

**Enrolled**  
**Senate Bill 234**

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CHAPTER .....

AN ACT

Relating to emergency medical services; creating new provisions; and amending ORS 30.803, 31.740, 40.460, 97.970, 124.050, 127.675, 137.476, 162.257, 163.165, 163.213, 166.070, 181.637, 192.519, 315.622, 352.223, 353.450, 419B.005, 430.735, 431.613, 431.623, 433.009, 433.085, 433.443, 442.490, 442.566, 453.307, 609.652, 676.150, 676.160, 676.306, 682.017, 682.025, 682.028, 682.031, 682.039, 682.051, 682.056, 682.068, 682.089, 682.204, 682.208, 682.212, 682.216, 682.218, 682.220, 682.224, 682.245, 682.265, 746.600, 820.330 and 820.340.

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

**SECTION 1.** ORS 431.623 is amended to read:

431.623. (1) The Emergency Medical Services and Trauma Systems Program is created within the Oregon Health Authority for the purpose of administering and regulating ambulances, training and [certifying] **licensing** emergency medical [technicians] **services providers**, establishing and maintaining emergency medical systems, including trauma systems, and maintaining the Oregon Trauma Registry, as necessary for trauma reimbursement, system quality assurance and ensuring cost efficiency.

(2) For purposes of ORS 431.607 to 431.619 and ORS chapter 682, the duties vested in the authority shall be performed by the Emergency Medical Services and Trauma Systems program.

(3) The program shall be administered by a director.

(4) With moneys transferred to the program by ORS 442.625, the director of the program shall apply those moneys to:

- (a) Developing state and regional standards of care;
  - (b) Developing a statewide educational curriculum to teach standards of care;
  - (c) Implementing quality improvement programs;
  - (d) Creating a statewide data system for prehospital care; and
  - (e) Providing ancillary services to enhance Oregon's emergency medical service system.
- (5) The director of the program shall adopt rules for the Oregon Trauma Registry, establishing:
- (a) The information that must be reported by trauma centers;
  - (b) The form and frequency of reporting; and
  - (c) Procedures and standards for the administration of the registry.

**SECTION 2.** ORS 682.017 is amended to read:

682.017. (1) In accordance with ORS chapter 183, the Oregon Health Authority may adopt [and may when necessary amend or repeal such] rules as [are] necessary for carrying out this chapter.

(2) The authority [*is authorized and directed to*] **shall** establish appropriate rules in accordance with the provisions of ORS chapter 183 concerning the administration of this chapter. Such rules may [*deal with*] **include**, but are not limited to[, *such matters as*]:

(a) [*Criteria for*] Requirements[,] **relating to the** types and numbers of emergency vehicles, including supplies and equipment carried[,];

(b) Requirements for the operation and coordination of ambulances and other emergency care systems[,];

(c) Criteria for the use of two-way communications[,]; **and**

(d) Procedures for summoning and dispatching aid [*and other necessary and proper matters*].

**(3) The authority shall adopt rules establishing levels of licensure for emergency medical services providers. The lowest level of emergency medical services provider licensure must be an emergency medical responder license.**

**SECTION 3.** ORS 682.025 is amended to read:

682.025. As used in this chapter, unless the context requires otherwise:

(1) “Ambulance” or “ambulance vehicle” means [*any*] **a** privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(2) “Ambulance service” means [*any*] **a** person, governmental unit[, *corporation, partnership, sole proprietorship*] or other entity that operates ambulances and that holds itself out as providing pre-hospital care or medical transportation to persons who are ill or injured or who have disabilities.

[(3)] “Authority” means the Oregon Health Authority.]

[(4)] “Board” means the Oregon Medical Board.]

[(5)] **(3)** “Emergency care” means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, “emergency care” does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

[(6)] **(4)** “Emergency medical [*technician*] or “EMT”] **services provider**” means a person who has received formal training in prehospital and emergency care, and is [*state certified*] **licensed** to attend any person who is ill or injured or who has a disability. Police officers, firefighters, funeral home employees and other [*personnel*] **persons** serving in a dual capacity one of which meets the definition of “emergency medical [*technician*] **services provider**” are “emergency medical [*technicians*] **services providers**” within the meaning of this chapter.

[(7)] “First responder” means a person who has successfully completed a first responder training course approved by the authority and:]

[(a)] Has been examined and certified as a first responder by an authorized representative of the authority to perform basic emergency and nonemergency care procedures; or]

[(b)] Has been otherwise designated as a first responder by an authorized representative of the authority to perform basic emergency and nonemergency care procedures.]

[(8)] **(5)** “Fraud or deception” means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

[(9)] **(6)** “Governmental unit” means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

[(10)] **(7)** “Highway” means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, used or intended for the use of the general public for vehicles.

[(11)] **(8)** “Nonemergency care” means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration

of medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care [as defined by this section].

[(12)] (9) "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.

[(13)] (10) "Patient" means a person who is ill or injured or who has a disability and who is transported in an ambulance.

[(14)] "Person" means any individual, corporation, association, firm, partnership, joint stock company, group of individuals acting together for a common purpose or organization of any kind and includes any receiver, trustee, assignee or other similar representative thereof.]

[(15)] (11) "Prehospital care" means [that] care rendered by emergency medical [technicians] **services providers** as an incident of the operation of an ambulance [as defined by this chapter] and [that] care rendered by emergency medical [technicians] **services providers** as incidents of other public or private safety duties, and includes, but is not limited to, "emergency care" [as defined by this section].

[(16)] (12) "Scope of practice" means the maximum level of emergency or nonemergency care that an emergency medical [technician] **services provider** may provide.

[(17)] (13) "Standing orders" means the written protocols that an emergency medical [technician] **services provider** follows to treat patients when direct contact with a physician is not maintained.

[(18)] (14) "Supervising physician" means a medical or osteopathic physician licensed under ORS chapter 677, actively registered and in good standing with the board, who provides direction of emergency or nonemergency care provided by emergency medical [technicians] **services providers**.

[(19)] (15) "Unprofessional conduct" means conduct unbecoming a person [certified in] **licensed to perform** emergency care, or detrimental to the best interests of the public and includes:

(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which does or might impair an emergency medical [technician's] **services provider's** ability safely and skillfully to practice emergency or nonemergency care;

(b) Willful performance of any medical treatment which is contrary to acceptable medical standards; and

(c) Willful and consistent utilization of medical service for treatment which is or may be considered inappropriate or unnecessary.

**SECTION 4.** ORS 682.028 is amended to read:

682.028. (1) [It is unlawful for any] **A** person or governmental unit [to] **may not:**

(a) Intentionally make any false statement on an application for an ambulance service license, ambulance vehicle license or for [certification] **licensure** as an emergency medical [technician or first responder] **services provider** or on any other documents required by the Oregon Health Authority; or

(b) Make any misrepresentation in seeking to obtain or retain a [certification or] license.

(2) [Any] **A** violation described in subsection (1) of this section is also grounds for denial, suspension or revocation of a [certification or] license under ORS 682.220.

**SECTION 5.** ORS 682.031 is amended to read:

682.031. (1) As used in this section, "political subdivision" includes counties, cities, districts, authorities and other public corporations and entities organized and existing under statute or charter.

(2) An ordinance of any political subdivision regulating ambulance services or emergency medical [*technicians shall*] **services providers may** not require less than is required under ORS 820.300 to 820.380, or this chapter or the rules adopted by the Oregon Health Authority under this chapter.

(3) When a political subdivision enacts an ordinance regulating ambulance services or emergency medical [*technicians*] **services providers**, the ordinance must comply with the county plan for ambulance services and ambulance service areas adopted under ORS 682.062 by the county in which the political subdivision is situated and with the rules of the Oregon Health Authority relating to such services and service areas. The **county governing body shall make the** determination of whether the ordinance is in compliance with the county plan [*shall be made by the county governing body*].

**SECTION 6.** ORS 682.039 is amended to read:

682.039. (1) The Oregon Health Authority shall appoint a State Emergency Medical Service Committee composed of 18 members as follows:

(a) Seven physicians licensed under ORS chapter 677 whose practice consists of routinely treating emergencies such as cardiovascular illness or trauma, appointed from a list submitted by the Oregon Medical Board.

(b) Four emergency medical [*technicians*] **services providers** whose practices consist of routinely treating emergencies, including but not limited to cardiovascular illness or trauma, at least one of whom is at the lowest level of **licensure for** emergency medical [*technician certification*] **services providers** established by the authority at the time of appointment. [*EMTs*] **Emergency medical services providers** appointed pursuant to this paragraph [*shall*] **must** be selected from lists submitted by each area trauma advisory board. The lists [*shall*] **must** include nominations from entities including but not limited to organizations that represent emergency care providers in Oregon.

(c) One volunteer ambulance operator[.].

(d) One person representing governmental agencies that provide ambulance services [*and*].

(e) One person representing a private ambulance company.

[(d)] (f) One hospital administrator.

[(e)] (g) One nurse who has served at least two years in the capacity of an emergency department nurse.

[(f)] (h) One representative of an emergency dispatch center.

[(g)] (i) One community college or licensed career school representative.

(2) The committee shall include at least one resident but no more than three residents from each region served by one area trauma advisory board at the time of appointment.

