

Enrolled Senate Bill 177

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CHAPTER

AN ACT

Relating to practice of social work; creating new provisions; and amending ORS 30.868, 31.740, 40.250, 109.346, 109.675, 109.680, 109.685, 124.050, 192.519, 409.520, 419B.005, 419B.040, 430.010, 430.735, 433.443, 441.630, 609.652, 659A.150, 675.510, 675.520, 675.530, 675.535, 675.537, 675.540, 675.550, 675.560, 675.565, 675.571, 675.580, 675.583, 675.585, 675.590, 675.595, 675.597, 675.600, 675.825, 675.990, 676.160, 677.060, 743A.024, 743A.168 and 746.600.

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

SECTION 1. ORS 675.510 is amended to read:

675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

[(1) "Board" means the State Board of Clinical Social Workers.]

(1) "Authorization to practice regulated social work" means a certificate or license issued by the State Board of Licensed Social Workers under ORS 675.510 to 675.600.

(2) "Clinical social work" means the professional practice of applying principles and methods with individuals, couples, families, children and groups, which include, but are not restricted to:

(a) Providing diagnostic, preventive and treatment services of a psychosocial nature pertaining to personality adjustment, behavior problems, interpersonal dysfunctioning or deinstitutionalization;

(b) Developing a psychotherapeutic relationship to employ a series of problem solving techniques for the purpose of removing, modifying, or retarding disrupted patterns of behavior, and for promoting positive personality growth and development;

(c) Counseling and the use of psychotherapeutic techniques, such as disciplined interviewing which is supportive, directive or insight oriented depending upon diagnosed problems, observation and feedback, systematic analysis, and recommendations;

(d) Modifying internal and external conditions that affect a client's behavior, emotions, thinking, or intrapersonal processes;

(e) Explaining and interpreting the psychosocial dynamics of human behavior to facilitate problem solving; and

(f) Supervising, administering or teaching clinical social work practice.

[(3) "Clinical social work associate" means a person who holds a master's degree from an accredited college or university accredited by the Council on Social Work Education whose plan of practice and supervision has been approved by the board, and who is working toward licensure in accordance with ORS 675.510 to 675.600 and rules adopted by the board.]

[(4)] (3) “Impaired clinical social worker” means a person **who is** unable to perform the practice of clinical social work by reason of mental illness, physical illness or alcohol or other drug abuse.

[(5)] “Licensed clinical social worker” means a person licensed under the provisions of ORS 675.510 to 675.600 to practice clinical social work.]

(4) “Regulated social worker” means a clinical social work associate certified under ORS 675.537 or a clinical social worker licensed under ORS 675.530.

[(6)] (5) “Unprofessional conduct” includes, but is not limited to, any conduct or practice contrary to recognized standards of ethics of the social work profession or any conduct that constitutes or might constitute a danger to the health or safety of a client or the public or in any other manner fails or might fail to adhere to the recognized standards of the profession.

SECTION 2. ORS 675.510, as amended by section 1 of this 2009 Act, is amended to read:

675.510. As used in ORS 675.510 to 675.600, unless the context requires otherwise:

(1) “Authorization to practice regulated social work” means a certificate or license issued by the State Board of Licensed Social Workers under ORS 675.510 to 675.600.

(2) “Clinical social work” means the professional practice of applying principles and methods with individuals, couples, families, children and groups, which include, but are not restricted to:

(a) Providing diagnostic, preventive and treatment services of a psychosocial nature pertaining to personality adjustment, behavior problems, interpersonal dysfunctioning or deinstitutionalization;

(b) Developing a psychotherapeutic relationship to employ a series of problem solving techniques for the purpose of removing, modifying, or retarding disrupted patterns of behavior, and for promoting positive personality growth and development;

(c) Counseling and the use of psychotherapeutic techniques, such as disciplined interviewing which is supportive, directive or insight oriented depending upon diagnosed problems, observation and feedback, systematic analysis, and recommendations;

(d) Modifying internal and external conditions that affect a client’s behavior, emotions, thinking, or intrapersonal processes;

(e) Explaining and interpreting the psychosocial dynamics of human behavior to facilitate problem solving; and

(f) Supervising, administering or teaching clinical social work practice.

(3) “Impaired clinical social worker” means a person who is unable to perform the practice of clinical social work by reason of mental illness, physical illness or alcohol or other drug abuse.

(4) “Regulated social worker” means a **baccalaureate social worker registered under section 6 of this 2009 Act, a master’s social worker licensed under section 7 of this 2009 Act, a clinical social work associate certified under ORS 675.537 or a clinical social worker licensed under ORS 675.530.**

(5) “Unprofessional conduct” includes, but is not limited to, any conduct or practice contrary to recognized standards of ethics of the social work profession or any conduct that constitutes or might constitute a danger to the health or safety of a client or the public or in any other manner fails or might fail to adhere to the recognized standards of the profession.

SECTION 3. ORS 675.520 is amended to read:

675.520. [After July 1, 1990, no person shall use the title or purport to be a “licensed clinical social worker” or use any other title that includes those words unless the person is licensed in accordance with the provisions of ORS 675.510 to 675.600.] (1) **A person may not use any title, words or abbreviations, including the title “social worker,” that indicate that the person has an authorization to practice regulated social work unless the person is a regulated social worker.**

(2) **Subsection (1) of this section does not prohibit the use of the educational designations “Bachelor of Social Work” or “Master’s of Social Work” by a person who is not a regulated social worker.**

SECTION 4. Sections 4a, 5, 6 and 7 of this 2009 Act are added to and made a part of ORS 675.510 to 675.600.

SECTION 4a. A person may not practice clinical social work unless the person is a clinical social worker licensed under ORS 675.530 or a clinical social work associate certified under ORS 675.537, except if the person is:

(1) Licensed or certified by the State of Oregon to provide mental health services, provided that the person is acting within the lawful scope of practice for the person's license or certification and does not represent that the person is a regulated social worker;

(2) Certified to provide alcohol and drug abuse prevention services, intervention services and treatment in compliance with rules adopted by the Director of Human Services under ORS 409.410 (2)(f) and 409.420 (1), provided that the person is acting within the lawful scope of practice for the person's certification and does not represent that the person is a regulated social worker;

(3) Employed by or contracting with an entity that is certified or licensed by the State of Oregon under ORS 430.610 to 430.695 to provide mental health treatment or addiction services, provided that the person is practicing within the lawful scope of the person's employment or contract;

(4) A recognized member of the clergy, provided that the person is acting in the person's ministerial capacity and does not represent that the person is a regulated social worker; or

(5) A student in a social work graduate degree program that meets the requirements established by the State Board of Licensed Social Workers by rule.

SECTION 5. To safeguard the people of the State of Oregon from the dangers of unqualified and improper practice of social work, a regulated social worker whose authorization to practice regulated social work has been revoked by the State Board of Licensed Social Workers may not:

(1) Engage in or offer to engage in the practice of clinical social work.

(2) Represent that the person is a regulated social worker by using any title, words or abbreviations that indicate that the person has an authorization to practice regulated social work.

SECTION 6. (1) If an applicant for initial registration as a baccalaureate social worker has complied with the requirements of this section and has paid the fee under ORS 675.571, the State Board of Licensed Social Workers shall register the applicant as a baccalaureate social worker. Upon registration, the board shall issue notice of the registration to the applicant.

(2) An applicant for registration as a baccalaureate social worker shall submit evidence satisfactory to the board that the applicant:

(a) Has complied with the requirements of all applicable provisions of ORS 675.510 to 675.600 and the applicable rules of the board;

(b) Holds a bachelor's degree in social work from a college or university accredited by an accrediting organization recognized by the board; and

(c) If required under ORS 675.535, has passed the written examination for registration as a baccalaureate social worker.

SECTION 7. (1) If an applicant for initial licensure as a master's social worker has complied with the requirements of this section and has paid the fee under ORS 675.571, the State Board of Licensed Social Workers shall issue a license to the applicant.

(2) An applicant for licensure as a master's social worker shall submit evidence satisfactory to the board that the applicant:

(a) Has complied with the requirements of all applicable provisions of ORS 675.510 to 675.600 and the applicable rules of the board;

(b) Holds a master's degree in social work from a college or university accredited by an accrediting organization recognized by the board; and

(c) If required under ORS 675.535, has passed the written examination for licensure as a master's social worker.

SECTION 8. ORS 675.530 is amended to read:

675.530. [Upon application therefor accompanied by the fee established under ORS 675.571, the State Board of Clinical Social Workers shall issue a license to any applicant who furnishes evidence satisfactory to the board that the applicant:]

(1) If an applicant for initial licensure as a clinical social worker has complied with the requirements of this section and has paid the fee under ORS 675.571, the State Board of Licensed Social Workers shall issue a license to the applicant.

(2) An applicant for licensure as a clinical social worker shall submit evidence satisfactory to the board that the applicant:

[1] **(a)** Has [completed] **complied with** all applicable provisions of ORS 675.510 to 675.600 and the applicable rules of the board;

[2] **(b)** Holds a master's degree in social work from [an accredited] **a** college or university accredited by [the Council on Social Work Education;] **an accrediting organization recognized by the board;**

[3] **(c)** Has completed the equivalent of two years of full-time experience in the field of clinical social work in accordance with rules of the board;[. *The rules shall be developed after consultation with persons active in the field of clinical social work and may take into account experience which may be gained in the course of the study of social work;*]

[4] **(d)** Has satisfactorily completed the requirements for certificate of clinical social work associate; and

[5] *Has performed to the satisfaction of the board in the written examination prescribed by the board.*]

(e) If required under ORS 675.535, has passed the written examination for licensure as a clinical social worker.

(3) The board shall adopt rules relating to the clinical experience required under subsection (2)(c) of this section after consultation with persons active in the field of clinical social work. The rules may allow for including experience obtained in the course of the study of social work as part of the clinical experience required under subsection (2)(c) of this section.

SECTION 9. ORS 675.530, as amended by section 8 of this 2009 Act, is amended to read:

675.530. (1) If an applicant for initial licensure as a clinical social worker has complied with the requirements of this section and has paid the fee under ORS 675.571, the State Board of Licensed Social Workers shall issue a license to the applicant.

