

House Bill 2622

Sponsored by Representative CLEM (at the request of Oregon Podiatric Association) (Pre-session filed.)

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**.

Changes definition of "physician" to include podiatrist for purposes of subjecting podiatrists to statutes regulating physicians. Changes definition of "retired physician" to include retired podiatrist for purpose of volunteer service immunity. Changes definition of "physician" to include podiatrist for purposes related to patient and physician privilege.

Requires medical services contract to protect advocacy of podiatrist.

A BILL FOR AN ACT

1
2 Relating to podiatry; creating new provisions; amending ORS 30.302, 31.740, 40.235, 58.015, 67.005,
3 124.050, 192.556, 315.616, 419B.005, 419B.020, 421.467, 430.735, 433.443, 433.815, 441.063, 441.098,
4 442.562, 442.700, 453.307, 453.728, 475.302, 475.326, 475.950, 659A.150, 676.110, 677.010, 677.087,
5 677.089, 677.092, 677.095, 677.097, 677.115, 677.120, 677.188, 677.235, 677.265, 677.290, 677.360,
6 677.450, 677.812, 677.814, 677.815, 681.230, 683.510, 688.132, 688.230, 688.635, 688.655, 688.800,
7 694.015, 694.025, 694.142, 742.400, 743.803, 743A.184, 743A.188 and 746.600; and repealing ORS
8 677.805.

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

DEFINITIONS

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13 **SECTION 1.** ORS 677.010 is amended to read:

14 677.010. As used in this chapter, subject to the exemptions in ORS 677.060 and unless the con-
15 text requires otherwise:

16 (1) **"Ankle" means the tibial plafond and its posterolateral border or posterior malleolus,**
17 **the medial malleolus, the distal fibula or lateral malleolus, and the talus.**

18 [(1)] (2) "Approved internship" means the first year of post-graduate training served in a hospi-
19 tal that is approved by the board or by the Accreditation Council of Graduate Medical Education,
20 the American Osteopathic Association or the Royal College of Physicians and Surgeons of Canada.

21 [(2)] (3) "Approved school of medicine" means a school offering a full-time resident program of
22 study in medicine or osteopathy leading to a degree of Doctor of Medicine or Doctor of Osteopathy,
23 such program having been fully accredited or conditionally approved by the Liaison Committee on
24 Medical Education, or its successor agency, or the American Osteopathic Association, or its suc-
25 cessor agency, or having been otherwise determined by the board to meet the association standards
26 as specifically incorporated into board rules.

27 [(3)] (4) "Board" means the Oregon Medical Board.

28 [(4)] (5) "Diagnose" means to examine another person in any manner to determine the source
29 or nature of a disease or other physical or mental condition, or to hold oneself out or represent that
30 a person is so examining another person. It is not necessary that the examination be made in the

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 presence of such other person; it may be made on information supplied either directly or indirectly
2 by such other person.

3 [(5)] (6) “Dispense” means the preparation and delivery of a prescription drug, pursuant to a
4 lawful order of a practitioner, in a suitable container appropriately labeled for subsequent adminis-
5 tration to or use by a patient or other individual entitled to receive the prescription drug.

6 [(6)] (7) “Dispensing physician” means a physician [*or podiatric physician and surgeon*] who
7 purchases prescription drugs for the purpose of dispensing them to patients or other individuals
8 entitled to receive the prescription drug and who dispenses them accordingly.

9 [(7)] (8) “Drug” means all medicines and preparations for internal or external use of humans,
10 intended to be used for the cure, mitigation or prevention of diseases or abnormalities of humans,
11 which are recognized in any published United States Pharmacopoeia or National Formulary, or
12 otherwise established as a drug.

13 [(8)] (9) “Fellow” means an individual who has not qualified under ORS 677.100 (1) and (2) and
14 who is pursuing some special line of study as part of a supervised program of a school of medicine,
15 a hospital approved for internship or residency training, or an institution for medical research or
16 education that provides for a period of study under the supervision of a responsible member of that
17 hospital or institution, such school, hospital or institution having been approved by the board.

18 [(9)] (10) “Intern” means an individual who has entered into a hospital or hospitals for the first
19 year of post-graduate training.

20 [(10)] (11) “License” means permission to practice, whether by license, registration or certifi-
21 cation.

22 [(11)] (12) “Licensee” means an individual holding a valid license issued by the board.

23 [(12)] (13) “Physical incapacity” means a condition that renders an individual licensed under this
24 chapter unable to practice under that license with professional skill and safety by reason of physical
25 illness or physical deterioration that adversely affects cognition, motor or perceptive skill.

26 [(13)] (14) “Physician” means [*any*] a person who holds a degree of Doctor of Medicine, [*or*]
27 Doctor of Osteopathy **or Doctor of Podiatric Medicine**.

28 [(14)] (15) “Podiatric physician and surgeon” means a [*podiatric physician and surgeon*] **physi-**
29 **cian** licensed under ORS 677.805 to 677.840 to treat ailments of the human foot, ankle and tendons
30 directly attached to and governing the function of the foot and ankle.

31 **(16)(a) “Podiatry” means:**

32 **(A) The diagnosis or the medical, physical or surgical treatment of ailments of the hu-**
33 **man foot, ankle and tendons directly attached to and governing the function of the foot and**
34 **ankle, except treatment involving the use of a general or spinal anesthetic unless the treat-**
35 **ment is performed in a hospital licensed under ORS 441.025 or in an ambulatory surgical**
36 **center licensed by the Oregon Health Authority and is under the supervision of or in col-**
37 **laboration with a podiatric physician and surgeon; and**

38 **(B) Assisting a physician licensed to practice medicine under ORS chapter 677 in per-**
39 **forming surgery, as provided in ORS 677.814.**

40 **(b) “Podiatry” does not include administering general or spinal anesthetics or the**
41 **amputation of the entire foot.**

42 [(15)] (17) “Prescribe” means to direct, order or designate the use of or manner of using by
43 spoken or written words or other means.

44 [(16)] (18) “Resident” means an individual who, after the first year of post-graduate training, in
45 order to qualify for some particular specialty in the field of medicine, pursues a special line of study

1 as part of a supervised program of a hospital approved by the board.

2 **SECTION 2.** ORS 30.302 is amended to read:

3 30.302. (1) As used in this section, “retired physician” means any person:

4 (a) Who holds a degree of Doctor of Medicine, [or] Doctor of Osteopathy **or Doctor of Podiatric**
5 **Medicine**, or **who** has met the minimum educational requirements for licensure to practice
6 naturopathic medicine;

7 (b) Who has been licensed and is currently retired in accordance with the provisions of ORS
8 chapter 677 or 685;

9 (c) Who is registered with the Oregon Medical Board as a retired emeritus physician or who
10 complies with the requirements of the Oregon Board of Naturopathic Medicine as a retired
11 naturopath;

12 (d) Who registers with the county health officer in the county in which the physician or
13 naturopath practices; and

14 (e) Who provides medical care as a volunteer without compensation solely through referrals
15 from the county health officer specified in paragraph (d) of this subsection.

16 (2) Any retired physician who treats patients pursuant to this section shall be considered to be
17 an agent of a public body for the purposes of ORS 30.260 to 30.300.

18 **SECTION 3.** ORS 40.235 is amended to read:

19 40.235. (1) As used in this section, unless the context requires otherwise:

20 (a) “Confidential communication” means a communication not intended to be disclosed to third
21 persons except:

22 (A) Persons present to further the interest of the patient in the consultation, examination or
23 interview;

24 (B) Persons reasonably necessary for the transmission of the communication; or

25 (C) Persons who are participating in the diagnosis and treatment under the direction of the
26 physician, including members of the patient’s family.

27 (b) “Patient” means a person who consults or is examined or interviewed by a physician.

28 (c)(A) “Physician” means a person authorized and licensed or certified to practice medicine,
29 **podiatry** or dentistry in any state or nation, or reasonably believed by the patient so to be, while
30 engaged in the diagnosis or treatment of a physical condition.

31 (B) “Physician” includes licensed or certified naturopathic and chiropractic physicians and
32 dentists.

33 (2) A patient has a privilege to refuse to disclose and to prevent any other person from dis-
34 closing confidential communications in a civil action, suit or proceeding, made for the purposes of
35 diagnosis or treatment of the patient’s physical condition, among the patient, the patient’s physician
36 or persons who are participating in the diagnosis or treatment under the direction of the physician,
37 including members of the patient’s family.

38 (3) The privilege created by this section may be claimed by:

39 (a) The patient;

40 (b) A guardian or conservator of the patient;

41 (c) The personal representative of a deceased patient; or

42 (d) The person who was the physician, but only on behalf of the patient. Such person’s authority
43 so to do is presumed in the absence of evidence to the contrary.

44 (4) The following is a nonexclusive list of limits on the privilege granted by this section:

45 (a) If the judge orders an examination of the physical condition of the patient, communications

1 made in the course thereof are not privileged under this section with respect to the particular pur-
 2 pose for which the examination is ordered unless the judge orders otherwise.

3 (b) Except as provided in ORCP 44, there is no privilege under this section for communications
 4 made in the course of a physical examination performed under ORCP 44.

5 (c) There is no privilege under this section with regard to any confidential communication or
 6 record of such confidential communication that would otherwise be privileged under this section
 7 when the use of the communication or record is specifically allowed under ORS 426.070, 426.074,
 8 426.075, 426.095, 426.120 or 426.307. This paragraph only applies to the use of the communication or
 9 record to the extent and for the purposes set forth in the described statute sections.

10
 11 **STATUTES REGULATING PHYSICIANS**

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 13 **SECTION 4. ORS 677.095 and 677.097 are added to and made a part of ORS chapter 677.**

14 **SECTION 5.** ORS 677.087 is amended to read:

15 677.087. (1) Any physician [*or podiatric physician and surgeon*] having agreed with a patient to
 16 perform any surgical operation or procedure, shall perform the surgery personally or, prior to sur-
 17 gery, shall inform the patient that the physician [*or podiatric physician and surgeon*] will not be
 18 performing the surgery.

19 (2) This section shall not apply when the physician [*or podiatric physician and surgeon*], because
 20 of an emergency, cannot personally notify the patient that the physician [*or podiatric physician and*
 21 *surgeon*] will not be performing the surgery.

22 **SECTION 6.** ORS 677.089 is amended to read:

23 677.089. (1) Prescription drugs dispensed by a physician [*or podiatric physician and surgeon*] shall
 24 be personally dispensed by the physician [*or podiatric physician and surgeon*]. Nonjudgmental dis-
 25 pensing functions may be delegated to staff assistants when the accuracy and completeness of the
 26 prescription is verified by the physician [*or podiatric physician and surgeon*].

27 (2) The dispensing physician shall maintain records of receipt and distribution of prescription
 28 drugs. These records shall be readily accessible and subject to inspection by the Oregon Medical
 29 Board.

30 (3) The dispensing physician shall label prescription drugs with the following information:

31 (a) Name of patient;

32 (b) The name and address of the dispensing physician;

33 (c) Date of dispensing;

34 (d) The name of the drug but if the dispensed drug does not have a brand name, the prescription
 35 label shall indicate the generic name of the drug dispensed along with the name of the drug dis-
 36 tributor or manufacturer, its quantity per unit and the directions for its use stated in the pre-
 37 scription. However, if the drug is a compound, the quantity per unit need not be stated;

38 (e) Cautionary statements, if any, as required by law; and

39 (f) When applicable and as determined by the State Board of Pharmacy, an expiration date after
 40 which the patient should not use the drug.

41 (4) Prescription drugs shall be dispensed in containers complying with the federal Poison Pre-
 42 vention Packaging Act unless the patient requests a noncomplying container.

43 **SECTION 7.** ORS 677.092 is amended to read:

44 677.092. Unless state or federal laws relating to confidentiality or the protection of health in-
 45 formation prohibit disclosure, a physician [*or a podiatric physician and surgeon*] who has reasonable

1 cause to believe that a licensee of another board has engaged in prohibited conduct as defined in
2 ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

3 **SECTION 8.** ORS 677.095 is amended to read:

4 677.095. (1) A physician [*or podiatric physician and surgeon*] licensed to practice medicine or
5 podiatry by the Oregon Medical Board has the duty to use that degree of care, skill and diligence
6 that is used by ordinarily careful physicians [*or podiatric physicians and surgeons*] in the same or
7 similar circumstances in the community of the physician [*or podiatric physician and surgeon*] or a
8 similar community.

9 (2) In any suit, action or arbitration seeking damages for professional liability from a health
10 care provider, no issue shall be precluded on the basis of a default, stipulation, agreement or any
11 other outcome at any stage of an investigation or an administrative proceeding, including but not
12 limited to a final order.

13 **SECTION 9.** ORS 677.097 is amended to read:

14 677.097. (1) In order to obtain the informed consent of a patient, a physician[, *podiatric physician*
15 *and surgeon*] or physician assistant shall explain the following:

- 16 (a) In general terms the procedure or treatment to be undertaken;
- 17 (b) That there may be alternative procedures or methods of treatment, if any; and
- 18 (c) That there are risks, if any, to the procedure or treatment.

19 (2) After giving the explanation specified in subsection (1) of this section, the physician[,
20 *podiatric physician and surgeon*] or physician assistant shall ask the patient if the patient wants a
21 more detailed explanation. If the patient requests further explanation, the physician[, *podiatric phy-*
22 *sician and surgeon*] or physician assistant shall disclose in substantial detail the procedure, the vi-
23 able alternatives and the material risks unless to do so would be materially detrimental to the
24 patient. In determining that further explanation would be materially detrimental the physician[,
25 *podiatric physician and surgeon*] or physician assistant shall give due consideration to the standards
26 of practice of reasonable medical or podiatric practitioners in the same or a similar community un-
27 der the same or similar circumstances.

28 **SECTION 10.** ORS 677.115 is amended to read:

29 677.115. (1) [*On or before January 1, 2010,*] **Except as provided in subsection (3) of this sec-**
30 **tion,** the Oregon Medical Board [*shall implement an expedited physician licensing process that allows*
31 *the board to*] **may** issue a license by endorsement to a qualified physician. To be considered for a
32 license by endorsement, a physician:

33 (a)(A) Must have practiced the physician's specialty, if any, for at least one year immediately
34 preceding the date of the physician's application for licensure by endorsement; or

35 (B) If the physician is retired, must have been retired for one year or less;

36 (b) May not have been subject to discipline by a health professional regulatory board in any
37 state in which the physician has been licensed; and

38 (c) May not have been held liable for a significant malpractice claim as defined by the board
39 by rule.