(3) Appointments shall be made for a term of four years in a manner to preserve [*insofar*] **as much** as possible the representation of the organization described in subsection (1) of this section. Vacancies shall be filled for any unexpired term as soon as the authority can make such appointments. The committee shall choose its own chairperson and shall meet at the call of the chairperson or the Director of the Oregon Health Authority.

(4) The State Emergency Medical Service Committee shall:

(a) Advise the authority concerning the adoption, amendment and repeal of rules authorized by this chapter;

(b) Assist the Emergency Medical Services and Trauma Systems Program in providing state and regional emergency medical services coordination and planning;

(c) Assist communities in identifying emergency medical service system needs and quality improvement initiatives;

(d) Assist the Emergency Medical Services and Trauma Systems Program in prioritizing, implementing and evaluating emergency medical service system quality improvement initiatives identified by communities;

(e) Review and prioritize rural community emergency medical service funding requests and provide input to the Rural Health Coordinating Council; and

(f) Review and prioritize funding requests for rural community emergency medical service training and provide input to the Area Health Education Center program.

(5) The chairperson of the committee shall appoint a subcommittee on *[EMT certification]* **the licensure and discipline of emergency medical services providers**, consisting of five physicians and four *[EMT's]* **emergency medical services providers**. The subcommittee shall advise the authority and the **Oregon Medical Board** on the adoption, amendment, repeal and application of rules concerning ORS 682.204 to 682.220 and 682.245. The decisions of this subcommittee *[shall]* **are not [be]** subject to the review of the full State Emergency Medical Service Committee.

(6) Members are entitled to compensation as provided in ORS 292.495.

**SECTION 7.** ORS 682.068 is amended to read:

682.068. (1) The Oregon Health Authority, in consultation with the State Emergency Medical Service Committee, shall adopt rules specifying minimum requirements for ambulance services, and for staffing and medical and communications equipment requirements for all types of ambulances. The rules *[shall]* **must** define the requirements for advanced life support and basic life support units of emergency vehicles, including equipment and emergency medical *[technician]* **services provider** staffing of the passenger compartment when a patient is being transported in emergency circumstances.

(2) The authority may waive any of the requirements imposed by this chapter in medically disadvantaged areas as determined by the Director of the Oregon Health Authority, or upon a showing that a severe hardship would result from enforcing a particular requirement.

(3) The authority shall exempt from rules adopted under this section air ambulances that do not charge for the provision of ambulance services.

**SECTION 8.** ORS 682.089 is amended to read:

682.089. (1) When a city, county or district requires an ambulance service currently operating within the city, county or district to be replaced by another public or private ambulance service, the city, county or district shall provide that:

(a) *[Paramedic]* **Emergency medical services provider** staffing *[shall be]* **is** maintained at least at the levels established in the local plan for ambulance services and ambulance service areas developed under ORS 682.062; and

(b) When hiring *[paramedics]* **emergency medical services providers** to fill vacant or new positions during the six-month period immediately following the date of replacement, the replacement ambulance service shall give preference to qualified employees of the previous ambulance service at comparable *[certification]* levels **of licensure**.

(2) As used in this section:

*[(a) "Ambulance" has the meaning given that term by ORS 682.025.]*

*[(b)] (a) "Ambulance service" means any individual, partnership, corporation, association or agency that provides transport services and emergency medical services through use of licensed ambulances.*

*[(c)] (b) "District" has the meaning given that term by ORS 198.010.*

*[(d) "Paramedic" has the meaning given that term by ORS 682.025.]*

**SECTION 9.** ORS 682.204 is amended to read:

682.204. (1) *[On and after September 13, 1975, it shall be unlawful:]*

*[(a) For any person to] A person may not act as an emergency medical *[technician without being certified]* **services provider unless the person is licensed** under this chapter.*

*[(b)] (2) [For any] A person or governmental unit which operates an ambulance [to] **may not** authorize a person to act for it as an emergency medical *[technician without being certified]* **services provider unless the emergency medical services provider is licensed** under this chapter.*

*[(c)] (3) [For any] A person or governmental unit [to] **may not** operate or allow to be operated in this state any ambulance unless it is operated with at least one *[certified]* emergency medical *[technician]* **services provider who is licensed at a level higher than emergency medical responder**.*

[2] (4) It is a defense to any charge under this section that there was a reasonable basis for believing that the performance of services contrary to this section was necessary to preserve human life, that diligent effort was made to obtain the services of a [certified] **licensed** emergency medical [technician] **services provider** and that the services of a [certified] **licensed** emergency medical [technician] **services provider** were not available or were not available in time as under the circumstances appeared necessary to preserve such human life.

[3] (5) [Subsection (1) of this section is] **Subsections (1) to (3) of this section are** not applicable to any individual, group of individuals, partnership, entity, association or other organization otherwise subject thereto providing a service to the public exclusively by volunteer unpaid workers, nor to any person who acts as an ambulance attendant therefor, provided that in the particular county in which the service is rendered, the county court or board of county commissioners has by order, after public hearing, granted exemption from such [subsection] **subsections** to the individual, group, partnership, entity, association or organization. When exemption is granted under this section, any person who attends an individual who is ill or injured or who has a disability in an ambulance may not purport to be an emergency medical [technician or use the designation "EMT."] **services provider**.

**SECTION 10.** ORS 682.208 is amended to read:

682.208. (1) [For any] **A person desiring** to be [certified] **licensed** as an emergency medical [technician or first responder,] **services provider shall submit** an application for [certification shall be made] **licensure** to the Oregon Health Authority. The application [shall] **must** be upon forms prescribed by the authority and [shall] **must** contain:

(a) The name and address of the applicant.

(b) The name and location of the training course successfully completed by the applicant and the date of completion.

(c) [Certification] **A statement** that to the best of the applicant's knowledge the applicant is physically and mentally qualified to act as an emergency medical [technician or first responder] **services provider**, is free from addiction to controlled substances or alcoholic beverages, or if not so free, has been and is currently rehabilitated and is free from epilepsy or diabetes, or if not so free, has been free from any lapses of consciousness or control [occasioned thereby] for a period of time as prescribed by rule of the authority.

(d) [Such] Other information as the authority may reasonably require to determine compliance with applicable provisions of this chapter and the rules adopted thereunder.

(2) The application [shall] **must** be accompanied by proof as prescribed by rule of the authority of the applicant's successful completion of a training course approved by the authority, and if an extended period of time has elapsed since the completion of the course, of a satisfactory amount of continuing education.

(3) The authority shall adopt a schedule of minimum educational requirements in emergency and nonemergency care for emergency medical [technicians and first responders. The authority, with the advice of the State Emergency Medical Service Committee, may establish levels of emergency medical technician certification as may be necessary to serve the public interest.] **services providers**. A course approved by the authority [shall] **must** be designed to protect the welfare of out-of-hospital patients, to promote the health, well-being and saving of the lives of such patients and to reduce their pain and suffering.

**SECTION 11.** ORS 682.212 is amended to read:

682.212. (1) [A nonrefundable initial application fee shall be submitted] **An applicant for an emergency medical services provider license shall submit a nonrefundable application fee** with the initial application [for emergency medical technician and first responder certification]. In addition, **an applicant shall submit** a nonrefundable examination fee [shall be submitted] for the following purposes:

[a] *First responder written examination;*

[b] (a) Emergency medical [technician] **services provider** written examination;

[c] (b) Emergency medical [technician] **services provider** practical examination; and

*[(d)]* **(c)** A fee deemed necessary by the Oregon Health Authority to cover the fee charged by the national examination agency or other examination service utilized by the authority for the purpose of examining candidates for **an emergency medical** *[technician certification]* **services provider license**.

(2) Subject to the review of the Oregon Department of Administrative Services, the fees and charges established under this section *[shall]* **may** not exceed the cost of administering the regulatory program of the authority pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the authority's budget, as the budget may be modified by the Emergency Board.

(3) All moneys received by the authority under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the authority account and such moneys hereby are appropriated continuously **to the authority** and shall be used only for the administration and enforcement of this chapter.

**SECTION 12.** ORS 682.216 is amended to read:

682.216. (1) When application has been made as required under ORS 682.208, the Oregon Health Authority shall *[certify]* **license** the applicant as an emergency medical *[technician or as a first responder]* **services provider** if it finds:

(a) The applicant has successfully completed a training course approved by the authority.

(b) The *[applicant's]* **applicant meets the** physical and mental qualifications *[have been certified as]* required under ORS 682.208.

(c) No matter has been brought to the attention of the authority which would disqualify the applicant.

(d) A nonrefundable fee has been paid to the authority pursuant to ORS 682.212.

(e) The applicant for **an emergency medical** *[technician certification]* **services provider license:**

**(A)** Is 18 years of age or older *[and the applicant for first responder]* **if the applicant is applying for a license at a level higher than emergency medical responder; or**

**(B)** Is 16 years of age or older **if the applicant is applying for a license at the emergency medical responder level.**

(f) The applicant has successfully completed examination as prescribed by the authority.

(g) The applicant meets other requirements prescribed by rule of the authority.

(2) The authority may provide for the issuance of a provisional *[certification]* **license** for emergency medical *[technicians]* **services providers**.

(3) The authority may issue *[by indorsement certification for]* **an emergency medical** *[technician]* **services provider license by indorsement** without proof of completion of an approved training course to an emergency medical *[technician]* **services provider** who is licensed to practice emergency care in another state of the United States or a foreign country if, in the opinion of the authority, the applicant meets the requirements *[of certification]* **for licensure** in this state and can demonstrate to the satisfaction of the authority competency to practice emergency care. The authority *[shall be]* **is** the sole judge of credentials of any emergency medical *[technician]* **services provider** applying for *[certification]* **licensure** without proof of completion of an approved training course.

