

House Bill 2089

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., 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 lay representation of Oregon Health Authority and Department of Human Services at contested case hearings by representatives from either agency in specified circumstances. Specifies additional functions of Oregon Health Authority. Authorizes department to accept small estate affidavits on behalf of authority. Allows department to operate developmental disabilities program if county declines to operate program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to functions of the Oregon Health Authority; creating new provisions; amending ORS
3 114.525, 411.400, 411.402, 411.404, 414.312, 414.326, 418.748, 430.662 and 676.410 and section 20,
4 chapter 595, Oregon Laws 2009; and declaring an emergency.

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

6 **SECTION 1. The Oregon Health Authority and the Department of Human Services may**
7 **be represented at contested case hearings by an officer or employee of either the authority**
8 **or the department, subject to the requirements of ORS 183.452.**

9 **SECTION 2.** ORS 114.525 is amended to read:

10 114.525. An affidavit filed under ORS 114.515 shall:

11 (1) State the name, age, domicile, post-office address and Social Security number of the decedent;

12 (2) State the date and place of the decedent's death. A certified copy of the death certificate
13 shall be attached to the affidavit;

14 (3) Describe and state the fair market value of all property in the estate, including a legal de-
15 scription of any real property;

16 (4) State that no application or petition for the appointment of a personal representative has
17 been granted in Oregon;

18 (5) State whether the decedent died testate or intestate, and if the decedent died testate, the
19 will shall be attached to the affidavit;

20 (6) List the heirs of the decedent and the last address of each heir as known to the affiant, and
21 state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent
22 died testate, will be delivered to each heir or mailed to the heir at the last-known address;

23 (7) If the decedent died testate, list the devisees of the decedent and the last address of each
24 devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing
25 the date of filing will be delivered to each devisee or mailed to the devisee at the last-known ad-
26 dress;

27 (8) State the interest in the property described in the affidavit to which each heir or devisee is
28 entitled and the interest, if any, that will escheat;

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 (9) State that reasonable efforts have been made to ascertain creditors of the estate. List the
 2 expenses of and claims against the estate remaining unpaid or on account of which the affiant or
 3 any other person is entitled to reimbursement from the estate, including the known or estimated
 4 amounts thereof and the names and addresses of the creditors as known to the affiant, and state that
 5 a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been
 6 paid in full or mailed to the creditor at the last-known address;

7 (10) Separately list the name and address of each person known to the affiant to assert a claim
 8 against the estate that the affiant disputes and the known or estimated amount thereof and state
 9 that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed
 10 to the person at the last-known address;

11 (11) State that a copy of the affidavit showing the date of filing will be mailed or delivered to
 12 the Department of Human Services [*and*] **or to the Oregon Health Authority, as prescribed by rule**
 13 **by the authority;**

14 (12) State that claims against the estate not listed in the affidavit or in amounts larger than
 15 those listed in the affidavit may be barred unless:

16 (a) A claim is presented to the affiant within four months of the filing of the affidavit at the
 17 address stated in the affidavit for presentment of claims; or

18 (b) A personal representative of the estate is appointed within the time allowed under ORS
 19 114.555; and

20 (13) If the affidavit lists one or more claims that the affiant disputes, state that any such claim
 21 may be barred unless:

22 (a) A petition for summary determination is filed within four months of the filing of the affidavit;
 23 or

24 (b) A personal representative of the estate is appointed within the time allowed under ORS
 25 114.555.

26 **SECTION 3.** ORS 411.400 is amended to read:

27 411.400. (1) Application for any category of aid shall also constitute application for medical as-
 28 sistance.

29 (2) Except as otherwise provided in this section, a person shall request medical assistance by
 30 filing an application as provided in ORS 411.081.

31 (3) The Department of Human Services **and the Oregon Health Authority** shall determine el-
 32 igibility for and fix the date on which medical assistance may begin, and shall obtain such other
 33 information required by the rules of the department and the [*Oregon Health*] authority under ORS
 34 411.402.

35 (4) If an applicant is unable to make application for medical assistance, an application may be
 36 made by someone acting responsibly for the applicant.

37 (5) The department **and the authority** may modify the application requirements in ORS 411.081
 38 for a person whose basis of eligibility for medical assistance changes from one category of aid to
 39 another category of aid under ORS 414.025 (2).