40 (2) **The board shall implement an expedited process for the issuance of licenses by**
41 **endorsement.** The licensing process implemented by the board must require the board to:

42 (a) Use existing databases to verify application information; and

43 (b) Accept documents from the state in which the applicant was first licensed as a physician as
44 equivalent to primary source documents to verify:

45 (A) Medical education;

- 1 (B) National medical examination scores;
- 2 (C) Post-graduate training, if applicable; and
- 3 (D) Other qualifications as provided by rule of the board.

4 **(3) The board may not issue a license by endorsement to a podiatric physician and sur-**
 5 **geon.**

6 **SECTION 11.** ORS 677.120 is amended to read:

7 677.120. (1) As used in this section, “health clinic” means a public health clinic or a health clinic
 8 operated by a charitable corporation that mainly provides primary physical health, dental or mental
 9 health services to low-income patients without charge or using a sliding fee scale based on the in-
 10 come of the patient.

11 (2) A [*physician and surgeon*] **person** who lawfully has been issued a license to practice **medi-**
 12 **cine** in another state or territory of the United States or the District of Columbia, the qualifications
 13 and licensing examinations of which are substantially similar to those of the State of Oregon, may
 14 be licensed by the Oregon Medical Board to practice medicine in this state without taking an ex-
 15 amination, except when an examination is required under subsection (3) or (4) of this section.

16 (3) A person described in subsection (2) of this section, whose application is based on a license
 17 issued in another state or territory or the District of Columbia, certification of the National Board
 18 of Medical Examiners of the United States, the National Board of Examiners for Osteopathic Phy-
 19 sicians and Surgeons or the Medical Council of Canada or successful completion of the United
 20 States Medical Licensing Examination, 10 years or more prior to the filing of an application with
 21 the Oregon Medical Board or who has ceased the practice of medicine for 12 or more consecutive
 22 months, may be required by the board to take an examination.

23 (4) A person described in subsection (2) of this section who volunteers at a health clinic and
 24 whose application is based on a license issued in another state or territory or the District of
 25 Columbia, certification of the National Board of Medical Examiners of the United States, the Na-
 26 tional Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of
 27 Canada or successful completion of the United States Medical Licensing Examination or the Feder-
 28 ation Licensing Examination may be required by the Oregon Medical Board to take a national li-
 29 censing examination if the person has ceased the practice of medicine for 24 or more consecutive
 30 months immediately prior to filing the application.

31 (5) The Oregon Medical Board shall make the application under subsection (4) of this section
 32 available online. A [*physician and surgeon applying*] **person who applies** for a license under sub-
 33 section (4) of this section shall pay to the board an application fee as determined by the board
 34 pursuant to ORS 677.265.

35 **SECTION 12.** ORS 677.188 is amended to read:

36 677.188. As used in ORS 677.190, unless the context requires otherwise:

37 (1) “Fraud or misrepresentation” means the intentional misrepresentation or misstatement of a
 38 material fact, concealment of or failure to make known any material fact, or any other means by
 39 which misinformation or a false impression knowingly is given.

40 (2) “Fraudulent claim” means a claim submitted to any patient, insurance or indemnity associ-
 41 ation, company or individual for the purpose of gaining compensation, which the person making the
 42 claim knows to be false.

43 (3) “Manifestly incurable condition, sickness, disease or injury” means one that is declared to
 44 be incurable by [*competent physicians and surgeons*] **physicians licensed to practice medicine** or
 45 by other recognized authority.

1 (4) “Unprofessional or dishonorable conduct” means conduct unbecoming a person licensed to
 2 practice medicine or podiatry, or detrimental to the best interests of the public, and includes:

3 (a) Any conduct or practice contrary to recognized standards of ethics of the medical or
 4 podiatric profession or any conduct or practice which does or might constitute a danger to the
 5 health or safety of a patient or the public or any conduct, practice or condition which does or might
 6 adversely affect a physician’s [*or podiatric physician and surgeon’s*] ability safely and skillfully to
 7 practice medicine or podiatry;

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

10 (c) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic
 11 studies; administration of unnecessary treatment; employment of outmoded, unproved or unscientific
 12 treatments; failure to obtain consultations when failing to do so is not consistent with the standard
 13 of care; or otherwise utilizing medical service for diagnosis or treatment which is or may be con-
 14 sidered inappropriate or unnecessary.

15 **SECTION 13.** ORS 677.235 is amended to read:

16 677.235. (1) The Oregon Medical Board consists of 12 members appointed by the Governor and
 17 subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All
 18 members of the board must be residents of this state. Of the members of the board:

19 (a) Seven must have the degree of Doctor of Medicine;

20 (b) Two must have the degree of Doctor of Osteopathy;

21 (c) One must have the degree of Doctor of Podiatric Medicine; and

22 (d) Two must be members of the public representing health consumers and who are not:

23 (A) Otherwise eligible for appointment to the board; or

24 (B) A spouse, domestic partner, child, parent or sibling of an individual having the degree of
 25 Doctor of Medicine, Doctor of Osteopathy or Doctor of Podiatric Medicine.

26 (2)(a)(A) Board members required to possess the degree of Doctor of Medicine may be selected
 27 by the Governor from a list of three to five [*physicians*] **candidates** for each [*physician*] member of
 28 the board **described in subsection (1)(a) of this section** whose term expires in that year, submitted
 29 by the Oregon Medical Association not later than February 1.

30 (B) Board members required to possess the degree of Doctor of Osteopathy may be selected by
 31 the Governor from a list of three to five [*qualified physicians*] **candidates** for each vacancy, sub-
 32 mitted by the Osteopathic Physicians and Surgeons of Oregon, Inc., not later than February 1 of
 33 each odd-numbered year.

34 (C) The board member required to possess the degree of Doctor of Podiatric Medicine may be
 35 selected by the Governor from a list of three to five [*qualified physicians*] **candidates** submitted by
 36 the Oregon Podiatric Medical Association not later than February 1 of each fourth year.

37 (b) The physician members [*and the member who is a podiatric physician and surgeon*] must have
 38 been in the active practice of their profession for at least five years immediately preceding their
 39 appointment.

40 (c) Neither the public members nor any person who is a spouse, domestic partner, child, parent
 41 or sibling of a public member may be employed as a health professional.

42 (d)(A) In selecting the members of the board, the Governor shall strive to balance the repre-
 43 sentation on the board according to geographic areas of this state and ethnic group.

44 (B) Of the seven members who hold the degree of Doctor of Medicine, there shall be at least
 45 one member appointed from each federal congressional district.

1 (3)(a) The term of office of each board member is three years, but a member serves at the
 2 pleasure of the Governor. The terms must be staggered so that no more than four terms end each
 3 year. A term begins on March 1 of the year the member is appointed and ends on the last day of
 4 February of the third year thereafter. A member may not serve more than two consecutive terms.

5 (b) If a vacancy occurs on the board, another qualifying member possessing the same profes-
 6 sional degree or fulfilling the same public capacity as the person whose position has been vacated
 7 shall be appointed as provided in this section to fill the unexpired term.

8 (c) A board member shall be removed immediately from the board if, during the member's term,
 9 the member:

10 (A) Is not a resident of this state;

11 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
 12 cused; or

13 (C) Is not a current licensee or a retired licensee whose license was in good standing at the time
 14 of retirement, if the board member was appointed to serve on the board as a licensee.

15 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.
 16 The board may provide by rule for compensation to board members for the performance of official
 17 duties at a rate that is greater than the rate provided in ORS 292.495.

18 **SECTION 14.** ORS 677.265 is amended to read:

19 677.265. In addition to any other powers granted by this chapter, the Oregon Medical Board
 20 may:

21 (1) Adopt necessary and proper rules for administration of this chapter including but not limited
 22 to:

23 (a) Establishing fees and charges to carry out its legal responsibilities, subject to prior approval
 24 by the Oregon Department of Administrative Services and a report to the Emergency Board prior
 25 to adopting the fees and charges. The fees and charges shall be within the budget authorized by the
 26 Legislative Assembly as that budget may be modified by the Emergency Board. The fees and charges
 27 established under this section may not exceed the cost of administering the program or the purpose
 28 for which the fee or charge is established, as authorized by the Legislative Assembly for the Oregon
 29 Medical Board's budget, or as modified by the Emergency Board or future sessions of the Legislative
 30 Assembly.

31 (b) Establishing standards and tests to determine the moral, intellectual, educational, scientific,
 32 technical and professional qualifications required of applicants for licenses under this chapter.

33 (c) Enforcing the provisions of this chapter and exercising general supervision over the practice
 34 of medicine and podiatry within this state. In determining whether to discipline a licensee for a
 35 standard of care violation, the Oregon Medical Board shall determine whether the licensee used that
 36 degree of care, skill and diligence that is used by ordinarily careful physicians [*or podiatric physi-*
 37 *cians and surgeons*] in the same or similar circumstances in the community of the physician [*or*
 38 *podiatric physician and surgeon*] or a similar community.

39 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and
 40 fines and place licensees on probation as provided in this chapter.

41 (3) Use the gratuitous services and facilities of private organizations to receive the assistance
 42 and recommendations of the organizations in administering this chapter.

43 (4) Make its personnel and facilities available to other regulatory agencies of this state, or other
 44 bodies interested in the development and improvement of the practice of medicine or podiatry in this
 45 state, upon terms and conditions for reimbursement as are agreed to by the Oregon Medical Board

1 and the other agency or body.

2 (5) Appoint examiners, who need not be members of the Oregon Medical Board, and employ or
 3 contract with the American Public Health Association or the National Board of Medical Examiners
 4 or other organizations, agencies and persons to prepare examination questions and score examina-
 5 tion papers.

6 (6) Determine the schools, colleges, universities, institutions and training acceptable in con-
 7 nection with licensing under this chapter. All residency, internship and other training programs
 8 carried on in this state by any hospital, institution or medical facility shall be subject to approval
 9 by the Oregon Medical Board. The board shall accept the approval by the American Osteopathic
 10 Association or the American Medical Association in lieu of approval by the board.

11 (7) Prescribe the time, place, method, manner, scope and subjects of examinations under this
 12 chapter.

13 (8) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require
 14 the submission of photographs and relevant personal history data by applicants for licensure under
 15 this chapter.

16 (9) For the purpose of requesting a state or nationwide criminal records check under ORS
 17 181.534, require the fingerprints of a person who is:

- 18 (a) Applying for a license that is issued by the board;
- 19 (b) Applying for renewal of a license that is issued by the board; or
- 20 (c) Under investigation by the board.

21 (10) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas
 22 in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are rea-
 23 sonably necessary to carry out its duties under this chapter.

24 **SECTION 15.** ORS 677.290 is amended to read:

25 677.290. (1) All moneys received by the Oregon Medical Board under this chapter shall be paid
 26 into the General Fund in the State Treasury and placed to the credit of the Oregon Medical Board
 27 Account which is established. Such moneys are appropriated continuously and shall be used only for
 28 the administration and enforcement of this chapter.

29 (2) Notwithstanding subsection (1) of this section, the board may maintain a revolving account
 30 in a sum not to exceed \$50,000 for the purpose of receiving and paying pass-through moneys relating
 31 to peer review pursuant to its duties under ORS 441.055 (4) and (5) and in administering programs
 32 pursuant to its duties under this chapter relating to the education and rehabilitation of licensees in
 33 the areas of chemical substance abuse, inappropriate prescribing and medical competence. The cre-
 34 ation of and disbursement of moneys from the revolving account shall not require an allotment or
 35 allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account are continuously
 36 appropriated for purposes set forth in this subsection.

37 (3) Each year \$10 shall be paid to the Oregon Health and Science University for each in-state
 38 physician licensed **to practice medicine** under this chapter, which amount is continuously appro-
 39 priated to the Oregon Health and Science University to be used in maintaining a circulating library
 40 of medical and surgical books and publications for the use of practitioners of medicine in this state,
 41 and when not so in use to be kept at the library of the School of Medicine and accessible to its
 42 students. The balance of the money received by the board is appropriated continuously and shall be
 43 used only for the administration and enforcement of this chapter, but any part of the balance may,
 44 upon the order of the board, be paid into the circulating library fund.

45 **SECTION 16.** ORS 677.360 is amended to read:

1 677.360. Only physicians licensed **to practice medicine** under ORS chapter 677 and persons
2 under their supervision may select artificial insemination donors and perform artificial insemination.

3 **SECTION 17.** ORS 677.450 is amended to read:

4 677.450. The Oregon Medical Board may release information received under ORS 441.820 con-
5 cerning the revocation or restriction of a physician's [*or podiatric physician and surgeon's*] activities
6 at a health care facility to any other health care facility licensed under ORS 441.015 to 441.087,
7 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 at which that
8 physician [*or podiatric physician and surgeon*] holds or has applied for staff privileges or other right
9 to practice medicine or podiatry at the facility.

10
11 **STATUTES REGULATING PODIATRY**

12
13 **SECTION 18.** (1) **ORS 677.805 to 677.840 are added to and made a part of ORS chapter 677.**

14 **(2) ORS 677.837 is added to and made a part of ORS 677.805 to 677.840.**

15 **SECTION 19.** **ORS 677.805 is repealed.**

16 **SECTION 20.** ORS 677.812 is amended to read:

17 677.812. Surgery of the ankle, as defined in ORS [677.805] **677.010**, must be conducted:

18 (1) In a hospital or in an ambulatory surgical center licensed by the Oregon Health Authority
19 under ORS 441.025; and

20 (2) By a podiatric physician and surgeon who meets the qualifications for **surgery of the ankle**
21 [*surgery*] established by rule of the Oregon Medical Board.

22 **SECTION 21.** ORS 677.814 is amended to read:

23 677.814. A podiatric physician and surgeon may assist a physician **licensed to practice medi-**
24 **cine in performing** surgery on any part of the body.

25 **SECTION 22.** ORS 677.815 is amended to read:

26 677.815. (1) ORS 677.805 to 677.840 do not prevent:

27 (a) Any person, firm or corporation from manufacturing, selling, fitting or adjusting any shoe
28 or appliance designed and intended to equalize pressure on different parts of the foot.

29 (b) The sale by licensed druggists of plasters, salves and lotions for the relief and cure of corns,
30 warts, callosities and bunions.

31 (2) ORS 677.805 to 677.840 shall not be construed to apply to or interfere with:

32 (a) The practice of any person whose religion treats or administers to the sick or suffering by
33 purely spiritual means, nor with any individual's selection of any such person.