(2) An applicant for licensure as a clinical social worker shall submit evidence satisfactory to the board that the applicant:

(a) Has complied with all applicable provisions of ORS 675.510 to 675.600 and the applicable rules of the board;

(b) Holds a master's degree in social work from a college or university accredited by an accrediting organization recognized by the board;

(c) Has completed the equivalent of two years of full-time experience in the field of clinical social work in accordance with rules of the board;

[d] *Has satisfactorily completed the requirements for certificate of clinical social work associate; and]*

(d) Holds a certificate of clinical social work associate issued under ORS 675.537 before January 1, 2011, or holds a valid master's social worker license issued under section 7 of this 2009 Act; and

(e) If required under ORS 675.535, has passed the written examination for licensure as a clinical social worker.

(3) The board shall adopt rules relating to the clinical experience required under subsection (2)(c) of this section after consultation with persons active in the field of clinical social work. The rules may allow for including experience obtained in the course of the study of social work as part of the clinical experience required under subsection (2)(c) of this section.

SECTION 10. ORS 675.535 is amended to read:

675.535. (1) *[The State Board of Clinical Social Workers shall adopt rules stating the subject]* **The State Board of Licensed Social Workers may adopt rules to establish written examination requirements for:**

- (a) **Baccalaureate social worker registration;**
- (b) **Master's social worker licensing; or**
- (c) **Clinical social worker licensing.**

(2) **The rules adopted by the board under this section shall specify the subjects** on which an applicant may be examined, how the written examination is to be administered and the scoring or evaluation process used to determine whether an applicant has passed the examination. The board shall provide a copy of *[these]* **the** rules to an applicant at least 30 days prior to any examination.

[(2)] (3) Examinations *[for applicants for licenses under ORS 675.510 to 675.600]* **for authorizations to practice regulated social work conducted under ORS 675.510 to 675.600** shall be held *[not less frequently than]* **at least** once every year at such times and places as the board may determine. Timely and appropriate notice shall be sent to each applicant.

[(3)] (4) Upon written request to the board, any applicant may discuss the applicant's performance on the examination with the board.

[(4)] (5) Any applicant who fails to attain a passing grade on the examination shall be allowed to take the examination a second time. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

SECTION 11. ORS 675.537 is amended to read:

675.537. *[Upon application therefor accompanied by the fee established under ORS 675.571, the State Board of Clinical Social Workers shall issue a certificate of clinical social work associate to any applicant who furnishes evidence satisfactory to the board that the applicant:]*

(1) **If an applicant for initial certification as a clinical social work associate has complied with the requirements of this section and has paid the fee under ORS 675.571, the State Board of Licensed Social Workers shall certify the applicant. Upon certification, the board shall issue a certificate to the applicant.**

(2) **An applicant for certification as a clinical social work associate shall submit evidence satisfactory to the board that the applicant:**

[(1)] (a) Has *[completed]* **complied with** all applicable provisions of ORS 675.510 to 675.600 and the applicable rules of the board;

[(2)] (b) Holds a master's degree in social work from *[an accredited]* a college or university accredited by *[the Council on Social Work Education]* **an accrediting organization recognized by the board;** and

[(3)] (c) Has developed a plan approved by the board for completion of practice and supervision requirements as defined by the rules of the board.

SECTION 12. ORS 675.540 is amended to read:

675.540. (1) The State Board of *[Clinical]* **Licensed Social Workers** may impose any or all of the sanctions specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of ORS chapter 183 relating to a contested case, that a *[person:]* **regulated social worker:**

- (a) Has been convicted in this or any other state of a crime that is a felony in this state;
- (b) Has been convicted of a felony in a federal court;
- (c) Is unable to perform the practice of *[clinical]* social work by reason of mental illness, physical illness or alcohol or other drug abuse;
- (d) Has been grossly negligent or has engaged in unprofessional conduct in the practice of *[clinical]* social work; or

[(e)] *Has violated one or more of the rules of the board pertaining to the certification or licensing of clinical social workers.]*

(e) **Has violated any provision of ORS 675.510 to 675.600 or any rule adopted under ORS 675.600.**

(2) Pursuant to the provisions of subsection (1) of this section, the board may:

(a) Deny, suspend, revoke or refuse to renew any [*certificate or license*] **authorization to practice regulated social work** issued under ORS 675.510 to 675.600.

(b) Place a [*licensed clinical*] **regulated social worker** on probation and impose conditions or limits on the scope of practice of a [*licensed clinical*] **regulated social worker**.

(c) Impose a civil penalty not to exceed [*\$1,000.*] **\$3,000 for each violation.**

(3) The expiration, or **voluntary surrender** [*of a license or the voluntary surrender of a license by the licensee shall*] **by a regulated social worker, of an authorization to practice regulated social work** does not deprive the board of jurisdiction to proceed with any investigation of, or any action or disciplinary proceedings against, the [*licensee.*] **regulated social worker.**

(4) Information that the board obtains as part of an investigation into [*licensee or applicant conduct*] **the conduct of a regulated social worker or an applicant for an authorization to practice regulated social work** or as part of a contested case proceeding, consent order or stipulated agreement involving [*licensee or applicant conduct*] **the conduct of a regulated social worker or applicant**, is confidential as provided under ORS 676.175.

[*(5) Upon receipt of a complaint under ORS 675.510 to 675.600, the board shall conduct an investigation as described under ORS 676.165.*]

(5) **Subject to the provisions of ORS chapter 183 relating to a contested case, the board may impose a civil penalty in an amount up to \$5,000 upon proof that, after a person's authorization to practice regulated social work has been revoked by the board, the person has:**

(a) **Engaged in the practice of clinical social work; or**

(b) **Represented that the person is a regulated social worker.**

SECTION 12a. Subject to the provisions of ORS chapter 183 relating to a contested case, the State Board of Licensed Social Workers may impose a civil penalty of up to \$5,000 upon proof that a person who is not a clinical social worker licensed under ORS 675.530 or a clinical social work associate certified under ORS 675.537 has:

(1) **Engaged in the practice of clinical social work, unless the person is permitted to practice clinical social work under section 4a of this 2009 Act; or**

(2) **Represented that the person is a clinical social worker or clinical social work associate.**

SECTION 12b. Subject to the provisions of ORS chapter 183 relating to a contested case, the State Board of Licensed Social Workers may impose a civil penalty of up to \$3,000 upon proof that a person who is not a regulated social worker has:

(1) **Represented that the person is a regulated social worker; or**

(2) **Used the title "social worker" or any title, words or abbreviations that indicate that the person has an authorization to practice regulated social work in violation of ORS 675.520.**

SECTION 13. ORS 675.550 is amended to read:

675.550. [*In case a certificate or license has been revoked or the renewal thereof refused,*] **If the State Board of [*Clinical*] Licensed Social Workers has revoked or refused to reissue or renew an authorization to practice regulated social work, the board may reissue [*such certificate or license at the expiration of*] the authorization after one year from the [*time it was revoked.*] date of the revocation or the date the reissuance or renewal was refused.**

SECTION 14. ORS 675.560 is amended to read:

675.560. (1) [*Associate certification or licensure shall be*] **An authorization to practice regulated social work granted by the State Board of Licensed Social Workers under ORS 675.510 to 675.600 is effective when [*an associate certificate or license*] the authorization is issued by the [*State Board of Clinical Social Workers.*] board.**

(2) [*Associate certification or licensure shall expire*] **An authorization to practice regulated social work granted by the board expires on the date established by the board by rule.**

(3) **The board shall adopt rules setting forth requirements for renewal of a baccalaureate social worker registration and renewal of a master's social worker license.**

[3] (4) *[Renewal of associate certification may be obtained upon]* **A clinical social work associate certified by the board under ORS 675.537 may renew the certification by:**

- (a) Payment of the *[appropriate fee and the]* **renewal fee established under ORS 675.571; and**
- (b) Submission of a sworn statement by the associate, on a form provided by the board, that demonstrates to the board's satisfaction that satisfactory progress is being made toward completion of the associate's adopted supervisory plan.

[4] (5) *[Renewal of a license may be obtained upon]* **A clinical social worker licensed under ORS 675.530 may renew the license by:**

- (a) Payment of the *[appropriate fee]* **renewal fee established under ORS 675.571; and** *[the]*
- (b) Submission of a sworn statement by the applicant, on a form provided by the board, *[that ensures]* that the applicant *[has been actively engaged in clinical social work during the license period and]*:

(A) Has completed *[the]* applicable continuing education requirements **established by the board under ORS 675.565; and**

(B) *[that there exists no]* **Is unaware of any** reason for denial of the renewal.

SECTION 15. ORS 675.565 is amended to read:

675.565. (1) *[The State Board of Clinical Social Workers shall require evidence of continuing education as a requirement for renewal of licensure in order to insure the highest quality of professional services to the public.]* **The State Board of Licensed Social Workers may establish by rule continuing education requirements for the renewal of authorizations to practice regulated social work.**

(2) **The board may require applicants for renewal of authorization to practice regulated social work to submit evidence of completion of continuing education requirements as a condition of renewal in order to ensure the highest quality of professional services to the public.**

SECTION 16. ORS 675.571 is amended to read:

675.571. (1) *[The State Board of Clinical Social Workers shall collect fees for application for certification, annual renewal of certification, examination, reexamination, licensure and annual renewal of licensure and delinquent renewal fees.]* **The State Board of Licensed Social Workers shall collect fees for:**

- (a) **Examination and reexamination.**
- (b) **An initial authorization to practice regulated social work.**
- (c) **Renewal of an authorization to practice regulated social work.**
- (d) **Delinquent renewal of an authorization to practice regulated social work.**

(2) *[Such fees are to]* **Fees collected under subsection (1) of this section shall be deposited in the State Board of Licensed Social Workers Account established under ORS 675.597 and shall be used to defray the expenses of the board** *[and are continuously appropriated for that purpose].*

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section may not exceed the cost of administering the regulatory program pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the budget of the *[State Board of Clinical Social Workers,]* **State Board of Licensed Social Workers**, as the budget may be modified by the Emergency Board.

