, use or rent any property knowing or having reason-
35 able grounds to believe it was used as an illegal drug manufacturing site.

36 (2) All contracts, oral or written, for the transfer, sale, use or rent of property in violation of
37 subsection (1) of this section are voidable between the parties, at the instance of the purchaser,
38 transferee, user or renter. This subsection shall not make voidable any promissory note or other
39 evidence of indebtedness or any mortgage, trust deed or other security interest securing such a
40 promissory note or evidence of indebtedness, where such note or evidence and any such mortgage,
41 trust deed or other security interest were given to a person other than the person transferring,
42 selling, using or renting the property to induce such person to finance the transfer, sale, use or
43 rental of the property. This section shall not impair obligations or duties required to be performed
44 upon termination of a contract, as required by the provisions of the contract, including but not
45 limited to payment of damages or return of refundable deposits.

1 **SECTION 924.** ORS 453.870 is amended to read:

2 453.870. (1) Any property that is not fit for use as determined under ORS 453.876 may be
3 transferred or sold if full, written disclosure, as required by rules of the [*Department of Human*
4 *Services*] **Oregon Health Authority**, is made to the prospective purchaser, attached to the earnest
5 money receipt, if any, and shall accompany but not be a part of the sale document nor be recorded.
6 However, such property shall continue to be subject to the provisions of ORS 453.876, regardless
7 of transfer or sale under this section.

8 (2) Any transferee or purchaser who does not receive the notice described in subsection (1) of
9 this section may set aside the transfer or sale as voidable and bring suit to recover damages for any
10 losses incurred because of the failure to give such notice.

11 (3) The transferor or seller of any property described in subsection (1) of this section shall notify
12 the [*department*] **authority** of the transfer or sale as required by rule of the [*department*]
13 **authority**.

14 **SECTION 925.** ORS 453.873 is amended to read:

15 453.873. For the purposes of enforcement of ORS 105.555, 431.175 and 453.855 to 453.912, the
16 Director of [*Human Services*] **the Oregon Health Authority** or a designee thereof or the State Fire
17 Marshal or a designee thereof, upon presenting appropriate credentials and a warrant, if necessary,
18 issued under ORS 431.175 to the owner or agent of the owner, may:

19 (1) Enter, at reasonable times, any property that is known to have been used as an illegal drug
20 manufacturing site or for which there are reasonable grounds to believe that the property has been
21 used as an illegal drug manufacturing site.

22 (2) Inspect, at reasonable times, within reasonable limits and in a reasonable manner, property
23 known to have been used as an illegal drug manufacturing site or for which there are reasonable
24 grounds to believe the property has been used as an illegal drug manufacturing site.

25 **SECTION 926.** ORS 453.876 is amended to read:

26 453.876. (1) The Director of [*Human Services*] **the Oregon Health Authority** or a designee
27 thereof, the State Fire Marshal or a designee thereof or any law enforcement agency may determine
28 that property is not fit for use pursuant to ORS 105.555, 431.175 and 453.855 to 453.912 and appli-
29 cable rules adopted by the [*Department of Human Services*] **Oregon Health Authority** and may
30 make that determination on site. The determination is effective immediately and renders the prop-
31 erty not fit for use.

32 (2) The owner may appeal the determination, to the agency that made the determination, within
33 30 working days after the determination, pursuant to rules of the agency, or to circuit court.

34 (3) The appeal to the agency is not a contested case under ORS chapter 183. The question on
35 appeal is limited to whether the site is an illegal drug manufacturing site.

36 (4) If a determination that property is not fit for use is made under subsection (1) of this section,
37 a local government or the state may provide notice that the real property has been determined to
38 be an illegal drug manufacturing site and not fit for use to:

39 (a) A person in each residence located within 300 feet of the real property if the real property
40 is located within an urban growth boundary; or

41 (b) A person in each residence located within one quarter mile of the real property if the real
42 property is not located within an urban growth boundary.

43 (5) The notice described in subsection (4) of this section shall be in writing and shall include:

44 (a) The address of the real property that is determined to be not fit for use;

45 (b) A statement that the determination is subject to appeal and that the real property may be

1 determined to be fit for use if the appeal is successful or if the real property is certified as decon-
2 taminated;

3 (c) The telephone number of the office of the *[Department of Human Services]* **Oregon Health**
4 **Authority** that is responsible for overseeing the decontamination of illegal drug manufacturing
5 sites; and

6 (d) The website for the *[Department of Human Services]* **Oregon Health Authority** office re-
7 sponsible for overseeing the decontamination of illegal drug manufacturing sites that contains in-
8 formation on the dangers associated with real property that has been used as an illegal drug
9 manufacturing site.

10 **SECTION 927.** ORS 453.879 is amended to read:

11 453.879. When the Director of *[Human Services]* **the Oregon Health Authority** or a designee
12 thereof, the State Fire Marshal or designee thereof or any law enforcement agency makes a deter-
13 mination that property subject to ORS 105.555, 431.175 and 453.855 to 453.912 is not fit for use, the
14 Director of *[Human Services]* **the Oregon Health Authority** or designee thereof shall notify the
15 Director of the Department of Consumer and Business Services of the determination. The Director
16 of the Department of Consumer and Business Services shall list the property as not fit for use until
17 the Director of the Department of Consumer and Business Services is notified that the property has
18 been certified by the *[Department of Human Services]* **Oregon Health Authority** pursuant to ORS
19 453.885, or the initial determination is reversed on appeal, or the property is destroyed. Upon receipt
20 of the certificate, the Director of the Department of Consumer and Business Services shall cause the
21 property to be removed from the list described in this section.

22 **SECTION 928.** ORS 453.885 is amended to read:

23 453.885. (1) The owner of property determined to be not fit for use under ORS 105.555, 431.175
24 and 453.855 to 453.912 who desires to have the property certified as fit for use may use the services
25 of a contractor licensed by the *[Department of Human Services]* **Oregon Health Authority** to de-
26 contaminate the property or, upon approval by the *[department]* **authority**, the owner, or an agent
27 of the owner, may perform the decontamination work. The contractor, in coordination with the
28 owner or agent of the owner, shall prepare and submit a written work plan for decontamination to
29 the *[department]* **authority**. If the work plan is approved and the decontamination work is completed
30 according to the plan and is properly documented, the *[department]* **authority** shall certify the
31 property as having been decontaminated in compliance with rules of the *[department]* **authority**.
32 Upon the completion of the work plan, the *[department]* **authority** shall require the licensed con-
33 tractor's affidavit of compliance with the approved work plan.

34 (2) The property owner shall notify the Director of the Department of Consumer and Business
35 Services of the certification. No person who is not licensed by the *[Department of Human*
36 *Services]* **authority** under ORS 105.555, 431.175 and 453.855 to 453.912 shall advertise to undertake
37 or perform the work necessary to decontaminate property determined to be not fit for use under
38 ORS 105.555, 431.175 and 453.855 to 453.912.

39 (3) Upon receipt of the certificate and a request by the property owner to remove the property
40 from the list, the Director of the Department of Consumer and Business Services shall cause the
41 property to be removed from the list.

42 **SECTION 929.** ORS 453.888 is amended to read:

43 453.888. (1) The *[Department of Human Services]* **Oregon Health Authority** by rule shall estab-
44 lish performance standards for contractors under ORS 105.555, 431.175 and 453.855 to 453.912.

45 (2) The *[department]* **authority** shall train and test, or may approve courses to train and test,

1 contractors' personnel on the essential elements in assessing premises used as an illegal drug man-
2 ufacturing site to determine hazard reduction measures needed, techniques for adequately reducing
3 contaminants, use of personal protective equipment and relevant federal regulations and state rules.

4 (3) Upon the contractor's supervisory personnel's successful completion of the training and
5 testing and the contractor having complied with the rules of the [*department*] **authority** and having
6 paid the required fee, the contractor shall be licensed. Licenses are renewable biennially, as deter-
7 mined by rule of the [*department*] **authority**, upon supervisory personnel's successful completion of
8 any required refresher course.

9 (4) The [*department*] **authority** may deny, suspend or revoke the license of any contractor pur-
10 suant to ORS chapter 183 for:

11 (a) Failing to:

12 (A) Perform decontamination work under the supervision of trained personnel;

13 (B) File a work plan;

14 (C) Perform work pursuant to the plan;

15 (D) Pay a civil penalty imposed under ORS 105.555, 431.175 and 453.855 to 453.912; or

16 (E) Perform work that meets the requirements of ORS 453.903.

17 (b) Committing fraud or misrepresentation in:

18 (A) Applying for a license;

19 (B) Seeking approval of a work plan; or

20 (C) Documenting completion of the work to the [*department*] **authority**.

21 (5) The [*department*] **authority** may impose a civil penalty not to exceed \$500, in addition to or
22 in lieu of license denial, suspension or revocation, pursuant to ORS chapter 183.

23 **SECTION 930.** ORS 453.891 is amended to read:

24 453.891. Between the dates of scheduled training for contractors under ORS 453.888, the [*De-*
25 *partment of Human Services*] **Oregon Health Authority** shall be available to consult with licensed
26 contractors, as well as those planning to become licensed, on information pertinent to illegal drug
27 manufacturing sites, including but not limited to chemicals found at such sites and their toxicity,
28 new or revised decontamination procedures, personal protective equipment and applicable federal
29 regulations and state rules.

30 **SECTION 931.** ORS 453.894 is amended to read:

31 453.894. (1) The [*Department of Human Services*] **Oregon Health Authority** shall establish by
32 rule a schedule of fees for at least the following:

33 (a) Initial licenses and renewal under ORS 105.555, 431.175 and 453.855 to 453.912.

34 (b) Training courses and examinations conducted by or on behalf of the [*department*]
35 **authority**.

36 (c) Reexaminations for failing the initial examinations.

37 (d) Review of work plans.

38 (2) The fees established under subsection (1) of this section shall be based upon the costs of the
39 [*department*] **authority** in carrying out the provisions of ORS 105.555, 431.175 and 453.855 to 453.912.

40 (3) If a license renewal application and fee is not received by the [*department*] **authority** within
41 15 days after the expiration of the license, a penalty of \$100 shall be added and collected.

42 (4) The fees collected under this section shall be paid into the State Treasury and deposited in
43 the General Fund to the credit of the Public Health Account. Such moneys are continuously appro-
44 priated to the [*Department of Human Services to pay the department's*] **Oregon Health Authority**
45 **to pay the authority's** expenses in administering the provisions of ORS 105.555, 431.175 and 453.855

1 to 453.912.

2 (5) Subject to prior approval by the Oregon Department of Administrative Services and a report
3 to the Emergency Board prior to adopting the fee, any fee or change shall be within the budget
4 authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

5 **SECTION 932.** ORS 453.897 is amended to read:

6 453.897. The [*Department of Human Services*] **Oregon Health Authority** shall provide lists of
7 the names of contractors licensed under ORS 105.555, 431.175 and 453.855 to 453.912 to the Director
8 of the Department of Consumer and Business Services who shall distribute the lists to local building
9 code enforcement agencies. The local agencies shall make the list available on request and shall
10 supply a copy to any property owner whose property is determined to be not fit for use under ORS
11 105.555, 431.175 and 453.855 to 453.912.

12 **SECTION 933.** ORS 453.900 is amended to read:

13 453.900. The [*Department of Human Services*] **Oregon Health Authority** may contract with state
14 or local agencies or private persons to perform any inspection or to obtain any samples relative to
15 determining the adequacy of decontamination work.

16 **SECTION 934.** ORS 453.903 is amended to read:

17 453.903. The [*Department of Human Services*] **Oregon Health Authority** shall evaluate annually
18 a number of the property decontamination projects performed by licensed contractors to determine
19 the adequacy of the decontamination work, using the services of an independent environmental
20 contractor or state or local agency. If a project fails the evaluation and inspection, the contractor
21 is subject to a civil penalty and license suspension that prohibits the contractor from performing
22 additional work until deficiencies have been corrected on the project. Civil penalties under this
23 section shall be imposed as provided in ORS 183.745.

24 **SECTION 935.** ORS 453.909 is amended to read:

25 453.909. Counties and cities by ordinance may prohibit use or occupancy of or provide for reg-
26 ulation of any property so long as such prohibition or regulation is consistent with ORS 105.555,
27 431.175 and 453.855 to 453.912 and rules of the [*Department of Human Services*] **Oregon Health**
28 **Authority**.

29 **SECTION 936.** ORS 453.995 is amended to read:

30 453.995. (1) In addition to any other liability or penalty provided by law, the [*Department of*
31 *Human Services*] **Oregon Health Authority** may impose a civil penalty on a person for violation
32 of:

33 (a) ORS 453.885; or

34 (b) ORS 453.005 to 453.135 or rules adopted under ORS 453.005 to 453.135 by the [*department*]
35 **authority**.

36 (2) A civil penalty imposed under this section may not exceed \$2,000.

37 (3) ORS 183.745 applies to civil penalties imposed under this section.

38 **SECTION 937.** ORS 454.235 is amended to read:

39 454.235. (1) The governing body of the municipality, by proposed charter amendment or ordi-
40 nance, may refer the question of acquiring and constructing a disposal or water system, as defined
41 in ORS 448.115, to a vote of its electors, and after approval thereof by a majority of such electors,
42 may authorize the issuance of and cause to be issued bonds of the municipality for such purposes.
43 The bonds may be general obligation, limited obligation or self-liquidating in character in a sum not
44 more than the amount authorized at such election and shall be subject to ORS 454.205 to 454.255.
45 The bonds may provide for payment of principal and interest thereon from service charges to be

1 imposed by the governing body for services to be extended through employment and use of the dis-
 2 posal or water system. If service charges are imposed to be paid as provided in ORS 454.225, such
 3 portion thereof as may be deemed sufficient shall be set aside as a sinking fund for payment of in-
 4 terest on the bond and the principal thereof at maturity.

5 (2)(a) When the Environmental Quality Commission or the [*Department of Human Services*]
 6 **Oregon Health Authority** enters an order pursuant to ORS chapter 183 that requires the acqui-
 7 sition or construction of a disposal system or a water system in a municipality, respectively, the
 8 governing body of the municipality shall refer to its electors the question of a bond issue in an
 9 amount sufficient to finance the necessary acquisition or construction of such disposal or water
 10 system. The election shall be held within one year of the date the order of the commission or [*de-*
 11 *partment*] **authority** is entered.

12 (b) If, within eight months after the order of the commission or [*department*] **authority**, the
 13 governing body of the municipality has not called an election in compliance with paragraph (a) of
 14 this subsection, the commission or [*department*] **authority**, whichever is appropriate, may apply to
 15 the circuit court of the county in which the municipality is located, or to the Circuit Court of
 16 Marion County for an order compelling the holding of an election.

17 (c) If the electors do not approve the disposal system bond issue, submitted pursuant to para-
 18 graph (a) or (b) of this subsection, the commission may apply to the circuit court of the county in
 19 which the municipality is located or to the Circuit Court of Marion County for an order directing
 20 that self-liquidating bonds of the municipality be issued and sold pursuant to ORS 454.205 to 454.255,
 21 and directing that the proceeds be applied to the acquisition or construction of a disposal system
 22 required to comply with the final order of the commission. If the court finds that the disposal system
 23 required by the final order of the commission is necessary under the rules or standards of the
 24 commission, it shall issue an order directing that such bonds be issued and sold without elector
 25 approval in such an amount as the court finds necessary to acquire or construct such disposal sys-
 26 tem, and that the proceeds be applied for such purposes.

27 (d) Any court proceeding authorized by paragraphs (b) and (c) of this subsection shall be ad-
 28 vanced on the court docket for immediate hearing.

29 **SECTION 938.** ORS 455.680 is amended to read:

30 455.680. (1) Plan approval and permits shall be obtained from the Department of Consumer and
 31 Business Services prior to construction, enlargement or alteration of any recreation park, picnic
 32 park or organizational camp as defined in ORS 446.310.

33 (2) If the department determines that the work conforms to the approved plans and specifica-
 34 tions, it shall issue a final approval which shall, if all other conditions of ORS 455.010 to 455.240,
 35 455.410 to 455.450 and 455.595 to 455.740 are met, authorize the issuance of a license by the [*De-*
 36 *partment of Human Services*] **Oregon Health Authority** to operate the park or, in the case of then
 37 currently licensed parks, shall authorize continued operation for the remaining part of the licensing
 38 year.

39 (3) In accordance with ORS 455.010 to 455.240, 455.410 to 455.450 and 455.595 to 455.740 and in
 40 consultation and agreement with the [*Department of Human Services, the Department of Consumer*
 41 *and Business Services*] **authority, the department** shall adopt rules to carry out this section. The
 42 rules adopted pursuant to this section shall be a specialty code as defined in ORS 455.010.

43 **SECTION 939.** ORS 458.525 is amended to read:

44 458.525. (1) The Housing and Community Services Department shall serve as the lead public
 45 body on hunger and homelessness issues.

1 (2) The Interagency Council on Hunger and Homelessness is established. The Director of the
2 Housing and Community Services Department shall chair the council. In addition to the director, the
3 council shall consist of 15 members as follows:

4 (a) One member representing each of the following:

5 (A) The Housing and Community Services Department.

6 (B) The Department of Corrections.

7 (C) The Economic and Community Development Department.

8 (D) The State Commission on Children and Families.

9 (E) The Department of Education.

10 (F) The State Department of Agriculture.

11 (G) The Employment Department.

12 (H) The Department of Veterans' Affairs.

13 (I) The Department of Transportation.

14 (J) The Oregon Youth Authority.

15 (K) The Department of Community Colleges and Workforce Development.

16 (L) The Department of Justice.

17 **(M) The Oregon Health Authority.**

18 (b) [*Three*] **Two** members representing the Department of Human Services. Of the [*three*] **two**
19 members representing that department:

20 (A) One shall have expertise on issues affecting services to adults and families.

21 [*B*] *One shall have expertise on issues affecting health services.*

22 [*C*] **(B)** One shall have expertise on issues affecting services to seniors and to persons with
23 disabilities.

24 (3) Each council member must be the administrative head of the listed agency or an employee
25 of that agency who is designated by the administrative head and who has an agency policy-making
26 role affecting hunger, food programs, nutrition, homelessness or related issues.

27 (4) The Hunger Relief Task Force shall adopt recommendations and proposals as the task force
28 deems appropriate. The council shall be responsible for receiving the recommendations and pro-
29 posals adopted by the task force and the recommendations of any state body relating to the issue
30 of homelessness, and for forwarding the recommendations and proposals to state agencies or other
31 public or private organizations for action that the council deems appropriate:

32 (a) To ensure the coordination of state agency hunger relief efforts and homelessness relief ef-
33 forts;

34 (b) To ensure that food and nutrition programs, other hunger relief efforts and homelessness
35 relief efforts operate efficiently and effectively;

36 (c) To monitor the utilization of federal hunger relief efforts and homelessness relief efforts and
37 provide outreach to expand underutilized programs; and

38 (d) To encourage the coordination of state and local programs, public and private antipoverty
39 programs affecting food distribution and programs for assisting the homeless.

40 (5) The Director of the Housing and Community Services Department, in collaboration with the
41 Director of Human Services, shall convene council meetings at least quarterly.

42 (6) The Director of the Housing and Community Services Department shall provide the council
43 with staff support the director deems appropriate, by using Housing and Community Services De-
44 partment employees or by contract. The director shall also provide the council with supplies as the
45 director deems appropriate.

1 **SECTION 940.** ORS 458.532 is amended to read:

2 458.532. (1) The Hunger Relief Task Force is established in the Housing and Community Services
3 Department. The task force shall consist of not more than 28 members appointed as follows:

4 (a) The President of the Senate shall appoint one member from among members of the Senate.

5 (b) The Senate Minority Leader shall appoint one member from among members of the Senate.

6 (c) The Speaker of the House of Representatives shall appoint one member from among members
7 of the House of Representatives.

8 (d) The House Minority Leader shall appoint one member from among members of the House
9 of Representatives.

10 (e) The Director of the Housing and Community Services Department, with the advice of the
11 Director of Human Services **and the Director of the Oregon Health Authority**, shall appoint the
12 following:

13 (A) One member representing the Department of Education who has experience in child nutri-
14 tion programs.

15 (B) One member representing the Department of Human Services who has experience in food
16 stamp programs.

17 (C) One member representing the [*Department of Human Services*] **Oregon Health Authority**
18 who has experience in the Women, Infants and Children program.

19 (D) One member representing the State Department of Agriculture.

20 (E) One member representing the Oregon Food Bank.

21 (F) One member representing United Way of America or a successor organization.

22 (G) One member representing an Oregon low-income advocacy group.

23 (H) One member who is a student at an institution of higher education.

24 (I) One member representing the Community Action Directors of Oregon.

25 (J) One member representing the food retailing industry.

26 (K) One member representing the food growing and processing industries.

27 (L) One member who is a direct service provider.

28 (M) One member representing county government.

29 (N) One member representing the migrant community.

30 (O) Three members representing the religious community.

31 (P) One member representing the Housing and Community Services Department.

32 (Q) No more than six additional members having qualifications other than those of members
33 described in subparagraphs (A) to (P) of this paragraph.

34 (2) A member serves for a three-year term. A member may be reappointed.

35 (3) If there is a vacancy for any cause, the appointing authority shall make an appointment to
36 become immediately effective for the unexpired term. The appointing authority may appoint a re-
37 placement for any member of the task force who misses more than two consecutive meetings of the
38 task force.

39 (4) One-half of the task force membership constitutes a quorum for the transaction of business.

40 (5) The Director of the Housing and Community Services Department shall provide the task
41 force with staff support the director deems appropriate, by using Housing and Community Services
42 Department employees or by contract. The director shall also provide for the payment of appropriate
43 task force operating expenses.

44 **SECTION 941.** ORS 459.386 is amended to read:

45 459.386. As used in ORS 459.386 to 459.405:

1 (1) "Biological waste" includes blood and blood products, excretions, exudates, secretions,
2 suctionings and other body fluids that cannot be directly discarded into a municipal sewer system,
3 and waste materials saturated with blood or body fluids, but does not include diapers soiled with
4 urine or feces.

5 (2) "Cultures and stocks" includes etiologic agents and associated biologicals, including speci-
6 men cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from pro-
7 duction of biologicals, and serums and discarded live and attenuated vaccines. "Cultures and
8 stocks" does not include throat and urine cultures.

9 (3) "Disposal" means the final placement of treated infectious waste in a disposal site operating
10 under a permit issued by a state or federal agency.

11 (4) "Infectious waste" includes biological waste, cultures and stocks, pathological waste and
12 sharps.

13 (5)(a) "Pathological waste" includes:

14 (A) Biopsy materials and all human tissues;

15 (B) Anatomical parts that emanate from surgeries, autopsies and obstetrical and laboratory
16 procedures; and

17 (C) Animal carcasses exposed to pathogens in research and the bedding and other waste from
18 such animals.

19 (b) "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

20 (6) "Sharps" includes needles, IV tubing with needles attached, scalpel blades, lancets, glass
21 tubes that could be broken during handling and syringes that have been removed from their original
22 sterile containers.

23 (7) "Storage" means the temporary containment of infectious waste in a manner that does not
24 constitute treatment or disposal of such waste.

25 (8) "Transportation" means the movement of infectious waste from the point of generation over
26 a public highway to any intermediate point or to the point of final treatment.

27 (9) "Treatment" means incineration, sterilization or other method, technique or process ap-
28 proved by the [Department of Human Services] **Oregon Health Authority** that changes the charac-
29 ter or composition of any infectious waste so as to render the waste noninfectious.

30 **SECTION 942.** ORS 459.390 is amended to read:

31 459.390. (1) Infectious waste shall be segregated from other wastes by separate containment at
32 the point of generation. Enclosures used for storage of infectious waste shall be secured to prevent
33 access by unauthorized persons and shall be marked with prominent warning signs.

34 (2) Infectious waste, except for sharps, shall be contained in disposable red plastic bags or con-
35 tainers made of other materials impervious to moisture and strong enough to prevent ripping, tear-
36 ing or bursting under normal conditions of use. The bags or containers shall be closed to prevent
37 leakage or expulsion of solid or liquid wastes during storage, collection or transportation.

38 (3) Sharps shall be contained for storage, collection, transportation and disposal in leakproof,
39 rigid, puncture-resistant red containers that are taped closed or tightly lidded to prevent loss of the
40 contents. Sharps may be stored in such containers for more than seven days.

41 (4) All bags, boxes or other containers for infectious waste and rigid containers of discarded
42 sharps shall be clearly identified as containing infectious waste.

43 (5) Infectious waste shall be stored at temperatures and only for times established by rules of
44 the [Department of Human Services] **Oregon Health Authority**.

45 (6) Infectious waste shall not be compacted before treatment and shall not be placed for col-

1 lection, storage or transportation in a portable or mobile trash compactor.

2 (7) Infectious waste contained in disposable bags as specified in this section shall be placed for
3 collection, storage, handling or transportation in a disposable or reusable pail, carton, box, drum,
4 dumpster, portable bin or similar container. The container shall have a tight-fitting cover and be
5 kept clean and in good repair. The container may be of any color and shall be conspicuously labeled
6 with the international biohazard symbol and the words "Biomedical Waste" on the sides so as to
7 be readily visible from any lateral direction when the container is upright.

8 (8) Each time a reusable container for infectious waste is emptied, the container shall be thor-
9 oughly washed and decontaminated unless the surfaces of the container have been protected from
10 contamination by a disposable red liner, bag or other device removed with the waste.

11 (9) Trash chutes shall not be used to transfer infectious waste between locations where it is
12 contained or stored.

13 (10) Generators that produce 50 pounds or less of infectious waste in any calendar month shall
14 be exempt from the specific requirements of subsections (5), (7) and (8) of this section.

15 **SECTION 943.** ORS 459.395 is amended to read:

16 459.395. (1) Pathological wastes shall be treated by incineration in an incinerator that provides
17 complete combustion of waste to carbonized or mineralized ash. The ash shall be disposed of as
18 provided in rules adopted by the Environmental Quality Commission. However, if the Department
19 of Environmental Quality determines that incineration is not reasonably available within a
20 watershed, pathological wastes may be disposed of in the same manner provided for cultures and
21 stocks.

22 (2) Cultures and stocks shall be incinerated as described in subsection (1) of this section or
23 sterilized by other means prescribed by [*Department of Human Services*] **Oregon Health Authority**
24 rule. Sterilized waste may be disposed of in a permitted land disposal site if it is not otherwise
25 classified as hazardous waste.

26 (3) Liquid or soluble semisolid biological wastes may be discharged into a sewage treatment
27 system that provides secondary treatment of waste.

28 (4) Sharps and biological wastes may be incinerated as described in subsection (1) of this section
29 or sterilized by other means prescribed by [*Department of Human Services*] **authority** rule. Sharps
30 may be disposed of in a permitted land disposal site only if the sharps are in containers as required
31 in ORS 459.390 (3) and are placed in a segregated area of the landfill.

32 (5) Other methods of treatment and disposal may be approved by rule of the [*Environmental*
33 *Quality Commission*] **commission**.

34 **SECTION 944.** ORS 466.135 is amended to read:

35 466.135. Upon receipt of an application for a hazardous waste disposal site permit, the Depart-
36 ment of Environmental Quality shall cause copies of the application to be sent to affected state
37 agencies, including the [*Department of Human Services*] **Oregon Health Authority**, the Public Util-
38 ity Commission, the State Fish and Wildlife Commission and the Water Resources Director. Each
39 agency shall respond by making a recommendation as to whether the permit application should be
40 granted. If the [*Department of Human Services*] **Oregon Health Authority** recommends against
41 granting the permit, the Environmental Quality Commission must refuse to issue the permit. Rec-
42 ommendation from other agencies shall be considered as evidence in determining whether to grant
43 the permit.

44 **SECTION 945.** ORS 466.280 is amended to read:

45 466.280. Upon receipt of an application for a PCB disposal facility permit, the Department of

1 Environmental Quality shall cause copies of the application to be sent to affected state agencies,
2 including the [*Department of Human Services*] **Oregon Health Authority**, the Public Utility Com-
3 mission, the State Fish and Wildlife Commission and the Water Resources Director. Each agency
4 shall respond within the period specified by the Department of Environmental Quality by making a
5 written recommendation as to whether the permit application should be granted. Recommendation
6 from other agencies shall be considered in determining whether to grant the permit.

7 **SECTION 946.** ORS 466.605 is amended to read:

8 466.605. As used in ORS 466.605 to 466.680 and 466.990 (3) and (4):

9 (1) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

10 (2) "Cleanup" means the containment, collection, removal, treatment or disposal of oil or haz-
11 arduous material; site restoration; and any investigations, monitoring, surveys, testing and other in-
12 formation gathering required or conducted by the Department of Environmental Quality.

13 (3) "Cleanup costs" means all costs associated with the cleanup of a spill or release incurred
14 by the state, its political subdivision or any person with written approval from the department when
15 implementing ORS 466.205, 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or 468B.320.

16 (4) "Commission" means the Environmental Quality Commission.

17 (5) "Department" means the Department of Environmental Quality.

18 (6) "Director" means the Director of the Department of Environmental Quality.

19 (7) "Hazardous material" means one of the following:

20 (a) A material designated by the commission under ORS 466.630.

21 (b) Hazardous waste as defined in ORS 466.005.

22 (c) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy
23 Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

24 (d) Communicable disease agents as regulated by the [*Department of Human Services*] **Oregon**
25 **Health Authority** under ORS 431.035 to 431.530, 433.001 to 433.045 and 433.110 to 433.770.

26 (e) Hazardous substances designated by the United States Environmental Protection Agency
27 under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

28 (8) "Oils" or "oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil re-
29 fuse and any other petroleum related product.

30 (9) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, as-
31 sociation, municipal corporation, political subdivision, interstate body, the state and any agency or
32 commission thereof and the federal government and any agency thereof.

33 (10) "Reportable quantity" means one of the following:

34 (a) A quantity designated by the commission under ORS 466.625.

35 (b) The lesser of:

36 (A) The quantity designated for hazardous substances by the United States Environmental Pro-
37 tection Agency pursuant to section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as
38 amended;

39 (B) The quantity designated for hazardous waste under ORS 466.005 to 466.385, 466.990 (1) and
40 (2) and 466.992;

41 (C) Any quantity of radioactive material, radioactive substance or radioactive waste;

42 (D) If spilled into waters of the state, or escape into waters of the state is likely, any quantity
43 of oil that would produce a visible oily slick, oily solids, or coat aquatic life, habitat or property
44 with oil, but excluding normal discharges from properly operating marine engines; or

45 (E) If spilled on land, any quantity of oil over one barrel.

1 (c) Ten pounds unless otherwise designated by the commission under ORS 466.625.

2 (11) "Respond" or "response" means:

3 (a) Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release
4 of oil or hazardous material;

5 (b) First aid, rescue or medical services, and fire suppression; or

6 (c) Containment or other actions appropriate to prevent, minimize or mitigate damage to the
7 public health, safety, welfare or the environment which may result from a spill or release or
8 threatened spill or release if action is not taken.

9 (12) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, re-
10 leasing, leaking or placing of any oil or hazardous material into the air or into or on any land or
11 waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS
12 chapter 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992
13 or federal law or while being stored or used for its intended purpose.

14 (13) "Threatened spill or release" means oil or hazardous material is likely to escape or be
15 carried into the air or into or on any land or waters of the state.

16 **SECTION 947.** ORS 466.615 is amended to read:

17 466.615. Nothing in ORS 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) is intended to
18 grant the Environmental Quality Commission or the Department of Environmental Quality authority
19 over any radioactive substance regulated by the [*Department of Human Services*] **Oregon Health**
20 **Authority** under ORS chapter 453, or any radioactive material or waste regulated by the State
21 Department of Energy or Energy Facility Siting Council under ORS chapter 469.

22 **SECTION 948.** ORS 468.035 is amended to read:

23 468.035. (1) Subject to policy direction by the Environmental Quality Commission, the Depart-
24 ment of Environmental Quality:

25 (a) Shall encourage voluntary cooperation by the people, municipalities, counties, industries,
26 agriculture, and other pursuits, in restoring and preserving the quality and purity of the air and the
27 waters of the state in accordance with rules and standards established by the commission.

28 (b) May conduct and prepare, independently or in cooperation with others, studies, investi-
29 gations, research and programs pertaining to the quality and purity of the air or the waters of the
30 state and to the treatment and disposal of wastes.

31 (c) Shall advise, consult, and cooperate with other agencies of the state, political subdivisions,
32 other states or the federal government, in respect to any proceedings and all matters pertaining to
33 control of air or water pollution or for the formation and submission to the legislature of interstate
34 pollution control compacts or agreements.

35 (d) May employ personnel, including specialists and consultants, purchase materials and sup-
36 plies, and enter into contracts necessary to carry out the purposes set forth in ORS 448.305, 454.010
37 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and
38 468B.

39 (e) Shall conduct and supervise programs of air and water pollution control education, including
40 the preparation and distribution of information regarding air and water pollution sources and con-
41 trol.

42 (f) Shall provide advisory technical consultation and services to units of local government and
43 to state agencies.

44 (g) Shall develop and conduct demonstration programs in cooperation with units of local gov-
45 ernment.

1 (h) Shall serve as the agency of the state for receipt of moneys from the federal government or
2 other public or private agencies for the purposes of air and water pollution control, studies or re-
3 search and to expend moneys after appropriation thereof for the purposes given.

4 (i) Shall make such determination of priority of air or water pollution control projects as may
5 be necessary under terms of statutes enacted by the Congress of the United States.

6 (j) Shall seek enforcement of the air and water pollution laws of the state.

7 (k) Shall institute or cause to be instituted in a court of competent jurisdiction, proceedings to
8 compel compliance with any rule or standard adopted or any order or permit, or condition thereof,
9 issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
10 454.755 and ORS chapters 468, 468A and 468B.

11 (L) Shall encourage the formulation and execution of plans in conjunction with air and water
12 pollution control agencies or with associations of counties, cities, industries and other persons who
13 severally or jointly are or may be the source of air or water pollution, for the prevention and
14 abatement of pollution.

15 (m) May determine, by means of field studies and sampling, the degree of air or water pollution
16 in various regions of the state.

17 (n) May perform such other and further acts as may be necessary, proper or desirable to carry
18 out effectively the duties, powers and responsibilities of the department as set forth in ORS 448.305,
19 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468,
20 468A and 468B.

21 (o) Shall coordinate any activities of the department related to a watershed enhancement project
22 approved by the Oregon Watershed Enhancement Board under ORS 541.375 with activities of other
23 cooperating state and federal agencies participating in the project.

24 (2) Nothing in this section shall affect the authority of the [*Department of Human Services*]
25 **Oregon Health Authority** to make and enforce rules:

26 (a) Regarding the quality of water for human or animal consumption pursuant to ORS 448.115
27 to 448.325, 624.010 to 624.121 and 624.310 to 624.430; and

28 (b) Regarding the quality of water for public swimming places pursuant to ORS 431.110.

29 (3) Nothing in this section shall prevent the State Department of Agriculture or the State
30 Forestry Department from independently receiving moneys from a public or private agency for the
31 purposes of preventing or controlling air or water pollution resulting from agricultural or
32 silvicultural activities or soil erosion, or for research related to such purposes.

33 (4)(a) In awarding a public contract under ORS 279.835 to 279.855 or ORS chapter 279A, 279B
34 or 279C for a removal or remedial action pursuant to ORS 465.200 to 465.545, a corrective action
35 or cleanup action pursuant to ORS 466.005 to 466.385, 466.605 to 466.680 or 466.706 to 466.882 or a
36 removal pursuant to ORS 468B.005 to 468B.030, 468B.035, 468B.048 to 468B.085, 468B.090, 468B.093,
37 468B.095 and 468B.300 to 468B.500, the department, and the Oregon Department of Administrative
38 Services, when administering the establishment of such a contract on behalf of the Department of
39 Environmental Quality under ORS 279A.050 and 279A.140, shall subtract from the amount of any bid
40 or proposal the hazardous waste management fees and solid waste fees that would be required by
41 law to be paid to the department for waste that would be disposed of at a solid waste disposal site
42 or a hazardous waste or PCB disposal facility, based on the bid or proposal. The amount to be
43 subtracted shall be established on the basis of reasonable preprocurement estimates of the amount
44 of waste that would be disposed of under the contract and that would be subject to those fees.

45 (b) The subtraction for fees under paragraph (a) of this subsection shall apply only to a contract

1 reasonably anticipated to involve the disposal of no less than 50 tons of hazardous waste or no less
 2 than 500 tons of solid waste. The Legislative Assembly finds that making accurate advance estimates
 3 of amounts of waste that would be disposed of in projects of this character is technically challenging
 4 and requires the application of professional discretion. Therefore, no award of a contract under this
 5 subsection shall be subject to challenge, under ORS 279B.410, 279B.415 or 279C.460 or otherwise,
 6 on the ground of the inaccuracy or claimed inaccuracy of any such estimate.

7 (c) The subtraction for fees under paragraph (a) of this subsection shall not apply to the estab-
 8 lishment, by or on behalf of the department, of master contracts by which the department engages
 9 the services of a contractor over a period of time for the purpose of issuing work orders for the
 10 performance of environmental activities on a project or projects for which the amounts of waste to
 11 be disposed of were not reasonably identified at the inception of the master contracts. However, the
 12 department shall require any contractor under a master contract to apply the subtraction for fees
 13 under paragraph (a) of this subsection in the selection of any subcontractor to perform the removal
 14 of waste in amounts equaling or exceeding the amounts set forth in paragraph (b) of this subsection.
 15 Nothing in this subsection shall be construed to prohibit the department or the Oregon Department
 16 of Administrative Services from establishing contracts pursuant to this section through contracting
 17 procedures authorized by ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C that do
 18 not require the solicitation of bids or proposals.

19 **SECTION 949.** ORS 468.055 is amended to read:

20 468.055. In addition to the authority granted under ORS 190.003 to 190.130, when authorized by
 21 the Environmental Quality Commission and the [*Department of Human Services*] **Oregon Health**
 22 **Authority**, the Director of the Department of Environmental Quality and the Director of [*Human*
 23 *Services*] **the Oregon Health Authority** may contract on behalf of their respective agencies for the
 24 purposes of carrying out the functions of either agency, defining areas of responsibility, furnishing
 25 services or employees by one to the other and generally providing cooperative action in the inter-
 26 ests of public health and the quality of the environment in Oregon. Each contracting agency is di-
 27 rected to maintain liaison with the other and to cooperate with the other in all matters of joint
 28 concern or interest.

29 **SECTION 950.** ORS 468.060 is amended to read:

30 468.060. On its own motion after public hearing, the Environmental Quality Commission may
 31 grant specific authorization to the [*Department of Human Services*] **Oregon Health Authority** or to
 32 any county, district or city board of health to enforce any rule of the commission relating to air or
 33 water pollution or solid wastes.

34 **SECTION 951.** ORS 468A.707 is amended to read:

35 468A.707. (1) The Environmental Quality Commission by rule shall:

36 (a) Establish an asbestos abatement program that assures the proper and safe abatement of
 37 asbestos hazards through contractor licensing and worker training.

38 (b) Establish the date after which a contractor must be licensed under ORS 468A.720 and a
 39 worker must hold a certificate under ORS 468A.730.

40 (c) Establish criteria and provisions for granting an extension of time for contractor licensing
 41 and worker certification, which may consider the number of workers and the availability of ac-
 42 credited training courses.

43 (2) The program established under subsection (1) of this section shall include at least:

44 (a) Criteria for contractor licensing and training;

45 (b) Criteria for worker certification and training;

1 (c) Standardized training courses; and

2 (d) A procedure for inspecting asbestos abatement projects.

3 (3) In establishing the training requirements under subsections (1) and (2) of this section, the
4 commission shall adopt different training requirements that reflect the different levels of responsi-
5 bility of the contractor or worker, so that within the category of contractor, sublevels shall be
6 separately licensed or exempted and within the category of worker, sublevels shall be separately
7 certified or exempted. The commission shall specifically address as a separate class, those contrac-
8 tors and workers who perform small scale, short duration renovating and maintenance activity. As
9 used in this subsection, “small scale, short duration renovating and maintenance activity” means a
10 task for which the removal of asbestos is not the primary objective of the job, including but not
11 limited to:

12 (a) Removal of asbestos-containing insulation on pipes;

13 (b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

14 (c) Replacement of an asbestos-containing gasket on a valve;

15 (d) Installation or removal of a small section of drywall; or

16 (e) Installation of electrical conduits through or proximate to asbestos-containing materials.

17 (4) The Department of Environmental Quality, on behalf of the commission, shall consult with
18 the Department of Consumer and Business Services and the [*Department of Human Services*] **Oregon**
19 **Health Authority** about proposed rules for the asbestos abatement program to assure that the rules
20 are compatible with all other state and federal statutes and regulations related to asbestos abate-
21 ment.

22 (5) The Department of Environmental Quality shall cooperate with the Department of Consumer
23 and Business Services and the [*Department of Human Services*] **Oregon Health Authority** to pro-
24 mote proper and safe asbestos abatement work practices and compliance with the provisions of ORS
25 279B.055 (2)(g), 279B.060 (2)(g), 279C.365 (1)(j), 468.126, 468A.135 and 468A.700 to 468A.760.

26 **SECTION 952.** ORS 468B.150 is amended to read:

27 468B.150. As used in ORS 448.268, 448.271 and 468B.150 to 468B.190:

28 (1) “Area of ground water concern” means an area of the state subject to a declaration by the
29 Department of Environmental Quality under ORS 468B.175 or the [*Department of Human Services*]
30 **Oregon Health Authority** under ORS 448.268.

31 (2) “Contaminant” means any chemical, ion, radionuclide, synthetic organic compound,
32 microorganism, waste or other substance that does not occur naturally in ground water or that oc-
33 curs naturally but at a lower concentration.

34 (3) “Ground water management area” means an area in which contaminants in the ground water
35 have exceeded the levels established under ORS 468B.165, and the affected area is subject to a
36 declaration under ORS 468B.180.

37 (4) “Fertilizer” has the meaning given that term in ORS 633.311.

38 (5) “Pesticide” has the meaning given that term in ORS 634.006.

39 **SECTION 953.** ORS 469.525 is amended to read:

40 469.525. Notwithstanding any other provision of this chapter, no waste disposal facility for any
41 radioactive waste shall be established, operated or licensed within this state, except as follows:

42 (1) Wastes generated before June 1, 1981, through industrial or manufacturing processes which
43 contain only naturally occurring radioactive isotopes which are disposed of at sites approved by the
44 Energy Facility Siting Council in accordance with ORS 469.375.

45 (2) Medical, industrial and research laboratory wastes contained in small, sealed, discrete con-

1 tainers in which the radioactive material is dissolved or dispersed in an organic solvent or biological
 2 fluid for the purpose of liquid scintillation counting and experimental animal carcasses shall be
 3 disposed of or treated at a hazardous waste disposal facility licensed by the Department of Envi-
 4 ronmental Quality and in a manner consistent with rules adopted by the Department of Environ-
 5 mental Quality after consultation with and approval by the [*Department of Human Services*] **Oregon**
 6 **Health Authority**.

7 (3) Maintenance of radioactive coal ash at the site of a thermal power plant for which a site
 8 certificate has been issued pursuant to this chapter shall not constitute operation of a waste dis-
 9 posal facility so long as such coal ash is maintained in accordance with the terms of the site cer-
 10 tificate as amended from time to time as necessary to protect the public health and safety.

11 **SECTION 954.** ORS 469.533 is amended to read:

12 469.533. Notwithstanding ORS chapter 401, the State Department of Energy in cooperation with
 13 the [*Department of Human Services*] **Oregon Health Authority** and the Office of Emergency Man-
 14 agement shall establish rules for the protection of health and procedures for the evacuation of peo-
 15 ple and communities who would be affected by radiation in the event of an accident or a catastrophe
 16 in the operation of a nuclear power plant or nuclear installation.

17 **SECTION 955.** ORS 469.559 is amended to read:

18 469.559. (1) Notwithstanding the authority of the [*Department of Human Services*] **Oregon**
 19 **Health Authority** pursuant to ORS 453.605 to 453.800 to regulate radiation sources or the require-
 20 ments of ORS 469.525, the Energy Facility Siting Council may enter into and carry out cooperative
 21 agreements with the Secretary of Energy pursuant to Title I and the Nuclear Regulatory Commis-
 22 sion pursuant to Title II of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law
 23 95-604, and perform or cause to be performed any and all acts necessary to be performed by the
 24 state, including the acquisition by condemnation or otherwise, retention and disposition of land or
 25 interests therein, in order to implement that Act and rules, standards and guidelines adopted pur-
 26 suant thereto. The Energy Facility Siting Council may adopt, amend or repeal rules in accordance
 27 with ORS chapter 183 and may receive and disburse funds in connection with the implementation
 28 and administration of this section.

29 (2) The Energy Facility Siting Council and the State Department of Energy may enter into and
 30 carry out cooperative agreements and arrangements with any agency of the federal government
 31 implementing the Comprehensive Environmental Response, Compensation, and Liability Act, as
 32 amended, 42 U.S.C. section 9601 et seq., to clean up wastes and contaminated material, including
 33 overburden, created by uranium mining before June 29, 1989. Any such project need not obtain a
 34 site certificate from the council, but shall nevertheless comply with all applicable, relevant or ap-
 35 propriate state standards including but not limited to those set forth in ORS 469.375 and rules
 36 adopted by the council and other state agencies to implement such standards.

37 (3) The Governor may do any and all things necessary to implement the requirements of the
 38 federal Acts referred to in subsections (1) and (2) of this section.

39 (4) Notwithstanding ORS 469.553, after June 25, 1979, no site certificate is required for the
 40 cleanup and disposal of an inactive or abandoned uranium mill tailings site as authorized under
 41 subsection (1) of this section and Title I of the Uranium Mill Tailings Radiation Control Act of 1978,
 42 Public Law 95-604.

43 **SECTION 956.** ORS 469.611 is amended to read:

44 469.611. Notwithstanding ORS chapter 401:

45 (1) The Director of the State Department of Energy shall coordinate emergency preparedness

1 and response with appropriate agencies of government at the local, state and national levels to en-
2 sure that the response to a radioactive material transportation accident is swift and appropriate to
3 minimize damage to any person, property or wildlife. This program shall include the preparation of
4 localized plans setting forth agency responsibilities for on-scene response.

5 (2) The director shall:

6 (a) Apply for federal funds as available to train, equip and maintain an appropriate response
7 capability at the state and local level; and

8 (b) Request all available training and planning materials.

9 (3) The [*Department of Human Services*] **Oregon Health Authority** shall maintain a trained and
10 equipped radiation emergency response team available at all times for dispatch to any radiological
11 emergency. Before arrival of the team at the scene of a radiological accident, the [*Director of the*
12 *State Department of Energy*] **director** may designate other technical advisors to work with the local
13 response agencies.