34 (b) Physicians licensed **to practice medicine** by the Oregon Medical Board, nor to surgeons of
35 the United States Army, Navy and United States Public Health Service, when in actual performance
36 of their official duties.

37
38 **MEDICAL SERVICES CONTRACTS**

39
40 **SECTION 23.** ORS 743.803 is amended to read:

41 743.803. (1) A medical services contract may not require the provider, as an element of the
42 contract or as a condition of compensation for services, to agree:

43 (a) In the event of alleged improper medical treatment of a patient, to indemnify the other party
44 to the medical services contract for any damages, awards or liabilities including but not limited to
45 judgments, settlements, attorney fees, court costs and any associated charges incurred for any rea-

1 son other than the negligence or intentional act of the provider or the provider's employees;

2 (b) To charge the other party to the medical services contract a rate for services rendered
 3 pursuant to the medical services contract that is no greater than the lowest rate that the provider
 4 charges for the same service to any other person;

5 (c) To deny care to a patient because of a determination made pursuant to the medical services
 6 contract that the care is not covered or is experimental, or to deny referral of a patient to another
 7 provider for the provision of such care, if the patient is informed that the patient will be responsible
 8 for the payment of such noncovered, experimental or referral care and the patient nonetheless de-
 9 sires to obtain such care or referral; or

10 (d) Upon the provider's withdrawal from or termination or nonrenewal of the medical services
 11 contract, not to treat or solicit a patient even at that patient's request and expense.

12 (2) A medical services contract shall:

13 (a) Grant to the provider adequate notice and hearing procedures, or such other procedures as
 14 are fair to the provider under the circumstances, prior to termination or nonrenewal of the medical
 15 services contract when such termination or nonrenewal is based upon issues relating to the quality
 16 of patient care rendered by the provider.

17 (b) Set forth generally the criteria used by the other party to the medical services contract for
 18 the termination or nonrenewal of the medical services contract.

19 (c) Entitle the provider to an annual accounting accurately summarizing the financial trans-
 20 actions between the parties to the medical services contract for that year.

21 (d) Allow the provider to withdraw from the care of a patient when, in the professional judgment
 22 of the provider, it is in the best interest of the patient to do so.

23 (e) Provide that a doctor of medicine or **doctor of** osteopathy licensed under ORS chapter 677
 24 shall be retained by the other party to the medical services contract and shall be responsible for
 25 all final medical and mental health decisions relating to coverage or payment made pursuant to the
 26 medical services contract.

27 (f) Provide that a physician, **as defined in ORS 677.010**, who is practicing in conformity with
 28 ORS 677.095 may advocate a decision, policy or practice without being subject to termination or
 29 penalty for the sole reason of such advocacy.

30 (g)(A) Entitle the party to the medical services contract who is being reimbursed for the pro-
 31 vision of health care services on a basis that includes financial risk withholds, or the party's rep-
 32 resentative, to a full accounting of health benefits claims data and related financial information on
 33 no less than a quarterly basis by the party to a medical service contract who has made reimburse-
 34 ment, as follows:

35 (i) The data shall include all pertinent information relating to the health care services provided,
 36 including related provider and patient information, reimbursements made and amounts withheld un-
 37 der the financial risk withhold provisions of the medical services contract for the period of time
 38 under reconciliation and settlement between the parties.

39 (ii) Any reconciliation and settlement undertaken pursuant to a medical services contract shall
 40 be based directly and exclusively upon data provided to the party who is being reimbursed for the
 41 provision of health care services.

42 (iii) All data, including supplemental information or documentation, necessary to finalize the
 43 reconciliation and settlement provisions of a medical services contract relating to financial risk
 44 withholds shall be provided to the party who is being reimbursed for the provision of health care
 45 services no later than 30 days prior to finalizing the reconciliation and settlement.

1 (B) Nothing in this paragraph shall be construed to prevent parties to a medical services con-
 2 tract from mutually agreeing to alternative reconciliation and settlement policies and procedures.

3 (h) Provide that when continuity of care is required to be provided under a health benefit plan
 4 by ORS 743.854, the insurer and the individual provider shall provide continuity of care to enrollees
 5 as provided in ORS 743.854.

6 (3) The other party to a medical services contract shall not:

7 (a) Refer to other documents or instruments in a contract unless the nonprovider party agrees
 8 to make available to the provider for review a copy of the documents or instruments within 72 hours
 9 of request; or

10 (b) Provide as an element of a contract with a third party relating to the provision of medical
 11 services to a patient of the provider that the provider's patient may not sue or otherwise recover
 12 from the nonprovider party, or must hold the nonprovider party harmless for, any and all expenses,
 13 damages, awards or liabilities that arise from the management decisions, utilization review pro-
 14 visions or other policies or determinations of the nonprovider party that have an impact on the
 15 provider's treatment decisions and actions with regard to the patient.

16 (4) An insurer, independent practice association, medical or mental health clinic or other party
 17 to a medical services contract shall provide the criteria for selection of parties to future medical
 18 services contracts upon the request of current or prospective parties.

19
 20 **CONFORMING AMENDMENTS**

21
 22 **SECTION 24.** ORS 31.740 is amended to read:

23 31.740. Punitive damages may not be awarded against a health practitioner if:

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

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

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

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

28 (d) A physician under ORS 677.100 to 677.228 **or 677.820 to 677.840;**

29 (e) An emergency medical services provider under ORS chapter 682;

30 *[(f) A podiatric physician and surgeon under ORS 677.820 to 677.840;]*

31 *[(g)]* (f) A nurse under ORS 678.040 to 678.101;

32 *[(h)]* (g) A nurse practitioner under ORS 678.375 to 678.390;

33 *[(i)]* (h) A dentist under ORS 679.060 to 679.180;

34 *[(j)]* (i) A dental hygienist under ORS 680.040 to 680.100;

35 *[(k)]* (j) A denturist under ORS 680.515 to 680.535;

36 *[(L)]* (k) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

37 *[(m)]* (L) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

38 *[(n)]* (m) A chiropractor under ORS 684.040 to 684.105;

39 *[(o)]* (n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

40 *[(p)]* (o) A massage therapist under ORS 687.011 to 687.250;

41 *[(q)]* (p) A physical therapist under ORS 688.040 to 688.145;

42 *[(r)]* (q) A medical imaging licensee under ORS 688.445 to 688.525;

43 *[(s)]* (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;

44 *[(t)]* (s) A physician assistant as provided by ORS 677.505 to 677.525; or

45 *[(u)]* (t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835;

1 and

2 (2) The health practitioner was engaged in conduct regulated by the license, registration or
 3 certificate issued by the appropriate governing body and was acting within the scope of practice for
 4 which the license, registration or certificate was issued and without malice.

5 **SECTION 25.** ORS 58.015 is amended to read:

6 58.015. As used in this chapter, unless the context requires otherwise:

7 (1) "Foreign professional corporation" means a professional corporation organized under laws
 8 other than the laws of this state.

9 (2) "License" includes a license, certificate of registration, permit or other legal authorization
 10 required by law as a condition precedent to the rendering of professional service or services within
 11 this state.

12 (3) "Oregon Business Corporation Act" has the same meaning given that term in ORS 60.951.

13 (4) "Practicing medicine" has the meaning given that term in ORS 677.085.

14 (5) "Professional" means:

15 (a) Accountants licensed under ORS 673.010 to 673.457 or the laws of another state;

16 (b) Architects licensed under ORS 671.010 to 671.220 or the laws of another state;

17 (c) Attorneys licensed under ORS 9.005 to 9.755 or the laws of another state;

18 (d) Chiropractors licensed under ORS chapter 684 or the laws of another state;

19 (e) Dentists licensed under ORS chapter 679 or the laws of another state;

20 (f) Landscape architects licensed under ORS 671.310 to 671.459 or the laws of another state;

21 (g) Naturopaths licensed under ORS chapter 685 or the laws of another state;

22 (h) Nurse practitioners licensed under ORS 678.010 to 678.410 or the laws of another state;

23 (i) Psychologists licensed under ORS 675.010 to 675.150 or the laws of another state;

24 (j) Physicians licensed under ORS chapter 677 or the laws of another state;

25 [(k) Podiatrists licensed under ORS chapter 677 or the laws of another state;]

26 [(L)] (k) Medical imaging licensees under ORS 688.405 to 688.605 or the laws of another state;

27 [(m)] (L) Real estate appraisers licensed or certified under ORS chapter 674 or the laws of an-
 28 other state; and

29 [(n)] (m) Other persons providing to the public types of personal service or services substan-
 30 tially similar to those listed in paragraphs (a) to [(m)] (L) of this subsection that may be lawfully
 31 rendered only pursuant to a license.

32 (6) "Professional corporation" or "domestic professional corporation" means a corporation or-
 33 ganized under this chapter for the specific purpose of rendering professional service or services and
 34 for such other purposes provided under this chapter.

35 (7) "Professional service" means personal service or services rendered in this state to the public
 36 which may be lawfully rendered only pursuant to a license by a professional.

37 (8) "Regulatory board" means the governmental agency of the State of Oregon required or au-
 38 thorized by law to license and regulate the rendering of a professional service or services for which
 39 a professional corporation is organized.

40 **SECTION 26.** ORS 67.005 is amended to read:

41 67.005. As used in this chapter:

42 (1) "Business" includes every trade, occupation, profession and commercial activity.

43 (2) "Debtor in bankruptcy" means a person who is the subject of:

44 (a) An order for relief under Title 11 of the United States Code or a comparable order under a
 45 successor statute of general application; or

- 1 (b) A comparable order under federal, state or foreign law governing insolvency.
- 2 (3) “Dissociated partner” means a partner with respect to whom an event specified in ORS
3 67.220 has occurred.
- 4 (4) “Distribution” means a transfer of money or other property from a partnership to a partner
5 in the partner’s capacity as a partner or to the partner’s transferee.
- 6 (5) “Foreign limited liability partnership” means a partnership that:
- 7 (a) Is formed under laws other than the law of this state; and
- 8 (b) Has the status of a limited liability partnership under those laws.
- 9 (6) “Limited liability partnership” means a partnership that has registered under ORS 67.590,
10 and has not registered or qualified in any other jurisdiction other than as a foreign limited liability
11 partnership.
- 12 (7) “Partnership” means an association of two or more persons to carry on as co-owners a
13 business for profit created under ORS 67.055, predecessor law, or comparable law of another juris-
14 diction. A partnership includes a limited liability partnership.
- 15 (8) “Partnership agreement” means the agreement, whether written, oral or implied, among the
16 partners concerning the partnership, including amendments to the partnership agreement.
- 17 (9) “Partnership at will” means a partnership in which the partners have not agreed to remain
18 partners until the expiration of a definite term or the completion of a particular undertaking.
- 19 (10) “Partnership interest” or “partner’s interest in the partnership” means all of a partner’s
20 interests in the partnership, including the partner’s transferable interest and all management and
21 other rights.
- 22 (11) “Person” means an individual, corporation, business trust, partnership, limited liability
23 company, association, joint venture, government, governmental subdivision, agency, instrumentality
24 or any other legal or commercial entity.
- 25 (12) “Professional” means:
- 26 (a) Accountants licensed under ORS 673.010 to 673.457 or the laws of another state;
- 27 (b) Architects licensed under ORS 671.010 to 671.220 or the laws of another state;
- 28 (c) Attorneys licensed under ORS 9.005 to 9.755 or the laws of another state;
- 29 (d) Chiropractors licensed under ORS chapter 684 or the laws of another state;
- 30 (e) Dentists licensed under ORS chapter 679 or the laws of another state;
- 31 (f) Landscape architects licensed under ORS 671.310 to 671.459 or the laws of another state;
- 32 (g) Naturopaths licensed under ORS chapter 685 or the laws of another state;
- 33 (h) Nurse practitioners licensed under ORS 678.010 to 678.410 or the laws of another state;
- 34 (i) Psychologists licensed under ORS 675.010 to 675.150 or the laws of another state;
- 35 (j) Physicians licensed under ORS chapter 677 or the laws of another state;
- 36 [(k) Podiatrists licensed under ORS chapter 677 or the laws of another state;]
- 37 [(L)] (k) Medical imaging licensees under ORS 688.405 to 688.605 or the laws of another state;
- 38 [(m)] (L) Real estate appraisers licensed under ORS chapter 674 or the laws of another state;
- 39 and
- 40 [(n)] (m) Other persons providing to the public types of personal service or services substan-
41 tially similar to those listed in paragraphs (a) to [(m)] (L) of this subsection that may be lawfully
42 rendered only pursuant to a license.
- 43 (13) “Professional service” means the service rendered by a professional.
- 44 (14) “Property” means all property, real, personal or mixed, tangible or intangible, or any in-
45 terest therein.

1 (15) "State" means a state of the United States, the District of Columbia, the Commonwealth
 2 of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

3 (16) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, encumbrance, cre-
 4 ation of a security interest and any other disposition.

5 (17) "Transferable interest of a partner in the partnership" means the partner's share of the
 6 profits and losses of the partnership and the partner's right to receive distributions.

7 **SECTION 27.** ORS 124.050 is amended to read:

8 124.050. As used in ORS 124.050 to 124.095:

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

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

12 (b) Neglect.

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

15 (d) Willful infliction of physical pain or injury upon an elderly person.

16 (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
 17 163.465 or 163.467.

18 (f) Verbal abuse.

19 (g) Financial exploitation.

20 (h) Sexual abuse.

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

23 (j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of
 24 restraint prescribed by a [*licensed*] physician **licensed under ORS chapter 677** and any treatment
 25 activities that are consistent with an approved treatment plan or in connection with a court order.

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

28 (3) "Facility" means:

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

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

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

33 (4) "Financial exploitation" means:

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

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

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

41 (d) Failing to use the income or assets of an elderly person or a person with a disability effec-
 42 tively for the support and maintenance of the person.

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

44 (6) "Law enforcement agency" means:

45 (a) Any city or municipal police department.

