

A-Engrossed
House Bill 2506

Ordered by the House April 6
Including House Amendments dated April 6

Sponsored by Representatives BUCKLEY, TOMEI; Representatives BOONE, D EDWARDS, ESQUIVEL, GELSER, KOTEK, MAURER, NATHANSON, RILEY, SHIELDS, STIEGLER, Senators BATES, MORRISETTE

SUMMARY

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

Requires health plans to cover services of professional counselors and marriage and family therapists if certain other services are covered by plan. Prohibits practice of professional counseling or marriage and family therapy without license. **Modifies other provisions relating to professional counseling and marriage and family therapy.**

A BILL FOR AN ACT

1
2 Relating to persons subject to regulation by Oregon Board of Licensed Professional Counselors and
3 Therapists; creating new provisions; and amending ORS 430.010, 675.705, 675.715, 675.720,
4 675.745, 675.825, 675.835, 743A.168 and 750.333.

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

6 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 743.**

7 **SECTION 2. (1) If a group health benefit plan, as described in ORS 743.730, provides for**
8 **coverage for services performed by a clinical social worker or nurse practitioner, the plan**
9 **also must cover services provided by a professional counselor or marriage and family thera-**
10 **pist licensed under ORS 675.715 to 675.835 when the counselor or therapist is acting within**
11 **the counselor's or therapist's lawful scope of practice.**

12 **(2) The provisions of ORS 743A.001 do not apply to this section.**

13 **SECTION 3. ORS 430.010 is amended to read:**

14 430.010. As used in ORS 430.010 to 430.050, 430.140 to 430.170, 430.265, 430.270 and 430.610 to
15 430.695:

16 (1) "Department" means the Department of Human Services.

17 (2) "Health facility" means a facility licensed as required by ORS 441.015 or a facility accredited
18 by the Joint Commission on Accreditation of Hospitals, either of which provides full-day or part-day
19 acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and is licensed
20 to admit persons requiring 24-hour nursing care.

21 (3) "Residential facility" or "day or partial hospitalization program" means a program or facility
22 providing an organized full-day or part-day program of treatment. Such a program or facility shall
23 be licensed, approved, established, maintained, contracted with or operated by the department under:

24 (a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

25 (b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

26 (c) ORS 430.610 to 430.880 for mental or emotional disturbances.

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 (4) "Outpatient service" means:

2 (a) A program or service providing treatment by appointment and by:

3 (A) Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS 677.010
4 to 677.450;

5 (B) Psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to
6 675.150;

7 (C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to
8 678.410; [or]

9 (D) Clinical social workers licensed by the State Board of Clinical Social Workers under ORS
10 675.510 to 675.600; or

11 (E) **Professional counselors or marriage and family therapists licensed by the Oregon
12 Board of Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or**

13 (b) A program or service providing treatment by appointment that is licensed, approved, estab-
14 lished, maintained, contracted with or operated by the department under:

15 (A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

16 (B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

17 (C) ORS 430.610 to 430.880 for mental or emotional disturbances.

18 **SECTION 4.** ORS 675.705 is amended to read:

19 675.705. As used in ORS 675.715 to 675.835:

20 [(1) "Board" means the Oregon Board of Licensed Professional Counselors and Therapists.]

21 (1) **"Assessment" means assessment under standards developed by a national body re-
22 sponsible for accrediting graduate training programs in clinical counseling for professional
23 counselors or in marriage and family therapy for marriage and family therapists.**

24 (2) "Licensed marriage and family therapist" means a person to whom a license has been issued
25 under ORS 675.715.

26 (3) "Licensed professional counselor" means a person issued a license under ORS 675.715.

27 (4) "Licensee" means a licensed professional counselor or a licensed marriage and family ther-
28 apist.

