

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2604

By COMMITTEE ON JUDICIARY

June 9

1 On page 2 of the printed A-engrossed bill, after line 44, insert:

2 “(9) A covered entity is in compliance with subsection (2) of this section if the covered entity
3 is in compliance with the reporting and record-keeping requirements, adopted by the United States
4 Secretary of Health and Human Services pursuant to 42 U.S.C. 1320d-2, that are in effect on the
5 effective date of this 2009 Act.”.

6 On page 3, after line 25, insert:

7 “(4) A health care facility is in compliance with subsection (1) of this section if the facility is
8 in compliance with the reporting and record-keeping requirements, adopted by the United States
9 Secretary of Health and Human Services pursuant to 42 U.S.C. 1320d-2, that are in effect on the
10 effective date of this 2009 Act.”.

11 Delete lines 38 through 45.

12 On page 4, delete lines 1 through 5 and insert:

13 “**SECTION 6.** ORS 731.574, as amended by section 2 of this 2009 Act, is amended to read:

14 “731.574. (1) Except as provided in subsection [(5)] (4) of this section, every authorized insurer
15 shall file with the Director of the Department of Consumer and Business Services, on or before
16 March 1 of each year, a financial statement for the year ending December 31 immediately preceding.
17 This statement shall be on a form prescribed by the director. The statement shall contain such de-
18 tailed exhibit of the condition and transactions of the insurer, in such form and otherwise, as the
19 director prescribes. The director shall consider and may prescribe the annual statement blank or
20 other form established by the National Association of Insurance Commissioners, including in-
21 structions prepared by the National Association of Insurance Commissioners for completing the
22 blank or other form. If the director prescribes the blank or other form established by the National
23 Association of Insurance Commissioners, including the instructions, an insurer submitting the an-
24 nual statement blank or form established by the National Association of Insurance Commissioners
25 must complete the blank or form according to the instructions. The director may require the filing
26 of information in addition to the information required in the annual statement. The director may
27 also require additional filings as the director determines necessary.

28 “[2) A covered entity, as defined in ORS 192.519, that is required to file an annual financial
29 statement under subsection (1) of this section shall file with the statement a protection of health infor-
30 mation report. The report must:]

31 “[a) State the responsibility of management for establishing and maintaining adequate safeguards
32 and procedures for protecting the confidentiality of individually identifiable health information that the
33 covered entity retains in electronic and hard copy form;]

34 “[b) Contain an assessment, as of December 31 of the preceding year, of the effectiveness of the
35 safeguards and procedures in protecting the confidentiality of individually identifiable health informa-

1 tion;]

2 “[*(c)* Contain assurances that the signing officers have disclosed to auditors and the governing
3 board of the covered entity:]

4 “[*(A)* All significant deficiencies in the design or operation of record-keeping systems or controls
5 that could adversely affect the covered entity’s ability to protect the confidentiality of individually
6 identifiable health information:]

7 “[*(B)* Any breaches of the security of individually identifiable health information, whether material
8 or not, that involve management or other employees who have a significant role in the covered entity’s
9 record-keeping systems or controls; and]

10 “[*(C)* All necessary steps that have been taken to address deficiencies in the design or operation
11 of record-keeping systems or controls and to resolve any material weaknesses identified to or by the
12 covered entity’s auditors; and]

13 “[*(d)* Contain assurances that the signing officers have identified for auditors any material weak-
14 nesses in the record-keeping systems or controls.]

15 “[*(3)*] **(2)** The financial statement filed by an insurer under subsection (1) of this section [*and the*
16 *report filed under subsection (2) of this section*] shall be verified by the oaths of the president and
17 secretary of the insurer or, in their absence, by two other principal officers. The statement of an
18 alien company shall embrace only its condition and transactions in the United States, unless the
19 director requires otherwise, and shall be verified by the oath of its resident manager or principal
20 representatives in the United States. Facsimile signatures are acceptable and shall have the same
21 force as original signatures.

22 “[*(4)*] **(3)** The director may grant an extension of time for filing the annual statement.

23 “[*(5)*] **(4)** A home protection insurer may adopt a fiscal year other than the calendar year for its
24 financial statements filed with the director under subsection (1) of this section by declaring the fis-
25 cal year in its application for a certificate of authority. An adopted fiscal year may not be changed
26 without the consent of the insurance supervisory official of the insurer’s domicile. The financial
27 statement of a home protection insurer on other than the calendar year basis shall be filed with the
28 director on or before the first day of the third month which follows the end of the fiscal year.

29 “[*(6)*] **(5)** An insurer, subject to requirements set forth in rules made by the director, may publish
30 financial statements, or information based on financial statements, prepared on a basis that is in
31 accordance with requirements of a competent authority and differs from the basis of the statements
32 required to be filed with the director.

33 “[*(7)*] **(6)** It is the intention of the Legislative Assembly that the director consider and follow the
34 accounting, reporting and other standards, practices and procedures established by the National
35 Association of Insurance Commissioners in order to:

36 “(a) Strengthen and improve regulation of insurer solvency by the Department of Consumer and
37 Business Services;

38 “(b) Promote uniform and consistent regulation of insurance by this state and the other states;

39 “(c) Reduce regulatory costs owing to unnecessary differences in the laws of the various states;
40 and

41 “(d) Obtain and maintain accreditation of this state’s insurance regulatory program by the Na-
42 tional Association of Insurance Commissioners.

43 “[*(8)* As used in this section, ‘individually identifiable health information’ has the meaning given
44 that term in ORS 192.519.]

45 “[*(9)* A covered entity is in compliance with subsection (2) of this section if the covered entity is in

1 *compliance with the reporting and record-keeping requirements, adopted by the United States Secretary*
2 *of Health and Human Services pursuant to 42 U.S.C. 1320d-2, that are in effect on the effective date*
3 *of this 2009 Act.]*

4 “**SECTION 7.** ORS 442.445, as amended by section 5 of this 2009 Act, is amended to read:

5 “442.445. (1) Any health care facility that fails to perform as required in ORS 442.205 and
6 442.400 to 442.463 or section 3, chapter 838, Oregon Laws 2007, [*or section 4 of this 2009 Act*] and
7 rules of the Office for Oregon Health Policy and Research may be subject to a civil penalty.

8 “(2) The Administrator of the Office for Oregon Health Policy and Research shall adopt a
9 schedule of penalties not to exceed \$500 per day of violation, determined by the severity of the vi-
10 olation.

11 “(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

12 “(4) Civil penalties imposed under this section may be remitted or mitigated upon such terms
13 and conditions as the administrator considers proper and consistent with the public health and
14 safety.

15 “(5) Civil penalties incurred under any law of this state are not allowable as costs for the pur-
16 pose of rate determination or for reimbursement by a third-party payer.

17 “**SECTION 8. Section 4 of this 2009 Act is repealed on January 2, 2014.**

18 “**SECTION 9. The amendments to ORS 442.445 and 731.574 by sections 6 and 7 of this 2009**
19 **Act become operative on January 2, 2014.”.**

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