- 1 (b) Any county sheriff's office.
2 (c) The Oregon State Police.
3 (d) Any district attorney.
4 (e) A police department established by a university under ORS 352.383.
5 (7) "Neglect" means:
6 (a) Failure to provide the care, supervision or services necessary to maintain the physical and
7 mental health of an elderly person that may result in physical harm or significant emotional harm
8 to the elderly person; or
9 (b) The failure of a caregiver to make a reasonable effort to protect an elderly person from
10 abuse.
11 (8) "Person with a disability" means a person described in:
12 (a) ORS 410.040 (7); or
13 (b) ORS 410.715.
14 (9) "Public or private official" means:
15 (a) Physician **licensed under ORS chapter 677**, naturopathic physician, [*osteopathic physician,*]
16 *chiropractor[,]* **or** physician assistant [*or podiatric physician and surgeon*], including any intern or
17 resident.
18 (b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
19 or employee of an in-home health service.
20 (c) Employee of the Department of Human Services or community developmental disabilities
21 program.
22 (d) Employee of the Oregon Health Authority, county health department or community mental
23 health program.
24 (e) Peace officer.
25 (f) Member of the clergy.
26 (g) Regulated social worker.
27 (h) Physical, speech or occupational therapist.
28 (i) Senior center employee.
29 (j) Information and referral or outreach worker.
30 (k) Licensed professional counselor or licensed marriage and family therapist.
31 (L) Any public official who comes in contact with elderly persons in the performance of the
32 official's official duties.
33 (m) Firefighter or emergency medical services provider.
34 (n) Psychologist.
35 (o) Provider of adult foster care or an employee of the provider.
36 (p) Audiologist.
37 (q) Speech-language pathologist.
38 (10) "Services" includes but is not limited to the provision of food, clothing, medicine, housing,
39 medical services, assistance with bathing or personal hygiene or any other service essential to the
40 well-being of an elderly person.
41 (11)(a) "Sexual abuse" means:
42 (A) Sexual contact with an elderly person who does not consent or is considered incapable of
43 consenting to a sexual act under ORS 163.315;
44 (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-
45 rial or language;

1 (C) Any sexual contact between an employee of a facility or paid caregiver and an elderly per-
2 son served by the facility or caregiver;

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

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

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

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

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

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

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

14 **SECTION 28.** ORS 192.556 is amended to read:

15 192.556. As used in ORS 192.553 to 192.581:

16 (1) "Authorization" means a document written in plain language that contains at least the fol-
17 lowing:

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

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

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

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

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

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

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

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

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

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

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

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

37 (2) "Covered entity" means:

38 (a) A state health plan;

39 (b) A health insurer;

40 (c) A health care provider that transmits any health information in electronic form to carry out
41 financial or administrative activities in connection with a transaction covered by ORS 192.553 to
42 192.581; or

43 (d) A health care clearinghouse.

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

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

- 1 (a) Quality assessment, accreditation, auditing and improvement activities;
 2 (b) Case management and care coordination;
 3 (c) Reviewing the competence, qualifications or performance of health care providers or health
 4 insurers;
 5 (d) Underwriting activities;
 6 (e) Arranging for legal services;
 7 (f) Business planning;
 8 (g) Customer services;
 9 (h) Resolving internal grievances;
 10 (i) Creating deidentified information; and
 11 (j) Fundraising.
- 12 (5) "Health care provider" includes but is not limited to:
- 13 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
 14 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
 15 or an employee of the psychologist, occupational therapist, regulated social worker, professional
 16 counselor or marriage and family therapist;
- 17 (b) A physician[, *podiatric physician and surgeon*,] **or** physician assistant [*or acupuncturist*] li-
 18 censed under ORS chapter 677, **an acupuncturist licensed under ORS 677.759** or an employee of
 19 the physician, [*podiatric physician and surgeon*,] physician assistant or acupuncturist;
- 20 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
 21 the nurse or nursing home administrator;
- 22 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 23 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
 24 hygienist or denturist;
- 25 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
 26 of the speech-language pathologist or audiologist;
- 27 (g) An emergency medical services provider licensed under ORS chapter 682;
- 28 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 29 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
 30 physician;
- 31 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
 32 physician;
- 33 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
 34 therapist;
- 35 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
 36 entry midwife;
- 37 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
 38 therapist;
- 39 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
 40 imaging licensee;
- 41 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
 42 care practitioner;
- 43 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
 44 somnographic technologist;
- 45 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

- 1 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 2 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
- 3 service practitioner;
- 4 (t) A health care facility as defined in ORS 442.015;
- 5 (u) A home health agency as defined in ORS 443.005;
- 6 (v) A hospice program as defined in ORS 443.850;
- 7 (w) A clinical laboratory as defined in ORS 438.010;
- 8 (x) A pharmacy as defined in ORS 689.005;
- 9 (y) A diabetes self-management program as defined in ORS 743A.184; and
- 10 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
- 11 course of business.
- 12 (6) "Health information" means any oral or written information in any form or medium that:
 - 13 (a) Is created or received by a covered entity, a public health authority, an employer, a life
 - 14 insurer, a school, a university or a health care provider that is not a covered entity; and
 - 15 (b) Relates to:
 - 16 (A) The past, present or future physical or mental health or condition of an individual;
 - 17 (B) The provision of health care to an individual; or
 - 18 (C) The past, present or future payment for the provision of health care to an individual.
- 19 (7) "Health insurer" means:
 - 20 (a) An insurer as defined in ORS 731.106 who offers:
 - 21 (A) A health benefit plan as defined in ORS 743.730;
 - 22 (B) A short term health insurance policy, the duration of which does not exceed six months in-
 - 23 cluding renewals;
 - 24 (C) A student health insurance policy;
 - 25 (D) A Medicare supplemental policy; or
 - 26 (E) A dental only policy.
 - 27 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
 - 28 under ORS 735.600 to 735.650.
- 29 (8) "Individually identifiable health information" means any oral or written health information
- 30 in any form or medium that is:
 - 31 (a) Created or received by a covered entity, an employer or a health care provider that is not
 - 32 a covered entity; and
 - 33 (b) Identifiable to an individual, including demographic information that identifies the individual,
 - 34 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 - 35 vidual, and that relates to:
 - 36 (A) The past, present or future physical or mental health or condition of an individual;
 - 37 (B) The provision of health care to an individual; or
 - 38 (C) The past, present or future payment for the provision of health care to an individual.
- 39 (9) "Payment" includes but is not limited to:
 - 40 (a) Efforts to obtain premiums or reimbursement;
 - 41 (b) Determining eligibility or coverage;
 - 42 (c) Billing activities;
 - 43 (d) Claims management;
 - 44 (e) Reviewing health care to determine medical necessity;
 - 45 (f) Utilization review; and

1 (g) Disclosures to consumer reporting agencies.

2 (10) "Personal representative" includes but is not limited to:

3 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
4 authority to make medical and health care decisions;

5 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
6 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
7 decisions;

8 (c) A person appointed as a personal representative under ORS chapter 113; and

9 (d) A person described in ORS 192.573.

10 (11)(a) "Protected health information" means individually identifiable health information that is
11 maintained or transmitted in any form of electronic or other medium by a covered entity.

12 (b) "Protected health information" does not mean individually identifiable health information in:

13 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
14 U.S.C. 1232g);

15 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

16 (C) Employment records held by a covered entity in its role as employer.

17 (12) "State health plan" means:

18 (a) Medical assistance as defined in ORS 414.025;

19 (b) The Health Care for All Oregon Children program;

20 (c) The Family Health Insurance Assistance Program established in ORS 414.841 to 414.864; or

21 (d) Any medical assistance or premium assistance program operated by the Oregon Health Au-
22 thority.

23 (13) "Treatment" includes but is not limited to:

24 (a) The provision, coordination or management of health care; and

25 (b) Consultations and referrals between health care providers.

26 **SECTION 29.** ORS 315.616 is amended to read:

27 315.616. A resident or nonresident individual who is certified as eligible under ORS 442.561,
28 442.562, 442.563 or 442.564, and is licensed as a physician [*or podiatric physician and surgeon*] under
29 ORS chapter 677, licensed as a physician assistant under ORS chapter 677, licensed as a nurse
30 practitioner under ORS chapter 678, licensed as a certified registered nurse anesthetist under ORS
31 chapter 678, licensed as a dentist under ORS chapter 679 or licensed as an optometrist under ORS
32 683.010 to 683.340 is entitled to the tax credit described in ORS 315.613 even if not a member of the
33 hospital medical staff if the Office of Rural Health certifies that the individual:

34 (1) Has a rural practice that amounts to 60 percent of the individual's practice; and

35 (2)(a) If a physician or a physician assistant, can cause a patient to be admitted to the hospital;

36 (b) If a certified registered nurse anesthetist, is employed by or has a contractual relationship
37 with one of the hospitals described in ORS 315.613 (1); or

38 (c) If an optometrist, has consulting privileges with a hospital listed in ORS 315.613 (1). This
39 paragraph does not apply to an optometrist who qualifies as a "frontier rural practitioner," as de-
40 fined by the Office of Rural Health.

41 **SECTION 30.** ORS 419B.005, as amended by section 60, chapter 37, Oregon Laws 2012, and
42 section 1, chapter 92, Oregon Laws 2012, is amended to read:

43 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

44 (1)(a) "Abuse" means:

45 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child

1 which has been caused by other than accidental means, including any injury which appears to be
 2 at variance with the explanation given of the injury.

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

6 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
 7 tration and incest, as those acts are described in ORS chapter 163.

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

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

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

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

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

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

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

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

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

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

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

32 (3) “Higher education institution” means:

33 (a) A community college as defined in ORS 341.005;

34 (b) A public university listed in ORS 352.002;

35 (c) The Oregon Health and Science University; and

36 (d) A private institution of higher education located in Oregon.

37 (4) “Law enforcement agency” means:

38 (a) A city or municipal police department.

39 (b) A county sheriff’s office.

40 (c) The Oregon State Police.

41 (d) A police department established by a university under ORS 352.383.

42 (e) A county juvenile department.

43 (5) “Public or private official” means:

44 (a) Physician[, *osteopathic physician*,] **or** physician assistant[,] **licensed under ORS chapter 677**
 45 **or** naturopathic physician, [*podiatric physician and surgeon*], including any intern or resident.

- 1 (b) Dentist.
- 2 (c) School employee, including an employee of a higher education institution.
- 3 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 4 or employee of an in-home health service.
- 5 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 6 Council, Youth Development Council, Child Care Division of the Employment Department, the
- 7 Oregon Youth Authority, a county health department, a community mental health program, a com-
- 8 munity developmental disabilities program, a county juvenile department, a licensed child-caring
- 9 agency or an alcohol and drug treatment program.
- 10 (f) Peace officer.
- 11 (g) Psychologist.
- 12 (h) Member of the clergy.
- 13 (i) Regulated social worker.
- 14 (j) Optometrist.
- 15 (k) Chiropractor.
- 16 (L) Certified provider of foster care, or an employee thereof.
- 17 (m) Attorney.
- 18 (n) Licensed professional counselor.
- 19 (o) Licensed marriage and family therapist.
- 20 (p) Firefighter or emergency medical services provider.
- 21 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 22 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- 23 (s) Member of the Legislative Assembly.
- 24 (t) Physical, speech or occupational therapist.
- 25 (u) Audiologist.
- 26 (v) Speech-language pathologist.
- 27 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 28 gations or discipline by the commission.
- 29 (x) Pharmacist.
- 30 (y) An operator of a preschool recorded program under ORS 657A.255.
- 31 (z) An operator of a school-age recorded program under ORS 657A.257.
- 32 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 33 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 34 109.056.
- 35 (bb) Employee of a public or private organization providing child-related services or activities:
- 36 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 37 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 38 vision or auspices of religious, public or private educational systems or community service organ-
- 39 izations; and
- 40 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
- 41 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
- 42 ficking.
- 43 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
- 44 if compensated and if the athlete is a child.

45 **SECTION 31.** ORS 419B.020 is amended to read:

1 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-
2 port of child abuse, the department or the agency shall immediately:

3 (a) Cause an investigation to be made to determine the nature and cause of the abuse of the
4 child; and

5 (b) Notify the Child Care Division if the alleged child abuse occurred in a child care facility as
6 defined in ORS 657A.250.

7 (2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child
8 care facility:

9 (a) The department and the law enforcement agency shall jointly determine the roles and re-
10 sponsibilities of the department and the agency in their respective investigations; and

11 (b) The department and the agency shall each report the outcomes of their investigations to the
12 Child Care Division.

13 (3) If the law enforcement agency conducting the investigation finds reasonable cause to believe
14 that abuse has occurred, the law enforcement agency shall notify by oral report followed by written
15 report the local office of the department. The department shall provide protective social services
16 of its own or of other available social agencies if necessary to prevent further abuses to the child
17 or to safeguard the child's welfare.

18 (4) If a child is taken into protective custody by the department, the department shall promptly
19 make reasonable efforts to ascertain the name and address of the child's parents or guardian.

20 (5)(a) If a child is taken into protective custody by the department or a law enforcement official,
21 the department or law enforcement official shall, if possible, make reasonable efforts to advise the
22 parents or guardian immediately, regardless of the time of day, that the child has been taken into
23 custody, the reasons the child has been taken into custody and general information about the child's
24 placement, and the telephone number of the local office of the department and any after-hours tele-
25 phone numbers.

26 (b) Notice may be given by any means reasonably certain of notifying the parents or guardian,
27 including but not limited to written, telephonic or in-person oral notification. If the initial notifica-
28 tion is not in writing, the information required by paragraph (a) of this subsection also shall be
29 provided to the parents or guardian in writing as soon as possible.

30 (c) The department also shall make a reasonable effort to notify the noncustodial parent of the
31 information required by paragraph (a) of this subsection in a timely manner.

32 (d) If a child is taken into custody while under the care and supervision of a person or organ-
33 ization other than the parent, the department, if possible, shall immediately notify the person or
34 organization that the child has been taken into protective custody.

35 (6) If a law enforcement officer or the department, when taking a child into protective custody,
36 has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child
37 as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to
38 disappear, the court may authorize a physical examination for the purposes of preserving evidence
39 if the court finds that it is in the best interest of the child to have such an examination. Nothing
40 in this section affects the authority of the department to consent to physical examinations of the
41 child at other times.

42 (7) A minor child of 12 years of age or older may refuse to consent to the examination described
43 in subsection (6) of this section. The examination shall be conducted by or under the supervision
44 of a physician licensed to **practice medicine** under ORS chapter 677 or a nurse practitioner li-
45 censed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

1 (8) When the department completes an investigation under this section, if the person who made
 2 the report of child abuse provided contact information to the department, the department shall no-
 3 tify the person about whether contact with the child was made, whether the department determined
 4 that child abuse occurred and whether services will be provided. The department is not required to
 5 disclose information under this subsection if the department determines that disclosure is not per-
 6 mitted under ORS 419B.035.