29 (5)(a) "Marriage and family therapy" means [*the identification and treatment of cognitive, affective
30 and behavioral conditions as symptoms of marital and familial relational dysfunctions. "Marriage and
31 family therapy" involves the professional application of psychotherapeutic and family systems theories
32 and techniques in the delivery of services to individuals, marital pairs and families, and record keeping
33 activities, including documentation of counseling treatment or therapeutic services*] **the assessment,
34 diagnosis and treatment of mental, emotional and behavioral disorders within the context
35 of marriage and family systems involving the application of psychotherapeutic and family
36 systems theories and techniques in the delivery of services to individuals, couples and fami-
37 lies.**

38 (b) **"Marriage and family therapy" may include, but is not limited to:**

39 (A) **Application of counseling techniques for the purpose of resolving intrapersonal and
40 interpersonal conflict and changing perceptions, attitudes, behaviors and interactional pro-
41 cesses in the area of human relationships and family life;**

42 (B) **Research activities, including reporting, designing or conducting research in marriage
43 and family therapy with human subjects;**

44 (C) **Referral activities, including the referral to other specialists when indicated to pro-
45 vide ethical treatment;**

1 **(D) Consulting activities that apply marriage and family therapy procedures to provide**
2 **assistance to organizations that support or enrich marriage and family life; and**

3 **(E) Record keeping activities, including documentation of counseling treatment,**
4 **therapeutic services and clinical supervision.**

5 (6)(a) “Professional counseling” means [*counseling services provided to individuals, couples, fam-*
6 *ilies, children, groups, organizations or the general public through the therapeutic relationship, devel-*
7 *oping understanding of personal problems, defining goals and planning action reflecting interests,*
8 *abilities, aptitudes and needs as these relate to problems and concerns in personal, social, educational,*
9 *rehabilitation and career adjustments. “Professional counseling” includes, but is not limited to:] **the***

10 **assessment, diagnosis and treatment of mental, emotional and behavioral disorders and the**
11 **provision of counseling services to address personal growth and wellness, provided through**
12 **the therapeutic relationship to individuals, couples, children, families, groups and organiza-**
13 **tions, based on the principles of mental health, behavioral science including statistical anal-**
14 **ysis, human growth and development throughout the life span, career development, group**
15 **dynamics and cultural and social diversity, and using cognitive, affective, behavioral and**
16 **systemic intervention strategies.**

17 **(b) “Professional counseling” may include, but is not limited to:**

18 [(a)] **(A) Application of counseling theories and techniques designed to assist clients with cur-**
19 **rent or potential problems and to facilitate change in thinking, feeling and behaving[.];**

20 **(B) Definition of goals and the planning of action reflecting interests, abilities, aptitudes**
21 **and needs as they relate to problems, disabilities or concerns in personal, social, educational,**
22 **rehabilitation and career adjustments;**

23 [(b)] **(C) Research activities, including reporting, designing[, or conducting [or consulting on]**
24 **research in counseling with human subjects[.];**

25 [(c)] **(D) Referral activities, including the referral to other specialists[.] **when indicated to****
26 **provide ethical treatment;**

27 [(d)] **(E) Consulting activities [which] **that** apply counseling procedures and interpersonal skills**
28 **to provide assistance in solving problems [that a client may have in relation] **relating** to an individ-**
29 **ual, group or organization[.]; **and****

30 [(e)] **(F) Record keeping activities, including documentation of counseling treatment [or],**
31 **therapeutic services **and clinical supervision.****

32 (7) “Registered intern” means an applicant for licensure who is registered to obtain post-degree
33 supervised work experience toward licensure according to an approved plan pursuant to ORS
34 675.720.

35 **SECTION 5.** ORS 675.720 is amended to read:

36 675.720. (1) If an applicant for a license under ORS 675.715 possesses the graduate degree re-
37 quired by ORS 675.715 but has not submitted documentation satisfactory to the Oregon Board of
38 Licensed Professional Counselors and Therapists that the applicant has the required supervised
39 clinical work experience, the applicant must register an internship plan to obtain acceptable post-
40 degree supervised work experience to qualify for a license as a professional counselor or as a mar-
41 riage and family therapist.

42 (2) To register as a professional counselor intern or as a marriage and family therapist intern
43 under this section, the applicant shall submit in the form and manner determined by the board:

44 (a) A request for registration; and

45 (b) A plan to obtain or complete the supervised clinical work experience required for licensure.

1 (3) The board shall register the applicant as an intern upon receipt and approval of the com-
2 pleted request and plan [as] required in subsection (2) of this section.

3 (4)(a) A registered intern [shall] **must** renew the certificate of registration annually on or before
4 the first day of the month in which the board approved the initial registration. To renew a certif-
5 icate of registration, a registered intern shall:

6 (A) Submit a renewal application in the form and manner established by the board accompanied
7 by a renewal fee pursuant to ORS 675.785; and

8 (B) Document fulfillment of all other requirements established by the board by rule.

