

Senate Bill 94

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

SUMMARY

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

Authorizes Department of Consumer and Business Services to adopt uniform standards for health care financial and administrative transactions of specified persons. Authorizes Oregon Health Authority to convene stakeholder work group to recommend standards for health care financial and administrative transactions and to report recommendations to department.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to uniform standards for health care transactions; creating new provisions; amending ORS
3 731.036, 750.055 and 750.333; repealing sections 1192 and 1193, chapter 595, Oregon Laws 2009;
4 and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of the Insurance Code.**

7 **SECTION 2. (1) The Department of Consumer and Business Services may adopt by rule**
8 **uniform standards applicable to persons listed in subsection (2) of this section for health care**
9 **financial and administrative transactions.**

10 **(2) Except as provided in subsection (3) of this section, the uniform standards adopted**
11 **under subsection (1) of this section apply to:**

12 **(a) Health insurers.**

13 **(b) Prepaid managed care health services organizations as defined in ORS 414.736.**

14 **(c) Third party administrators.**

15 **(d) Any person or public body that either individually or jointly establishes a self-**
16 **insurance plan, program or contract including but not limited to persons and public bodies**
17 **that are otherwise exempt from the Insurance Code under ORS 731.036.**

18 **(e) Health care clearinghouses or other entities that process or facilitate the processing**
19 **of health care financial and administrative transactions from a nonstandard format to a**
20 **standard format.**

21 **(f) Any other person identified by the Department of Consumer and Business Services**
22 **that processes health care financial and administrative transactions between a health care**
23 **provider and an entity described in this subsection.**

24 **(3) The uniform standards adopted by the Department of Consumer and Business Ser-**
25 **vices under subsection (1) of this section do not apply to the Oregon Health Authority or the**
26 **Department of Human Services.**

27 **(4) In developing or updating the uniform standards adopted under subsection (1) of this**
28 **section, the Department of Consumer and Business Services shall consider recommendations**

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

1 from the authority under section 3 of this 2011 Act.

2 **SECTION 3.** (1) The Oregon Health Authority may convene a stakeholder work group to
3 recommend uniform standards for health care financial and administrative transactions.

4 (2) The authority shall report uniform standards recommended under subsection (1) of
5 this section to the Department of Consumer and Business Services for consideration in the
6 adoption of uniform standards by the department under section 2 of this 2011 Act.

7 **SECTION 4.** Uniform standards adopted by the Department of Consumer and Business
8 Services under section 2 of this 2011 Act apply to financial and administrative transactions
9 that occur on or after January 1, 2012.

10 **SECTION 5.** ORS 731.036 is amended to read:

11 731.036. **Except as specifically provided by law,** the Insurance Code does not apply to any of
12 the following to the extent of the subject matter of the exemption:

13 (1) A bail bondsman, other than a corporate surety and its agents.

14 (2) A fraternal benefit society that has maintained lodges in this state and other states for 50
15 years prior to January 1, 1961, and for which a certificate of authority was not required on that
16 date.

17 (3) A religious organization providing insurance benefits only to its employees, which organiza-
18 tion is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue
19 Code on September 13, 1975.

20 (4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
21 insurance program for tort liability in accordance with ORS 30.282.

22 (5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-
23 insurance program for property damage in accordance with ORS 30.282.

24 (6) Cities, counties, school districts, community college districts, community college service dis-
25 tricts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure
26 for health insurance coverage, excluding disability insurance, their employees or retired employees,
27 or their dependents, or students engaged in school activities, or combination of employees and de-
28 pendents, with or without employee or student contributions, if all of the following conditions are
29 met:

30 (a) The individual or jointly self-insured program meets the following minimum requirements:

31 (A) In the case of a school district, community college district or community college service
32 district, the number of covered employees and dependents and retired employees and dependents
33 aggregates at least 500 individuals;

34 (B) In the case of an individual public body program other than a school district, community
35 college district or community college service district, the number of covered employees and depen-
36 dents and retired employees and dependents aggregates at least 500 individuals; and

37 (C) In the case of a joint program of two or more public bodies, the number of covered em-
38 ployees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

39 (b) The individual or jointly self-insured health insurance program includes all coverages and
40 benefits required of group health insurance policies under ORS chapters 743 and 743A;

41 (c) The individual or jointly self-insured program must have program documents that define
42 program benefits and administration;

43 (d) Enrollees must be provided copies of summary plan descriptions including:

44 (A) Written general information about services provided, access to services, charges and sched-
45 uling applicable to each enrollee's coverage;

1 (B) The program's grievance and appeal process; and

2 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-
3 tablished under ORS chapters 743 and 743A;

4 (e) The financial administration of an individual or jointly self-insured program must include the
5 following requirements:

6 (A) Program contributions and reserves must be held in separate accounts and used for the ex-
7 clusive benefit of the program;

8 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with
9 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper
10 actuarial calculations including the following:

11 (i) Known claims, paid and outstanding;

12 (ii) A history of incurred but not reported claims;

13 (iii) Claims handling expenses;

14 (iv) Unearned contributions; and

15 (v) A claims trend factor; and

16 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-
17 cordance with the provisions of ORS 742.065 unless the program has received written approval for
18 an alternative arrangement for protection against economic loss from the Director of the Depart-
19 ment of Consumer and Business Services;

20 (f) The individual or jointly self-insured program must have sufficient personnel to service the
21 employee benefit program or must contract with a third party administrator licensed under ORS
22 chapter 744 as a third party administrator to provide such services;

23 (g) The individual or jointly self-insured program shall be subject to assessment in accordance
24 with ORS 735.614 and 743.951 and former enrollees shall be eligible for portability coverage in ac-
25 cordance with ORS 735.616;

26 (h) The public body, or the program administrator in the case of a joint insurance program of
27 two or more public bodies, files with the Director of the Department of Consumer and Business
28 Services copies of all documents creating and governing the program, all forms used to communicate
29 the coverage to beneficiaries, the schedule of payments established to support the program and,
30 annually, a financial report showing the total incurred cost of the program for the preceding year.
31 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing
32 requirement; and

33 (i) Each public body in a joint insurance program is liable only to its own employees and no
34 others for benefits under the program in the event, and to the extent, that no further funds, in-
35 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

36 (7) All ambulance services.