(4) *[Each]* **A** person *[holding a certificate]* **licensed** under *[ORS 682.208 and]* this section shall submit, at the time of application for renewal of the *[certificate]* **license** to the authority, evidence of the applicant's satisfactory completion of an authority approved program of continuing education and other requirements prescribed by rule by the authority.

(5) The authority shall prescribe criteria and approve programs of continuing education in emergency and nonemergency care to meet the requirements of this section.

(6) The authority shall include a fee pursuant to ORS 682.212 for late renewal and for issuance of any duplicate *[certificate]* **license**. Each *[certification]* **license** issued under this section, unless sooner suspended or revoked, *[shall expire]* **expires** and *[be]* **is** renewable after a period of two years. Each *[certificate]* **license** must be renewed on or before June 30 of every second year or on or before such date as may be specified by authority rule. The authority by rule shall establish a

schedule of [certificate] **license** renewals under this subsection and shall prorate the fees to reflect any shorter [certificate] **license** period.

(7) Nothing in this chapter authorizes an emergency medical [technician or first responder] **services provider** to operate an ambulance without a driver license as required under the Oregon Vehicle Code.

**SECTION 13. ORS 682.218 is added to and made a part of ORS chapter 682.**

**SECTION 14.** ORS 682.218 is amended to read:

682.218. The [Department of Human Services] **Oregon Health Authority** shall adopt rules to allow an applicant for [certification] **licensure** by indorsement as an emergency medical [technician, as defined in ORS 682.025,] **services provider** to substitute experience and certification by a national registry of emergency medical [technicians] **services providers** for education requirements imposed by the [department] **authority**.

**SECTION 15.** ORS 682.220 is amended to read:

682.220. (1) The Oregon Health Authority may deny, suspend or revoke licenses for ambulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted thereunder.

(2) The [certification] **license** of an emergency medical [technician] **services provider** may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for any of the following reasons:

(a) A failure to have completed successfully an authority approved course.

(b) In the case of a provisional [certifications] **license**, failure to have completed successfully an authority approved course.

(c) Failure to meet or continue to meet the physical and mental qualifications required [to be certified] under ORS 682.208.

(d) The use of fraud or deception in receiving a [certificate] **license**.

(e) Practicing skills beyond the scope of practice established by the Oregon Medical Board under ORS 682.245.

(f) Rendering emergency or nonemergency care under an assumed name.

(g) The impersonation of another [EMT] **emergency medical services provider**.

(h) Unprofessional conduct.

(i) Obtaining a fee by fraud or misrepresentation.

(j) Habitual or excessive use of intoxicants or drugs.

(k) The presence of a mental disorder that demonstrably affects an [EMT's] **emergency medical services provider's** performance, as certified by two psychiatrists retained by the authority.

(L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions about the ability of the [EMT] **emergency medical services provider** to perform the duties of an [EMT] **emergency medical services provider** in accordance with the standards established by this chapter. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, [shall be] **is** conclusive evidence of the conviction.

(m) Suspension or revocation of an emergency medical [technician certificate] **services provider license** issued by another state:

(A) For a reason that would permit the authority to suspend or revoke a [certificate] **license** issued under this chapter; and

(B) Evidenced by a certified copy of the order of suspension or revocation.

(n) Gross negligence or repeated negligence in rendering emergency medical assistance.

(o) Rendering emergency or nonemergency care without being [certified] **licensed**, except as provided in ORS 30.800.

(p) Rendering emergency or nonemergency care as an [EMT] **emergency medical services provider** without written authorization and standing orders from a supervising physician who has been approved by the **Oregon Medical** Board in accordance with ORS 682.245.

(q) Refusing an invitation for an interview with the authority as specified in this section.



(3) The authority may investigate any evidence that appears to show that an *[EMT certified]* **emergency medical services provider licensed** by the authority is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an *[EMT]* **emergency medical services provider**. The authority may investigate the off-duty conduct of an *[EMT]* **emergency medical services provider** to the extent that such conduct may reasonably raise questions about the ability of the *[EMT]* **emergency medical services provider** to perform the duties of an *[EMT]* **emergency medical services provider** in accordance with the standards established by this chapter. Upon receipt of a complaint about an *[EMT]* **emergency medical services provider** or applicant, the authority shall conduct an investigation as described under ORS 676.165. *[An]* **The authority shall conduct the** investigation *[shall be conducted]* in accordance with ORS 676.175.

(4)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any medical or osteopathic physician licensed under ORS chapter 677, any owner of an ambulance licensed under this chapter or any *[EMT certified]* **emergency medical services provider licensed** under this chapter shall report to the authority any information the person may have that appears to show that an *[EMT]* **emergency medical services provider** is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an *[EMT]* **emergency medical services provider**.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an *[EMT certified]* **emergency medical services provider licensed** under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(5) If, in the opinion of the authority, it appears that the information provided to it under provisions of this section is or may be true, the authority may request an interview with the *[EMT]* **emergency medical services provider**. At the time the authority requests an interview, the *[EMT shall be provided]* **authority shall provide the emergency medical services provider** with a general statement of the issue or issues of concern to the authority. The request *[shall]* **must** include a statement of the procedural safeguards available to the *[EMT]* **emergency medical services provider**, including the right to end the interview on request, the right to have counsel present and the following statement: "Any action proposed by the Oregon Health Authority shall provide for a contested case hearing."

(6) Information regarding an ambulance service provided to the authority pursuant to this section is confidential and *[shall not be]* **is not** subject to public disclosure, *[nor shall it be]* **or** admissible as evidence in any judicial proceeding. Information that the authority obtains as part of an investigation into **the conduct of an** emergency medical *[technician]* **services provider** or applicant *[conduct]* or as part of a contested case proceeding, consent order or stipulated agreement involving **the conduct of an** emergency medical *[technician]* **services provider** or applicant *[conduct]* is confidential as provided under ORS 676.175. Information regarding an ambulance service does not become confidential due to its use in a disciplinary proceeding against an emergency medical *[technician]* **services provider**.

(7) *[Any]* **A** person who reports or provides information to the authority under this section and who provides information in good faith *[shall not be]* **is not** subject to an action for civil damage as a result thereof.

(8) In conducting an investigation under subsection (3) of this section, the authority may:

(a) Take evidence;

(b) Take depositions of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(9) The authority may issue subpoenas to compel compliance with the provisions of subsection (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a court may compel obedience as provided in ORS 183.440.

**SECTION 16.** ORS 682.224 is amended to read:

682.224. (1) The Oregon Health Authority may discipline, as provided in this section, an ambulance service or *[any person certified as an emergency medical technician or first responder in this state who]* **an emergency medical services provider who** has:

(a) Admitted the facts of a complaint *[which]* **that** alleges facts *[which]* **that** establish that *[such person]* **the emergency medical services provider** is guilty of *[violation of]* one or more of the grounds for suspension or revocation of a *[certificate]* **license** as set forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the rules adopted thereunder.

(b) Been found guilty in accordance with ORS chapter 183 of *[violation of]* one or more of the grounds for suspension or revocation of *[certification]* **a license** as set forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the rules adopted thereunder.

(2) The purpose of disciplining an *[EMT]* **emergency medical services provider** under this section is to ensure that the *[EMT]* **emergency medical services provider** will provide services that are consistent with the obligations of this chapter. Prior to taking final disciplinary action, the authority shall determine if the *[EMT]* **emergency medical services provider** has been disciplined for the questioned conduct by the *[EMT's]* **emergency medical services provider's** employer or supervising physician. The authority shall consider any such discipline or any other corrective action in deciding whether additional discipline or corrective action by the authority is appropriate.

(3) In disciplining an *[EMT]* **emergency medical services provider** or ambulance service as authorized by subsection (1) of this section, the authority may use any or all of the following methods:

(a) Suspend judgment.

(b) Issue a letter of reprimand.

(c) Issue a letter of instruction.

(d) Place the *[EMT]* **emergency medical services provider** or ambulance service on probation.

(e) Suspend the *[EMT certificate or ambulance service]* **license of the emergency medical services provider or ambulance service.**

(f) Revoke the *[EMT certificate or ambulance service]* **license of the emergency medical services provider or ambulance service.**

(g) Place limitations on the *[certificate of the EMT to practice emergency or nonemergency care in this state or place limitations on the]* license of the **emergency medical services provider or ambulance service.**

(h) Take such other disciplinary action as the authority in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$5,000, or both.

(4) In addition to the action authorized by subsection (3) of this section, the authority may temporarily suspend a *[certificate or]* license without a hearing, simultaneously with the commencement of proceedings under ORS chapter 183 if the authority finds that evidence in its possession indicates that a continuation in practice of the *[EMT]* **emergency medical services provider** or operation of the ambulance service constitutes an immediate danger to the public.

(5) If the authority places any *[EMT]* **emergency medical services provider** or ambulance service on probation as set forth in subsection (3)(d) of this section, the authority may determine, and may at any time modify, the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the *[EMT]* **emergency medical services provider** or ambulance service, or both. Upon

expiration of the term of probation, further proceedings shall be abated if the [EMT] **emergency medical services provider** or ambulance service has complied with the terms of the probation.