40 **SECTION 4.** ORS 411.402 is amended to read:

41 411.402. (1) The Department of Human Services and the Oregon Health Authority shall adopt
 42 by rule the documentation required from each person applying for medical assistance, including
 43 documentation of:

44 (a) The identity of the person;

45 (b) The category of aid that makes the person eligible for medical assistance or the way in

1 which the person qualifies as categorically needy;

2 (c) The status of the person as a resident of this state; and

3 (d) Information concerning the income and resources of the person, which may include income
4 tax return information and Social Security number, as necessary to establish financial eligibility for
5 medical assistance, premium tax credits and cost-sharing reductions.

6 (2) Information obtained by the department or the authority under this section may be ex-
7 changed with **the Oregon Health Insurance Exchange Corporation** and other state or federal
8 agencies for the purpose of:

9 (a) Verifying eligibility for medical assistance, participation in the Oregon Health Insurance
10 Exchange or other health benefit programs;

11 (b) Establishing the amount of any tax credit due to the person, cost-sharing reduction or pre-
12 mium assistance;

13 (c) Improving the provision of services; and

14 (d) Administering health benefit programs.

15 **SECTION 5.** ORS 411.404 is amended to read:

16 411.404. (1) The Department of Human Services **and the Oregon Health Authority** shall de-
17 termine eligibility for medical assistance according to criteria prescribed by [*rule in consultation*
18 *with the Oregon Health Authority that*] **rules adopted by the department and the authority. The**
19 **criteria must** take into account:

20 (a) The requirements and needs of the applicant and of the spouse and dependents of the appli-
21 cant;

22 (b) The income, resources and maintenance available to the applicant; and

23 (c) The responsibility of the spouse of the applicant and, with respect to an applicant who is
24 blind or is permanently and totally disabled or is under 21 years of age, the responsibility of the
25 parents.

26 (2) Rules adopted by the department **and the authority** under subsection (1) of this section:

27 (a) Shall disregard resources for those who are eligible for medical assistance only by reason
28 of ORS 414.025 (3)(s), except for the resources described in ORS 414.025 (3)(s).

29 (b) May disregard income and resources within the limits required or permitted by federal law,
30 regulations or orders.

31 (c) May not require any needy person over 65 years of age, as a condition of entering or re-
32 maining in a hospital, nursing home or other congregate care facility, to sell any real property
33 normally used as the person's home.

34 [*(3) Notwithstanding subsections (1) and (2) of this section, the authority may adopt rules necessary*
35 *to implement the Health Care for All Oregon Children program established by ORS 414.231 or appli-*
36 *cable provisions of federal law.]*

37 **SECTION 6.** ORS 414.312 is amended to read:

38 414.312. (1) As used in ORS 414.312 to 414.318:

39 (a) "Pharmacy benefit manager" means an entity that negotiates and executes contracts with
40 pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers
41 and serves as an intermediary between the Oregon Prescription Drug Program, prescription drug
42 manufacturers and pharmacies.

43 (b) "Prescription drug claims processor" means an entity that processes and pays prescription
44 drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data be-
45 tween pharmacies and the Oregon Prescription Drug Program and processes related payments to

1 pharmacies.

2 (c) "Program price" means the reimbursement rates and prescription drug prices established by
 3 the administrator of the Oregon Prescription Drug Program.

4 (2) The Oregon Prescription Drug Program is established in the Oregon Health Authority. The
 5 purpose of the program is to:

6 (a) Purchase prescription drugs, replenish prescription drugs dispensed or reimburse pharmacies
 7 for prescription drugs in order to receive discounted prices and rebates;

8 (b) Make prescription drugs available at the lowest possible cost to participants in the program
 9 as a means to promote health;

10 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs
 11 available at the best possible prices; and

12 (d) Promote health through the purchase and provision of discount prescription drugs and co-
 13 ordination of comprehensive prescription benefit services for eligible entities and members.

14 (3) The Director of the Oregon Health Authority shall appoint an administrator of the Oregon
 15 Prescription Drug Program. The administrator may:

16 (a) Negotiate price discounts and rebates on prescription drugs with prescription drug man-
 17 ufacturers or group purchasing organizations;

18 (b) Purchase prescription drugs on behalf of individuals and entities that participate in the
 19 program;

20 (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and
 21 transmit program prices to pharmacies;

22 (d) Determine program prices and reimburse or replenish pharmacies for prescription drugs
 23 dispensed or transferred;

24 (e) Adopt and implement a preferred drug list for the program;

25 (f) Develop a system for allocating and distributing the operational costs of the program and any
 26 rebates obtained to participants of the program; and

27 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

28 (4) The following individuals or entities may participate in the program:

29 (a) Public Employees' Benefit Board, Oregon Educators Benefit Board and Public Employees
 30 Retirement System;

31 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in
 32 ORS 174.117 that directly or indirectly purchase prescription drugs;

33 (c) Oregon Health and Science University established under ORS 353.020;

34 (d) State agencies that directly or indirectly purchase prescription drugs, including agencies that
 35 dispense prescription drugs directly to persons in state-operated facilities;

36 (e) Residents of this state who lack or are underinsured for prescription drug coverage;

37 (f) Private entities; and

38 (g) Labor organizations.