7 **SECTION 32.** ORS 421.467 is amended to read:

8 421.467. (1) Subject to ORS 421.468, the governing body of a county or city in this state may
 9 transfer a local inmate to the temporary custody of the Department of Corrections solely for em-
 10 ployment at a forest work camp established under ORS 421.455 to 421.480. The county or city
 11 transferring the local inmate shall pay the cost of transportation and other expenses incidental to
 12 the local inmate’s conveyance to the forest work camp and the return of the local inmate to the
 13 county or city, including the expenses of law enforcement officers accompanying the local inmate,
 14 and is responsible for costs of any medical treatment of the local inmate while the local inmate is
 15 employed at the forest work camp not compensated under ORS 655.505 to 655.555.

16 (2) Before a local inmate is sent to a forest work camp, the governing body of the county or city
 17 shall cause the local inmate to be given such inoculations as are necessary in the public interest,
 18 and must submit to the Department of Corrections a certificate, signed by a physician licensed to
 19 **practice medicine** under ORS chapter 677, that the local inmate is physically and mentally able to
 20 perform the work described in ORS 421.470, and is free from communicable disease.

21 **SECTION 33.** ORS 430.735 is amended to read:

22 430.735. As used in ORS 430.735 to 430.765:

23 (1) “Abuse” means one or more of the following:

24 (a) Abandonment, including desertion or willful forsaking of a person with a developmental dis-
 25 ability or the withdrawal or neglect of duties and obligations owed a person with a developmental
 26 disability by a caregiver or other person.

27 (b) Any physical injury to an adult caused by other than accidental means, or that appears to
 28 be at variance with the explanation given of the injury.

29 (c) Willful infliction of physical pain or injury upon an adult.

30 (d) Sexual abuse of an adult.

31 (e) Neglect.

32 (f) Verbal abuse of a person with a developmental disability.

33 (g) Financial exploitation of a person with a developmental disability.

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

36 (i) A wrongful use of a physical or chemical restraint upon a person with a developmental dis-
 37 ability, excluding an act of restraint prescribed by a [*licensed*] physician **licensed under ORS**
 38 **chapter 677** and any treatment activities that are consistent with an approved treatment plan or in
 39 connection with a court order.

40 (j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
 41 163.465 or 163.467.

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

43 (2) “Adult” means a person 18 years of age or older with:

44 (a) A developmental disability who is currently receiving services from a community program
 45 or facility or was previously determined eligible for services as an adult by a community program

1 or facility; or

2 (b) A mental illness who is receiving services from a community program or facility.

3 (3) “Adult protective services” means the necessary actions taken to prevent abuse or exploi-
4 tation of an adult, to prevent self-destructive acts and to safeguard an adult’s person, property and
5 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to
6 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides
7 for the greatest degree of independence.

8 (4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed re-
9 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.

10 (5) “Community program” means a community mental health program or a community develop-
11 mental disabilities program as established in ORS 430.610 to 430.695.

12 (6) “Facility” means a residential treatment home or facility, residential care facility, adult fos-
13 ter home, residential training home or facility or crisis respite facility.

14 (7) “Financial exploitation” means:

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

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

20 (c) Misappropriating, misusing or transferring without authorization any money from any ac-
21 count held jointly or singly by a person with a developmental disability.

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

24 (8) “Intimidation” means compelling or deterring conduct by threat.

25 (9) “Law enforcement agency” means:

26 (a) Any city or municipal police department;

27 (b) A police department established by a university under ORS 352.383;

28 (c) Any county sheriff’s office;

29 (d) The Oregon State Police; or

30 (e) Any district attorney.

31 (10) “Neglect” means:

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

35 (b) The failure of a caregiver to make a reasonable effort to protect a person with a develop-
36 mental disability from abuse; or

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

39 (11) “Person with a developmental disability” means a person described in subsection (2)(a) of
40 this section.

41 (12) “Public or private official” means:

42 (a) Physician **licensed under ORS chapter 677**, naturopathic physician, [*osteopathic physician,*]
43 psychologist[,] **or** chiropractor [*or podiatric physician and surgeon*], including any intern or resident;

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

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

4 (d) Peace officer;

5 (e) Member of the clergy;

6 (f) Regulated social worker;

7 (g) Physical, speech or occupational therapist;

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

9 (i) Attorney;

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

11 (k) Any public official who comes in contact with adults in the performance of the official's du-
12 ties; or

13 (L) Firefighter or emergency medical services provider.

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

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

18 (A) Sexual contact with a nonconsenting adult or with an adult considered incapable of con-
19 senting to a sexual act under ORS 163.315;

20 (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-
21 rial or language;

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

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

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

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

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

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

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

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

35 **SECTION 34.** ORS 433.443 is amended to read:

36 433.443. (1) As used in this section:

37 (a) "Covered entity" means:

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

39 (B) The Family Health Insurance Assistance Program established under ORS 414.842;

40 (C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insur-
41 ance as defined in ORS 731.162;

42 (D) The state medical assistance program; and

43 (E) A health care provider.

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

45 (A) A psychologist, occupational therapist, regulated social worker, professional counselor or

1 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
 2 or an employee of the psychologist, occupational therapist, regulated social worker, professional
 3 counselor or marriage and family therapist;

4 (B) A physician[, *podiatric physician and surgeon,*] **or** physician assistant [*or acupuncturist*] li-
 5 censed under ORS chapter 677, **an acupuncturist licensed under ORS 677.759** or an employee of
 6 the physician, [*podiatric physician and surgeon,*] physician assistant or acupuncturist;

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

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

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

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

14 (G) An emergency medical services provider licensed under ORS chapter 682;

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

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

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

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

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

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

26 (N) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
 27 imaging licensee;

28 (O) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respir-
 29 atory care practitioner;

30 (P) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
 31 somnographic technologist;

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

33 (R) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

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

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

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

38 (V) A hospice program as defined in ORS 443.850;

39 (W) A clinical laboratory as defined in ORS 438.010;

40 (X) A pharmacy as defined in ORS 689.005;

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

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

44 (c) "Individual" means a natural person.

45 (d) "Individually identifiable health information" means any oral or written health information

1 in any form or medium that is:

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

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

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

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

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

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

13 (2)(a) During a public health emergency declared under ORS 433.441, the Public Health Director
14 may, as necessary to appropriately respond to the public health emergency:

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

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

21 (C) Order, or authorize local public health administrators to order, public health measures ap-
22 propriate to the public health threat presented;

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

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

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

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

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

37 (b) The authority of the Public Health Director to take administrative action, and the effec-
38 tiveness of any action taken, under paragraph (a)(A), (B), (D), (E) and (F) of this subsection termi-
39 nates upon the expiration of the proclaimed state of public health emergency, unless the actions are
40 continued under other applicable law.

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

1 number of violations of subsection (2) of this section that occurred on each day of violation.

2 (4)(a) During a proclaimed state of public health emergency, the Public Health Director and lo-
3 cal public health administrators shall be given immediate access to individually identifiable health
4 information necessary to:

5 (A) Determine the causes of an illness related to the public health emergency;

6 (B) Identify persons at risk;

7 (C) Identify patterns of transmission;

8 (D) Provide treatment; and

9 (E) Take steps to control the disease.

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

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

17 (A) Directly to the individual who is the subject of the information or to the legal representative
18 of that individual;

19 (B) To state, local or federal agencies authorized to receive such information by state or federal
20 law;

21 (C) To identify or to determine the cause or manner of death of a deceased individual; or

22 (D) Directly to a health care provider for the evaluation or treatment of a condition that is the
23 subject of a proclamation of a state of public health emergency issued under ORS 433.441.

24 (d) Upon expiration of the state of public health emergency, the Public Health Director or local
25 public health administrators may not use or disclose any individually identifiable health information
26 that has been obtained under this section. If a state of emergency that is related to the state of
27 public health emergency has been declared under ORS 401.165, the Public Health Director and local
28 public health administrators may continue to use any individually identifiable information obtained
29 as provided under this section until termination of the state of emergency.

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

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

36 (7) If the Oregon Health Authority adopts temporary rules to implement the provisions of this
37 section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may
38 amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the
39 public health emergency.

40 **SECTION 35.** ORS 433.815 is amended to read:

41 433.815. (1) Educational training on the treatment of allergic responses, as required by ORS
42 433.800 to 433.830, shall be conducted under the supervision of a physician licensed **to practice**
43 **medicine** under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 to practice
44 in this state. The training may be conducted by a health care professional licensed under ORS
45 chapter 678 as delegated by a supervising professional or by an emergency medical technician

1 meeting the requirements established by the Oregon Health Authority by rule. The curricula shall
2 include, at a minimum, the following subjects:

3 (a) Recognition of the symptoms of systemic allergic responses to insect stings and other
4 allergens;

5 (b) Familiarity with common factors that are likely to elicit systemic allergic responses;

6 (c) Proper administration of an intramuscular or subcutaneous injection of epinephrine for se-
7 vere allergic responses to insect stings and other specific allergens; and

8 (d) Necessary follow-up treatment.

9 (2) Educational training on the treatment of hypoglycemia, as required by ORS 433.800 to
10 433.830, shall be conducted under the supervision of a physician licensed **to practice medicine** un-
11 der ORS chapter 677 or a nurse practitioner licensed **to practice** under ORS chapter 678 [*to*
12 *practice*] in this state. The training may be conducted by a health care professional licensed under
13 ORS chapter 678 as delegated by a supervising professional. The curricula shall include, at a mini-
14 mum, the following subjects:

15 (a) Recognition of the symptoms of hypoglycemia;

16 (b) Familiarity with common factors that may induce hypoglycemia;

17 (c) Proper administration of a subcutaneous injection of glucagon for severe hypoglycemia when
18 other treatment has failed or cannot be initiated; and

19 (d) Necessary follow-up treatment.

20 **SECTION 36.** ORS 441.063 is amended to read:

21 441.063. The rules of the hospital shall include provisions for the use of the hospital facilities
22 by [*duly licensed*] podiatric physicians and surgeons **licensed under ORS 677.805 to 677.840**, subject
23 to rules and regulations governing the use established by the medical staff and the podiatric staff
24 of the hospital. The staff [*comprised of physicians and podiatric physicians and surgeons*] shall regu-
25 late the admission and the conduct of the podiatric physicians and surgeons while using the facilities
26 of the hospital and shall prescribe procedures whereby a podiatric physician and surgeon's use of
27 the facilities may be suspended or terminated.

28 **SECTION 37.** ORS 441.098 is amended to read:

29 441.098. (1) As used in this section:

30 (a) "Facility" means a hospital, ambulatory surgical center or freestanding birthing center.

31 (b) "Financial interest" means a five percent or greater direct or indirect ownership interest.

32 (c) "Health practitioner" means a physician, [*podiatric physician and surgeon,*] dentist, direct
33 entry midwife or licensed registered nurse who is certified by the Oregon State Board of Nursing
34 as a nurse midwife nurse practitioner.

35 (d) "Physician" has the meaning given that term in ORS 677.010.

36 (2) If a health practitioner refers a patient for treatment at a facility in which the health prac-
37 titioner or an immediate family member has a financial interest, the health practitioner shall inform
38 the patient orally and in writing of that interest at the time of the referral.

39 (3) In obtaining informed consent for treatment that will take place at a facility, a health prac-
40 titioner shall disclose the manner in which care will be provided in the event that complications
41 occur that require health services beyond what the facility has the capability to provide.

42 **SECTION 38.** ORS 442.562 is amended to read:

43 442.562. The Office of Rural Health shall establish criteria for certifying individuals who are li-
44 censed [*as podiatric physicians and surgeons*] **to practice podiatry** under ORS chapter 677 as eligi-
45 ble for the tax credit authorized by ORS 315.616. Upon application therefor and upon a finding that

1 the applicant is or will be providing podiatric services to one or more rural communities and oth-
2 erwise meets the eligibility criteria established by the office, the office shall certify individuals eli-
3 gible for the tax credit authorized by ORS 315.616.

4 **SECTION 39.** ORS 442.700 is amended to read:

5 442.700. As used in ORS 442.700 to 442.760:

6 (1) "Board of governors" means the governors of a cooperative program as described in ORS
7 442.720.

8 (2) "Cooperative program" means a program among two or more health care providers for the
9 purpose of providing heart and kidney transplant services including, but not limited to, the sharing,
10 allocation and referral of physicians, patients, personnel, instructional programs, support services,
11 facilities, medical, diagnostic, laboratory or therapeutic services, equipment, devices or supplies, and
12 other services traditionally offered by health care providers.

13 (3) "Health care provider" means a hospital, physician or entity, a significant part of whose
14 activities consist of providing hospital or physician services in this state. For purposes of the im-
15 munities provided by ORS 442.700 to 442.760 and 646.740, "health care provider" includes any offi-
16 cer, director, trustee, employee, or agent of, or any entity under common ownership and control
17 with, a health care provider.

18 (4) "Hospital" means a hospital, a long term care facility or an ambulatory surgical center, as
19 those terms are defined in ORS 442.015, that is licensed under ORS 441.015 to 441.089. "Hospital"
20 includes community health programs established under ORS 430.610 to 430.695.

21 (5) "Order" means a decision issued by the Director of the Oregon Health Authority under ORS
22 442.710 either approving or denying an application for a cooperative program and includes modifi-
23 cations of an original order under ORS 442.730 (3)(b) and ORS 442.740 (1) and (4).

24 (6) "Party to a cooperative program agreement" or "party" means an entity that enters into the
25 principal agreement to establish a cooperative program and applies for approval under ORS 442.700
26 to 442.760 and 646.740 and any other entity that, with the approval of the director, becomes a
27 member of a cooperative program.

28 (7) "Physician" means a physician [*defined in ORS 677.010 (13) and*] licensed to **practice med-**
29 **icine** under ORS chapter 677.

30 **SECTION 40.** ORS 453.307 is amended to read:

31 453.307. As used in ORS 453.307 to 453.414:

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

37 (2) "Emergency service personnel" includes those entities providing emergency services as de-
38 fined in ORS 401.025.

39 (3) "Employer" means:

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

43 (b) Any person operating a facility designated by the State Fire Marshal.

44 (4) "Fire district" means any agency having responsibility for providing fire protection services.

45 (5) "Hazardous substance" means:

1 (a) Any substance designated as hazardous by the Director of the Department of Consumer and
2 Business Services or by the State Fire Marshal;

3 (b) Any substance for which a material safety data sheet is required by the Director of the De-
4 partment of Consumer and Business Services under ORS 654.035 and which appears on the list of
5 Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by
6 the American Conference of Governmental Industrial Hygienists; or

7 (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-
8 fined in ORS 453.005.