9 (b) Failure to renew a registration within 30 days of the annual renewal date [shall terminate]
10 **terminates** the registration and the application for licensure.

11 (5) Registered interns are subject to all ethical standards adopted by the board.

12 **SECTION 6. Section 7 of this 2009 Act is added to and made a part of ORS 675.715 to**
13 **675.835.**

14 **SECTION 7. A licensee shall practice under one of the following names:**

15 (1) **The name of the licensee.**

16 (2) **An assumed business name or other designation that describes a place, institution,**
17 **organization or agency where or in connection with which the licensee conducts practice.**

18 **SECTION 8.** ORS 675.745 is amended to read:

19 675.745. (1) The Oregon Board of Licensed Professional Counselors and Therapists may deny,
20 suspend, revoke or refuse to issue or to renew any license issued under ORS 675.715 to 675.835 upon
21 proof that the applicant for licensure or the licensee:

22 (a) Has been convicted of violating ORS 675.825 or of a crime in this or any other state or ter-
23 ritory or against the federal government that brings into question the competence of the licensee
24 in the role of a counselor or a therapist;

25 (b) Is unable to perform the practice of professional counseling or marriage and family therapy
26 by reason of mental illness, physical illness, drug addiction or alcohol abuse;

27 (c) Has been grossly negligent in the practice of professional counseling or marriage and family
28 therapy;

29 (d) Has violated one or more of the rules of the board pertaining to the licensure of professional
30 counselors or licensed marriage and family therapists;

31 (e) Has failed to file a professional disclosure statement or has filed a false, incomplete or mis-
32 leading professional disclosure statement;

33 (f) Has practiced outside the scope of activities, including administering, constructing or inter-
34 preting tests **or diagnosing or treating mental disorders**, for which the licensee has individual
35 training and qualification; or

36 (g) Has been disciplined by a state mental health licensing board or program in this or any other
37 state for violation of competency or conduct standards.

38 (2)(a) The board may reprimand or impose probation on a licensee or [an intern registered under
39 ORS 675.720] **a registered intern** upon proof of any of the grounds for discipline provided in sub-
40 section (1) of this section.

41 (b) If the board elects to place a licensee or a registered intern on probation, the board may
42 impose:

43 (A) Restrictions on the scope of practice of the licensee or intern;

44 (B) Requirements for specific training;

45 (C) Supervision of the practice of the licensee or intern; or

1 (D) Other conditions the board finds necessary for the protection of the public.

2 (3) The board may initiate action against persons violating any provision of ORS 675.715 to
3 675.835 or any rules adopted by the board.

4 (4) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than [\$1,000]
5 **\$2,500** for each [*violation of subsection (1) or (2) of this section*] **ground for discipline listed in**
6 **subsection (1) of this section found by the board.**

7 (5) Pursuant to ORS 183.745, the board may impose a civil penalty of not more than \$2,500
8 for each violation of or failure to observe any limitation or condition imposed by the board
9 on the licensee's or registered intern's practice under subsection (2) of this section.

10 [(5)] (6) Information that the board obtains as part of an investigation into licensee or applicant
11 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
12 licensee or applicant conduct is confidential as provided under ORS 676.175.

13 [(6)] (7) In addition to the actions authorized by subsections (1) and (2) of this section, the board
14 may take such disciplinary action as the board in its discretion finds proper, including but not lim-
15 ited to the assessment of the costs of the disciplinary process.

16 **SECTION 9.** ORS 675.825 is amended to read:

17 675.825. (1) [No] A person [*shall*] **may not:**

18 (a) Attempt to obtain or obtain a license or **license** renewal [*thereof*] by bribery or fraudulent
19 representation.

20 (b) **Engage in or** purport to the public to be engaged in the practice of professional counseling
21 under the title "licensed professional counselor" unless the person [*possesses a valid license to*
22 *practice professional counseling as provided in ORS 675.715 to 675.835.*] **is a licensee.**

23 (c) **Engage in or** purport to the public to be engaged in the practice of marriage and family
24 therapy under the title of "licensed marriage and family therapist" unless the person [*possesses a*
25 *valid license to practice marriage and family therapy as provided in ORS 675.715 to 675.835.*] **is a**
26 **licensee.**

27 (d) **Engage in the practice of professional counseling or marriage and family therapy**
28 **unless:**