39 (5) The *[state agency that receives federal Medicaid funds and is responsible for implementing the*
 40 *state's medical assistance program may not participate in the program]* **authority may not purchase**
 41 **prescription drugs directly or indirectly through the program for recipients of medical as-**
 42 **sistance.**

43 (6) The administrator may establish different program prices for pharmacies in rural areas to
 44 maintain statewide access to the program.

45 (7) The administrator may establish the terms and conditions for a pharmacy to enroll in the

1 program. A licensed pharmacy that is willing to accept the terms and conditions established by the
 2 administrator may apply to enroll in the program.

3 (8) Except as provided in subsection (9) of this section, the administrator may not:

4 (a) Contract with a pharmacy benefit manager;

5 (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

6 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dis-
 7 pensed through the program.

8 (9) The administrator shall contract with one or more entities to perform any of the functions
 9 of the program, including but not limited to:

10 (a) Contracting with a pharmacy benefit manager and directly or indirectly with such pharmacy
 11 networks as the administrator considers necessary to maintain statewide access to the program.

12 (b) Negotiating with prescription drug manufacturers on behalf of the administrator.

13 (10) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare
 14 Part D prescription drug coverage may participate in the program.

15 (11) The program may contract with vendors as necessary to utilize discount purchasing pro-
 16 grams, including but not limited to group purchasing organizations established to meet the criteria
 17 of the Nonprofit Institutions Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act,
 18 15 U.S.C. 13.

19 **SECTION 7.** ORS 414.326 is amended to read:

20 414.326. (1) The [*Department of Human Services*] **Oregon Health Authority** shall negotiate and
 21 enter into agreements with pharmaceutical manufacturers for supplemental rebates that are in ad-
 22 dition to the discount required under federal law to participate in the medical assistance program.

23 (2) The [*department*] **authority** may participate in a multistate prescription drug purchasing pool
 24 for the purpose of negotiating supplemental rebates.

25 (3) ORS 414.325 and 414.334 apply to prescription drugs purchased for the medical assistance
 26 program under this section.

27 **SECTION 8.** ORS 418.748 is amended to read:

28 418.748. (1) The **Oregon Health Authority, in collaboration with the** Department of Human
 29 Services, shall form a statewide interdisciplinary team to meet twice a year to review child fatality
 30 cases where child abuse or suicide is suspected, identify trends, make recommendations and take
 31 actions involving statewide issues.

32 (2) The statewide interdisciplinary team may recommend specific cases to a child fatality review
 33 team for its review under ORS 418.785.

34 (3) The statewide interdisciplinary team shall provide recommendations to child fatality review
 35 teams in the development of protocols. The recommendations shall address investigation, training,
 36 case selection and fatality review of child deaths, including but not limited to child abuse and youth
 37 suicide cases.

38 **SECTION 9.** ORS 430.662 is amended to read:

39 430.662. (1) The Department of Human Services, in carrying out the legislative policy declared
 40 in ORS 430.610, subject to the availability of funds, shall:

41 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
 42 of community developmental disabilities programs operated or contracted for by one or more coun-
 43 ties.

44 (b) If a county declines to operate or contract for a community developmental disabilities
 45 program[,] **or to provide developmental disabilities services required by ORS 430.630:**

1 (A) Contract with another public agency or private [*corporation to provide*] **entity to operate**
 2 the program[.] **or provide the services** [*the county must be provided with an opportunity to review*
 3 *and comment.*]; **or**

4 (B) **Operate the program and provide the services.**

5 [(c) *In an emergency situation when no community developmental disabilities program is operating*
 6 *within a county, operate the program or service on a temporary basis.*]

7 [(d)] (c) At the request of the tribal council of a federally recognized tribe of Native Americans,
 8 contract with the tribal council for the establishment and operation of a community developmental
 9 disabilities program in the same manner in which the department contracts with a county court or
 10 board of county commissioners.

11 [(e)] (d) If a county agrees, contract with a public agency or private corporation for all devel-
 12 opmental disabilities services.

13 [(f)] (e) Approve or disapprove the biennial plan and budget information for the establishment
 14 and operation of each community developmental disabilities program. Subsequent amendments to or
 15 modifications of an approved plan or budget information involving more than 10 percent of the state
 16 funds provided for services under ORS 430.664 may not be placed in effect without prior approval
 17 of the department. However, an amendment or modification affecting 10 percent or less of state
 18 funds for services under ORS 430.664 within the portion of the program for persons with develop-
 19 mental disabilities may be made without department approval.