(6)(a) If an [EMT certified in this state] **emergency medical services provider's license** is suspended, the [holder of the certificate] **emergency medical services provider** may not practice during the term of suspension.

[7] (b) If an ambulance service licensed in this state is suspended, the ambulance service may not operate in this state during the term of the suspension, provided that the authority shall condition such suspension upon such arrangements as may be necessary to ensure the continued availability of ambulance service in the area served by that ambulance service.

(c) Upon expiration of the term of suspension, the [certificate or] license shall be reinstated by the authority if the conditions for which the [certificate or] license was suspended no longer exist.

[8] (7) Whenever an [EMT certificate] **emergency medical services provider** or ambulance service license is denied or revoked for any cause, the authority may, in its discretion, after the lapse of two years from the date of [such] **the denial or** revocation, upon written application by the person formerly [certified or] licensed and after a hearing, issue or restore the [EMT certificate] **emergency medical services provider** or ambulance service license.

[9] (8) Civil penalties under this section shall be imposed as provided in ORS 183.745.

**SECTION 17.** ORS 682.245 is amended to read:

682.245. (1) The Oregon Medical Board shall adopt by rule a scope of practice for **each level of** emergency medical [technicians at such levels as may be] **services provider** established by the Oregon Health Authority [and for first responders] **pursuant to ORS 682.017.**

(2) The board shall adopt by rule standards for the qualifications and responsibilities of supervising physicians.

(3) The standing orders for emergency medical [technicians and first responders] **services providers** may not exceed the scope of practice defined by the board.

(4) [No] **An** emergency medical [technician shall] **services provider may not** provide patient care or treatment without written authorization and standing orders from a supervising physician who has been approved by the board.

(5) The policies and procedures for applying and enforcing this section may be delegated in whole or in part to the authority.

**SECTION 18.** ORS 682.265 is amended to read:

682.265. [No] **An** emergency medical [technician or first responder shall] **services provider may not** mislead any person as to the qualifications of the [technician or responder] **emergency medical services provider.**

**SECTION 19.** ORS 30.803 is amended to read:

30.803. [No] **A** person [shall] **may not** maintain a cause of action for injury, death or loss against [any certified] **a licensed** emergency medical [technician] **services provider** who acts as a volunteer without expectation of compensation, based on a claim of negligence unless the person shows that the injury, death or loss resulted from willful and wanton misconduct or intentional act or omission of the emergency medical [technician] **services provider.**

**SECTION 20.** ORS 31.740 is amended to read:

31.740. Punitive damages 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 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] **services provider** 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 medical imaging licensee 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 21.** ORS 40.460 is amended to read:

40.460. The following are not excluded by ORS 40.455, even though the declarant is available as a witness:

- (1) (Reserved.)
- (2) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain or bodily health, but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of the declarant's will.
- (4) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the memory of the witness and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.
- (6) A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method of circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this subsection includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.
- (7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, and in any form, kept in accordance with the provisions of subsection (6) of this section, to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) Records, reports, statements or data compilations, in any form, of public offices or agencies, including federally recognized American Indian tribal governments, setting forth:
  - (a) The activities of the office or agency;
  - (b) Matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, in criminal cases, matters observed by police officers and other law enforcement personnel; or

(c) In civil actions and proceedings and against the government in criminal cases, factual findings, resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records or data compilations, in any form, of births, fetal deaths, deaths or marriages, if the report thereof was made to a public office, including a federally recognized American Indian tribal government, pursuant to requirements of law.

(10) To prove the absence of a record, report, statement or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement or data compilation, in any form, was regularly made and preserved by a public office or agency, including a federally recognized American Indian tribal government, evidence in the form of a certification in accordance with ORS 40.510, or testimony, that diligent search failed to disclose the record, report, statement or data compilation, or entry.

(11) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) A statement of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a member of the clergy, a public official, an official of a federally recognized American Indian tribal government or any other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Statements of facts concerning personal or family history contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) The record of a document purporting to establish or affect an interest in property, as proof of content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office, including a federally recognized American Indian tribal government, and an applicable statute authorizes the recording of documents of that kind in that office.

(15) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in a document in existence 20 years or more the authenticity of which is established.

(17) Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) (Reserved.)

(18a)(a) A complaint of sexual misconduct, complaint of abuse as defined in ORS 107.705 or 419B.005, complaint of abuse of an elderly person, as those terms are defined in ORS 124.050, or a complaint relating to a violation of ORS 163.205 or 164.015 in which a person 65 years of age or older is the victim, made by the witness after the commission of the alleged misconduct or abuse at issue. Except as provided in paragraph (b) of this subsection, such evidence must be confined to the fact that the complaint was made.

(b) A statement made by a person concerning an act of abuse as defined in ORS 107.705 or 419B.005, a statement made by a person concerning an act of abuse of an elderly person, as those terms are defined in ORS 124.050, or a statement made by a person concerning a violation of ORS 163.205 or 164.015 in which a person 65 years of age or older is the victim, is not excluded by ORS 40.455 if the declarant either testifies at the proceeding and is subject to cross-examination, or is unavailable as a witness but was chronologically or mentally under 12 years of age when the statement was made or was 65 years of age or older when the statement was made. However, if a declarant is unavailable, the statement may be admitted in evidence only if the proponent establishes that the time, content and circumstances of the statement provide indicia of reliability, and

in a criminal trial that there is corroborative evidence of the act of abuse and of the alleged perpetrator's opportunity to participate in the conduct and that the statement possesses indicia of reliability as is constitutionally required to be admitted. No statement may be admitted under this paragraph unless the proponent of the statement makes known to the adverse party the proponent's intention to offer the statement and the particulars of the statement no later than 15 days before trial, except for good cause shown. For purposes of this paragraph, in addition to those situations described in ORS 40.465 (1), the declarant shall be considered "unavailable" if the declarant has a substantial lack of memory of the subject matter of the statement, is presently incompetent to testify, is unable to communicate about the abuse or sexual conduct because of fear or other similar reason or is substantially likely, as established by expert testimony, to suffer lasting severe emotional trauma from testifying. Unless otherwise agreed by the parties, the court shall examine the declarant in chambers and on the record or outside the presence of the jury and on the record. The examination shall be conducted immediately prior to the commencement of the trial in the presence of the attorney and the legal guardian or other suitable person as designated by the court. If the declarant is found to be unavailable, the court shall then determine the admissibility of the evidence. The determinations shall be appealable under ORS 138.060 (1)(c) or (2)(a). The purpose of the examination shall be to aid the court in making its findings regarding the availability of the declarant as a witness and the reliability of the statement of the declarant. In determining whether a statement possesses indicia of reliability under this paragraph, the court may consider, but is not limited to, the following factors:

- (A) The personal knowledge of the declarant of the event;
- (B) The age and maturity of the declarant or extent of disability if the declarant is a person with a developmental disability;
- (C) Certainty that the statement was made, including the credibility of the person testifying about the statement and any motive the person may have to falsify or distort the statement;
- (D) Any apparent motive the declarant may have to falsify or distort the event, including bias, corruption or coercion;
- (E) The timing of the statement of the declarant;
- (F) Whether more than one person heard the statement;
- (G) Whether the declarant was suffering pain or distress when making the statement;
- (H) Whether the declarant's young age or disability makes it unlikely that the declarant fabricated a statement that represents a graphic, detailed account beyond the knowledge and experience of the declarant;
- (I) Whether the statement has internal consistency or coherence and uses terminology appropriate to the declarant's age or to the extent of the declarant's disability if the declarant is a person with a developmental disability;
- (J) Whether the statement is spontaneous or directly responsive to questions; and
- (K) Whether the statement was elicited by leading questions.

(c) This subsection applies to all civil, criminal and juvenile proceedings.

(d) This subsection applies to a child declarant, a declarant who is an elderly person as defined in ORS 124.050 or an adult declarant with a developmental disability. For the purposes of this subsection, "developmental disability" means any disability attributable to mental retardation, autism, cerebral palsy, epilepsy or other disabling neurological condition that requires training or support similar to that required by persons with mental retardation, if either of the following apply:

(A) The disability originates before the person attains 22 years of age, or if the disability is attributable to mental retardation the condition is manifested before the person attains 18 years of age, the disability can be expected to continue indefinitely, and the disability constitutes a substantial handicap to the ability of the person to function in society.

(B) The disability results in a significant subaverage general intellectual functioning with concurrent deficits in adaptive behavior that are manifested during the developmental period.

(19) Reputation among members of a person's family by blood, adoption or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce,

death, legitimacy, relationship by blood or adoption or marriage, ancestry, or other similar fact of a person's personal or family history.

(20) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation of a person's character among associates of the person or in the community.