14 (4) The [*Department of Human Services*] **authority** shall assist the [*Director of the State Depart-*
15 *ment of Energy*] **director** to ensure that all emergency services organizations along major transport
16 routes for radioactive materials are offered training and retraining in the proper procedures for
17 identifying and dealing with a radiological accident pending the arrival of persons with technical
18 expertise. The [*Department of Human Services*] **authority** shall report annually to the [*Director of*
19 *the State Department of Energy*] **director** on training of emergency response personnel.

20 **SECTION 957.** ORS 471.190 is amended to read:

21 471.190. (1) The holder of a temporary sales license may sell at retail by the drink wine, malt
22 beverages, cider and distilled liquor. Distilled liquor served by the holder of a temporary sales li-
23 cense must be purchased from a retail sales agent of the Oregon Liquor Control Commission. The
24 holder of a temporary sales license must provide food service as required by commission rule.

25 (2) A temporary sales license may be issued only to:

26 (a) Nonprofit or charitable organizations that are registered with the state.

27 (b) A political committee that has filed a statement of organization under ORS 260.039 or
28 260.042.

29 (c) State agencies.

30 (d) Local governments, and agencies and departments of local governments.

31 (e) Persons not otherwise described in this subsection, as long as the applicant submits a plan
32 that is approved by the commission detailing how minors will be prevented from gaining access to
33 alcoholic beverages and how minors will be prevented from gaining access to any portion of the li-
34 censed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.

35 (3) The holder of a temporary sales license may sell wine, malt beverages or cider in factory-
36 sealed containers for consumption off the licensed premises.

37 (4) The commission may by rule establish additional eligibility requirements for temporary sales
38 licenses.

39 (5) Subject to such qualifications as the commission may establish by rule, persons who hold a
40 full or limited on-premises sales license are eligible for temporary sales licenses.

41 (6) A person holding a temporary sales license is not required to obtain a temporary restaurant
42 license or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in
43 single-service containers are served and only nonperishable food items that are exempted from
44 licensure by the [*Department of Human Services*] **Oregon Health Authority** are served.

45 (7) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organ-

1 ization licensed under this section are not required to have server permits nor to complete an al-
 2cohol server education program and examination under ORS 471.542. The commission by rule may
 3 establish education requirements for servers described in this subsection.

4 (8) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a
 5 nonprofit trade association that has a membership primarily comprised of persons that hold winery
 6 licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

7 **SECTION 958.** ORS 471.235 is amended to read:

8 471.235. (1) A wholesale malt beverage and wine license shall allow the importation, storage,
 9 transportation, wholesale sale and distribution to licensees of the Oregon Liquor Control Commis-
 10 sion, and the export of wine, cider and malt beverages, and the importation and sale to the com-
 11 mission and the export of wine of alcoholic content in excess of 21 percent alcohol by volume. No
 12 such licensee shall sell any alcoholic liquor for consumption upon the licensed premises. However,
 13 a wholesale malt beverage and wine licensee may sell naturally fermented wine or cider in quanti-
 14 ties of not less than four gallons nor more than 55 gallons at any one time to consumers for con-
 15 sumption not on the licensed premises. Wholesale malt beverage and wine licensees may sell malt
 16 beverages containing not more than eight percent alcohol by volume in quantities not less than five
 17 gallons to any unlicensed organization, lodge, picnic party or private gathering. Such malt beverages
 18 shall not be sold by such unlicensed group. A wholesale malt beverage and wine license shall permit
 19 the licensee also to sell malt beverages at wholesale only, to persons holding licenses authorizing
 20 them to resell such beverages at retail. Employees of wholesale malt beverage and wine licensees
 21 may serve sample tastings of malt beverages, cider and wine at alcoholic beverage industry trade
 22 shows, seminars and conventions and at alcoholic beverage industry sample tastings for employees
 23 of retail licensees.

24 (2) Nothing in subsection (1) of this section shall be considered to prohibit the transportation
 25 or wholesale sale or distribution of malt beverage or wine by a wholesale malt beverage and wine
 26 licensee to any alcoholic treatment center licensed by the [*Department of Human Services*] **Oregon**
 27 **Health Authority**.

28 (3) A wholesale malt beverage and wine licensee may impose an additional handling fee on any
 29 wine sold to any retailer in this state if the quantity of wine sold to the retailer is less than the
 30 smallest multiple-package case available to be sold and the handling fee is uniform for all licensees.

31 **SECTION 959.** ORS 471.333 is amended to read:

32 471.333. (1) Except as provided in subsections (2) and (3) of this section, the Oregon Liquor
 33 Control Commission shall not refuse to issue, cancel or suspend a license under ORS 471.313, 471.315
 34 or 471.425 for maintaining an insanitary establishment.

35 (2) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315
 36 or 471.425 for maintaining an insanitary establishment in violation of a city ordinance relating to
 37 sanitation only if the licensee is convicted of violating the ordinance.

38 (3) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315
 39 or 471.425 for maintaining an insanitary establishment in violation of ORS 447.010 to 447.156 and
 40 447.992 or the laws, orders or rules relating to public health of the [*Department of Human*
 41 *Services*] **Oregon Health Authority** or the State Department of Agriculture only when the agency
 42 charged with enforcing those laws, orders or rules finds that the licensee is in violation of them and
 43 renders a final order adverse to the licensee.

44 **SECTION 960.** ORS 471.432 is amended to read:

45 471.432. When a person is ordered to undergo assessment and treatment as provided in ORS

1 471.430, the court shall require the person to do all of the following:

2 (1) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under
3 ORS 471.430.

4 (2) Complete an examination by an agency or organization designated by the court to determine
5 whether the person has a problem condition involving alcohol as described in ORS 813.040. The
6 designated agencies or organizations must meet the standards set by the Director of [*Human Ser-*
7 *vices*] **the Oregon Health Authority** to perform the diagnostic assessment and treatment of problem
8 drinking and alcoholism and must be certified by the [*Director of Human Services*] **director**.

9 (3) Complete a treatment program, paid at the expense of the person convicted, as follows:

10 (a) If the examination required under this section shows that the person has a problem condition
11 involving alcohol, a program for rehabilitation for alcoholism approved by the [*Director of Human*
12 *Services*] **director**.

13 (b) If the examination required by this section shows that the person does not have a problem
14 condition involving alcohol, an alcohol information program approved by the [*Director of Human*
15 *Services*] **director**.

16 **SECTION 961.** ORS 471.547 is amended to read:

17 471.547. The Oregon Liquor Control Commission shall establish an Alcohol Server Education
18 Advisory Committee consisting of persons representing the commission, the Oregon State Police, the
19 Oregon District Attorneys Association, the [*Department of Human Services*] **Oregon Health Au-**
20 **thority**, the Department of Transportation, at least one person who is a service permittee under
21 ORS 471.360, a nonprofit organization the purpose of which is to reduce the incidence of drunk
22 driving, and not more than three associations representing retail licensees and two associations
23 representing insurance companies to assist in:

24 (1) The development of the standards, curriculum and materials for the alcohol server education
25 courses required under ORS 471.542;

26 (2) The examination required by ORS 471.542, and procedures for administering that examina-
27 tion;

28 (3) The certification procedures, enforcement policies and penalties for alcohol server education
29 course instructors and providers; and

30 (4) The development of time requirements for completion of an alcohol server education course
31 and examination and conditions for probationary extension.

32 **SECTION 962.** ORS 471.732 is amended to read:

33 471.732. (1) The Legislative Assembly finds and declares that the regulation of health and sani-
34 tation matters in premises licensed by the Oregon Liquor Control Commission under this chapter
35 can best be performed by the [*Department of Human Services*] **Oregon Health Authority** and the
36 State Department of Agriculture.

37 (2) It is the policy of the Legislative Assembly and the intent of ORS 471.333 and 624.010 and
38 this section that premises licensed by the Oregon Liquor Control Commission under this chapter
39 shall be subject to the laws governing health and sanitation matters, including any applicable li-
40 censing requirements, and to the rules adopted thereunder by the [*Department of Human Services*
41 *and the State Department of Agriculture*] **authority and the department**.

42 **SECTION 963.** ORS 475.225 is amended to read:

43 475.225. (1) The [*Department of Human Services*] **Oregon Health Authority** shall carry out ed-
44 ucational programs designed to prevent and deter misuse and abuse of controlled substances. In
45 connection with these programs it may:

1 (a) Promote better recognition of the problems of misuse and abuse of controlled substances
2 within the regulated industry and among interested groups and organizations;

3 (b) Assist the regulated industry and interested groups and organizations in contributing to the
4 reduction of misuse and abuse of controlled substances;

5 (c) Consult with interested groups and organizations to aid them in solving administrative and
6 organizational problems;

7 (d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of ed-
8 ucational programs on misuse or abuse of controlled substances;

9 (e) Disseminate the results of research on misuse and abuse of controlled substances to promote
10 a better public understanding of what problems exist and what can be done to combat them; and

11 (f) Assist in the education and training of state and local law enforcement officials in their ef-
12 forts to control misuse and abuse of controlled substances.

13 (2) The *[department]* **authority** shall encourage research on the medical use, misuse and abuse
14 of controlled substances. In connection with the research, and in furtherance of the enforcement of
15 ORS 475.005 to 475.285 and 475.840 to 475.980, it may:

16 (a) Establish methods to assess accurately the physiological, psychological and social effects of
17 controlled substances and identify their medical uses, relative hazard potential, and potential for
18 abuse;

19 (b) Make studies and undertake programs of research to:

20 (A) Develop new or improved approaches, techniques, systems, equipment and devices to
21 strengthen the enforcement of ORS 475.005 to 475.285 and 475.840 to 475.980;

22 (B) Determine patterns of use, misuse and abuse of controlled substances and the social effects
23 thereof; and

24 (C) Improve methods for preventing, predicting, understanding and dealing with the misuse and
25 abuse of controlled substances; or

26 (c) Enter into contracts with public agencies, institutions of higher education, and private or-
27 ganizations or individuals for the purpose of conducting research, demonstrations or special projects
28 which bear directly on misuse and abuse of controlled substances.

29 (3) The *[department]* **authority** may enter into contracts for educational and research activities
30 without performance bonds and without regard to ORS 279A.125, 279A.140, 279B.025, 279B.240,
31 279B.270, 279B.275, 279B.280, 459A.475, 459A.480, 459A.485 and 459A.490.

32 **SECTION 964.** ORS 475.302 is amended to read:

33 475.302. As used in ORS 475.300 to 475.346:

34 (1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary
35 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

36 (2) "**Authority**" means the Oregon Health Authority.

37 [(2)] (3) "Debilitating medical condition" means:

38 (a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human
39 immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

40 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-
41 tient, one or more of the following:

42 (A) Cachexia;

43 (B) Severe pain;

44 (C) Severe nausea;

45 (D) Seizures, including but not limited to seizures caused by epilepsy; or

1 (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

2 or

3 (c) Any other medical condition or treatment for a medical condition adopted by the
4 [department] **authority** by rule or approved by the [department] **authority** pursuant to a petition
5 submitted pursuant to ORS 475.334.

6 [(3)] (4) “Delivery” has the meaning given that term in ORS 475.005. “Delivery” does not include
7 transfer of marijuana by a registry identification cardholder to another registry identification
8 cardholder if no consideration is paid for the transfer.

9 [(4) “Department” means the Department of Human Services.]

10 (5) “Designated primary caregiver” means an individual 18 years of age or older who has sig-
11 nificant responsibility for managing the well-being of a person who has been diagnosed with a de-
12 bilitating medical condition and who is designated as such on that person’s application for a registry
13 identification card or in other written notification to the [department] **authority**. “Designated pri-
14 mary caregiver” does not include the person’s attending physician.

15 (6) “Marijuana” has the meaning given that term in ORS 475.005.

16 (7) “Marijuana grow site” means a location where marijuana is produced for use by a registry
17 identification cardholder and that is registered under the provisions of ORS 475.304.

18 (8) “Medical use of marijuana” means the production, possession, delivery, or administration of
19 marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of
20 a person to mitigate the symptoms or effects of the person’s debilitating medical condition.

21 (9) “Production” has the meaning given that term in ORS 475.005.

22 (10) “Registry identification card” means a document issued by the [department] **authority** that
23 identifies a person authorized to engage in the medical use of marijuana and the person’s designated
24 primary caregiver, if any.

25 (11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family
26 Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed
27 in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the
28 plant.

29 (12) “Written documentation” means a statement signed by the attending physician of a person
30 diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

31 **SECTION 965.** ORS 475.303 is amended to read:

32 475.303. (1) There is created the Advisory Committee on Medical Marijuana in the [Department
33 of Human Services] **Oregon Health Authority**, consisting of 11 members appointed by the Director
34 of [Human Services] **the Oregon Health Authority**.

35 (2) The director shall appoint members of the committee from persons who possess registry
36 identification cards, designated primary caregivers of persons who possess registry identification
37 cards and advocates of the Oregon Medical Marijuana Act.

38 (3) The committee shall advise the director on the administrative aspects of the Oregon Medical
39 Marijuana Program, review current and proposed administrative rules of the program and provide
40 annual input on the fee structure of the program.

41 (4) The committee shall meet at least four times per year, at times and places specified by the
42 director.

43 (5) The [department] **authority** shall provide staff support to the committee.

44 (6) All agencies of state government, as defined in ORS 174.111, are directed to assist the com-
45 mittee in the performance of its duties and, to the extent permitted by laws relating to

1 confidentiality, to furnish information and advice that the members of the committee consider nec-
2 essary to perform their duties.

3 **SECTION 966.** ORS 475.304 is amended to read:

4 475.304. (1) The [*Department of Human Services*] **Oregon Health Authority** shall establish by
5 rule a marijuana grow site registration system to authorize production of marijuana by a registry
6 identification cardholder, a designated primary caregiver who grows marijuana for the cardholder
7 or a person who is responsible for a marijuana grow site. The marijuana grow site registration
8 system adopted must require a registry identification cardholder to submit an application to the
9 [*department*] **authority** that includes:

10 (a) The name of the person responsible for the marijuana grow site;

11 (b) The address of the marijuana grow site;

12 (c) The registry identification card number of the registry cardholder for whom the marijuana
13 is being produced; and

14 (d) Any other information the [*department*] **authority** considers necessary.

15 (2) The [*department*] **authority** shall issue a marijuana grow site registration card to a registry
16 identification cardholder who has met the requirements of subsection (1) of this section.

17 (3) A person who has been issued a marijuana grow site registration card under this section
18 must display the registration card at the marijuana grow site at all times when marijuana is being
19 produced.

20 (4) A marijuana grow site registration card must be obtained and posted for each registry
21 identification cardholder for whom marijuana is being produced at a marijuana grow site.

22 (5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana
23 for a registry identification cardholder by a person responsible for a marijuana grow site are the
24 property of the registry identification cardholder and must be provided to the registry identification
25 cardholder upon request.

26 (6)(a) The [*department*] **authority** shall conduct a criminal records check under ORS 181.534 of
27 any person whose name is submitted as a person responsible for a marijuana grow site.

28 (b) A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the
29 manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued
30 a marijuana grow site registration card or produce marijuana for a registry identification cardholder
31 for five years from the date of conviction.

32 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.840 to
33 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may
34 not be issued a marijuana grow site registration card or produce marijuana for a registry identifi-
35 cation cardholder.

36 (7) A registry identification cardholder or the designated primary caregiver of the cardholder
37 may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities
38 associated with the production of marijuana for the registry identification cardholder. No other
39 costs associated with the production of marijuana for the registry identification cardholder, includ-
40 ing the cost of labor, may be reimbursed.

41 **SECTION 967.** ORS 475.306 is amended to read:

42 475.306. (1) A person who possesses a registry identification card issued pursuant to ORS 475.309
43 may engage in, and a designated primary caregiver of such a person may assist in, the medical use
44 of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical
45 condition.

1 (2) A person who is a registry identification cardholder must possess the registry identification
2 card when using or transporting marijuana in a location other than the residence of the cardholder.

3 (3) The [*Department of Human Services*] **Oregon Health Authority** shall define by rule when a
4 marijuana plant is mature and when it is immature. The rule shall provide that a plant that has no
5 flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling
6 or a start and is not a mature plant.

7 **SECTION 968.** ORS 475.309 is amended to read:

8 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
9 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
10 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
11 duction of marijuana or any other criminal offense in which possession, delivery or production of
12 marijuana is an element if the following conditions have been satisfied:

13 (a) The person holds a registry identification card issued pursuant to this section, has applied
14 for a registry identification card pursuant to subsection (9) of this section, is the designated primary
15 caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that
16 is producing marijuana for the cardholder and is registered under ORS 475.304; and

17 (b) The person who has a debilitating medical condition, the person's primary caregiver and the
18 person responsible for a marijuana grow site that is producing marijuana for the cardholder and is
19 registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for
20 medical use in amounts allowed under ORS 475.320.

21 (2) The [*Department of Human Services*] **Oregon Health Authority** shall establish and maintain
22 a program for the issuance of registry identification cards to persons who meet the requirements
23 of this section. Except as provided in subsection (3) of this section, the [*department*] **authority** shall
24 issue a registry identification card to any person who pays a fee in the amount established by the
25 [*department*] **authority** and provides the following:

26 (a) Valid, written documentation from the person's attending physician stating that the person
27 has been diagnosed with a debilitating medical condition and that the medical use of marijuana may
28 mitigate the symptoms or effects of the person's debilitating medical condition;

29 (b) The name, address and date of birth of the person;

30 (c) The name, address and telephone number of the person's attending physician;

31 (d) The name and address of the person's designated primary caregiver, if the person has des-
32 ignated a primary caregiver at the time of application; and

33 (e) A written statement that indicates whether the marijuana used by the cardholder will be
34 produced at a location where the cardholder or designated primary caregiver is present or at an-
35 other location.

36 (3) The [*department*] **authority** shall issue a registry identification card to a person who is under
37 18 years of age if the person submits the materials required under subsection (2) of this section, and
38 the custodial parent or legal guardian with responsibility for health care decisions for the person
39 under 18 years of age signs a written statement that:

40 (a) The attending physician of the person under 18 years of age has explained to that person
41 and to the custodial parent or legal guardian with responsibility for health care decisions for the
42 person under 18 years of age the possible risks and benefits of the medical use of marijuana;

43 (b) The custodial parent or legal guardian with responsibility for health care decisions for the
44 person under 18 years of age consents to the use of marijuana by the person under 18 years of age
45 for medical purposes;

1 (c) The custodial parent or legal guardian with responsibility for health care decisions for the
 2 person under 18 years of age agrees to serve as the designated primary caregiver for the person
 3 under 18 years of age; and

4 (d) The custodial parent or legal guardian with responsibility for health care decisions for the
 5 person under 18 years of age agrees to control the acquisition of marijuana and the dosage and
 6 frequency of use by the person under 18 years of age.

7 (4) A person applying for a registry identification card pursuant to this section may submit the
 8 information required in this section to a county health department for transmittal to the [*Department*
 9 *of Human Services*] **authority**. A county health department that receives the information pursuant
 10 to this subsection shall transmit the information to the [*Department of Human Services*] **authority**
 11 within five days of receipt of the information. Information received by a county health department
 12 pursuant to this subsection shall be confidential and not subject to disclosure, except as required
 13 to transmit the information to the [*Department of Human Services*] **authority**.

14 (5)(a) The [*department*] **authority** shall verify the information contained in an application sub-
 15 mitted pursuant to this section and shall approve or deny an application within thirty days of re-
 16 ceipt of the application.

17 (b) In addition to the authority granted to the [*department*] **authority** under ORS 475.316 to deny
 18 an application, the [*department*] **authority** may deny an application for the following reasons:

19 (A) The applicant did not provide the information required pursuant to this section to establish
 20 the applicant's debilitating medical condition and to document the applicant's consultation with an
 21 attending physician regarding the medical use of marijuana in connection with such condition, as
 22 provided in subsections (2) and (3) of this section;

23 (B) The [*department*] **authority** determines that the information provided was falsified; or

24 (C) The applicant has been prohibited by a court order from obtaining a registry identification
 25 card.

26 (c) Denial of a registry identification card shall be considered a final [*department*] **authority**
 27 action, subject to judicial review. Only the person whose application has been denied, or, in the case
 28 of a person under the age of 18 years of age whose application has been denied, the person's parent
 29 or legal guardian, shall have standing to contest the [*department's*] **authority's** action.

30 (d) Any person whose application has been denied may not reapply for six months from the date
 31 of the denial, unless so authorized by the [*department*] **authority** or a court of competent jurisdic-
 32 tion.

33 (6)(a) If the [*department*] **authority** has verified the information submitted pursuant to sub-
 34 sections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(b) of
 35 this section is applicable, the [*department*] **authority** shall issue a serially numbered registry iden-
 36 tification card within five days of verification of the information. The registry identification card
 37 shall state:

38 (A) The cardholder's name, address and date of birth;

39 (B) The date of issuance and expiration date of the registry identification card;

40 (C) The name and address of the person's designated primary caregiver, if any;

41 (D) Whether the marijuana used by the cardholder will be produced at a location where the
 42 cardholder or designated primary caregiver is present or at another location; and

43 (E) Any other information that the [*department*] **authority** may specify by rule.

44 (b) When the person to whom the [*department*] **authority** has issued a registry identification
 45 card pursuant to this section has specified a designated primary caregiver, the [*department*] **au-**

1 **thority** shall issue an identification card to the designated primary caregiver. The primary
2 caregiver's registry identification card shall contain the information provided in paragraph (a) of
3 this subsection.

4 (7)(a) A person who possesses a registry identification card shall:

5 (A) Notify the [*department*] **authority** of any change in the person's name, address, attending
6 physician or designated primary caregiver.

7 (B) If applicable, notify the designated primary caregiver of the cardholder and the person re-
8 sponsible for the marijuana grow site that produces marijuana for the cardholder of any change in
9 status including, but not limited to:

10 (i) The assignment of another individual as the designated primary caregiver of the cardholder;

11 (ii) The assignment of another individual as the person responsible for a marijuana grow site
12 producing marijuana for the cardholder; or

13 (iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

14 (C) Annually submit to the [*department*] **authority**:

15 (i) Updated written documentation from the cardholder's attending physician of the person's
16 debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or
17 effects of the person's debilitating medical condition; and

18 (ii) The name of the person's designated primary caregiver if a primary caregiver has been
19 designated for the upcoming year.

20 (b) If a person who possesses a registry identification card fails to comply with this subsection,
21 the card shall be deemed expired. If a registry identification card expires, the identification card of
22 any designated primary caregiver of the cardholder shall also expire.

23 (8)(a) A person who possesses a registry identification card pursuant to this section and who
24 has been diagnosed by the person's attending physician as no longer having a debilitating medical
25 condition or whose attending physician has determined that the medical use of marijuana is
26 contraindicated for the person's debilitating medical condition shall return the registry identification
27 card and any other associated Oregon Medical Marijuana Program cards to the [*department*] **au-**
28 **thority** within 30 calendar days of notification of the diagnosis or notification of the
29 contraindication.

30 (b) If, due to circumstances beyond the control of the registry identification cardholder, a
31 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility
32 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has
33 expired, the [*department*] **authority** may grant the cardholder additional time to obtain a second
34 opinion before requiring the cardholder to return the registry identification card and any associated
35 cards.

36 (9) A person who has applied for a registry identification card pursuant to this section but
37 whose application has not yet been approved or denied, and who is contacted by any law enforce-
38 ment officer in connection with the person's administration, possession, delivery or production of
39 marijuana for medical use may provide to the law enforcement officer a copy of the written doc-
40 umentation submitted to the [*department*] **authority** pursuant to subsection (2) or (3) of this section
41 and proof of the date of mailing or other transmission of the documentation to the [*department*]
42 **authority**. This documentation shall have the same legal effect as a registry identification card until
43 such time as the person receives notification that the application has been approved or denied.

44 (10) A registry identification cardholder has the primary responsibility of notifying the primary
45 caregiver and person responsible for the marijuana grow site that produces marijuana for the

1 cardholder of any change in status of the cardholder. If the *[department]* **authority** is notified by the
2 cardholder that a primary caregiver or person responsible for a marijuana grow site has changed,
3 the *[department]* **authority** shall notify the primary caregiver or the person responsible for the
4 marijuana grow site by mail at the address of record confirming the change in status and informing
5 the caregiver or person that their card is no longer valid and must be returned to the *[department]*
6 **authority**.

7 (11) The *[department]* **authority** shall revoke the registry identification card of a cardholder if
8 a court has issued an order that prohibits the cardholder from participating in the medical use of
9 marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300
10 to 475.346. The cardholder shall return the registry identification card to the *[department]* **authority**
11 within seven calendar days of notification of the revocation. If the cardholder is a patient, the pa-
12 tient shall return the patient's card and all other associated Oregon Medical Marijuana Program
13 cards.

14 (12) The *[department]* **authority** and employees and agents of the *[department]* **authority** acting
15 within the course and scope of their employment are immune from any civil liability that might be
16 incurred or imposed for the performance of or failure to perform duties required by this section.

17 **SECTION 969.** ORS 475.312 is amended to read:

18 475.312. (1) If a person who possesses a registry identification card issued pursuant to ORS
19 475.309 chooses to have a designated primary caregiver, the person must designate the primary
20 caregiver by including the primary caregiver's name and address:

21 (a) On the person's application for a registry identification card;

22 (b) In the annual updated information required under ORS 475.309; or

23 (c) In a written, signed statement submitted to the *[Department of Human Services]* **Oregon**
24 **Health Authority**.

25 (2) A person described in this section may have only one designated primary caregiver at any
26 given time.

27 **SECTION 970.** ORS 475.316 is amended to read:

28 475.316. (1) No person authorized to possess, deliver or produce marijuana for medical use pur-
29 suant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be
30 deemed to have established an affirmative defense to criminal charges of which possession, delivery
31 or production of marijuana is an element if the person, in connection with the facts giving rise to
32 such charges:

33 (a) Drives under the influence of marijuana as provided in ORS 813.010;

34 (b) Engages in the medical use of marijuana in a public place as that term is defined in ORS
35 161.015, or in public view or in a correctional facility as defined in ORS 162.135 (2) or youth cor-
36 rection facility as defined in ORS 162.135 (6);

37 (c) Delivers marijuana to any individual who the person knows is not in possession of a registry
38 identification card;

39 (d) Delivers marijuana for consideration to any individual, even if the individual is in possession
40 of a registry identification card;

41 (e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized
42 under ORS 475.304; or

43 (f) Manufactures or produces marijuana at more than one address.

44 (2) In addition to any other penalty allowed by law, a person who the *[Department of Human*
45 *Services]* **Oregon Health Authority** finds has willfully violated the provisions of ORS 475.300 to

1 475.346, or rules adopted under ORS 475.300 to 475.346, may be precluded from obtaining or using
2 a registry identification card for the medical use of marijuana for a period of up to six months, at
3 the discretion of the [department] **authority**.

4 **SECTION 971.** ORS 475.320 is amended to read:

5 475.320. (1)(a) A registry identification cardholder or the designated primary caregiver of the
6 cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

7 (b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has
8 been convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or
9 delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder
10 or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana
11 at any given time for a period of five years from the date of the conviction.

12 (2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:

13 (a) May produce marijuana for and provide marijuana to a registry identification cardholder or
14 that person's designated primary caregiver as authorized under this section.

15 (b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each
16 cardholder or caregiver for whom marijuana is being produced.

17 (c) May produce marijuana for no more than four registry identification cardholders or desig-
18 nated primary caregivers concurrently.

19 (d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304
20 for each registry identification cardholder or designated primary caregiver for whom marijuana is
21 being produced.

22 (e) Must provide all marijuana produced for a registry identification cardholder or designated
23 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana
24 grow site ceases producing marijuana for the cardholder or caregiver.

25 (f) Must return the marijuana grow site registration card to the registry identification
26 cardholder to whom the card was issued when requested to do so by the cardholder or when the
27 person responsible for a marijuana grow site ceases producing marijuana for the cardholder or
28 caregiver.

29 (3) Except as provided in subsections (1) and (2) of this section, a registry identification
30 cardholder, the designated primary caregiver of the cardholder and the person responsible for a
31 marijuana grow site producing marijuana for the registry identification cardholder may possess a
32 combined total of up to six mature plants and 24 ounces of usable marijuana for that registry iden-
33 tification cardholder.

34 (4)(a) A registry identification cardholder and the designated primary caregiver of the
35 cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule
36 of the [Department of Human Services] **Oregon Health Authority**.

37 (b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or
38 starts as defined by rule of the [department] **authority** for each registry identification cardholder for
39 whom the person responsible for the marijuana grow site is producing marijuana.

40 **SECTION 972.** ORS 475.331 is amended to read:

41 475.331. (1)(a) The [Department of Human Services] **Oregon Health Authority** shall create and
42 maintain a list of the persons to whom the [department] **authority** has issued registry identification
43 cards, the names of any designated primary caregivers and the addresses of authorized marijuana
44 grow sites. Except as provided in subsection (2) of this section, the list shall be confidential and
45 not subject to public disclosure.

1 (b) The [department] **authority** shall develop a system by which authorized employees of state
2 and local law enforcement agencies may verify at all times that a person is a lawful possessor of a
3 registry identification card or the designated primary caregiver of a lawful possessor of a registry
4 identification card or that a location is an authorized marijuana grow site.

5 (2) Names and other identifying information from the list established pursuant to subsection (1)
6 of this section may be released to:

7 (a) Authorized employees of the [department] **authority** as necessary to perform official duties
8 of the [department] **authority**; and

9 (b) Authorized employees of state or local law enforcement agencies, only as necessary to verify
10 that a person is a lawful possessor of a registry identification card or the designated primary
11 caregiver of a lawful possessor of a registry identification card or that a location is an authorized
12 marijuana grow site. Prior to being provided identifying information from the list, authorized em-
13 ployees of state or local law enforcement agencies shall provide to the [department] **authority** ade-
14 quate identification, such as a badge number or similar authentication of authority.

15 (3) Authorized employees of state or local law enforcement agencies that obtain identifying in-
16 formation from the list as authorized under this section may not release or use the information for
17 any purpose other than verification that a person is a lawful possessor of a registry identification
18 card or the designated primary caregiver of a lawful possessor of a registry identification card or
19 that a location is an authorized marijuana grow site.

20 **SECTION 973.** ORS 475.334 is amended to read:

21 475.334. Any person may submit a petition to the [Department of Human Services] **Oregon**
22 **Health Authority** requesting that a particular disease or condition be included among the diseases
23 and conditions that qualify as debilitating medical conditions under ORS 475.302. The [department]
24 **authority** shall adopt rules establishing the manner in which the [department] **authority** will eval-
25 uate petitions submitted under this section. Any rules adopted pursuant to this section shall require
26 the [department] **authority** to approve or deny a petition within 180 days of receipt of the petition
27 by the [department] **authority**. Denial of a petition shall be considered a final [department] **author-**
28 **ity** action subject to judicial review.

29 **SECTION 974.** ORS 475.338 is amended to read:

30 475.338. The [Department of Human Services] **Oregon Health Authority** shall adopt all rules
31 necessary for the implementation and administration of ORS 475.300 to 475.346.

32 **SECTION 975.** ORS 475.565 is amended to read:

33 475.565. (1) In addition to any other penalty provided by law:

34 (a) A person who violates ORS 475.525 shall incur a civil penalty in an amount of at least \$2,000
35 and not more than \$10,000; and

36 (b) The court may order other equitable remedies including but not limited to injunctive relief.

37 (2) Any fines collected under this section shall be forwarded to the State Treasurer for deposit
38 in the General Fund to the credit of the [Department of Human Services] **Oregon Health**
39 **Authority**. The moneys shall be used for the development and implementation of drug abuse pre-
40 vention activities and adolescent treatment.

41 **SECTION 976.** ORS 476.030 is amended to read:

42 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

43 (a) The prevention of fires.

44 (b) The storage and use of combustibles and explosives.

45 (c) The maintenance and regulation of structural fire safety features in occupied structures and

1 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,
2 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private
3 residences, which are occupied for sleeping purposes, and all other places where large numbers of
4 persons work, live or congregate from time to time for any purpose except that structural changes
5 shall not be required in buildings built, occupied and maintained in conformity with state building
6 code regulations applicable at the time of construction.

7 (d) Standards for equipment used for fire protection purposes within this state including stand-
8 ard thread for fire hose couplings and hydrant fittings.

9 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties
10 as are prescribed by law.

11 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-
12 acted adequate regulations generally conforming to state and national standards concerning fire
13 prevention, fire safety measures and building construction requirements for safety, and if the gov-
14 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal
15 may exempt the area subject to such regulation either partially or fully from the statutes, rules and
16 regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the
17 State Fire Marshal may request from the Department of Public Safety Standards and Training con-
18 sideration of and recommendations regarding the exemption. The exemption may extend for a two-
19 year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal
20 following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's
21 regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall
22 furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire
23 Marshal any amendment thereto within 30 days before the effective date of such amendment. The
24 State Fire Marshal shall designate a person or division within such governmental subdivision as an
25 approved authority for exercising functions relating to fire prevention, fire safety measures and
26 building construction. Upon request of a local official having enforcement responsibility and a
27 showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make
28 investigation and appropriate recommendations.

29 (4) The State Fire Marshal may investigate or cause an investigation to be made to determine
30 the probable cause, origin and circumstances of any fire and shall classify such findings as the State
31 Fire Marshal may find appropriate to promote fire protection and prevention.

32 (5) The State Fire Marshal shall provide training in fire safety inspection to the Department of
33 Human Services, area agencies[, *community mental health and developmental disabilities programs*]
34 and [to] designees of the Long Term Care Ombudsman. If an adult foster home has been inspected
35 by the Department of Human Services **or an area agency** [, *an area agency or community mental*
36 *health and developmental disabilities program*] and the agency conducting the inspection reasonably
37 believes that the adult foster home is not in compliance with applicable fire safety rules, the agency
38 conducting the inspection may request the State Fire Marshal to inspect or cause an inspection to
39 be made. If a designee of the Long Term Care Ombudsman, in the course of visiting an adult foster
40 home, believes that the adult foster home is not in compliance with applicable fire safety rules, the
41 designee shall report the problem to the appropriate agency to request a fire safety inspection by
42 the office of the State Fire Marshal or by a designated representative of the office of the State Fire
43 Marshal.

44 (6) Upon the request of the Department of Human Services **or an area agency**, [*an area agency*
45 *or community mental health and developmental disabilities program*,] the State Fire Marshal shall

1 inspect or cause an inspection to be made to determine if the adult foster home is in compliance
 2 with rules jointly adopted by the Department of Human Services and the State Fire Marshal estab-
 3 lishing fire safety standards for adult foster homes.

4 (7) As used in subsections (5) and (6) of this section:

5 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

6 (b) "Area agency" has the meaning given that term in ORS 410.040.

7 [(c) "*Community mental health and developmental disabilities program*" means a program estab-
 8 lished under ORS 430.620.]

9 **SECTION 977.** ORS 478.260 is amended to read:

10 478.260. (1) The district board shall select a fire chief qualified by actual experience as a fire-
 11 fighter and fire precautionist, or otherwise, and assistants, volunteer or otherwise, and fix their
 12 compensation. The fire chief shall be responsible for the equipment and properties of the district.
 13 Under the direction of the board, the fire chief shall be responsible for the conduct of the **fire** de-
 14 partment.

15 (2) The board, with advice and counsel of the fire chief, shall select the location of the fire house
 16 or houses or headquarters of the fire department of the district. Such sites shall be chosen with a
 17 view to the best service to the residents and properties of the whole district and may be acquired
 18 by purchase or exercise of the powers of eminent domain in the manner provided by ORS chapter
 19 35. The board may purchase apparatus and equipment as needed by the district, and provide a water
 20 system, ponds or reservoirs for the storage of water for fire-fighting purposes. Or the board may
 21 contract with water companies or districts, or both, for water service and facilities at a rate of
 22 compensation mutually agreed upon. The board also may divide the district into zones or subdi-
 23 visions and provide an adequate system or code of fire alarms or signals by telephone, bell, whistle,
 24 siren or other means of communication.

25 (3) A district may operate or acquire and operate, or contract for the operation of, emergency
 26 medical service equipment and vehicles both within and without the boundaries of the district. A
 27 district may conduct ambulance operations only in conformance with a county plan adopted under
 28 ORS 682.062 for ambulance services and ambulance service areas and with rules of the [*Department*
 29 *of Human Services*] **Oregon Health Authority** relating to such services and service areas. Service
 30 authorized under a county plan includes authorization for a district to provide ambulance services
 31 by intergovernmental agreement with any other unit of local government designated by the plan to
 32 provide ambulance services.

33 (4) As used in this section, "ambulance services" has the meaning given that term in ORS
 34 682.027.

35 **SECTION 978.** ORS 479.215 is amended to read:

36 479.215. (1) Except as provided in subsection (3) of this section or in ORS 479.217, the Depart-
 37 ment of Human Services [*shall*] **or the Oregon Health Authority may** not issue an initial license
 38 or an initial certificate of approval to any institution when the State Fire Marshal, or an approved
 39 representative as provided in subsection (3) of this section, notifies in writing that the institution
 40 is not in substantial compliance with all applicable laws and rules relating to safety from fire es-
 41 tablished pursuant to ORS 476.030.

42 (2) On January 1st of each year or as soon thereafter as practicable, the department **and the**
 43 **authority** shall furnish the State Fire Marshal with a complete list of all institutions licensed or
 44 approved by [*it*] **the department or the authority** within the State of Oregon.

45 (3) The State Fire Marshal, deputy or the approved authority shall make or have made at least

1 once each year an inspection of any such licensed or approved institution to determine its substan-
 2 tial compliance with the laws and rules as provided in subsection (1) of this section. If any required
 3 corrective measures are not completed within the reasonable time fixed or an extension thereof
 4 made by order of the inspecting authority, the department **or the Oregon Health Authority** shall
 5 be notified of the fact of noncompliance and appropriate action shall be initiated in accordance with
 6 provisions of ORS 476.030 and 479.170. Except as provided in ORS 479.217, if, at any time, the State
 7 Fire Marshal, or deputy, or the approved authority notifies the department **or the Oregon Health**
 8 **Authority** in writing that an institution is not in substantial compliance with all applicable laws
 9 and rules as provided in subsection (1) of this section, the *[department]* **licensing agency** shall deny,
 10 withhold, suspend or revoke the license or certificate of approval of the institution.

11 (4) When an area has been exempted by the State Fire Marshal under ORS 476.030, certification,
 12 annual inspection and notification of noncompliance when appropriate, shall be made and performed
 13 by the approved authority of the governmental subdivision having jurisdiction in such area.

14 **SECTION 979.** ORS 479.217 is amended to read:

15 479.217. (1) In lieu of an inspection approval by the State Fire Marshal or the approved au-
 16 thority of a governmental subdivision having jurisdiction in an area exempted by the State Fire
 17 Marshal, under ORS 479.215 for institutions licensed under ORS 412.001 to 412.161, 418.005 to
 18 418.025, 418.205 to 418.315, 418.625 to 418.685, 418.647, 441.015 to 441.087, 441.525 to 441.595, 441.815,
 19 441.820, 441.990, *[and]* 442.400 to 442.463 or *[licensed by the Department of Human Services in ac-*
 20 *cordance with ORS]* 443.400 to 443.455, the State Fire Marshal or the approved authority may issue
 21 a temporary permit which meets the requirements of ORS 479.215 for licensing of such institutions.
 22 The temporary permit may be issued only when it appears that:

23 (a) The facilities for protection from fire in an institution are adequate so that the institution
 24 can operate without jeopardizing the health or safety of its residents or patients; and

25 (b) The institution can comply with all applicable laws and rules relating to safety from fire
 26 within a period of two years from the date of issuance of the temporary permit.

27 (2) In issuing the temporary permit, the State Fire Marshal or approved authority of the gov-
 28 ernmental subdivision having jurisdiction in an exempt area may require that during the two-year
 29 period in which the temporary permit is in effect:

30 (a) Plans for compliance with all applicable laws and rules relating to safety from fire be sub-
 31 mitted with the application for a temporary permit;

32 (b) Periodic reports be submitted on the progress of the plans for compliance; and

33 (c) Special temporary provisions specified by the State Fire Marshal or the approved authority
 34 be maintained for the protection from fire of the residents or patients of the institution.

35 (3) If at any time, the State Fire Marshal or the approved authority determines that the facilities
 36 for protection from fire at the institution are no longer adequate to protect the residents or patients
 37 or that the requirements imposed under subsection (2) of this section are not being maintained, the
 38 State Fire Marshal or the approved authority shall cancel the temporary permit and shall notify the
 39 *[Department of Human Services]* **licensing agency** of such cancellation.

40 (4) Extensions and renewals may be granted on the temporary permit.

41 **SECTION 980.** ORS 479.220 is amended to read:

42 479.220. When application is made for the initial issuance or reinstatement of a license or cer-
 43 tificate of approval to operate and maintain an institution, or for an enlargement or addition to a
 44 licensed or approved institution, the *[Department of Human Services]* **licensing agency** shall notify
 45 in writing the State Fire Marshal, and the State Fire Marshal or deputy, or the approved authority

1 in the case of an institution located in an area exempted under ORS 476.030, shall within 30 days
2 inspect the institution as authorized by ORS 476.150 and within that time shall notify the [*depart-*
3 *ment*] **licensing agency** in writing when the institution is not substantially in compliance with all
4 applicable laws and rules.

5 **SECTION 981.** ORS 480.225 is amended to read:

6 480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

7 (a) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
8 of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A
9 person who has been so convicted is eligible under this subsection following the expiration of seven
10 years after the date of final and unconditional discharge from all imprisonment, probation and parole
11 resulting from the conviction.

12 (b) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
13 of, and is not under indictment for, any felony.

14 (c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not
15 free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this sub-
16 section.

17 (d) The person has not been determined to be mentally ill under ORS 426.130 and 430.397 to
18 430.401 or mentally retarded under ORS 427.290. A person who previously has been so determined
19 is eligible under this subsection if, at the time of application for such a certificate, the person
20 produces a certified copy of a full discharge from the proper state hospital. The [*Department of Hu-*
21 *man Services*] **Oregon Health Authority** shall provide the State Fire Marshal with direct electronic
22 access to the [*department's*] **authority's** database of information identifying persons meeting the
23 criteria of this section who were committed or subject to an order under ORS 426.130. The State
24 Fire Marshal and the [*Department of Human Services*] **authority** shall enter into an agreement de-
25 scribing the access to information under this subsection.

26 (e) The person is at least 21 years of age.

27 (f) The person does not use a fictitious name or make a material misrepresentation in applica-
28 tion for such a certificate.

29 (g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense
30 involving a controlled substance as defined in ORS 475.005, other than the offense of driving under
31 the influence of intoxicants.

32 (B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate
33 denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible
34 under this section following the expiration of seven years after the date of final and unconditional
35 discharge from all imprisonment, probation and parole resulting from the conviction.

36 (h) The person has been discharged from the jurisdiction of the juvenile court for more than four
37 years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involv-
38 ing violence, as defined in ORS 166.470.

39 (i) The person is not the subject of a restraining order that alleges the person's possession of
40 explosives presents a credible threat to another person.

41 (j) The person has passed an examination administered by the State Fire Marshal that assesses
42 the person's knowledge of safety in the transportation and storage of explosives as required under
43 federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall ex-
44 amine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire
45 Marshal may by rule establish and collect an examination fee in an amount necessary to cover the

1 cost of administering the examination.

2 (k) The person certifies on the application for a certificate of possession that all explosives in
3 the person's possession will be used, stored and transported in accordance with federal, state and
4 local requirements.

5 (L) The person certifies that all explosives will be possessed, used, stored and transported in
6 accordance with federal, state and local requirements.

7 (2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has
8 been expunged from a person's record under the laws of this state or equivalent laws of another
9 jurisdiction.

10 **SECTION 982.** ORS 497.162 is amended to read:

11 497.162. (1) Upon application of the Oregon Youth Authority, **the Oregon Health Authority**
12 or the Department of Human Services, the State Fish and Wildlife Commission shall issue, without
13 fee, a license to angle for the temporary use of any person in a state institution as *[defined]* **de-**
14 **scribed** in ORS 179.610, any student in a youth correction facility or related camps or programs
15 operated by the Oregon Youth Authority, any child placed by the department and under the care
16 of a foster home or a private nonprofit child-caring agency certified by the department, or any per-
17 son in *[a department alternatives]* **an alternative** to state hospitalization program as *[defined]* **de-**
18 **scribed** in ORS 430.630 (2)(b) or (c). The licenses issued under this subsection shall be in bearer form
19 and, subject to applicable laws and regulations relating to angling, shall be used as the *[authority*
20 *or department]* **agency applying for the license** directs.

21 (2) Upon application of the Department of Human Services, the commission shall issue, without
22 fee, a license to take shellfish for the temporary use of any child placed by the department and un-
23 der the care of a foster home or a private nonprofit child-caring agency certified by the department.
24 The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and
25 regulations relating to taking shellfish, shall be used as the department directs.

26 (3) Upon application of the director of any veteran's administration hospital or domiciliary
27 within this state, the commission shall issue, without fee, to each hospital or domiciliary 30 licenses
28 to angle or to take shellfish for the temporary use of any person who is a patient or resident in the
29 hospital or domiciliary. The licenses issued under this subsection shall be in bearer form and, sub-
30 ject to applicable laws and regulations relating to angling and to taking shellfish, shall be used as
31 the director of the hospital or domiciliary provides.

32 **SECTION 983.** ORS 527.710 is amended to read:

33 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the
34 State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183,
35 rules to be administered by the State Forester establishing standards for forest practices in each
36 region or subregion.

37 (2) The rules shall ensure the continuous growing and harvesting of forest tree species. Con-
38 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
39 sources:

40 (a) Air quality;

41 (b) Water resources, including but not limited to sources of domestic drinking water;

42 (c) Soil productivity; and

43 (d) Fish and wildlife.

44 (3)(a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board
45 shall collect and analyze the best available information and establish inventories of the following

1 resource sites needing protection:

2 (A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by
3 rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species
4 Act of 1973 as amended;

5 (B) Sensitive bird nesting, roosting and watering sites;

6 (C) Biological sites that are ecologically and scientifically significant; and

7 (D) Significant wetlands.

8 (b) The board shall determine whether forest practices would conflict with resource sites in the
9 inventories required by paragraph (a) of this subsection. If the board determines that one or more
10 forest practices would conflict with resource sites in the inventory, the board shall consider the
11 consequences of the conflicting uses and determine appropriate levels of protection.

12 (c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the
13 policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the in-
14 ventories required by paragraph (a) of this subsection.