9 (6)(a) "Health professional" means a physician as defined in ORS 677.010, registered nurse, in-
10 dustrial hygienist, toxicologist, epidemiologist or emergency medical services provider.

11 (b) **"Health professional" does not include a person who holds a degree of Doctor of**
12 **Podiatric Medicine.**

13 (7) "Law enforcement agency" has the meaning given that term in ORS 181.010.

14 (8) "Local government" means a city, town, county, regional authority or other political subdivi-
15 sion of this state.

16 (9) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock
17 companies, public and municipal corporations, political subdivisions, the state and any agency
18 thereof, and the federal government and any agency thereof.

19 (10) "Trade secret" has the meaning given that term in ORS 192.501 (2).

20 **SECTION 41.** ORS 453.728 is amended to read:

21 453.728. (1) Any tanning device used by a tanning facility shall comply with all applicable fed-
22 eral laws and regulations.

23 (2) ORS 453.726 to 453.732 do not apply to a phototherapy device used by or under the direct
24 supervision of a physician licensed **to practice medicine** under ORS chapter 677.

25 **SECTION 42.** ORS 475.302 is amended to read:

26 475.302. As used in ORS 475.300 to 475.346:

27 (1) "Attending physician" means a physician licensed **to practice medicine** under ORS chapter
28 677 who has primary responsibility for the care and treatment of a person diagnosed with a debili-
29 tating medical condition.

30 (2) "Authority" means the Oregon Health Authority.

31 (3) "Debilitating medical condition" means:

32 (a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human
33 immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

34 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-
35 tient, one or more of the following:

36 (A) Cachexia;

37 (B) Severe pain;

38 (C) Severe nausea;

39 (D) Seizures, including but not limited to seizures caused by epilepsy; or

40 (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

41 or

42 (c) Any other medical condition or treatment for a medical condition adopted by the authority
43 by rule or approved by the authority pursuant to a petition submitted pursuant to ORS 475.334.

44 (4) "Delivery" has the meaning given that term in ORS 475.005. "Delivery" does not include
45 transfer of marijuana by a registry identification cardholder to another registry identification

1 cardholder if no consideration is paid for the transfer.

2 (5) “Designated primary caregiver” means an individual 18 years of age or older who has sig-
 3 nificant responsibility for managing the well-being of a person who has been diagnosed with a de-
 4 bilitating medical condition and who is designated as such on that person’s application for a registry
 5 identification card or in other written notification to the authority. “Designated primary
 6 caregiver” does not include the person’s attending physician.

7 (6) “Marijuana” has the meaning given that term in ORS 475.005.

8 (7) “Marijuana grow site” means a location where marijuana is produced for use by a registry
 9 identification cardholder and that is registered under the provisions of ORS 475.304.

10 (8) “Medical use of marijuana” means the production, possession, delivery, or administration of
 11 marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of
 12 a person to mitigate the symptoms or effects of the person’s debilitating medical condition.

13 (9) “Production” has the meaning given that term in ORS 475.005.

14 (10) “Registry identification card” means a document issued by the authority that identifies a
 15 person authorized to engage in the medical use of marijuana and the person’s designated primary
 16 caregiver, if any.

17 (11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family
 18 Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed
 19 in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the
 20 plant.

21 (12) “Written documentation” means a statement signed by the attending physician of a person
 22 diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

23 **SECTION 43.** ORS 475.326 is amended to read:

24 475.326. No attending physician may be subjected to civil penalty or discipline by the Oregon
 25 Medical Board for:

26 (1) Advising a person whom the attending physician has diagnosed as having a debilitating
 27 medical condition, or a person who the attending physician knows has been so diagnosed by another
 28 physician licensed **to practice medicine** under ORS chapter 677, about the risks and benefits of
 29 medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects
 30 of the person’s debilitating medical condition, provided the advice is based on the attending
 31 physician’s personal assessment of the person’s medical history and current medical condition; or

32 (2) Providing the written documentation necessary for issuance of a registry identification card
 33 under ORS 475.309, if the documentation is based on the attending physician’s personal assessment
 34 of the applicant’s medical history and current medical condition and the attending physician has
 35 discussed the potential medical risks and benefits of the medical use of marijuana with the applicant.

36 **SECTION 44.** ORS 475.950 is amended to read:

37 475.950. (1) A person commits the offense of failure to report a precursor substances transaction
 38 if the person does any of the following:

39 (a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940
 40 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to
 41 the Department of State Police a report that meets the reporting requirements established by rule
 42 under ORS 475.945.

43 (b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does
 44 not, within 10 days after receipt of the substance, submit to the Department of State Police a report
 45 that meets the reporting requirements established by rule under ORS 475.945.

1 (2) This section does not apply to any of the following:

2 (a) Any pharmacist or other authorized person who sells or furnishes a precursor substance
3 upon the prescription of a physician **licensed under ORS chapter 677**, dentist[, *podiatric physician*
4 *and surgeon*] or veterinarian.

5 (b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor sub-
6 stance to patients upon prescription.

7 (c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise fur-
8 nishes a precursor substance to a licensed pharmacy, physician **licensed under ORS chapter 677**,
9 dentist[, *podiatric physician and surgeon*] or veterinarian for distribution to patients upon pre-
10 scription.

11 (d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner
12 if the person complies with the alternate reporting requirements.

13 (e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance
14 from a licensed pharmacist, physician **licensed under ORS chapter 677**, dentist[, *podiatric physician*
15 *and surgeon*] or veterinarian pursuant to a prescription.

16 (f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in
17 compliance with ORS 475.973.

18 (g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person
19 with whom the practitioner has a doctor-patient or doctor-client relationship.

20 (h) Any person who obtains a precursor substance from a practitioner, as defined in ORS
21 475.005, with whom the person has a doctor-patient or doctor-client relationship.

22 (i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical
23 isomer.

24 (3) Penalties related to providing false information on a report required under this section are
25 provided under ORS 475.965.

26 (4) The Department of State Police and any law enforcement agency may inspect and remove
27 copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a
28 precursor substance during the normal business hours of the retail or wholesale distributor or may
29 require the retail or wholesale distributor to provide copies of the records.

30 (5) Failure to report a precursor substances transaction is a Class A misdemeanor.

31 **SECTION 45.** ORS 659A.150 is amended to read:

32 659A.150. As used in ORS 659A.150 to 659A.186:

33 (1) "Covered employer" means an employer described in ORS 659A.153.

34 (2) "Eligible employee" means any employee of a covered employer other than those employees
35 exempted under the provisions of ORS 659A.156.

36 (3) "Family leave" means a leave of absence described in ORS 659A.159, except that "family
37 leave" does not include leave taken by an eligible employee who is unable to work because of a
38 disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.

39 (4) "Family member" means the spouse of an employee, the biological, adoptive or foster parent
40 or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the em-
41 ployee or a person with whom the employee was or is in a relationship of in loco parentis.

42 (5) "Health care provider" means:

43 (a) A person who is primarily responsible for providing health care to an eligible employee or
44 a family member of an eligible employee, who is performing within the scope of the person's pro-
45 fessional license or certificate and who is:

1 (A) A physician licensed [*to practice medicine under ORS 677.110, including a doctor of*
 2 *osteopathy*] **under ORS chapter 677;**

3 [(B) A podiatrist licensed under ORS 677.825;]

4 [(C)] (B) A dentist licensed under ORS 679.090;

5 [(D)] (C) A psychologist licensed under ORS 675.030;

6 [(E)] (D) An optometrist licensed under ORS 683.070;

7 [(F)] (E) A naturopath licensed under ORS 685.080;

8 [(G)] (F) A registered nurse licensed under ORS 678.050;

9 [(H)] (G) A nurse practitioner certified under ORS 678.375;

10 [(I)] (H) A direct entry midwife licensed under ORS 687.420;

11 [(J)] (I) A licensed registered nurse who is certified by the Oregon State Board of Nursing as
 12 a nurse midwife nurse practitioner;

13 [(K)] (J) A regulated social worker authorized to practice regulated social work under ORS
 14 675.510 to 675.600; or

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

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

21 (6) "Serious health condition" means:

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

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

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

28 **SECTION 46.** ORS 676.110 is amended to read:

29 676.110. (1) An individual practicing a health care profession may not use the title "doctor" in
 30 connection with the profession, unless the individual:

31 (a) Has earned a doctoral degree in the individual's field of practice; and

32 (b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice
 33 the particular health care profession in which the individual's doctoral degree was earned; or

34 (B) Is working under a board-approved residency contract and is practicing under the license
 35 of a supervisor who is licensed by a health professional regulatory board as defined in ORS 676.160
 36 to practice the particular health care profession in which the individual's doctoral degree was
 37 earned.

38 (2) If an individual uses the title "doctor" in connection with a health care profession at any
 39 time, the individual must designate the health care profession in which the individual's doctoral
 40 degree was earned on all written or printed matter, advertising, billboards, signs or professional
 41 notices used in connection with the health care profession, regardless of whether the individual's
 42 name or the title "doctor" appears on the written or printed matter, advertising, billboard, sign or
 43 professional notice. The designation must be in letters or print at least one-fourth the size of the
 44 largest letters used on the written or printed matter, advertising, billboard, sign or professional
 45 notice, and in material, color, type or illumination to give display and legibility of at least one-fourth

1 that of the largest letters used on the written or printed matter, advertising, billboard, sign or pro-
 2 fessional notice.

3 (3) Subsection (1) of this section does not prohibit:

4 (a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic
 5 physician”;

6 (b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic
 7 physician”;

8 (c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor
 9 of optometry” or “optometric physician”; or

10 (d) A podiatric physician **and surgeon** licensed under ORS 677.805 to 677.840 from using the
 11 title “podiatric physician.”

12 **SECTION 47.** ORS 681.230 is amended to read:

13 681.230. (1) Without obtaining a license under this chapter, a person may use any procedure
 14 included in the practice of speech-language pathology or audiology if the procedure is within the
 15 scope of practice of the person and the person is:

16 (a) Licensed by a health professional regulatory board as defined in ORS 676.160;

17 (b) Performing basic audiometric testing under the supervision of a physician licensed to **prac-**
 18 **tice medicine** under ORS chapter 677 and representing that the person is a medical assistant or
 19 audiology assistant;

20 (c) A teacher licensed by the Teacher Standards and Practices Commission and holding a hear-
 21 ing impaired endorsement; or

22 (d) A student participating in supervised field work or supervised course work in speech-
 23 language pathology or audiology as part of a college or university program approved by the State
 24 Board of Examiners for Speech-Language Pathology and Audiology or an undergraduate course in
 25 speech-language pathology approved by the board.

26 (2) A person practicing speech-language pathology or audiology without a license under sub-
 27 section (1) of this section may not represent or imply that the person is a speech-language
 28 pathologist, speech-language pathology assistant or audiologist.

29 (3) A person practicing speech-language pathology or audiology without a license under sub-
 30 section (1)(d) of this section:

31 (a) Must use a title that indicates that the person is a student trainee.

32 (b) May not be paid for speech-language pathology or audiology services provided by the person,
 33 except that the person may be provided a reasonable educational stipend.

34 (4) Without obtaining a license under this chapter, a teacher licensed by the Teacher Standards
 35 and Practices Commission and holding a communications disorders or speech impaired endorsement
 36 issued by the commission may practice speech-language pathology if the person:

37 (a) Practices speech-language pathology solely in the course and scope of the person’s duties as
 38 an employee of an education service district, a school district or a charter school; and

39 (b) Complies with ORS 681.360 to 681.375 and rules adopted under ORS 681.360 to 681.375 when
 40 supervising speech-language pathology assistants.

41 (5) Without obtaining a license under this chapter, a person may:

42 (a) Consult with or disseminate the person’s research findings and scientific information to ac-
 43 credited academic institutions or governmental agencies; and

44 (b) Offer lectures to the public for a fee, monetary or otherwise.

45 **SECTION 48.** ORS 683.510 is amended to read:

1 683.510. As used in ORS 683.520 to 683.530, “dispensing optician” means a person who prepares
 2 and dispenses lenses, eyeglasses and appurtenances thereto to the intended wearers thereof on
 3 written prescriptions from a physician licensed **to practice medicine** under ORS chapter 677 or an
 4 optometrist and, in accordance with such prescriptions, measures, adapts, adjusts and fabricates
 5 such lenses, eyeglasses and appurtenances for the aid or correction of visual or ocular anomalies
 6 of the human eye.

7 **SECTION 49.** ORS 688.132 is amended to read:

8 688.132. (1) A licensed physical therapist shall immediately refer a person to a [*medical doctor,*
 9 *osteopathic physician,*] **physician licensed under ORS chapter 677**, chiropractic physician,
 10 [*podiatric physician and surgeon,*] naturopathic physician, dentist, physician assistant or nurse
 11 practitioner if:

12 (a) Signs or symptoms are present that require treatment or diagnosis by such providers or for
 13 which physical therapy is contraindicated or for which treatment is outside the knowledge of the
 14 physical therapist or scope of practice of physical therapy; or

15 (b) The physical therapist continues therapy and 60 days have passed since the initial physical
 16 therapy treatment has been administered, unless:

17 (A) The individual is a child or a student eligible for special education, as defined by state or
 18 federal law, and is being seen pursuant to the child’s or the student’s individual education plan or
 19 individual family service plan;

20 (B) The individual is a student athlete at a public or private school, college or university and
 21 is seeking treatment in that role as athlete; or

22 (C) The individual is a resident of a long term care facility as defined in ORS 442.015, a resi-
 23 dential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or an
 24 intermediate care facility for mental retardation pursuant to federal regulations.

25 (2) Notwithstanding any provision of ORS 742.518 to 742.542, personal injury protection benefits
 26 are not required to be paid for physical therapy treatment of a person covered by the applicable
 27 insurance policy unless the person is referred to the physical therapist by a [*licensed physician,*
 28 *podiatric physician and surgeon,*] **physician licensed under ORS chapter 677**, naturopathic physi-
 29 cian, dentist, physician’s assistant or nurse practitioner.

30 **SECTION 50.** ORS 688.230 is amended to read:

31 688.230. (1) Any licensed health facility, licensed physical therapist, licensed physical therapist
 32 assistant, the Oregon Physical Therapy Association, [*or*] physician licensed under ORS chapter
 33 677[, *podiatric physician and surgeon*] or dentist shall, and any other person may, report suspected
 34 violations of ORS 688.010 to 688.201 to the Physical Therapist Licensing Board. The reports are
 35 confidential as provided under ORS 676.175.