(22) Evidence of a final judgment, entered after a trial or upon a plea of guilty, but not upon a plea of no contest, adjudging a person guilty of a crime other than a traffic offense, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) Notwithstanding the limits contained in subsection (18a) of this section, in any proceeding in which a child under 12 years of age at the time of trial, or a person with a developmental disability as described in subsection (18a)(d) of this section, may be called as a witness to testify concerning an act of abuse, as defined in ORS 419B.005, or sexual conduct performed with or on the child or person with a developmental disability by another, the testimony of the child or person with a developmental disability taken by contemporaneous examination and cross-examination in another place under the supervision of the trial judge and communicated to the courtroom by closed-circuit television or other audiovisual means. Testimony will be allowed as provided in this subsection only if the court finds that there is a substantial likelihood, established by expert testimony, that the child or person with a developmental disability will suffer severe emotional or psychological harm if required to testify in open court. If the court makes such a finding, the court, on motion of a party, the child, the person with a developmental disability or the court in a civil proceeding, or on motion of the district attorney, the child or the person with a developmental disability in a criminal or juvenile proceeding, may order that the testimony of the child or the person with a developmental disability be taken as described in this subsection. Only the judge, the attorneys for the parties, the parties, individuals necessary to operate the equipment and any individual the court finds would contribute to the welfare and well-being of the child or person with a developmental disability may be present during the testimony of the child or person with a developmental disability.

(25)(a) Any document containing data prepared or recorded by the Oregon State Police pursuant to ORS 813.160 (1)(b)(C) or (E), or pursuant to ORS 475.235 (4), if the document is produced by data retrieval from the Law Enforcement Data System or other computer system maintained and operated by the Oregon State Police, and the person retrieving the data attests that the information was retrieved directly from the system and that the document accurately reflects the data retrieved.

(b) Any document containing data prepared or recorded by the Oregon State Police that is produced by data retrieval from the Law Enforcement Data System or other computer system maintained and operated by the Oregon State Police and that is electronically transmitted through public or private computer networks under an electronic signature adopted by the Oregon State Police if the person receiving the data attests that the document accurately reflects the data received.

(c) Notwithstanding any statute or rule to the contrary, in any criminal case in which documents are introduced under the provisions of this subsection, the defendant may subpoena the analyst, as defined in ORS 475.235 (6), or other person that generated or keeps the original document for the purpose of testifying at the preliminary hearing and trial of the issue. Except as provided in ORS 44.550 to 44.566, no charge shall be made to the defendant for the appearance of the analyst or other person.

(26)(a) A statement that purports to narrate, describe, report or explain an incident of domestic violence, as defined in ORS 135.230, made by a victim of the domestic violence within 24 hours after the incident occurred, if the statement:

(A) Was recorded, either electronically or in writing, or was made to a peace officer as defined in ORS 161.015, corrections officer, youth correction officer, parole and probation officer, emergency medical [*technician*] **services provider** or firefighter; and

(B) Has sufficient indicia of reliability.

(b) In determining whether a statement has sufficient indicia of reliability under paragraph (a) of this subsection, the court shall consider all circumstances surrounding the statement. The court may consider, but is not limited to, the following factors in determining whether a statement has sufficient indicia of reliability:

(A) The personal knowledge of the declarant.

(B) Whether the statement is corroborated by evidence other than statements that are subject to admission only pursuant to this subsection.

(C) The timing of the statement.

(D) Whether the statement was elicited by leading questions.

(E) Subsequent statements made by the declarant. Recantation by a declarant is not sufficient reason for denying admission of a statement under this subsection in the absence of other factors indicating unreliability.

(27) A report prepared by a forensic scientist that contains the results of a presumptive test conducted by the forensic scientist as described in ORS 475.235, if the forensic scientist attests that the report accurately reflects the results of the presumptive test.

(28)(a) A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that:

(A) The statement is relevant;

(B) The statement is more probative on the point for which it is offered than any other evidence that the proponent can procure through reasonable efforts; and

(C) The general purposes of the Oregon Evidence Code and the interests of justice will best be served by admission of the statement into evidence.

(b) A statement may not be admitted under this subsection unless the proponent of it makes known to the adverse party the intention to offer the statement and the particulars of it, including the name and address of the declarant, sufficiently in advance of the trial or hearing, or as soon as practicable after it becomes apparent that such statement is probative of the issues at hand, to provide the adverse party with a fair opportunity to prepare to meet it.

**SECTION 22.** ORS 97.970 is amended to read:

97.970. (1) The following persons shall make a reasonable search of an individual who the persons reasonably believe is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, [*paramedic*] **emergency medical services provider** or other emergency rescuer finding the individual; and

(b) If no other source of the information is immediately available, a hospital, as soon as practicable after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or the refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

**SECTION 23.** 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 to an elderly person caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.



(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 upon an elderly person.

(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) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline the person.

(j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of restraint prescribed by a licensed physician and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(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) "Facility" means:

(a) A long term care facility as that term is defined in ORS 442.015.

(b) A residential facility as that term is defined in ORS 443.400, including but not limited to an assisted living facility.

(c) An adult foster home as that term is defined in ORS 443.705.

(4) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an elderly person or a person with a disability.

(b) Alarming an elderly person or a person with a disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an elderly person or a person with a disability.

(d) Failing to use the income or assets of an elderly person or a person with a disability effectively for the support and maintenance of the person.

(5) "Intimidation" means compelling or deterring conduct by threat.

(6) "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.

(7) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of an elderly person that may result in physical harm or significant emotional harm to the elderly person; or

(b) The failure of a caregiver to make a reasonable effort to protect an elderly person from abuse.

(8) "Person with a disability" means a person described in:

(a) ORS 410.040 (7)(b); or

(b) ORS 410.715.

(9) "Public or private official" means:

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

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

(c) Employee of the Department of Human Services or community developmental disabilities program.

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

(e) Peace officer.

(f) Member of the clergy.

(g) Regulated social worker.

(h) Physical, speech or occupational therapist.

(i) Senior center employee.

(j) Information and referral or outreach worker.

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

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

(m) Firefighter or emergency medical [*technician*] **services provider**.

(n) Psychologist.

(o) Provider of adult foster care or an employee of the provider.

(p) Audiologist.

(q) Speech-language pathologist.

(10) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person.

(11)(a) "Sexual abuse" means:

(A) Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver;

(D) Any sexual contact between an elderly person and a relative of the elderly person other than a spouse; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) "Sexual abuse" does not mean consensual sexual contact between an elderly person and a paid caregiver who is the spouse of the elderly person.

(12) "Sexual contact" has the meaning given that term in ORS 163.305.

(13) "Verbal abuse" means to threaten significant physical or emotional harm to an elderly person or a person with a disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

**SECTION 24.** ORS 127.675 is amended to read:

127.675. (1) There is established the Oregon POLST Registry Advisory Committee to advise the Oregon Health Authority regarding the implementation, operation and evaluation of the POLST registry.

(2) The members of the Oregon POLST Registry Advisory Committee shall be appointed by the Director of the Oregon Health Authority and shall include, at a minimum:

(a) A health professional with extensive experience and leadership in POLST issues;

(b) A physician who is a supervising physician, as defined in ORS 682.025, for emergency medical [*technicians*] **services providers** and who has extensive experience and leadership in POLST issues;

(c) A representative from the hospital community with extensive experience and leadership in POLST issues;

(d) A representative from the long term care community with extensive experience and leadership in POLST issues;

(e) A representative from the hospice community with extensive experience and leadership in POLST issues;

(f) An emergency medical [*technician*] **services provider** actively involved in providing emergency medical services; and

(g) Two members of the public with active interest in end-of-life treatment preferences, at least one of whom represents the interests of minorities.

(3) The Director of the Emergency Medical Services and Trauma Systems Program within the Oregon Health Authority, or a designee of the director, shall serve as a voting ex officio member of the committee.

(4) The Director of the Oregon Health Authority may appoint additional members to the committee.

(5) The committee shall meet at least four times per year, at times and places specified by the Director of the Oregon Health Authority.

(6) The Oregon Health Authority shall provide staff support for the committee.

(7) Except for the Director of the Emergency Medical Services and Trauma Systems Program, a member of the committee shall serve a term of two years. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 2 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Director of the Oregon Health Authority shall make an appointment to become immediately effective for the unexpired term.

(8) The Director of the Oregon Health Authority, or a designee of the director, shall consult with the committee in drafting rules on the implementation, operation and evaluation of the POLST registry.

**SECTION 25.** ORS 137.476 is amended to read:

137.476. (1) Notwithstanding any other law, a licensed health care professional or a nonlicensed medically trained person may assist the Department of Corrections in an execution carried out under ORS 137.473.

(2) Any assistance rendered in an execution carried out under ORS 137.473 by a licensed health care professional or a nonlicensed medically trained person is not cause for disciplinary measures or regulatory oversight by any board, commission or agency created by this state or governed by state law that oversees or regulates the practice of health care professionals including, but not limited to, the Oregon Medical Board, [*and*] the Oregon State Board of Nursing **and the Oregon Health Authority**.

(3) The infliction of the punishment of death by the administration of the required lethal substances in the manner required by ORS 137.473 may not be construed to be the practice of medicine.

(4) As used in this section, "licensed health care professional" includes, but is not limited to, a physician, physician assistant, nurse practitioner[,] **or** nurse [*and emergency medical technician*] licensed by the Oregon Medical Board or the Oregon State Board of Nursing **or an emergency medical services provider licensed by the Oregon Health Authority**.

**SECTION 26.** ORS 162.257 is amended to read:

162.257. (1) A person commits the crime of interfering with a firefighter or emergency medical [*technician*] **services provider** if the person, knowing that another person is a firefighter or emergency medical [*technician*] **services provider**, intentionally acts in a manner that prevents, or attempts to prevent, a firefighter or emergency medical [*technician*] **services provider** from performing the lawful duties of the firefighter or emergency medical [*technician*] **services provider**.