15 (4) Before adopting rules under subsection (1) of this section, the board shall consult with other
16 agencies of this state or any of its political subdivisions that have functions with respect to the
17 purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs
18 subject to consultation under this subsection include, but are not limited to:

19 (a) Air and water pollution programs administered by the Department of Environmental Quality
20 under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;

21 (b) Mining operation programs administered by the Department of Geology and Mineral Indus-
22 tries under ORS 516.010 to 516.130 and ORS chapter 517;

23 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat
24 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
25 der ORS 272.060, 315.134 and ORS chapters 496, 498, 501, 506 and 509;

26 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
27 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to
28 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

29 (e) The programs administered by the Columbia River Gorge Commission under Public Law
30 99-663 and ORS 196.110 and 196.150;

31 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
32 tive programs administered by the State Land Board and the Department of State Lands under ORS
33 196.800 to 196.900 and 273.553 to 273.591;

34 (g) Federal Safe Drinking Water Act programs administered by the [*Department of Human Ser-*
35 *vices*] **Oregon Health Authority** under ORS 448.273 to 448.990;

36 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
37 Council under ORS 273.553 to 273.591;

38 (i) Open space land tax incentive programs administered by cities and counties under ORS
39 308A.300 to 308A.330;

40 (j) Water resources programs administered by the Water Resources Department under ORS
41 536.220 to 536.540; and

42 (k) Pesticide control programs administered by the State Department of Agriculture under ORS
43 chapter 634.

44 (5) In carrying out the provisions of subsection (4) of this section, the board shall consider and
45 accommodate the rules and programs of other agencies to the extent deemed by the board to be

1 appropriate and consistent with the purposes of ORS 527.630.

2 (6) The board shall adopt rules to meet the purposes of another agency's regulatory program
3 where it is the intent of the board to administer the other agency's program on forestland and where
4 the other agency concurs by rule. An operation performed in compliance with the board's rules shall
5 be deemed to comply with the other agency's program.

6 (7)(a) The board may enter into cooperative agreements or contracts necessary in carrying out
7 the purposes specified in ORS 527.630.

8 (b) The State Forestry Department shall enter into agreements with appropriate state agencies
9 for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and
10 water quality.

11 (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws
12 1991, the board determines that additional rules are necessary to protect forest resources pursuant
13 to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the
14 adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity,
15 fish and wildlife resources and watersheds. Such rules shall include a process for determining areas
16 where adverse impacts from cumulative effects have occurred or are likely to occur, and may re-
17 quire that a written plan be submitted for harvests in such areas.

18 (9)(a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall
19 identify streams for which restoration of habitat would be environmentally beneficial. The State
20 Forester shall select as a priority those streams where restoration efforts will provide the greatest
21 benefits to fish and wildlife, and to streambank and streambed stability.

22 (b) For those streams identified in paragraph (a) of this subsection, the State Forester shall en-
23 courage landowners to enter into cooperative agreements with appropriate state agencies for con-
24 duct of restoration activities.

25 (c) The board, in consultation with appropriate state agencies, shall study and identify methods
26 for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of
27 sites beneficial to fish and wildlife.

28 (d) The board shall adopt rules to implement the findings of this subsection.

29 (10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall
30 adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide
31 directly related to forest practices. The rules shall consider the exposure of the public to these
32 safety risks and shall include appropriate practices designed to reduce the occurrence, timing or
33 effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the
34 meaning given that term in ORS 195.250.

35 **SECTION 984.** ORS 537.532 is amended to read:

36 537.532. (1) Notwithstanding any other provision of law, the injection into aquifers of water that
37 complies with drinking water standards established by the [*Department of Human Services*] **Oregon**
38 **Health Authority** under ORS 448.273 under an aquifer storage and recovery limited license or
39 permit:

40 (a) Shall not be considered a waste, contaminant or pollutant;

41 (b) Shall be exempt from the requirement to obtain a discharge permit under ORS 468B.050 or
42 468B.053 or a concentration limit variance from the Department of Environmental Quality;

43 (c) Shall comply with all other applicable local, state or federal laws; and

44 (d) May be located within or outside an urban growth boundary in conformance with land use
45 laws.

1 (2) In order to continue to protect the high quality of Oregon's aquifers for present and future
2 uses, the Legislative Assembly recognizes the need to minimize concentrations of constituents in the
3 injection source water that are not naturally present in the aquifer. Each aquifer storage and re-
4 covery limited license or permit shall include conditions to minimize, to the extent technically fea-
5 sible, practical and cost-effective, the concentration of constituents in the injection source water
6 that are not naturally present in the aquifer. In no case may an aquifer storage and recovery limited
7 license or permit establish concentration limits for water to be injected in excess of the standards
8 established by the [*Department of Human Services*] **authority** under ORS 448.273 or the maximum
9 measurable levels established by the Environmental Quality Commission under ORS 468B.165,
10 whichever are more stringent.

11 (3) Except as otherwise provided, if the injection source water contains constituents regulated
12 under ORS 448.273 or 468B.165 that are detected at greater than 50 percent of the established levels,
13 the aquifer storage and recovery limited license or permit may require the permittee to employ, or
14 continue the employment of, technically feasible, practical and cost-effective methods to minimize
15 concentrations of such constituents in the injection source water. Constituents that have a second-
16 ary maximum contaminant level or constituents that are associated with disinfection of the water
17 may be injected into the aquifer up to the standards established under ORS 448.273.

18 (4) The Water Resources Department may, based upon valid scientific data, further limit certain
19 constituents in the injection source water if the department finds the constituents will interfere with
20 or pose a threat to the maintenance of the water resources of the state for present or future bene-
21 ficial uses.

22 **SECTION 985.** ORS 537.534 is amended to read:

23 537.534. (1) In accordance with this section, the Water Resources Commission shall establish
24 rules for the permitting and administration of aquifer storage and recovery projects. The rules shall
25 establish the Water Resources Department as the sole permitting agency for the projects, but the
26 Department of Environmental Quality and the [*Department of Human Services*] **Oregon Health Au-**
27 **thority** may comment on permits for a project and recommend conditions to be included on the
28 permit. When necessary, the applicant also shall obtain land use and development approval from a
29 local government.

30 (2) Notwithstanding the provisions of ORS 537.130, the Water Resources Commission shall es-
31 tablish by rule a procedure to allow a person to obtain a limited license to store and use water in-
32 jected into an underground aquifer for aquifer storage and recovery testing purposes for a short
33 term or fixed duration after the person complies with the notice provision set forth in ORS 537.144.
34 The rules shall provide a 30-day public comment period before issuance of a limited license. The
35 Water Resources Department may attach conditions to the limited license regarding monitoring,
36 sampling and rates of recovery up to 100 percent of the injection quantity. Aquifer storage and re-
37 covery under a limited license may be conditioned by the Water Resources Department to protect
38 existing ground water rights that rely upon the receiving aquifer and the injection source water.
39 The Water Resources Department may revoke or modify the limited license to use the stored water
40 acquired under a limited license if that use causes injury to any other water right or to a minimum
41 perennial streamflow. The Water Resources Director may issue a limited license for aquifer storage
42 and recovery purposes for a term of not more than five years. The license may be renewed if the
43 applicant demonstrates further testing is necessary.

44 (3) To obtain a limited license for aquifer storage and recovery, the applicant shall provide to
45 the Water Resources Department:

- 1 (a) Well construction information;
- 2 (b) Test results of the quality of the injection source water;
- 3 (c) Test results of the quality of the receiving aquifer water;
- 4 (d) The proposed injected water storage time, recovery rates and recovery schedule;
- 5 (e) Preliminary hydrogeologic information including a description of the aquifer, estimated flow
6 direction and rate of movement, allocation of surface water, springs or wells within the area affected
7 by aquifer storage and recovery wells;
- 8 (f) The fee established by rule by the commission pursuant to ORS 536.050 (1)(L); and
- 9 (g) Any other information required by rule of the commission.
- 10 (4) Only after completion of a test program under a limited license issued under subsection (3)
11 of this section may the applicant apply for a permanent aquifer storage and recovery permit. Each
12 application for an aquifer storage and recovery permit shall be accompanied by the fee set forth in
13 ORS 536.050 for examination of an application for a permit to store water. The Water Resources
14 Department shall be the sole permitting agency for the project and may place conditions on the
15 permit consistent with rules adopted by the commission, but the Department of Environmental
16 Quality and the [*Department of Human Services*] **Oregon Health Authority** may review, comment
17 on and recommend conditions to be included on the permit. When necessary, the applicant shall
18 obtain land use and development approval from a local government. Where existing water rights for
19 the injection source water have been issued, the Water Resources Department shall receive com-
20 ments from interested parties or agencies, but the public interest review standards shall apply only
21 to the matters raised by the aquifer storage and recovery permit application in the same manner
22 as any new water right application, not to the underlying water rights. If new water rights for in-
23 jection source water and aquifer storage and recovery are necessary, then the public interest review
24 standards shall apply to the new permit application in the same manner as any new water right
25 application. The Water Resources Director may refer policy matters to the commission for decision.
- 26 (5) The commission shall adopt rules consistent with this section to implement an aquifer stor-
27 age and recovery program. The rules shall include:
- 28 (a) Requirements for reporting and monitoring the aquifer storage and recovery project aquifer
29 impacts and for constituents reasonably expected to be found in the injection source water.
- 30 (b) Provisions that allow any person operating an aquifer storage and recovery project under a
31 permit, upon approval by the Water Resources Department, to recover up to 100 percent of the
32 water stored in the aquifer storage facility if valid scientific data gathered during operations under
33 the limited license or permit demonstrate that the injected source water is not lost through mi-
34 gration or other means and that ground water otherwise present in the aquifer has not been irre-
35 trievably lost as a result of aquifer storage or retrieval. The Water Resources Department may place
36 such other conditions on withdrawal of stored water necessary to protect the public health and en-
37 vironment, including conditions allowing reconsideration of the permit to comply with ORS 537.532.
- 38 (c) The procedure for allowing the Department of Environmental Quality and the [*Department*
39 *of Human Services*] **Oregon Health Authority** to comment on and recommend permit conditions.
- 40 (6) The use of water under a permit as injection source water for an aquifer storage and re-
41 covery project up to the limits allowed in subsection (5)(b) of this section shall not affect the priority
42 date of the water right permit or otherwise affect the right evidenced by the permit.
- 43 (7) The holder of a permit for aquifer storage and recovery shall apply for a transfer or change
44 of use if the use of recovered water is different from that which is allowed in the source water
45 permit or certificate.

1 **SECTION 986.** ORS 541.845 is amended to read:

2 541.845. (1) In accordance with the applicable provisions of ORS chapter 183, the Water Re-
3 sources Commission may adopt rules necessary to carry out ORS 541.700 to 541.855.

4 (2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking
5 water projects, the commission shall coordinate the Water Resources Department's rulemaking pro-
6 cess with the Economic and Community Development Department and the [*Department of Human*
7 *Services*] **Oregon Health Authority** in order to ensure that rules adopted under this subsection are
8 consistent with rules adopted under ORS 285B.563 and 431.120. The rules adopted under this sub-
9 section shall:

10 (a) Require the installation of meters on all new active service connections from any municipal
11 drinking water distribution lines funded under ORS 285B.560 to 285B.599, 431.120, 541.700, 541.705,
12 541.755, 541.765, 541.830 and 541.845; and

13 (b) Require a plan, to be adopted by the municipality, for installation of meters on all service
14 connections throughout the drinking water system.

15 (3) As used in this section, "service connection" does not include fire hydrants, fire sprinkler
16 system connections, line blow-offs and drains, standby emergency interties, valve controlled drinking
17 fountains and other similar intermittently used connections.

18 **SECTION 987.** ORS 545.101 is amended to read:

19 545.101. (1) When a subdivision is platted after September 13, 1975, under ORS 92.010 to 92.190,
20 if the subdivision has three or more tracts on each acre of land within the subdivision, the subdivi-
21 sion shall be excluded and taken from the district pursuant to ORS 545.097 to 545.126 at the time
22 that the plat is approved by the appropriate governing body.

23 (2) The exclusion provided in subsection (1) of this section shall not apply to a district which:

24 (a) Also supplies domestic water approved by the [*Department of Human Services*] **Oregon**
25 **Health Authority** to the subdivision; or

26 (b) Agrees to supply water to the subdivision. A district may require as a condition of any
27 agreement that:

28 (A) The subdivider install underground pipe from the district's designated point of delivery to
29 each lot or parcel in the subdivision as shown on the plat approved by the appropriate governing
30 body;

31 (B) The subdivider install a meter or other adequate measuring device at the delivery point to
32 the subdivision and for each lot or parcel;

33 (C) The subdivider provide adequate easements for the delivery system and make provision for
34 the maintenance and repair of the delivery system; and

35 (D) The subdivider provide any other measures that the district considers necessary for the
36 proper and efficient delivery of water to the subdivision and for the efficient administration of such
37 delivery.

38 (3) Nothing in subsection (2)(b) of this section requires a district to agree to deliver water to a
39 subdivision.

40 **SECTION 988.** ORS 547.045 is amended to read:

41 547.045. (1) Whenever any diking or drainage district is sought to be created and organized or
42 is created and organized in the manner provided by law, within the boundaries of which are located
43 any lands belonging to the state that have been acquired or used by or for any state institution
44 described in ORS 179.321, the Director of Human Services **or the Director of the Oregon Health**
45 **Authority** may sign any petition or objections thereto for the organization of such district and ex-

1 exercise on behalf of the state with respect to the district and the land therein belonging to the state,
2 all the rights and privileges of a landowner within the district.

3 (2) Whenever any such district or proposed district includes any lands belonging to any public
4 body as defined in ORS 174.109, the presiding officer of such public body, or other member of the
5 governing body of such public body, when thereto authorized by a resolution of the governing body
6 thereof, may sign such petition or objection thereto on behalf of the public body, and exercise with
7 respect to the district and the land therein belonging to the public body, all the rights and privileges
8 of a landowner in the district, including the right to be a supervisor of the district.

9 (3) Lands belonging to a public body as defined in ORS 174.109 shall be subject to the same
10 burdens and liabilities and entitled to the same benefits as lands in the district belonging to private
11 individuals. The Department of Human Services **or the Oregon Health Authority** may pay from
12 any appropriations made for the operation and maintenance of any institution, the lands of which
13 have been included in any diking or drainage district, any charges billed to the department or any
14 assessments levied against such lands by the diking or drainage district.

15 **SECTION 989.** ORS 561.740 is amended to read:

16 561.740. (1) The Director of Agriculture and an appointee of the [*Director of Human Services*]
17 **Director of the Oregon Health Authority** who has experience in health program administration
18 may enter into memoranda of understanding or other intergovernmental agreements on behalf of this
19 state for the purpose of furthering collaboration between this state and federal agencies that regu-
20 late the growing of biopharmaceutical crops. A memorandum or other agreement entered into under
21 this section shall be designed to increase state input to the federal biopharm permitting system on
22 biopharmaceutical crop issues and requirements of specific interest to this state.

23 (2) To the extent authorized under federal and state law, or under any memorandum of under-
24 standing or other agreement entered into under subsection (1) of this section, the Director of Agri-
25 culture and the appointee of the Director of [*Human Services*] **the Oregon Health Authority**, or
26 their designees:

27 (a) Notwithstanding ORS 192.410 to 192.505, shall refuse to disclose any biopharm permit appli-
28 cation or related biopharmaceutical crop information received from the United States Department
29 of Agriculture's Animal and Plant Health Inspection Service, or from any successor to that service,
30 that the United States Department of Agriculture has determined to be confidential business infor-
31 mation.

32 (b) May review biopharm permit applications and biopharmaceutical crop information submitted
33 to the United States Department of Agriculture.

34 (c) May administer and conduct site inspections and monitoring of any biopharmaceutical crops
35 grown in Oregon.

36 (d) If there is evidence that biopharmaceutical crops are endangering Oregon agriculture,
37 horticulture or forest production or public health, may take appropriate enforcement action.

38 (e) May charge a biopharm permit applicant or holder fees for state oversight, services or ac-
39 tivities under this section. Fees charged under this paragraph may not total more than \$10,000 and
40 must be reasonably calculated to reimburse the state for the actual cost of the oversight, services
41 or activities. Fees collected under this paragraph shall be deposited to the credit of the Department
42 of Agriculture Service Fund and are continuously appropriated to the State Department of Agricul-
43 ture for the purpose of carrying out this section.

44 **SECTION 990.** ORS 609.652 is amended to read:

45 609.652. As used in ORS 609.654:

- 1 (1)(a) "Aggravated animal abuse" means any animal abuse as described in ORS 167.322.
2 (b) "Aggravated animal abuse" does not include:
3 (A) Good animal husbandry, as defined in ORS 167.310; or
4 (B) Any exemption listed in ORS 167.335.
5 (2) "Law enforcement agency" means:
6 (a) Any city or municipal police department.
7 (b) Any county sheriff's office.
8 (c) The Oregon State Police.
9 (d) A law enforcement division of a county or municipal animal control agency that employs
10 sworn officers.
11 (3) "Public or private official" means:
12 (a) A physician, including any intern or resident.
13 (b) A dentist.
14 (c) A school employee.
15 (d) A licensed practical nurse or registered nurse.
16 (e) An employee of the Department of Human Services, **Oregon Health Authority**, State Com-
17 mission on Children and Families, Child Care Division of the Employment Department, the Oregon
18 Youth Authority, a county health department, a community mental health [*and*] **program, a com-**
19 **munity** developmental disabilities program, a county juvenile department, a licensed child-caring
20 agency or an alcohol and drug treatment program.
21 (f) A peace officer.
22 (g) A psychologist.
23 (h) A member of the clergy.
24 (i) A licensed clinical social worker.
25 (j) An optometrist.
26 (k) A chiropractor.
27 (L) A certified provider of foster care, or an employee thereof.
28 (m) An attorney.
29 (n) A naturopathic physician.
30 (o) A licensed professional counselor.
31 (p) A licensed marriage and family therapist.
32 (q) A firefighter or emergency medical technician.
33 (r) A court appointed special advocate, as defined in ORS 419A.004.
34 (s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
35 (t) A member of the Legislative Assembly.

36 **SECTION 991.** ORS 616.010 is amended to read:

37 616.010. The duty of administration and enforcement of all regulatory legislation applying to:

38 (1) The production, processing and distribution of all food products or commodities of agricul-
39 tural origin shall, in addition to such further legislation as shall specifically name the State De-
40 partment of Agriculture as the administering agency, be performed by the department to the
41 exclusion of any other department not so specifically named.

42 (2) The sanitation of establishments where food or drink is consumed on the premises where
43 sold, or to sanitary practices used in such establishments, shall be performed by the [*Department of*
44 *Human Services*] **Oregon Health Authority**.

45 **SECTION 992.** ORS 616.015 is amended to read:

1 616.015. In order to more effectively utilize the agencies of the state in the public interest and
 2 without unnecessary duplication and expense, the relationship between the production, processing
 3 and distribution of food and the public health hereby is recognized. Therefore there shall be the
 4 fullest cooperation between the [*Department of Human Services*] **Oregon Health Authority** and the
 5 State Department of Agriculture.

6 **SECTION 993.** ORS 616.020 is amended to read:

7 616.020. (1) In addition to any [*Department of Human Services*] **Oregon Health Authority** sur-
 8 vey, investigation or inquiry authorized by law that involves the production, processing or distrib-
 9 ution of agricultural products, the [*Department of Human Services*] **authority** shall make such
 10 further surveys, investigations or inquiries as may be requested by the Director of Agriculture for
 11 the purpose of showing the manner in which the production, processing or distribution of agricul-
 12 tural products may affect the public health.

13 (2) In order that maximum protection to the public health may result from the activities of the
 14 [*Department of Human Services*] **authority** and the State Department of Agriculture, the [*Department*
 15 *of Human Services*] **authority** shall notify the Director of Agriculture in writing of any contemplated
 16 survey that affects or may affect agricultural products that are under the regulation of the [*State*
 17 *Department of Agriculture*] **department**. The notice shall cover in detail the scope of the survey
 18 under consideration, and the reasons therefor. However, this section shall not be construed as pro-
 19 hibiting the [*Department of Human Services*] **authority** from taking immediate action in any case
 20 where such action seems necessary in the interests of public health. The written notice is not re-
 21 quired in the case of a survey instituted on the request of the Director of Agriculture.

22 (3) Not less than 30 days after the completion of any such survey, the [*Department of Human*
 23 *Services*] **authority** shall file with the Director of Agriculture a certified copy of its report. The
 24 report shall include the findings of the [*Department of Human Services*] **authority** with respect to
 25 all matters covered thereby. Whenever the findings in the report of any survey, investigation or
 26 inquiry made by the [*Department of Human Services*] **authority** show any hazard to public health
 27 existing incident to the production, processing or distribution of any agricultural commodity, the
 28 State Department of Agriculture shall take such action as may be necessary and within the scope
 29 of its resources to remove such hazards.

30 **SECTION 994.** ORS 616.077 is amended to read:

31 616.077. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt any
 32 rules necessary to implement the policy established in ORS 616.073.

33 (2) Rules adopted by the [*Department of Human Services*] **authority** under subsection (1) of this
 34 section to implement the policy of the State of Oregon to prohibit the use of sulfites in fresh foods
 35 and foods to be consumed without cooking do not apply to a food processing establishment licensed
 36 under ORS 616.695 to 616.755.

37 **SECTION 995.** ORS 616.330 is amended to read:

38 616.330. ORS 616.205 to 616.215, 616.225 to 616.256, 616.286, 616.295, 616.310, 616.315, 616.325,
 39 616.341, 616.350 to 616.366, 616.790, 616.992, rules adopted by the [*Department of Human Services*]
 40 **Oregon Health Authority** under ORS 616.077 (1) and this section do not apply to alcoholic
 41 beverages.

42 **SECTION 996.** ORS 616.711 is amended to read:

43 616.711. (1) No license or duplicate of a license, as prescribed in ORS 616.706, is necessary for
 44 food establishments where the principal activity is the receiving, storage, sorting, cleaning and
 45 packing of fresh fruits and vegetables.

1 (2) All provisions of ORS 616.695 to 616.755 other than licensing apply to food establishments
2 set forth in subsection (1) of this section.

3 (3) The provisions of ORS 616.695 to 616.755 do not apply to:

4 (a) Restaurants, bed and breakfast facilities, commissaries, vending machines and mobile food
5 and beverage units licensed under ORS 624.010 to 624.121, 624.310 to 624.430 or those which are
6 exempted under ORS 624.330.

7 (b) Food service facilities not preparing food for distribution to the public or to institutional
8 facilities licensed and regulated by the Department of Human Services **or the Oregon Health Au-**
9 **thority.**

10 (c) Shellfish operations licensed under ORS chapter 622.

11 (d) A person processing, manufacturing or packaging food for family use or consumption.

12 (e) Commercial transit salvage operations not involving sale of food to the general public.

13 **SECTION 997.** ORS 616.745 is amended to read:

14 616.745. (1) The [*Department of Human Services*] **Oregon Health Authority** may, by rule, define
15 certain communicable diseases which may be spread to the public through the handling of food in
16 food establishments.

17 (2) No owner or employer shall require, permit or suffer any person to work, nor shall any
18 person work, in a food establishment who is affected with a disease described in subsection (1) of
19 this section.

20 **SECTION 998.** ORS 619.095 is amended to read:

21 619.095. (1) Game meat donated to charitable organizations shall be inspected by the State De-
22 partment of Agriculture to determine fitness for human consumption as provided in ORS 603.045 and
23 619.031 or shall be inspected and determined fit for human consumption by employees of the State
24 Department of Fish and Wildlife or the Department of State Police who have been trained by the
25 State Department of Agriculture in the procedures provided in ORS 603.045 and 619.031, and shall
26 be processed by an establishment approved by the State Department of Agriculture as provided in
27 ORS 619.026 and 619.031 and may be served for human consumption by charitable organizations.

28 (2) As used in subsection (1) of this section:

29 (a) "Charitable organization" means the Department of Human Services, **Oregon Health Au-**
30 **thority**, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional
31 centers, public school nutritional centers, senior nutritional centers, state hospitals and other
32 charitable organizations or public institutions approved by the State Department of Fish and
33 Wildlife.

34 (b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

35 **SECTION 999.** ORS 624.010 is amended to read:

36 624.010. As used in ORS 624.010 to 624.121, unless the context requires otherwise:

37 (1) "**Authority**" means the **Oregon Health Authority.**

38 [(1)] (2) "Bed and breakfast facility" means any establishment located in a structure designed
39 for a single family residence and structures appurtenant thereto, regardless of whether the owner
40 or operator of the establishment resides in any of the structures, that:

41 (a) Has more than two rooms for rent on a daily basis to the public; and

42 (b) Offers a breakfast meal as part of the cost of the room.

43 [(2)] "*Department*" means the *Department of Human Services.*

44 (3) "Director" means the Director of [*Human Services*] **the Oregon Health Authority.**

45 (4) "Limited service restaurant" means a restaurant serving only individually portioned pre-

1 packaged foods prepared from an approved source by a commercial processor and nonperishable
2 beverages.

3 (5) "Restaurant" includes any establishment where food or drink is prepared for consumption
4 by the public or any establishment where the public obtains food or drink so prepared in form or
5 quantity consumable then and there, whether or not it is consumed within the confines of the
6 premises where prepared, and also includes establishments that prepare food or drink in consumable
7 form for service outside the premises where prepared, but does not include railroad dining cars, bed
8 and breakfast facilities or temporary restaurants.

9 (6) "Temporary restaurant" means any establishment operating temporarily in connection with
10 any fair, carnival, circus or similar public gathering or entertainment, food product promotion or
11 any other event where food is prepared or served for consumption by the public. "Temporary res-
12 taurant" does not include:

13 (a) An establishment where food is prepared and served by a fraternal, social or religious or-
14 ganization only to its own members and guests.

15 (b) An approved school lunchroom where food is prepared and served for school and community
16 activities, where the preparation and service are under the direction of the school lunchroom
17 supervisor.

18 (c) A food product promotion where only samples of a food or foods are offered to demonstrate
19 the characteristics of the food product. For the purposes of this paragraph, a sample shall not in-
20 clude a meal, an individual hot dish or a whole sandwich.

21 (d) A private residence, or part thereof, including the grounds, areas and facilities held out for
22 the use of the occupants generally, for which a temporary sales license is issued under ORS 471.190
23 for a period not exceeding one day.

24 **SECTION 1000.** ORS 624.020 is amended to read:

25 624.020. (1) A person may not operate a restaurant or bed and breakfast facility without a li-
26 cense to do so from the [*Department of Human Services*] **Oregon Health Authority**.

27 (2) Application for the license shall be in writing in the form prescribed by the [*department*]
28 **authority** and shall contain the name and address of the applicant and any other information that
29 the [*department*] **authority** may require. The fee for a license is as provided in ORS 624.490. A li-
30 cense expires annually on December 31 or on such date as may be specified by [*department*] **au-**
31 **thority** rule.

32 (3) The Director of [*Human Services*] **the Oregon Health Authority** may suspend, deny or re-
33 voke any license for violation of any of the applicable provisions of ORS 624.010 to 624.121 or any
34 rule adopted under ORS 624.010 to 624.121.

35 (4) Procedures for denial, revocation or suspension of a license are as provided in ORS chapter
36 183.

37 (5) The licensee shall post evidence of the license in public view at the customary entrance of
38 the restaurant or bed and breakfast facility. A person other than the director may not deface or
39 remove evidence of a license.

40 (6) A license is not transferable. The [*department*] **authority** may not issue a refund representing
41 any unused portion of a license.

42 **SECTION 1001.** ORS 624.036 is amended to read:

43 624.036. When the [*Department of Human Services*] **Oregon Health Authority** determines that
44 public health hazards are nonexistent, the [*department*] **authority** may, by rule, exempt certain types
45 of confection operations from the license requirements of ORS 624.010 to 624.121.

1 **SECTION 1002.** ORS 624.041 is amended to read:

2 624.041. The [*Department of Human Services*] **Oregon Health Authority** shall make all rules
3 necessary for the enforcement of ORS 624.010 to 624.121, including such rules concerning the con-
4 struction and operation of restaurants, bed and breakfast facilities and temporary restaurants as are
5 reasonably necessary to protect the public health of persons using these facilities. The rules shall
6 provide for, but need not be restricted to, the following:

7 (1) A water supply adequate in quantity and safe for human consumption.

8 (2) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or
9 a health hazard.

10 (3) The cleanliness and accessibility of toilets and handwashing facilities.

11 (4) The cleanliness of the premises.

12 (5) The refrigeration of perishable foods.

13 (6) The storage of food for protection against dust, dirt and contamination.

14 (7) Equipment of proper construction and cleanliness of such equipment.

15 (8) The control of insects and rodents.

16 (9) The cleanliness and grooming of food workers.

17 (10) Exclusion of unauthorized persons from food preparation and storage areas.

18 (11) Review of proposed plans for the construction or remodeling of facilities subject to licensing
19 under this chapter.

20 **SECTION 1003.** ORS 624.046 is amended to read:

21 624.046. The [*Department of Human Services*] **Oregon Health Authority** shall allow a bed and
22 breakfast facility to conduct food service operations for its patrons in rooms used by the owner or
23 operator, provided that:

24 (1) Such rooms are not used as sleeping quarters; and

25 (2) Persons not employed by the facility shall be excluded from such rooms during breakfast
26 meal hours.

27 **SECTION 1004.** ORS 624.051 is amended to read:

28 624.051. The [*Department of Human Services*] **Oregon Health Authority** shall allow restaurants
29 with an occupancy capacity of no more than 15 persons, including employees and patrons, to have
30 only one toilet fixture and adjacent lavatory on the premises. This single toilet fixture shall comply
31 with all [*department*] **authority** standards for construction, maintenance, cleanliness, accessibility
32 and others, not in conflict with the state building code, that the [*department*] **authority** might pro-
33 vide.

34 **SECTION 1005.** ORS 624.060 is amended to read:

35 624.060. (1) At least once every six months the Director of [*Human Services*] **the Oregon Health**
36 **Authority** shall inspect every restaurant located within the jurisdiction of the director. At least
37 once a year the director shall inspect every bed and breakfast facility located within the jurisdiction
38 of the director. The person operating the restaurant or bed and breakfast facility shall, upon the
39 request of the director, permit access to all parts of the establishment.

40 (2) A copy of each inspection report shall be given to the restaurant or bed and breakfast fa-
41 cility operator or person in charge of the restaurant or bed and breakfast facility, and another copy
42 shall be filed with the records of the [*Department of Human Services*] **Oregon Health Authority**.

43 (3) During each inspection, the director shall [*insure*] **ensure** that restaurants or bed and
44 breakfast establishments that hold valid liquor licenses have properly posted the appropriate sign
45 required by ORS 471.551.

1 (4) After each inspection, notice regarding compliance with ORS 624.010 to 624.121 by the res-
2 taurant or bed and breakfast facility shall be posted at the customary entrance of the restaurant
3 or bed and breakfast facility in public view and shall not be removed by any person except the di-
4 rector.

5 (5) If the director discovers the violation of any provision of ORS 624.010 to 624.121, the director
6 shall make a second inspection after the lapse of such time as the director deems necessary for the
7 defect to be remedied. When a violation noted on an inspection has been remedied, that violation
8 shall not cumulate with violations noted on a second inspection.

9 **SECTION 1006.** ORS 624.070 is amended to read:

10 624.070. Samples of food, drink and other substances may be taken and examined by the Director
11 of [*Human Services*] **the Oregon Health Authority** as often as may be necessary for the detection
12 of unwholesomeness or adulteration. The director may condemn and forbid the sale of, or cause to
13 be removed or destroyed, any food or drink which is unwholesome or adulterated.

14 **SECTION 1007.** ORS 624.073 is amended to read:

15 624.073. (1) If the Director of [*Human Services*] **the Oregon Health Authority** determines that
16 a critical violation of ORS 624.010 to 624.121, or any rule promulgated pursuant thereto, exists in
17 a restaurant or bed and breakfast facility and the critical violation constitutes a potential danger
18 to the public health, the director may revoke, suspend or refuse to issue the license required by ORS
19 624.020 if, after a reasonable time has been given for correction of the violation, but not longer than
20 14 days, the violation continues to exist. The director shall reinstate a license that has been revoked
21 or suspended if the director determines that the violation has been corrected.

22 (2) Notwithstanding ORS 624.020, if the director determines that a critical violation of ORS
23 624.010 to 624.121, or any rule promulgated pursuant thereto, exists in a restaurant or bed and
24 breakfast facility and the critical violation constitutes an imminent or present danger to the public
25 health, the director may order immediate correction, use of an approved alternative procedure or
26 closure of the restaurant or bed and breakfast facility by written notice thereof to the operator. The
27 inspection report carrying a statement ordering closure and specifying the reasons therefor signed
28 by the director and delivered to the operator may serve as the written notice of the closure. The
29 director shall use inspection forms that clearly display notice that procedures are available to the
30 licensee under ORS chapter 183 for appeal of the closure order. A copy of the notice shall be filed
31 with the records of the [*Department of Human Services*] **Oregon Health Authority**. The closure
32 order shall have the effect of an immediate revocation of the operator's license. If requested, the
33 director shall provide a prompt hearing after the closure in accordance with ORS chapter 183.

34 (3) If the director determines that closure of the restaurant or bed and breakfast facility is
35 necessary because failure to correct a critical violation or implement an approved alternative pro-
36 cedure constitutes a potential danger to the public health, or failure to correct a critical violation
37 or implement an approved alternative procedure constitutes an imminent or present danger to the
38 public health, the director shall:

39 (a) Notify the owner or person in charge of the restaurant or bed and breakfast facility that
40 such restaurant or bed and breakfast facility shall not be used for food service purposes until the
41 critical violations specified in the inspection report have been corrected; and

42 (b) Post a notice of closure upon the restaurant or bed and breakfast facility at the customary
43 entrance to the restaurant or bed and breakfast facility in public view to the effect that the res-
44 taurant or bed and breakfast facility is closed for operation because a critical violation exists.

45 (4)(a) No person shall remove a notice of closure from a restaurant or bed and breakfast facility

1 until the violation which caused the notice to be posted has been corrected.

2 (b) No person shall operate a restaurant or bed and breakfast facility upon which a notice of
3 closure has been posted until the violation which caused the notice to be posted has been corrected
4 and the notice has been removed.

5 (5) The director shall define clearly the criteria and rules for conformance to acceptable food
6 service practices used to determine the restaurant or bed and breakfast facility sanitation score to
7 insure statewide uniformity in the inspection and licensing processes. Critical violations which
8 constitute a potential danger to the public health and critical violations which constitute an immi-
9 nent or present danger to the public health shall be clearly defined. Minimum acceptable food ser-
10 vice standard procedures shall be clearly defined by setting a minimum acceptable sanitation score
11 for a licensed restaurant or bed and breakfast facility.

12 (6) If a restaurant or bed and breakfast facility obtains a sanitation score of less than the min-
13 imum acceptable standard, the restaurant or bed and breakfast facility operator or person in charge
14 of the restaurant or bed and breakfast facility shall be notified of impending closure if, after rein-
15 spection within 30 days, the sanitation score does not meet minimum acceptable food service stan-
16 dards. If closure action is taken after reinspection, the restaurant or bed and breakfast facility may
17 not be operated until the restaurant or bed and breakfast facility operator submits a plan for cor-
18 rection of the violations that receives the approval of the director and a subsequent inspection of
19 the restaurant or bed and breakfast facility produces a sanitation score that meets minimum ac-
20 ceptable food service standards.

21 (7) The *[department]* **authority** may establish a more frequent inspection schedule for a restau-
22 rant licensed under ORS 624.020 that fails to meet specific minimum standards established by the
23 *[department. The department]* **authority. The authority** may charge a fee for costs associated with
24 the performance of additional inspections.

25 (8) As used in this section, "imminent" means impending or likely to develop without delay.

26 **SECTION 1008.** ORS 624.077 is amended to read:

27 624.077. The *[Department of Human Services]* **Oregon Health Authority** shall make such rating
28 surveys as are necessary to obtain uniform enforcement of ORS 624.010 to 624.121 throughout the
29 state, and shall prepare and disseminate information pertaining to educational programs for the
30 purpose of encouraging compliance with ORS 624.010 to 624.121 on the part of owners, managers
31 and employees of eating and drinking establishments.

32 **SECTION 1009.** ORS 624.080 is amended to read:

33 624.080. (1) The *[Department of Human Services]* **Oregon Health Authority** may, by rule, define
34 certain communicable diseases which may be spread to the public by employees of a restaurant, bed
35 and breakfast facility or temporary restaurant.

36 (2) No person who is affected with a communicable disease described in subsection (1) of this
37 section or is a carrier of such disease shall work in any restaurant, bed and breakfast facility or
38 temporary restaurant. No restaurant, bed and breakfast facility or temporary restaurant shall em-
39 ploy any such person or any person suspected of being affected with any communicable disease or
40 of being a carrier of such disease. If the restaurant, bed and breakfast facility or temporary res-
41 taurant manager suspects that any employee has contracted any disease in a communicable form
42 or has become a carrier of such disease the manager shall notify the Director of *[Human Services]*
43 **the Oregon Health Authority** immediately. A placard containing this subsection shall be posted in
44 all toilet rooms.

45 (3) When suspicion arises as to the possibility of transmission of infection from any restaurant,

1 bed and breakfast facility or temporary restaurant employee, the director may require any or all of
2 the following measures:

3 (a) The immediate exclusion of the employee from all restaurants, bed and breakfast facilities
4 and temporary restaurants; and

5 (b) Adequate medical examinations of the employee and associates of the employee, with such
6 laboratory examinations as may be indicated.

7 **SECTION 1010.** ORS 624.086 is amended to read:

8 624.086. (1) A person may not operate a temporary restaurant without first procuring a license
9 to do so from the [*Department of Human Services*] **Oregon Health Authority**. The temporary res-
10 taurant license shall be posted in a conspicuous place on the premises of the licensee.

11 (2) Application for a temporary restaurant license shall be in writing in the form prescribed by
12 the [*department*] **authority** and shall contain the name and address of the applicant, the specific
13 location of the temporary restaurant and any other information the [*department*] **authority** may re-
14 quire.

15 (3) All temporary restaurant licenses shall terminate 30 days after issuance unless within the
16 30 days the temporary restaurant is discontinued or is moved from the specific location for which
17 the license was issued. If within 30 days after issuance the temporary restaurant is discontinued or
18 moved from the specific location for which the license was issued, the license shall terminate upon
19 the discontinuance or the removal.

20 (4) Except as provided in ORS 624.106 and subsection (6) of this section, every applicant for a
21 temporary restaurant license or renewal thereof shall pay to the [*department*] **authority** the appro-
22 priate license fee under ORS 624.490.

23 (5) The Director of [*Human Services*] **the Oregon Health Authority** may suspend, deny or re-
24 voke any temporary restaurant license if it appears, after a reasonable time has been given for
25 correction of a sanitation violation, that the applicant does not meet applicable minimum sanitation
26 standards as outlined in ORS 624.010 to 624.121 or any rule adopted thereunder. Any suspension,
27 denial or revocation action shall be taken in accordance with ORS chapter 183.

28 (6) Notwithstanding any other provision of this section or ORS 624.490:

29 (a) Each temporary restaurant operating on an intermittent basis, in a grouping of six or more,
30 at the same specific location two or more times within a 30-day period shall be issued one license
31 for each 30-day period.

32 (b) The total annual amount of license fees for temporary restaurants described in paragraph (a)
33 of this subsection may not exceed the maximum annual license fee for a restaurant that is situated
34 in the county in which the temporary restaurant is situated.

35 **SECTION 1011.** ORS 624.091 is amended to read:

36 624.091. (1) At least once during the operation of a temporary restaurant, the Director of [*Hu-*
37 *man Services*] **the Oregon Health Authority** shall inspect the facilities and operation. The person
38 operating the temporary restaurant shall, upon request of the director, permit access to all parts
39 of the establishment.

40 (2) One copy of the inspection report shall be posted by the director somewhere on the estab-
41 lishment premises; and the report shall not be defaced or removed by any person except the director
42 until the temporary restaurant license is terminated. Another copy of the inspection report shall be
43 filed with the records of the [*Department of Human Services*] **Oregon Health Authority**.

44 **SECTION 1012.** ORS 624.096 is amended to read:

45 624.096. When the violation of any provision of ORS 624.010 to 624.121 or any rule promulgated

1 thereunder comes to the attention of the Director of [*Human Services*] **the Oregon Health Au-**
 2 **thority** and if the violation is of such a nature as to constitute a serious hazard to the health of the
 3 public, immediate closure of the temporary restaurant may be secured upon notification of the op-
 4 erator in writing. The inspection report carrying a statement ordering closure and signed by the
 5 director delivered to the operator may serve as the written notice of the closure. A copy of this
 6 notice shall be filed with the records of the [*Department of Human Services*] **Oregon Health Au-**
 7 **thority**. The closure order shall have the effect of an immediate revocation of the operator's license.
 8 The director shall, if requested, provide a prompt hearing after closure in accordance with ORS
 9 chapter 183.

10 **SECTION 1013.** ORS 624.106 is amended to read:

11 624.106. (1)(a) Notwithstanding ORS 624.086 (3) and (4), the [*Department of Human Services*]
 12 **Oregon Health Authority** shall issue a license to a benevolent organization to operate a temporary
 13 restaurant pursuant to this section if the benevolent organization has notified the [*department*] **au-**
 14 **thority**, orally or in writing, of its intention to operate a temporary restaurant. The [*department*]
 15 **authority** shall provide at least one place in each county at which such notification may be made.

16 (b) Not more than 13 temporary restaurant licenses per year may be issued pursuant to this
 17 section to each benevolent organization.

18 (c) No license fee or inspection fee shall be charged for a temporary restaurant licensed pursu-
 19 ant to this section.

20 (2) The [*department*] **authority** shall issue a temporary benevolent restaurant license to each
 21 provider of restaurant service at a special event arranged by a benevolent organization. The license
 22 shall be provided without fee to each restaurant service provider who files with the benevolent or-
 23 ganization a signed statement that the service provider receives no profit from restaurant services
 24 performed at the special event. The statement shall be subject to inspection by the [*department*]
 25 **authority** at the time inspections are made pursuant to ORS 624.111. For the purpose of licenses
 26 issued pursuant to this subsection, a particular benevolent organization may arrange only one spe-
 27 cial event per calendar year.

28 (3) All licenses issued pursuant to this section shall terminate three days after issuance unless
 29 within the three days the temporary restaurant is discontinued or is moved from the specific lo-
 30 cation for which the license was issued. If within three days after issuance the temporary restaurant
 31 is discontinued or moved from the specific location for which the license was issued, the license
 32 shall terminate upon the discontinuance or the removal.

33 **SECTION 1014.** ORS 624.111 is amended to read:

34 624.111. (1) At any time during the operation of a temporary restaurant licensed pursuant to
 35 ORS 624.106, the Director of [*Human Services*] **the Oregon Health Authority** may inspect the fa-
 36 cilities and operation.

37 (2) The benevolent organization operating the temporary restaurant shall, upon request of the
 38 director, permit access to all parts of the establishment.

39 **SECTION 1015.** ORS 624.116 is amended to read:

40 624.116. The Director of [*Human Services*] **the Oregon Health Authority** may declare that an
 41 extraordinary situation exists and may apply alternative food service criteria in an establishment
 42 operated to prepare or serve food or beverages to indigent or needy persons by a benevolent or-
 43 ganization, as defined by ORS 624.101, without charge or solicitation from those served.

44 **SECTION 1016.** ORS 624.121 is amended to read:

45 624.121. The [*Department of Human Services*] **Oregon Health Authority** shall appoint a State

1 Food Service Advisory Committee. The committee shall consist of volunteer representatives from
2 a cross section of the food service industry, the general public, appropriate local and state groups,
3 county environmental health specialists and other appropriate state agencies, including the State
4 Department of Agriculture. In addition to such other duties as may be prescribed by the [*Department*
5 *of Human Services*] **authority**, the committee, not later than January 1 of each year in which a
6 biennial session of the Legislative Assembly convenes, shall submit to the [*department*] **authority**
7 and the Legislative Assembly recommendations regarding the implementation of ORS 624.020,
8 624.060, 624.073, 624.495 and 624.510.

9 **SECTION 1017.** ORS 624.165 is amended to read:

10 624.165. (1) Subject to ORS 624.070, game meat that has been donated to a charitable organiza-
11 tion and has been inspected and processed as provided in ORS 619.095 may be served for human
12 consumption by that charitable organization.

13 (2) As used in subsection (1) of this section:

14 (a) "Charitable organization" means the Department of Human Services, **Oregon Health Au-**
15 **thority**, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional
16 centers, public school nutritional centers, senior nutritional centers, state hospitals and other
17 charitable organizations or public institutions approved by the State Department of Fish and
18 Wildlife.

19 (b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

20 **SECTION 1018.** ORS 624.310 is amended to read:

21 624.310. As used in ORS 624.310 to 624.430 unless the context requires otherwise:

22 (1) "Approved" means approved by the administrator.

23 **(2) "Authority" means the Oregon Health Authority.**

24 [(2)] **(3) "Commissary" means commissary catering establishment, restaurant or any other place**
25 **in which food, beverage, ingredients, containers or supplies are kept, handled, prepared or stored,**
26 **and from which vending machines or mobile units are serviced.**

27 [(3)] *"Department" means the Department of Human Services.*

28 (4) "Director" means the Director of [*Human Services*] **the Oregon Health Authority.**

29 (5) "Employee" means any operator or any person employed by an operator who handles any
30 food, beverage, or ingredient to be dispensed through vending machines or mobile units, or who
31 comes into contact with product contact surfaces of the container, equipment, utensils or packaging
32 materials, used in connection with vending machines or mobile unit operations, or who otherwise
33 services or maintains one or more such machines or units.

34 (6) "Food" means any raw, cooked or processed edible substance, beverage or ingredient used
35 or intended for use in whole, or in part, for human consumption.

36 (7) "Machine location" means the room, enclosure, space or area where one or more vending
37 machines are installed and are in operation.

38 (8) "Mobile unit" means any vehicle on which food is prepared, processed or converted or which
39 is used in selling and dispensing food to the ultimate consumer.

40 (9) "Operator" means any person, who by contract, agreement or ownership is responsible for
41 operating a commissary or warehouse or furnishing, installing, servicing, operating or maintaining
42 one or more vending machines or mobile units.

43 (10) "Person" means any individual, partnership, corporation, company, firm, institution, associ-
44 ation or any other public or private entity.

45 (11) "Product contact surface" means any surface of the vending machine or mobile unit,

1 appurtenance or container which comes into direct contact with any food, beverage or ingredient.