20 [(g)] (f) Make all necessary and proper rules to govern the establishment and operation of
 21 community developmental disabilities programs.

22 (2) The enumeration of duties and functions in subsection (1) of this section may not be deemed
 23 exclusive or construed as a limitation on the powers and authority vested in the department by
 24 other provisions of law.

25 **SECTION 10.** ORS 676.410 is amended to read:

26 676.410. (1) As used in this section, “healthcare workforce regulatory board” means the:

27 (a) Occupational Therapy Licensing Board;

28 (b) Oregon Medical Board;

29 (c) Oregon State Board of Nursing;

30 (d) Oregon Board of Dentistry;

31 (e) Physical Therapist Licensing Board;

32 (f) State Board of Pharmacy; and

33 (g) [*Board of Licensed Dietitians*] **Oregon Health Licensing Agency for dietitians licensed**
 34 **under ORS 691.435.**

35 (2)(a) An applicant for a license from a healthcare workforce regulatory board or renewal of a
 36 license by a healthcare workforce regulatory board shall provide the information prescribed by the
 37 Office for Oregon Health Policy and Research pursuant to subsection (3) of this section.

38 (b) Except as provided in subsection (4) of this section, a healthcare workforce regulatory board
 39 may not approve a subsequent application for a license or renewal of a license until the applicant
 40 provides the information.

41 (3) The Administrator for the Office for Oregon Health Policy and Research shall collaborate
 42 with the healthcare workforce regulatory boards to adopt rules for the manner, form and content
 43 for reporting, and the information that must be provided to a healthcare workforce regulatory board
 44 under subsection (2) of this section, which may include:

45 (a) Demographics, including race and ethnicity.

- 1 (b) Education information.
- 2 (c) License information.
- 3 (d) Employment information.
- 4 (e) Primary and secondary practice information.
- 5 (f) Anticipated changes in the practice.
- 6 (g) Languages spoken.

7 (4)(a) A healthcare workforce regulatory board shall report healthcare workforce information
 8 collected under subsection (2) of this section to the Office for Oregon Health Policy and Research.

9 (b) A healthcare workforce regulatory board shall keep confidential and not release personally
 10 identifiable data collected under this section for a person licensed, registered or certified by a board.
 11 This paragraph does not apply to the release of information to a law enforcement agency for in-
 12 vestigative purposes or to the release to the Office for Oregon Health Policy and Research for state
 13 health planning purposes.

14 (5) The requirements of subsection (2) of this section apply to an applicant for issuance or re-
 15 newal of a license who is or who is applying to become:

- 16 (a) An occupational therapist or certified occupational therapy assistant as defined in ORS
 17 675.210;
- 18 (b) A physician as defined in ORS 677.010;
- 19 (c) A physician assistant as defined in ORS 677.495;
- 20 (d) A nurse or nursing assistant licensed or certified under ORS 678.010 to 678.410;
- 21 (e) A dentist or dental hygienist as defined in ORS 679.010;
- 22 (f) A physical therapist or physical therapist assistant as defined in ORS 688.010;
- 23 (g) A pharmacist or pharmacy technician as defined in ORS 689.005; or
- 24 (h) A licensed dietitian, as defined in ORS 691.405.

25 (6) A healthcare workforce regulatory board may adopt rules as necessary to perform the
 26 board's duties under this section.

27 (7) In addition to licensing fees that may be imposed by a healthcare workforce regulatory
 28 board, the Oregon Health Policy Board shall establish fees to be paid by applicants for issuance or
 29 renewal of licenses reasonably calculated to reimburse the actual cost of obtaining or reporting in-
 30 formation as required by subsection (2) of this section.

31 **SECTION 11.** Section 20, chapter 595, Oregon Laws 2009, as amended by section 224, chapter
 32 720, Oregon Laws 2011, is amended to read:

33 **Sec. 20.** *[On or before January 2, 2014, the Department]* **The Director** of Human Services and
 34 the **Director of the Oregon Health Authority** may delegate to each other **by interagency agree-**
 35 **ment** any duties, functions or powers *[transferred by section 19, chapter 595, Oregon Laws 2009, that*
 36 *the department or the authority deems]* **granted to the department or the authority by law, as**
 37 **the directors deem** necessary for the efficient and effective operation of their **agencies'** respective
 38 functions.

39 **SECTION 12.** **This 2013 Act being necessary for the immediate preservation of the public**
 40 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 41 **on its passage.**