29 (A) **The person is a licensee, registered intern or graduate student pursuing a graduate**
30 **degree in counseling or marriage and family therapy; or**

31 (B) **The person is exempted from the licensing requirements of ORS 675.715 to 675.835 by**
32 **subsection (3) of this section.**

33 (e) **Provide counseling or therapy services of a psychotherapeutic nature if the person's**
34 **license to practice as a professional counselor or as a marriage and family therapist has been**
35 **revoked by the Oregon Board of Licensed Professional Counselors and Therapists because**
36 **the person engaged in sexual activity with a client.**

37 [(2) *Nothing in ORS 675.715 to 675.835 is intended to limit or prevent the practice of an individ-*
38 *ual's profession or to restrict a person from providing counseling services or marriage and family*
39 *therapy if the person or individual does not represent to the public by title that the person or individual*
40 *is a licensed professional counselor or licensed marriage and family therapist.*]

41 (2) [*The prohibition on the use of the title marriage and family therapist does not apply to*] A
42 registered or licensed clinical social worker or licensed psychologist whose registration or license
43 was issued prior to October 1, 1991, **may use the title "marriage and family therapist."**

44 (3) **The licensing requirements of ORS 675.715 to 675.835 do not apply to a person who is:**

45 (a) **Licensed, certified, registered or similarly regulated under the laws of this state and**

1 **who is performing duties within the authorized scope of practice of the license, certification,**
2 **registration or regulation.**

3 **(b) A recognized member of the clergy, provided that the person is acting in the person's**
4 **ministerial capacity.**

5 **(c) Employed by a local, state or federal agency or any agency licensed or certified by the**
6 **state to provide mental health or health services, if the person's activities constituting pro-**
7 **fessional counseling or marriage and family therapy are performed within the scope of the**
8 **person's employment.**

9 **(d) Authorized to provide addiction treatment services under rules of the Department of**
10 **Human Services.**

11 **(4) Nothing in ORS 675.715 to 675.835 limits or prevents the practice of a person's pro-**
12 **fession or restricts a person from providing counseling services or services related to mar-**
13 **riage and family if the person:**

14 **(a) Does not meet the requirements of ORS 675.715 (2); or**

15 **(b) Does not practice:**

16 **(A) Marriage and family therapy as defined in ORS 675.705 (5)(a); or**

17 **(B) Professional counseling as defined in ORS 675.705 (6)(a).**

18 [(3)] (5) Each violation of this section is a separate violation.

19 [(4)] (6) The [*Oregon Board of Licensed Professional Counselors and Therapists*] **board** may levy
20 a civil penalty not to exceed [\$1,000] **\$2,500** for each separate violation **of this section.**

21 **SECTION 10.** ORS 675.835 is amended to read:

22 675.835. (1) The Oregon Board of Licensed Professional Counselors and Therapists may com-
23 mence injunction proceedings in any circuit court to enjoin violation of ORS 675.825.

24 (2) In proceedings under this section, the board need not show that any person is injured by the
25 person against whom the injunction is sought.

26 (3)(a) If the person against whom an injunction is sought under this section is found by the
27 court to have unlawfully used the title "licensed professional counselor" or "licensed marriage and
28 family therapist," a court may grant an injunction barring [*such practice.*] **the person from using**
29 **the title.**

30 **(b) If the person against whom an injunction is sought under this section is found by the**
31 **court to have unlawfully engaged in the practice of professional counseling or marriage and**
32 **family therapy, a court may grant an injunction barring the person from engaging in the**
33 **unlawful practice.**

34 (4) An injunction under this section is in addition to any other remedies or penalties provided
35 by law.

36 **SECTION 11.** ORS 743A.168 is amended to read:

37 743A.168. A group health insurance policy providing coverage for hospital or medical expenses
38 shall provide coverage for expenses arising from treatment for chemical dependency, including
39 alcoholism, and for mental or nervous conditions at the same level as, and subject to limitations no
40 more restrictive than, those imposed on coverage or reimbursement of expenses arising from treat-
41 ment for other medical conditions. The following apply to coverage for chemical dependency and for
42 mental or nervous conditions:

43 (1) As used in this section:

44 (a) "Chemical dependency" means the addictive relationship with any drug or alcohol charac-
45 terized by a physical or psychological relationship, or both, that interferes on a recurring basis with

1 the individual's social, psychological or physical adjustment to common problems. For purposes of
2 this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, to-
3 bacco products or foods.

