

Senate Bill 468

Sponsored by Senator ATKINSON; Senator STARR (at the request of Dr. Norwood Knight-Richardson)

SUMMARY

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

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

A BILL FOR AN ACT

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

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

4 **SECTION 1. (1) As used in this section:**

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

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

10 (2) Whenever any policy of health insurance provides for reimbursement for a service
11 when performed in person, the insured under the policy is entitled to reimbursement for the
12 same service performed using telemedicine if:

13 (a) The service is within the lawful scope of practice of the health professional perform-
14 ing the service;

15 (b) Provision of the service using telemedicine is supported by evidence-based medical
16 criteria; and

17 (c) Provision of the service using telemedicine is medically necessary.

18 (3) A health care service performed using telemedicine may be subject to all terms and
19 conditions of the policy, including but not limited to a deductible, copayment or coinsurance
20 requirement that is applicable to a comparable service performed in an in-person consulta-
21 tion.

22 (4) The Director of the Department of Consumer and Business Services shall adopt any
23 rules necessary to carry out the purposes of this section that are consistent with rules
24 adopted by the Director of Human Services under section 2 of this 2009 Act and that further
25 the goals of this section in improving access to health care services in medically underserved
26 areas and improving patient access to health care specialists in geographic areas where there
27 is a shortage of such specialists.

28 **SECTION 2. (1) The Director of Human Services shall adopt rules setting reimbursement**
29 **rates for telemedicine services performed by health professionals through the state medical**
30 **assistance program. The reimbursement rates must take into account the cost of technology**
31 **investments needed to practice telemedicine and may not be less than rates paid for com-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 parable in-person health care services. Subject to rules adopted by the director under sub-
2 section (2) of this section, the director shall set reimbursement rates under this section as
3 follows:

4 (a) A health professional who is participating at an originating site of a telecommuni-
5 cation transmission, is physically present with the patient and is contemporaneously com-
6 municating and interacting with a health professional at the terminus of the transmission
7 shall be reimbursed at the rate that a health professional is entitled to receive under the
8 state medical assistance program for an office visit.

9 (b) A health professional who communicates with a patient in the course of providing
10 telemedicine services shall be reimbursed at the rate that a health professional is entitled
11 to receive under the state medical assistance program for an in-person consultation, whether
12 the communication is contemporaneous or asynchronous store and forward.

13 (c) A health professional shall be reimbursed for a telemedicine consultation with an-
14 other health professional at the rate that a health professional is entitled to receive under
15 the state medical assistance program for an in-person consultation with another health
16 professional, whether the communication is contemporaneous or asynchronous store and
17 forward.

18 (d) A health professional shall be reimbursed for any health care service provided using
19 telemedicine at the rate that a health professional is entitled to receive under the state
20 medical assistance program for the same service performed in an in-person consultation,
21 whether the communication is contemporaneous or asynchronous store and forward.

22 (2) The director shall adopt rules to further the goals of this section in improving access
23 to health care services in medically underserved areas and improving patient access to
24 health care specialists in geographic areas where there is a shortage of such specialists, in-
25 cluding but not limited to rules:

26 (a) Establishing protocols to ensure that telemedicine services meet minimum standards
27 of care, including that health professionals perform telemedicine services in clinical settings
28 and that clinical records be maintained in accordance with medical community standards;

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

31 (A) Prohibiting the use of telephones or facsimiles when videoconference technology is
32 available; and

33 (B) Prohibiting the use of telemedicine when an in-person consultation with an appro-
34 priate health professional is available within a reasonable distance from the location where
35 the patient resides or is employed;

36 (c) Establishing patient confidentiality standards to ensure that telemedicine services
37 meet the legal requirements for protecting health information;

38 (d) Establishing procedures for obtaining informed consent to perform health care ser-
39 vices using telemedicine; and

40 (e) Providing for exceptions to the provisions of this section if the Governor has declared
41 a state of emergency under ORS 401.055 and exceptions are necessary to further the goals
42 of this section.

43 (3) As used in this section:

44 (a) "Asynchronous store and forward" means a telecommunication technique in which
45 information is sent to an intermediate station where it is stored before being sent at a later

1 **time to its final destination or to another intermediate station, with each intermediate sta-**
 2 **tion verifying the integrity of the information before forwarding it.**

3 **(b) “Clinical setting” means a hospital, a location where a health professional performs**
 4 **health care services in person, a long term care facility, an intermediate care facility and**
 5 **any other health care facility prescribed by the director by rule.**

6 **(c) “Health professional” means a person licensed by a health professional regulatory**
 7 **board as that term is defined in ORS 676.160.**

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

11 **SECTION 3.** ORS 750.055, as amended by section 5, chapter 22, Oregon Laws 2008, is amended
 12 to read:

13 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 14 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

15 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
 16 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
 17 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
 18 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992 and section 2, chapter 22, Oregon Laws 2008.

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

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

23 (d) ORS chapter 734.