2 (12) "Readily perishable food" means any food, beverage or ingredient consisting in whole or in
3 part of milk, milk products, eggs, meat, fish, poultry, or any other food capable of supporting rapid
4 and progressive growth of microorganisms which can cause food infections or food intoxications.
5 However, "readily perishable food" does not include products in hermetically sealed containers
6 processed by heat to prevent spoilage or dehydrated, dry or powdered products which are so low in
7 moisture content as to preclude development of microorganisms.

8 (13) "Single-service article" means any utensil, container, implement or wrapper intended for use
9 only once in the preparation, storage, display, service or consumption of food or beverage.

10 (14) "Utensil" means any kitchenware, tableware, glassware, cutlery, container, cleaning brush
11 or other equipment that comes into contact with food or product contact surfaces during cleaning
12 of vending machines, mobile units or commissary equipment, or during storage, preparation, serving,
13 dispensing or consumption of food.

14 (15) "Vending machine" means any self-service device offered for public use which, upon in-
15 sertation of a coin, coins, currency or token, or by other means, dispenses unit servings of food or
16 beverage, either in bulk or package, without the necessity of replenishing the device between each
17 vending operation.

18 (16) "Warehouse" means any place where food, utensils, single-service articles, cleaning or ser-
19 vicing supplies for vending machines, mobile units or commissaries are stored.

20 **SECTION 1019.** ORS 624.320 is amended to read:

21 624.320. (1) A person may not operate a vending machine, warehouse, commissary or mobile unit
22 without first procuring a license to do so from the [*Department of Human Services*] **Oregon Health**
23 **Authority**. The operator shall post the license in a conspicuous place in the warehouse or
24 commissary. The operator shall affix a card, emblem or other device clearly showing the name and
25 address of the licensee and the serial number of the license to each vending machine or mobile unit
26 as the case may be.

27 (2) Application for the license shall be in writing in the form prescribed by the [*department*]
28 **authority** and shall contain the following information:

- 29 (a) Name and address of the applicant.
- 30 (b) Location of all warehouses or commissaries.
- 31 (c) Locations where supplies are kept.
- 32 (d) Locations where vending machines or mobile units are stored, repaired or renovated.
- 33 (e) Identity and form of food to be dispensed through vending machines.
- 34 (f) Number of each type of vending machine on location.

35 (3) The operator must keep the specific locations of the vending machines and specific itiner-
36 aries of the mobile units on file at the operator's business office and readily available to the [*de-*
37 *partment*] **authority**. If the mobile unit is moved to a delegate county other than a delegate county
38 that licensed the mobile unit, the operator shall notify the **local** health department for the county
39 to which the mobile unit is moved prior to operating the mobile unit within that county. The oper-
40 ator shall furnish the [*department*] **authority** with written details of the conversion of any vending
41 machine to dispense products other than those for which the license was issued.

42 **SECTION 1020.** ORS 624.330 is amended to read:

43 624.330. (1) Vending machines dispensing only ball chewing gum, nutmeats and the following
44 prepackaged foods: Candy, chewing gum, nutmeats, potato chips, pretzels, popcorn, cookies, crackers
45 and bottled or canned soft drink beverages shall be exempt from the provisions of ORS 624.320 and

1 624.430.

2 (2) The [*Department of Human Services*] **Oregon Health Authority** may, by rule, exempt certain
3 other types of vending machines from the license requirements of ORS 624.310 to 624.430 when it
4 appears that there is no danger to the life and health of the people of this state.

5 (3) The provisions of ORS 624.310 to 624.430 do not include commissaries, mobile units or
6 vending machines which are presently licensed and inspected by the State Department of Agricul-
7 ture or United States Public Health Service.

8 **SECTION 1021.** ORS 624.340 is amended to read:

9 624.340. The Director of [*Human Services*] **the Oregon Health Authority** may deny, suspend
10 or revoke a license in accordance with ORS chapter 183 in any case where the director finds that
11 there has been a substantial failure to comply with the provisions of ORS 624.310 to 624.430 or the
12 rules promulgated under ORS 624.310 to 624.430.

13 **SECTION 1022.** ORS 624.370 is amended to read:

14 624.370. (1) At least once every six months, the Director of [*Human Services*] **the Oregon**
15 **Health Authority** shall inspect every commissary and warehouse, and a representative number of
16 each operator's mobile units and vending machines. The director shall be granted access at reason-
17 able times to all parts of the commissary and shall have access, either in the company of an em-
18 ployee or otherwise, to the interior of all vending machines or mobile units of the operator at such
19 times as the director considers necessary to [*insure*] **ensure** compliance with the provisions of ORS
20 624.310 to 624.430.

21 (2) Samples of food, drink and other substances may be taken and examined by the director as
22 often as may be necessary for the detection of unwholesomeness or adulteration. The director may
23 condemn and prohibit the sale of or cause to be removed or destroyed, any food or drink which
24 contains any toxic, contaminated, filthy, putrid, decomposed or diseased substance or if it is other-
25 wise unfit for human consumption.

26 (3) One copy of the inspection report shall be posted by the director upon an inside wall of the
27 commissary or placed in the mobile unit. The inspection report shall not be defaced or removed by
28 any person except the director. A copy of the inspection report on vending machines shall be sent
29 to the operator. Another copy of each inspection report shall be filed with the records of the [*De-*
30 *partment of Human Services*] **Oregon Health Authority**.

31 (4) If the director discovers the violation of any provision of ORS 624.310 to 624.430 or any rule
32 promulgated thereunder, the director shall make a second inspection after the lapse of such time
33 as the director considers necessary for the defect to be remedied.

34 (5) If a violation is of a nature so as to constitute a danger to the health of the people of this
35 state, the director may order immediate closure of the commissary, mobile unit, or vending machine
36 and shall, within 24 hours of the time of inspection, mail to or serve personally on the licensee a
37 copy of the inspection report signed by the director showing thereon the particular facility closed
38 and the reason. The director shall, if requested, hold a hearing in accordance with ORS chapter 183.

39 **SECTION 1023.** ORS 624.380 is amended to read:

40 624.380. (1) No person affected with a communicable disease described in ORS 624.080 (1) or is
41 a carrier of such disease shall work in any commissary, mobile unit or in the servicing of vending
42 machines nor shall any operator employ any such person or any person suspected of being affected
43 with any communicable disease or of being a carrier of such disease. If the operator suspects that
44 any employee has an infectious disease in a communicable form or may be a carrier of such a dis-
45 ease the operator shall notify the Director of [*Human Services*] **the Oregon Health Authority** im-

1 mediately. A placard containing this section shall be posted in all toilet rooms.

2 (2) When, in the opinion of the director, there is a possibility of transmission of infection from
3 any person or employee, the director may require the immediate exclusion of such person or em-
4 ployee from all commissaries, mobile units and vending machines and may require a medical exam-
5 ination of the person or employee and associates of the person or employee including such
6 laboratory examinations as may be indicated.

7 **SECTION 1024.** ORS 624.390 is amended to read:

8 624.390. The [*Department of Human Services*] **Oregon Health Authority** shall make reasonable
9 rules for carrying out the provisions of ORS 624.310 to 624.430, including but not limited to the
10 following:

11 (1) Construction and operation of commissaries, mobile units and vending machines.

12 (2) Water supply adequate in quantity and safe for human consumption.

13 (3) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or
14 health hazard.

15 (4) Cleanliness of premises and facilities.

16 (5) Refrigeration of perishable foods and the wholesomeness of all food and beverage ingredients.

17 (6) Protection of food, utensils, wrapping and serving materials against dust, dirt and contam-
18 ination.

19 (7) Equipment of proper construction and the maintenance of such equipment.

20 (8) Approved plumbing.

21 (9) Sanitary facilities for employees in commissaries.

22 (10) Control and exclusion of insects and rodents.

23 (11) Labeling of foods or beverages.

24 (12) Exclusion of vending machines dispensing chemicals, sanitizers, detergents, economic poi-
25 sons and such other compounds of similar nature from immediate areas where food and beverage
26 vending machines are located.

27 (13) Approval of plans for commissaries, mobile units and vending machines.

28 **SECTION 1025.** ORS 624.400 is amended to read:

29 624.400. The [*Department of Human Services*] **Oregon Health Authority** shall make such sur-
30 veys as are necessary to obtain uniform enforcement of ORS 624.310 to 624.430 throughout the state
31 and shall prepare and disseminate information and shall cooperate with and assist local health de-
32 partments in educational programs for the purpose of encouraging compliance with ORS 624.310 to
33 624.430 on the part of operators and employees of vending machines and mobile units.

34 **SECTION 1026.** ORS 624.410 is amended to read:

35 624.410. (1) Foods from commissaries or other sources outside the jurisdiction of the [*Department*
36 *of Human Services*] **Oregon Health Authority** may be sold in the local jurisdiction if such
37 commissaries or other sources of supply conform to the provisions of ORS 624.310 to 624.430 and the
38 rules promulgated under ORS 624.310 to 624.430 or to substantially equivalent provisions.

39 (2) The [*department*] **authority** shall investigate and survey the system of regulations in effect
40 for commissaries or sources of supply outside the state. Upon determination that the regulations in
41 effect are of a quality substantially equal to the rules of ORS 624.310 to 624.430, the [*department*]
42 **authority** may permit such commissaries or sources of supply to be used in the state.

43 **SECTION 1027.** ORS 624.430 is amended to read:

44 624.430. (1) Except as provided in ORS 624.330, every applicant for a license to operate a
45 commissary, vending machine, warehouse or mobile unit shall pay to the [*Department of Human*

1 *Services*] **Oregon Health Authority** the appropriate annual fee set forth in ORS 624.490.

2 (2) All licenses issued under ORS 624.320 expire annually on a date set by [*department*] **au-**
3 **thority** rule. A license is not transferable. The [*department*] **authority** may not issue a refund rep-
4 resenting any unused portion of a license. The [*department*] **authority** may not refund fees submitted
5 with applications that have been denied.

6 **SECTION 1028.** ORS 624.490 is amended to read:

7 624.490. (1) The [*Department of Human Services*] **Oregon Health Authority** may charge the
8 following fees for the issuance or renewal of licenses:

9 (a) \$157.50 for a bed and breakfast facility.

10 (b) \$210 for a limited service restaurant.

11 (c) For a restaurant in accordance with seating capacity, as follows:

12 (A) \$367.50 for 0 to 15 seats;

13 (B) \$414.75 for 16 to 50 seats;

14 (C) \$472.50 for 51 to 150 seats; and

15 (D) \$525 for more than 150 seats.

16 (d) For a temporary restaurant, except as provided in ORS 624.086 and 624.106:

17 (A) \$36.75 for an event lasting one day; and

18 (B) \$52.50 for an event lasting two days or longer.

19 (e) \$262.50 for a commissary.

20 (f) \$105 for each warehouse.

21 (g) \$131.50 for each mobile unit.

22 (h) For vending machines in accordance with the number of machines covered by the license as
23 follows:

24 (A) \$26.25 for 1 to 10 machines;

25 (B) \$52.50 for 11 to 20 machines;

26 (C) \$78.75 for 21 to 30 machines;

27 (D) \$105 for 31 to 40 machines;

28 (E) \$131.25 for 41 to 50 machines;

29 (F) \$157.50 for 51 to 75 machines;

30 (G) \$210 for 76 to 100 machines;

31 (H) \$367.50 for 101 to 250 machines;

32 (I) \$577.50 for 251 to 500 machines;

33 (J) \$787.50 for 501 to 750 machines;

34 (K) \$966 for 751 to 1,000 machines;

35 (L) \$1,260 for 1,001 to 1,500 machines; and

36 (M) \$1,575 for more than 1,500 machines.

37 (2) To reinstate a license other than a temporary restaurant license after the expiration date,
38 the operator must pay a reinstatement fee of \$100 in addition to the license fee required under
39 subsection (1) of this section. If the operator reinstates the license more than 30 days after the ex-
40 piration date, the reinstatement fee shall increase by \$100 on the 31st day following the expiration
41 date and on that day of the month in each succeeding month until the license is reinstated.

42 (3) The [*department*] **Oregon Health Authority** or a local public health authority may exempt
43 or reduce the license fee for restaurants operated by benevolent organizations, as defined in ORS
44 624.101, that provide food or beverages primarily to children, the elderly, the indigent or other needy
45 populations if the persons receiving the food or beverages are not required to pay the full cost of

1 the food or beverages.

2 **SECTION 1029.** ORS 624.495 is amended to read:

3 624.495. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules
4 establishing a foodborne illness prevention program for the purpose of protecting the public health.
5 Unless an agreement entered into under ORS 624.530 provides otherwise, the program may include,
6 but need not be limited to, provisions for preventing the spread of communicable disease through
7 food service facilities that are subject to licensing by the [*department*] **authority** under this chapter
8 and for effective and rapid response to terrorism events related to those facilities.

9 (2) A program established by the [*department*] **Oregon Health Authority** under this section
10 must provide for a local public health authority that enters into an intergovernmental agreement
11 under ORS 624.510 to undertake primary responsibility for the delivery of program services within
12 the jurisdiction of the local **public health** authority. A program must also provide for extensive
13 monitoring and review by the [*department*] **Oregon Health Authority** of local public health au-
14 thority performance of program services under an intergovernmental agreement.

15 (3) The [*department*] **Oregon Health Authority** shall consult with groups representing local
16 health officials within the state and statewide restaurant associations in the development of rules
17 adopted under this section and prior to preparing an intergovernmental agreement delegating ad-
18 ministration and enforcement of all or part of the foodborne illness prevention program to a local
19 public health authority.

20 **SECTION 1030.** ORS 624.510 is amended to read:

21 624.510. (1) The Director of [*Human Services*] **the Oregon Health Authority** shall enter into
22 an intergovernmental agreement with each local public health authority established under ORS
23 431.375, delegating to the local **public health** authority the administration and enforcement within
24 the jurisdiction of the [*authority*] **local public health authority** of the powers, duties and functions
25 of the [*Director of Human Services*] **director** under ORS 624.010 to 624.121, 624.310 to 624.430,
26 624.650 and 624.992. The intergovernmental agreement must describe the powers, duties and func-
27 tions of the local public health authority relating to fee collection, licensing, inspections, enforce-
28 ment, civil penalties and issuance and revocation of permits and certificates, standards for
29 enforcement by the local **public health** authority and the monitoring to be performed by the [*De-*
30 *partment of Human Services. The department*] **Oregon Health Authority. The Oregon Health**
31 **Authority** shall establish the descriptions and standards in consultation with the local public health
32 authority officials and in accordance with ORS 431.345. The intergovernmental agreement must be
33 a part of the local annual plan submitted by the local public health authority under ORS 431.385.
34 The [*department*] **Oregon Health Authority** shall review the performance of the local public health
35 authority under any expiring intergovernmental agreement. The review shall include criteria to
36 determine if provisions of ORS 624.073 are uniformly applied to all licensees within the jurisdiction
37 of the local public health authority. In accordance with ORS chapter 183, the director may suspend
38 or rescind an intergovernmental agreement under this subsection. If the [*department*] **Oregon**
39 **Health Authority** suspends or rescinds an intergovernmental agreement, the unexpended portion
40 of the fees collected under subsection (2) of this section shall be available to the [*department*]
41 **Oregon Health Authority** for carrying out the powers, duties and functions under this section.

42 (2) A local public health authority shall collect fees on behalf of the [*department*] **Oregon**
43 **Health Authority** that are adequate to cover the administration and enforcement costs incurred
44 by the local public health authority under this section and the cost of oversight by the
45 [*department*] **Oregon Health Authority**. If the fee collected by a local public health authority for

1 a license or service is more than 20 percent above or below the fee for that license or service
 2 charged by the [*department, the department*] **Oregon Health Authority, the Oregon Health Au-**
 3 **thority** shall analyze the local public health authority fee process and determine whether the local
 4 public health authority used the proper cost elements in determining the fee and whether the
 5 amount of the fee is justified. Cost elements may include, but need not be limited to, expenses re-
 6 lated to administration, program costs, salaries, travel expenses and [*department*] **Oregon Health**
 7 **Authority** consultation fees. If the [*department*] **Oregon Health Authority** determines that the lo-
 8 cal public health authority did not use the proper cost elements in determining the fee or that the
 9 amount of the fee is not justified, the [*department*] **Oregon Health Authority** may order the local
 10 public health authority to reduce any fee to a level supported by the [*department's*] **Oregon Health**
 11 **Authority's** analysis of the fee process.

12 (3) The [*department*] **Oregon Health Authority**, after consultation with groups representing lo-
 13 cal health officials in the state, shall by rule assess a remittance from each local public health au-
 14 thority to which health enforcement powers, duties or functions have been delegated under
 15 subsection (1) of this section. The amount of the remittance must be specified in the intergovern-
 16 mental agreement. The remittance shall supplement existing funds for consultation services and de-
 17 velopment and maintenance of the statewide food service program. The [*department*] **Oregon Health**
 18 **Authority** shall consult with groups representing local health officials in the state and statewide
 19 restaurant associations in developing the statewide food service program.

20 (4) In any action, suit or proceeding arising out of local public health authority administration
 21 of functions pursuant to subsection (1) of this section and involving the validity of a rule adopted
 22 by the [*department, the department*] **Oregon Health Authority, the Oregon Health Authority** shall
 23 be made a party to the action, suit or proceeding.

24 **SECTION 1031.** ORS 624.530 is amended to read:

25 624.530. Notwithstanding any provision of ORS 624.010 to 624.121 or 624.310 to 624.430 or stat-
 26 utes administered by the State Department of Agriculture, the Director of [*Human Services*] **the**
 27 **Oregon Health Authority** and the Director of Agriculture jointly shall adopt rules and enter into
 28 interagency agreements necessary to ensure that only one of the agencies inspects and licenses any
 29 facility that is subject to regulation by both agencies.

30 **SECTION 1032.** ORS 624.550 is amended to read:

31 624.550. An intergovernmental agreement described in ORS 624.510 must encourage and au-
 32 thorize a local public health authority to which health enforcement powers, duties or functions have
 33 been delegated pursuant to ORS 624.510 to appoint a food service advisory committee consisting of
 34 volunteer representatives from a cross section of the food service industry and the general public.
 35 A committee established by a local public health authority may:

36 (1) Make recommendations to the local public health authority regarding the administration and
 37 enforcement by the local authority of powers, duties and functions under an existing or proposed
 38 intergovernmental agreement; and

39 (2) Review and provide to the [*Department of Human Services*] **Oregon Health Authority** an
 40 evaluation of the effectiveness of this chapter and any foodborne illness prevention program adopted
 41 by the [*department*] **Oregon Health Authority** by rule under ORS 624.495.

42 **SECTION 1033.** ORS 624.570 is amended to read:

43 624.570. (1)(a) Except as provided in subsection (6) of this section, any person involved in the
 44 preparation or service of food in a restaurant or food service facility licensed under ORS 624.020
 45 or 624.320 must successfully complete a food handler training program and earn a certificate of

1 program completion within 30 days after the date of hire. The person shall thereafter maintain a
2 valid completion certificate at all times during the employment.

3 (b) A food handler training program offered by the [*Department of Human Services*] **Oregon**
4 **Health Authority** or the designated agent of the [*department*] **authority**, or offered by a local
5 public health authority or designated agent of the [*local authority and approved by the department,*]
6 **local public health authority that has been approved by the Oregon Health Authority**, is valid
7 in any jurisdiction in the state for the purpose of obtaining the certificate of completion under
8 subsection (2) of this section.

9 (2) If a person successfully completes the food handler training program required in subsection
10 (1) of this section and pays the appropriate fee, the [*department*] **Oregon Health Authority**, a local
11 public health authority or a designated agent shall issue a certificate of completion. A food handler
12 certificate of completion expires three years after the date of issuance.

13 (3) All local public health authorities exercising powers, duties and functions pursuant to ORS
14 624.510, shall ensure the provision of food handler training programs within the jurisdiction of the
15 local public health authority. The [*department*] **Oregon Health Authority** shall establish and main-
16 tain food handler training programs in counties without authority delegated under ORS 624.510.

17 (4) The [*department*] **Oregon Health Authority** shall establish by rule all provisions necessary
18 to administer and enforce the provisions of this section, including but not limited to:

19 (a) Minimum standards for program content and delivery; and

20 (b) The establishment of minimum requirements for successful completion of the training.

21 (5) The [*department*] **Oregon Health Authority**, a local public health authority or a designated
22 agent shall charge a program fee to program participants. The program fee may not exceed \$10. A
23 program provider may assess a new program fee each time a participant takes or retakes all or part
24 of a program or certification exam. A fee not exceeding \$5 may be charged for duplicate certificates
25 of completion.

26 (6) Persons involved in the preparation or service of food in a temporary restaurant are not
27 required to complete a food handler training program, but the temporary restaurant shall have at
28 least one person who has completed the food handler training program on the premises at all times.

29 **SECTION 1034.** ORS 624.630 is amended to read:

30 624.630. A person may not construct or extensively remodel a facility subject to licensure under
31 this chapter without first submitting construction or remodeling plans to the [*Department of Human*
32 *Services*] **Oregon Health Authority** and paying a fee to the [*department*] **authority** for review of
33 the plans. The fee shall be assessed in the following amounts:

34 (1) For initial construction:

35 (a) Of a full service restaurant, \$250.

36 (b) Of a bed and breakfast facility, \$75.

37 (c) Of a commissary, \$125.

38 (d) Of a warehouse, \$50.

39 (e) Of a limited service restaurant, \$75.

40 (f) Of a mobile unit, \$75.

41 (2) For remodeling:

42 (a) Of a full service restaurant, \$100.

43 (b) Of any facility other than a full service restaurant, \$50.

44 **SECTION 1035.** ORS 624.650 is amended to read:

45 624.650. (1) Notwithstanding any provision of ORS 624.010, 624.086, 624.091, 624.510 or 624.530,

1 a temporary restaurant as defined under ORS 624.010 that is a mobile unit as defined under ORS
2 624.310 may be required to pay a fee not to exceed \$25 for inspection services if the mobile unit is
3 licensed by:

4 (a) The [Department of Human Services] **Oregon Health Authority** under ORS 624.320 or a local
5 public health authority acting pursuant to an intergovernmental agreement to conduct inspections
6 in accordance with ORS 624.370;

7 (b) The State Department of Agriculture or the United States Public Health Service as provided
8 under ORS 624.330; or

9 (c) Another jurisdiction and permitted to be used in this state under ORS 624.410.

10 (2) This section does not prohibit the [Department of Human Services] **Oregon Health Authority**
11 or a local public health authority delegated authority under an intergovernmental agreement de-
12 scribed in ORS 624.510 from enforcing ORS 624.380 or 624.420 or rules adopted by the [department]
13 **Oregon Health Authority** pursuant to ORS 624.390.

14 **SECTION 1036.** ORS 624.670 is amended to read:

15 624.670. All moneys received by the [Department of Human Services] **Oregon Health Authority**
16 under this chapter shall be paid into the State Treasury, deposited in the General Fund to the credit
17 of the Public Health Account and used exclusively by the [department] **authority** for the purpose
18 of carrying out the provisions of this chapter.

19 **SECTION 1037.** ORS 624.990 is amended to read:

20 624.990. (1) Violation of any provision of ORS 624.010 to 624.121 or rules of the [Department of
21 Human Services] **Oregon Health Authority** promulgated under ORS 624.010 to 624.121 is a Class
22 C misdemeanor.

23 (2) Violation of any provision of ORS 624.310 to 624.430 or rules of the [department] **authority**
24 promulgated under ORS 624.310 to 624.430 is a Class B misdemeanor.

25 **SECTION 1038.** ORS 624.992 is amended to read:

26 624.992. (1) In addition to any other penalty provided by law, the [Department of Human
27 Services] **Oregon Health Authority** may impose a civil penalty on any person for violation of ORS
28 624.020 (1), 624.060 (1), 624.060 (4), 624.070, 624.073, 624.320, 624.370, 624.380 or 624.430 or rules
29 adopted under ORS 624.010 to 624.121 or 624.390.

30 (2) After public hearing, the [Department of Human Services] **authority** by rule shall adopt ob-
31 jective criteria for establishing the civil penalty that may be imposed under subsection (1) of this
32 section.

33 (3) Civil penalties under subsection (1) of this section shall be imposed in the manner provided
34 by ORS 183.745.

35 (4) A local public health authority delegated civil penalty power under an intergovernmental
36 agreement described in ORS 624.510 shall implement that power in accordance with protocols and
37 limits established by the [Department of Human Services] **Oregon Health Authority** by rule. The
38 local public health authority's civil penalty power applies only to imminent and present dangers to
39 public health and to operation without a license.

40 **SECTION 1039.** ORS 628.270 is amended to read:

41 628.270. (1) The [Department of Human Services] **Oregon Health Authority** may, by rule, define
42 certain communicable diseases which may be spread to the public through the handling of food in
43 refrigerated locker plants.

44 (2) No person who has a communicable or infectious disease described in subsection (1) of this
45 section shall be permitted to work in or about any refrigerated locker plant or to handle any food

1 in connection with the operation of such plant.

2 (3) In the discretion of the State Department of Agriculture, an employee of a locker plant may
3 be required to furnish a certificate of health from a physician duly accredited by the [*Department*
4 *of Human Services*] **authority** for the purpose of issuing such certificates. If such certificate is re-
5 quired under municipal ordinance upon examination deemed adequate by the [*Department of Human*
6 *Services*] **authority**, a certificate issued in compliance with such ordinance is sufficient under this
7 section.

8 (4) Any health certificate required by this section shall be revoked by the [*Department of Human*
9 *Services*] **authority** at any time that the holder thereof is found, upon physical examination of such
10 holder, to have any communicable or infectious disease. Refusal of any person employed in such
11 locker plant to submit to proper and reasonable physical examination, upon written demand by the
12 [*Department of Human Services or the State Department of Agriculture*] **authority or the depart-**
13 **ment**, is cause for revocation of the employee's health certificate and also is sufficient reason for
14 revocation of the locker plant's license unless the employee immediately is removed from any work
15 or operation in or about such locker plant involving the handling of food.

16 **SECTION 1040.** ORS 634.550 is amended to read:

17 634.550. (1) There is created a Pesticide Analytical and Response Center with a governing board
18 consisting of the following members:

- 19 (a) The Director of Agriculture or designee.
- 20 (b) The State Forester or designee.
- 21 (c) The State Fish and Wildlife Director or designee.
- 22 (d) The Director of the Department of Environmental Quality or designee.
- 23 (e) The Director of [*Human Services*] **the Oregon Health Authority** or designee.
- 24 (f) The Administrator of the Occupational Safety and Health Division or designee.
- 25 (g) The State Fire Marshal or designee.
- 26 (h) The Director of the Poison Control and Drug Information Program of the Oregon Health and
27 Science University or designee.
- 28 (i) One citizen from the state at large appointed jointly by the Director of Agriculture and the
29 Director of [*Human Services*] **the Oregon Health Authority**.

30 (2) The Director of Agriculture shall appoint an administrator for the Pesticide Analytical and
31 Response Center, who shall be responsible to the board for performance of the duties of the center
32 and the board.

33 (3) The Director of Agriculture or designee and the Director of [*Human Services*] **the Oregon**
34 **Health Authority** or designee shall alternate as chairperson of the board for terms of one year
35 each. When one is serving as chairperson, the other shall serve as vice chairperson.

36 (4) The board shall seek expert consultation from the extension service toxicology program, the
37 Center for Research on Occupational and Environmental Toxicology and such other sources as may
38 be needed.

39 (5) The functions of the board are to:

- 40 (a) Direct the activities and priorities of the administrator of the center.
- 41 (b) Centralize receiving of information relating to actual or alleged health and environmental
42 incidents involving pesticides.
- 43 (c) Mobilize expertise necessary for timely and accurate investigation of pesticide incidents and
44 analyses of associated samples.
- 45 (d) Identify trends and patterns of problems related to pesticide use.

1 (e) Make recommendations for action to a state agency when a majority of the board considers
2 that such action may be warranted on the basis of the findings of an incident investigation or on
3 the basis of identification of a trend or pattern of problems. Recommended actions may include, but
4 not be limited to, regulatory action, modification of administrative rules, proposal of new legislation,
5 public education and consultation to industry.

6 (f) Report in a standardized format the results of the investigations of pesticide incidents.

7 (g) Establish by consensus, procedures for carrying out its responsibilities within the limits of
8 available resources.

9 (h) Prepare and submit to each session of the Legislative Assembly a report of the activities of
10 the center that includes a record of recommendations made by the board and the actions resulting
11 from the board's work.

12 (6) Upon receipt of a recommendation from the board, a state agency shall respond in a timely
13 manner to inform the board of actions taken or the reasons for taking no action on the recommen-
14 dation.

15 (7) Any medical information received by a member of the board or by a staff member of the
16 center in the course of carrying out the duties of the center or the board shall be held confidential
17 as provided in ORS 192.518 to 192.529 and 433.008.

18 (8) The functions of the board do not supersede the regulatory authority of any agency and are
19 not in lieu of the regulatory authority of any agency.

20 **SECTION 1041.** ORS 656.319 is amended to read:

21 656.319. (1) With respect to objection by a claimant to denial of a claim for compensation under
22 ORS 656.262, a hearing thereon shall not be granted and the claim shall not be enforceable unless:

23 (a) A request for hearing is filed not later than the 60th day after the mailing of the denial to
24 the claimant; or

25 (b) The request is filed not later than the 180th day after mailing of the denial and the claimant
26 establishes at a hearing that there was good cause for failure to file the request by the 60th day
27 after mailing of the denial.

28 (2) Notwithstanding subsection (1) of this section, a hearing shall be granted even if a request
29 therefor is filed after the time specified in subsection (1) of this section if the claimant can show
30 lack of mental competency to file the request within that time. The period for filing under this
31 subsection shall not be extended more than five years by lack of mental competency, nor shall it
32 extend in any case longer than one year after the claimant regains mental competency.

33 (3) With respect to subsection (2) of this section, lack of mental competency shall apply only to
34 an individual suffering from such mental disorder, mental illness or nervous disorder as is required
35 for commitment or voluntary admission to a treatment facility pursuant to ORS 426.005 to 426.223
36 and 426.241 to 426.380 and the rules of the [Department of Human Services] **Oregon Health Au-**
37 **thority.**

38 (4) With respect to objections to a reconsideration order under ORS 656.268, a hearing on such
39 objections shall not be granted unless a request for hearing is filed within 30 days after the copies
40 of the reconsideration order were mailed to the parties.

41 (5) With respect to objection by a claimant to a notice of refusal to close a claim under ORS
42 656.268, a hearing on the objection shall not be granted unless the request for hearing is filed within
43 60 days after copies of the notice of refusal to close were mailed to the parties.

44 (6) A hearing for failure to process or an allegation that the claim was processed incorrectly
45 shall not be granted unless the request for hearing is filed within two years after the alleged action

1 or inaction occurred.

2 (7) With respect to objection by a claimant to a notice of closure issued under ORS 656.206, a
3 hearing on the objection shall not be granted unless the request for hearing is filed within 60 days
4 after the notice of closure was mailed to the claimant.

5 **SECTION 1042.** ORS 657.010, as amended by section 17, chapter 45, Oregon Laws 2008, is
6 amended to read:

7 657.010. As used in this chapter, unless the context requires otherwise:

8 (1) "Base year" means the first four of the last five completed calendar quarters preceding the
9 benefit year.

10 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

11 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with
12 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
13 utive weeks period beginning with the first week with respect to which the individual next files an
14 initial valid claim after the termination of the individual's last preceding benefit year except that
15 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
16 any quarter of the base year of a previously filed initial valid claim.

17 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
18 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
19 of the Employment Department may, by regulation, prescribe.

20 (5) "Contribution" or "contributions" means the taxes, as defined in subsection (13) of this sec-
21 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be
22 made to the Unemployment Compensation Trust Fund.

23 (6) "Educational institution," including an institution of higher education as defined in sub-
24 section (9) of this section, means an institution:

25 (a) In which participants, trainees or students are offered an organized course of study or
26 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities
27 from, by or under the guidance of an instructor or teacher;

28 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school
29 by the Department of Education or other government agency, or that offers courses for credit that
30 are transferable to an approved, registered or accredited school;

31 (c) In which the course or courses of study or training that it offers may be academic, technical,
32 trade or preparation for gainful employment in a recognized occupation; and

33 (d) In which the course or courses of study or training are offered on a regular and continuing
34 basis.

35 (7) "Employment office" means a free public employment office or branch thereof, operated by
36 this state or maintained as a part of a state-controlled system of public employment offices.

37 (8) "Hospital" means an organization that has been licensed, certified or approved by the [*De-*
38 *partment of Human Services*] **Oregon Health Authority** as a hospital.

39 (9) "Institution of higher education" means an educational institution that:

40 (a) Admits as regular students only individuals having a certificate of graduation from a high
41 school, or the recognized equivalent of such a certificate;

42 (b) Is legally authorized in this state to provide a program of education beyond high school;

43 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-
44 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate
45 or post-doctoral studies, or a program of training to prepare students for gainful employment in a

1 recognized occupation; and

2 (d) Is a public or other nonprofit institution.

3 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
4 fect on December 31, 2007.

5 (11) "Nonprofit employing unit" means an organization, or group of organizations, described in
6 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
7 of the Internal Revenue Code.

8 (12) "State" includes, in addition to the states of the United States of America, the District of
9 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
10 considered a state on and after the day on which the United States Secretary of Labor first approves
11 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by
12 Public Law 94-566.

13 (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund re-
14 quired, or voluntary payments permitted, by this chapter.

15 (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the
16 individual meets the wages-paid-for-employment requirements of ORS 657.150.

17 (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the
18 director may, by regulation, prescribe. The director may by regulation prescribe that a "week" shall
19 be "in," "within," or "during" the calendar quarter that includes the greater part of such week.

20 **SECTION 1043.** ORS 657.880 is amended to read:

21 657.880. In order to provide health care coverage for eligible unemployed individuals, the Em-
22 ployment Department, upon approval and funding by the Emergency Board, is authorized:

23 (1) To deduct an amount from unemployment compensation otherwise payable to an individual
24 and to use the amount so deducted to pay for health care coverage if the individual voluntarily
25 elects to have such deduction made, and such deduction is made under a program which meets ap-
26 plicable federal requirements and has been approved in accordance with the provisions of this sec-
27 tion and ORS 657.885.

28 (2) To certify to the [*Department of Human Services*] **Oregon Health Authority** those unem-
29 ployed individuals eligible to receive health care coverage pursuant to criteria established by or
30 pursuant to federal law in order to receive federal funds for obtaining such coverage.

31 (3) To enter into contracts with other appropriate federal or state agencies.

32 **SECTION 1044.** ORS 657.885 is amended to read:

33 657.885. For purposes of this section and ORS 657.880, the term "health care coverage" means
34 coverage under:

35 (1) Health insurance policies issued by qualified insurers and health care service contractors;

36 (2) Contracts entered into by and between the State of Oregon and qualified insurers and health
37 care service contractors; and

38 (3) The medical assistance program administered by the [*Department of Human Services*] **Oregon**
39 **Health Authority**.

40 **SECTION 1045.** ORS 657A.260 is amended to read:

41 657A.260. (1) After consultation with appropriate agencies and interested persons, the Child
42 Care Division by rule shall establish minimum standards for child care facilities and the operation
43 thereof and for the administration of ORS 657A.030 and 657A.250 to 657A.450.

44 (2) In establishing minimum standards of health and safety, the division shall consult with the
45 [*Department of Human Services*] **Oregon Health Authority** and the State Fire Marshal and shall

1 give consideration to their recommendations and to all basic requirements for the protection of the
2 children to receive child care, including the criteria prescribed in ORS 657A.290, and may adopt
3 rules applicable to different categories of child care facilities, considering:

4 (a) The numbers and ages of the children to receive care in the child care facility.

5 (b) The number, experience and training of the staff of the child care facility.

6 (c) The types and qualities of equipment and other factors in the physical plant of the child care
7 facility.

8 (d) Any other factor affecting the care provided in the child care facility.

9 **SECTION 1046.** ORS 657A.400 is amended to read:

10 657A.400. (1) An authorized representative of the [*Department of Human Services*] **Oregon**
11 **Health Authority** may inspect the premises of a child care facility certified under ORS 657A.280
12 to determine whether the facility is in conformity with applicable laws and regulations relating to
13 health and sanitation.

14 (2) An authorized representative of the [*Department of Human Services*] **authority** shall inspect
15 any child care facility when requested to do so by the Child Care Division in accordance with ar-
16 rangements under ORS 657A.420 and shall submit written findings to the Child Care Division. The
17 Child Care Division shall not issue or renew any certification for any child care facility for which
18 an inspection by the [*Department of Human Services*] **authority** has been requested unless an au-
19 thorized representative of the [*Department of Human Services*] **authority** submits a written finding
20 that the facility is in compliance with applicable laws and regulations relating to health and sani-
21 tation.

22 (3) An environmental health specialist's inspection may be performed by a private consultant so
23 long as the consultant is registered under ORS chapter 700.

24 **SECTION 1047.** ORS 657A.410 is amended to read:

25 657A.410. (1) In the event that any authorized representative of the Child Care Division, [*De-*
26 *partment of Human Services*] **Oregon Health Authority** or other agency is denied access to any
27 premises for the purpose of making an inspection in the administration of ORS 181.537, 657A.030 and
28 657A.250 to 657A.450, the representative shall not inspect the premises without a search warrant.

29 (2) Application for a search warrant to inspect the premises shall be made to any magistrate
30 authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with
31 the magistrate showing probable cause for the inspection by stating the purpose and extent of the
32 proposed inspection, the statutes and rules which provide the basis for inspection, whether it is a
33 routine or periodic inspection, an on-site review or an investigation instituted by complaint and
34 other specific or general information concerning the premises.

35 (3) If the magistrate is satisfied that there is probable cause to believe that the grounds of the
36 application exist, the magistrate shall issue the search warrant specifying the purpose and extent
37 of the inspection, on-site review or investigation of the premises covered by the warrant.

38 **SECTION 1048.** ORS 657A.420 is amended to read:

39 657A.420. The Child Care Division may enter into cooperative arrangements with the [*Depart-*
40 *ment of Human Services,*] **Oregon Health Authority**, the State Fire Marshal and other public
41 agencies for the provision of services in the inspection of child care facilities in the administration
42 of ORS 181.537, 657A.030 and 657A.250 to 657A.450. The arrangements shall designate which ser-
43 vices shall be reimbursed and the rate and manner of reimbursement.

44 **SECTION 1049.** ORS 675.360 is amended to read:

45 675.360. (1) The Legislative Assembly hereby declares that the comprehensive treatment of sex

1 offenders who are subject to the supervision of the criminal justice and juvenile justice systems and
2 the [Department of Human Services] **Oregon Health Authority** is necessary in order to work toward
3 the elimination of sex offenses. The Legislative Assembly hereby recognizes that sex offender ther-
4 apists who examine and treat sex offenders therefore occupy a vital role in protecting the public
5 from sex offenders who remain in the community prior to or following disposition or who will re-
6 enter the community following a period of incarceration.

7 (2) The Legislative Assembly further finds that the qualifications, practices, techniques and
8 levels of effectiveness of sex offender therapists vary widely and that the court's ability to effec-
9 tively determine appropriate sentencing and monitoring for sex offenders, thus curtailing the inci-
10 dence of recidivism in such offenders and enhancing the protection of victims and potential victims,
11 is undermined by a lack of regulated standards of practice and professional responsibility.

12 (3) The Legislative Assembly recognizes the right of sex offender therapists to practice, con-
13 sistent with the paramount requirement of public safety. Public safety is best served by regulating
14 sex offender therapists whose clients are being treated under alternative sentencing or disposition,
15 parole, post-prison supervision, supervision by a county juvenile department or custody of the [De-
16 partment of Human Services] **Oregon Health Authority** or the Oregon Youth Authority.

17 (4) ORS 675.375 establishes the titles certified clinical sex offender therapist and certified asso-
18 ciate sex offender therapist. ORS 675.360 to 675.410 do not prohibit others from providing services
19 to treat sex offenders. However, only those certified under ORS 675.360 to 675.410 shall represent
20 the designated titles to the public. Adult and juvenile parole and probation authorities and the
21 [Department of Human Services] **Oregon Health Authority** may restrict their referrals to those
22 providers who are certified under ORS 675.360 to 675.410.

23 **SECTION 1050.** ORS 675.365 is amended to read:

24 675.365. As used in ORS 675.360 to 675.410:

25 (1) "Certified associate sex offender therapist" means a person who is certified under ORS
26 675.375 or 675.380 to provide services for the treatment and rehabilitation of sex offenders while
27 under the direct supervision of a certified clinical sex offender therapist.

28 (2) "Certified clinical sex offender therapist" means a person who is certified under ORS 675.375
29 or 675.380 to provide services for the treatment and rehabilitation of sex offenders and who may
30 supervise certified associate sex offender therapists.

31 (3) "Certified sex offender therapist" means a certified clinical sex offender therapist or a cer-
32 tified associate sex offender therapist.

33 (4) "Direct supervision" means a minimum of two hours of supervision by a certified clinical sex
34 offender therapist for each 45 hours of direct clinical contact with a sex offender.

35 (5) "Sex offender" means a person convicted or adjudicated of a sex crime, as defined in ORS
36 181.594, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court, a re-
37 leasing authority, including the Oregon Youth Authority, or the [Department of Human Services]
38 **Oregon Health Authority** to successfully complete a sex offender treatment program.

39 (6) "Sex offender treatment" means the process of evaluation, assessment and reformation of sex
40 offenders.

41 **SECTION 1051.** ORS 676.160 is amended to read:

42 676.160. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

43 (1) State Board of Examiners for Speech-Language Pathology and Audiology;

44 (2) State Board of Chiropractic Examiners;

45 (3) State Board of Clinical Social Workers;

- 1 (4) Oregon Board of Licensed Professional Counselors and Therapists;
- 2 (5) Oregon Board of Dentistry;
- 3 (6) Board of Examiners of Licensed Dietitians;
- 4 (7) State Board of Massage Therapists;
- 5 (8) State Mortuary and Cemetery Board;
- 6 (9) Board of Naturopathic Examiners;
- 7 (10) Oregon State Board of Nursing;
- 8 (11) Board of Examiners of Nursing Home Administrators;
- 9 (12) Oregon Board of Optometry;
- 10 (13) State Board of Pharmacy;
- 11 (14) Oregon Medical Board;
- 12 (15) Occupational Therapy Licensing Board;
- 13 (16) Physical Therapist Licensing Board;
- 14 (17) State Board of Psychologist Examiners;
- 15 (18) Board of Radiologic Technology;
- 16 (19) Oregon State Veterinary Medical Examining Board; and

17 (20) [*Department of Human Services*] **Oregon Health Authority** to the extent that the [*depart-*
18 *ment*] **authority** certifies emergency medical technicians.

19 **SECTION 1052.** ORS 677.290 is amended to read:

20 677.290. (1) All moneys received by the Oregon Medical Board under this chapter shall be paid
21 into the General Fund in the State Treasury and placed to the credit of the Oregon Medical Board
22 Account which is established. Such moneys are appropriated continuously and shall be used only for
23 the administration and enforcement of this chapter.

24 (2) Notwithstanding subsection (1) of this section, the board may maintain a revolving account
25 in a sum not to exceed \$50,000 for the purpose of receiving and paying pass-through moneys relating
26 to peer review pursuant to its duties under ORS 441.055 [(6) *and*] (7) **and (8)** and in administering
27 programs pursuant to its duties under this chapter relating to the education and rehabilitation of
28 licensees in the areas of chemical substance abuse, inappropriate prescribing and medical compe-
29 tence. The creation of and disbursement of moneys from the revolving account shall not require an
30 allotment or allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account
31 are continuously appropriated for purposes set forth in this subsection.

32 (3) Each year \$10 shall be paid to the Oregon Health and Science University for each actively
33 in-state registered physician under ORS 677.265 which amount is continuously appropriated to the
34 Oregon Health and Science University to be used in maintaining a circulating library of medical and
35 surgical books and publications for the use of practitioners of medicine in this state, and when not
36 so in use to be kept at the library of the School of Medicine and accessible to its students. The
37 balance of the money received by the board is appropriated continuously and shall be used only for
38 the administration and enforcement of this chapter, but any part of the balance may, upon the order
39 of the board, be paid into the circulating library fund.

40 **SECTION 1053.** ORS 677.491 is amended to read:

41 677.491. (1) Whenever any physician determines or reasonably suspects the injury or death of a
42 person to be toy-related, the physician shall, in accordance with rules adopted under subsection (5)
43 of this section, report the physician's findings to the Director of [*Human Services*] **the Oregon**
44 **Health Authority**.

45 (2) The director of any hospital, health care facility, health maintenance organization, public

1 health center, medical center or emergency medical treatment facility where any physician has made
 2 a determination or has a reasonable suspicion under subsection (1) of this section as to whether an
 3 injury or death is toy-related, shall, in accordance with the rules adopted under subsection (5) of this
 4 section, report that physician's findings to the Director of [*Human Services*] **the Oregon Health**
 5 **Authority**.

6 (3) The Director of [*Human Services*] **the Oregon Health Authority** shall review, organize and
 7 keep a record of the information set forth in the reports of toy-related injuries and deaths submitted
 8 by physicians under this section. The director, on a regular basis, shall make the information re-
 9 corded under this section available to the United States Consumer Product Safety Commission for
 10 inclusion in its Injury or Potential Injury Incident Data Base. The information so recorded shall also
 11 be made available to the public for a fee determined by the director.

12 (4) If the [*Director of Human Services*] **director** determines that a specific toy or item poses an
 13 immediate danger or potential threat to the safety of the citizens of this state, the director shall
 14 immediately issue a public notice warning the public, retail sellers and distributors of the director's
 15 findings and recommendations concerning that toy or item.

16 (5) The [*Director of Human Services*] **director** shall adopt rules to implement this section.

17 **SECTION 1054.** ORS 677.510 is amended to read:

18 677.510. (1) A person licensed to practice medicine under this chapter shall not use the services
 19 of a physician assistant without the prior approval of the Oregon Medical Board. The application
 20 shall state the name of the physician assistant, describe the manner and extent to which the physi-
 21 cian assistant's services would be used and supervised, state the education, training and experience
 22 of the physician assistant and provide such other information in such a form as the board may re-
 23 quire.

24 (2) The board may approve or reject an application, or it may modify the proposed use of the
 25 services of the physician assistant and approve the application as modified. When it appears to the
 26 board that the services of a physician assistant are being used in a manner inconsistent with the
 27 approval granted, the board may withdraw its approval. If a hearing is requested by the physician
 28 or the physician assistant upon the rejection of an application, or upon the withdrawal of an ap-
 29 proval, a hearing shall be conducted in accordance with ORS 677.200.

30 (3)(a) The supervising physician may have a different specialty from the physician assistant. A
 31 physician assistant may be supervised by no more than four physicians. A physician may supervise
 32 four physician assistants. A supervising physician may designate a physician to serve as the agent
 33 of the supervising physician for a predetermined period of time.