(2) Interfering with a firefighter or emergency medical [*technician*] **services provider** is a Class A misdemeanor.

(3) As used in this section, "emergency medical [*technician*] **services provider**" has the meaning given that term in ORS 682.025.

**SECTION 27.** ORS 163.165 is amended to read:

163.165. (1) A person commits the crime of assault in the third degree if the person:

(a) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon;

(b) Recklessly causes serious physical injury to another under circumstances manifesting extreme indifference to the value of human life;

(c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life;

(d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS 166.116;

(e) While being aided by another person actually present, intentionally or knowingly causes physical injury to another;

(f) While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member of a youth correction facility while the other person is acting in the course of official duty;

(g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical [*technician*] **services provider**, as defined in ORS 682.025, [*or a paramedic*] while the emergency medical [*technician or paramedic*] **services provider** is performing official duties;

(h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child 10 years of age or younger; or

(i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi.

(2)(a) Assault in the third degree is a Class C felony.

(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under subsection (1)(a) or (b) of this section is a Class B felony if:

(A) The assault resulted from the operation of a motor vehicle; and

(B) The defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.

(3) As used in this section:

(a) "Staff member" means:

(A) A corrections officer as defined in ORS 181.610, a youth correction officer, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, inmates or youth offenders; and

(B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, inmates or youth offenders.

(b) "Youth correction facility" has the meaning given that term in ORS 162.135.

**SECTION 28.** ORS 166.070 is amended to read:

166.070. (1) A person commits the crime of aggravated harassment if the person, knowing that the other person is a:

(a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member's official duties; or

(b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) "Public safety officer" means an emergency medical [*technician*] **services provider** as defined in ORS 682.025 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181.610.

(b) "Staff member" has the meaning given that term in ORS 163.165.

**SECTION 29.** ORS 181.637 is amended to read:

181.637. (1) The Board on Public Safety Standards and Training shall establish the following policy committees:

- (a) Corrections Policy Committee;
- (b) Fire Policy Committee;
- (c) Police Policy Committee;
- (d) Telecommunications Policy Committee; and
- (e) Private Security Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice chairperson. The vice chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

- (a) All of the board members who represent the corrections discipline;
- (b) The chief administrative officer of the training division of the Department of Corrections;
- (c) A security manager from the Department of Corrections recommended by the Director of the Department of Corrections; and

(d) The following, who may not be current board members, appointed by the chairperson of the board:

- (A) One person recommended by and representing the Oregon State Sheriffs' Association;
- (B) Two persons recommended by and representing the Oregon Sheriff's Jail Command Council;
- (C) One person recommended by and representing a statewide association of community corrections directors;
- (D) One nonmanagement corrections officer employed by the Department of Corrections;
- (E) One corrections officer who is a female, who is employed by the Department of Corrections at a women's correctional facility and who is a member of a bargaining unit; and
- (F) Two nonmanagement corrections officers.

(4) The Fire Policy Committee consists of:

- (a) All of the board members who represent the fire service discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) One person recommended by and representing a statewide association of fire instructors;
  - (B) One person recommended by and representing a statewide association of fire marshals;
  - (C) One person recommended by and representing community college fire programs;
  - (D) One nonmanagement firefighter recommended by a statewide organization of firefighters; and
  - (E) One person representing the forest protection agencies and recommended by the State Forestry Department.

(5) The Police Policy Committee consists of:

- (a) All of the board members who represent the law enforcement discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:

- (A) One person recommended by and representing the Oregon Association Chiefs of Police;
- (B) Two persons recommended by and representing the Oregon State Sheriffs' Association;
- (C) One command officer recommended by and representing the Oregon State Police; and
- (D) Three nonmanagement law enforcement officers.

(6) The Telecommunications Policy Committee consists of:

- (a) All of the board members who represent the telecommunications discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) Two persons recommended by and representing a statewide association of public safety communications officers;
  - (B) One person recommended by and representing the Oregon Association Chiefs of Police;

- (C) One person recommended by and representing the Oregon State Police;
- (D) Two persons representing telecommunicators;
- (E) One person recommended by and representing the Oregon State Sheriffs' Association;
- (F) One person recommended by and representing the Oregon Fire Chiefs Association;
- (G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Oregon Health Authority; and

(H) One person representing [*paramedics*] **emergency medical services providers** and recommended by a statewide association dealing with fire medical issues.

(7) The Private Security Policy Committee consists of:

- (a) All of the board members who represent the private security industry; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:

- (A) One person representing unarmed private security professionals;
- (B) One person representing armed private security professionals;
- (C) One person representing the health care industry;
- (D) One person representing the manufacturing industry;
- (E) One person representing the retail industry;
- (F) One person representing the hospitality industry;
- (G) One person representing private business or a governmental entity that utilizes private security services;

(H) One person representing persons who monitor alarm systems;

(I) Two persons who are investigators licensed under ORS 703.430, one of whom is recommended by the Oregon State Bar and one of whom is in private practice; and

(J) One person who represents the public at large and who is not related within the second degree by affinity or consanguinity to a person who is employed or doing business as a private security professional or executive manager, as defined in ORS 181.870, or as an investigator, as defined in ORS 703.401.

(8) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population. An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective. The chairperson of the board may remove an appointed member for just cause. An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment. The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment. The term of an appointed member is two years. An appointed member may be appointed to a second term.

(9) A policy committee may meet at such times and places as determined by the policy committee in consultation with the Department of Public Safety Standards and Training. A majority of a policy committee constitutes a quorum to conduct business. A policy committee may create subcommittees if needed.

(10)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific discipline. A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration. When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:

- (A) Approve the policy, requirement, standard or rule;
- (B) Disapprove the policy, requirement, standard or rule; or
- (C) Defer a decision and return the matter to the policy committee for revision or reconsideration.

(b) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.

(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.

(11) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration.

**SECTION 30.** 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, 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*] **services provider licensed** 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 medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(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) Medical assistance as defined in ORS 414.025;
  - (b) The Health Care for All Oregon Children program;
  - (c) The Family Health Insurance Assistance Program established in ORS 414.841 to 414.864; or
  - (d) Any medical assistance or premium assistance program operated by the Oregon Health Authority.
- (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 31.** ORS 315.622 is amended to read:

315.622. (1) A resident or nonresident individual who is certified as eligible under ORS 442.550 to 442.570 and who is [*certified*] **licensed** as an emergency medical [*technician*] **services provider** under ORS chapter 682 shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 if the Office of Rural Health certifies that the individual provides volunteer

emergency medical [*technician*] services in a rural area that comprise at least 20 percent of the total emergency medical [*technician*] services provided by the individual in the tax year.

(2) The amount of the credit shall equal \$250.

(3) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(4) As used in this section, "rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more.

**SECTION 32.** ORS 352.223 is amended to read:

352.223. (1) As used in this section:

(a) "Allied health education programs" includes, but is not limited to:

(A) Radiologic science;

(B) Nuclear medicine;

(C) Sonography;

(D) Vascular technology;

(E) Dental hygiene;

(F) Respiratory care;

(G) Clinical laboratory sciences; and

(H) Emergency medical [*technician*] **services provider** education.

(b) "Allied health education programs" does not include any undergraduate or graduate nursing program administered by Oregon Health and Science University.

(2) There is created within the Oregon University System the Oregon Center for Health Professions. The Oregon Center for Health Professions shall be administered by the Oregon Institute of Technology.

(3) The purposes of the Oregon Center for Health Professions are to:

(a) Provide continued development of bachelor's degree level education programs in areas of allied health;

(b) Facilitate the creation of new partnerships between the health care industry and community colleges, private institutions of higher education and state institutions of higher education in order to increase the number of students and graduates in allied health education programs;

(c) Provide continuing education, professional development and certificate programs for allied health care professionals; and

(d) Align with and complement educational partnerships between the Oregon Institute of Technology and Oregon Health and Science University focusing on allied health education programs.

(4) The Oregon University System may receive moneys from any public or private source to support the Oregon Center for Health Professions. Gifts and grants received to support the Oregon Center for Health Professions shall be credited to the appropriate fund at the Oregon Institute of Technology by the Oregon University System.

**SECTION 33.** ORS 353.450 is amended to read:

353.450. (1) It is the finding of the Legislative Assembly that there is need to provide programs that will assist a rural community to recruit and retain physicians, physician assistants and nurse practitioners. For that purpose:

(a) The Legislative Assembly supports the development at the Oregon Health and Science University of an Area Health Education Center program as provided for under the United States Public Health Service Act, Section 781.

(b) The university shall provide continuing education opportunities for persons licensed to practice medicine under ORS chapter 677 who practice in rural areas of this state in cooperation with the respective professional organizations, including the Oregon Medical Association and the Oregon Society of Physician Assistants.

(c) The university shall seek funding through grants and other means to implement and operate a fellowship program for physicians, physician assistants and nurse practitioners intending to practice in rural areas.

(2) With the moneys transferred to the Area Health Education Center program by ORS 442.625, the program shall:

(a) Establish educational opportunities for emergency medical [*technicians*] **services providers** in rural counties;

(b) Contract with educational facilities qualified to conduct emergency medical training programs using a curriculum approved by the Emergency Medical Services and Trauma Systems Program; and

(c) Review requests for training funds with input from the State Emergency Medical Service Committee and other individuals with expertise in emergency medical services.