(4) The *[State Board of Clinical Social Workers]* **State Board of Licensed Social Workers** may impose a delinquent renewal fee for *[certificates and licenses]* **an authorization to practice regulated social work** if the application for renewal is not filed and accepted by the renewal date established by the board by rule, but is filed and accepted within 30 days of the renewal date. *[A license or certificate]* **An authorization to practice regulated social work** is lapsed if an application for renewal is not filed and accepted within 30 days of the renewal date.

(5) *[All]* Fees collected under this section are nonrefundable.

SECTION 17. ORS 675.580 is amended to read:

675.580. (1) [A licensed clinical social worker, a certified clinical social work associate or any employees of the licensed clinical social worker shall] **A regulated social worker or any employee of the regulated social worker may not disclose any communication given by a client in the course of noninvestigatory professional activity when [such] the communication was given to enable the [licensed clinical social worker] regulated social worker to aid the client, except when:**

(a) [When] The client or [those persons] **a person** legally responsible for the client's affairs [give] **gives** consent to the disclosure;

(b) [When] The client initiates legal action or makes a complaint against the [licensed clinical social worker] **regulated social worker** to the [State Board of Clinical Social Workers.] **State Board of Licensed Social Workers;**

(c) The board requests the information as part of an investigation or proceeding;

[(c)] (d) [When] The communication reveals a clear intent to commit a crime [which] **that** reasonably is expected to result in physical injury to a person;

[(d)] (e) [When] The communication reveals that a minor was the victim of a crime, abuse or neglect;

[(e)] (f) [When] Disclosure of the communication is necessary to obtain further professional assistance for the client; or

[(f)] (g) [When] **Disclosure of the communication is** otherwise required by ORS 124.060, 419B.010 or 430.765.

(2) Nothing in this section is intended to prevent a [licensed clinical social worker] **regulated social worker** who is a public employee from disclosing communications from a client when [such a] **the** disclosure is made in the performance of the [licensed clinical social worker's] **regulated social worker's** duty as a public employee and the public employer has determined that [such] **the** disclosure is necessary in the performance of the duty of the [licensed clinical social worker] **regulated social worker** as a public employee.

SECTION 18. ORS 675.583 is amended to read:

675.583. (1) [A licensed clinical social worker] **A regulated social worker** shall report to the [State Board of Clinical Social Workers] **State Board of Licensed Social Workers** any information the [licensed clinical social worker] **regulated social worker** has that appears to show that [a licensed clinical social worker] **a regulated social worker** is or may be an impaired [clinical] social worker, or may [be guilty of] **have engaged in** unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclosure does not conflict with the requirements of ORS 675.580.

(2) **Notwithstanding ORS 676.175**, any information that the board obtains pursuant to subsection (1) of this section is confidential [as provided under ORS 676.175.] **and may not be disclosed except as provided by the board by rule.**

(3) [Any] **A person** who reports or provides information to the board under subsection (1) of this section in good faith [shall not be] **is not** subject to an action for civil damages as a result thereof.

SECTION 19. ORS 675.585 is amended to read:

675.585. (1) Upon complaint of any person, or upon its own initiative, the [State Board of Clinical Social Workers] **State Board of Licensed Social Workers** may investigate any alleged violation of ORS 675.510 to 675.600.

(2) Any information that the board obtains pursuant to subsection (1) of this section is confidential as provided under ORS 676.175 and [shall not be] **is not** admissible in judicial proceedings, other than judicial review as provided for under ORS 183.480, until the board votes to take final action.

(3) Any person who reports or provides information to the board under subsection (1) of this section in good faith [shall not be] **is not** subject to an action for civil damages as a result thereof.

(4) In addition to any other privilege or immunity provided by law, members of the board, members of its administrative and investigative staff, agents of the board and attorneys acting for the board as prosecutors or counsel have the same privileges and immunities from

civil, administrative and criminal proceedings arising by reason of official actions as prosecuting and judicial officers of the state.

(5) A person who has made a complaint to the board or who has given information or testimony relative to a proposed or pending proceeding before the board is not answerable for any such act in any proceeding except for perjury.

SECTION 20. ORS 675.590 is amended to read:

675.590. (1) There is established a [State Board of Clinical Social Workers.] **State Board of Licensed Social Workers.**

(2) The Governor shall appoint seven members to the board, consisting of members as specified in subsection (4) of this section.

(3) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for one consecutive reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) The composition of the board shall be as follows:

[a] *Four members shall be licensed clinical social workers who are licensed in accordance with the provisions of ORS 675.510 to 675.600; and*

(a) Four members shall be clinical social workers licensed under ORS 675.530; and

(b) Three members shall be public [*citizens*] **members** who have demonstrated an interest in the field of clinical social work.

(5) Members are entitled to compensation and expenses as provided in ORS 292.495.

SECTION 21. ORS 675.595 is amended to read:

675.595. In addition to the powers otherwise granted under ORS 675.510 to 675.600, the [State Board of Clinical Social Workers] **State Board of Licensed Social Workers** shall have the following powers:

(1) To determine the qualifications of applicants to practice [*clinical*] social work in this state.

(2) To cause to have examinations prepared, conducted and graded.

(3) To grant [*certificates or licenses*] **authorizations to practice regulated social work** to qualified applicants upon their compliance with the provisions of ORS 675.510 to 675.600 and the rules of the board.

(4) To grant or deny [*annual*] renewal of **authorizations to practice regulated social work** [*certificates or licenses and to renew certificates and licenses that have lapsed for nonpayment of the renewal fee, subject to the provisions of ORS 675.510 to 675.600*].

(5) To suspend or revoke [*certificates or licenses, subject to ORS 675.510 to 675.600*] **authorizations to practice regulated social work.**

(6) To issue letters of reprimand. [*or*]

(7) To impose probationary periods with the authority to restrict the scope of practice of a [*licensed clinical social worker or clinical social work associate.*] **regulated social worker.**

[(7)] **(8) To require that a [licensee] regulated social worker:**

(a) Practice under supervision[.];

[(8)] **(b) [To require that a licensee] Obtain additional training in social work[.]; or**

[(9)] **(c) [To require that a licensee] Undergo psychological, physical or psychiatric assessment, enter into and remain in any prescribed treatment program and disclose the results of the treatment program to the board.**

[(10)] **(9) To impose civil penalties [not to exceed \$1,000] as provided in ORS 675.540.**

[(11)] **(10) To restore [certificates or licenses] authorizations to practice regulated social work that have been suspended, revoked or voided by nonpayment of the renewal fee.**

[(12)(a)] **(11) To collect [annual] fees for application, examination and [certification or licensing of applicants,] reexamination of applicants for initial authorizations to practice regulated social work as provided in ORS 675.571.**

(12) To collect fees for renewal of [certificates and licenses, and for issuance of limited certificates, such fees to be used to defray the expenses of the board as provided in ORS 675.571; and] **authorizations to practice regulated social work as provided in ORS 675.671.**

[(b)] (13) To collect delinquent renewal fees as provided in ORS 675.571 (4).

[(13)] (14) To investigate alleged violations of ORS 675.510 to 675.600.

[(14)] (15) To issue subpoenas for the attendance of witnesses, take testimony, administer oaths or affirmations to witnesses, conduct hearings and require the production of relevant documents in all proceedings pertaining to the duties and powers of the board.

[(15)] (16) To enforce ORS 675.510 to 675.600 and exercise general supervision over the practice of [clinical] social work in this state.

[(16)] (17) To adopt a common seal.

[(17)] (18) To formulate and enforce a code of professional conduct for the practice of [clinical] social work giving particular consideration to the code of ethics.

[(18)] (19) To formulate and enforce continuing education requirements for [licensed clinical social workers] **regulated social workers** to ensure the highest quality of professional services to the public.

[(19)] (20) To take such other disciplinary action as the board in its discretion finds proper, including but not limited to assessment of the costs of the disciplinary process.

[(20)] (21) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, to require the fingerprints of a person who is:

(a) Applying for [a license or certificate that is issued by the board;] **an authorization to practice regulated social work;**

(b) Applying for renewal of [a license or certificate that is issued by the board;] **an authorization to practice regulated social work;** or

(c) Under investigation by the board.

SECTION 22. ORS 675.597 is amended to read:

675.597. [All moneys received by the State Board of Clinical Social Workers under ORS 675.510 to 675.600 shall be paid into the General Fund in the State Treasury and placed to the credit of the State Board of Clinical Social Workers Account, which is hereby established. Such moneys are appropriated continuously and shall be used only for the administration and enforcement of ORS 675.510 to 675.600.] **The State Board of Licensed Social Workers Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the State Board of Licensed Social Workers Account shall be credited to the account. Moneys in the account are continuously appropriated to the board for the administration and enforcement of ORS 675.510 to 675.600.**

SECTION 23. ORS 675.600 is amended to read:

675.600. (1) [The State Board of Clinical Social Workers shall:] **The State Board of Licensed Social Workers shall:**

(a) Pursuant to ORS chapter 183, make rules necessary to carry out the provisions of ORS 675.510 to 675.600[;].

(b) Publish annually a list of the names and addresses of all persons who have been [certified or licensed under ORS 675.510 to 675.600;] **authorized to practice regulated social work.**

(c) Establish a program for impaired [clinical] social workers to assist [licensed clinical] **regulated** social workers to regain or retain their [certification or licensure] **authorizations to practice regulated social work** and impose the requirement of participation as a condition to reissuance or retention of the [certificate or license;] **authorization.**

(d) Establish a voluntary arbitration procedure that may be invoked with the consent of clients and [the licensed clinical] **regulated** social workers whereby disputes between clients and workers may be resolved; and].

(e) Report to the Legislative Assembly on its activities regarding [the certification or licensure of clinical social workers] **authorizations to practice regulated social work** during the preceding biennium.

(2) The board may appoint an administrator who *[shall]* **may** not be a member of the board. The board shall fix the compensation for the administrator.

(3) Any information obtained by the board as part of the impaired social workers program is confidential and may not be disclosed except as provided by the board by rule.

SECTION 24. ORS 675.825 is amended to read:

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

(a) Attempt to obtain or obtain a license or renewal thereof by bribery or fraudulent representation.

(b) Purport to the public to be engaged in the practice of professional counseling under the title “licensed professional counselor” unless the person possesses a valid license to practice professional counseling as provided in ORS 675.715 to 675.835.