34 (b) The board may review and approve applications from physicians serving federally designated
 35 underserved populations, or physicians in federally designated health professional shortage areas,
 36 federally designated medically underserved areas or areas designated as medically disadvantaged
 37 and in need of primary health care providers by the Director of [*Human Services*] **the Oregon**
 38 **Health Authority** or the Office of Rural Health to supervise more than four physician assistants,
 39 and applications from physician assistants to be supervised by more than four physicians. A physi-
 40 cian assistant may render services in an emergency room and other hospital settings, a nursing
 41 home, a corrections institution and any site included in the practice description.

42 (4) A licensed physician assistant may make application to the board for emergency drug dis-
 43 pensing authority. The board shall consider the criteria adopted by the Physician Assistant Com-
 44 mittee under ORS 677.545 (4) in reviewing the application. Such emergency dispensing shall be of
 45 drugs prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale

1 drug outlet authorized to do so under ORS chapter 689.

2 (5) A physician assistant for whom an application under subsection (1) of this section has been
3 approved by the board on or after January 2, 2006, shall submit to the board, within 24 months after
4 the approval, documentation of completion of:

5 (a) A pain management education program approved by the board and developed in conjunction
6 with the Pain Management Commission established under ORS 409.500; or

7 (b) An equivalent pain management education program, as determined by the board.

8 **SECTION 1055.** ORS 677.515 is amended to read:

9 677.515. (1) This chapter does not prohibit a person from rendering medical services:

10 (a) If the person has satisfactorily completed an educational program for physician assistants,
11 approved by the Oregon Medical Board, for physician assistants;

12 (b) If the services are rendered under the supervision and control of a person licensed under this
13 chapter to practice medicine and the use of the physician assistant's services has been approved by
14 the board as provided by ORS 677.510; and

15 (c) If the person is licensed as a physician assistant as provided by ORS 677.495 and 677.505 to
16 677.525.

17 (2) This chapter does not prohibit a student enrolled in an approved program for educating
18 physician assistants from rendering medical services if the services are rendered in the course of
19 the program.

20 (3) Notwithstanding subsections (1) and (2) of this section, the degree of independent judgment
21 that a physician assistant may exercise shall be determined by the supervising physician and the
22 physician assistant in accordance with a practice description approved by the board.

23 (4) A physician assistant may provide medical services to patients in a setting where a super-
24 vising physician does not regularly practice if the following conditions exist:

25 (a) Direct communication either in person or by telephone, radio, radiotelephone, television or
26 similar means is maintained; and

27 (b) The medical services provided by the physician assistant are reviewed by a supervising
28 physician on a regularly scheduled basis as determined by the board.

29 (5) A supervising physician, upon the approval of the board and in accordance with the rules
30 established by the board, may delegate to the physician assistant the authority to administer and
31 dispense limited emergency medications and to prescribe medications pursuant to this section and
32 ORS 677.535 to 677.545. Neither the board nor the Physician Assistant Committee shall limit the
33 privilege of administering, dispensing and prescribing to population groups federally designated as
34 underserved, or to geographic areas of the state that are federally designated health professional
35 shortage areas, federally designated medically underserved areas or areas designated as medically
36 disadvantaged and in need of primary health care providers by the Director of [*Human Services*] **the**
37 **Oregon Health Authority** or the Office of Rural Health. All prescriptions written pursuant to this
38 subsection shall bear the name, office address and telephone number of the supervising physician.

39 (6) Nothing in this chapter is intended to require or prohibit a physician assistant from prac-
40 ticing in a hospital licensed pursuant to ORS 441.015 to 441.089.

41 (7) Prescriptions for medications prescribed by a physician assistant in accordance with this
42 section and ORS 475.005, 677.010, 677.500, 677.510 and 677.535 to 677.545 and dispensed by a licensed
43 pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling
44 of such a prescription shall not constitute evidence of negligence on the part of the pharmacist if
45 the prescription was dispensed within the reasonable and prudent practice of pharmacy.

1 **SECTION 1056.** ORS 677.805 is amended to read:

2 677.805. As used in ORS 677.805 to 677.840:

3 (1) “Ankle” means the tibial plafond and its posterolateral border or posterior malleolus, the
4 medial malleolus, the distal fibula or lateral malleolus, and the talus.

5 (2) “Board” means the Oregon Medical Board.

6 (3) “Podiatric physician and surgeon” means a podiatric physician and surgeon whose practice
7 is limited to treating ailments of the human foot, ankle and tendons directly attached to and gov-
8 erning the function of the foot and ankle.

9 (4) “Podiatry” means the diagnosis or the medical, physical or surgical treatment of ailments
10 of the human foot, ankle and tendons directly attached to and governing the function of the foot and
11 ankle, except treatment involving the use of a general or spinal anesthetic unless the treatment is
12 performed in a hospital certified in the manner described in ORS 441.055 [(2)] (3) or in an
13 ambulatory surgical center licensed by the [Department of Human Services] **Oregon Health Au-**
14 **thority** and is under the supervision of or in collaboration with a physician licensed to practice
15 medicine by the Oregon Medical Board. “Podiatry” does not include the administration of general
16 or spinal anesthetics or the amputation of the entire foot.

17 **SECTION 1057.** ORS 677.812 is amended to read:

18 677.812. Surgery of the ankle as defined in ORS 677.805 must be conducted:

19 (1) In a hospital certified in the manner described in ORS 441.055 [(2)] (3) or in an ambulatory
20 surgical center licensed by the [Department of Human Services] **Oregon Health Authority**; and

21 (2) By a podiatric physician and surgeon who meets the qualifications for ankle surgery estab-
22 lished by rule of the Oregon Medical Board.

23 **SECTION 1058.** ORS 678.153 is amended to read:

24 678.153. The Department of Human Services, **the Oregon Health Authority** and the Oregon
25 State Board of Nursing shall enter into an interagency agreement to share the results of nationwide
26 criminal records checks conducted under ORS 181.534 on subject individuals who are subject to
27 criminal records checks by [both] the department, **the authority** and the board.

28 **SECTION 1059.** ORS 678.362 is amended to read:

29 678.362. (1) As used in this section:

30 (a) “Circulating nurse” means a registered nurse who is responsible for coordinating the nursing
31 care and safety needs of the patient in the operating room and who also meets the needs of oper-
32 ating room team members during surgery.

33 (b) “Type I ambulatory surgical center” means a licensed health care facility for the perform-
34 ance of outpatient surgical procedures including, but not limited to, cholecystectomies,
35 tonsillectomies or urological procedures, involving general anesthesia or a relatively high infection
36 control consideration.

37 (2)(a) The duties of a circulating nurse performed in an operating room of a Type I ambulatory
38 surgical center or a hospital shall be performed by a registered nurse licensed under ORS 678.010
39 to 678.410.

40 (b) In any case requiring anesthesia or conscious sedation, a circulating nurse shall be assigned
41 to, and present in, an operating room for the duration of the surgical procedure unless it becomes
42 necessary for the circulating nurse to leave the operating room as part of the surgical procedure.
43 While assigned to a surgical procedure, a circulating nurse may not be assigned to any other patient
44 or procedure.

45 (c) Nothing in this section precludes a circulating nurse from being relieved during a surgical

1 procedure by another circulating nurse assigned to continue the surgical procedure.

2 (3) At the request of a Type I ambulatory surgical center or a hospital, the [*Department of Hu-*
3 *man Services*] **Oregon Health Authority** may grant a variance from the requirements of this section
4 based on patient care needs or the nursing practices of the surgical center or hospital.

5 **SECTION 1060.** ORS 678.440 is amended to read:

6 678.440. (1) It is the intent of the Legislative Assembly to require that nursing assistants be
7 adequately trained.

8 (2) The Oregon State Board of Nursing shall prepare curricula and standards for training pro-
9 grams for nursing assistants. Such curricula and standards shall provide for additional training for
10 nursing assistants to administer noninjectable medications.

11 (3) The Department of Human Services may impose civil penalties or revoke the license of any
12 [*health care facility*] **long term care facility** that employs any untrained nursing assistant for a
13 period of more than eight weeks without providing for the training prescribed by the board. Any
14 license which is revoked shall be revoked as provided in ORS 441.030.

15 (4) **The Oregon Health Authority may impose civil penalties or revoke the license of any**
16 **health care facility that employs any untrained nursing assistant for a period of more than**
17 **eight weeks without providing for the training prescribed by the board. Any license which is**
18 **revoked shall be revoked as provided in ORS 441.030.**

19 [(4)] (5) As used in this section, “nursing assistant” means a person who assists licensed nursing
20 personnel in the provision of nursing care.

21 **SECTION 1061.** ORS 678.730 is amended to read:

22 678.730. (1) Any individual is qualified for licensure as a nursing home administrator who:

23 (a) Meets the training or experience and other standards established by rules of the Board of
24 Examiners of Nursing Home Administrators. The board shall accept one year of experience as an
25 administrator serving a dual facility in lieu of any residency or intern requirement established pur-
26 suant to this paragraph; and

27 (b) Has passed an examination as provided in ORS 678.740.

28 (2) Each license as a nursing home administrator may be renewed by the board upon compliance
29 by the licensee with the requirements of ORS 678.760 and by presenting evidence of the completion
30 of the continuing education work required by the board. The board may require up to 50 hours of
31 continuing education in any one-year period.

32 (3) In establishing educational standards pursuant to subsection (1)(a) of this section, the board
33 shall require a baccalaureate degree from an accredited school of higher education. However, the
34 educational requirement does not apply to any person who:

35 (a) Was a licensed administrator in any jurisdiction of the United States prior to January 1,
36 1983; or

37 (b) Was an administrator of a dual facility meeting the experience requirements pursuant to
38 subsection (1)(a) of this section.

39 (4) Notwithstanding the requirements established under subsection (1) of this section, upon the
40 request of the governing body of a hospital, as defined in ORS 442.015 [(19)], the board shall deem
41 a health care administrator to have met the requirements for licensure as a nursing home adminis-
42 trator if the health care administrator possesses an advanced degree in management and has at least
43 10 years of experience in health care management.

44 **SECTION 1062.** ORS 680.205 is amended to read:

45 680.205. (1) A dental hygienist issued a permit to act as a limited access permit dental hygienist

1 under ORS 680.200 shall be authorized to render all services within the scope of practice of dental
2 hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the
3 limited access permit to:

4 (a) Patients or residents of the following facilities or programs who, due to age, infirmity or
5 disability, are unable to receive regular dental hygiene treatment:

6 (A) Nursing homes as defined in ORS 678.710;

7 (B) Adult foster homes as defined in ORS 443.705;

8 (C) Residential care facilities as defined in ORS 443.400;

9 (D) Adult congregate living facilities as defined in ORS 441.525;

10 (E) Mental health residential programs administered by the *[Department of Human Services]*

11 **Oregon Health Authority;**

12 (F) Facilities for mentally ill persons, as those terms are defined in ORS 426.005;

13 (G) Facilities for persons with mental retardation, as those terms are defined in ORS 427.005;

14 (H) Local correctional facilities and juvenile detention facilities as those terms are defined in
15 ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities
16 as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Cor-
17 rections institutions as defined in ORS 421.005; or

18 (I) Public and nonprofit community health clinics.

19 (b) Adults who are homebound.

20 (c) Students or enrollees of nursery schools and day care programs and their siblings under 18
21 years of age, Job Corps and other similar employment training facilities, primary and secondary
22 schools, including private schools and public charter schools, and persons entitled to benefits under
23 the Women, Infants and Children Program.

24 (2) The Oregon Board of Dentistry may authorize the provision of dental hygiene services by a
25 limited access permit dental hygienist at locations or to populations that are underserved or lack
26 access to dental hygiene services.

27 (3) At least once each calendar year, a dental hygienist issued a permit to act as a limited ac-
28 cess permit dental hygienist shall refer each patient or resident to a dentist who is available to treat
29 the patient or resident.

30 (4) This section does not authorize a limited access permit dental hygienist to administer local
31 anesthesia, denture soft lines, temporary restorations and radiographs except under the general
32 supervision of a dentist licensed under ORS chapter 679, or to administer nitrous oxide except under
33 the indirect supervision of a dentist licensed under ORS chapter 679.

34 (5) A limited access permit dental hygienist may assess the need for and appropriateness of
35 sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is
36 applied or supplied to patients.

37 (6) A person granted a limited access permit under ORS 680.200 shall also procure all other
38 permits or certificates required by the board under ORS 679.250.

39 **SECTION 1063.** ORS 682.017 is amended to read:

40 682.017. (1) In accordance with ORS chapter 183, the *[Department of Human Services]* **Oregon**
41 **Health Authority** may adopt and may when necessary amend or repeal such rules as are necessary
42 for carrying out this chapter.

43 (2) The *[department]* **authority** is authorized and directed to establish appropriate rules in ac-
44 cordance with the provisions of ORS chapter 183 concerning the administration of this chapter.
45 Such rules may deal with, but are not limited to, such matters as criteria for requirements, types

1 and numbers of emergency vehicles including supplies and equipment carried, requirements for the
2 operation and coordination of ambulances and other emergency care systems, criteria for the use
3 of two-way communications, procedures for summoning and dispatching aid and other necessary and
4 proper matters.

5 **SECTION 1064.** ORS 682.019 is amended to read:

6 682.019. The [*Department of Human Services*] **Oregon Health Authority** may receive and dis-
7 burse such federal funds as may be available for carrying out any of the provisions of ORS 820.330
8 to 820.380 or this chapter.

9 **SECTION 1065.** ORS 682.025 is amended to read:

10 682.025. As used in this chapter, unless the context requires otherwise:

11 (1) "Ambulance" or "ambulance vehicle" means any privately or publicly owned motor vehicle,
12 aircraft or watercraft that is regularly provided or offered to be provided for the emergency trans-
13 portation of persons who are ill or injured or who have disabilities.

14 (2) "Ambulance service" means any person, governmental unit, corporation, partnership, sole
15 proprietorship or other entity that operates ambulances and that holds itself out as providing pre-
16 hospital care or medical transportation to persons who are ill or injured or who have disabilities.

17 (3) "**Authority**" means the **Oregon Health Authority**.

18 [(3)] (4) "Board" means the Oregon Medical Board.

19 [(4) "*Department*" means the *Department of Human Services*.]

20 (5) "Emergency care" means the performance of acts or procedures under emergency conditions
21 in the observation, care and counsel of persons who are ill or injured or who have disabilities; in
22 the administration of care or medications as prescribed by a licensed physician, insofar as any of
23 these acts is based upon knowledge and application of the principles of biological, physical and so-
24 cial science as required by a completed course utilizing an approved curriculum in prehospital
25 emergency care. However, "emergency care" does not include acts of medical diagnosis or pre-
26 scription of therapeutic or corrective measures.

27 (6) "Emergency medical technician" or "EMT" means a person who has received formal training
28 in prehospital and emergency care, and is state certified to attend any person who is ill or injured
29 or who has a disability. Police officers, firefighters, funeral home employees and other personnel
30 serving in a dual capacity one of which meets the definition of "emergency medical technician" are
31 "emergency medical technicians" within the meaning of this chapter.

32 (7) "First responder" means a person who has successfully completed a first responder training
33 course approved by the [*department*] **authority** and:

34 (a) Has been examined and certified as a first responder by an authorized representative of the
35 [*department*] **authority** to perform basic emergency and nonemergency care procedures; or

36 (b) Has been otherwise designated as a first responder by an authorized representative of the
37 [*department*] **authority** to perform basic emergency and nonemergency care procedures.

38 (8) "Fraud or deception" means the intentional misrepresentation or misstatement of a material
39 fact, concealment of or failure to make known any material fact, or any other means by which
40 misinformation or false impression knowingly is given.

41 (9) "Governmental unit" means the state or any county, municipality or other political subdivi-
42 sion or any department, board or other agency of any of them.

43 (10) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and
44 other structures within the boundaries of this state, used or intended for the use of the general
45 public for vehicles.

1 (11) "Nonemergency care" means the performance of acts or procedures on a patient who is not
2 expected to die, become permanently disabled or suffer permanent harm within the next 24 hours,
3 including but not limited to observation, care and counsel of a patient and the administration of
4 medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts
5 are based upon knowledge and application of the principles of biological, physical and social science
6 and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board
7 in the course of providing prehospital care as defined by this section.

8 (12) "Owner" means the person having all the incidents of ownership in an ambulance service
9 or an ambulance vehicle or where the incidents of ownership are in different persons, the person,
10 other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle
11 or operation of an ambulance service under a security agreement or a lease for a term of 10 or more
12 successive days.

13 (13) "Patient" means a person who is ill or injured or who has a disability and who is trans-
14 ported in an ambulance.

15 (14) "Person" means any individual, corporation, association, firm, partnership, joint stock com-
16 pany, group of individuals acting together for a common purpose or organization of any kind and
17 includes any receiver, trustee, assignee or other similar representative thereof.

18 (15) "Prehospital care" means that care rendered by emergency medical technicians as an inci-
19 dent of the operation of an ambulance as defined by this chapter and that care rendered by emer-
20 gency medical technicians as incidents of other public or private safety duties, and includes, but is
21 not limited to, "emergency care" as defined by this section.

22 (16) "Scope of practice" means the maximum level of emergency or nonemergency care that an
23 emergency medical technician may provide.

24 (17) "Standing orders" means the written protocols that an emergency medical technician fol-
25 lows to treat patients when direct contact with a physician is not maintained.

26 (18) "Supervising physician" means a medical or osteopathic physician licensed under ORS
27 chapter 677, actively registered and in good standing with the board, who provides direction of
28 emergency or nonemergency care provided by emergency medical technicians.

29 (19) "Unprofessional conduct" means conduct unbecoming a person certified in emergency care,
30 or detrimental to the best interests of the public and includes:

31 (a) Any conduct or practice contrary to recognized standards of ethics of the medical profession
32 or any conduct or practice which does or might constitute a danger to the health or safety of a
33 patient or the public or any conduct, practice or condition which does or might impair an emergency
34 medical technician's ability safely and skillfully to practice emergency or nonemergency care;

35 (b) Willful performance of any medical treatment which is contrary to acceptable medical stan-
36 dards; and

37 (c) Willful and consistent utilization of medical service for treatment which is or may be con-
38 sidered inappropriate or unnecessary.

39 **SECTION 1066.** ORS 682.028 is amended to read:

40 682.028. (1) It is unlawful for any person or governmental unit to:

41 (a) Intentionally make any false statement on an application for an ambulance service license,
42 ambulance vehicle license or for certification as an emergency medical technician or first responder
43 or on any other documents required by the [Department of Human Services] **Oregon Health Au-**
44 **thority**; or

45 (b) Make any misrepresentation in seeking to obtain or retain a certification or license.

1 (2) Any violation described in subsection (1) of this section is also grounds for denial, suspension
2 or revocation of a certification or license under ORS 682.220.

3 **SECTION 1067.** ORS 682.031 is amended to read:

4 682.031. (1) As used in this section, "political subdivision" includes counties, cities, districts,
5 authorities and other public corporations and entities organized and existing under statute or
6 charter.

7 (2) An ordinance of any political subdivision regulating ambulance services or emergency med-
8 ical technicians shall not require less than is required under ORS 820.300 to 820.380, or this chapter
9 or the rules adopted by the [*Department of Human Services*] **Oregon Health Authority** under this
10 chapter.

11 (3) When a political subdivision enacts an ordinance regulating ambulance services or emer-
12 gency medical technicians, the ordinance must comply with the county plan for ambulance services
13 and ambulance service areas adopted under ORS 682.062 by the county in which the political sub-
14 division is situated and with the rules of the [*department*] **Oregon Health Authority** relating to
15 such services and service areas. The determination of whether the ordinance is in compliance with
16 the county plan shall be made by the county governing body.

17 **SECTION 1068.** ORS 682.039 is amended to read:

18 682.039. (1) The [*Department of Human Services*] **Oregon Health Authority** shall appoint a State
19 Emergency Medical Service Committee composed of 18 members as follows:

20 (a) Seven physicians licensed under ORS chapter 677 whose practice consists of routinely
21 treating emergencies such as cardiovascular illness or trauma, appointed from a list submitted by
22 the Oregon Medical Board.

23 (b) Four emergency medical technicians whose practices consist of routinely treating emergen-
24 cies, including but not limited to cardiovascular illness or trauma, at least one of whom is at the
25 lowest level of emergency medical technician certification established by the [*department*] **authority**
26 at the time of appointment. EMTs appointed pursuant to this paragraph shall be selected from lists
27 submitted by each area trauma advisory board. The lists shall include nominations from entities in-
28 cluding but not limited to organizations that represent emergency care providers in Oregon.

29 (c) One volunteer ambulance operator, one person representing governmental agencies that
30 provide ambulance services and one person representing a private ambulance company.

31 (d) One hospital administrator.

32 (e) One nurse who has served at least two years in the capacity of an emergency department
33 nurse.

34 (f) One representative of an emergency dispatch center.

35 (g) One community college or licensed career school representative.

36 (2) The committee shall include at least one resident but no more than three residents from each
37 region served by one area trauma advisory board at the time of appointment.

38 (3) Appointments shall be made for a term of four years in a manner to preserve insofar as
39 possible the representation of the organization described in subsection (1) of this section. Vacancies
40 shall be filled for any unexpired term as soon as the [*department*] **authority** can make such ap-
41 pointments. The committee shall choose its own chairperson and shall meet at the call of the
42 chairperson or the [*department administrator*] **Director of the Oregon Health Authority**.

43 (4) The State Emergency Medical Service Committee shall:

44 (a) Advise the [*department*] **authority** concerning the adoption, amendment and repeal of rules
45 authorized by this chapter;

1 (b) Assist the Emergency Medical Services and Trauma Systems Program in providing state and
2 regional emergency medical services coordination and planning;

3 (c) Assist communities in identifying emergency medical service system needs and quality im-
4 provement initiatives;

5 (d) Assist the Emergency Medical Services and Trauma Systems Program in prioritizing, imple-
6 menting and evaluating emergency medical service system quality improvement initiatives identified
7 by communities;

8 (e) Review and prioritize rural community emergency medical service funding requests and pro-
9 vide input to the Rural Health Coordinating Council; and

10 (f) Review and prioritize funding requests for rural community emergency medical service
11 training and provide input to the Area Health Education Center program.

12 (5) The chairperson of the committee shall appoint a subcommittee on EMT certification and
13 discipline, consisting of five physicians and four EMTs. The subcommittee shall advise the [*depart-*
14 *ment*] **authority** and the board on the adoption, amendment, repeal and application of rules con-
15 cerning ORS 682.204 to 682.220 and 682.245. The decisions of this subcommittee shall not be subject
16 to the review of the full State Emergency Medical Service Committee.

17 (6) Members are entitled to compensation as provided in ORS 292.495.

18 **SECTION 1069.** ORS 682.045 is amended to read:

19 682.045. (1) A license for an ambulance service or the operation of ambulance vehicles shall be
20 obtained from the [*Department of Human Services*] **Oregon Health Authority**.

21 (2) Applications for licenses shall be upon forms prescribed by the [*department*] **authority** and
22 shall contain:

23 (a) The name and address of the person or governmental unit owning the ambulance service or
24 vehicle.

25 (b) If other than the applicant's true name, the name under which the applicant is doing busi-
26 ness.

27 (c) In the case of an ambulance vehicle, a description of the ambulance, including the make,
28 model, year of manufacture, registration number and the insignia name, monogram or other distin-
29 guishing characteristics to be used to designate the applicant's ambulance vehicles.

30 (d) The location and description of the principal place of business of the ambulance service, and
31 the locations and descriptions of the place or places from which its ambulance is intended to oper-
32 ate.

33 (e) Such other information as the [*department*] **authority** may reasonably require to determine
34 compliance with ORS 820.350 to 820.380 and this chapter and the rules adopted thereunder.

35 (3) Except in the case of governmental units, the application shall be accompanied by future
36 responsibility filing of the type described under ORS 806.270.

37 **SECTION 1070.** ORS 682.047 is amended to read:

38 682.047. (1) When applications have been made as required under ORS 682.045, the [*Department*
39 *of Human Services*] **Oregon Health Authority** shall issue licenses to the owner if it is found that
40 the ambulance service and ambulance comply with the requirements of ORS 820.350 to 820.380 and
41 this chapter and the rules adopted thereunder.

42 (2) Each license unless sooner suspended or revoked shall expire on the next June 30 or on such
43 date as may be specified by [*department*] **authority** rule.

44 (3) The [*department*] **authority** may initially issue a license for less than a 12-month period or
45 for more than a 12-month period not to exceed 15 months.

1 (4) Licenses shall be issued only to the owner of the ambulance service and only for the ambu-
2 lance named in the application and shall not be transferable to any other person, governmental unit,
3 ambulance service or ambulance.

4 (5) Licenses shall be displayed as prescribed by the rules of the [department] **authority**.

5 (6) The [department] **authority** shall provide for the replacement of any current license that
6 becomes lost, damaged or destroyed. A replacement fee of \$10 shall be charged for each replacement
7 license.

8 (7) Nonrefundable fees in the following amounts shall accompany each initial and each subse-
9 quent annual application to obtain a license to operate an ambulance service and ambulance:

10 (a) \$75 for an ambulance service having a maximum of four full-time paid positions;

11 (b) \$250 for an ambulance service having five or more full-time paid positions;

12 (c) \$45 for each ambulance license if the ambulance is owned and operated by an ambulance
13 service that has a maximum of four full-time paid positions; and

14 (d) \$80 for each ambulance license if the ambulance is owned and operated by an ambulance
15 service having five or more full-time paid positions.

16 (8) The fees established under subsection (7) of this section do not apply to an ambulance or
17 vehicle described under ORS 682.035.

18 **SECTION 1071.** ORS 682.051 is amended to read:

19 682.051. (1) A person or governmental unit commits the offense of unlawful operation of an un-
20 licensed ambulance [if, on and after July 1, 1983,] or the offense of unlawful operation of an unli-
21 censed ambulance service if[, on and after July 1, 1994,] the person or governmental unit advertises
22 or operates in this state a motor vehicle, aircraft or watercraft ambulance that:

23 (a) Is not operated by an ambulance service licensed under this chapter;

24 (b) Is not licensed under this chapter; and

25 (c) Does not meet the minimum requirements established under this chapter by the [Department
26 of Human Services] **Oregon Health Authority** in consultation with the State Emergency Medical
27 Service Committee for that type of ambulance.

28 (2) As used in this section, “governmental unit” and “person” have the meaning given those
29 terms in ORS 682.025.

30 (3) This section does not apply to any ambulance or any person if the ambulance or person is
31 exempted by ORS 682.035 or 682.079 from regulation by the [Department of Human Services] **au-**
32 **thority**.

33 (4) Authority of political subdivisions to regulate ambulance services or to regulate or allow the
34 use of ambulances is limited under ORS 682.031.

35 (5) The offense described in this section, unlawful operation of an unlicensed ambulance or am-
36 bulance service, is a Class A misdemeanor. Each day of continuing violation shall be considered a
37 separate offense.

38 (6) In addition to the penalties prescribed by subsection (5) of this section, the [Department of
39 Human Services] **authority** may impose upon a licensed ambulance service a civil penalty not to
40 exceed \$5,000 for each violation of this chapter and the rules adopted thereunder. Each day of
41 continuing violation shall be considered a separate violation for purposes of this subsection.

42 **SECTION 1072.** ORS 682.056 is amended to read:

43 682.056. (1) Upon the request of the designated official of an ambulance service as defined in
44 ORS 682.051, a first responder as defined in ORS 682.025, the emergency medical services system
45 authority in the county in which a prehospital care event occurred or the [Department of Human

1 *Services*] **Oregon Health Authority**, a hospital licensed under ORS chapter 441 may provide to the
2 requester the following information:

3 (a) The disposition of the person who was the subject of the prehospital care event from the
4 emergency department or other intake facility of the hospital, including but not limited to:

5 (A) Whether the person was admitted to the hospital; and

6 (B) If the person was admitted, to what unit the person was assigned;

7 (b) The diagnosis given the person in the emergency department or other intake facility; and

8 (c) Whether within the first hour after the person arrived at the hospital, the person received
9 one or more medical procedures on a list that the [*Department of Human Services*] **authority** shall
10 establish by rule.

11 (2) Information provided pursuant to subsection (1) of this section shall be:

12 (a) Treated as a confidential medical record and not disclosed;

13 (b) Considered privileged data under ORS 41.675 and 41.685; and

14 (c) Used only for legitimate medical quality assurance and quality improvement activities.

15 (3) A hospital may charge a fee reasonably related to the actual cost of providing the informa-
16 tion requested pursuant to this section.

17 (4) For purposes of this section, “emergency medical services system” has the meaning given in
18 ORS 41.685.

19 **SECTION 1073.** ORS 682.062 is amended to read:

20 682.062. (1) Each county shall develop a plan for the county or two or more contiguous counties
21 may develop a plan relating to the need for and coordination of ambulance services and establish
22 one or more ambulance service areas consistent with the plan for the efficient and effective pro-
23 vision of ambulance services.

24 (2) Each person, city or rural fire protection district within the county that provides or desires
25 to provide ambulance services shall notify the county in writing if the person, city or district wants
26 to be consulted prior to the adoption or amendment of a county plan for ambulance services.

27 (3) Prior to adopting or amending a plan under subsection (1) of this section, a county shall
28 notify each person, city or district that notified the county under subsection (2) of this section of its
29 desire to be consulted. The county governing body shall consult with and seek advice from such
30 persons, cities and districts with regard to the plan and to the boundaries of any ambulance service
31 areas established under the plan. After such consultation, the county shall adopt or amend a plan
32 in the same manner as the county enacts nonemergency ordinances.

33 (4) Any plan developed and any service area established pursuant to subsection (1) of this sec-
34 tion shall be submitted to the [*Department of Human Services*] **Oregon Health Authority**.

35 (5) The [*department*] **authority**, in consultation with the appropriate bodies specified in sub-
36 section (1) of this section, shall adopt rules pursuant to ORS chapter 183 that specify those subjects
37 to be addressed and considered in any plan for ambulance services and areas under subsection (1)
38 of this section and those subjects to be addressed and considered in the adoption of any such plan.
39 The rules shall be uniform, as far as practicable, but take into consideration unique circumstances
40 of local districts.

41 (6) The [*department*] **authority** shall review a plan submitted under subsection (4) of this section
42 for compliance with the rules of the [*department*] **authority** adopted under subsection (5) of this
43 section. Not later than 60 days after receiving the plan, the [*department*] **authority** shall approve
44 the plan if it complies with the rules or disapprove the plan. The [*department*] **authority** shall give
45 written notice of such action to the county and, when a plan is not approved, the notice shall indi-

1 cate specifically how the plan does not comply with the rules of the *[department]* **authority**. The
 2 county shall modify the plan to comply with the rules and shall submit the modified plan to the
 3 *[department]* **authority** for review under this subsection.

4 (7) The rules adopted under subsection (5) of this section shall be enforceable by the
 5 *[department]* **authority** in a proceeding in circuit court for equitable relief.

6 (8) This section does not require a county to establish more than one ambulance service area
 7 within the county.

8 **SECTION 1074.** ORS 682.068 is amended to read:

9 682.068. (1) The *[Department of Human Services]* **Oregon Health Authority**, in consultation with
 10 the State Emergency Medical Service Committee, shall adopt rules specifying minimum requirements
 11 for ambulance services, and for staffing and medical and communications equipment requirements
 12 for all types of ambulances. The rules shall define the requirements for advanced life support and
 13 basic life support units of emergency vehicles, including equipment and emergency medical techni-
 14 cian staffing of the passenger compartment when a patient is being transported in emergency cir-
 15 cumstances.

16 (2) The *[department]* **authority** may waive any of the requirements imposed by this chapter in
 17 medically disadvantaged areas as determined by the Director of *[Human Services]* **the Oregon**
 18 **Health Authority**, or upon a showing that a severe hardship would result from enforcing a partic-
 19 ular requirement.

20 (3) The *[department]* **authority** shall exempt from rules adopted under this section air ambu-
 21 lances that do not charge for the provision of ambulance services.

22 **SECTION 1075.** ORS 682.075 is amended to read:

23 682.075. (1) Subject to any law or rule pursuant thereto relating to the construction or equip-
 24 ment of ambulances, the *[Department of Human Services]* **Oregon Health Authority** shall, with the
 25 advice of the State Emergency Medical Service Committee appointed under ORS 682.039 and in ac-
 26 cordance with ORS chapter 183, adopt and when necessary amend or repeal rules relating to the
 27 construction, maintenance, capacity, sanitation, emergency medical supplies and equipment of am-
 28 bulances.

29 (2) In order for an owner to secure and retain a license for an ambulance under this chapter,
 30 it shall meet the requirements imposed by rules of the *[department]* **authority**. The requirements
 31 may relate to construction, maintenance, capacity, sanitation and emergency medical supplies and
 32 equipment on ambulances. Such requirements shall include, but are not limited to, requirements re-
 33 lating to space in patient compartments, access to patient compartments, storage facilities, operating
 34 condition, cots, mattresses, stretchers, cot and stretcher fasteners, bedding, oxygen and resuscitation
 35 equipment, splints, tape, bandages, tourniquets, patient convenience accessories, cleanliness of ve-
 36 hicle and laundering of bedding.

37 **SECTION 1076.** ORS 682.079 is amended to read:

38 682.079. (1) The *[Department of Human Services]* **Oregon Health Authority** may grant ex-
 39 emptions or variances from one or more of the requirements of ORS 820.330 to 820.380 or this
 40 chapter or the rules adopted thereunder to any class of vehicles if it finds that compliance with such
 41 requirement or requirements is inappropriate because of special circumstances which would render
 42 compliance unreasonable, burdensome or impractical due to special conditions or cause, or because
 43 compliance would result in substantial curtailment of necessary ambulance service. Such exemptions
 44 or variances may be limited in time or may be conditioned as the *[department]* **authority** considers
 45 necessary to protect the public welfare.

1 (2) In determining whether or not a variance shall be granted, the advice of the State Emer-
2 gency Medical Service Committee shall be received and in all cases the equities involved and the
3 advantages and disadvantages to the welfare of patients and the owners of vehicles shall be weighed
4 by the [department] **authority**.

5 (3) Rules under this section shall be adopted, amended or repealed in accordance with ORS
6 183.330.

7 **SECTION 1077.** ORS 682.085 is amended to read:

8 682.085. (1) The [Department of Human Services] **Oregon Health Authority** or its authorized
9 representatives may at reasonable times inspect ambulances and ambulance services licensed or
10 subject to being licensed under this chapter.

11 (2) The [department] **authority** may suspend or revoke a license if the ambulance service owner
12 fails to take corrective action required pursuant to an inspection of an ambulance or ambulance
13 service under this section.

14 **SECTION 1078.** ORS 682.105 is amended to read:

15 682.105. (1) In order to secure and retain a license under this chapter, the owner of an ambu-
16 lance or ambulance service, other than a governmental unit, shall file and maintain with the [De-
17 partment of Human Services] **Oregon Health Authority** proof of ability to respond in damages for
18 liability arising from the ownership, operation, use or maintenance of the ambulance, or arising from
19 the delivery of prehospital care, in the amount of:

20 (a) \$100,000 because of bodily injury to or death of one person in any one accident;

21 (b) Subject to that limit for one person, \$300,000 because of bodily injury to or death of two or
22 more persons in any one accident;

23 (c) \$20,000 because of injury to or destruction of the property of others in any one accident; and

24 (d) \$500,000 because of injury arising from the negligent provision of prehospital care to any
25 individual.

26 (2) Proof of financial responsibility under subsection (1) of this section may be given by filing
27 with the [department] **authority**, for the benefit of the owner:

28 (a) A certificate of insurance issued by an insurance carrier licensed to transact insurance in
29 this state showing that the owner has procured and that there is in effect a motor vehicle liability
30 policy for the limits of financial responsibility mentioned in subsection (1)(a) to (c) of this section
31 designating by explicit description all motor vehicles with respect to which coverage is granted
32 thereby and insuring the named insured and all other persons using any such motor vehicle with
33 insured's consent against loss from the liabilities imposed by law for damages arising out of the
34 ownership, operation, use or maintenance of any such motor vehicle, and that there is in effect a
35 professional liability policy for the limit of financial responsibility described in subsection (1)(d) of
36 this section insuring the named insured and all other persons engaged in the provision of prehospital
37 care under the auspices of the licensed ambulance service against loss from the liabilities imposed
38 by law for damages arising out of the provision of prehospital care;

39 (b) A bond conditioned for the paying in behalf of the principal, the limits of financial respon-
40 sibility mentioned in subsection (1) of this section; or

41 (c) A certificate of the State Treasurer that such owner has deposited with the State Treasurer
42 the sum of \$320,000 in cash, in the form of an irrevocable letter of credit issued by an insured in-
43 stitution as defined in ORS 706.008 or in securities such as may legally be purchased by fiduciaries
44 or for trust funds of a market value of \$320,000.

45 **SECTION 1079.** ORS 682.107 is amended to read:

1 682.107. (1) When insurance is the method chosen to prove financial responsibility, the certif-
2 icate of insurance shall be signed by an authorized company representative and shall contain the
3 following information:

- 4 (a) The date on which the policy was issued.
- 5 (b) The name and address of the named insured.
- 6 (c) The policy number.
- 7 (d) The amount of coverage in terms of the liability limits stated in ORS 682.105.

8 (2) The policy of insurance for which the certificate is given shall not be canceled or terminated
9 except upon the giving of 10 days' prior written notice to the [*Department of Human Services*]
10 **Oregon Health Authority**. However, an insurance policy subsequently procured and certified to the
11 [*department*] **authority** shall, on the date the certificate is filed with the [*department*] **authority**,
12 terminate the insurance previously certified with respect to any owner or vehicle designated in both
13 certificates.

14 (3) The vehicle policy need not insure any liability under any worker's compensation, nor any
15 liability on account of bodily injury to or death of an employee of the insured while engaged in the
16 employment of the insured, or while engaged in the operation, maintenance or repair of a vehicle
17 nor any liability for damage to property owned by, rented to, in charge of or transported by the
18 insured.

19 (4) The requirements for a vehicle liability policy and certificate of insurance may be fulfilled
20 by the policies and certificates of one or more insurance carriers which policies and certificates
21 together meet such requirements.

22 **SECTION 1080.** ORS 682.109 is amended to read:

23 682.109. ORS 682.111 to 682.117 apply to a bond, letter of credit or certificate evidencing deposit
24 with the [*Department of Human Services*] **Oregon Health Authority** that is the method chosen to
25 prove financial responsibility under this chapter. The dollar amounts required for the bonds, letters
26 of credit or deposits shall be \$320,000.

27 **SECTION 1081.** ORS 682.111 is amended to read:

28 682.111. A bond used to comply with financial responsibility requirements under this chapter
29 must meet all of the following requirements:

- 30 (1) The bond must be in the amount required by ORS 682.109.
- 31 (2) The bond must be approved by a judge of a court of record in this state.
- 32 (3) The bond must contain a provision that it cannot be canceled except upon the giving of 10
33 days' prior written notice to the [*Department of Human Services*] **Oregon Health Authority**.
- 34 (4) The bond must be provided by either of the following:
 - 35 (a) A surety company.
 - 36 (b) Two persons who are residents of Oregon and who each own real property in this state
37 having together equities at least of the value required for the bond under ORS 682.109.
- 38 (5) If the bond is provided by real property owners in this state, the bond must contain a
39 schedule of the real property owned by each of the sureties that will be used to meet the financial
40 responsibility requirements of this chapter.

41 (6) The bond must be conditioned to pay, on behalf of the principal, the limits of financial re-
42 sponsibility requirements under this chapter.

43 (7) The bond must be conditioned to pay, on behalf of the principal, judgments against a person
44 for liability described in ORS 682.105 and must be subject to action under ORS 682.113.

45 (8) The bond is subject to any rules adopted by the [*department*] **authority** relating to such

1 bonds.

2 **SECTION 1082.** ORS 682.117 is amended to read:

3 682.117. (1) A person may satisfy the financial responsibility requirements of ORS 682.105 by
4 depositing with the [*Department of Human Services*] **Oregon Health Authority** the following:

5 (a) Cash;

6 (b) Legally issued general obligations of the United States, the agencies and instrumentalities
7 of the United States and the States of Oregon, Washington, Idaho and California;

8 (c) Certificates of deposit or other similar instruments if the instruments are insured by the
9 Federal Deposit Insurance Corporation; or

10 (d) Any combination of cash or instruments described in this subsection.

11 (2) The [*department*] **authority** shall hold the deposit under terms and conditions that the [*de-*
12 *partment*] **authority** designates by rule. The [*department*] **authority** may deliver the deposit to the
13 State Treasurer, who shall receive and hold the deposit subject to the order of the [*department*]
14 **authority**. The depositor shall reimburse the State Treasurer for any expenses incurred by the State
15 Treasurer in mailing, insuring, shipping or delivering the cash or instruments in the deposit.

16 (3) The [*department*] **authority**, by order, may authorize the State Treasurer to use the deposit
17 as follows:

18 (a) To satisfy any execution on a judgment that is against the person making the deposit for any
19 liability described in ORS 682.105 and that results from a cause of action that accrued after the
20 deposit was made; or

21 (b) To release any or all of the deposit to the depositor or other person as the [*department*]
22 **authority** considers appropriate.

23 (4) While deposited with the [*department*] **authority**, the cash or instruments in the deposit are
24 not subject to attachment or execution unless the attachment or execution arises out of a judgment
25 against the person making the deposit for any liability described in ORS 682.105 and that results
26 from a cause of action that accrued after the deposit was made.

27 (5) The [*department*] **authority** shall issue the depositor a certificate evidencing the deposit.

28 **SECTION 1083.** ORS 682.208 is amended to read:

29 682.208. (1) For any person to be certified as an emergency medical technician or first responder,
30 an application for certification shall be made to the [*Department of Human Services*] **Oregon Health**
31 **Authority**. The application shall be upon forms prescribed by the [*department*] **authority** and shall
32 contain:

33 (a) The name and address of the applicant.

34 (b) The name and location of the training course successfully completed by the applicant and
35 the date of completion.

36 (c) Certification that to the best of the applicant's knowledge the applicant is physically and
37 mentally qualified to act as an emergency medical technician or first responder, is free from ad-
38 diction to controlled substances or alcoholic beverages, or if not so free, has been and is currently
39 rehabilitated and is free from epilepsy or diabetes, or if not so free, has been free from any lapses
40 of consciousness or control occasioned thereby for a period of time as prescribed by rule of the
41 [*department*] **authority**.

42 (d) Such other information as the [*department*] **authority** may reasonably require to determine
43 compliance with applicable provisions of this chapter and the rules adopted thereunder.

44 (2) The application shall be accompanied by proof as prescribed by rule of the [*department*] **au-**
45 **thority** of the applicant's successful completion of a training course approved by the [*department*]

1 **authority**, and if an extended period of time has elapsed since the completion of the course, of a
2 satisfactory amount of continuing education.

3 (3) The *[department]* **authority** shall adopt a schedule of minimum educational requirements in
4 emergency and nonemergency care for emergency medical technicians and first responders. The
5 *[department]* **authority**, with the advice of the State Emergency Medical Service Committee, may
6 establish levels of emergency medical technician certification as may be necessary to serve the
7 public interest. A course approved by the *[department]* **authority** shall be designed to protect the
8 welfare of out-of-hospital patients, to promote the health, well-being and saving of the lives of such
9 patients and to reduce their pain and suffering.

10 **SECTION 1084.** ORS 682.212 is amended to read:

11 682.212. (1) A nonrefundable initial application fee shall be submitted with the initial application
12 for emergency medical technician and first responder certification. In addition, a nonrefundable ex-
13 amination fee shall be submitted for the following purposes:

14 (a) First responder written examination;

15 (b) Emergency medical technician written examination;

16 (c) Emergency medical technician practical examination; and

17 (d) A fee deemed necessary by the *[Department of Human Services]* **Oregon Health Authority**
18 to cover the fee charged by the national examination agency or other examination service utilized
19 by the *[department]* **authority** for the purpose of examining candidates for emergency medical tech-
20 nician certification.

21 (2) Subject to the review of the Oregon Department of Administrative Services, the fees and
22 charges established under this section shall not exceed the cost of administering the regulatory
23 program of the *[Department of Human Services]* **authority** pertaining to the purpose for which the
24 fee or charge is established, as authorized by the Legislative Assembly for the *[department's]* **au-**
25 **thority's** budget, as the budget may be modified by the Emergency Board.

26 (3) All moneys received by the *[department]* **authority** under this chapter shall be paid into the
27 General Fund in the State Treasury and placed to the credit of the *[department]* **authority** account
28 and such moneys hereby are appropriated continuously and shall be used only for the administration
29 and enforcement of this chapter.

30 **SECTION 1085.** ORS 682.216 is amended to read:

31 682.216. (1) When application has been made as required under ORS 682.208, the *[Department of*
32 *Human Services]* **Oregon Health Authority** shall certify the applicant as an emergency medical
33 technician or as a first responder if it finds:

34 (a) The applicant has successfully completed a training course approved by the *[department]*
35 **authority**.

36 (b) The applicant's physical and mental qualifications have been certified as required under ORS
37 682.208.

38 (c) No matter has been brought to the attention of the *[department]* **authority** which would
39 disqualify the applicant.

40 (d) A nonrefundable fee has been paid to the *[department]* **authority** pursuant to ORS 682.212.

41 (e) The applicant for emergency medical technician certification is 18 years of age or older and
42 the applicant for first responder is 16 years of age or older.

43 (f) The applicant has successfully completed examination as prescribed by the *[department]* **au-**
44 **thority**.

45 (g) The applicant meets other requirements prescribed by rule of the *[department]* **authority**.

1 (2) The *[department]* **authority** may provide for the issuance of a provisional certification for
2 emergency medical technicians.

3 (3) The *[department]* **authority** may issue by indorsement certification for emergency medical
4 technician without proof of completion of an approved training course to an emergency medical
5 technician who is licensed to practice emergency care in another state of the United States or a
6 foreign country if, in the opinion of the *[department]* **authority**, the applicant meets the require-
7 ments of certification in this state and can demonstrate to the satisfaction of the *[department]* **au-**
8 **thority** competency to practice emergency care. The *[department]* **authority** shall be the sole judge
9 of credentials of any emergency medical technician applying for certification without proof of com-
10 pletion of an approved training course.

11 (4) Each person holding a certificate under ORS 682.208 and this section shall submit, at the
12 time of application for renewal of the certificate to the *[department]* **authority**, evidence of the ap-
13 plicant's satisfactory completion of *[a department]* **an authority** approved program of continuing
14 education and other requirements prescribed by rule by the *[department]* **authority**.