**SECTION 34.** ORS 419B.005, as amended by section 4, chapter 60, Oregon Laws 2010, 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 described in ORS chapter 163.

(D) Sexual abuse, as described 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, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.

(b) Dentist.

- (c) School employee.
- (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- (e) Employee of the Department of Human Services, Oregon Health Authority, 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 program, a community 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) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical [*technician*] **services provider**.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- (s) Member of the Legislative Assembly.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 657A.255.
- (z) An operator of a school-age recorded program under ORS 657A.257.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(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 35.** 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) Abandonment, including desertion or willful forsaking of a person with a developmental disability or the withdrawal or neglect of duties and obligations owed a person with a developmental disability by a caregiver or other person.
- (b) Any physical injury to an adult 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 upon an adult.
- (d) Sexual abuse of an adult.
- (e) Neglect.
- (f) Verbal abuse of a person with a developmental disability.
- (g) Financial exploitation of a person with a developmental disability.

(h) Involuntary seclusion of a person with a developmental disability for the convenience of the caregiver or to discipline the person.

(i) A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a licensed physician and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) 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.

(k) Any death of an adult caused by other than accidental or natural means.

(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) "Caregiver" means an individual, whether paid or unpaid, or a 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 program or a community developmental disabilities program as established in ORS 430.610 to 430.695.

(6) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a person with a developmental disability.

(b) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.

(d) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

(8) "Intimidation" means compelling or deterring conduct by threat.

(9) "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.

(10) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a person with a developmental disability that may result in physical harm or significant emotional harm to the person;

(b) The failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse; or

(c) Withholding of services necessary to maintain the health and well-being of an adult which leads to physical harm of an adult.

(11) "Person with a developmental disability" means a person described in subsection (2)(a) of this section.

(12) "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 or Oregon Health Authority, county health department, community mental health program or community 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) 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;

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

(L) Firefighter or emergency medical [*technician*] **services provider**.

(13) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(14)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(15) "Sexual contact" has the meaning given that term in ORS 163.305.

(16) "Verbal abuse" means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

**SECTION 36.** ORS 431.613 is amended to read:

431.613. (1) Area trauma advisory boards shall meet as often as necessary to identify specific trauma area needs and problems and propose to the Oregon Health Authority area trauma system plans and changes that meet state standards and objectives. The authority acting with the advice of the State Trauma Advisory Board will have the authority to implement these plans.

(2) In concurrence with the Governor, the authority shall select members for each area from lists submitted by local associations of emergency medical [*technicians*] **services providers**, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agencies and citizens at large. Members shall be broadly representative of the trauma area as a whole and shall consist of at least 15 members per area trauma advisory board, including:

(a) Three surgeons;

(b) Two physicians serving as emergency physicians;

(c) Two hospital administrators from different hospitals;

(d) Two nurses serving as emergency nurses;

(e) Two emergency medical [*technicians*] **services providers** serving different emergency medical services;

(f) Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the authority. Public members shall not have an economic interest in any decision of the health care service areas;

(g) One representative of any bordering state which is included within the patient referral area;

(h) One anesthesiologist; and

(i) One ambulance service owner or operator or both.

**SECTION 37.** ORS 433.009 is amended to read:

433.009. (1) Notwithstanding ORS 192.501 (3), 192.502 (2) and 433.045, if, during the course of a criminal investigation, a law enforcement unit acquires information that the person who is charged with a crime or sentenced for a crime has a reportable disease, the law enforcement unit shall disclose that information to the public health authorities who shall confirm the diagnosis and notify any police officer, corrections officer or emergency medical [*technician*] **services provider** who had significant exposure to the person.

(2) As used in this section:

(a) "Emergency medical [*technician*] **services provider**" has the meaning given that term in ORS 682.025.

(b) "Law enforcement unit," "police officer" and "corrections officer" have the meanings given those terms in ORS 181.610.

(c) "Reportable disease" means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

**SECTION 38.** ORS 433.085 is amended to read:

433.085. (1) Notwithstanding any other provision of law, any employee of the Department of Corrections, law enforcement officer as defined in ORS 414.805, parole and probation officer, corrections officer, emergency medical [*technician*] **services provider**, licensed health care provider[,] **or** firefighter [*or paramedic*] who in the performance of the individual's official duties comes into contact with the bodily fluids of another person may seek to have the source person tested for HIV and hepatitis B or C by petitioning the circuit court for an order compelling the testing.

(2) The petition submitted to the court must set forth the facts and circumstances of the contact and the reasons the petitioner and a medically trained person representing the petitioner, if available, believe the exposure was substantial and the testing would be appropriate. The petition must also include information sufficient to identify the alleged source person and the location of the alleged source person, if known. The court shall hold an ex parte hearing in person or by telephone on the day of receipt of the petition, if possible, or within a reasonable period not to exceed three judicial days. Upon a showing that the petitioner has been exposed to the bodily fluids of another person and the circumstances create probable cause to conclude that a significant possibility exists that the petitioner has been exposed to HIV or hepatitis B or C, the court shall order the testing of the source person.

(3) If the court orders a test under subsection (2) of this section:

(a) The order shall direct the source person to allow the required test to be performed by a licensed health care provider without delay and may specify a time when the test must be completed. If the source person is in custody or otherwise subject to the legal control of another person, the order may be directed to the agency with custody of, or the other person with legal control over, the source person and direct the agency or other person to provide the source person with a copy of the order and ensure that the required test is performed.

(b) The petitioner shall designate a physician or nurse practitioner to receive the test results on behalf of the petitioner.

(c) The order must inform the source person, agency or other person of who is to receive the results of the test and of how to obtain payment for costs under subsection (6) of this section.

(d) The order shall be served on the source person, or the agency with custody of or other person with legal control over the source person, in the manner directed by the court. The court

may provide for service of the order by any means appropriate to the circumstances of the source person, including but not limited to service by the petitioner or by directing the sheriff to serve the order. Any costs of service shall be paid as provided under subsection (6) of this section.

(e) The order is enforceable through the contempt powers of the court.

(4) The results of any test ordered under this section are confidential and subject to the confidentiality provisions of ORS 433.045 (3). The results shall be made available only to those persons authorized under ORS 433.045 (3) and to the petitioner, any physician or nurse practitioner designated by the petitioner to receive the results, the Oregon Health Authority and the source person.

(5) If the test results are negative, the court may order the source person to submit to additional testing six months after the first test was conducted.

(6) No charge or filing fee may be imposed for the filing of a petition under this section. The cost of any testing ordered under this section shall be the responsibility of the employer of the petitioner.

**SECTION 39.** 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 414.842;

(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*] **services provider licensed** 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 medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(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.

(2)(a) During a public health emergency 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.

(3) Civil penalties under subsection (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 (2) of this section is \$500 for each day of violation, regardless of the number of violations of subsection (2) of this section that occurred on each day of violation.

(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 401.165, 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.

(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 Oregon Health Authority 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 authority may amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the public health emergency.

**SECTION 40.** ORS 442.490 is amended to read:

442.490. (1) In carrying out its responsibilities, the Office of Rural Health shall be advised by the Rural Health Coordinating Council. All members of the Rural Health Coordinating Council shall have knowledge, interest, expertise or experience in rural areas and health care delivery. The membership of the Rural Health Coordinating Council shall consist of:

- (a) One primary care physician who is appointed by the Oregon Medical Association and one primary care physician appointed by the Oregon Osteopathic Association;
  - (b) One nurse practitioner who is appointed by the Oregon Nursing Association;
  - (c) One pharmacist who is appointed by the State Board of Pharmacy;
  - (d) Five consumers who are appointed by the Governor as follows:
    - (A) One consumer representative from each of the three health service areas; and
    - (B) Two consumer representatives at large from communities of less than 3,500 people;
  - (e) One representative appointed by the Conference of Local Health Officials;
  - (f) One volunteer emergency medical [*technician*] **services provider** from a community of less than 3,500 people appointed by the Oregon State EMT Association;
  - (g) One representative appointed by the Oregon Association for Home Care;
  - (h) One representative from the Oregon Health and Science University, appointed by the president of the Oregon Health and Science University;
  - (i) One representative from the Oregon Association of Hospitals, appointed by the Oregon Association of Hospitals;
  - (j) One dentist appointed by the Oregon Dental Association;
  - (k) One optometrist appointed by the Oregon Association of Optometry;
  - (L) One physician assistant who is appointed by the Oregon Society of Physician Assistants; and
  - (m) One naturopathic physician appointed by the Oregon Association of Naturopathic Physicians.
- (2) The Rural Health Coordinating Council shall elect a chairperson and vice chairperson.
- (3) A member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(4) The chairperson may appoint nonvoting, advisory members of the Rural Health Coordinating Council. However, advisory members without voting rights are not entitled to compensation or reimbursement as provided in ORS 292.495.

(5) Members shall serve for two-year terms.

(6) The Rural Health Coordinating Council shall report its findings to the Office of Rural Health.

**SECTION 41.** ORS 442.566 is amended to read:

442.566. The Office of Rural Health shall establish criteria for certifying individuals who are [*certified*] **licensed** as emergency medical [*technicians*] **services providers** under ORS chapter 682 as eligible for the tax credit authorized by ORS 315.622. Upon application for the credit and upon a finding that the applicant will be providing emergency medical [*technician*] services in one or more rural areas and otherwise meets the eligibility criteria established by the office, the office shall certify the individual as eligible for the tax credit authorized by ORS 315.622.