(c) Purport to the public to be engaged in the practice of marriage and family therapy under the title of “licensed marriage and family therapist” unless the person possesses a valid license to practice marriage and family therapy as provided in ORS 675.715 to 675.835.

(2) Nothing in ORS 675.715 to 675.835 is intended to limit or prevent the practice of an individual’s profession or to restrict a person from providing counseling services or marriage and family therapy if the person or individual does not represent to the public by title that the person or individual is a licensed professional counselor or licensed marriage and family therapist. The prohibition on the use of the title marriage and family therapist does not apply to a *[registered or licensed clinical social worker or]* licensed psychologist whose *[registration or]* license, **or a regulated social worker whose authorization to practice regulated social work**, was issued prior to October 1, 1991.

(3) Each violation of this section is a separate violation.

(4) The Oregon Board of Licensed Professional Counselors and Therapists may levy a civil penalty not to exceed \$1,000 for each separate violation.

SECTION 25. ORS 675.990 is amended to read:

675.990. (1)(a) Violation of any provision of ORS 675.010 to 675.150 is a Class C misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, violation of ORS 675.020 is a Class A misdemeanor.

(2) *[On and after July 1, 1978,]* Violation of any provision of ORS 675.220 is a Class B misdemeanor.

(3) The following shall be Class C misdemeanors:

(a) Any violation of ORS 675.520;

(b) Obtaining or attempting to obtain **or renew** *[a certificate or license, or renewal thereof,]* **an authorization to practice regulated social work** by bribery or fraudulent representation;

(c) Knowingly making a false statement in connection with any application **for an authorization to practice regulated social work** under ORS 675.510 to 675.600; or

(d) Knowingly making a false statement on any form adopted by the *[State Board of Clinical Social Workers]* **State Board of Licensed Social Workers** in accordance with ORS 675.510 to 675.600, or the rules adopted under ORS 675.510 to 675.600.

SECTION 26. ORS 30.868 is amended to read:

30.868. (1) Any of the following persons may bring a civil action to secure damages against any and all persons whose actions are unlawful under ORS 163.257 (1)(a):

(a) A person who is 18 years of age or older and who has been taken, enticed or kept in violation of ORS 163.257 (1)(a); or

(b) A person whose custodial rights have been interfered with if, by reason of the interference:

(A) The person has reasonably and in good faith reported a person missing to any city, county or state police agency; or

(B) A defendant in the action has been charged with a violation of ORS 163.257 (1)(a).

(2) An entry of judgment or a certified copy of a judgment against the defendant for a violation of ORS 163.257 (1)(a) is prima facie evidence of liability if the plaintiff was injured by the defendant’s unlawful action under the conviction.

(3)(a) For purposes of this section, a public or private entity that provides counseling and shelter services to victims of domestic violence is not considered to have violated ORS 163.257 (1)(a) if the entity provides counseling or shelter services to a person who violates ORS 163.257 (1)(a).

(b) As used in this subsection, "victim of domestic violence" means an individual against whom domestic violence, as defined in ORS 135.230, 181.610, 411.117 or 657.176, has been committed.

(4) Bringing an action under this section does not prevent the prosecution of any criminal action under ORS 163.257.

(5) A person bringing an action under this section must establish by a preponderance of the evidence that a violation of ORS 163.257 (1)(a) has occurred.

(6) It is an affirmative defense to civil liability for an action under this section that the defendant reasonably and in good faith believed that the defendant's violation of ORS 163.257 (1)(a) was necessary to preserve the physical safety of:

(a) The defendant;

(b) The person who was taken, enticed or kept in violation of ORS 163.257 (1)(a); or

(c) The parent or guardian of the person who was taken, enticed or kept in violation of ORS 163.257 (1)(a).

(7)(a) If the person taken, enticed or kept in violation of ORS 163.257 (1)(a) is under 18 years of age at the time an action is brought under this section, the court may:

(A) Appoint an attorney who is licensed to practice law in Oregon to act as guardian ad litem for the person; and

(B) Appoint one of the following persons to provide counseling services to the person:

(i) A psychiatrist.

(ii) A psychologist licensed under ORS 675.010 to 675.150.

(iii) A clinical social worker licensed under ORS [675.510 to 675.600.] **675.530.**

(iv) A professional counselor or marriage and family therapist licensed under ORS 675.715.

(b) The court may assess against the parties all costs of the attorney or person providing counseling services appointed under this subsection.

(8) If an action is brought under this section by a person described under subsection (1)(b) of this section and a party shows good cause that it is appropriate to do so, the court may order the parties to obtain counseling directed toward educating the parties on the impact that the parties' conflict has on the person taken, enticed or kept in violation of ORS 163.257 (1)(a). The court may assess against the parties all costs of obtaining counseling ordered under this subsection.

(9) Upon prevailing in an action under this section, the plaintiff may recover:

(a) Special and general damages, including damages for emotional distress; and

(b) Punitive damages.

(10) The court may award reasonable attorney fees to the prevailing party in an action under this section.

(11)(a) Notwithstanding ORS 12.110, 12.115, 12.117 or 12.160, an action under this section must be commenced within six years after the violation of ORS 163.257 (1)(a). An action under this section accruing while the person who is entitled to bring the action is under 18 years of age must be commenced not more than six years after that person attains 18 years of age.

(b) The period of limitation does not run during any time when the person taken, enticed or kept in violation of ORS 163.257 (1)(a) is removed from this state as a result of the defendant's actions in violation of ORS 163.257 (1)(a).

SECTION 27. ORS 31.740 is amended to read:

31.740. Punitive damages [shall] **may** not be awarded against a health practitioner if:

(1) The health practitioner is licensed, registered or certified as:

(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

(b) An occupational therapist under ORS 675.230 to 675.300;

[c] A licensed clinical social worker under ORS 675.530, 675.540 to 675.560, 675.580 and 675.585;]

(c) **A regulated social worker under ORS 675.510 to 675.600;**

- (d) A physician under ORS 677.100 to 677.228;
- (e) An emergency medical technician under ORS chapter 682;
- (f) A podiatric physician and surgeon under ORS 677.820 to 677.840;
- (g) A nurse under ORS 678.040 to 678.101;
- (h) A nurse practitioner under ORS 678.375 to 678.390;
- (i) A dentist under ORS 679.060 to 679.180;
- (j) A dental hygienist under ORS 680.040 to 680.100;
- (k) A denturist under ORS 680.515 to 680.535;
- (L) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
- (m) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
- (n) A chiropractor under ORS 684.040 to 684.105;
- (o) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- (p) A massage therapist under ORS 687.021 to 687.086;
- (q) A physical therapist under ORS 688.040 to 688.145;
- (r) A radiologic technician under ORS 688.445 to 688.525;
- (s) A pharmacist under ORS 689.151 and 689.225 to 689.285; or
- (t) A physician assistant as provided by ORS 677.505 to 677.525; and
- (2) The health practitioner was engaged in conduct regulated by the license, registration or certificate issued by the appropriate governing body and was acting within the scope of practice for which the license, registration or certificate was issued and without malice.

SECTION 28. ORS 40.250 is amended to read:

40.250. A *[clinical social worker licensed by the State Board of Clinical Social Workers shall]* **regulated social worker under ORS 675.510 to 675.600** may not be examined in a civil or criminal court proceeding as to any communication given the *[clinical]* **regulated** social worker by a client in the course of noninvestigatory professional activity when *[such]* **the** communication was given to enable the *[licensed clinical]* **regulated** social worker to aid the client, except **when**:

- (1) *[When]* The client or *[those persons]* **a person** legally responsible for the client's affairs *[give]* **gives** consent to the disclosure;
- (2) *[When]* The client initiates legal action or makes a complaint against the *[licensed clinical]* **regulated** social worker to the *[board]* **State Board of Licensed Social Workers**;
- (3) *[When]* The communication reveals a clear intent to commit a crime *[which]* **that** reasonably is expected to result in physical injury to a person;
- (4) *[When the information]* **The communication** reveals that a minor was the victim of a crime, abuse or neglect; or
- (5) *[When the licensed clinical]* **The regulated** social worker is a public employee and the public employer has determined that examination in a civil or criminal court proceeding is necessary in the performance of the duty of the **regulated** social worker as a public employee.

SECTION 29. ORS 109.346 is amended to read:

109.346. (1) Except as provided in subsection (5) of this section, a birth parent consenting to an adoption shall receive notice of the birth parent's right to payment for three adoption-related counseling sessions prior to surrender or relinquishment of the child for adoption and three sessions of adoption-related counseling after surrender or relinquishment of the child for adoption.

(2) Notice of the right to adoption-related counseling shall be in writing and shall be provided to the consenting birth parent by either the attorney for the birth parent, the agency representative taking the birth parent's consent or the attorney for the prospective adoptive parent. Before entry of a judgment of adoption, the agency or attorney providing the written notice shall submit verification to the court that the notice was given to the consenting birth parent.

(3) The prospective adoptive parent shall pay all uninsured costs of the adoption-related counseling required by this section, provided the counseling is received within one year of the date of surrender or relinquishment of the child for adoption.

(4) Adoption-related counseling under this section, unless otherwise agreed to by the prospective adoptive parent and the consenting birth parent, shall be provided by:

(a) A **regulated** social worker as defined in ORS 675.510 who is employed by an Oregon licensed adoption agency other than the **regulated** social worker assigned to the prospective adoptive parent;

(b) A **regulated** social worker, counselor or therapist who is working under the supervision of a [*licensed*] clinical social worker **licensed under ORS 675.530** or a licensed professional counselor and who is knowledgeable about birth parent, adoption and grief and loss issues; or

(c) A **clinical** social worker **licensed under ORS 675.530**, counselor or therapist who:

(A) Has a graduate degree in social work, counseling or psychology; and

(B) Is knowledgeable about birth parent, adoption and grief and loss issues.

(5) The requirements of this section do not apply to:

(a) An adoption in which a birth parent relinquishes parental rights to the Department of Human Services;

(b) An adoption in which one parent retains parental rights;

(c) An adoption in which the child is born in a foreign country and adopted under the laws of that country or readopted in Oregon;

(d) An adoption in which the child is born in a foreign country and subsequently adopted in Oregon and in which the identity or whereabouts of the child's birth parents are unknown; or

(e) An adoption of an adult.