4 (b) "Facility" means a corporate or governmental entity or other provider of services for the
5 treatment of chemical dependency or for the treatment of mental or nervous conditions.

6 (c) "Group health insurer" means an insurer, a health maintenance organization or a health care
7 service contractor.

8 (d) "Program" means a particular type or level of service that is organizationally distinct within
9 a facility.

10 (e) "Provider" means a person that has met the credentialing requirement of a group health
11 insurer, is otherwise eligible to receive reimbursement for coverage under the policy and is:

12 (A) A health care facility;

13 (B) A residential program or facility;

14 (C) A day or partial hospitalization program;

15 (D) An outpatient service; or

16 (E) An individual behavioral health or medical professional authorized for reimbursement under
17 Oregon law.

18 (2) The coverage may be made subject to provisions of the policy that apply to other benefits
19 under the policy, including but not limited to provisions relating to deductibles and coinsurance.
20 Deductibles and coinsurance for treatment in health care facilities or residential programs or facil-
21 ities may not be greater than those under the policy for expenses of hospitalization in the treatment
22 of other medical conditions. Deductibles and coinsurance for outpatient treatment may not be
23 greater than those under the policy for expenses of outpatient treatment of other medical conditions.

24 (3) The coverage may not be made subject to treatment limitations, limits on total payments for
25 treatment, limits on duration of treatment or financial requirements unless similar limitations or
26 requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses
27 may be limited to treatment that is medically necessary as determined under the policy for other
28 medical conditions.

29 (4)(a) Nothing in this section requires coverage for:

30 (A) Educational or correctional services or sheltered living provided by a school or halfway
31 house;

32 (B) A long-term residential mental health program that lasts longer than 45 days;

33 (C) Psychoanalysis or psychotherapy received as part of an educational or training program,
34 regardless of diagnosis or symptoms that may be present;

35 (D) A court-ordered sex offender treatment program; or

36 (E) A screening interview or treatment program under ORS 813.021.

37 (b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpa-
38 tient services under the terms of the insured's policy while the insured is living temporarily in a
39 sheltered living situation.

40 (5) A provider is eligible for reimbursement under this section if:

41 (a) The provider is approved by the Department of Human Services;

42 (b) The provider is accredited for the particular level of care for which reimbursement is being
43 requested by the Joint Commission on Accreditation of Hospitals or the Commission on Accredi-
44 tation of Rehabilitation Facilities;

45 (c) The patient is staying overnight at the facility and is involved in a structured program at

1 least eight hours per day, five days per week; or

2 (d) The provider is providing a covered benefit under the policy.

3 (6) Payments may not be made under this section for support groups.

4 (7) If specified in the policy, outpatient coverage may include follow-up in-home service or out-
5 patient services. The policy may limit coverage for in-home service to persons who are homebound
6 under the care of a physician.

7 (8) Nothing in this section prohibits a group health insurer from managing the provision of
8 benefits through common methods, including but not limited to selectively contracted panels, health
9 plan benefit differential designs, preadmission screening, prior authorization of services, utilization
10 review or other mechanisms designed to limit eligible expenses to those described in subsection (3)
11 of this section.

12 (9) The Legislative Assembly has found that health care cost containment is necessary and in-
13 tends to encourage insurance policies designed to achieve cost containment by ensuring that re-
14 imbursement is limited to appropriate utilization under criteria incorporated into such policies,
15 either directly or by reference.

16 (10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to phy-
17 sicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists[*and*], ORS
18 40.250 and 675.580 relating to licensed clinical social workers[,] **and ORS 40.262 relating to li-**
19 **icensed professional counselors and licensed marriage and family therapists**, a group health
20 insurer may provide for review for level of treatment of admissions and continued stays for treat-
21 ment in health care facilities, residential programs or facilities, day or partial hospitalization pro-
22 grams and outpatient services by either group health insurer staff or personnel under contract to
23 the group health insurer, or by a utilization review contractor, who shall have the authority to
24 certify for or deny level of payment.

25 (b) Review shall be made according to criteria made available to providers in advance upon re-
26 quest.