15 (5) The *[department]* **authority** shall prescribe criteria and approve programs of continuing ed-
16 ucation in emergency and nonemergency care to meet the requirements of this section.

17 (6) The *[department]* **authority** shall include a fee pursuant to ORS 682.212 for late renewal and
18 for issuance of any duplicate certificate. Each certification issued under this section, unless sooner
19 suspended or revoked, shall expire and be renewable after a period of two years. Each certificate
20 must be renewed on or before June 30 of every second year or on or before such date as may be
21 specified by *[department]* **authority** rule. The *[department]* **authority** by rule shall establish a
22 schedule of certificate renewals under this subsection and shall prorate the fees to reflect any
23 shorter certificate period.

24 (7) Nothing in this chapter authorizes an emergency medical technician or first responder to
25 operate an ambulance without a driver license as required under the Oregon Vehicle Code.

26 **SECTION 1086.** ORS 682.220 is amended to read:

27 682.220. (1) The *[Department of Human Services]* **Oregon Health Authority** may deny, suspend
28 or revoke licenses for ambulances and ambulance services in accordance with the provisions of ORS
29 chapter 183 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this
30 chapter or the rules adopted thereunder.

31 (2) The certification of an emergency medical technician may be denied, suspended or revoked
32 in accordance with the provisions of ORS chapter 183 for any of the following reasons:

33 (a) A failure to have completed successfully *[a department]* **an authority** approved course.

34 (b) In the case of provisional certifications, failure to have completed successfully *[a*
35 *department]* **an authority** approved course.

36 (c) Failure to meet or continue to meet the physical and mental qualifications required to be
37 certified under ORS 682.208.

38 (d) The use of fraud or deception in receiving a certificate.

39 (e) Practicing skills beyond the scope of practice established by the Oregon Medical Board un-
40 der ORS 682.245.

41 (f) Rendering emergency or nonemergency care under an assumed name.

42 (g) The impersonation of another EMT.

43 (h) Unprofessional conduct.

44 (i) Obtaining a fee by fraud or misrepresentation.

45 (j) Habitual or excessive use of intoxicants or drugs.

1 (k) The presence of a mental disorder that demonstrably affects an EMT's performance, as cer-
2 tified by two psychiatrists retained by the [department] **authority**.

3 (L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions
4 about the ability of the EMT to perform the duties of an EMT in accordance with the standards
5 established by this chapter. A copy of the record of conviction, certified to by the clerk of the court
6 entering the conviction, shall be conclusive evidence of the conviction.

7 (m) Suspension or revocation of an emergency medical technician certificate issued by another
8 state:

9 (A) For a reason that would permit the [department] **authority** to suspend or revoke a certif-
10 icate issued under this chapter; and

11 (B) Evidenced by a certified copy of the order of suspension or revocation.

12 (n) Gross negligence or repeated negligence in rendering emergency medical assistance.

13 (o) Rendering emergency or nonemergency care without being certified except as provided in
14 ORS 30.800.

15 (p) Rendering emergency or nonemergency care as an EMT without written authorization and
16 standing orders from a supervising physician who has been approved by the board in accordance
17 with ORS 682.245.

18 (q) Refusing an invitation for an interview with the [department] **authority** as specified in this
19 section.

20 (3) The [department] **authority** may investigate any evidence that appears to show that an EMT
21 certified by the [department] **authority** is or may be medically incompetent, guilty of unprofessional
22 or dishonorable conduct or mentally or physically unable to safely function as an EMT. The [de-
23 partment] **authority** may investigate the off-duty conduct of an EMT to the extent that such conduct
24 may reasonably raise questions about the ability of the EMT to perform the duties of an EMT in
25 accordance with the standards established by this chapter. Upon receipt of a complaint about an
26 EMT or applicant, the [department] **authority** shall conduct an investigation as described under
27 ORS 676.165. An investigation shall be conducted in accordance with ORS 676.175.

28 (4) Any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any medical or
29 osteopathic physician licensed under ORS chapter 677, any owner of an ambulance licensed under
30 this chapter or any EMT certified under this chapter shall report to the [department] **authority** any
31 information the person may have that appears to show that an EMT is or may be medically incom-
32 petent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely
33 function as an EMT.

34 (5) If, in the opinion of the [department] **authority**, it appears that the information provided to
35 it under provisions of this section is or may be true, the [department] **authority** may request an
36 interview with the EMT. At the time the [department] **authority** requests an interview, the EMT
37 shall be provided with a general statement of the issue or issues of concern to the [department]
38 **authority**. The request shall include a statement of the procedural safeguards available to the EMT,
39 including the right to end the interview on request, the right to have counsel present and the fol-
40 lowing statement: "Any action proposed by the [Department of Human Services] **Oregon Health**
41 **Authority** shall provide for a contested case hearing."

42 (6) Information regarding an ambulance service provided to the [department] **authority** pursuant
43 to this section is confidential and shall not be subject to public disclosure, nor shall it be admissible
44 as evidence in any judicial proceeding. Information that the [department] **authority** obtains as part
45 of an investigation into emergency medical technician or applicant conduct or as part of a contested

1 case proceeding, consent order or stipulated agreement involving emergency medical technician or
2 applicant conduct is confidential as provided under ORS 676.175. Information regarding an ambu-
3 lance service does not become confidential due to its use in a disciplinary proceeding against an
4 emergency medical technician.

5 (7) Any person who reports or provides information to the [department] **authority** under this
6 section and who provides information in good faith shall not be subject to an action for civil damage
7 as a result thereof.

8 (8) In conducting an investigation under subsection (3) of this section, the [department] **au-**
9 **thority** may:

10 (a) Take evidence;

11 (b) Take depositions of witnesses, including the person under investigation, in the manner pro-
12 vided by law in civil cases;

13 (c) Compel the appearance of witnesses, including the person under investigation, in the manner
14 provided by law in civil cases;

15 (d) Require answers to interrogatories; and

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

18 (9) The [department] **authority** may issue subpoenas to compel compliance with the provisions
19 of subsection (8) of this section. If any person fails to comply with a subpoena issued under this
20 subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a
21 court may compel obedience as provided in ORS 183.440.

22 **SECTION 1087.** ORS 682.224 is amended to read:

23 682.224. (1) The [Department of Human Services] **Oregon Health Authority** may discipline, as
24 provided in this section, an ambulance service or any person certified as an emergency medical
25 technician or first responder in this state who has:

26 (a) Admitted the facts of a complaint which alleges facts which establish that such person is
27 guilty of violation of one or more of the grounds for suspension or revocation of a certificate as set
28 forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the
29 rules adopted thereunder.

30 (b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the
31 grounds for suspension or revocation of certification as set forth in ORS 682.220 or that an ambu-
32 lance service has violated the provisions of this chapter or the rules adopted thereunder.

33 (2) The purpose of disciplining an EMT under this section is to ensure that the EMT will pro-
34 vide services that are consistent with the obligations of this chapter. Prior to taking final discipli-
35 nary action, the [department] **authority** shall determine if the EMT has been disciplined for the
36 questioned conduct by the EMT's employer or supervising physician. The [department] **authority**
37 shall consider any such discipline or any other corrective action in deciding whether additional
38 discipline or corrective action by the [department] **authority** is appropriate.

39 (3) In disciplining an EMT or ambulance service as authorized by subsection (1) of this section,
40 the [department] **authority** may use any or all of the following methods:

41 (a) Suspend judgment.

42 (b) Issue a letter of reprimand.

43 (c) Issue a letter of instruction.

44 (d) Place the EMT or ambulance service on probation.

45 (e) Suspend the EMT certificate or ambulance service license.

1 (f) Revoke the EMT certificate or ambulance service license.

2 (g) Place limitations on the certificate of the EMT to practice emergency or nonemergency care
3 in this state or place limitations on the license of the ambulance service.

4 (h) Take such other disciplinary action as the [department] **authority** in its discretion finds
5 proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or as-
6 sessment of a civil penalty not to exceed \$5,000, or both.

7 (4) In addition to the action authorized by subsection (3) of this section, the [department] **au-
8 thority** may temporarily suspend a certificate or license without a hearing, simultaneously with the
9 commencement of proceedings under ORS chapter 183 if the [department] **authority** finds that evi-
10 dence in its possession indicates that a continuation in practice of the EMT or operation of the
11 ambulance service constitutes an immediate danger to the public.

12 (5) If the [department] **authority** places any EMT or ambulance service on probation as set forth
13 in subsection (3)(d) of this section, the [department] **authority** may determine, and may at any time
14 modify, the conditions of the probation and may include among them any reasonable condition for
15 the purpose of protection of the public and for the purpose of the rehabilitation of the EMT or am-
16 bulance service, or both. Upon expiration of the term of probation, further proceedings shall be
17 abated if the EMT or ambulance service has complied with the terms of the probation.

18 (6) If an EMT certified in this state is suspended, the holder of the certificate may not practice
19 during the term of suspension.

20 (7) If an ambulance service licensed in this state is suspended, the ambulance service may not
21 operate in this state during the term of the suspension, provided that the [department] **authority**
22 shall condition such suspension upon such arrangements as may be necessary to [assure] **ensure** the
23 continued availability of ambulance service in the area served by that ambulance service. Upon
24 expiration of the term of suspension, the certificate or license shall be reinstated by the
25 [department] **authority** if the conditions for which the certificate or license was suspended no longer
26 exist.

27 (8) Whenever an EMT certificate or ambulance service license is denied or revoked for any
28 cause, the [department] **authority** may, in its discretion, after the lapse of two years from the date
29 of such revocation, upon written application by the person formerly certified or licensed and after
30 a hearing, issue or restore the EMT certificate or ambulance service license.

31 (9) Civil penalties under this section shall be imposed as provided in ORS 183.745.

32 **SECTION 1088.** ORS 682.245 is amended to read:

33 682.245. (1) The Oregon Medical Board shall adopt by rule a scope of practice for emergency
34 medical technicians at such levels as may be established by the [Department of Human Services]
35 **Oregon Health Authority** and for first responders.

36 (2) The board shall adopt by rule standards for the qualifications and responsibilities of super-
37 vising physicians.

38 (3) The standing orders for emergency medical technicians and first responders may not exceed
39 the scope of practice defined by the board.

40 (4) No emergency medical technician shall provide patient care or treatment without written
41 authorization and standing orders from a supervising physician who has been approved by the board.

42 (5) The policies and procedures for applying and enforcing this section may be delegated in
43 whole or in part to the [department] **authority**.

44 **SECTION 1089.** ORS 682.991 is amended to read:

45 682.991. (1) Violation of any provision of ORS 682.028, 682.047 (5) or 682.204 is a Class A

1 misdemeanor. Each day of continuing violation shall be considered a separate offense.

2 (2) Violation of any provision of this chapter is a misdemeanor. In any prosecution for such vi-
3 olation it shall be sufficient to sustain a conviction to show a single act of conduct in violation of
4 any of the provisions of this chapter and it shall not be necessary to show a general course of such
5 conduct.

6 (3) In addition to the penalties under this section, the [*Department of Human Services*] **Oregon**
7 **Health Authority** may assess civil penalties of up to \$5,000 per violation against any entity or
8 person licensed under this chapter or subject to licensure under this chapter.

9 **SECTION 1090.** ORS 685.055 is amended to read:

10 685.055. The Director of [*Human Services shall*] **the Oregon Health Authority** may not dis-
11 criminate between licensed naturopathic physicians and any other person authorized by law to ren-
12 der professional services that a licensed naturopathic physician may render, when such services are
13 required. If the [*Department of Human Services*] **Oregon Health Authority** is responsible for paying
14 for such services, the services shall be paid for in the same manner and under the same standards
15 as similar professional services.

16 **SECTION 1091.** ORS 685.160 is amended to read:

17 685.160. (1) There hereby is created the Board of Naturopathic Examiners in the [*Department*
18 *of Human Services*] **Oregon Health Authority**. The board shall consist of seven members appointed
19 by the Governor for terms of three years commencing July 1, and until their successors are ap-
20 pointed and qualified. A majority of the members of the board constitutes a quorum. If there is a
21 vacancy for any cause, the Governor shall appoint a member to serve for the remainder of the un-
22 expired term. All appointments of members of the board by the Governor are subject to confirmation
23 by the Senate in the manner provided in ORS 171.562 and 171.565.

24 (2) Of the membership of the Board of Naturopathic Examiners:

25 (a) All members must be citizens of this state.

26 (b) Five members shall be naturopaths who have each practiced continuously in this state for
27 the five years immediately prior to the date of appointment.

28 (c) Two shall be members of the general public who do not possess the qualifications set forth
29 in paragraph (b) of this subsection.

30 (3) The board shall carry into effect the provisions of this chapter and is authorized to issue
31 licenses to practice naturopathic medicine in this state. The possession of a common seal by the
32 board hereby is authorized.

33 **SECTION 1092.** ORS 688.545 is amended to read:

34 688.545. (1)(a) There is created in the [*Department of Human Services*] **Oregon Health Author-**
35 **ity** a Board of Radiologic Technology consisting of nine members who shall be appointed by the
36 Governor. Each member of the board shall be a citizen of the United States and a resident of the
37 State of Oregon. Each appointed member is entitled to vote.

38 (b) Of the members of the board:

39 (A) One shall be a radiologist;

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

41 (C) At least one shall be a limited permit holder; and

42 (D) At least five shall be licensed practicing radiologic technologists, one of whom shall be a
43 radiation therapist.

44 (2) The section manager of the Radiation Protection Services Section of the [*Department of Hu-*
45 *man Services*] **Oregon Health Authority**, or a person appointed by the section manager, shall be

1 an advisory member of the board for the purpose of providing counsel and shall not be entitled to
2 vote.

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

5 (4) Members of the board shall be entitled to compensation and expenses as provided in ORS
6 292.495.

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

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

14 (7) Five members of the board shall constitute a quorum for the transaction of business at any
15 meeting. Five affirmative votes shall be required to take action.

16 **SECTION 1093.** ORS 688.595 is amended to read:

17 688.595. The section manager of the Radiation Protection Services Section of the [*Department*
18 *of Human Services*] **Oregon Health Authority** shall enforce the provisions of ORS 688.405 to 688.605
19 and shall conduct, under the direction of the Board of Radiologic Technology, inspections in
20 furtherance of the purposes of ORS 688.405 to 688.605.

21 **SECTION 1094.** ORS 688.625 is amended to read:

22 688.625. As used in ORS 688.625 to 688.665:

23 (1) "Dialysis facility or center" means a place awarded conditional or unconditional status by
24 the federal Centers for Medicare and Medicaid Services.

25 (2) "End stage renal disease" means a condition that requires either the replacement of kidney
26 functions through renal transplantation or the permanent assistance of those functions through
27 dialysis.

28 (3) "Hemodialysis technician" means a person certified by the [*Department of Human Services*]
29 **Oregon Health Authority** under ORS 688.650.

30 **SECTION 1095.** ORS 688.630 is amended to read:

31 688.630. [*After January 1, 2000, it is unlawful:*]

32 (1) **It is unlawful** for any person to act as a hemodialysis technician without being certified by
33 the [*Department of Human Services*] **Oregon Health Authority**.

34 (2) **It is unlawful** for any dialysis facility or center to authorize a person to act for it as a
35 hemodialysis technician without being certified by the [*department*] **authority**.

36 **SECTION 1096.** ORS 688.635 is amended to read:

37 688.635. (1) A person certified as a hemodialysis technician may, under the direct supervision
38 of a physician licensed under ORS chapter 677 or a registered nurse licensed under ORS 678.010 to
39 678.410, perform functions as determined by rules adopted by the [*Department of Human Services*]
40 **Oregon Health Authority**, in consultation with the Oregon Medical Board and the Oregon State
41 Board of Nursing.

42 (2) A hemodialysis technician shall not:

43 (a) Administer medications by oral, intramuscular, intravenous or subcutaneous means except
44 as specified under rules adopted by the [*department*] **authority** pursuant to subsection (1) of this
45 section.

1 (b) Determine the frequency, duration or nature of dialysis treatments or alter any treatment
2 prescribed by a licensed health professional.

3 (c) Engage in any health care activity requiring a license except as authorized under rules
4 adopted by the [department] **authority** pursuant to subsection (1) of this section.

5 **SECTION 1097.** ORS 688.640 is amended to read:

6 688.640. (1) For any person to be certified as a hemodialysis technician, an application for cer-
7 tification shall be made to the [Department of Human Services] **Oregon Health Authority**. The ap-
8 plication shall be upon forms prescribed by the [department] **authority** and shall contain:

9 (a) The name and address of the applicant.

10 (b) The name and location of the training course successfully completed by the applicant and
11 the date of completion and, if an extended period of time has elapsed since the completion of the
12 training, of the required amount of continuing education.

13 (c) Such other information as the [department] **authority** may reasonably require to determine
14 compliance with applicable provisions of ORS 688.625 to 688.665 and the rules adopted thereunder.

15 (2) The [department] **authority**, in consultation with the Oregon Medical Board and the Oregon
16 State Board of Nursing, shall adopt rules establishing initial training and continuing education re-
17 quirements.

18 **SECTION 1098.** ORS 688.645 is amended to read:

19 688.645. (1) An initial application fee shall be submitted with the application for hemodialysis
20 technician certification. If the applicant is taking an examination administered by the [Department
21 of Human Services] **Oregon Health Authority**, an additional fee shall be charged for the examina-
22 tion.

23 (2) The [department] **authority** may charge a fee for late renewal of a certificate and for issu-
24 ance of any duplicate certificate.

25 (3) Subject to the review of the Oregon Department of Administrative Services, the fees and
26 charges established under this section shall not exceed the cost of administering the certification
27 program of the [Department of Human Services] **authority** pertaining to the purpose for which the
28 fee or charge is established, as authorized by the Legislative Assembly for the [Department of Human
29 Services'] **authority's** budget, as the budget may be modified by the Emergency Board.

30 (4) All moneys received by the [department] **authority** under ORS 688.625 to 688.665 shall be
31 paid into the General Fund in the State Treasury and placed to the credit of the [department] **au-**
32 **thority** account and such moneys hereby are appropriated continuously and shall be used only for
33 the administration and enforcement of ORS 688.625 to 688.665.

34 **SECTION 1099.** ORS 688.650 is amended to read:

35 688.650. (1) When application has been made as required under ORS 688.640, the [Department of
36 Human Services] **Oregon Health Authority** shall certify the applicant as a hemodialysis technician
37 if it finds:

38 (a) The applicant has successfully completed the training requirement adopted by the [depart-
39 ment] **authority**.

40 (b) A fee has been paid to the [department] **authority** pursuant to ORS 688.645.

41 (c) The applicant has successfully completed an examination administered by the [department]
42 **authority** or administered by another public or private entity and approved by the [department]
43 **authority**.

44 (d) The applicant meets any other requirements prescribed by rule of the [department]
45 **authority**.

1 (2) The [department] **authority** may provide for the issuance of a temporary or provisional cer-
2 tification for a person to practice as a hemodialysis technician until the person has taken and passed
3 the next held certification examination available to the person and has received a certificate. The
4 [department] **authority** may impose any conditions or limitations on a temporary or provisional
5 certificate that the [department] **authority** considers reasonable and necessary to protect the public.
6 A temporary or provisional certificate may be held only by a person who:

7 (a) Has not received a failing grade on a certification examination approved or administered by
8 the [department] **authority**; and

9 (b)(A) Has successfully completed the initial training required by [department] **authority** rule;
10 or

11 (B) Is currently working in this or another state as a hemodialysis technician and is enrolled
12 in a program offering the initial training required by [department] **authority** rule.

13 (3) Each person holding a certificate under this section shall submit, at the time of application
14 for renewal of the certificate to the [department] **authority**, evidence of the applicant's satisfactory
15 completion of any continuing education requirements prescribed by rule by the [department] **au-**
16 **thority**.

17 (4) The [department] **authority** shall prescribe criteria and approve programs of continuing ed-
18 ucation.

19 (5) Each certification issued under this section, unless sooner suspended or revoked, shall expire
20 and be renewable after a period of two years. Each certificate must be renewed on or before June
21 30 of every second year or on or before such date as may be specified by [department rule. The de-
22 partment] **authority rule**. The **authority** by rule shall establish a schedule of certificate renewals
23 under this subsection and shall prorate the fees to reflect any shorter certificate period.

24 **SECTION 1100.** ORS 688.655 is amended to read:

25 688.655. (1) The certification of a hemodialysis technician may be denied, suspended or revoked
26 in accordance with the provisions of ORS chapter 183 for any of the following:

27 (a) Failure to complete continuing education requirements.

28 (b) The use of fraud or deception in receiving a certificate.

29 (c) Habitual or excessive use of intoxicants or drugs.

30 (d) The presence of a mental disorder that demonstrably affects a technician's performance, as
31 certified by two psychiatrists retained by the [Department of Human Services] **Oregon Health Au-**
32 **thority**.

33 (e) Conviction of a criminal offense that the [department] **authority** considers reasonably related
34 to the fitness of the person to practice hemodialysis.

35 (f) Suspension or revocation of a hemodialysis technician certificate issued by another state.

36 (g) Gross negligence or repeated negligence in rendering hemodialysis care.

37 (h) Any reason identified by [department] **authority** rule as rendering the applicant unfit to
38 perform the duties of a hemodialysis technician.

39 (2) The [department] **authority** may investigate any evidence that appears to show that a
40 hemodialysis technician certified by the [department] **authority** is or may be medically incompetent
41 or is or may be guilty of unprofessional or dishonorable conduct or is or may be mentally or phys-
42 ically unable to safely function as a hemodialysis technician.

43 (3) Any dialysis facility or center, any hemodialysis technician certified under ORS 688.650, any
44 physician licensed under ORS chapter 677 or any registered nurse licensed under ORS 678.010 to
45 678.410 shall report to the [department] **authority** any information the person may have that appears

1 to show that a hemodialysis technician is or may be medically incompetent or is or may be guilty
2 of unprofessional or dishonorable conduct or is or may be mentally or physically unable to safely
3 function as a hemodialysis technician.

4 (4) Information provided to the *[department]* **authority** pursuant to this section is confidential
5 and shall not be subject to public disclosure, nor shall it be admissible as evidence in any judicial
6 proceeding.

7 (5) Any person who reports or provides information to the *[department]* **authority** under this
8 section and who provides information in good faith shall not be subject to an action for civil damage
9 as a result thereof.

10 **SECTION 1101.** ORS 688.660 is amended to read:

11 688.660. (1) The *[Department of Human Services]* **Oregon Health Authority** may discipline a
12 person certified as a hemodialysis technician who has:

13 (a) Admitted the facts of a complaint alleging the person is guilty of violation of one or more
14 of the grounds for suspension or revocation of a certificate as set forth in ORS 688.655.

15 (b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the
16 grounds for suspension or revocation of certification as set forth in ORS 688.655.

17 (2) In disciplining a technician, the *[department]* **authority** may use any or all of the following
18 methods:

19 (a) Suspend judgment.

20 (b) Place the technician on probation.

21 (c) Suspend the technician's certificate.

22 (d) Revoke the technician's certificate.

23 (e) Place limitations on the ability of the technician to practice hemodialysis in this state.

24 (f) Take such other disciplinary action as the *[department]* **authority** in its discretion finds
25 proper, including assessment of the costs of the disciplinary proceedings, not to exceed \$1,000, as a
26 civil penalty or assessment of a civil penalty not to exceed \$1,000.

27 (3) In addition to the action authorized by subsection (2) of this section, the *[department]* **au-**
28 **thority** may temporarily suspend a certificate or license without a hearing, simultaneously with the
29 commencement of proceedings under ORS chapter 183, if the *[department]* **authority** finds that evi-
30 dence in its possession indicates that a continuation in practice of the technician constitutes an
31 immediate danger to the public.

32 (4) If the *[department]* **authority** places a technician on probation, the *[department]* **authority**
33 may determine, and may at any time modify, the conditions of the probation and may include among
34 them any reasonable condition for the purpose of protection of the public and for the purpose of the
35 rehabilitation of the technician. Upon expiration of the term of probation, further proceedings shall
36 be abated if the technician has complied with the terms of the probation.

37 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

38 **SECTION 1102.** ORS 688.665 is amended to read:

39 688.665. The *[Department of Human Services]* **Oregon Health Authority** shall adopt rules that
40 the *[department]* **authority** considers necessary and proper to enforce ORS 688.625 to 688.665.

41 **SECTION 1103.** ORS 689.605 is amended to read:

42 689.605. (1) In a hospital or long term care facility having a pharmacy and employing a
43 pharmacist, the pharmacy and pharmacist are subject to the requirements of this chapter, except
44 that in a hospital when a pharmacist is not in attendance, pursuant to standing orders of the
45 pharmacist, a registered nurse supervisor on the written order of a person authorized to prescribe

1 a drug may withdraw such drug in such volume or amount as needed for administration to or
 2 treatment of an inpatient or outpatient until regular pharmacy services are available in accordance
 3 with the rules adopted by the board. However, the State Board of Pharmacy may grant an exception
 4 to the requirement for a written order by issuing a special permit authorizing the registered nurse
 5 supervisor in a hospital to dispense medication on the oral order of a person authorized to prescribe
 6 a drug. An inpatient care facility which does not have a pharmacy must have a drug room. In an
 7 inpatient care facility having a drug room as may be authorized by rule of the [*Department of Human*
 8 *Services*] **Oregon Health Authority**, the drug room is not subject to the requirements of this
 9 chapter relating to pharmacies. However, a drug room must be supervised by a pharmacist and is
 10 subject to the rules of the State Board of Pharmacy. When a pharmacist is not in attendance, any
 11 person authorized by the prescriber or by the pharmacist on written order may withdraw such drug
 12 in such volume or amount as needed for administration to or treatment of a patient, entering such
 13 withdrawal in the record of the responsible pharmacist.

14 (2) In a hospital having a drug room, any drug may be withdrawn from storage in the drug room
 15 by a registered nurse supervisor on the written order of a licensed practitioner in such volume or
 16 amount as needed for administration to and treatment of an inpatient or outpatient in the manner
 17 set forth in subsection (1) of this section and within the authorized scope of practice.

18 (3) A hospital having a drug room shall cause accurate and complete records to be kept of the
 19 receipt, withdrawal from stock and use or other disposal of all legend drugs stored in the drug room.
 20 Such record shall be open to inspection by agents of the board and other qualified authorities.

21 (4) In an inpatient care facility other than a hospital, the drug room shall contain only pre-
 22 scribed drugs already prepared for patients therein and such emergency drug supply as may be au-
 23 thorized by rule by the [*Department of Human Services*] **Oregon Health Authority**.

24 (5) The requirements of this section shall not apply to facilities described in ORS 441.065.

25 (6) A registered nurse who is an employee of a local health department established under the
 26 authority of a county or district board of health and registered by the board under ORS 689.305 may,
 27 pursuant to the order of a person authorized to prescribe a drug or device, dispense a drug or device
 28 to a client of the **local** health department for purposes of caries prevention, birth control or pre-
 29 vention or treatment of a communicable disease. Such dispensing shall be subject to rules jointly
 30 adopted by the board and the [*Department of Human Services*] **Oregon Health Authority**.

31 (7) The board shall adopt rules authorizing a pharmacist to delegate to a registered nurse the
 32 authority to withdraw prescription drugs from a manufacturer's labeled container for administration
 33 to persons confined in penal institutions including, but not limited to, adult and juvenile correctional
 34 facilities. A penal institution, in consultation with a pharmacist, shall develop policies and proce-
 35 dures regarding medication management, procurement and distribution. A pharmacist shall monitor
 36 a penal institution for compliance with the policies and procedures and shall perform drug utiliza-
 37 tion reviews. The penal institution shall submit to the board for approval a written agreement be-
 38 tween the pharmacist and the penal institution regarding medication policies and procedures.

39 **SECTION 1104.** ORS 689.645 is amended to read:

40 689.645. (1) In accordance with rules adopted by the State Board of Pharmacy under ORS
 41 689.205, a pharmacist may administer:

42 (a) Vaccines and immunizations to persons who are at least 18 years of age; and

43 (b) Influenza vaccines to persons who are at least 15 years of age.

44 (2) The board is authorized to issue, to licensed pharmacists who have completed training ac-
 45 credited by the Centers for Disease Control and Prevention, the American Council on Pharmaceu-

1 tical Education or a similar health authority or professional body, certificates of special competency
2 in the administration of vaccines and immunizations to persons more than 15 years of age.

3 (3) The board shall adopt rules relating to the reporting of the administration of vaccines and
4 immunizations to a patient's primary health care provider and to the [*Department of Human*
5 *Services*] **Oregon Health Authority**.

6 (4) The board shall adopt rules requiring pharmacists to establish protocols for the adminis-
7 tration of vaccines and immunizations to persons who are at least 18 years of age and for the ad-
8 ministration of influenza vaccines to persons who are at least 15 years of age.

9 (5) The board shall convene a volunteer Immunization and Vaccination Advisory Committee
10 consisting of no more than nine members for the purpose of advising the board in promulgating rules
11 under this section. The committee shall consist of one representative from the [*Department of Human*
12 *Services*] **Oregon Health Authority**, two representatives from the Oregon Medical Board, two rep-
13 resentatives from the Oregon State Board of Nursing and two representatives from the State Board
14 of Pharmacy and no more than two pharmacists other than the representatives from the State Board
15 of Pharmacy.

16 **SECTION 1105.** ORS 690.055 is amended to read:

17 690.055. (1) To be issued a license to operate a facility, each applicant shall:

18 (a) Be 18 years of age or older, if the applicant is a natural person.

19 (b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection
20 control.

21 (c) Comply with the applicable health and safety laws and rules of the [*Department of Human*
22 *Services*] **Oregon Health Authority** and any other state agencies.

23 (d) Pay the required fees.

24 (e) If the applicant is an entity other than a natural person, be formed and operated in accord-
25 ance with Oregon law.

26 (2) To be issued a temporary facility permit, each applicant must:

27 (a) Operate the facility on a temporary basis for a period not to exceed 30 consecutive calendar
28 days and in accordance with rules of the board.

29 (b) Be 18 years of age or older, if the applicant is a natural person.

30 (c) Be under the direct supervision of a practitioner at all times the facility is open for business.

31 (d) Apply on forms prescribed by the Oregon Health Licensing Agency prior to opening for
32 business.

33 (e) Comply with the rules of the board concerning health, safety and infection control.

34 (f) Comply with the applicable health and safety laws and rules of the [*Department of Human*
35 *Services*] **Oregon Health Authority** and any other state agencies.

36 (g) Pay the appropriate application and permit fees.

37 (h) If the applicant is an entity other than a natural person, be formed and operated in accord-
38 ance with Oregon law.

39 (3) The agency may issue a single facility license to an applicant pursuant to ORS 676.617.

40 (4) A license issued under this section shall confer on a facility owner the right to operate the
41 facility and to advertise the services for which the facility is licensed.

42 (5) A facility must at all times be under the direct supervision of a practitioner.

43 **SECTION 1106.** ORS 690.057 is amended to read:

44 690.057. (1) To be issued a registration to operate as an independent contractor, each applicant
45 shall:

1 (a) Be 18 years of age or older.

2 (b) Comply with the rules of the Board of Cosmetology concerning health, safety and infection
3 control.

4 (c) Comply with the applicable health and safety laws and rules of the [*Department of Human*
5 *Services*] **Oregon Health Authority** and any other state agencies.

6 (d) Pay the required fees.

7 (2) A registration shall confer the right to an independent contractor to advertise and directly
8 offer practitioner services to the public in a licensed facility or a facility operating under a tempo-
9 rary facility permit.

10 **SECTION 1107.** ORS 690.205 is amended to read:

11 690.205. (1) The Board of Cosmetology may adopt rules for the administration of ORS 345.440
12 and 690.005 to 690.235 and for prescribing safety and infection control requirements for facilities.
13 Infection control requirements for facilities shall be subject to the approval of the [*Department of*
14 *Human Services*] **Oregon Health Authority**. A copy of the rules adopted by the board shall be
15 furnished by the board to the owner or manager of each facility.

16 (2) Notwithstanding subsection (1) of this section, the board may not prohibit the use of the fa-
17 cility for domestic purposes if the part devoted to domestic purposes is in a completely separate
18 room not used by customers, with walls extending from floor to ceiling and with any connecting
19 doors kept closed while the facility is in actual operation.

20 (3) Rules adopted by the board prescribing safety and infection control requirements for facili-
21 ties shall be adopted in accordance with the procedures set forth in ORS chapter 183.

22 **SECTION 1108.** ORS 691.405 is amended to read:

23 691.405. As used in ORS 691.405 to 691.585:

24 (1) "American Dietetic Association" means the national professional organization of dietitians
25 that provides direction and leadership for quality dietetic practice, education and research.

26 (2) "**Authority**" means the **Oregon Health Authority**.

27 [(2)] (3) "Board" means the Board of Examiners of Licensed Dietitians established under ORS
28 691.485.

29 [(3)] (4) "Commission on Dietetic Registration" means the commission on dietetic registration
30 that is a member of the National Commission for Certifying Agencies.

31 [(4) "*Department*" means the *Department of Human Services*.]

32 (5) "Dietetics practice" means the integration and application of principles derived from the
33 sciences of nutrition, biochemistry, food, management, physiology and behavioral and social sciences
34 to achieve and maintain the health of people through:

35 (a) Assessing the nutritional needs of clients;

36 (b) Establishing priorities, goals and objectives that meet nutritional needs of clients;

37 (c) Advising and assisting individuals or groups on appropriate nutritional intake by integrating
38 information from a nutritional assessment with information on food and other sources of nutrients
39 and meal preparation; and

40 (d) Evaluating, making changes in and maintaining appropriate standards of quality in food and
41 nutrition services.

42 (6) "Licensed dietitian" means a dietitian licensed as provided in ORS 691.435.

43 **SECTION 1109.** ORS 691.485 is amended to read:

44 691.485. (1) There is established a Board of Examiners of Licensed Dietitians within the [*De-*
45 *partment of Human Services*] **Oregon Health Authority** for the purpose of carrying out and en-

1 forcing the provisions of ORS 691.405 to 691.585.

2 (2) The board shall consist of seven members appointed by the [*department*] **authority** of which:

3 (a) Two are members of the general public;

4 (b) One is a physician trained in clinical nutrition; and

5 (c) Four are dietitians licensed under ORS 691.405 to 691.585 who have been engaged in the
6 practice of dietetics for no fewer than five years.

7 (3) Members of the board shall be appointed for three-year terms and are eligible for reap-
8 pointment, but none shall serve more than two consecutive terms.

9 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.

10 **SECTION 1110.** ORS 692.300 is amended to read:

11 692.300. (1) There is created the State Mortuary and Cemetery Board in the [*Department of*
12 *Human Services*] **Oregon Health Authority** to carry out the purposes and enforce the provisions
13 of this chapter. The board shall consist of 11 members. The members of the board shall be as follows:

14 (a) Two members shall be licensed funeral service practitioners. One of the members under this
15 paragraph shall be a funeral service practitioner who does not offer embalming.

16 (b) One member shall be a licensed embalmer.

17 (c) Three members shall be representatives of cemeteries, one representing for-profit cemeteries,
18 one representing a city or county owned or operated cemetery and one representing a special dis-
19 trict owned or operated cemetery.

20 (d) One member shall be a representative of a crematorium.

21 (e) Four members shall be representatives of the public, one of whom shall be a member of a
22 recognized senior citizen organization.

23 (2) The term of office of the members of the board shall be four years ending on December 31.
24 A member is eligible for no more than two consecutive terms. They shall be appointed by the Gov-
25 ernor and hold office until the appointment and qualification of their successors.

26 **SECTION 1111.** ORS 693.115 is amended to read:

27 693.115. (1) The State Plumbing Board is established in the Department of Consumer and Busi-
28 ness Services, consisting of seven members appointed by the Governor. The appointment of a mem-
29 ber of the board is subject to confirmation by the Senate pursuant to section 4, Article III of the
30 Oregon Constitution.

31 (2) The members of the board shall be as follows:

32 (a) One journeyman plumber with 10 or more years' experience in the trade or calling of
33 journeyman plumber;

34 (b) One licensed plumbing contractor;

35 (c) One local plumbing inspector who is a journeyman plumber;

36 (d) One registered professional mechanical engineer;

37 (e) One officer or employee of the [*Department of Human Services*] **Oregon Health Authority**;

38 (f) One plumbing equipment supplier who otherwise qualifies by experience in the industry or
39 one building official; and

40 (g) One member of the general public.

41 (3) The term of office of each member is four years, but a member serves at the pleasure of the
42 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor.
43 A member is not eligible for appointment to more than two full terms of office. If there is a vacancy
44 for any cause, the Governor shall make an appointment to become immediately effective for the
45 unexpired term.

1 (4) A member of the board shall receive compensation and expenses as provided in ORS 292.495.

2 **SECTION 1112.** ORS 701.505 is amended to read:

3 701.505. For the purposes of ORS 431.920 and 701.500 to 701.515:

4 (1) "Abatement" has the meaning given that term in P.L. 102-550, section 1004, 40 C.F.R. 745.223
5 and as further defined pursuant to the authorities described in ORS 701.500.

6 (2) "Accredited training program" means a training program that has been accredited by the
7 [Department of Human Services] **Oregon Health Authority** to provide training for individuals en-
8 gaged in lead-based paint activities.

9 (3) "Certified" means an action by the [Department of Human Services] **Oregon Health Au-**
10 **thority** verifying the successful completion of a training program accredited by the [department]
11 **authority** and any other requirements.

12 (4) "Discipline" means a specific type or category of lead-based paint activity.

13 (5) "Evaluation" has the meaning given that term in P.L. 102-550, section 1004, and as further
14 defined pursuant to the authorities described in ORS 701.500.

15 (6) "Inspection" has the meaning given that term in P.L. 102-550, section 1004, 40 C.F.R. 745.223
16 and as further defined pursuant to the authorities described in ORS 701.500.

17 (7) "Lead-based paint" has the meaning given that term in P.L. 102-550, section 1004, and as
18 further defined pursuant to the authorities described in ORS 701.500.

19 (8) "Lead-based paint activities" has the meaning given that term in 40 C.F.R. 745.223 and as
20 further defined pursuant to the authorities described in ORS 701.500.

21 (9) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-
22 contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present
23 in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human
24 health effects as established by the appropriate federal agency.

25 (10) "Licensed" means a person who has been certified by the [Department of Human Services]
26 **Oregon Health Authority** in one or more disciplines and has completed the requirements of the
27 Construction Contractors Board.

28 (11) "Registered" means a person or business that has met the requirements for registration
29 under this chapter.

30 **SECTION 1113.** ORS 708A.430 is amended to read:

31 708A.430. (1) On the death of a depositor of a financial institution, if the deposit is \$25,000 or
32 less, the financial institution may, upon receipt of an affidavit from the person claiming the deposit
33 as provided in subsection (2) of this section, pay the moneys on deposit to the credit of the deceased
34 depositor:

35 (a) To the surviving spouse on demand of the surviving spouse at any time after the death of
36 the depositor;

37 **(b) If there is no surviving spouse, to the Oregon Health Authority, on demand of the**
38 **authority no less than 46 days and no more than 75 days from the death of the depositor**
39 **when there is a preferred claim arising under ORS 414.105;**

40 [(b)] (c) If there is no surviving spouse **or authority claim**, to the Department of Human Ser-
41 vices, on demand of the department no less than 46 days and no more than 75 days from the death
42 of the depositor when there is a preferred claim arising under ORS 411.708[, 411.795 or 414.105] **or**
43 **411.795;**

44 [(c)] (d) If there is no surviving spouse and no **authority or** department claim, to the depositor's
45 surviving children 18 years of age or older;

1 [(d)] (e) If there is no surviving spouse, **authority claim**, department claim or surviving child
2 18 years of age or older, to the depositor's surviving parents; or

3 [(e)] (f) If there is no surviving spouse, **authority claim**, department claim, surviving child 18
4 years of age or older or surviving parent, to the depositor's surviving brothers and sisters 18 years
5 of age or older.

6 (2) The affidavit shall:

7 (a) State where and when the depositor died;

8 (b) State that the total deposits of the deceased depositor in all financial institutions in Oregon
9 do not exceed \$25,000;

10 (c) Show the relationship of the affiant to the deceased depositor; and

11 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
12 the deceased depositor out of the deposit to the full extent of the deposit if necessary, in the order
13 of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who
14 are entitled to those moneys by law.

15 (3) In the event the depositor died intestate without known heirs, an estate administrator of the
16 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
17 moneys as escheat property.

18 (4) The financial institution shall determine the relationship of the affiant to the deceased
19 depositor. However, payment of the moneys in good faith to the affiant discharges and releases the
20 transferor from any liability or responsibility for the transfer in the same manner and with the same
21 effect as if the property had been transferred, delivered or paid to a personal representative of the
22 estate of the deceased depositor.

23 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **au-**
24 **thority**, department, surviving child, surviving parent, surviving brothers and sisters or an estate
25 administrator of the Department of State Lands to withdraw the deposits upon the filing of the af-
26 fidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was
27 made under this section, the person withdrawing the deposits shall account for them to the personal
28 representative.

29 (6) When a financial institution transfers moneys under subsection (1) of this section, the
30 transferor may require the transferee to furnish the transferor a written indemnity agreement,
31 indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

32 (7) This section is subject to the rights of other parties in the account under ORS 708A.455 to
33 708A.515.

34 **SECTION 1114.** ORS 722.262 is amended to read:

35 722.262. (1) On the death of an account holder or a holder of a demand deposit account, if the
36 savings liability of an association or federal association on all savings accounts of the deceased, and
37 the amounts held in all demand deposit accounts of the deceased, is \$25,000 or less, the association
38 or federal association may, upon receipt of an affidavit from the person claiming the account as
39 provided in subsection (2) of this section, pay the withdrawal value of the accounts of the deceased
40 holder:

41 (a) To the surviving spouse on demand of the surviving spouse at any time after the death of
42 the holder;

43 (b) **If there is no surviving spouse, to the Oregon Health Authority, on demand of the**
44 **department no less than 46 days and no more than 75 days from the death of the holder if**
45 **the holder received medical assistance under ORS 414.105;**

1 [(b)] (c) If there is no surviving spouse **or authority claim**, to the Department of Human Ser-
2 vices, on demand of the department no less than 46 days and no more than 75 days from the death
3 of the holder if the holder received public assistance under ORS 411.708[, 411.795 or 414.105] **or**
4 **411.795**;

5 [(c)] (d) If there is no surviving spouse and no **authority or** department claim, to the holder's
6 surviving children 18 years of age or older;

7 [(d)] (e) If there is no surviving spouse, **authority claim**, department claim or surviving child
8 18 years of age or older, to the holder's surviving parent; or

9 [(e)] (f) If there is no surviving spouse, **authority claim**, department claim, surviving child 18
10 years of age or older or surviving parent, to the holder's surviving brothers and sisters 18 years of
11 age or older.

12 (2) The affidavit shall:

13 (a) State where and when the account holder or holder of a demand deposit account died;

14 (b) State that the total withdrawal value of all savings and demand deposit accounts of the de-
15 ceased holder in all associations in Oregon, including federal associations, does not exceed \$25,000;

16 (c) Show the relationship of the affiant to the deceased holder; and

17 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
18 the deceased holder out of the account to the full extent of the account if necessary, in the order
19 of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who
20 are entitled to those moneys by law.

21 (3) In the event the holder died intestate without known heirs, an estate administrator of the
22 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
23 withdrawal value of the accounts as escheat property.

24 (4) A savings association or federal association is under no obligation to determine the re-
25 lationship of the affiant to the deceased holder. Payment made in good faith to the person, **the**
26 **Oregon Health Authority**, [or] the Department of Human Services or an estate administrator of the
27 Department of State Lands making the affidavit is a full acquittance and release of the association
28 or federal association for the amount so paid.

29 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **au-**
30 **thority**, department, surviving children, surviving parent or surviving brothers and sisters to with-
31 draw an account as provided by this section. However, if a personal representative is appointed in
32 an estate of a deceased holder whose account has been withdrawn under this section, the person
33 withdrawing the account shall account for it to the personal representative.

34 **SECTION 1115.** ORS 723.466 is amended to read:

35 723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the de-
36 ceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from the person
37 claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit:

38 (a) To the surviving spouse on demand of the surviving spouse at any time after the death of
39 the member;

40 (b) **If there is no surviving spouse, to the Oregon Health Authority, on demand of the**
41 **authority no less than 46 days and no more than 75 days from the death of the member when**
42 **there is a preferred claim arising under ORS 414.105**;

43 [(b)] (c) If there is no surviving spouse **or authority claim**, to the Department of Human Ser-
44 vices, on demand of the department no less than 46 days and no more than 75 days from the death
45 of the member when there is a preferred claim arising under ORS 411.708[, 411.795 or 414.105] **or**

1 **411.795;**

2 [(c)] (d) If there is no surviving spouse and no **authority or** department claim, to the member's
3 surviving children 18 years of age or older;

4 [(d)] (e) If there is no surviving spouse, **authority claim**, department claim or surviving child
5 18 years of age or older, to the member's surviving parents; or

6 [(e)] (f) If there is no surviving spouse, **authority claim**, department claim, surviving child 18
7 years of age or older or surviving parent, to the member's surviving brothers and sisters 18 years
8 of age or older.

9 (2) The affidavit shall:

10 (a) State where and when the member died;

11 (b) State that the total deposits of the deceased member in all financial institutions in this state
12 do not exceed \$25,000;

13 (c) Show the relationship of the affiant to the deceased member; and

14 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
15 the deceased member out of the deposit, to the full extent of the deposit if necessary, in the order
16 of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who
17 are entitled to those moneys by law.

18 (3) In the event the member died intestate without known heirs, an estate administrator of the
19 Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the
20 moneys as escheat property.

21 (4) The credit union shall determine the relationship of the affiant to the deceased member.
22 However, payment of the moneys in good faith to the affiant discharges and releases the transferor
23 from any liability or responsibility for the transfer in the same manner and with the same effect as
24 if the property had been transferred, delivered or paid to a personal representative of the estate of
25 the deceased member.

26 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, **au-**
27 **thority**, department, surviving children, surviving parents, surviving brothers and sisters or an es-
28 tate administrator of the Department of State Lands to withdraw the deposits upon the filing of the
29 affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was
30 made under this section, the person withdrawing the deposits shall account for them to the personal
31 representative.

32 (6) When a credit union transfers moneys under subsection (1) of this section, the transferor may
33 require the transferee to furnish the transferor with a written indemnity agreement, indemnifying
34 the transferor against loss for moneys paid to the extent of the amount of the deposit.

35 (7) This section is subject to the rights of other parties to the account under ORS 723.474 to
36 723.498.

37 **SECTION 1116.** ORS 731.216 is amended to read:

38 731.216. The Director of the Department of Consumer and Business Services **and the Director**
39 **of the Oregon Health Authority** shall have the power to:

40 (1) Contract for and procure, on a fee or part-time basis, or both, such actuarial, technical or
41 other professional services as may be required for the discharge of duties.