(6) Failure to provide the notice required by this section or failure to pay the uninsured costs of adoption-related counseling required by this section is not grounds for setting aside an adoption judgment or for revocation of a written consent to an adoption or a certificate of irrevocability.

SECTION 30. ORS 109.675 is amended to read:

109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, excluding methadone maintenance, by a physician licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist Examiners, a nurse practitioner registered by the Oregon State Board of Nursing, a clinical social worker licensed by the [*State Board of Clinical Social Workers*] **State Board of Licensed Social Workers** or a community mental health and developmental disabilities program established and operated pursuant to ORS 430.620 when approved to do so by the Department of Human Services pursuant to rule.

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

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

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

SECTION 31. ORS 109.680 is amended to read:

109.680. A physician, psychologist, nurse practitioner, [*licensed*] clinical social worker **licensed under ORS 675.530** or community mental health and developmental disabilities program described in ORS 109.675 may advise the parent or parents or legal guardian of any minor described in ORS 109.675 of the diagnosis or treatment whenever the disclosure is clinically appropriate and will serve the best interests of the minor's treatment because the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or the minor's condition requires detoxification in a residential or acute care facility. If such disclosure is made, the physician, psychologist, nurse practitioner, [*licensed*] clinical social worker **licensed under ORS 675.530** or community mental health and developmental disabilities program shall not be subject to any civil liability for advising the parent, parents or legal guardian without the consent of the minor.

SECTION 32. ORS 109.685 is amended to read:

109.685. A physician, psychologist, nurse practitioner, [*licensed*] clinical social worker **licensed under ORS 675.530** or community mental health and developmental disabilities program described in ORS 109.675 who in good faith provides diagnosis or treatment to a minor as authorized by ORS 109.675 shall not be subject to any civil liability for providing such diagnosis or treatment without consent of the parent or legal guardian of the minor.

SECTION 33. ORS 124.050 is amended to read:

124.050. As used in ORS 124.050 to 124.095:

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

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

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

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

(d) Willful infliction of physical pain or injury.

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

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

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

(3) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(4) "Public or private official" means:

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

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

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

(d) Peace officer.

(e) Member of the clergy.

(f) [*Licensed clinical*] **Regulated** social worker.

(g) Physical, speech or occupational therapists.

(h) Senior center employee.

(i) Information and referral or outreach worker.

(j) Licensed professional counselor or licensed marriage and family therapist.

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

(L) Firefighter or emergency medical technician.

SECTION 34. ORS 192.519 is amended to read:

192.519. As used in ORS 192.518 to 192.529:

(1) "Authorization" means a document written in plain language that contains at least the following:

(a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;

(b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;

(c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;

(d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;

(e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

(f) The signature of the individual or personal representative of the individual and the date;

(g) A description of the authority of the personal representative, if applicable; and

(h) Statements adequate to place the individual on notice of the following:

(A) The individual's right to revoke the authorization in writing;

(B) The exceptions to the right to revoke the authorization;

(C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and

(D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.

(2) "Covered entity" means:

(a) A state health plan;

(b) A health insurer;

(c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.518 to 192.529; or

(d) A health care clearinghouse.

(3) "Health care" means care, services or supplies related to the health of an individual.

(4) "Health care operations" includes but is not limited to:

(a) Quality assessment, accreditation, auditing and improvement activities;

(b) Case management and care coordination;

(c) Reviewing the competence, qualifications or performance of health care providers or health insurers;

(d) Underwriting activities;

(e) Arranging for legal services;

(f) Business planning;

(g) Customer services;

(h) Resolving internal grievances;

(i) Creating de-identified information; and

(j) Fundraising.

(5) "Health care provider" includes but is not limited to:

(a) A psychologist, occupational therapist, *[clinical]* **regulated** social worker, professional counselor or marriage and family therapist licensed **or otherwise authorized to practice** under ORS chapter 675 or an employee of the psychologist, occupational therapist, *[clinical]* **regulated** social worker, professional counselor or marriage and family therapist;

(b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;

(c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;

(d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

(e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;

(f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;

- (g) An emergency medical technician certified under ORS chapter 682;
 - (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
 - (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;
 - (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;
 - (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;
 - (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;
 - (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;
 - (n) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the radiologic technologist;
 - (o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the respiratory care practitioner;
 - (p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
 - (q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;
 - (r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;
 - (s) A health care facility as defined in ORS 442.015;
 - (t) A home health agency as defined in ORS 443.005;
 - (u) A hospice program as defined in ORS 443.850;
 - (v) A clinical laboratory as defined in ORS 438.010;
 - (w) A pharmacy as defined in ORS 689.005;
 - (x) A diabetes self-management program as defined in ORS 743A.184; and
 - (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.
- (6) "Health information" means any oral or written information in any form or medium that:
- (a) Is created or received by a covered entity, a public health authority, an employer, a life insurer, a school, a university or a health care provider that is not a covered entity; and
 - (b) Relates to:
 - (A) The past, present or future physical or mental health or condition of an individual;
 - (B) The provision of health care to an individual; or
 - (C) The past, present or future payment for the provision of health care to an individual.
- (7) "Health insurer" means:
- (a) An insurer as defined in ORS 731.106 who offers:
 - (A) A health benefit plan as defined in ORS 743.730;
 - (B) A short term health insurance policy, the duration of which does not exceed six months including renewals;
 - (C) A student health insurance policy;
 - (D) A Medicare supplemental policy; or
 - (E) A dental only policy.
 - (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board under ORS 735.600 to 735.650.
- (8) "Individually identifiable health information" means any oral or written health information in any form or medium that is:
- (a) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and
 - (b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

- (A) The past, present or future physical or mental health or condition of an individual;
- (B) The provision of health care to an individual; or
- (C) The past, present or future payment for the provision of health care to an individual.
- (9) "Payment" includes but is not limited to:
 - (a) Efforts to obtain premiums or reimbursement;
 - (b) Determining eligibility or coverage;
 - (c) Billing activities;
 - (d) Claims management;
 - (e) Reviewing health care to determine medical necessity;
 - (f) Utilization review; and
 - (g) Disclosures to consumer reporting agencies.
- (10) "Personal representative" includes but is not limited to:
 - (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with authority to make medical and health care decisions;
 - (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions;
 - (c) A person appointed as a personal representative under ORS chapter 113; and
 - (d) A person described in ORS 192.526.
- (11)(a) "Protected health information" means individually identifiable health information that is maintained or transmitted in any form of electronic or other medium by a covered entity.
- (b) "Protected health information" does not mean individually identifiable health information in:
 - (A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);
 - (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
 - (C) Employment records held by a covered entity in its role as employer.
- (12) "State health plan" means:
 - (a) The state Medicaid program;
 - (b) The Oregon State Children's Health Insurance Program; or
 - (c) The Family Health Insurance Assistance Program established in ORS 735.720 to 735.740.
- (13) "Treatment" includes but is not limited to:
 - (a) The provision, coordination or management of health care; and
 - (b) Consultations and referrals between health care providers.

SECTION 35. ORS 409.520 is amended to read:

409.520. (1) The Pain Management Commission shall consist of 19 members as follows:

- (a) Seventeen members shall be appointed by the Director of Human Services. Prior to making appointments, the director shall request and consider recommendations from individuals and public and private agencies and organizations with experience or a demonstrated interest in pain management issues, including but not limited to:
 - (A) Physicians licensed under ORS chapter 677 or organizations representing physicians;
 - (B) Nurses licensed under ORS chapter 678 or organizations representing nurses;
 - (C) Psychologists licensed under ORS 675.010 to 675.150 or organizations representing psychologists;
 - (D) Physician assistants licensed under ORS chapter 677 or organizations representing physician assistants;
 - (E) Chiropractic physicians licensed under ORS chapter 684 or organizations representing chiropractic physicians;
 - (F) Naturopaths licensed under ORS chapter 685 or organizations representing naturopaths;
 - (G) Clinical social workers licensed under ORS [675.510 to 675.600] **675.530** or organizations representing clinical social workers;
 - (H) Acupuncturists licensed under ORS 677.759;
 - (I) Pharmacists licensed under ORS chapter 689;

- (J) Palliative care professionals or organizations representing palliative care professionals;
- (K) Mental health professionals or organizations representing mental health professionals;
- (L) Health care consumers or organizations representing health care consumers;
- (M) Hospitals and health plans or organizations representing hospitals and health plans;
- (N) Patients or advocacy groups representing patients;
- (O) Dentists licensed under ORS chapter 679;
- (P) Occupational therapists licensed under ORS 675.210 to 675.340;
- (Q) Physical therapists licensed under ORS 688.010 to 688.201; and
- (R) Members of the public.

(b) Two members shall be members of a legislative committee with jurisdiction over human services issues, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives. Both members shall be nonvoting, ex officio members of the commission.

(2) The term of office of each member is four years, but a member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

SECTION 36. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.

(D) Sexual abuse, as defined in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse or registered nurse.

(e) Employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) [*Licensed clinical*] **Regulated** social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Naturopathic physician.

(o) Licensed professional counselor.

(p) Licensed marriage and family therapist.

(q) Firefighter or emergency medical technician.

(r) A court appointed special advocate, as defined in ORS 419A.004.

(s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(t) Member of the Legislative Assembly.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

SECTION 37. ORS 419B.040 is amended to read:

419B.040. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to [*registered clinical*] **regulated** social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other.