27 (c) Review shall be performed by or under the direction of a medical or osteopathic physician
28 licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist
29 Examiners[*or*], a clinical social worker licensed by the State Board of Clinical Social Workers[,]
30 **or a professional counselor or marriage and family therapist licensed by the Oregon Board**
31 **of Licensed Professional Counselors and Therapists**, in accordance with standards of the Na-
32 tional Committee for Quality Assurance or Medicare review standards of the Centers for Medicare
33 and Medicaid Services.

34 (d) Review may involve prior approval, concurrent review of the continuation of treatment,
35 post-treatment review or any combination of these. However, if prior approval is required, provision
36 shall be made to allow for payment of urgent or emergency admissions, subject to subsequent re-
37 view. If prior approval is not required, group health insurers shall permit providers, policyholders
38 or persons acting on their behalf to make advance inquiries regarding the appropriateness of a
39 particular admission to a treatment program. Group health insurers shall provide a timely response
40 to such inquiries. Noncontracting providers must cooperate with these procedures to the same ex-
41 tent as contracting providers to be eligible for reimbursement.

42 (11) Health maintenance organizations may limit the receipt of covered services by enrollees to
43 services provided by or upon referral by providers contracting with the health maintenance organ-
44 ization. Health maintenance organizations and health care service contractors may create substan-
45 tive plan benefit and reimbursement differentials at the same level as, and subject to limitations no

1 more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other
2 medical conditions and apply them to contracting and noncontracting providers.

3 (12) Nothing in this section prevents a group health insurer from contracting with providers of
4 health care services to furnish services to policyholders or certificate holders according to ORS
5 743.531 or 750.005, subject to the following conditions:

6 (a) A group health insurer is not required to contract with all eligible providers.

7 (b) An insurer or health care service contractor shall, subject to subsections (2) and (3) of this
8 section, pay benefits toward the covered charges of noncontracting providers of services for the
9 treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to
10 subsections (2) and (3) of this section, have the right to use the services of a noncontracting provider
11 of services for the treatment of chemical dependency or mental or nervous conditions, whether or
12 not the services for chemical dependency or mental or nervous conditions are provided by con-
13 tracting or noncontracting providers.

14 (13) The intent of the Legislative Assembly in adopting this section is to reserve benefits for
15 different types of care to encourage cost effective care and to ensure continuing access to levels
16 of care most appropriate for the insured's condition and progress.

17 (14) The Director of the Department of Consumer and Business Services, after notice and hear-
18 ing, may adopt reasonable rules not inconsistent with this section that are considered necessary for
19 the proper administration of these provisions.

20 **SECTION 12.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section
21 4, chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, section 6, chapter 418,
22 Oregon Laws 2005, section 12, chapter 182, Oregon Laws 2007, section 9, chapter 313, Oregon Laws
23 2007, section 7, chapter 504, Oregon Laws 2007, section 7, chapter 566, Oregon Laws 2007, section
24 7, chapter 872, Oregon Laws 2007, and section 9, chapter 22, Oregon Laws 2008, is amended to read:

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

27 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
28 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
29 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

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

31 (c) ORS chapter 734.

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

33 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
34 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
35 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
36 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
37 and 743A.184 **and section 2 of this 2009 Act.**

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

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

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

45 (i) ORS 731.592 and 731.594.

1 (j) Section 2, chapter 22, Oregon Laws 2008.

2 (2) For the purposes of this section:

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

4 (b) References to certificates of authority shall be considered references to certificates of multiple employer welfare arrangement.

5 (c) Contributions shall be considered premiums.

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

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9 **SECTION 13.** (1) A person engaged in professional counseling or marriage and family therapy on the effective date of this 2009 Act who is not licensed under ORS 675.715 to 675.835 or exempted from the provisions of ORS 675.715 to 675.835 by ORS 675.825 may continue to engage in the practice of professional counseling or marriage and family therapy if the person applies on or before January 1, 2011, for:

10 (a) A license to practice professional counseling or marriage and family therapy; or

11 (b) A registered internship.

12 (2) A person may continue to engage in the practice of professional counseling or marriage and family therapy as authorized by subsection (1) of this section until the Oregon Board of Licensed Professional Counselors and Therapists makes a final determination whether to issue a license to the person or to approve the person's request for a registered internship.

13 (3) Subsection (2) of this section applies to persons who:

14 (a) Have received a graduate degree;

15 (b) Have not fulfilled the supervised hours or other educational requirements for licensure as a professional counselor or marriage and family therapist; and

16 (c) Are otherwise eligible to receive a license or registered internship.