36 (2) Any person who reports or provides information to the board under subsection (1) of this
 37 section and who provides information in good faith shall not be subject to an action for civil dam-
 38 ages as a result thereof.

39 **SECTION 51.** ORS 688.635 is amended to read:

40 688.635. (1) A person certified as a hemodialysis technician may, under the direct supervision
 41 of a physician licensed **to practice medicine** under ORS chapter 677 or a registered nurse licensed
 42 under ORS 678.010 to 678.410, perform functions as determined by rules adopted by the Oregon
 43 Health Authority, in consultation with the Oregon Medical Board and the Oregon State Board of
 44 Nursing.

45 (2) A hemodialysis technician shall not:

1 (a) Administer medications by oral, intramuscular, intravenous or subcutaneous means except
2 as specified under rules adopted by the authority pursuant to subsection (1) of this section.

3 (b) Determine the frequency, duration or nature of dialysis treatments or alter any treatment
4 prescribed by a licensed health professional.

5 (c) Engage in any health care activity requiring a license except as authorized under rules
6 adopted by the authority pursuant to subsection (1) of this section.

7 **SECTION 52.** ORS 688.655 is amended to read:

8 688.655. (1) The certification of a hemodialysis technician may be denied, suspended or revoked
9 in accordance with the provisions of ORS chapter 183 for any of the following:

10 (a) Failure to complete continuing education requirements.

11 (b) The use of fraud or deception in receiving a certificate.

12 (c) Habitual or excessive use of intoxicants or drugs.

13 (d) The presence of a mental disorder that demonstrably affects a technician's performance, as
14 certified by two psychiatrists retained by the Oregon Health Authority.

15 (e) Conviction of a criminal offense that the authority considers reasonably related to the fitness
16 of the person to practice hemodialysis.

17 (f) Suspension or revocation of a hemodialysis technician certificate issued by another state.

18 (g) Gross negligence or repeated negligence in rendering hemodialysis care.

19 (h) Any reason identified by authority rule as rendering the applicant unfit to perform the duties
20 of a hemodialysis technician.

21 (2) The authority may investigate any evidence that appears to show that a hemodialysis tech-
22 nician certified by the authority is or may be medically incompetent or is or may be guilty of un-
23 professional or dishonorable conduct or is or may be mentally or physically unable to safely function
24 as a hemodialysis technician.

25 (3) Any dialysis facility or center, any hemodialysis technician certified under ORS 688.650, any
26 physician licensed to **practice medicine** under ORS chapter 677 or any registered nurse licensed
27 under ORS 678.010 to 678.410 shall report to the authority any information the person may have that
28 appears to show that a hemodialysis technician is or may be medically incompetent or is or may be
29 guilty of unprofessional or dishonorable conduct or is or may be mentally or physically unable to
30 safely function as a hemodialysis technician.

31 (4) Information provided to the authority pursuant to this section is confidential and shall not
32 be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding.

33 (5) Any person who reports or provides information to the authority under this section and who
34 provides information in good faith shall not be subject to an action for civil damage as a result
35 thereof.

36 **SECTION 53.** ORS 688.800 is amended to read:

37 688.800. As used in ORS 688.800 to 688.840:

38 (1) "Polysomnographic technologist" means a person licensed under ORS 688.819.

39 (2) "Polysomnography" means the treatment, management, diagnostic testing, education and care
40 of patients with disorders related to sleep. "Polysomnography" includes, but is not limited to:

41 (a) The use of the following during treatment, management, diagnostic testing, education and
42 care of patients with disorders related to sleep:

43 (A) Supplemental low-flow oxygen therapy, using up to six liters per minute of oxygen;

44 (B) Continuous or bilevel positive airway pressure titration on spontaneously breathing patients
45 using a mask or oral appliance, if the mask or oral appliance does not extend into the trachea or

- 1 attach to an artificial airway;
- 2 (C) Capnography;
- 3 (D) Cardiopulmonary resuscitation;
- 4 (E) Pulse oximetry;
- 5 (F) Sleep staging, including surface electroencephalography, surface electrooculography and
6 submental surface electromyography;
- 7 (G) Electrocardiography;
- 8 (H) Respiratory effort monitoring, including thoracic and abdominal movement monitoring;
- 9 (I) Plethysmography blood flow monitoring;
- 10 (J) Snore monitoring;
- 11 (K) Audio or video monitoring of movement or behavior;
- 12 (L) Body movement monitoring;
- 13 (M) Nocturnal penile tumescence monitoring, when performed in a facility approved by the Re-
14 spiratory Therapist and Polysomnographic Technologist Licensing Board;
- 15 (N) Nasal and oral airflow monitoring;
- 16 (O) Body temperature monitoring; or
- 17 (P) Portable monitoring devices and other medical equipment used to treat sleep disorders;
- 18 (b) Analyzing data for the purpose of assisting a physician who diagnoses and treats disorders
19 related to sleep;
- 20 (c) Implementation and monitoring of durable medical equipment used in the treatment of sleep
21 disorders; and
- 22 (d) Educating patients and immediate family members of patients regarding testing and treat-
23 ment of sleep disorders.
- 24 (3) “Qualified medical director for polysomnography” means the medical director of an inpatient
25 or outpatient polysomnography facility who is a physician licensed **to practice medicine** under ORS
26 chapter 677, has special interest and knowledge in the diagnosis and treatment of sleep disorders
27 and is actively practicing in the field of sleep disorders.
- 28 (4) “Qualified medical director for respiratory care” means the medical director of any inpatient
29 or outpatient respiratory care service, department or home care agency who is a physician licensed
30 **to practice medicine** under ORS chapter 677 and who has special interest and knowledge in the
31 diagnosis and treatment of respiratory problems.
- 32 (5) “Respiratory care” means the treatment, management, diagnostic testing, control and care
33 of patients with deficiencies and abnormalities associated with the cardiopulmonary system. “Re-
34 spiratory care” includes, but is not limited to:
- 35 (a) Direct and indirect respiratory care services, including but not limited to the administration
36 of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures neces-
37 sary to implement a treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen
38 prescribed by a physician;
- 39 (b) Transcription and implementation of the written or verbal orders of a physician pertaining
40 to the practice of respiratory care;
- 41 (c) Observing and monitoring signs and symptoms, reactions, general behaviors, general physical
42 responses to respiratory care treatment and diagnostic testing, including determination of whether
43 such signs, symptoms, reactions, general behaviors or general physical responses exhibit abnormal
44 characteristics;
- 45 (d) Implementation based on observed abnormalities, or appropriate reporting, referral, respir-

1 atory care protocols or changes in treatment, pursuant to a prescription by a person authorized to
 2 practice medicine under the laws of this state; and

3 (e) The initiation of emergency procedures under the rules of the board or as otherwise per-
 4 mitted under ORS 688.800 to 688.840.

5 (6) “Respiratory care practitioner” means a person licensed under ORS 688.815.

6 (7) “Respiratory care services” means cardiopulmonary care services including, but not limited
 7 to, the diagnostic and therapeutic use of the following:

8 (a) Except for the purpose of anesthesia, administration of medical gases, aerosols and
 9 humidification;

10 (b) Environmental control mechanisms and hyperbaric therapy;

11 (c) Pharmacologic agents related to respiratory care procedures;

12 (d) Mechanical or physiological ventilatory support;

13 (e) Bronchopulmonary hygiene;

14 (f) Cardiopulmonary resuscitation;

15 (g) Maintenance of the natural airway;

16 (h) Maintenance of artificial airways;

17 (i) Specific diagnostic and testing techniques employed in the medical management of patients
 18 to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including
 19 measurements of ventilatory volumes, pressures and flows, collection of specimens of blood and
 20 blood gases, expired and inspired gas samples, respiratory secretions and pulmonary function testing;
 21 and

22 (j) Hemodynamic and other related physiologic measurements of the cardiopulmonary system.

23 **SECTION 54.** ORS 694.015 is amended to read:

24 694.015. As used in ORS 694.015 to 694.185, unless the context requires otherwise:

25 (1) “Council” means the Advisory Council on Hearing Aids, created within the Oregon Health
 26 Licensing Agency.

27 (2) “Dealing in hearing aids” means the sale, lease or rental or attempted sale, lease or rental
 28 of hearing aids in conjunction with the evaluation or measurement of the powers or range of human
 29 hearing and the recommendation, selection or adaptation of hearing aids.

30 (3) “Hearing aid” means any prosthetic instrument or device designed for or represented as
 31 aiding, improving or correcting defective human hearing and any parts, attachments or accessories
 32 of such an instrument or device. A hearing aid is not intended to include any device [*which*] **that**
 33 is surgically implanted or otherwise medically inserted [*by a physician licensed by ORS chapter*
 34 *677*] for the purpose of treating or correcting a hearing impairment.

35 **SECTION 55.** ORS 694.025 is amended to read:

36 694.025. (1) A person may not deal in hearing aids or display a sign or in any other way ad-
 37 vertise or represent that the person deals in hearing aids unless the person holds a valid license
 38 issued by the Oregon Health Licensing Agency as provided in ORS 694.015 to 694.185.

39 (2) Notwithstanding subsection (1) of this section, ORS 694.015 to 694.185 do not apply to:

40 (a) An audiologist licensed under ORS chapter 681.

41 (b) A physician licensed **to practice medicine** under ORS chapter 677.

42 **SECTION 56.** ORS 694.142 is amended to read:

43 694.142. The Oregon Health Licensing Agency shall adopt by rule standards of practice for
 44 hearing aid specialists in providing services to consumers. The standards must include, but are not
 45 limited to:

1 (1) Before fitting or dispensing a hearing aid, the hearing aid specialist shall determine through
2 direct observation and a personal interview whether any of the following conditions exist:

3 (a) Visible congenital or traumatic deformity of the ear;

4 (b) Active drainage from the ear within the previous 90 days or a history of active drainage from
5 the ear;

6 (c) Sudden or rapidly progressive hearing loss within the previous 90 days;

7 (d) Acute or chronic dizziness;

8 (e) Unilateral hearing loss of sudden or recent onset within 90 days;

9 (f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards
10 Institute, 500, 1,000 and 2,000 Hz average; or

11 (g) Any other condition that the agency may establish by rule.

12 (2) If any of the conditions listed in subsection (1) of this section are found, the hearing aid
13 specialist shall refer the person to a physician licensed **to practice medicine** under ORS chapter
14 677 who specializes in diseases of the ear or, if *[no such licensed physician is]* **such a specialist is**
15 **not** available in the community, to any physician licensed **to practice medicine** under ORS chapter
16 677.

17 (3) Within the 90 days prior to fitting or dispensing a hearing aid to a person under 18 years
18 of age, the person receiving the hearing aid must be referred to one of the following licensed med-
19 ical physicians:

20 (a) An otolaryngologist for examination and for a recommendation of corrective measures that
21 may be required;

22 (b) A properly licensed medical physician for like examination and recommendation; or

23 (c) An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and
24 for a recommendation of corrective measures that may be required if the person is also examined
25 by a properly licensed medical physician who gives approval for possible hearing aid use.

26 (4) Notwithstanding subsection (3) of this section, replacement of a hearing aid with an identical
27 hearing aid within one year of the initial fitting or dispensing of the hearing aid does not require
28 a referral to a physician.

29 (5)(a) Hearing aid specialists shall make clear their credentials, never representing that the
30 services or advice of a person licensed to practice medicine and surgery, osteopathy and surgery,
31 or a clinical audiologist will be used or made available in the selection, fitting, adjustment, mainte-
32 nance or repair of hearing aids when that is not true. Hearing aid specialists shall also refrain from
33 using the word "doctor" or "clinic" or other words, abbreviations or symbols that tend to connote
34 an audiologic, medical or osteopathic profession when that use is not accurate.

35 (b) A person issued a temporary license shall deal in hearing aids only under supervision of a
36 person licensed under this chapter.

37 (c) A hearing aid specialist shall maintain a business address and telephone number at which
38 the specialist may be reached during normal business hours.

39 (d) A person may not sell a hearing aid by direct mail. For purposes of this paragraph, delivery
40 by mail of a replacement hearing aid or parts does not constitute sale by direct mail.

41 (6) If the person or the parent or guardian of the person refuses to seek a medical opinion from
42 the physician to whom the person has been referred under subsection (2) or (3) of this section, the
43 person dealing in hearing aids must obtain from the person or the parents or guardian of the person
44 prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the
45 agency. Any person dealing in hearing aids or employees and putative agents thereof, upon making

1 the required referral for a medical opinion under subsection (2) of this section, may not in any
 2 manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical
 3 opinion prior to the fitting and dispensing of a hearing aid. Nothing required to be performed by a
 4 person dealing in hearing aids under this section means that the person is engaged in the diagnosis
 5 of illness or the practice of medicine or any other activity prohibited by the provisions of ORS
 6 694.042 and this section.

7 **SECTION 57.** ORS 742.400 is amended to read:

8 742.400. (1) As used in this section:

9 (a) "Claim" means a written demand for payment from or on behalf of a covered practitioner for
 10 an injury alleged to have been caused by professional negligence that is made in a complaint filed
 11 with a court of appropriate jurisdiction.

12 (b) "Covered practitioner" means a chiropractic physician, physician[, *podiatric physician and*
 13 *surgeon,*] **or** physician assistant **licensed under ORS chapter 677**, nurse practitioner, optometrist,
 14 dentist, dental hygienist or naturopath.

15 (c) "Disposition of a claim" means:

16 (A) A judgment or award against the covered practitioner by a court, a jury or an arbitrator;

17 (B) A withdrawal or dismissal of the claim; or

18 (C) A settlement of the claim.

19 (d) "Reporter" means:

20 (A) A primary insurer;

21 (B) A public body required to defend, save harmless and indemnify an officer, employee or agent
 22 of the public body under ORS 30.260 to 30.300;

23 (C) An entity that self-insures or indemnifies for claims alleging professional negligence on the
 24 part of a covered practitioner; or

25 (D) A health maintenance organization as defined in ORS 750.005.

26 (2) Within 30 days after receiving notice of a claim, a reporter shall report the claim to the
 27 appropriate board, as follows:

28 (a) The Oregon Medical Board if the covered practitioner is a physician[, *podiatric physician and*
 29 *surgeon,*] or physician assistant **licensed under ORS chapter 677**;

30 (b) The Oregon State Board of Nursing if the covered practitioner is a nurse practitioner;

31 (c) The Oregon Board of Optometry if the covered practitioner is an optometrist;

32 (d) The Oregon Board of Dentistry if the covered practitioner is a dentist or dental hygienist;

33 (e) The Oregon Board of Naturopathic Medicine if the covered practitioner is a naturopath; or

34 (f) The State Board of Chiropractic Examiners if the covered practitioner is a chiropractic
 35 physician.