24 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 25 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
 26 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,
 27 743.560, 743.600 to 743.610, 743.650 to 743.664, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,
 28 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,
 29 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,
 30 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,
 31 743A.164, 743A.168, 743A.184, 743A.188 and 743A.190 **and section 1 of this 2009 Act.**

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

33 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 34 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

38 (i) ORS 735.600 to 735.650.

39 (j) ORS 743.680 to 743.689.

40 (k) ORS 744.700 to 744.740.

41 (L) ORS 743.730 to 743.773.

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

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

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

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

7 **SECTION 4.** ORS 750.055, as amended by section 7, chapter 137, Oregon Laws 2003, section 3,
 8 chapter 263, Oregon Laws 2003, sections 501 and 502, chapter 22, Oregon Laws 2005, sections 5 and
 9 6, chapter 255, Oregon Laws 2005, section 5, chapter 418, Oregon Laws 2005, section 3, chapter 128,
 10 Oregon Laws 2007, section 9, chapter 182, Oregon Laws 2007, section 6, chapter 313, Oregon Laws
 11 2007, section 4, chapter 504, Oregon Laws 2007, section 4, chapter 566, Oregon Laws 2007, section
 12 4, chapter 872, Oregon Laws 2007, and section 6, chapter 22, Oregon Laws 2008, is amended to read:

13 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 14 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

15 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
 16 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
 17 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
 18 731.737, 731.750, 731.752, 731.804 and 731.844 to 731.992 and section 2, chapter 22, Oregon Laws 2008.

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

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

23 (d) ORS chapter 734.

24 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 25 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
 26 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,
 27 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,
 28 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,
 29 743.913, 743A.010, 743A.012, 743A.036, 743A.048, 743A.062, 743A.064, 743A.066, 743A.068, 743A.070,
 30 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.110, 743A.140, 743A.148, 743A.160,
 31 743A.164, 743A.168, 743A.184 and 743A.190 **and section 1 of this 2009 Act.**

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

33 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 34 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

38 (i) ORS 735.600 to 735.650.

39 (j) ORS 743.680 to 743.689.

40 (k) ORS 744.700 to 744.740.

41 (L) ORS 743.730 to 743.773.

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

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

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

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

7 **SECTION 5.** ORS 750.333, as amended by section 7, chapter 22, Oregon Laws 2008, is amended
 8 to read:

9 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
 10 tiple employer welfare arrangement:

11 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
 12 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
 13 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

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

15 (c) ORS chapter 734.

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

17 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
 18 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
 19 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
 20 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
 21 and 743A.184.

22 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
 23 743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180,
 24 743A.188 and 743A.190 **and section 1 of this 2009 Act.** Multiple employer welfare arrangements
 25 to which ORS 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only
 26 as provided in ORS 743.730 to 743.773.

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

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

30 (i) ORS 731.592 and 731.594.

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

32 (2) For the purposes of this section:

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

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

36 (c) Contributions shall be considered premiums.

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

39 **SECTION 6.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, section 11,
 40 chapter 182, Oregon Laws 2007, section 8, chapter 313, Oregon Laws 2007, section 6, chapter 504,
 41 Oregon Laws 2007, section 6, chapter 566, Oregon Laws 2007, section 6, chapter 872, Oregon Laws
 42 2007, and section 8, chapter 22, Oregon Laws 2008, is amended to read:

43 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
 44 tiple employer welfare arrangement:

45 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,

1 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
2 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

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

4 (c) ORS chapter 734.

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

6 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
7 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
8 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
9 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
10 and 743A.184.

11 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
12 743A.048, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180
13 and 743A.190 **and section 1 of this 2009 Act**. Multiple employer welfare arrangements to which
14 ORS 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only as pro-
15 vided in ORS 743.730 to 743.773.

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

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

19 (i) ORS 731.592 and 731.594.

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

21 (2) For the purposes of this section:

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

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

25 (c) Contributions shall be considered premiums.

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

28 **SECTION 7.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section 4,
29 chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, section 6, chapter 418,
30 Oregon Laws 2005, section 12, chapter 182, Oregon Laws 2007, section 9, chapter 313, Oregon Laws
31 2007, section 7, chapter 504, Oregon Laws 2007, section 7, chapter 566, Oregon Laws 2007, section
32 7, chapter 872, Oregon Laws 2007, and section 9, chapter 22, Oregon Laws 2008, is amended to read:

33 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
34 tiple employer welfare arrangement:

35 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
36 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
37 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

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

39 (c) ORS chapter 734.

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

41 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
42 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
43 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
44 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
45 and 743A.184.

1 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,
2 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180 and
3 743A.190 **and section 1 of this 2009 Act**. Multiple employer welfare arrangements to which ORS
4 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only as provided
5 in ORS 743.730 to 743.773.

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

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

9 (i) ORS 731.592 and 731.594.

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

11 (2) For the purposes of this section:

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

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

15 (c) Contributions shall be considered premiums.

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

18