17 (4)(a) A person practicing professional counseling under this section without a license or registered internship shall provide a written statement to all clients treated by the person that the person is not a licensed professional counselor or registered intern.

18 (b) A person practicing marriage and family therapy under this section without a license or registered internship shall provide a written statement to all clients treated by the person that the person is not a licensed marriage and family therapist or registered intern.

19 (5)(a) A person licensed under ORS 675.715 to 675.835 on the effective date of this 2009 Act may not practice professional counseling or marriage and family therapy unless the person has submitted a written attestation to the board that the person has training and experience in the diagnosis of mental disorders.

20 (b) The board shall randomly audit attestations submitted under paragraph (a) of this subsection.

21 **SECTION 14.** ORS 675.715 is amended to read:

22 675.715. In order to obtain a license as a professional counselor or a marriage and family therapist, an applicant shall make application on a form and in such a manner as the Oregon Board of Licensed Professional Counselors and Therapists prescribes, accompanied by the nonrefundable fee established pursuant to ORS 675.785. The [Oregon] board [of Licensed Professional Counselors and Therapists] shall issue a license as a professional counselor or a marriage and family therapist to each applicant who furnishes satisfactory evidence to the board that the applicant meets the following qualifications:

1 (1) Is not in violation of any of the provisions of ORS 675.715 to 675.835 and the rules adopted
2 by the board.

3 (2) Has received:

4 (a) A graduate degree in counseling in a program approved by the Council for Accreditation of
5 Counseling and Related Educational Programs of the American Counseling Association **that in-**
6 **cludes training in the diagnosis of mental disorders;**

7 (b) A graduate degree in marriage and family therapy in a program approved by the Commission
8 on Accreditation for Marriage and Family Therapy Education of the American Association for
9 Marriage and Family Therapy **that includes training in the diagnosis of mental disorders;**

10 (c) A graduate degree, under standards explicitly adopted by the board by rule that is deter-
11 mined by the board to be comparable in both content and quality to a degree approved under par-
12 agraph (a) or (b) of this subsection **and that includes training in the diagnosis of mental**
13 **disorders;** or

14 (d) A graduate degree, determined by the board to meet at an acceptable level at least a ma-
15 jority of the board's adopted degree standards **and that includes training in the diagnosis of**
16 **mental disorders,** and has completed additional graduate training obtained in a counselor or mar-
17 riage and family therapy program at an accredited college or university to meet the remainder of
18 the standards.

19 (3) At the time of application to become a licensed professional counselor, has a minimum of
20 three years of full-time supervised **clinical** experience, or the equivalent, under a board-approved
21 supervisor in a board-approved setting. One year of the supervised **clinical** experience may be ob-
22 tained prior to the granting of the master's degree.

23 (4) At the time of application to become a licensed marriage and family therapist, has a mini-
24 mum of three [*calendar*] years of full-time clinical work experience with supervision, in accordance
25 with standards established by the board. At least 2,000 hours in the three-year period must be in the
26 practice of marriage and family therapy in the presence of a client.

27 (5) Demonstrates competence as a professional counselor or marriage and family therapist by
28 passing an examination prescribed by the board as follows:

29 (a) The examination for professional counselor license [*shall*] **must** include, but **need** not be
30 limited to, counseling theory, human growth and development, social and cultural foundations, the
31 helping relationship, group dynamics, lifestyle and career development, appraisal of individuals, re-
32 search and evaluation, professional orientation, ethics and Oregon law.

33 (b) The examination for the marriage and family therapist license [*shall*] **must** include, but **need**
34 not be limited to, marriage and family therapy theory, systems theory, appraisal of family relation-
35 ships, normal individual and family development, research and evaluation, professional conduct,
36 ethics and Oregon law.

37 (6) An application that remains incomplete for one year from the date of the initial submission
38 to the board [*shall be*] **is** considered to have been withdrawn by the applicant. Incomplete applica-
39 tions include, but are not limited to, applications lacking documentation, signatures or the payment
40 of fees required by the board.

41 **SECTION 15. Section 13 of this 2009 Act is repealed on January 2, 2012.**

42 **SECTION 16. Section 2 of this 2009 Act and the amendments to ORS 430.010, 743A.168 and**
43 **750.333 by sections 3, 11 and 12 of this 2009 Act apply to group health benefit plan policies**
44 **issued or renewed on or after January 1, 2010.**