36 (3) The report required under subsection (2) of this section shall include:

37 (a) The name of the covered practitioner;

38 (b) The name of the person that filed the claim;

39 (c) The date on which the claim was filed; and

40 (d) The reason or reasons for the claim, except that the report may not disclose any data that
 41 is privileged under ORS 41.675.

42 (4) Within 30 days after the date of an action taken in disposition of a claim, a reporter shall
 43 notify the appropriate board identified in subsection (2) of this section of the disposition.

44 (5)(a) A board that receives a report of a claim under this section shall publicly post the report
 45 on the board's website if the claim results in a judicial finding or admission of liability or a money

1 judgment, award or settlement that involves a payment to the claimant. The board may not publicly
 2 post information about claims that did not result in a judicial finding or admission of liability or a
 3 money judgment, award or settlement that involves a payment to the claimant but shall make the
 4 information available to the public upon request.

5 (b) If a board discloses information about a claim that is the subject of a report received under
 6 this section, the board shall indicate in the disclosure whether the claim resulted in a judicial
 7 finding or an admission of liability or a money judgment, an award or a settlement that involves a
 8 payment to the claimant. A board may not publicly disclose or publish any allegations or factual
 9 assertions included in the claim unless the complaint resulted in a judicial finding or an admission
 10 of liability or a money judgment, an award or a settlement that involves a payment to the claimant.

11 (c) For purposes of this subsection, “judicial finding” means a finding of liability by a court, a
 12 jury or an arbitrator.

13 (6) A board that receives a report under this section shall provide copies of the report to each
 14 health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,
 15 441.990, 442.342, 442.344 and 442.400 to 442.463 that employs or grants staff privileges to the covered
 16 practitioner.

17 (7) A person that reports in good faith concerning any matter required to be reported under this
 18 section is immune from civil liability by reason of making the report.

19 **SECTION 58.** ORS 743A.184 is amended to read:

20 743A.184. (1) Subject to other terms, conditions and benefits in the plan, group health benefit
 21 plans as described in ORS 743.730 shall provide payment, coverage or reimbursement for supplies,
 22 equipment and diabetes self-management programs associated with the treatment of insulin-
 23 dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes pre-
 24 scribed by a health care professional legally authorized to prescribe such items.

25 (2) As used in this section, “diabetes self-management program” means one program of assess-
 26 ment and training after diagnosis and no more than three hours per year of assessment and training
 27 upon a material change of condition, medication or treatment that is provided by:

28 (a) An education program credentialed or accredited by a state or national entity accrediting
 29 such programs; or

30 (b) A program provided by a physician licensed **to practice medicine** under ORS chapter 677,
 31 a registered nurse, a nurse practitioner, a certified diabetes educator or a licensed dietitian with
 32 demonstrated expertise in diabetes.

33 **SECTION 59.** ORS 743A.188 is amended to read:

34 743A.188. (1) All individual and group health insurance policies providing coverage for hospital,
 35 medical or surgical expenses, other than coverage limited to expenses from accidents or specific
 36 diseases, shall include coverage for treatment of inborn errors of metabolism that involve amino
 37 acid, carbohydrate and fat metabolism and for which medically standard methods of diagnosis,
 38 treatment and monitoring exist, including quantification of metabolites in blood, urine or spinal fluid
 39 or enzyme or DNA confirmation in tissues. Coverage shall include expenses of diagnosing, monitor-
 40 ing and controlling the disorders by nutritional and medical assessment, including but not limited
 41 to clinical visits, biochemical analysis and medical foods used in the treatment of such disorders.

42 (2) As used in this section, “medical foods” means foods that are formulated to be consumed or
 43 administered enterally under the supervision of a physician[, *as defined in ORS 677.010,*] **licensed**
 44 **to practice medicine or osteopathy under ORS chapter 677** that are specifically processed or
 45 formulated to be deficient in one or more of the nutrients present in typical nutritional counterparts,

1 that are for the medical and nutritional management of patients with limited capacity to metabolize
 2 ordinary foodstuffs or certain nutrients contained therein or have other specific nutrient require-
 3 ments as established by medical evaluation and that are essential to optimize growth, health and
 4 metabolic homeostasis.

5 (3) This section is exempt from ORS 743A.001.

6 **SECTION 60.** ORS 746.600 is amended to read:

7 746.600. As used in ORS 746.600 to 746.690:

8 (1)(a) “Adverse underwriting decision” means any of the following actions with respect to in-
 9 surance transactions involving insurance coverage that is individually underwritten:

10 (A) A declination of insurance coverage.

11 (B) A termination of insurance coverage.

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

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

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

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

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

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

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

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

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

30 (C) The rescission of a policy.

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

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

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

40 (5) “Consumer report” means any written, oral or other communication of information bearing
 41 on a natural person’s creditworthiness, credit standing, credit capacity, character, general reputa-
 42 tion, personal characteristics or mode of living that is used or expected to be used in connection
 43 with an insurance transaction.

44 (6) “Consumer reporting agency” means a person that, for monetary fees or dues, or on a co-
 45 operative or nonprofit basis:

- 1 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;
- 2 (b) Obtains information primarily from sources other than insurers; and
- 3 (c) Furnishes consumer reports to other persons.

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

10 (8) "Covered entity" means:

- 11 (a) A health insurer;
- 12 (b) A health care provider that transmits any health information in electronic form to carry out
 13 financial or administrative activities in connection with a transaction covered by ORS 746.607 or
 14 by rules adopted under ORS 746.608; or
- 15 (c) A health care clearinghouse.

16 (9) "Credit history" means any written or other communication of any information by a con-
 17 sumer reporting agency that:

- 18 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and
- 19 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
 20 eligibility, premiums or rates for personal insurance.

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

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

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

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

- 28 (a) Quality assessment, accreditation, auditing and improvement activities;
- 29 (b) Case management and care coordination;
- 30 (c) Reviewing the competence, qualifications or performance of health care providers or health
 31 insurers;
- 32 (d) Underwriting activities;
- 33 (e) Arranging for legal services;
- 34 (f) Business planning;
- 35 (g) Customer services;
- 36 (h) Resolving internal grievances;
- 37 (i) Creating deidentified information; and
- 38 (j) Fundraising.

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

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

44 (b) A physician[, *podiatric physician and surgeon,*] **or** physician assistant [*or acupuncturist*] li-
 45 censed under ORS chapter 677, **an acupuncturist licensed under ORS 677.759** or an employee of

- 1 the physician, [*podiatric physician and surgeon,*] physician assistant or acupuncturist;
- 2 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
- 3 the nurse or nursing home administrator;
- 4 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 5 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 6 hygienist or denturist;
- 7 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 8 of the speech-language pathologist or audiologist;
- 9 (g) An emergency medical services provider licensed under ORS chapter 682;
- 10 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 11 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
- 12 physician;
- 13 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
- 14 physician;
- 15 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage
- 16 therapist;
- 17 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
- 18 entry midwife;
- 19 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
- 20 therapist;
- 21 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
- 22 imaging licensee;
- 23 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
- 24 care practitioner;
- 25 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
- 26 somnographic technologist;
- 27 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 28 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 29 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
- 30 service practitioner;
- 31 (t) A health care facility as defined in ORS 442.015;
- 32 (u) A home health agency as defined in ORS 443.005;
- 33 (v) A hospice program as defined in ORS 443.850;
- 34 (w) A clinical laboratory as defined in ORS 438.010;
- 35 (x) A pharmacy as defined in ORS 689.005;
- 36 (y) A diabetes self-management program as defined in ORS 743.694; and
- 37 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
- 38 course of business.
- 39 (15) "Health information" means any oral or written information in any form or medium that:
- 40 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
- 41 a university or a health care provider that is not a covered entity; and
- 42 (b) Relates to:
- 43 (A) The past, present or future physical or mental health or condition of an individual;
- 44 (B) The provision of health care to an individual; or
- 45 (C) The past, present or future payment for the provision of health care to an individual.

- 1 (16) “Health insurer” means:
- 2 (a) An insurer who offers:
- 3 (A) A health benefit plan as defined in ORS 743.730;
- 4 (B) A short term health insurance policy, the duration of which does not exceed six months in-
- 5 cluding renewals;
- 6 (C) A student health insurance policy;
- 7 (D) A Medicare supplemental policy; or
- 8 (E) A dental only policy.
- 9 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
- 10 under ORS 735.600 to 735.650.
- 11 (17) “Homeowner insurance” means insurance for residential property consisting of a combina-
- 12 tion of property insurance and casualty insurance that provides coverage for the risks of owning
- 13 or occupying a dwelling and that is not intended to cover an owner’s interest in rental property or
- 14 commercial exposures.
- 15 (18) “Individual” means a natural person who:
- 16 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
- 17 certificate holder;
- 18 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
- 19 certificate holder;
- 20 (c) Is a past, present or proposed policyowner;
- 21 (d) Is a past or present applicant;
- 22 (e) Is a past or present claimant; or
- 23 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
- 24 certificate that is subject to ORS 746.600 to 746.690.
- 25 (19) “Individually identifiable health information” means any oral or written health information
- 26 that is:
- 27 (a) Created or received by a covered entity or a health care provider that is not a covered en-
- 28 tity; and
- 29 (b) Identifiable to an individual, including demographic information that identifies the individual,
- 30 or for which there is a reasonable basis to believe the information can be used to identify an indi-
- 31 vidual, and that relates to:
- 32 (A) The past, present or future physical or mental health or condition of an individual;
- 33 (B) The provision of health care to an individual; or
- 34 (C) The past, present or future payment for the provision of health care to an individual.
- 35 (20) “Institutional source” means a person or governmental entity that provides information
- 36 about an individual to an insurer, insurance producer or insurance-support organization, other than:
- 37 (a) An insurance producer;
- 38 (b) The individual who is the subject of the information; or
- 39 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
- 40 pacity.
- 41 (21) “Insurance producer” or “producer” means a person licensed by the Director of the De-
- 42 partment of Consumer and Business Services as a resident or nonresident insurance producer.
- 43 (22) “Insurance score” means a number or rating that is derived from an algorithm, computer
- 44 application, model or other process that is based in whole or in part on credit history.
- 45 (23)(a) “Insurance-support organization” means a person who regularly engages, in whole or in

1 part, in assembling or collecting information about natural persons for the primary purpose of pro-
2 viding the information to an insurer or insurance producer for insurance transactions, including:

3 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-
4 nection with insurance transactions; and

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

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

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

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

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

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

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

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

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

27 (29) "Nonaffiliated third party" means any person except:

28 (a) An affiliate of a licensee;

29 (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the
30 licensee; and

31 (c) As designated by the director by rule.

32 (30) "Payment" includes but is not limited to:

33 (a) Efforts to obtain premiums or reimbursement;

34 (b) Determining eligibility or coverage;

35 (c) Billing activities;

36 (d) Claims management;

37 (e) Reviewing health care to determine medical necessity;

38 (f) Utilization review; and

39 (g) Disclosures to consumer reporting agencies.

40 (31)(a) "Personal financial information" means:

41 (A) Information that is identifiable with an individual, gathered in connection with an insurance
42 transaction from which judgments can be made about the individual's character, habits, avocations,
43 finances, occupations, general reputation, credit or any other personal characteristics; or

44 (B) An individual's name, address and policy number or similar form of access code for the
45 individual's policy.

1 (b) "Personal financial information" does not mean information that a licensee has a reasonable
 2 basis to believe is lawfully made available to the general public from federal, state or local gov-
 3 ernment records, widely distributed media or disclosures to the public that are required by federal,
 4 state or local law.

5 (32) "Personal information" means:

- 6 (a) Personal financial information;
- 7 (b) Individually identifiable health information; or
- 8 (c) Protected health information.

9 (33) "Personal insurance" means the following types of insurance products or services that are
 10 to be used primarily for personal, family or household purposes:

- 11 (a) Private passenger automobile coverage;
- 12 (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and
 13 renters coverage;
- 14 (c) Personal dwelling property coverage;
- 15 (d) Personal liability and theft coverage, including excess personal liability and theft coverage;
- 16 and
- 17 (e) Personal inland marine coverage.

18 (34) "Personal representative" includes but is not limited to:

- 19 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
 20 authority to make medical and health care decisions;
- 21 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700
 22 to 127.737 to make health care decisions or mental health treatment decisions;
- 23 (c) A person appointed as a personal representative under ORS chapter 113; and
- 24 (d) A person described in ORS 746.611.

25 (35) "Policyholder" means a person who:

- 26 (a) In the case of individual policies of life or health insurance, is a current policyowner;
- 27 (b) In the case of individual policies of other kinds of insurance, is currently a named insured;
- 28 or
- 29 (c) In the case of group policies of insurance under which coverage is individually underwritten,
 30 is a current certificate holder.

31 (36) "Pretext interview" means an interview wherein the interviewer, in an attempt to obtain
 32 personal information about a natural person, does one or more of the following:

- 33 (a) Pretends to be someone the interviewer is not.
- 34 (b) Pretends to represent a person the interviewer is not in fact representing.
- 35 (c) Misrepresents the true purpose of the interview.
- 36 (d) Refuses upon request to identify the interviewer.

37 (37) "Privileged information" means information that is identifiable with an individual and that:

- 38 (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the in-
 39 dividual; and
- 40 (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits
 41 or a civil or criminal proceeding involving the individual.

42 (38)(a) "Protected health information" means individually identifiable health information that is
 43 transmitted or maintained in any form of electronic or other medium by a covered entity.

44 (b) "Protected health information" does not mean individually identifiable health information in:

- 45 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20

1 U.S.C. 1232g);

2 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

3 (C) Employment records held by a covered entity in its role as employer.

4 (39) "Residual market mechanism" means an association, organization or other entity involved
5 in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance
6 Code relating to insurance applicants who are unable to procure insurance through normal insur-
7 ance markets.

8 (40) "Termination of insurance coverage" or "termination of an insurance policy" means either
9 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
10 the failure of a premium to be paid as required by the policy.

11 (41) "Treatment" includes but is not limited to:

12 (a) The provision, coordination or management of health care; and

13 (b) Consultations and referrals between health care providers.

14

15

CAPTIONS

16

17 **SECTION 61. The unit captions used in this 2013 Act are provided only for the conven-**
18 **ience of the reader and do not become part of the statutory law of this state or express any**
19 **legislative intent in the enactment of this 2013 Act.**

20