**SECTION 42.** ORS 453.307 is amended to read:

453.307. As used in ORS 453.307 to 453.414:

(1) “Community right to know regulatory program” or “local program” means any law, rule, ordinance, regulation or charter amendment established, enforced or enacted by a local government that requires an employer to collect or report information relating to the use, storage, release, possession or composition of hazardous substances and toxic substances if a primary intent of the law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

(2) “Emergency service personnel” includes those entities providing emergency services as defined in ORS 401.025.

(3) “Employer” means:

(a) Any person operating a facility that is included in one or more of the 21 standard industrial classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent Decree of June 8, 1976 (8 E.R.C. 2120); or

- (b) Any person operating a facility designated by the State Fire Marshal.
- (4) "Fire district" means any agency having responsibility for providing fire protection services.
- (5) "Hazardous substance" means:
  - (a) Any substance designated as hazardous by the Director of the Department of Consumer and Business Services or by the State Fire Marshal;
  - (b) Any substance for which a material safety data sheet is required by the Director of the Department of Consumer and Business Services under ORS 654.035 and which appears on the list of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by the American Conference of Governmental Industrial Hygienists; or
  - (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005.
- (6) "Health professional" means a physician as defined in ORS 677.010, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical [*technician*] **services provider**.
- (7) "Law enforcement agency" has the meaning given that term in ORS 181.010.
- (8) "Local government" means a city, town, county, regional authority or other political subdivision of this state.
- (9) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agency thereof, and the federal government and any agency thereof.
- (10) "Trade secret" has the meaning given that term in ORS 192.501 (2).

**SECTION 43.** 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, Oregon Health Authority, 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 program, a community 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 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*] **services provider**.
- (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 44.** ORS 676.150 is amended to read:

676.150. (1) As used in this section:

(a) "Board" means the:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
- (B) State Board of Chiropractic Examiners;
- (C) State Board of Licensed Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) Board of Examiners of Licensed Dietitians;
- (G) State Board of Massage Therapists;
- (H) Oregon Board of Naturopathic Medicine;
- (I) Oregon State Board of Nursing;
- (J) Nursing Home Administrators Board;
- (K) Oregon Board of Optometry;
- (L) State Board of Pharmacy;
- (M) Oregon Medical Board;
- (N) Occupational Therapy Licensing Board;
- (O) Physical Therapist Licensing Board;
- (P) State Board of Psychologist Examiners;
- (Q) Board of Radiologic Technology;
- (R) State Board of Direct Entry Midwifery;
- (S) State Board of Denture Technology;
- (T) Respiratory Therapist Licensing Board;
- (U) [*Department of Human Services*] **Oregon Health Authority**, to the extent that the [*department certifies*] **authority licenses** emergency medical [*technicians*] **services providers**;
- (V) Oregon State Veterinary Medical Examining Board; or
- (W) State Mortuary and Cemetery Board.

(b) "Licensee" means a health professional licensed or certified by or registered with a board.

(c) "Prohibited conduct" means conduct by a licensee that:

- (A) Constitutes a criminal act against a patient or client; or
- (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than

10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

**SECTION 45.** 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 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) Oregon Board of Naturopathic Medicine;
- (10) Oregon State Board of Nursing;
- (11) Nursing Home Administrators Board;
- (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 Medical Imaging;
- (19) Oregon State Veterinary Medical Examining Board; and
- (20) Oregon Health Authority, to the extent that the authority [*certifies*] **licenses** emergency medical [*technicians*] **services providers**.

**SECTION 46.** ORS 676.306 is amended to read:

676.306. (1) As used in this section, "health professional regulatory board" means a health professional regulatory board described in ORS 676.160 other than the [*Department of Human Services*] **Oregon Health Authority** with regard to the [*certification*] **licensure** of emergency medical [*technicians*] **services providers**.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review.

**SECTION 47.** 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, 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*] **services provider licensed** 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 medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(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 48.** ORS 820.330 is amended to read:

820.330. (1) A person commits the offense of failure to make, maintain and make available ambulance records if the person violates any of the following:

(a) When an ambulance is used in an emergency situation the driver of the ambulance, within 24 hours after such use, *[must]* **shall** cause to be made and must sign a record that complies with ORS 820.340.

(b) The owner of any ambulance *[must]* **shall** cause any record required by this section to be preserved for not less than seven years.

(c) Upon demand of any district attorney, the custodian of any record required under this section *[must]* **shall** make the record available to that district attorney for the purpose of investigating any alleged violation of ORS 820.320 by a driver of an ambulance.

(d) Upon demand of an authorized representative of the Oregon Health Authority, the custodian of any record required under this section shall make the record available to the authorized representative who wishes to inspect the record for purposes of ascertaining identities of emergency medical *[technicians]* **services providers** as defined in ORS 682.025.

(2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079 from regulation by the authority.

(3) Authority of political subdivisions to regulate records of ambulances is limited under ORS 682.031.

(4) The offense described in this section, failure to make, maintain and make available ambulance records, is a Class B traffic violation.

**SECTION 49.** ORS 820.340 is amended to read:

820.340. Records required under ORS 820.330 *[shall]* **must** contain all of the following:

(1) The time of day and the date when ambulance service was requested.

(2) The name of the ambulance driver and the name of the emergency medical *[technicians]* **services providers**, as defined in ORS 682.025, who provided the service, one of whom may be the driver.

(3) The name and address of any individual to be transported.

(4) Any reason to believe the life of the individual is jeopardized by delay of the ambulance.

(5) The location from which the individual is to be transported.

(6) The name and address of any person who requested the ambulance service.

(7) The time of day when service for the individual is begun and ended.

**SECTION 50.** ORS 163.213 is amended to read:

163.213. (1) A person commits the crime of unlawful use of an electrical stun gun, tear gas or mace in the first degree if the person knowingly discharges or causes to be discharged any electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person, knowing the other person to be a peace officer, corrections officer, parole and probation officer, firefighter or emergency medical *[technician or paramedic]* **services provider** and while the other person is acting in the course of official duty.

(2) Unlawful use of an electrical stun gun, tear gas or mace in the first degree is a Class C felony.

**SECTION 51.** ORS 682.051 is amended to read:

682.051. (1) A person or governmental unit commits the offense of unlawful operation of an unlicensed ambulance or the offense of unlawful operation of an unlicensed ambulance service if the person or governmental unit advertises or operates in this state a motor vehicle, aircraft or watercraft ambulance that:

(a) Is not operated by an ambulance service licensed under this chapter;

(b) Is not licensed under this chapter; and

(c) Does not meet the minimum requirements established under this chapter by the Oregon Health Authority in consultation with the State Emergency Medical Service Committee for that type of ambulance.

*[(2) As used in this section, "governmental unit" and "person" have the meaning given those terms in ORS 682.025.]*

*[(3)]* (2) This section does not apply to any ambulance or any person if the ambulance or person is exempted by ORS 682.035 or 682.079 from regulation by the authority.

*[(4)]* (3) Authority of political subdivisions to regulate ambulance services or to regulate or allow the use of ambulances is limited under ORS 682.031.

*[(5)]* (4) The offense described in this section, unlawful operation of an unlicensed ambulance or ambulance service, is a Class A misdemeanor. Each day of continuing violation shall be considered a separate offense.

*[(6)]* (5) In addition to the penalties prescribed by subsection *[(5)]* (4) of this section, the authority may impose upon a licensed ambulance service a civil penalty not to exceed \$5,000 for each violation of this chapter and the rules adopted thereunder. Each day of continuing violation shall be considered a separate violation for purposes of this subsection.

**SECTION 52.** ORS 682.056 is amended to read:

682.056. (1) Upon the request of the designated official of an ambulance service as defined in ORS 682.051, *[a first responder]* **an emergency medical services provider** as defined in ORS 682.025, the emergency medical services system authority in the county in which a prehospital care event occurred or the Oregon Health Authority, a hospital licensed under ORS chapter 441 may provide to the requester the following information:

- (a) The disposition of the person who was the subject of the prehospital care event from the emergency department or other intake facility of the hospital, including but not limited to:
  - (A) Whether the person was admitted to the hospital; and
  - (B) If the person was admitted, to what unit the person was assigned;
  - (b) The diagnosis given the person in the emergency department or other intake facility; and
  - (c) Whether within the first hour after the person arrived at the hospital, the person received one or more medical procedures on a list that the authority shall establish by rule.
- (2) Information provided pursuant to subsection (1) of this section shall be:
  - (a) Treated as a confidential medical record and not disclosed;
  - (b) Considered privileged data under ORS 41.675 and 41.685; and
  - (c) Used only for legitimate medical quality assurance and quality improvement activities.
- (3) A hospital may charge a fee reasonably related to the actual cost of providing the information requested pursuant to this section.
- (4) For purposes of this section, "emergency medical services system" has the meaning given in ORS 41.685.

**Passed by Senate June 23, 2011**

.....  
 Robert Taylor, Secretary of Senate  
 .....  
 Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2011  
**Approved:**  
 .....M.,....., 2011  
 .....  
 John Kitzhaber, Governor

**Passed by House June 27, 2011**

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 Bruce Hanna, Speaker of House  
 .....  
 Arnie Roblan, Speaker of House

**Filed in Office of Secretary of State:**

.....M.,....., 2011  
 .....  
 Kate Brown, Secretary of State