SECTION 38. ORS 430.010 is amended to read:

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

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

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

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

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

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

- (c) ORS 430.610 to 430.880 for mental or emotional disturbances.
 - (4) "Outpatient service" means:
 - (a) A program or service providing treatment by appointment and by:
 - (A) Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS 677.010 to 677.450;
 - (B) Psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to 675.150;
 - (C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410; or
 - (D) [*Clinical*] **Regulated** social workers [*licensed*] **authorized to practice regulated social work** by the [*State Board of Clinical Social Workers*] **State Board of Licensed Social Workers** under ORS 675.510 to 675.600; or
 - (b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the department under:
 - (A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;
 - (B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or
 - (C) ORS 430.610 to 430.880 for mental or emotional disturbances.
- SECTION 39.** ORS 430.735 is amended to read:
 430.735. As used in ORS 430.735 to 430.765:
- (1) "Abuse" means one or more of the following:
 - (a) Any death caused by other than accidental or natural means.
 - (b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
 - (c) Willful infliction of physical pain or injury.
 - (d) Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult.
 - (e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.
 - (2) "Adult" means a person 18 years of age or older with:
 - (a) A developmental disability who is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; or
 - (b) A mental illness who is receiving services from a community program or facility.
 - (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.
 - (4) "Care provider" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.
 - (5) "Community program" means a community mental health and developmental disabilities program as established in ORS 430.610 to 430.695.
 - (6) "Department" means the Department of Human Services.
 - (7) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.
 - (8) "Law enforcement agency" means:
 - (a) Any city or municipal police department;
 - (b) Any county sheriff's office;
 - (c) The Oregon State Police; or
 - (d) Any district attorney.

(9) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident;

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

(c) Employee of the Department of Human Services, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) [*Licensed clinical*] **Regulated** social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist; or

(k) Any public official who comes in contact with adults in the performance of the official's duties.

SECTION 40. ORS 433.443 is amended to read:

433.443. (1) As used in this section:

(a) "**Covered entity**" means:

(A) **The Children's Health Insurance Program;**

(B) **The Family Health Insurance Assistance Program established under ORS 735.722;**

(C) **A health insurer that is an insurer as defined in ORS 731.106 and that issues health insurance as defined in ORS 731.162;**

(D) **The state medical assistance program; and**

(E) **A health care provider.**

(b) "**Health care provider**" includes but is not limited to:

(A) **A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;**

(B) **A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;**

(C) **A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;**

(D) **A dentist licensed under ORS chapter 679 or an employee of the dentist;**

(E) **A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;**

(F) **A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;**

(G) **An emergency medical technician certified under ORS chapter 682;**

(H) **An optometrist licensed under ORS chapter 683 or an employee of the optometrist;**

(I) **A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;**

(J) **A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;**

(K) **A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;**

(L) **A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;**

(M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(N) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the radiologic technologist;

(O) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the respiratory care practitioner;

(P) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(Q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;

(R) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(S) A health care facility as defined in ORS 442.015;

(T) A home health agency as defined in ORS 443.005;

(U) A hospice program as defined in ORS 443.850;

(V) A clinical laboratory as defined in ORS 438.010;

(W) A pharmacy as defined in ORS 689.005;

(X) A diabetes self-management program as defined in ORS 743A.184; and

(Y) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(c) "Individual" means a natural person.

(d) "Individually identifiable health information" means any oral or written health information in any form or medium that is:

(A) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(B) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(i) The past, present or future physical or mental health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The past, present or future payment for the provision of health care to an individual.

(e) "Legal representative" means attorney at law, person holding a general power of attorney, guardian, conservator or any person appointed by a court to manage the personal or financial affairs of a person, or agency legally responsible for the welfare or support of a person.

[(1)(a)] (2)(a) During a public health emergency [*proclaimed*] **declared** under ORS 433.441, the Public Health Director may, as necessary to appropriately respond to the public health emergency:

(A) Adopt reporting requirements for and provide notice of those requirements to health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health emergency;

(B) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment protocols to respond to the public health emergency and provide notice of those protocols to health care providers, institutions and facilities;

(C) Order, or authorize local public health administrators to order, public health measures appropriate to the public health threat presented;

(D) Upon approval of the Governor, take other actions necessary to address the public health emergency and provide notice of those actions to health care providers, institutions and facilities, including public health actions authorized by ORS 431.264;

(E) Take any enforcement action authorized by ORS 431.262, including the imposition of civil penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to comply with requirements resulting from actions taken in accordance with the powers granted to the Public Health Director under subparagraphs (A), (B) and (D) of this paragraph; and

(F) The authority granted to the Public Health Director under this section:

(i) Supersedes any authority granted to a local public health authority if the local public health authority acts in a manner inconsistent with guidelines established or rules adopted by the director under this section; and

(ii) Does not supersede the general authority granted to a local public health authority or a local public health administrator except as authorized by law or necessary to respond to a public health emergency.

(b) The authority of the Public Health Director to take administrative action, and the effectiveness of any action taken, under paragraph (a)(A), (B), (D), (E) and (F) of this subsection terminates upon the expiration of the proclaimed state of public health emergency, unless the actions are continued under other applicable law.

~~[(2)]~~ **(3)** Civil penalties under subsection ~~[(1)]~~ **(2)** of this section shall be imposed in the manner provided in ORS 183.745. The Public Health Director must establish that the individual, institution or facility subject to the civil penalty had actual notice of the action taken that is the basis for the penalty. The maximum aggregate total for penalties that may be imposed against an individual, institution or facility under subsection ~~[(1)]~~ **(2)** of this section is \$500 for each day of violation, regardless of the number of violations of subsection ~~[(1)]~~ **(2)** of this section that occurred on each day of violation.

~~[(3)(a)]~~ **(4)(a)** During a proclaimed state of public health emergency, the Public Health Director and local public health administrators shall be given immediate access to individually identifiable health information necessary to:

- (A) Determine the causes of an illness related to the public health emergency;
- (B) Identify persons at risk;
- (C) Identify patterns of transmission;
- (D) Provide treatment; and
- (E) Take steps to control the disease.

(b) Individually identifiable health information accessed as provided by paragraph (a) of this subsection may not be used for conducting nonemergency epidemiologic research or to identify persons at risk for post-traumatic mental health problems, or for any other purpose except the purposes listed in paragraph (a) of this subsection.

(c) Individually identifiable health information obtained by the Public Health Director or local public health administrators under this subsection may not be disclosed without written authorization of the identified individual except:

- (A) Directly to the individual who is the subject of the information or to the legal representative of that individual;
- (B) To state, local or federal agencies authorized to receive such information by state or federal law;
- (C) To identify or to determine the cause or manner of death of a deceased individual; or
- (D) Directly to a health care provider for the evaluation or treatment of a condition that is the subject of a proclamation of a state of public health emergency issued under ORS 433.441.

(d) Upon expiration of the state of public health emergency, the Public Health Director or local public health administrators may not use or disclose any individually identifiable health information that has been obtained under this section. If a state of emergency that is related to the state of public health emergency has been declared under ORS 401.055, the Public Health Director and local public health administrators may continue to use any individually identifiable information obtained as provided under this section until termination of the state of emergency.

[(4) As used in this section:]

[(a) "Covered entity" means:]

[(A) The Children's Health Insurance Program;]

[(B) The Family Health Insurance Assistance Program established under ORS 735.722;]

[(C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insurance as defined in ORS 731.162;]

[(D) The state medical assistance program; and]

- [(E) A health care provider.]*
- [(b) "Health care provider" includes but is not limited to:]*
- [(A) A psychologist, occupational therapist, clinical social worker, professional counselor or marriage and family therapist licensed under ORS chapter 675 or an employee of the psychologist, occupational therapist, clinical social worker, professional counselor or marriage and family therapist;]*
- [(B) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;]*
- [(C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;]*
- [(D) A dentist licensed under ORS chapter 679 or an employee of the dentist;]*
- [(E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;]*
- [(F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;]*
- [(G) An emergency medical technician certified under ORS chapter 682;]*
- [(H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;]*
- [(I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;]*
- [(J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;]*
- [(K) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;]*
- [(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;]*
- [(M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;]*
- [(N) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the radiologic technologist;]*
- [(O) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the respiratory care practitioner;]*
- [(P) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;]*
- [(Q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;]*
- [(R) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;]*
- [(S) A health care facility as defined in ORS 442.015;]*
- [(T) A home health agency as defined in ORS 443.005;]*
- [(U) A hospice program as defined in ORS 443.850;]*
- [(V) A clinical laboratory as defined in ORS 438.010;]*
- [(W) A pharmacy as defined in ORS 689.005;]*
- [(X) A diabetes self-management program as defined in ORS 743A.184; and]*
- [(Y) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.]*
- [(c) "Individual" means a natural person.]*
- [(d) "Individually identifiable health information" means any oral or written health information in any form or medium that is:]*
- [(A) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and]*
- [(B) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:]*
- [(i) The past, present or future physical or mental health or condition of an individual;]*

[(ii) The provision of health care to an individual; or]

[(iii) The past, present or future payment for the provision of health care to an individual.]

[(e) "Legal representative" means attorney at law, person holding a general power of attorney, guardian, conservator or any person appointed by a court to manage the personal or financial affairs of a person, or agency legally responsible for the welfare or support of a person.]

(5) All civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

(6) The Public Health Director may request assistance in enforcing orders issued pursuant to this section from state or local law enforcement authorities. If so requested by the Public Health Director, state and local law enforcement authorities, to the extent resources are available, shall assist in enforcing orders issued pursuant to this section.

(7) If the Department of Human Services adopts temporary rules to implement the provisions of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The department may amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the public health emergency.

SECTION 41. ORS 441.630 is amended to read:

441.630. As used in ORS 441.630 to 441.680 and 441.995:

(1) "Abuse" means:

(a) Any physical injury to a resident of a long term care facility which has been caused by other than accidental means.

(b) Failure to provide basic care or services, which failure results in physical harm or unreasonable discomfort or serious loss of human dignity.

(c) Sexual contact with a resident caused by an employee, agent or other resident of a long term care facility by force, threat, duress or coercion.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another person.

(e) Verbal or mental abuse as prohibited by federal law.

(f) Corporal punishment.

(g) Involuntary seclusion for convenience or discipline.

(2) "Abuse complaint" means any oral or written communication to the department, one of its agents or a law enforcement agency alleging abuse.

(3) "Department" means the Department of Human Services or a designee of the department.

(4) "Facility" means a long term care facility, as defined in ORS 442.015.

(5) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(6) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Licensed practical nurse or registered nurse.

(c) Employee of the Department of Human Services, county health department, community mental health and developmental disabilities programs or a long term care facility or person who contracts to provide services to a long term care facility.

(d) Peace officer.

(e) Member of the clergy.

(f) [*Licensed clinical*] **Regulated** social worker.