37 (8) A person providing any of the services described in this subsection. The exemption under this
38 subsection does not apply to an authorized insurer providing such services under an insurance pol-
39 icy. This subsection applies to the following services:

40 (a) Towing service.

41 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,
42 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated
43 under its own power.

44 (c) Transportation and arrangements for the transportation of human remains, including all
45 necessary and appropriate preparations for and actual transportation provided to return a

1 decedent's remains from the decedent's place of death to a location designated by a person with
 2 valid legal authority under ORS 97.130.

3 (9)(a) A person described in this subsection who, in an agreement to lease or to finance the
 4 purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in par-
 5 agraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft
 6 or other occurrence, as specified in the agreement. The exemption established in this subsection
 7 applies to the following persons:

8 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-
 9 stallment contract.

10 (B) The lessor of the motor vehicle.

11 (C) The lender who finances the purchase of the motor vehicle.

12 (D) The assignee of a person described in this paragraph.

13 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,
 14 between the amount received by the seller, lessor, lender or assignee, as applicable, which repres-
 15 ents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the
 16 agreement.

17 (10) A self-insurance program for tort liability or property damage that is established by two or
 18 more affordable housing entities and that complies with the same requirements that public bodies
 19 must meet under ORS 30.282 (6). As used in this subsection:

20 (a) "Affordable housing" means housing projects in which some of the dwelling units may be
 21 purchased or rented, with or without government assistance, on a basis that is affordable to indi-
 22 viduals of low income.

23 (b) "Affordable housing entity" means any of the following:

24 (A) A housing authority created under the laws of this state or another jurisdiction and any
 25 agency or instrumentality of a housing authority, including but not limited to a legal entity created
 26 to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

27 (B) A nonprofit corporation that is engaged in providing affordable housing.

28 (C) A partnership or limited liability company that is engaged in providing affordable housing
 29 and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or
 30 a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or
 31 nonprofit corporation:

32 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-
 33 ited liability company;

34 (ii) Has the power to direct the management or policies of the partnership or limited liability
 35 company;

36 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by
 37 the partnership or limited liability company; or

38 (iv) Has any other material relationship with the partnership or limited liability company.

39 (11) A community-based health care initiative approved by the Administrator of the Office for
 40 Oregon Health Policy and Research under ORS 735.723 operating a community-based health care
 41 improvement program approved by the administrator.

42 **SECTION 6.** ORS 750.055 is amended to read:

43 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 44 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

45 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,

1 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
2 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
3 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992 and 731.870 **and section 2 of this 2011 Act.**

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

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

8 (d) ORS chapter 734.

9 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
10 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
11 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.549 to 743.552,
12 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.804, 743.807, 743.808, 743.814 to 743.839, 743.842,
13 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.911,
14 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.036, 743A.048, 743A.058, 743A.062,
15 743A.064, 743A.066, 743A.068, 743A.070, 743A.080, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
16 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.160, 743A.164, 743A.168, 743A.170,
17 743A.175, 743A.184, 743A.188, 743A.190 and 743A.192.

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

19 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
20 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

24 (i) ORS 735.600 to 735.650.

25 (j) ORS 743.680 to 743.689.

26 (k) ORS 744.700 to 744.740.

27 (L) ORS 743.730 to 743.773.

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

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

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

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

38 **SECTION 7.** ORS 750.333 is amended to read:

39 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
40 tiple employer welfare arrangement:

41 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
42 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
43 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992 **and section**
44 **2 of this 2011 Act.**

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

- 1 (c) ORS chapter 734.
- 2 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.
- 3 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
4 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
5 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
6 743.859, 743.861, 743.862, 743.863, 743.864, 743.912, 743.917, 743A.012, 743A.020, 743A.052, 743A.064,
7 743A.080, 743A.100, 743A.104, 743A.110, 743A.144, 743A.170, 743A.175, 743A.184 and 743A.192.
- 8 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,
9 743A.058, 743A.066, 743A.068, 743A.070, 743A.084, 743A.088, 743A.090, 743A.105, 743A.140, 743A.141,
10 743A.148, 743A.168, 743A.180, 743A.188 and 743A.190. Multiple employer welfare arrangements to
11 which ORS 743.730 to 743.773 apply are subject to the sections referred to in this paragraph only
12 as provided in ORS 743.730 to 743.773.
- 13 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
14 ance consultants, and ORS 744.700 to 744.740.
- 15 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.
- 16 (i) ORS 731.592 and 731.594.
- 17 (j) ORS 731.870.
- 18 (2) For the purposes of this section:
19 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.
20 (b) References to certificates of authority shall be considered references to certificates of mul-
21 tiple employer welfare arrangement.
22 (c) Contributions shall be considered premiums.
- 23 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
24 transaction of health insurance.

25 **SECTION 8. Sections 1192 and 1193, chapter 595, Oregon Laws 2009, are repealed.**
26 **SECTION 9. This 2011 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
28 **on its passage.**

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