42 (2) Obtain such other services as the director considers necessary or desirable, including par-
43 ticipation in organizations of state insurance supervisory officials and appointment of advisory
44 committees. A member of an advisory committee so appointed shall receive no compensation for
45 services as a member, but, subject to any other applicable law regulating travel and other expenses

1 of state officers, shall receive actual and necessary travel and other expenses incurred in the per-
2 formance of official duties.

3 (3) Establish within the Department of Consumer and Business Services a workers' compensation
4 rating bureau to provide rating information that is based upon and relevant to activities conducted
5 in this state, to enable the Director **of the Department of Consumer and Business Services** to
6 carry out the provisions of ORS chapter 737. In lieu of creating a rating bureau within the depart-
7 ment, the Director **of the Department of Consumer and Business Services** may contract with
8 any rating organization in other states if the director finds that such a contract would provide the
9 information required by this section.

10 **SECTION 1117.** ORS 731.276 is amended to read:

11 731.276. The Director of the Department of Consumer and Business Services shall **work with**
12 **the Director of the Oregon Health Authority** to continuously review the Insurance Code and
13 may, from time to time, make recommendations for changes therein.

14 **SECTION 1118.** ORS 735.610 is amended to read:

15 735.610. (1) There is created in the [*Department of Consumer and Business Services*] **Oregon**
16 **Health Authority** the Oregon Medical Insurance Pool Board. The board shall establish the Oregon
17 Medical Insurance Pool and otherwise carry out the responsibilities of the board under ORS 735.600
18 to 735.650.

19 (2) The board shall consist of nine individuals, eight of whom shall be appointed by the Director
20 of the [*Department of Consumer and Business Services*] **Oregon Health Authority**. The Director of
21 the [*Department of Consumer and Business Services*] **Oregon Health Authority** or the director's
22 designee shall be a member of the board. The chair of the board shall be elected from among the
23 members of the board. The board shall at all times, to the extent possible, include at least one rep-
24 resentative of a domestic insurance company licensed to transact health insurance, one represen-
25 tative of a domestic not-for-profit health care service contractor, one representative of a health
26 maintenance organization, one representative of reinsurers and two members of the general public
27 who are not associated with the medical profession, a hospital or an insurer.

28 (3) The director may fill any vacancy on the board by appointment.

29 (4) The board shall have the general powers and authority granted under the laws of this state
30 to insurance companies with a certificate of authority to transact health insurance and the specific
31 authority to:

32 (a) Enter into such contracts as are necessary or proper to carry out the provisions and pur-
33 poses of ORS 735.600 to 735.650 including the authority to enter into contracts with similar pools
34 of other states for the joint performance of common administrative functions, or with persons or
35 other organizations for the performance of administrative functions;

36 (b) Recover any assessments for, on behalf of, or against insurers;

37 (c) Take such legal action as is necessary to avoid the payment of improper claims against the
38 pool or the coverage provided by or through the pool;

39 (d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, insurance
40 producers' referral fees, claim reserves or formulas and perform any other actuarial function ap-
41 propriate to the operation of the pool. Rates may not be unreasonable in relation to the coverage
42 provided, the risk experience and expenses of providing the coverage. Rates and rate schedules may
43 be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take
44 into consideration appropriate risk factors in accordance with established actuarial and underwrit-
45 ing practices;

1 (e) Issue policies of insurance in accordance with the requirements of ORS 735.600 to 735.650;

2 (f) Appoint from among insurers appropriate actuarial and other committees as necessary to
3 provide technical assistance in the operation of the pool, policy and other contract design, and any
4 other function within the authority of the board;

5 (g) Seek advances to effect the purposes of the pool; and

6 (h) Establish rules, conditions and procedures for reinsuring risks under ORS 735.600 to 735.650.

7 (5) Each member of the board is entitled to compensation and expenses as provided in ORS
8 292.495.

9 (6) The Director of the [*Department of Consumer and Business Services*] **Oregon Health Au-**
10 **thority** shall adopt rules, as provided under ORS chapter 183, implementing policies recommended
11 by the board for the purpose of carrying out ORS 735.600 to 735.650.

12 (7) In consultation with the board, the director shall employ such staff and consultants as may
13 be necessary for the purpose of carrying out responsibilities under ORS 735.600 to 735.650.

14 **SECTION 1119.** ORS 735.612 is amended to read:

15 735.612. (1) There is established in the State Treasury, the Oregon Medical Insurance Pool Ac-
16 count, which shall consist of:

17 (a) Moneys appropriated to the account by the Legislative Assembly to obtain the coverage de-
18 scribed in ORS 735.625.

19 (b) Interest earnings from the investment of moneys in the account.

20 (c) Assessments and other revenues collected or received by the Oregon Medical Insurance Pool
21 Board.

22 (2) All moneys in the Oregon Medical Insurance Pool Account are continuously appropriated to
23 the Oregon Medical Insurance Pool Board to carry out the provisions of ORS 735.600 to 735.650.

24 (3) The Oregon Medical Insurance Pool Board shall transfer to the [*Consumer and Business*
25 *Services Fund created by ORS 705.145*] **Oregon Health Authority Fund established in section 18**
26 **of this 2009 Act** an amount equal to the operating budget authorized by the Legislative Assembly
27 or as that budget may be modified by the Emergency Board or the Oregon Department of Adminis-
28 trative Services, for operation of the Oregon Medical Insurance Pool Board.

29 **SECTION 1120.** ORS 735.614 is amended to read:

30 735.614. (1) If the Oregon Medical Insurance Pool Board determines at any time that funds in
31 the Oregon Medical Insurance Pool Account are or will become insufficient for payment of expenses
32 of the pool in a timely manner, the board shall determine the amount of funds needed and shall
33 impose and collect assessments against insurers, as provided in this section, in the amount of the
34 funds determined to be needed.

35 (2) Each insurer's assessment shall be determined by multiplying the total amount to be assessed
36 by a fraction, the numerator of which equals the number of Oregon insureds and certificate holders
37 insured or reinsured by each insurer, and the denominator of which equals the total of all Oregon
38 insureds and certificate holders insured or reinsured by all insurers, all determined as of March 31
39 each year.

40 (3) The board shall ensure that each insured and certificate holder is counted only once with
41 respect to any assessment. For that purpose, the board shall require each insurer that obtains re-
42 insurance for its insureds and certificate holders to include in its count of insureds and certificate
43 holders all insureds and certificate holders whose coverage is reinsured in whole or part. The board
44 shall allow an insurer who is a reinsurer to exclude from its number of insureds those that have
45 been counted by the primary insurer or the primary reinsurer for the purpose of determining its

1 assessment under this subsection.

2 (4) Each insurer shall pay its assessment as required by the board.

3 (5) If assessments exceed the amounts actually needed, the excess shall be held and invested
4 and, with the earnings and interest, used by the board to offset future net losses or to reduce pool
5 premiums. For purposes of this subsection, "future net losses" includes reserves for claims incurred
6 but not reported.

7 (6) Each insurer's proportion of participation in the pool shall be determined by the board based
8 on annual statements and other reports deemed necessary by the board and filed by the insurer with
9 the board. The board may use any reasonable method of estimating the number of insureds and
10 certificate holders of an insurer if the specific number is unknown. With respect to insurers that
11 are reinsurers, the board may use any reasonable method of estimating the number of persons in-
12 sured by each reinsurer.

13 (7) The board may abate or defer, in whole or in part, the assessment of an insurer if, in the
14 opinion of the board, payment of the assessment would endanger the ability of the insurer to fulfill
15 the insurer's contractual obligations. In the event an assessment against an insurer is abated or
16 deferred in whole or in part, the amount by which the assessment is abated or deferred may be as-
17 sessed against the other insurers in a manner consistent with the basis for assessments set forth in
18 this section. The insurer receiving the abatement or deferment shall remain liable to the board for
19 the deficiency for four years.

20 (8) The board shall abate or defer assessments authorized by this section if a court orders that
21 assessments cannot be made applicable to reinsurers. However, if a court orders that assessments
22 cannot be made applicable to reinsurers, the board may continue to assess insurers to the end of the
23 biennium in which the determination is made.

24 (9) Subject to the approval of the Director of the [*Department of Consumer and Business*
25 *Services*] **Oregon Health Authority**, the board may develop a program for adjusting the assessment
26 of an insurer in the individual health benefits market based on that insurer's contribution to re-
27 ducing the enrollment in the Oregon Medical Insurance Pool. When developing the program, the
28 board may consider, but is not limited to, the following factors:

- 29 (a) The insurer's level of participation;
30 (b) Level of health benefit plan coverage offered; and
31 (c) Assumption of risk in the individual health benefits market.

32 **SECTION 1121.** ORS 735.630 is amended to read:

33 735.630. Neither participation in the pool as members, the establishment of rates, forms or pro-
34 cedures, nor any other action taken in the performance of the powers and duties under ORS 735.600
35 to 735.650 shall be the basis of any legal action, criminal or civil liability or penalty against the
36 Oregon Medical Insurance Pool Board, any members, the Director of the [*Department of Consumer*
37 *and Business Services*] **Oregon Health Authority** or any of their agents or employees.

38 **SECTION 1122.** ORS 735.700 is amended to read:

39 735.700. As used in ORS 735.700 to 735.714, unless the context requires otherwise:

40 (1) "Carrier" means an insurance company or health care service contractor holding a valid
41 certificate of authority from the Director of the [*Department of Consumer and Business Services*]
42 **Oregon Health Authority**, or two or more companies or contractors acting together pursuant to
43 a joint venture, partnership or other joint means of operation.

44 (2) "Eligible employee" means an employee of an employer who is employed by the employer for
45 an average of at least 17.5 hours per week who elects to participate in one of the group benefit

1 plans provided through action of the Office of Private Health Partnerships, and sole proprietors,
2 business partners, and limited partners. The term does not include individuals:

3 (a) Engaged as independent contractors.

4 (b) Whose periods of employment are on an intermittent or irregular basis.

5 (c) Who have been employed by the employer for a period of time established by the employer
6 or for fewer than 90 days, whichever is less.

7 (3) "Family member" means an eligible employee's spouse, any unmarried child or stepchild
8 within age limits and other conditions imposed by the office with regard to unmarried children or
9 stepchildren, or any other dependents eligible under the terms of the health benefit plan selected
10 by the employee's employer.

11 (4) "Health benefit plan" means a contract for group medical, surgical, hospital or any other
12 remedial care recognized by state law and related services and supplies.

13 (5) "Premium" means the monthly or other periodic charge for a health benefit plan.

14 (6) "Small employer" means a person, firm, corporation, partnership or association actively en-
15 gaged in business that, on at least 50 percent of its working days during the preceding year, em-
16 ployed no more than 50 eligible employees and no fewer than two eligible employees, the majority
17 of whom are employed within this state, and in which a bona fide partnership or employer-employee
18 relationship exists. "Small employer" includes corporations that are eligible to file a consolidated
19 tax return pursuant to ORS 317.715.

20 **SECTION 1123.** ORS 735.701 is amended to read:

21 735.701. (1) The Office of Private Health Partnerships is established **in the Oregon Health**
22 **Authority.**

23 (2) The office shall carry out the duties described under ORS [414.831,] 735.700 to 735.714 and
24 735.720 to 735.740.

25 **SECTION 1124.** ORS 735.706 is amended to read:

26 735.706. (1) The Office of Private Health Partnerships Account is established separate and dis-
27 tinct from the General Fund. All moneys received by the Office of Private Health Partnerships, other
28 than appropriations from the General Fund and except for moneys in the account established by
29 ORS 735.736, shall be deposited into the account and are continuously appropriated to the office to
30 carry out the duties, functions and powers of the office.

31 **(2) On the operative date set forth in section 1164 of this 2009 Act, all moneys in the**
32 **Office of Private Health Partnerships Account shall be transferred to the Oregon Health**
33 **Authority Fund established in section 18 of this 2009 Act.**

34 **SECTION 1125.** ORS 735.722 is amended to read:

35 735.722. (1) There is established the Family Health Insurance Assistance Program in the Office
36 of Private Health Partnerships. The purpose of the program is to remove economic barriers to
37 health insurance coverage for residents of the State of Oregon with family income less than 200
38 percent of the federal poverty level, and investment and savings less than the limit established by
39 the office, while encouraging individual responsibility, promoting health benefit plan coverage of
40 children, building on the private sector health benefit plan system and encouraging employer and
41 employee participation in employer-sponsored health benefit plan coverage.

42 (2) The Office of Private Health Partnerships shall be responsible for the implementation and
43 operation of the Family Health Insurance Assistance Program. The Administrator of the Office for
44 Oregon Health Policy and Research, in consultation with the Oregon Health [Policy Commission]
45 **Authority Board**, shall make recommendations to the Office of Private Health Partnerships re-

1 guarding program policy, including but not limited to eligibility requirements, assistance levels, ben-
2 efit criteria and carrier participation.

3 (3) The Office of Private Health Partnerships may contract with one or more third-party ad-
4 ministrators to administer one or more components of the Family Health Insurance Assistance Pro-
5 gram. Duties of a third-party administrator may include but are not limited to:

- 6 (a) Eligibility determination;
- 7 (b) Data collection;
- 8 (c) Assistance payments;
- 9 (d) Financial tracking and reporting; and
- 10 (e) Such other services as the office may deem necessary for the administration of the program.

11 (4) If the office decides to enter into a contract with a third-party administrator pursuant to
12 subsection (3) of this section, the office shall engage in competitive bidding. The office shall evaluate
13 bids according to criteria established by the office, including but not limited to:

- 14 (a) The bidder's proven ability to administer a program of the size of the Family Health Insur-
15 ance Assistance Program;
- 16 (b) The efficiency of the bidder's payment procedures;
- 17 (c) The estimate provided of the total charges necessary to administer the program; and
- 18 (d) The bidder's ability to operate the program in a cost-effective manner.

19 **SECTION 1126.** ORS 735.734 is amended to read:

20 735.734. The Office of Private Health Partnerships, in consultation with the Administrator of the
21 Office for Oregon Health Policy and Research and the [*Department of Human Services*] **Oregon**
22 **Health Authority**, shall adopt all rules necessary for the implementation and operation of the
23 Family Health Insurance Assistance Program.

24 **SECTION 1127.** ORS 735.754 is amended to read:

25 735.754. (1) In order to increase public subsidies for the purchase of health insurance coverage
26 provided by public programs or private insurance described by ORS 414.839, the Office of Private
27 Health Partnerships, the Oregon Medical Insurance Pool Board and the [*Department of Human Ser-*
28 *vices*] **Oregon Health Authority** shall work cooperatively to obtain federal matching dollars. The
29 office, the Oregon Medical Insurance Pool Board and the [*department*] **authority** shall develop a
30 system for payment or reimbursement of other costs and subsidies provided to subsidized members.

31 (2) For each subsidized member, the Oregon Medical Insurance Pool Board shall determine:

- 32 (a) The full cost of administering the benefits plan of the subsidized member; and
- 33 (b) The amount of other costs.

34 (3) The Oregon Medical Insurance Pool Board shall bill the Family Health Insurance Assistance
35 Program for the total amount of the premium received by the Oregon Medical Insurance Pool Board
36 and for the amount of other costs. The program shall forward the bill to the [*department*]
37 **authority**.

38 (4) The [*department*] **authority** shall pay the program an amount equal to the portion of the
39 premium that is a subsidy and for other costs. The program shall forward the payment to the Oregon
40 Medical Insurance Pool Board.

41 **SECTION 1128.** ORS 735.756 is amended to read:

42 735.756. (1) Of payments made to the Family Health Insurance Assistance Program by the [*De-*
43 *partment of Human Services*] **Oregon Health Authority** under ORS 735.754 (4), the [*department*]
44 **authority** shall determine:

- 45 (a) The portion of a subsidy of a subsidized member that is from the General Fund; and

1 (b) The portion of other costs that is from the General Fund.

2 (2) The *[department]* **authority** shall bill the program for the amounts determined under sub-
3 section (1) of this section. The program shall forward the bill for the amount determined under
4 subsection (1)(b) of this section to the Oregon Medical Insurance Pool Board.

5 (3) The board shall:

6 (a) Determine the amount of funds needed for the payment of other costs under subsection (1)(b)
7 of this section; and

8 (b) Impose and collect assessments in that amount against insurers, using the methodology de-
9 scribed in ORS 735.614 (2), (6) and (9).

10 (4) The board shall pay the program for the amounts determined under subsection (1)(b) of this
11 section.

12 (5) The program shall forward to the *[department]* **authority** the amounts determined under
13 subsection (1) of this section.

14 (6) ORS 735.614 (3), (4), (5), (7) and (8) applies to assessments collected under this section.

15 **SECTION 1129.** ORS 743.736 is amended to read:

16 743.736. (1) In order to improve the availability and affordability of health benefit coverage for
17 small employers, the Health Insurance Reform Advisory Committee created under ORS 743.745 shall
18 submit to the *[Director of the Department of Consumer and Business Services]* **Oregon Health Au-**
19 **thority** two basic health benefit plans pursuant to ORS 743.745. One plan shall be in the form of
20 insurance and the second plan shall be consistent with the requirements of the federal Health
21 Maintenance Organization Act, 42 U.S.C. 300e et seq.

22 (2)(a) The *[director]* **authority** shall approve the basic health benefit plans following a determi-
23 nation that the plans provide for maximum accessibility and affordability of needed health care
24 services and following a determination that the basic health benefit plans substantially meet the
25 social values that underlie the ranking of benefits by the Health Services Commission and that the
26 basic health benefit plans are substantially similar to the Medicaid reform program under chapter
27 836, Oregon Laws 1989, funded by the Legislative Assembly.

28 (b) The basic health benefit plans shall include benefits mandated under ORS 743A.168 until
29 mental health, alcohol and chemical dependency services are fully integrated into the Health Ser-
30 vices Commission's priority list, and as funded by the Legislative Assembly, and chapter 836, Oregon
31 Laws 1989, is implemented.

32 (c) The commission shall aid the *[director]* **authority** by reviewing the basic health benefit plans
33 and commenting on the extent to which the plans meet these criteria.

34 (3) After the *[director's]* **authority's** approval of the basic health benefit plans submitted by the
35 committee pursuant to subsection (1) of this section, each small employer carrier shall submit to the
36 **Director of the Department of Consumer and Business Services** the policy form or forms con-
37 taining its basic health benefit plan. Each policy form must be submitted as prescribed by the di-
38 rector and is subject to review and approval pursuant to ORS 742.003.

39 (4)(a) As a condition of transacting business in the small employer health insurance market in
40 this state, every small employer carrier shall offer small employers an approved basic health benefit
41 plan and any other plans that have been submitted by the small employer carrier for use in the small
42 employer market and approved by the director.

43 (b) Nothing in this subsection shall require a small employer carrier to resubmit small employer
44 health benefit plans that were approved by the director prior to October 1, 1996, nor shall small
45 employer carriers be required to reinitiate new plan selection procedures for currently enrolled

1 small employers prior to the small employer's next health benefit plan coverage anniversary date.

2 (c) A carrier that offers a health benefit plan in the small employer market only through one
3 or more bona fide associations is not required to offer that health benefit plan to small employers
4 that are not members of the bona fide association.

5 (5) A small employer carrier shall issue to a small employer any small employer health benefit
6 plan offered by the carrier if the small employer applies for the plan and agrees to make the re-
7 quired premium payments and to satisfy the other provisions of the health benefit plan.

8 (6) A multiple employer welfare arrangement, professional or trade association or other similar
9 arrangement established or maintained to provide benefits to a particular trade, business, profession
10 or industry or their subsidiaries shall not issue coverage to a group or individual that is not in the
11 same trade, business, profession or industry as that covered by the arrangement. The arrangement
12 shall accept all groups and individuals in the same trade, business, profession or industry or their
13 subsidiaries that apply for coverage under the arrangement and that meet the requirements for
14 membership in the arrangement. For purposes of this subsection, the requirements for membership
15 in an arrangement shall not include any requirements that relate to the actual or expected health
16 status of the prospective enrollee.

17 (7) A small employer carrier shall, pursuant to subsections (4) and (5) of this section, offer cov-
18 erage to or accept applications from a group covered under an existing small employer health ben-
19 efit plan whether or not a prospective enrollee is excluded from coverage under the existing plan
20 because of late enrollment. When a small employer carrier accepts an application for such a group,
21 the carrier may continue to exclude the prospective enrollee excluded from coverage by the replaced
22 plan until the prospective enrollee would have become eligible for coverage under that replaced
23 plan.

24 (8) No small employer carrier shall be required to offer coverage or accept applications pursuant
25 to subsections (4) and (5) of this section if the director finds that acceptance of an application or
26 applications would endanger the carrier's ability to fulfill its contractual obligations or result in fi-
27 nancial impairment of the carrier.

28 (9) Every small employer carrier shall market fairly all small employer health benefit plans of-
29 fered by the carrier to small employers in the geographical areas in which the carrier makes cov-
30 erage available or provides benefits.

31 (10)(a) No small employer carrier shall be required to offer coverage or accept applications
32 pursuant to subsections (4) and (5) of this section in the case of any of the following:

33 (A) To a small employer if the small employer is not physically located in the carrier's approved
34 service area;

35 (B) To an employee if the employee does not work or reside within the carrier's approved ser-
36 vice areas; or

37 (C) Within an area where the carrier reasonably anticipates, and demonstrates to the satisfac-
38 tion of the director, that it will not have the capacity in its network of providers to deliver services
39 adequately to the enrollees of those groups because of its obligations to existing group contract
40 holders and enrollees.

41 (b) A carrier that does not offer coverage pursuant to paragraph (a)(C) of this subsection shall
42 not offer coverage in the applicable service area to new employer groups other than small employers
43 until the carrier resumes enrolling groups of new small employers in the applicable area.

44 (11) For purposes of ORS 743.733 to 743.737, except as provided in this subsection, carriers that
45 are affiliated carriers or that are eligible to file a consolidated tax return pursuant to ORS 317.715

1 shall be treated as one carrier and any restrictions or limitations imposed by ORS 743.733 to 743.737
2 apply as if all health benefit plans delivered or issued for delivery to small employers in this state
3 by the affiliated carriers were issued by one carrier. However, any insurance company or health
4 maintenance organization that is an affiliate of a health care service contractor located in this state,
5 or any health maintenance organization located in this state that is an affiliate of an insurance
6 company or health care service contractor, may treat the health maintenance organization as a
7 separate carrier and each health maintenance organization that operates only one health mainte-
8 nance organization in a service area in this state may be considered a separate carrier.

9 (12) A small employer carrier that, after September 29, 1991, elects to discontinue offering all
10 of its small employer health benefit plans under ORS 743.737 (5)(e), elects to discontinue renewing
11 all such plans or elects to discontinue offering and renewing all such plans is prohibited from of-
12 fering health benefit plans in the small employer market in this state for a period of five years from
13 one of the following dates:

14 (a) The date of notice to the director pursuant to ORS 743.737 (5)(e); or

15 (b) If notice is not provided under paragraph (a) of this subsection, from the date on which the
16 director provides notice to the carrier that the director has determined that the carrier has effec-
17 tively discontinued offering small employer health benefit plans in this state.

18 **SECTION 1130.** ORS 743.737 is amended to read:

19 743.737. *[Health benefit plans covering small employers shall be subject to the following*
20 *provisions:]*

21 (1) A preexisting conditions provision in a small employer health benefit plan shall apply only
22 to a condition for which medical advice, diagnosis, care or treatment was recommended or received
23 during the six-month period immediately preceding the enrollment date of an enrollee or late
24 enrollee. As used in this section, the enrollment date of an enrollee shall be the earlier of the ef-
25 fective date of coverage or the first day of any required group eligibility waiting period and the
26 enrollment date of a late enrollee shall be the effective date of coverage.

27 (2) A preexisting conditions provision in a small employer health benefit plan shall terminate its
28 effect as follows:

29 (a) For an enrollee, not later than the first of the following dates:

30 (A) Six months following the enrollee's effective date of coverage; or

31 (B) Ten months following the start of any required group eligibility waiting period.

32 (b) For a late enrollee, not later than 12 months following the late enrollee's effective date of
33 coverage.

34 (3) In applying a preexisting conditions provision to an enrollee or late enrollee, except as pro-
35 vided in this subsection, all small employer health benefit plans shall reduce the duration of the
36 provision by an amount equal to the enrollee's or late enrollee's aggregate periods of creditable
37 coverage if the most recent period of creditable coverage is ongoing or ended within 63 days of the
38 enrollment date in the new small employer health benefit plan. The crediting of prior coverage in
39 accordance with this subsection shall be applied without regard to the specific benefits covered
40 during the prior period. This subsection does not preclude, within a small employer health benefit
41 plan, application of:

42 (a) An affiliation period that does not exceed two months for an enrollee or three months for a
43 late enrollee; or

44 (b) An exclusion period for specified covered services, as established by the Health Insurance
45 Reform Advisory Committee, applicable to all individuals enrolling for the first time in the small

1 employer health benefit plan.

2 (4) Late enrollees may be excluded from coverage **by small employer health benefit plans** for
3 up to 12 months or may be subjected to a preexisting conditions provision for up to 12 months. If
4 both an exclusion from coverage period and a preexisting conditions provision are applicable to a
5 late enrollee, the combined period shall not exceed 12 months.

6 (5) Each small employer health benefit plan shall be renewable with respect to all eligible
7 enrollees at the option of the policyholder, small employer or contract holder except:

8 (a) For nonpayment of the required premiums by the policyholder, small employer or contract
9 holder.

10 (b) For fraud or misrepresentation of the policyholder, small employer or contract holder or,
11 with respect to coverage of individual enrollees, the enrollees or their representatives.

12 (c) When the number of enrollees covered under the plan is less than the number or percentage
13 of enrollees required by participation requirements under the plan.

14 (d) For noncompliance with the small employer carrier's employer contribution requirements
15 under the health benefit plan.

16 (e) When the carrier discontinues offering or renewing, or offering and renewing, all of its small
17 employer health benefit plans in this state or in a specified service area within this state. In order
18 to discontinue plans under this paragraph, the carrier:

19 (A) Must give notice of the decision to the Director of the Department of Consumer and Busi-
20 ness Services and to all policyholders covered by the plans;

21 (B) May not cancel coverage under the plans for 180 days after the date of the notice required
22 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
23 as provided in subparagraph (C) of this paragraph, in a specified service area;

24 (C) May not cancel coverage under the plans for 90 days after the date of the notice required
25 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
26 because of an inability to reach an agreement with the health care providers or organization of
27 health care providers to provide services under the plans within the service area; and

28 (D) Must discontinue offering or renewing, or offering and renewing, all health benefit plans
29 issued by the carrier in the small employer market in this state or in the specified service area.

30 (f) When the carrier discontinues offering and renewing a small employer health benefit plan in
31 a specified service area within this state because of an inability to reach an agreement with the
32 health care providers or organization of health care providers to provide services under the plan
33 within the service area. In order to discontinue a plan under this paragraph, the carrier:

34 (A) Must give notice to the director and to all policyholders covered by the plan;

35 (B) May not cancel coverage under the plan for 90 days after the date of the notice required
36 under subparagraph (A) of this paragraph; and

37 (C) Must offer in writing, to each small employer covered by the plan, all other small employer
38 health benefit plans that the carrier offers in the specified service area. The carrier shall issue any
39 such plans pursuant to the provisions of ORS 743.733 to 743.737. The carrier shall offer the plans
40 at least 90 days prior to discontinuation.

41 (g) When the carrier discontinues offering or renewing, or offering and renewing, a health ben-
42 efit plan for all small employers in this state or in a specified service area within this state, other
43 than a plan discontinued under paragraph (f) of this subsection. With respect to plans that are being
44 discontinued, the carrier must:

45 (A) Offer in writing, to each small employer covered by the plan, all health benefit plans that

1 the carrier offers in the specified service area.

2 (B) Issue any such plans pursuant to the provisions of ORS 743.733 to 743.737.

3 (C) Offer the plans at least 90 days prior to discontinuation.

4 (D) Act uniformly without regard to the claims experience of the affected policyholders or the
5 health status of any current or prospective enrollee.

6 (h) When the director orders the carrier to discontinue coverage in accordance with procedures
7 specified or approved by the director upon finding that the continuation of the coverage would:

8 (A) Not be in the best interests of the enrollees; or

9 (B) Impair the carrier's ability to meet contractual obligations.

10 (i) When, in the case of a small employer health benefit plan that delivers covered services
11 through a specified network of health care providers, there is no longer any enrollee who lives, re-
12 sides or works in the service area of the provider network.

13 (j) When, in the case of a health benefit plan that is offered in the small employer market only
14 through one or more bona fide associations, the membership of an employer in the association ceases
15 and the termination of coverage is not related to the health status of any enrollee.

16 (k) For misuse of a provider network provision. As used in this paragraph, "misuse of a provider
17 network provision" means a disruptive, unruly or abusive action taken by an enrollee that threatens
18 the physical health or well-being of health care staff and seriously impairs the ability of the carrier
19 or its participating providers to provide services to an enrollee. An enrollee under this paragraph
20 retains the rights of an enrollee under ORS 743.804.

21 [(L)] **(6)** A small employer carrier may modify a small employer health benefit plan at the time
22 of coverage renewal. The modification is not a discontinuation of the plan under [paragraphs (e) and
23 (g) of this] subsection **(5)(e) and (g) of this section.**

24 [(6)] **(7)** Notwithstanding any provision of subsection (5) **or (6)** of this section to the contrary,
25 any small employer [carrier] health benefit plan subject to the provisions of ORS 743.733 to 743.737
26 may be rescinded by a small employer carrier for fraud, material misrepresentation or concealment
27 by a small employer and the coverage of an enrollee may be rescinded for fraud, material misrep-
28 resentation or concealment by the enrollee.

29 [(7)] **(8)** A small employer carrier may continue to enforce reasonable employer participation and
30 contribution requirements on small employers applying for coverage. However, participation and
31 contribution requirements shall be applied uniformly among all small employer groups with the same
32 number of eligible employees applying for coverage or receiving coverage from the small employer
33 carrier. In determining minimum participation requirements, a carrier shall count only those em-
34 ployees who are not covered by an existing group health benefit plan, Medicaid, Medicare,
35 CHAMPUS, Indian Health Service or a publicly sponsored or subsidized health plan, including but
36 not limited to the Oregon Health Plan.

37 [(8)] **(9)** Premium rates for small employer health benefit plans **require approval by the direc-**
38 **tor under ORS 742.003 and 743.018 in accordance with rules adopted by the Oregon Health**
39 **Authority under section 10 of this 2009 Act and** shall be subject to the following provisions:

40 (a) Each small employer carrier issuing health benefit plans to small employers must file its
41 geographic average rate for a rating period with the director at least once every 12 months.

42 (b)(A) The premium rates charged during a rating period for health benefit plans issued to small
43 employers may not vary from the geographic average rate by more than 50 percent on or after
44 January 1, 2008, except as provided in subparagraph (D) of this paragraph.

45 (B) The variations in premium rates described in subparagraph (A) of this paragraph shall be

1 based solely on the factors specified in subparagraph (C) of this paragraph. A small employer carrier
2 may elect which of the factors specified in subparagraph (C) of this paragraph apply to premium
3 rates for small employers. The factors that are based on contributions or participation may vary
4 with the size of the employer. All other factors must be applied in the same actuarially sound way
5 to all small employers.

6 (C) The variations in premium rates described in subparagraph (A) of this paragraph may be
7 based on one or more of the following factors:

8 (i) The ages of enrolled employees and their dependents;

9 (ii) The level at which the small employer contributes to the premiums payable for enrolled
10 employees and their dependents;

11 (iii) The level at which eligible employees participate in the health benefit plan;

12 (iv) The level at which enrolled employees and their dependents engage in tobacco use;

13 (v) The level at which enrolled employees and their dependents engage in health promotion,
14 disease prevention or wellness programs;

15 (vi) The period of time during which a small employer retains uninterrupted coverage in force
16 with the same small employer carrier; and

17 (vii) Adjustments to reflect the provision of benefits not required to be covered by the basic
18 health benefit plan and differences in family composition.

19 (D)(i) The premium rates determined in accordance with this paragraph may be further adjusted
20 by a small employer carrier to reflect the expected claims experience of a small employer, but the
21 extent of this adjustment may not exceed five percent of the annual premium rate otherwise payable
22 by the small employer. The adjustment under this subparagraph may not be cumulative from year
23 to year.

24 (ii) Except for small employers with 25 or fewer employees, the premium rates adjusted under
25 this subparagraph are not subject to the provisions of subparagraph (A) of this paragraph.

26 (E) A small employer carrier shall apply the carrier's schedule of premium rate variations as
27 approved by the director [*of the Department of Consumer and Business Services*] and in accordance
28 with this paragraph. Except as otherwise provided in this section, the premium rate established for
29 a health benefit plan by a small employer carrier shall apply uniformly to all employees of the small
30 employer enrolled in that plan.

31 (c) Except as provided in paragraph (b) of this subsection, the variation in premium rates be-
32 tween different small employer health benefit plans offered by a small employer carrier must be
33 based solely on objective differences in plan design or coverage and must not include differences
34 based on the risk characteristics of groups assumed to select a particular health benefit plan.

35 (d) A small employer carrier may not increase the rates of a health benefit plan issued to a
36 small employer more than once in a 12-month period. Annual rate increases shall be effective on the
37 plan anniversary date of the health benefit plan issued to a small employer. The percentage increase
38 in the premium rate charged to a small employer for a new rating period may not exceed the sum
39 of the following:

40 (A) The percentage change in the geographic average rate measured from the first day of the
41 prior rating period to the first day of the new period; and

42 (B) Any adjustment attributable to changes in age, except an additional adjustment may be made
43 to reflect the provision of benefits not required to be covered by the basic health benefit plan and
44 differences in family composition.

45 (e) Premium rates for health benefit plans shall comply with the requirements of this section.

1 [(9)] (10) In connection with the offering for sale of any health benefit plan to a small employer,
2 each small employer carrier shall make a reasonable disclosure as part of its solicitation and sales
3 materials of:

4 (a) The full array of health benefit plans that are offered to small employers by the carrier;

5 (b) The authority of the carrier to adjust rates, and the extent to which the carrier will consider
6 age, family composition and geographic factors in establishing and adjusting rates;

7 (c) Provisions relating to renewability of policies and contracts; and

8 (d) Provisions affecting any preexisting conditions provision.

9 [(10)(a)] (11)(a) Each small employer carrier shall maintain at its principal place of business a
10 complete and detailed description of its rating practices and renewal underwriting practices, in-
11 cluding information and documentation that demonstrate that its rating methods and practices are
12 based upon commonly accepted actuarial practices and are in accordance with sound actuarial
13 principles.

14 (b) Each small employer carrier shall file with the director at least once every 12 months an
15 actuarial certification that the carrier is in compliance with ORS 743.733 to 743.737 and that the
16 rating methods of the small employer carrier are actuarially sound. Each such certification shall be
17 in a uniform form and manner and shall contain such information as specified by the director. A
18 copy of such certification shall be retained by the small employer carrier at its principal place of
19 business.

20 (c) A small employer carrier shall make the information and documentation described in para-
21 graph (a) of this subsection available to the director upon request. Except as provided in ORS
22 743.018 and except in cases of violations of ORS 743.733 to 743.737, the information shall be con-
23 sidered proprietary and trade secret information and shall not be subject to disclosure by the di-
24 rector to persons outside the Department of Consumer and Business Services except as agreed to
25 by the small employer carrier or as ordered by a court of competent jurisdiction.

26 [(11)] (12) A small employer carrier shall not provide any financial or other incentive to any
27 insurance producer that would encourage the insurance producer to market and sell health benefit
28 plans of the carrier to small employer groups based on a small employer group's anticipated claims
29 experience.

30 [(12)] (13) For purposes of this section, the date a small employer health benefit plan is contin-
31 ued shall be the anniversary date of the first issuance of the health benefit plan.

32 [(13)] (14) A small employer [*carrier*] **health benefit plan** must [*include a provision that offers*]
33 **offer** coverage to all eligible employees and, **if** [*to all dependents to the extent*] the employer chooses
34 to offer coverage to dependents, **to all dependents**.

35 [(14)] (15) All small employer health benefit plans shall contain special enrollment periods dur-
36 ing which eligible employees and dependents may enroll for coverage, as provided in 42 U.S.C.
37 300gg as amended and in effect on July 1, 1997.

38 **SECTION 1131.** ORS 743.745 is amended to read:

39 743.745. The Director of the Department of Consumer and Business Services **in consultation**
40 **with the Oregon Health Authority** shall appoint a Health Insurance Reform Advisory Committee.
41 This committee shall consist of at least one insurance producer, one representative of a health
42 maintenance organization, one representative of a health care service contractor, one representative
43 of a domestic insurer, one representative of a labor organization and one representative of consumer
44 interests and shall have representation from the broad range of interests involved in the small em-
45 ployer and individual market and shall include members with the technical expertise necessary to

1 carry out the following duties:

2 (1)(a) Subject to approval by the [*director*] **authority**, the committee shall recommend the form
3 and level of coverages under the basic health benefit plans pursuant to ORS 743.736 to be made
4 available by small employer carriers and the portability health benefit plans to be made available
5 pursuant to ORS 743.760 or 743.761. The committee shall take into consideration the levels of health
6 benefit plans provided in Oregon and the appropriate medical and economic factors and shall es-
7 tablish benefit levels, cost sharing, exclusions and limitations. The health benefit plans described in
8 this section may include cost containment features including, but not limited to:

9 (A) Preferred provider provisions;

10 (B) Utilization review of health care services including review of medical necessity of hospital
11 and physician services;

12 (C) Case management benefit alternatives;

13 (D) Other managed care provisions;

14 (E) Selective contracting with hospitals, physicians and other health care providers; and

15 (F) Reasonable benefit differentials applicable to participating and nonparticipating providers.

16 (b) The committee shall submit the basic and portability health benefit plans and other recom-
17 mendations to the [*director*] **authority** within the time period established by the [*director*]
18 **authority**. The health benefit plans and other recommendations shall be deemed approved unless
19 expressly disapproved by the [*director*] **authority** within 30 days after the date the [*director*] **au-**
20 **thority** receives the plans.

21 (2) In order to ensure the broadest availability of small employer and individual health benefit
22 plans, the committee shall recommend for approval by the [*director*] **authority** market conduct and
23 other requirements for carriers and insurance producers, including requirements developed as a re-
24 sult of a request by the [*director*] **authority**, relating to the following:

25 (a) Registration by each carrier with the Department of Consumer and Business Services of its
26 intention to be a small employer carrier under ORS 743.733 to 743.737 or a carrier offering individ-
27 ual health benefit plans, or both.

28 (b) Publication by the [*Department of Consumer and Business Services*] **authority** or the com-
29 mittee of a list of all small employer carriers and carriers offering individual health benefit plans,
30 including a potential requirement applicable to insurance producers and carriers that no health
31 benefit plan be sold to a small employer or individual by a carrier not so identified as a small em-
32 ployer carrier or carrier offering individual health benefit plans.

33 (c) To the extent deemed necessary by the committee to ensure the fair distribution of high-risk
34 individuals and groups among carriers, periodic reports by carriers and insurance producers con-
35 cerning small employer, portability and individual health benefit plans issued, provided that report-
36 ing requirements shall be limited to information concerning case characteristics and numbers of
37 health benefit plans in various categories marketed or issued, or both, to small employers and indi-
38 viduals.

39 (d) Methods concerning periodic demonstration by small employer carriers, carriers offering in-
40 dividual health benefit plans and insurance producers that the small employer and individual carri-
41 ers are marketing or issuing, or both, health benefit plans to small employers or individuals in
42 fulfillment of the purposes of ORS 743.730 to 743.773.

43 (3) Subject to the approval of the Director of the Department of Consumer and Business Ser-
44 vices, the committee shall develop a standard health statement to be used for all late enrollees and
45 by all carriers offering individual policies of health insurance.

1 (4) Subject to the approval of the [*director*] **authority**, the committee shall develop a list of the
2 specified services for small employer and portability plans for which carriers may impose an exclu-
3 sion period, the duration of the allowable exclusion period for each specified service and the manner
4 in which credit will be given for exclusion periods imposed pursuant to prior health insurance cov-
5 erage.

6 **SECTION 1132.** ORS 743.760 is amended to read:

7 743.760. (1) As used in this section:

8 (a) "Carrier" means an insurer authorized to issue a policy of health insurance in this state.
9 "Carrier" does not include a multiple employer welfare arrangement.

10 (b)(A) "Eligible individual" means an individual who:

11 (i) Has left coverage that was continuously in effect for a period of 180 days or more under one
12 or more Oregon group health benefit plans, has applied for portability coverage not later than the
13 63rd day after termination of group coverage issued by an Oregon carrier and is an Oregon resident
14 at the time of such application; or

15 (ii) On or after January 1, 1998, meets the eligibility requirements of 42 U.S.C. 300gg-41, as
16 amended and in effect on January 1, 1998, has applied for portability coverage not later than the
17 63rd day after termination of group coverage issued by an Oregon carrier and is an Oregon resident
18 at the time of such application.

19 (B) Except as provided in subsection (12) of this section, "eligible individual" does not include
20 an individual who remains eligible for the individual's prior group coverage or would remain eligible
21 for prior group coverage in a plan under the federal Employee Retirement Income Security Act of
22 1974, as amended, were it not for action by the plan sponsor relating to the actual or expected
23 health condition of the individual, or who is covered under another health benefit plan at the time
24 that portability coverage would commence or is eligible for the federal Medicare program.

25 (c) "Portability health benefit plans" and "portability plans" mean health benefit plans for eli-
26 gible individuals that are required to be offered by all carriers offering group health benefit plans
27 and that have been approved by the Director of the Department of Consumer and Business Services
28 in accordance with this section.

29 (2)(a) In order to improve the availability and affordability of health benefit plans for individuals
30 leaving coverage under group health benefit plans, the Health Insurance Reform Advisory Commit-
31 tee created under ORS 743.745 shall submit to the director two portability health benefit plans
32 pursuant to ORS 743.745. One plan shall be in the form of insurance and the second plan shall be
33 consistent with the type of coverage provided by health maintenance organizations. For each type
34 of portability plan, the committee shall design and submit to the director:

35 (A) A prevailing benefit plan, which shall reflect the benefit coverages that are prevalent in the
36 group health insurance market; and

37 (B) A low cost benefit plan, which shall emphasize affordability for eligible individuals.

38 (b) Except as provided in ORS 743.730 to 743.773, no law requiring the coverage or the offer of
39 coverage of a health care service or benefit shall apply to portability health benefit plans.

40 (3) The director shall approve the portability health benefit plans if the director determines that
41 the plans provide for appropriate accessibility and affordability of needed health care services and
42 comply with all other provisions of this section.

43 (4) After the director's approval of the portability plans submitted by the committee under this
44 section, each carrier offering group health benefit plans shall submit to the director the policy form
45 or forms containing at least one low cost benefit and one prevailing benefit portability plan offered

1 by the carrier that meets the required standards. Each policy form must be submitted as prescribed
2 by the director and is subject to review and approval pursuant to ORS 742.003.

3 (5) Within 180 days after approval by the director of the portability plans submitted by the
4 committee, as a condition of transacting group health insurance in this state, each carrier offering
5 group health benefit plans shall make available to eligible individuals the prevailing benefit and low
6 cost benefit portability plans that have been submitted by the carrier and approved by the director
7 under subsection (4) of this section.

8 (6) A carrier offering group health benefit plans shall issue to an eligible individual who is
9 leaving or has left group coverage provided by that carrier any portability plan offered by the car-
10 rier if the eligible individual applies for the plan within 63 days of termination of prior coverage and
11 agrees to make the required premium payments and to satisfy the other provisions of the portability
12 plan.

13 (7) Premium rates for portability plans **require approval by the director under ORS 742.003**
14 **and this section, in accordance with rules adopted by the Oregon Health Authority under**
15 **section 10 of this 2009 Act, and** shall be subject to the following provisions:

16 (a) Each carrier must file the geographic average rate for each of its portability health benefit
17 plans for a rating period with the director on or before March 15 of each year.

18 (b) The premium rates charged during the rating period for each portability health benefit plan
19 shall not vary from the geographic average rate, except that the premium rate may be adjusted to
20 reflect differences in benefit design, family composition and age. Adjustments for age shall comply
21 with the following:

22 (A) For each plan, the variation between the lowest premium rate and the highest premium rate
23 shall not exceed 100 percent of the lowest premium rate.

24 (B) Premium variations shall be determined by applying uniformly the carrier's schedule of age
25 adjustments for portability plans as approved by the director.

26 (c) Premium variations between the portability plans and the rest of the carrier's group plans
27 must be based solely on objective differences in plan design or coverage and must not include dif-
28 ferences based on the actual or expected health status of individuals who select portability health
29 benefit plans. For purposes of determining the premium variations under this paragraph, a carrier
30 may:

31 (A) Pool all portability plans with all group health benefit plans; or

32 (B) Pool all portability plans for eligible individuals leaving small employer group health benefit
33 plan coverage with all plans offered to small employers and pool all portability plans for eligible
34 individuals leaving other group health benefit plan coverage with all health benefit plans offered to
35 such other groups.

36 (d) A carrier may not increase the rates of a portability plan issued to an enrollee more than
37 once in any 12-month period. Annual rate increases shall be effective on the anniversary date of
38 the plan issued to the enrollee. The percentage increase in the premium rate charged to an enrollee
39 for a new rating period may not exceed the average increase in the rest of the carrier's applicable
40 group health benefit plans plus an adjustment for age.

41 (8) No portability plans under this section may contain preexisting conditions provisions, ex-
42 clusion periods, waiting periods or other similar limitations on coverage.

43 (9) Portability health benefit plans shall be renewable with respect to all enrollees at the option
44 of the enrollee, except:

45 (a) For nonpayment of the required premiums by the policyholder;

1 (b) For fraud or misrepresentation by the policyholder;

2 (c) When the carrier elects to discontinue offering all of its group health benefit plans in ac-
3 cordance with ORS 743.737 and 743.754; or

4 (d) When the director orders the carrier to discontinue coverage in accordance with procedures
5 specified or approved by the director upon finding that the continuation of the coverage would:

6 (A) Not be in the best interests of the enrollees; or

7 (B) Impair the carrier's ability to meet its contractual obligations.

8 (10)(a) Each carrier offering group health benefit plans shall maintain at its principal place of
9 business a complete and detailed description of its rating practices and renewal underwriting prac-
10 tices relating to its portability plans, including information and documentation that demonstrate that
11 its rating methods and practices are based upon commonly accepted actuarial practices and are in
12 accordance with sound actuarial principles.