(g) Physical, speech and occupational therapists.

(h) Legal counsel for a resident or guardian or family member of the resident.

SECTION 42. ORS 609.652 is amended to read:

609.652. As used in ORS 609.654:

(1)(a) "Aggravated animal abuse" means any animal abuse as described in ORS 167.322.

- (b) “Aggravated animal abuse” does not include:
 - (A) Good animal husbandry, as defined in ORS 167.310; or
 - (B) Any exemption listed in ORS 167.335.
 - (2) “Law enforcement agency” means:
 - (a) Any city or municipal police department.
 - (b) Any county sheriff’s office.
 - (c) The Oregon State Police.
 - (d) A law enforcement division of a county or municipal animal control agency that employs sworn officers.
 - (3) “Public or private official” means:
 - (a) A physician, including any intern or resident.
 - (b) A dentist.
 - (c) A school employee.
 - (d) A licensed practical nurse or registered nurse.
 - (e) An employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.
 - (f) A peace officer.
 - (g) A psychologist.
 - (h) A member of the clergy.
 - (i) A [*licensed clinical*] **regulated** social worker.
 - (j) An optometrist.
 - (k) A chiropractor.
 - (L) A certified provider of foster care, or an employee thereof.
 - (m) An attorney.
 - (n) A naturopathic physician.
 - (o) A licensed professional counselor.
 - (p) A licensed marriage and family therapist.
 - (q) A firefighter or emergency medical technician.
 - (r) A court appointed special advocate, as defined in ORS 419A.004.
 - (s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
 - (t) A member of the Legislative Assembly.
- SECTION 43.** ORS 659A.150 is amended to read:
 659A.150. As used in ORS 659A.150 to 659A.186:
- (1) “Covered employer” means an employer described in ORS 659A.153.
 - (2) “Eligible employee” means any employee of a covered employer other than those employees exempted under the provisions of ORS 659A.156.
 - (3) “Family leave” means a leave of absence described in ORS 659A.159, except that “family leave” does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.
 - (4) “Family member” means the spouse of an employee, the biological, adoptive or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis.
 - (5) “Health care provider” means:
 - (a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person’s professional license or certificate and who is:
 - (A) A physician licensed to practice medicine under ORS 677.110, including a doctor of osteopathy;
 - (B) A podiatrist licensed under ORS 677.825;
 - (C) A dentist licensed under ORS 679.090;

- (D) A psychologist licensed under ORS 675.030;
- (E) An optometrist licensed under ORS 683.070;
- (F) A naturopath licensed under ORS 685.080;
- (G) A registered nurse licensed under ORS 678.050;
- (H) A nurse practitioner certified under ORS 678.375;
- (I) A direct entry midwife licensed under ORS 687.420;
- (J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner;

(K) A [*clinical*] **regulated** social worker [*licensed under ORS 675.530; or*] **authorized to practice regulated social work under ORS 675.510 to 675.600; or**

(L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.

(b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

(6) "Serious health condition" means:

(a) An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility;

(b) An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care; or

(c) Any period of disability due to pregnancy, or period of absence for prenatal care.

SECTION 44. ORS 676.160 is amended to read:

676.160. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

(1) State Board of Examiners for Speech-Language Pathology and Audiology;

(2) State Board of Chiropractic Examiners;

[(3) *State Board of Clinical Social Workers;*]

(3) State Board of Licensed Social Workers;

(4) Oregon Board of Licensed Professional Counselors and Therapists;

(5) Oregon Board of Dentistry;

(6) Board of Examiners of Licensed Dietitians;

(7) State Board of Massage Therapists;

(8) State Mortuary and Cemetery Board;

(9) Board of Naturopathic Examiners;

(10) Oregon State Board of Nursing;

(11) Board of Examiners of Nursing Home Administrators;

(12) Oregon Board of Optometry;

(13) State Board of Pharmacy;

(14) Oregon Medical Board;

(15) Occupational Therapy Licensing Board;

(16) Physical Therapist Licensing Board;

(17) State Board of Psychologist Examiners;

(18) Board of Radiologic Technology;

(19) Oregon State Veterinary Medical Examining Board; and

(20) Department of Human Services to the extent that the department certifies emergency medical technicians.

SECTION 45. ORS 677.060 is amended to read:

677.060. This chapter does not affect or prevent the following:

(1) The practice of medicine or podiatry in this state by any commissioned medical or podiatric officer serving in the Armed Forces of the United States or Public Health Service, or any medical or podiatric officer on duty with the United States Department of Veterans Affairs, while any such

medical or podiatric officer is engaged in the performance of the actual duties prescribed by the laws and regulations of the United States.

(2) The meeting in this state of any licensed practitioner of medicine of any other state or country with a licensed practitioner of medicine in this state, for consultation.

(3) Supervised clinical training by an acupuncture student who is enrolled in a school approved to offer credit for post-secondary clinical education in Oregon or clinical practice of acupuncture by a practitioner licensed to practice acupuncture in another state or foreign country who is enrolled in clinical training approved by the Oregon Medical Board.

(4) The furnishing of medical or surgical assistance in cases of emergency requiring immediate attention.

(5) The domestic administration of family remedies.

(6) The practice of dentistry, pharmacy, nursing, optometry, psychology, *[clinical]* **regulated** social work, chiropractic, naturopathic medicine or cosmetic therapy, by any person authorized by this state. Nothing in ORS 677.085 (5) prevents the use of the words "Doctor" or "Specialist," or any abbreviation or combination thereof, or any letters or words of similar import by any person duly licensed to practice optometry within Oregon.

(7) The practice of the religion of persons who endeavor to prevent or cure disease or suffering by prayer or other spiritual means in accordance with the tenets of any church. Nothing in this chapter interferes in any manner with the individual's right to select the practitioner or mode of treatment of an individual's choice, or interferes with the right of the person so employed to give the treatment so chosen if public health laws and rules are complied with.

(8) The sale of lenses, artificial eyes, limbs or surgical instruments or other apparatus or appliances of a similar character.

(9) The sale, rent or use for hire of any device or appliance, the sale of which is not prohibited by the laws of Oregon or the United States.

(10) The practice of physiotherapy, electrotherapy or hydrotherapy carried on by a duly licensed practitioner of medicine, naturopathic medicine or chiropractic, or by ancillary personnel certified by the State Board of Chiropractic Examiners, pursuant to ORS 684.155 (1)(c)(A), to provide physiotherapy, electrotherapy or hydrotherapy and working under the direction of a chiropractic physician.

(11) The practice or use of massage, Swedish movement, physical culture, or other natural methods requiring use of the hands.

SECTION 46. ORS 743A.024 is amended to read:

743A.024. Whenever any individual or group health insurance policy or blanket health insurance policy described in ORS 743.534 (3) provides for payment or reimbursement for any service *[which is]* within the lawful scope of service of a clinical social worker licensed under *[ORS 675.510 to 675.600:]* **ORS 675.530:**

(1) The insured under the policy shall be entitled to the services of a clinical social worker licensed under *[ORS 675.510 to 675.600,]* **ORS 675.530**, upon referral by a physician or psychologist.

(2) The insured under the policy shall be entitled to have payment or reimbursement made to the insured or on behalf of the insured for the services performed. The payment or reimbursement shall be in accordance with the benefits provided in the policy and shall be computed in the same manner whether performed by a physician, by a psychologist or by a clinical social worker, according to the customary and usual fee of clinical social workers in the area served.

SECTION 47. ORS 743A.168 is amended to read:

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

(1) As used in this section:

(a) "Chemical dependency" means the addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with the individual's social, psychological or physical adjustment to common problems. For purposes of this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, tobacco products or foods.

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

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

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

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

(A) A health care facility;

(B) A residential program or facility;

(C) A day or partial hospitalization program;

(D) An outpatient service; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The patient is staying overnight at the facility and is involved in a structured program at least eight hours per day, five days per week; or

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

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

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

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

(9) The Legislative Assembly has found that health care cost containment is necessary and intends to encourage insurance policies designed to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization under criteria incorporated into such policies, either directly or by reference.

(10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists and ORS 40.250 and 675.580 relating to licensed clinical social workers, a group health insurer may provide for review for level of treatment of admissions and continued stays for treatment in health care facilities, residential programs or facilities, day or partial hospitalization programs and outpatient services by either group health insurer staff or personnel under contract to the group health insurer, or by a utilization review contractor, who shall have the authority to certify for or deny level of payment.

(b) Review shall be made according to criteria made available to providers in advance upon request.

(c) Review shall be performed by or under the direction of a medical or osteopathic physician licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist Examiners or a clinical social worker licensed by the [*State Board of Clinical Social Workers,*] **State Board of Licensed Social Workers**, in accordance with standards of the National Committee for Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Services.

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

(11) Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers contracting with the health maintenance organization. Health maintenance organizations and health care service contractors may create substantive plan benefit and reimbursement differentials at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other medical conditions and apply them to contracting and noncontracting providers.

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

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

(b) An insurer or health care service contractor shall, subject to subsections (2) and (3) of this section, pay benefits toward the covered charges of noncontracting providers of services for the treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to subsections (2) and (3) of this section, have the right to use the services of a noncontracting provider of services for the treatment of chemical dependency or mental or nervous conditions, whether

or not the services for chemical dependency or mental or nervous conditions are provided by contracting or noncontracting providers.

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

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

SECTION 48. ORS 746.600 is amended to read:

746.600. As used in ORS 746.600 to 746.690:

(1)(a) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

(A) A declination of insurance coverage.

(B) A termination of insurance coverage.

(C) Failure of an insurance producer to apply for insurance coverage with a specific insurer that the insurance producer represents and that is requested by an applicant.

(D) In the case of life or health insurance coverage, an offer to insure at higher than standard rates.

(E) In the case of insurance coverage other than life or health insurance coverage:

(i) Placement by an insurer or insurance producer of a risk with a residual market mechanism, an unauthorized insurer or an insurer that specializes in substandard risks.

(ii) The charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished.

(iii) An increase in any charge imposed by the insurer for any personal insurance in connection with the underwriting of insurance. For purposes of this sub-subparagraph, the imposition of a service fee is not a charge.

(b) "Adverse underwriting decision" does not mean any of the following actions, but the insurer or insurance producer responsible for the occurrence of the action must nevertheless provide the applicant or policyholder with the specific reason or reasons for the occurrence:

(A) The termination of an individual policy form on a class or statewide basis.

(B) A declination of insurance coverage solely because the coverage is not available on a class or statewide basis.

(C) The rescission of a policy.

(2) "Affiliate of" a specified person or "person affiliated with" a specified person means a person who directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(3) "Applicant" means a person who seeks to contract for insurance coverage, other than a person seeking group insurance coverage that is not individually underwritten.

(4) "Consumer" means an individual, or the personal representative of the individual, who seeks to obtain, obtains or has obtained one or more insurance products or services from a licensee that are to be used primarily for personal, family or household purposes, and about whom the licensee has personal information.

(5) "Consumer report" means any written, oral or other communication of information bearing on a natural person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living that is used or expected to be used in connection with an insurance transaction.

(6) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a cooperative or nonprofit basis:

(a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;

(b) Obtains information primarily from sources other than insurers; and

(c) Furnishes consumer reports to other persons.

(7) "Control" means, and the terms "controlled by" or "under common control with" refer to, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power of the person is the result of a corporate office held in, or an official position held with, the controlled person.

(8) "Covered entity" means:

(a) A health insurer;

(b) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 746.607 or by rules adopted under ORS 746.608; or

(c) A health care clearinghouse.

(9) "Credit history" means any written or other communication of any information by a consumer reporting agency that:

(a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and

(b) Is used or expected to be used, or collected in whole or in part, as a factor in determining eligibility, premiums or rates for personal insurance.

(10) "Customer" means a consumer who has a continuing relationship with a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

(11) "Declination of insurance coverage" or "decline coverage" means a denial, in whole or in part, by an insurer or insurance producer of an application for requested insurance coverage.

(12) "Health care" means care, services or supplies related to the health of an individual.

(13) "Health care operations" includes but is not limited to:

(a) Quality assessment, accreditation, auditing and improvement activities;

(b) Case management and care coordination;

(c) Reviewing the competence, qualifications or performance of health care providers or health insurers;

(d) Underwriting activities;

(e) Arranging for legal services;

(f) Business planning;

(g) Customer services;

(h) Resolving internal grievances;

(i) Creating de-identified information; and

(j) Fundraising.

(14) "Health care provider" includes but is not limited to:

(a) A psychologist, occupational therapist, [clinical] **regulated** social worker, professional counselor or marriage and family therapist licensed **or otherwise authorized to practice** under ORS chapter 675 or an employee of the psychologist, occupational therapist, [clinical] **regulated** social worker, professional counselor or marriage and family therapist;

(b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or acupuncturist;

(c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;

(d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

(e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;

(f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;

(g) An emergency medical technician certified under ORS chapter 682;

(h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

(i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;

(j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(n) A radiologic technologist licensed under ORS 688.405 to 688.605 or an employee of the radiologic technologist;

(o) A respiratory care practitioner licensed under ORS 688.800 to 688.840 or an employee of the respiratory care practitioner;

(p) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(q) A dietitian licensed under ORS 691.405 to 691.585 or an employee of the dietitian;

(r) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(s) A health care facility as defined in ORS 442.015;

(t) A home health agency as defined in ORS 443.005;

(u) A hospice program as defined in ORS 443.850;

(v) A clinical laboratory as defined in ORS 438.010;

(w) A pharmacy as defined in ORS 689.005;

(x) A diabetes self-management program as defined in ORS 743.694; and

(y) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(15) "Health information" means any oral or written information in any form or medium that:

(a) Is created or received by a covered entity, a public health authority, a life insurer, a school, a university or a health care provider that is not a covered entity; and

(b) Relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(16) "Health insurer" means:

(a) An insurer who offers:

(A) A health benefit plan as defined in ORS 743.730;

(B) A short term health insurance policy, the duration of which does not exceed six months including renewals;

(C) A student health insurance policy;

(D) A Medicare supplemental policy; or

(E) A dental only policy.

(b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board under ORS 735.600 to 735.650.

(17) "Homeowner insurance" means insurance for residential property consisting of a combination of property insurance and casualty insurance that provides coverage for the risks of owning or occupying a dwelling and that is not intended to cover an owner's interest in rental property or commercial exposures.

(18) "Individual" means a natural person who:

(a) In the case of life or health insurance, is a past, present or proposed principal insured or certificate holder;

(b) In the case of other kinds of insurance, is a past, present or proposed named insured or certificate holder;

(c) Is a past, present or proposed policyowner;
(d) Is a past or present applicant;
(e) Is a past or present claimant; or
(f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or certificate that is subject to ORS 746.600 to 746.690.

(19) "Individually identifiable health information" means any oral or written health information that is:

(a) Created or received by a covered entity or a health care provider that is not a covered entity; and

(b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(20) "Institutional source" means a person or governmental entity that provides information about an individual to an insurer, insurance producer or insurance-support organization, other than:

(a) An insurance producer;

(b) The individual who is the subject of the information; or

(c) A natural person acting in a personal capacity rather than in a business or professional capacity.

(21) "Insurance producer" or "producer" means a person licensed by the Director of the Department of Consumer and Business Services as a resident or nonresident insurance producer.

(22) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history.

(23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in part, in assembling or collecting information about natural persons for the primary purpose of providing the information to an insurer or insurance producer for insurance transactions, including:

(A) The furnishing of consumer reports to an insurer or insurance producer for use in connection with insurance transactions; and

(B) The collection of personal information from insurers, insurance producers or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(b) "Insurance-support organization" does not mean insurers, insurance producers, governmental institutions or health care providers.

(24) "Insurance transaction" means any transaction that involves insurance primarily for personal, family or household needs rather than business or professional needs and that entails:

(a) The determination of an individual's eligibility for an insurance coverage, benefit or payment;
or

(b) The servicing of an insurance application, policy or certificate.

(25) "Insurer" has the meaning given that term in ORS 731.106.

(26) "Investigative consumer report" means a consumer report, or portion of a consumer report, for which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

(27) "Licensee" means an insurer, insurance producer or other person authorized or required to be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.

(28) "Loss history report" means a report provided by, or a database maintained by, an insurance-support organization or consumer reporting agency that contains information regarding the claims history of the individual property that is the subject of the application for a homeowner insurance policy or the consumer applying for a homeowner insurance policy.

- (29) “Nonaffiliated third party” means any person except:
- (a) An affiliate of a licensee;
 - (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the licensee; and
 - (c) As designated by the director by rule.
- (30) “Payment” includes but is not limited to:
- (a) Efforts to obtain premiums or reimbursement;
 - (b) Determining eligibility or coverage;
 - (c) Billing activities;
 - (d) Claims management;
 - (e) Reviewing health care to determine medical necessity;
 - (f) Utilization review; and
 - (g) Disclosures to consumer reporting agencies.
- (31)(a) “Personal financial information” means:
- (A) Information that is identifiable with an individual, gathered in connection with an insurance transaction from which judgments can be made about the individual’s character, habits, avocations, finances, occupations, general reputation, credit or any other personal characteristics; or
 - (B) An individual’s name, address and policy number or similar form of access code for the individual’s policy.
- (b) “Personal financial information” does not mean information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state or local government records, widely distributed media or disclosures to the public that are required by federal, state or local law.
- (32) “Personal information” means:
- (a) Personal financial information;
 - (b) Individually identifiable health information; or
 - (c) Protected health information.
- (33) “Personal insurance” means the following types of insurance products or services that are to be used primarily for personal, family or household purposes:
- (a) Private passenger automobile coverage;
 - (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and renters coverage;
 - (c) Personal dwelling property coverage;
 - (d) Personal liability and theft coverage, including excess personal liability and theft coverage;
- and
- (e) Personal inland marine coverage.
- (34) “Personal representative” includes but is not limited to:
- (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with authority to make medical and health care decisions;
 - (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700 to 127.737 to make health care decisions or mental health treatment decisions;
 - (c) A person appointed as a personal representative under ORS chapter 113; and
 - (d) A person described in ORS 746.611.
- (35) “Policyholder” means a person who:
- (a) In the case of individual policies of life or health insurance, is a current policyowner;
 - (b) In the case of individual policies of other kinds of insurance, is currently a named insured;
- or
- (c) In the case of group policies of insurance under which coverage is individually underwritten, is a current certificate holder.
- (36) “Pretext interview” means an interview wherein the interviewer, in an attempt to obtain personal information about a natural person, does one or more of the following:
- (a) Pretends to be someone the interviewer is not.

- (b) Pretends to represent a person the interviewer is not in fact representing.
 - (c) Misrepresents the true purpose of the interview.
 - (d) Refuses upon request to identify the interviewer.
- (37) "Privileged information" means information that is identifiable with an individual and that:
- (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the individual; and
 - (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or a civil or criminal proceeding involving the individual.
- (38)(a) "Protected health information" means individually identifiable health information that is transmitted or maintained in any form of electronic or other medium by a covered entity.
- (b) "Protected health information" does not mean individually identifiable health information in:
- (A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);
 - (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
 - (C) Employment records held by a covered entity in its role as employer.
- (39) "Residual market mechanism" means an association, organization or other entity involved in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance Code relating to insurance applicants who are unable to procure insurance through normal insurance markets.
- (40) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure of a premium to be paid as required by the policy.
- (41) "Treatment" includes but is not limited to:
- (a) The provision, coordination or management of health care; and
 - (b) Consultations and referrals between health care providers.

SECTION 49. (1) The amendments to ORS 675.590 by section 20 of this 2009 Act are intended to change the name of the "State Board of Clinical Social Workers" to the "State Board of Licensed Social Workers."

(2) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the "State Board of Clinical Social Workers," wherever they occur in Oregon Revised Statutes, other words designating the "State Board of Licensed Social Workers."

SECTION 50. Sections 4a, 6, 7, 12a and 12b of this 2009 Act and the amendments to ORS 675.510 and 675.530 by sections 2 and 9 of this 2009 Act become operative on January 1, 2011.

Passed by Senate April 7, 2009

Repassed by Senate June 8, 2009

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Secretary of Senate

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President of Senate

Passed by House June 3, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State