13 (b) Each such carrier shall file with the director annually on or before March 15 an actuarial
14 certification that the carrier is in compliance with this section and that its rating methods are
15 actuarially sound. Each such certification shall be in a form and manner and shall contain such in-
16 formation as specified by the director. A copy of such certification shall be retained by the carrier
17 at its principal place of business.

18 (c) Each such carrier shall make the information and documentation described in paragraph (a)
19 of this subsection available to the director upon request. Except as provided in ORS 743.018 and
20 except in cases of violations of the Insurance Code, the information is proprietary and trade secret
21 information and shall not be subject to disclosure by the director to persons outside the Department
22 of Consumer and Business Services except as agreed to by the carrier or as ordered by a court of
23 competent jurisdiction.

24 (11) A carrier offering group health benefit plans shall not provide any financial or other in-
25 centive to any insurance producer that would encourage the insurance producer to market and sell
26 portability plans of the carrier on the basis of an eligible individual's anticipated claims experience.

27 (12) An individual who is eligible to obtain a portability plan in accordance with this section
28 may obtain such a plan regardless of whether the eligible individual qualifies for a period of con-
29 tinuation coverage under federal law or under ORS 743.600 or 743.610. However, an individual who
30 has elected such continuation coverage is not eligible to obtain a portability plan until the contin-
31 uation coverage has been discontinued by the individual or has been exhausted.

32 **SECTION 1133.** ORS 743.767 is amended to read:

33 743.767. Premium rates for individual health benefit plans **require approval by the Director**
34 **of the Department of Consumer and Business Services under ORS 742.003, 742.005 and 743.018**
35 **and this section in accordance with rules adopted by the Oregon Health Authority under**
36 **section 10 of this 2009 Act and** shall be subject to the following provisions:

37 (1) Each carrier must file the geographic average rate for its individual health benefit plans for
38 a rating period with the director [*of the Department of Consumer and Business Services*] on or before
39 March 15 of each year.

40 (2) The premium rates charged during a rating period for individual health benefit plans issued
41 to individuals shall not vary from the individual geographic average rate, except that the premium
42 rate may be adjusted to reflect differences in benefit design, family composition and age. For age
43 adjustments to the individual plans, a carrier shall apply uniformly its schedule of age adjustments
44 for individual health benefit plans as approved by the director.

45 (3) A carrier may not increase the rates of an individual health benefit plan more than once in

1 a 12-month period except as approved by the director. Annual rate increases shall be effective on
2 the anniversary date of the individual health benefit plan's issuance. The percentage increase in the
3 premium rate charged for an individual health benefit plan for a new rating period may not exceed
4 the sum of the following:

5 (a) The percentage change in the carrier's geographic average rate for its individual health
6 benefit plan measured from the first day of the prior rating period to the first day of the new period;
7 and

8 (b) Any adjustment attributable to changes in age and differences in benefit design and family
9 composition.

10 (4) Notwithstanding any other provision of this section, a carrier that imposes an individual
11 coverage waiting period pursuant to ORS 743.766 may impose a monthly premium rate surcharge for
12 a period not to exceed six months and in an amount not to exceed the percentage by which the rates
13 for coverage under the Oregon Medical Insurance Pool exceed the rates established by the Oregon
14 Medical Insurance Pool Board as applicable for individual risks under ORS 735.625. The surcharge
15 shall be approved by the Director of the Department of Consumer and Business Services and, in
16 combination with the waiting period, shall not exceed the actuarial value of a six-month preexisting
17 conditions provision.

18 **SECTION 1134.** ORS 743.807 is amended to read:

19 743.807. (1) All insurers offering a health benefit plan in this state that provide utilization re-
20 view or have utilization review provided on their behalf shall file an annual summary with the De-
21 partment of Consumer and Business Services **and the Oregon Health Authority** that describes all
22 utilization review policies, including delegated utilization review functions, and documents the
23 insurer's procedures for monitoring of utilization review activities.

24 (2) All utilization review activities conducted pursuant to subsection (1) of this section shall
25 comply with the following:

26 (a) The criteria used in the utilization review process and the method of development of the
27 criteria shall be made available for review to contracting providers upon request.

28 (b) A doctor of medicine or osteopathy licensed under ORS chapter 677 shall be responsible for
29 all final recommendations regarding the necessity or appropriateness of services or the site at which
30 the services are provided and shall consult as appropriate with medical and mental health specialists
31 in making such recommendations.

32 (c) Any patient or provider who has had a request for treatment or payment for services denied
33 as not medically necessary or as experimental shall be provided an opportunity for a timely appeal
34 before an appropriate medical consultant or peer review committee.

35 (d) A provider request for prior authorization of nonemergency service must be answered within
36 two business days, and qualified health care personnel must be available for same-day telephone
37 responses to inquiries concerning certification of continued length of stay.

38 **SECTION 1135.** ORS 743.814 is amended to read:

39 743.814. All insurers offering managed health insurance in this state shall:

40 (1) Have a quality assessment program that enables the insurer to evaluate, maintain and im-
41 prove the quality of health services provided to enrollees. The program shall include data gathering
42 that allows the plan to measure progress on specific quality improvement goals chosen by the
43 insurer.

44 (2) File an annual summary with the Department of Consumer and Business Services **and the**
45 **Oregon Health Authority** that describes quality assessment activities, including any activities re-

1 lated to credentialing of providers, and reports any progress on the insurer's quality improvement
2 goals.

3 (3) File annually with the [department] **authority** the following information:

4 (a) Results of all publicly available federal Centers for Medicare and Medicaid Services reports
5 and accreditation surveys by national accreditation organizations.

6 (b) The insurer's health promotion and disease prevention activities, if any, including a summary
7 of screening and preventive health care activities covered by the insurer. In addition to the sum-
8 mary required in this paragraph, the consortium established pursuant to ORS 743.831 shall develop
9 recommendations for, and the [department] **authority** shall adopt rules requiring, reporting of an
10 insurer's health promotion and disease prevention activities related to:

11 (A) Two specific preventive measures;

12 (B) One specific chronic condition; and

13 (C) One specific acute condition.

14 **SECTION 1136.** ORS 743.817 is amended to read:

15 743.817. An insurer offering managed health insurance or preferred provider organization in-
16 surance in this state shall:

17 (1) File an annual summary with the Department of Consumer and Business Services **and the**
18 **Oregon Health Authority** that reports on the scope and adequacy of the insurer's network and the
19 insurer's ongoing monitoring to ensure that all covered services are reasonably accessible to
20 enrollees. The Director of the Department of Consumer and Business Services shall adopt rules es-
21 tablishing uniform indicators that insurers offering managed health insurance or preferred provider
22 organization insurance must use for reporting under this subsection, including but not limited to
23 reporting on the scope and adequacy of networks. For the purpose of developing the rules, the di-
24 rector shall consult with an advisory committee appointed by the director. The advisory committee
25 must include representatives of persons likely to be affected by the rules, including consumers,
26 purchasers of health insurance and insurers that offer managed health insurance or preferred pro-
27 vider organization insurance.

28 (2) Establish a means to provide to the insurer's managed care plan or preferred provider or-
29 ganization insurance enrollees, purchasers and providers a meaningful opportunity to participate in
30 the development and implementation of insurer policy and operation through:

31 (a) The establishment of advisory panels;

32 (b) Consultation with advisory panels on major policy decisions; or

33 (c) Other means including but not limited to:

34 (A) Governing board meetings or special meetings at which enrollees, purchasers and providers
35 are invited to express opinions; and

36 (B) Enrollee councils that are given a reasonable opportunity to meet with the governing board
37 or its designee.

38 **SECTION 1137.** ORS 743.831 is amended to read:

39 743.831. (1) The Administrator of the Office for Oregon Health Policy and Research shall es-
40 tablish a consortium of interested parties that shall:

41 (a) Develop, on a voluntary basis, standardized, quantitative performance measurements of
42 managed health insurance organizations for use by health care consumers, purchasers and providers
43 to continuously assess the quality of clinical and service-related aspects of health care arranged for
44 or provided by managed health insurance organizations;

45 (b) Encourage managed health insurance organizations to collect, on a voluntary basis, the

1 performance measurements specified in paragraph (a) of this subsection and share that information
2 with the consortium;

3 (c) Develop, test, refine and produce one or more managed health care performance scorecards
4 to provide consumers and purchasers with accurate, reliable and timely comparisons of managed
5 health insurance organizations with respect to:

- 6 (A) Organizational characteristics;
- 7 (B) Clinical quality measurements;
- 8 (C) Service-related quality measurements; and
- 9 (D) Member and patient satisfaction; and

10 (d) Carry out the activities specified in this subsection with the objective of:

11 (A) Utilizing, to the greatest extent feasible and desirable, nationally developed quality assess-
12 ment tools; and

13 (B) Minimizing duplicative quality assessment activities and associated administrative costs.

14 (2) The consortium established pursuant to subsection (1) of this section shall be comprised of
15 representatives of:

- 16 (a) Health care consumers;
- 17 (b) Private-sector and public-sector health care purchasers;
- 18 (c) Managed health insurance organizations;
- 19 (d) Health care providers, including but not limited to physicians, nurses and hospitals;
- 20 (e) State agencies, including but not limited to the Department of Consumer and Business Ser-
21 vices and the [*Department of Human Services*] **Oregon Health Authority**;

22 (f) Oregon institutions of higher education with relevant professional expertise; and

23 (g) Other groups or organizations as determined to be appropriate by the administrator to en-
24 sure broad representation of interests and expertise.

25 (3) The Office for Oregon Health Policy and Research shall:

- 26 (a) Provide staffing for the consortium; and
- 27 (b) Seek public and private funds to assist in the work of the consortium.

28 **SECTION 1138.** ORS 802.250 is amended to read:

29 802.250. (1) An eligible public employee may request that any driver or vehicle record kept by
30 the Department of Transportation that contains or is required to contain the eligible employee's
31 residence address contain instead the address of the public agency employing the eligible employee.
32 A request under this section shall:

33 (a) Be in a form specified by the department that provides for verification of the eligible em-
34 ployee's employment.

35 (b) Contain verification by the employing public agency of the eligible employee's employment
36 with the public agency.

37 (2) Upon receipt of a request and verification under subsection (1) of this section, the depart-
38 ment shall remove the eligible employee's residence address from its records, if necessary, and sub-
39 stitute therefor the address of the public agency employing the eligible employee. The department
40 shall indicate on the records that the address shown is an employment address. While the request
41 is in effect, the eligible employee may enter the address of the public agency employing the eligible
42 employee on any driver or vehicle form issued by the department that requires an address.

43 (3) A public agency that verifies an eligible employee's employment under subsection (1) of this
44 section shall notify the department within 30 days if the eligible employee ceases to be employed
45 by the public agency. The eligible employee shall notify the department of a change of address as

1 provided in ORS 803.220 or 807.560.

2 (4) As used in this section, “eligible employee” means:

3 (a) A member of the State Board of Parole and Post-Prison Supervision.

4 (b) The Director of the Department of Corrections and an employee of an institution defined in
5 ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the super-
6 intendent, include the custody of persons committed to the custody of or transferred to the institu-
7 tion.

8 (c) A parole and probation officer employed by the Department of Corrections and an employee
9 of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Re-
10 lease Center, include the custody of persons committed to the custody of or transferred to the Re-
11 lease Center.

12 (d) A police officer appointed under ORS 276.021 or 276.023.

13 (e) An employee of the State Department of Agriculture who is classified as a brand inspector
14 by the Director of Agriculture.

15 (f) An investigator of the Criminal Justice Division of the Department of Justice.

16 (g) A corrections officer as defined in ORS 181.610.

17 (h) A federal officer. As used in this paragraph, “federal officer” means a special agent or law
18 enforcement officer employed by:

19 (A) The Federal Bureau of Investigation;

20 (B) The United States Secret Service;

21 (C) The United States Citizenship and Immigration Services;

22 (D) The United States Marshals Service;

23 (E) The Drug Enforcement Administration;

24 (F) The United States Postal Service;

25 (G) The United States Customs and Border Protection;

26 (H) The United States General Services Administration;

27 (I) The United States Department of Agriculture;

28 (J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

29 (K) The Internal Revenue Service;

30 (L) The United States Department of the Interior; or

31 (M) Any federal agency if the person is empowered to effect an arrest with or without warrant
32 for violations of the United States Code and is authorized to carry firearms in the performance of
33 duty.

34 (i) An employee of the Department of Human Services **or the Oregon Health Authority** whose
35 duties include personal contact with clients or patients of the department **or the authority**.

36 (j) Any judge of a court of this state.

37 (k) An employee of the Oregon Youth Authority whose duties include personal contact with
38 persons committed to the legal or physical custody of the authority.

39 (L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

40 (m) An employee who provides educational services to persons who are clients or patients of the
41 Department of Human Services **or the Oregon Health Authority**, who are under the jurisdiction
42 of the Psychiatric Security Review Board or who are under the custody or supervision of the De-
43 partment of Corrections, the State Board of Parole and Post-Prison Supervision, a community cor-
44 rections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph,
45 “employee who provides educational services” means a person who provides instruction, or services

1 related to the instruction, of a subject usually taught in an elementary school, a secondary school
2 or a community college or who provides special education and related services in other than a
3 school setting and who works for:

4 (A) An education service district or a community college district; or

5 (B) A state officer, board, commission, bureau, department or division in the executive branch
6 of state government that provides educational services.

7 (n) An employee of the Oregon Liquor Control Commission who is:

8 (A) An inspector;

9 (B) An investigator; or

10 (C) A regulatory manager.

11 (o) A police officer as defined in ORS 801.395.

12 **SECTION 1139.** ORS 807.720 is amended to read:

13 807.720. On or before the 15th day of each month, the Director of [*Human Services*] **the Oregon**
14 **Health Authority** shall forward to the Department of Transportation a copy of the death certificate
15 covering the death, resulting from a motor vehicle accident, of any persons within the [*Director of*
16 *Human Services*'] jurisdiction **of the Director of the Oregon Health Authority** during the pre-
17 ceding calendar month.

18 **SECTION 1140.** ORS 813.021 is amended to read:

19 813.021. (1) When a court, in accordance with ORS 813.020, requires a person to complete a
20 screening interview and a treatment program, the court shall require the person to do all of the
21 following:

22 (a) Complete a screening interview for the purpose of determining appropriate placement of the
23 person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.

24 (b) Pay directly to the agency or organization conducting the screening interview a fee of \$150.

25 (c) Complete the treatment program to which the person is referred.

26 (d) Pay for the treatment program to which the person is referred.

27 (2) The screening interview required by this section shall be conducted by an agency or organ-
28 ization designated by the court. The designated agency or organization must meet the standards set
29 by the Director of [*Human Services*] **the Oregon Health Authority** to conduct the screening
30 interviews. Wherever possible a court shall designate agencies or organizations to perform the
31 screening interview that are separate from those that may be designated to carry out a treatment
32 program.

33 (3) An agency or organization doing a screening interview under this section may not refer a
34 person to a treatment program that has not been approved by the Director of [*Human Services*] **the**
35 **Oregon Health Authority**.

36 (4) The agency or organization conducting a screening interview under this section shall moni-
37 tor the progress of the person referred to the agency or organization. The agency or organization
38 shall make a report to the referring court stating the person's successful completion or failure to
39 complete all or any part of the screening interview or of the treatment program to which the person
40 was referred by the agency or organization. The report shall be in a form determined by agreement
41 between the court and the agency or organization.

42 **SECTION 1141.** ORS 813.025 is amended to read:

43 813.025. A court may designate a single agency or organization to perform the screening inter-
44 views and treatment programs described in ORS 813.021, or the diagnostic assessment and treatment
45 described in ORS 813.260 (1) when the Director of [*Human Services*] **the Oregon Health Authority**

1 certifies that:

2 (1) An agency or organization may accept such designations due to the lack of alternative
3 agencies or organizations in the service area; or

4 (2) An agency or organization has applied to and been authorized by the [*Director of Human*
5 *Services*] **Oregon Health Authority** to operate a demonstration project that combines screening
6 interviews and treatment programs or diagnostic assessment and treatment. The [*Director of Human*
7 *Services*] **authority** shall by rule set forth the conditions under which a demonstration project may
8 be authorized.

9 **SECTION 1142.** ORS 813.030 is amended to read:

10 813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$130, except
11 that the court may waive all or part of the fee in cases involving indigent defendants. The court
12 may make provision for payment of the fee on an installment basis. The fee shall be ordered paid
13 as follows:

14 (1) \$105 to be credited and distributed under ORS 137.295 as an obligation payable to the state;
15 and

16 (2) \$25 to be paid to the Director of [*Human Services*] **the Oregon Health Authority** for deposit
17 in the Intoxicated Driver Program Fund created by ORS 813.270.

18 **SECTION 1143.** ORS 813.240 is amended to read:

19 813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while
20 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be \$261 and
21 shall be ordered paid as follows if the petition is allowed:

22 (a) \$136 to be credited and distributed under ORS 137.295 as an obligation payable to the state;

23 (b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

24 (c) \$25 to be paid to the Director of [*Human Services*] **the Oregon Health Authority** for deposit
25 in the Intoxicated Driver Program Fund created under ORS 813.270, to be used for purposes of the
26 fund.

27 (2) In addition to the filing fee under subsection (1) of this section, the court shall order the
28 defendant to pay \$150 directly to the agency or organization providing the diagnostic assessment.

29 **SECTION 1144.** ORS 813.260 is amended to read:

30 813.260. (1) Courts having jurisdiction over driving while under the influence of intoxicants of-
31 fenses shall designate agencies or organizations to perform the diagnostic assessment and treatment
32 required under driving while under the influence of intoxicants diversion agreements described in
33 ORS 813.200. The designated agencies or organizations must meet the standards set by the Director
34 of [*Human Services*] **the Oregon Health Authority** to perform the diagnostic assessment and
35 treatment of problem drinking, alcoholism and drug dependency and must be certified by the Direc-
36 tor of [*Human Services*] **the Oregon Health Authority**. Wherever possible a court shall designate
37 agencies or organizations to perform the diagnostic assessment that are separate from those that
38 may be designated to carry out a program of treatment.

39 (2) Monitoring of a defendant's progress under a diversion agreement shall be the responsibility
40 of the diagnostic assessment agency or organization. It shall make a report to the court stating the
41 defendant's successful completion or failure to complete all or any part of the treatment program
42 specified by the diagnostic assessment. The form of the report shall be determined by agreement
43 between the court and the diagnostic assessment agency or organization. The court shall make the
44 report of the diagnostic assessment agency or organization that is required by this subsection a part
45 of the record of the case.

1 **SECTION 1145.** ORS 813.270 is amended to read:

2 813.270. The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund
3 under ORS 813.030 and 813.240 or as otherwise provided by law and of gifts and grants made to the
4 fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the
5 following purposes:

6 (1) To pay for providing treatment for individuals who enter diversion agreements under ORS
7 813.200 and who are found to be indigent. Payment for treatment under this subsection may include
8 treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided
9 by the Director of [*Human Services*] **the Oregon Health Authority** by rule to agencies or organ-
10 izations providing treatment.

11 (2) To pay for evaluation as provided by law of programs used for diversion agreements.

12 (3) To pay the cost of administration of the fund by the [*Director of Human Services*] **Oregon**
13 **Health Authority**.

14 (4) To pay for materials, resources and training supplied by the [*Director of Human Services*]
15 **authority** to those persons, organizations or agencies performing the diagnostic assessments or
16 providing education or treatment to persons under diversion agreements.

17 (5) To pay for providing treatment programs required under ORS 813.020 and treatment or in-
18 formation programs required under ORS 471.432 for individuals who are found to be indigent.

19 (6) To pay for special services required to enable a person with a disability, or a person whose
20 proficiency in the use of English is limited because of the person's national origin, to participate in
21 treatment programs that are used for diversion agreements under ORS 813.200 or are required under
22 ORS 813.020. This subsection applies:

23 (a) Whether or not the person is indigent; and

24 (b) Only to special services required solely because of the person's disability or limited profi-
25 ciency in the use of English.

26 **SECTION 1146.** ORS 813.500 is amended to read:

27 813.500. (1) If a person's license is suspended for driving while under the influence of intoxicants
28 under ORS 813.400 and the suspension period is determined by ORS 809.428 (2)(b) or (c), the De-
29 partment of Transportation may only issue a hardship permit to the person under ORS 807.240 if the
30 person, in addition to any requirement under ORS 807.240 and any applicable requirements under
31 ORS 807.250 and 813.520:

32 (a) Is examined by the [*Director of Human Services or its designee*] **Oregon Health Authority**
33 to determine whether the person has a problem condition involving alcohol, inhalants or controlled
34 substances as described in ORS 813.040; and

35 (b) Complies with the requirements of this section.

36 (2) If the [*Director of Human Services*] **authority** determines that the person has a problem
37 condition involving alcohol, inhalants or controlled substances, as described in ORS 813.040, the
38 department may issue the permit to the person only if both the following apply:

39 (a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence ap-
40 proved by the [*Director of Human Services*] **authority**.

41 (b) The [*Director of Human Services*] **authority** recommends, on the basis of the person's
42 progress in the rehabilitation program, such reinstatement in writing to the department. If the [*Di-*
43 *rector of Human Services*] **authority** makes a recommendation under this paragraph, the [*Director*
44 *of Human Services*] **authority** shall state specifically in the recommendation the times, places,
45 routes and days of the week minimally necessary for the person to seek or retain employment, to

1 attend any alcohol or drug treatment or rehabilitation program or to obtain necessary medical
2 treatment for the person or a member of the person's immediate family.

3 (3) If the [*Director of Human Services*] **authority** determines that the person does not have a
4 problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040,
5 the department may issue the permit to the person only if, in addition to any requirements under
6 ORS 807.240, the person enters an alcohol or drug information program approved by the [*Director*
7 *of Human Services*] **authority** and the department determines that issuance of a permit is appropri-
8 ate. If the department issues a permit to a person described in this subsection, the department shall
9 require, under ORS 807.240, that the person complete the program as a condition of retaining the
10 permit.

11 **SECTION 1147.** ORS 815.260 is amended to read:

12 815.260. (1) A person commits the offense of operation of a recreational vehicle with unsealed
13 disposal system if:

14 (a) The person has the use, possession or control of any vehicle or structure constructed for
15 movement on highways;

16 (b) The vehicle or structure is equipped with a plumbing, sink or toilet fixture; and

17 (c) The disposal system for the vehicle or structure is unsealed or uncapped while the vehicle
18 or structure is in any way or place of whatever nature open to the use of the public.

19 (2) For purposes of this section, a way or place open to the use of the public includes, but is
20 not limited to, highways, roads, streets, alleys, lanes, trails, beaches, parks and recreational use
21 areas owned or operated by the state, a county or local municipality for use by the general public.

22 (3) This section does not apply to disposal systems being discharged into or connected with a
23 sewage disposal system approved by the [*Department of Human Services*] **Oregon Health**
24 **Authority**.

25 (4) The offense described in this section, operation of a recreational vehicle with unsealed dis-
26 posal system, is a Class C traffic violation.

27 **SECTION 1148.** ORS 820.330 is amended to read:

28 820.330. (1) A person commits the offense of failure to make, maintain and make available am-
29 bulance records if the person violates any of the following:

30 (a) When an ambulance is used in an emergency situation the driver of the ambulance, within
31 24 hours after such use, must cause to be made and must sign a record that complies with ORS
32 820.340.

33 (b) The owner of any ambulance must cause any record required by this section to be preserved
34 for not less than seven years.

35 (c) Upon demand of any district attorney, the custodian of any record required under this sec-
36 tion must make the record available to that district attorney for the purpose of investigating any
37 alleged violation of ORS 820.320 by a driver of an ambulance.

38 (d) Upon demand of an authorized representative of the [*Department of Human Services*] **Oregon**
39 **Health Authority**, the custodian of any record required under this section shall make the record
40 available to the authorized representative who wishes to inspect the record for purposes of ascer-
41 taining identities of emergency medical technicians as defined in ORS 682.025.

42 (2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079
43 from regulation by the [*Department of Human Services*] **authority**.

44 (3) Authority of political subdivisions to regulate records of ambulances is limited under ORS
45 682.031.

1 (4) The offense described in this section, failure to make, maintain and make available ambu-
2 lance records, is a Class B traffic violation.

3 **SECTION 1149.** ORS 820.360 is amended to read:

4 820.360. (1) A person commits the offense of illegal ambulance lighting equipment if the person
5 drives or moves on any highway or owns and causes or knowingly permits to be driven or moved
6 on any highway an ambulance that does not contain and is not at all times equipped with warning
7 lights in proper condition and adjustment as required under ORS 820.350.

8 (2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079
9 from regulation by the [*Department of Human Services*] **Oregon Health Authority**.

10 (3) Authority of political subdivisions to regulate warning lights on ambulances is limited under
11 ORS 682.031.

12 (4) The offense described under this section, illegal ambulance lighting equipment, is a Class C
13 traffic violation.

14 **SECTION 1150.** ORS 820.380 is amended to read:

15 820.380. (1) A person commits the offense of illegal ambulance or emergency vehicle sirens if the
16 person drives or moves on any highway or owns and causes or knowingly permits to be driven or
17 moved on any highway an ambulance or emergency vehicle that does not contain and is not at all
18 times equipped with sirens or other audible signals in proper conditions and adjustment as required
19 under 820.370.

20 (2) This section does not apply to any ambulance or person operating or owning an ambulance
21 if the ambulance or person is exempted by ORS 682.035 or 682.079 from regulation by the [*Depart-*
22 *ment of Human Services*] **Oregon Health Authority**.

23 (3) Authority of political subdivisions to regulate sirens and other audible signals is limited un-
24 der ORS 682.031.

25 (4) The offense described under this section, illegal ambulance or emergency vehicle sirens, is
26 a Class C traffic violation.

27 **SECTION 1151.** ORS 830.110 is amended to read:

28 830.110. In addition to the powers and duties otherwise provided in this chapter, the State Ma-
29 rine Board shall have the power and duty to:

30 (1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made
31 in accordance with ORS chapter 183.

32 (2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an
33 agency of the federal government has an overall system of identification numbering for boats within
34 the United States, the system devised by the board shall conform with the federal system.

35 (3) Cooperate with state and federal agencies to promote uniformity of the laws relating to
36 boating and their enforcement.

37 (4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.145, 830.700 to
38 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.

39 (5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating
40 to boating.

41 (6) Study, plan and recommend the development of boating facilities throughout the state which
42 will promote the safety and pleasure of the public through boating.

43 (7) Publicize the advantage of safe boating.

44 (8) Accept gifts and grants of property and money to be used to further the purposes of this
45 chapter.

1 (9) Exempt from any provisions of this chapter any class of boats if it determines that the safety
2 of persons and property will not be materially promoted by the applicability of those provisions to
3 the class of boats. The board may not exempt from numbering any class of boats unless:

4 (a) The board determines that the numbering will not materially aid in their identification; and

5 (b) The secretary of the department of the federal government under which the United States
6 Coast Guard is operating has exempted from numbering the same boats or classes of boats.

7 (10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat.
8 In addition to the prescribed fees, the agents may charge the following for their services in issuing
9 the temporary permit:

10 (a) \$2.50 per transaction for calendar years 2008, 2009 and 2010;

11 (b) \$3.75 per transaction for calendar years 2011, 2012 and 2013; and

12 (c) Beginning in 2014, and every three years thereafter, the board shall issue an order revising
13 the fee specified in paragraph (b) of this subsection on January 1, based on changes in the
14 Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published
15 by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round
16 the amount of the fee to the nearest half-dollar. The revised fee takes effect on January 1 and ap-
17 plies for the following three years.

18 (11) Publish and distribute to the interested public the boating laws of this state and resumes
19 or explanations of those laws.

20 (12) Publish and distribute forms for any application required under this chapter and require the
21 use of such forms.

22 (13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall
23 not conflict with markings prescribed by the United States Coast Guard. No political subdivision
24 or person shall mark the waters of this state in any manner in conflict with the markings prescribed
25 by the board.

26 (14) Make rules regarding marine toilets and their use consistent with the prevention and con-
27 trol of pollution of the waters of this state and not in conflict with the rules of the [*Department of*
28 *Human Services*] **Oregon Health Authority** or the Environmental Quality Commission.

29 (15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters
30 of this state.

31 (16) Make rules regulating water ski course markers, ski jumps and other special use devices
32 placed in the waters of this state. Such rules may regulate the installation and use of the devices
33 and may require a permit.

34 (17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955.
35 The rules shall include but need not be limited to:

36 (a) The kinds of protective covering or physical barriers that are acceptable to be used between
37 a submersible polystyrene device and the water.

38 (b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of
39 existing docks or floats.

40 (18) Adopt rules providing for establishment of a Safe Boating Education Course to be made
41 available to courts and law enforcement agencies within this state for use as a sentencing option
42 for those individuals convicted of boating offenses. The board shall specify the content of the Safe
43 Boating Education Course and shall prescribe procedures for making the course available to local
44 courts and law enforcement agencies, including procedures for promptly notifying such courts
45 whether individuals required to enroll in the course have taken and successfully passed the course.

1 Such rules may provide for administration of the course through nonprofit organizations, such as the
2 United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

3 (19) For purposes of ORS 830.175, 830.180, 830.185 and 830.195, in cooperation with the State
4 Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

5 **SECTION 1152.** Section 13, chapter 653, Oregon Laws 1991, as amended by section 233, chapter
6 900, Oregon Laws 2001, is amended to read:

7 **Sec. 13.** As used in sections 12 to 14, chapter 653, Oregon Laws 1991:

8 (1) "Facility approved by the [*Department of Human Services*] **Oregon Health Authority**" means
9 a facility for which there is a license, permit, letter of agreement or other means by which the state
10 officially accepts the treatment, storage, recycling, incineration or disposal method for radioactive
11 material.

12 (2) "Radioactive material" means any radioactive waste or other radioactive material resulting
13 from activities of the federal government, the United States Nuclear Regulatory Commission or its
14 licensees or licensees of a state that has entered into an agreement under 42 U.S.C. 2021 and that
15 satisfies the definition of low-level radioactive waste in the federal Low-Level Radioactive Waste
16 Policy Act, 42 U.S.C. 2021b(9)(a), as of January 1, 1989. "Radioactive material" does not include
17 naturally occurring radionuclides, uranium mill tailings or high-level radioactive waste.

18 **SECTION 1153.** Section 14, chapter 653, Oregon Laws 1991, as amended by section 234, chapter
19 900, Oregon Laws 2001, is amended to read:

20 **Sec. 14.** Notwithstanding any declaration by the federal government that certain radioactive
21 material may be exempt from regulatory control or below regulatory concern, no radioactive mate-
22 rial may be recycled, incinerated or disposed of in Oregon except at a facility approved by the
23 [*Department of Human Services*] **Oregon Health Authority** specifically for the recycling,
24 incineration or disposal of radioactive material.

25 **SECTION 1154.** Section 6, chapter 1059, Oregon Laws 1999, is amended to read:

26 **Sec. 6.** In carrying out its responsibilities under sections 2 to 9, **chapter 1059, Oregon Laws**
27 **1999**, [*of this 1999 Act,*] the State Department of Agriculture shall seek technical assistance as ap-
28 propriate from at least the following entities:

29 (1) Oregon Department of Administrative Services;

30 (2) Department of Environmental Quality;

31 (3) State Department of Fish and Wildlife;

32 (4) State Forestry Department;

33 [(5) *Department of Human Services;*]

34 [(6)] (5) Occupational Safety and Health Division of the Department of Consumer and Business
35 Services;

36 (6) **Oregon Health Authority;**

37 (7) Oregon Poison Center;

38 (8) Pesticide Analytical and Response Center; and

39 (9) Office of the State Fire Marshal.

40 **SECTION 1155.** Section 2, chapter 798, Oregon Laws 2001, as amended by section 281, chapter
41 14, Oregon Laws 2003, and section 4, chapter 248, Oregon Laws 2005, is amended to read:

42 **Sec. 2.** (1) The [*Department of Human Services*] **Oregon Health Authority** shall send the seis-
43 mic safety surveys conducted pursuant to section 1 (1), chapter 798, Oregon Laws 2001, to the State
44 Department of Geology and Mineral Industries. Notwithstanding section 1 (6), chapter 798, Oregon
45 Laws 2001, if the State Department of Geology and Mineral Industries determines that a survey is

1 not fully and properly completed, the State Department of Geology and Mineral Industries may re-
 2 fuse to accept the survey and may return the survey to the [*Department of Human Services*] **Oregon**
 3 **Health Authority** for correction or completion.

4 (2) The State Department of Geology and Mineral Industries may accept seismic safety surveys
 5 for buildings that are exempt under section 1 (5), chapter 798, Oregon Laws 2001, if the State De-
 6 partment of Geology and Mineral Industries determines that the surveys are fully and properly
 7 completed and are sufficiently similar to other surveys to be useful. The surveys accepted by the
 8 State Department of Geology and Mineral Industries under this subsection do not need to be surveys
 9 conducted by the [*Department of Human Services*] **Oregon Health Authority** or the State Depart-
 10 ment of Geology and Mineral Industries.

11 (3) The State Department of Geology and Mineral Industries shall use seismic safety surveys
 12 accepted under subsections (1) and (2) of this section or conducted pursuant to section 1 (2) or (3),
 13 chapter 798, Oregon Laws 2001, to make an initial evaluation of the seismic safety of each surveyed
 14 building.

15 (4) Subject to available funding and after consultation with the State Department of Geology and
 16 Mineral Industries, the acute inpatient care facility, fire department or fire district or law enforce-
 17 ment agency shall conduct such additional seismic safety evaluations of buildings as the facility, fire
 18 department or fire district or law enforcement agency considers to be necessary. The facility, fire
 19 department or fire district or law enforcement agency shall conduct the evaluations for life safety
 20 as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing
 21 Buildings (SEI/ASCE 31-03), 2003 Edition, or in any later edition of that standard allowed for seismic
 22 safety evaluation use under a rule adopted by the State Department of Geology and Mineral Indus-
 23 tries or using a stricter standard selected by the acute inpatient care facility, fire department or fire
 24 district or law enforcement agency that conducts the survey.

25 **SECTION 1156.** Section 2, chapter 665, Oregon Laws 2007, is amended to read:

26 **Sec. 2.** (1) The [*Department of Human Services*] **Oregon Health Authority** shall seek approval
 27 from the Centers for Medicare and Medicaid Services to operate a demonstration project to test
 28 alternative health care delivery systems through one or more pilot programs. Pilot programs may
 29 include, but are not limited to, programs testing advanced information technology applications, in-
 30 cluding decision supporting software that would improve health assessment data collection and
 31 decision-making.

32 (2) Technology or other methods tested under subsection (1) of this section shall be evaluated
 33 for:

34 (a) Demonstration of health outcomes that are equal to or better than those the current delivery
 35 system provides;

36 (b) Ease of use by patients and providers;

37 (c) Extent of public acceptance; and

38 (d) The cost of implementation and administration.

39 (3) The [*department*] **authority** may adopt rules necessary to implement the provisions of this
 40 section.

41 **SECTION 1157.** Section 3, chapter 838, Oregon Laws 2007, is amended to read:

42 **Sec. 3.** (1) There is established in the Office for Oregon Health Policy and Research the Oregon
 43 Health Care Acquired Infection Reporting Program. The program shall:

44 (a) Provide useful and credible infection measures, specific to each health care facility, to con-
 45 sumers;

1 (b) Promote quality improvement in health care facilities; and

2 (c) Utilize existing quality improvement efforts to the extent practicable.

3 (2) The office shall adopt rules to:

4 (a) Require health care facilities to report to the office health care acquired infection measures,
5 including but not limited to health care acquired infection rates;

6 (b) Specify the health care acquired infection measures that health care facilities must report;
7 and

8 (c) Prescribe the form, manner and frequency of reports of health care acquired infection
9 measures by health care facilities.

10 (3) In prescribing the form, manner and frequency of reports of health care acquired infection
11 measures by health care facilities, to the extent practicable and appropriate to avoid unnecessary
12 duplication of reporting by facilities, the office shall align the requirements with the requirements
13 for health care facilities to report similar data to the [*Department of Human Services*] **Oregon**
14 **Health Authority** and to the Centers for Medicare and Medicaid Services.

15 (4) The office shall utilize, to the extent practicable and appropriate, a credible and reliable
16 risk-adjusted methodology in analyzing the health care acquired infection measures reported by
17 health care facilities.

18 (5) The office shall provide health care acquired infection measures and related information to
19 health care facilities in a manner that promotes quality improvement in the health care facilities.

20 (6) The office shall adopt rules prescribing the form, manner and frequency for public disclosure
21 of reported health care acquired infection measures. The office shall disclose updated information
22 to the public no less frequently than every six months beginning January 1, 2010, and no less fre-
23 quently than every calendar quarter beginning January 1, 2011.

24 (7) Individually identifiable health information submitted to the office by health care facilities
25 pursuant to this section may not be disclosed to, made subject to subpoena by or used by any state
26 agency for purposes of any enforcement or regulatory action in relation to a participating health
27 care facility.

28 **SECTION 1158.** Section 4, chapter 838, Oregon Laws 2007, is amended to read:

29 **Sec. 4.** (1) There is established the Health Care Acquired Infection Advisory Committee to ad-
30 vise the Administrator of the Office for Oregon Health Policy and Research regarding the Oregon
31 Health Care Acquired Infection Reporting Program. The advisory committee shall consist of 16
32 members appointed by the administrator as follows:

33 (a) Seven of the members shall be health care providers or their designees, including:

34 (A) A hospital administrator who has expertise in infection control and who represents a hos-
35 pital that contains fewer than 100 beds;

36 (B) A hospital administrator who has expertise in infection control and who represents a hos-
37 pital that contains 100 or more beds;

38 (C) A long term care administrator;

39 (D) A hospital quality director;

40 (E) A physician with expertise in infectious disease;

41 (F) A registered nurse with interest and involvement in infection control; and

42 (G) A physician who practices in an ambulatory surgical center and who has interest and in-
43 volvement in infection control.

44 (b) Nine of the members shall be individuals who do not represent health care providers, in-
45 cluding:

- 1 (A) A consumer representative;
- 2 (B) A labor representative;
- 3 (C) An academic researcher;
- 4 (D) A health care purchasing representative;
- 5 (E) A representative of the [*Department of Human Services*] **Oregon Health Authority**;
- 6 (F) A representative of the business community;
- 7 (G) A representative of the Oregon Patient Safety Commission who does not represent a health
- 8 care provider on the commission;
- 9 (H) The state epidemiologist; and
- 10 (I) A health insurer representative.

11 (2) The Administrator of the Office for Oregon Health Policy and Research and the advisory
12 committee shall evaluate on a regular basis the quality and accuracy of the data collected and re-
13 ported by health care facilities under section 3 [*of this 2007 Act*], **chapter 838, Oregon Laws 2007**,
14 and the methodologies of the Office for Oregon Health Policy and Research for data collection,
15 analysis and public disclosure.

16 (3) Members of the advisory committee are not entitled to compensation and shall serve as vol-
17 unteers on the advisory committee.

18 (4) Each member of the advisory committee shall serve a term of two years.

19 (5) The advisory committee shall make recommendations to the administrator regarding:

20 (a) The health care acquired infection measures that health care facilities must report, which
21 may include but are not limited to:

22 (A) Surgical site infections;

23 (B) Central line related bloodstream infections;

24 (C) Urinary tract infections; and

25 (D) Health care facility process measures designed to ensure quality and to reduce health care
26 acquired infections;

27 (b) Methods for evaluating and quantifying health care acquired infection measures that align
28 with other data collection and reporting methodologies of health care facilities and that support
29 participation in other quality interventions;

30 (c) Requiring different reportable health care acquired infection measures for differently situated
31 health care facilities as appropriate;

32 (d) A method to ensure that infections present upon admission to the health care facility are
33 excluded from the rates of health care acquired infection disclosed to the public for the health care
34 facility under sections 3 and 6 [*of this 2007 Act*], **chapter 838, Oregon Laws 2007**;

35 (e) Establishing a process for evaluating the health care acquired infection measures reported
36 under section 3 [*of this 2007 Act*], **chapter 838, Oregon Laws 2007**, and for modifying the reporting
37 requirements over time as appropriate;

38 (f) Establishing a timetable to phase in the reporting and public disclosure of health care ac-
39 quired infection measures; and

40 (g) Procedures to protect the confidentiality of patients, health care professionals and health
41 care facility employees.

42 [(6) *The Office for Oregon Health Policy and Research shall adopt rules implementing the Oregon*
43 *Health Care Acquired Infection Reporting Program no later than July 1, 2008. Health care facilities*
44 *shall begin reporting health care acquired infection measures under section 3 of this 2007 Act no later*
45 *than January 1, 2009.*]

1 **SECTION 1159.** Section 2a, chapter 872, Oregon Laws 2007, is amended to read:

2 **Sec. 2a.** The Health Resources Commission shall:

3 (1) Conduct a review of available medical and behavioral health evidence on the treatment of
4 pervasive developmental disorders.

5 (2) In conducting its review, work with the Public Employees' Benefit Board, the Health Services
6 Commission, the [*Department of Human Services*] **Oregon Health Authority** and the Department of
7 Education.

8 (3) Report its findings and recommendations to the Seventy-fifth Legislative Assembly in the
9 manner provided in ORS 192.245.

10 **SECTION 1160.** Section 15, chapter 18, Oregon Laws 2008, is amended to read:

11 **Sec. 15.** (1) The [*Department of Human Services*] **Oregon Health Authority**, in cooperation with
12 representatives of residential facilities and adult foster homes, shall:

13 (a) Assess the capacity on January 1, 2008, of residential facilities and adult foster homes to
14 serve residents who qualify for state medical assistance;

15 (b) Establish targets for expansion of the capacity assessed in paragraph (a) of this subsection
16 in each area of the state; and

17 (c) Issue a report on changes in capacity on a quarterly basis.

18 (2) The [*department*] **authority** shall report semiannually to the Legislative Assembly or the
19 Emergency Board the findings in subsection (1) of this section and any recommendations for legis-
20 lative action.

21 **SECTION 1161.** Section 21, chapter 18, Oregon Laws 2008, is amended to read:

22 **Sec. 21.** (1) There is established a grant program to improve access to and the effectiveness of
23 health care delivery for families.

24 (2) The goals of the program are to:

25 (a) Improve preventive health services;

26 (b) Increase access to appropriate, affordable and efficiently delivered primary care for families;

27 (c) Provide new access to health care for children;

28 (d) Explore alternative models for reimbursement of health care services; and

29 (e) Collect information to allow for an evaluation of each grant-funded project.

30 (3) The [*Department of Human Services*] **Oregon Health Authority** shall award grants for two
31 projects. One of the grants shall be awarded for a project that predominantly serves a rural area
32 as defined by the Office of Rural Health.

33 (4) The [*department*] **authority** shall adopt rules in accordance with ORS 183.333 to:

34 (a) Establish criteria for awarding grants based on the goals of the program.

35 (b) Determine the amount of each grant.

36 (c) Administer the program.

37 (5) The [*department*] **authority** shall award grants under this section for projects that:

38 (a) Create incentives for collaborative, community-based organizations to bring diverse
39 stakeholders together to coordinate, communicate and improve access to health care for local resi-
40 dents of the community; and

41 (b) Improve health care delivery in the community by providing:

42 (A) Patient-centered care in which there is a sustained relationship between a patient and a
43 culturally competent provider team and that utilizes patient-driven goals and evidence-based prac-
44 tices;

45 (B) Team-based care that takes advantage of nursing services, including care coordination,

1 school-based health services, home visits, telephone triage and clinical case management, and that
2 maximizes services during each patient visit;

3 (C) Coordinated care that links patients to comprehensive services in the community, including
4 specialty care, mental health care, dental care, vision care and social services;

5 (D) Provider accessibility through the use of telephone and electronic mail, and the removal of
6 transportation, language, cultural and other barriers to timely care; and

7 (E) Collaboration with the community that ensures that health-related interests and services are
8 coordinated, psychosocial services are incorporated, resources are leveraged and maximized and
9 assessments are conducted on health status, disparities and effectiveness of services.

10 (6) To be awarded grants, applicants must demonstrate the ability to leverage nonstate re-
11 sources given the strengths and limitations of their geographic locations.

12 (7) Each project must include an evaluation component that accurately monitors and measures:

13 (a) The impact of the project on the cost and quality of and access to health care; and

14 (b) How the structure and operation of the organization reflects the interests of and is ac-
15 countable to the diverse needs of the local community.

16 **SECTION 1162.** Section 2, chapter 31, Oregon Laws 2008, is amended to read:

17 **Sec. 2.** (1) A retailer may not sell or offer for sale, lease, sublet or otherwise distribute a chil-
18 dren's product to consumers in this state if the children's product is:

19 (a) Subject to a recall notice issued by or in cooperation with the United States Consumer
20 Product Safety Commission or a successor agency;

21 (b) The subject of a warning issued by the children's product manufacturer or the Consumer
22 Product Safety Commission or a successor agency that the intended use of the children's product
23 constitutes a health or safety hazard, unless the retailer has eliminated the hazard and made the
24 children's product safe for sale, lease, subletting or distribution to consumers in strict compliance
25 with standards and instructions provided in or related to the warning; or

26 (c) Subject to a declaration by the Director of [*Human Services*] **the Oregon Health Authority**
27 under ORS 453.055 or under rules adopted by the [*Department of Human Services*] **Oregon Health**
28 **Authority** that the children's product is a banned hazardous substance.

29 (2) A retailer shall subscribe to or arrange to receive recall notices and warnings issued by the
30 Consumer Product Safety Commission and warnings issued by manufacturers from which the retailer
31 receives children's products.

32 (3) A retailer shall dispose of a children's product identified in a recall notice or warning issued
33 by or in cooperation with the Consumer Product Safety Commission or a successor agency in strict
34 compliance with disposal instructions included with or related to the recall notice or warning.

35 (4) A retailer shall comply strictly with all return, repair, retrofitting, labeling or remediation
36 instructions issued with or related to a warning issued by the Consumer Product Safety Commission
37 or a successor agency, an agency of this state or the children's product manufacturer.

38
39 **REPEALS**

40
41 **SECTION 1163.** (1) **ORS 414.019, 414.021, 414.022, 414.023, 414.024, 414.031, 414.032, 414.036,**
42 **414.038, 414.039, 414.085, 414.107, 414.660, 414.670, 414.744, 430.180, 430.190 and 445.270 and**
43 **sections 10 and 13, chapter 810, Oregon Laws 2003, are repealed.**

44 (2) **ORS 735.706 is repealed on January 2, 2011.**

OPERATIVE DATE

SECTION 1164. Except as otherwise specifically provided in this 2009 Act, this 2009 Act becomes operative on January 1, 2010.

UNIT CAPTIONS

SECTION 1165. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

EFFECTIVE DATE

SECTION 1166. This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.
