

Senate Bill 111

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

SUMMARY

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

Requires regulation of bodywork in same manner that law currently regulates massage. Defines "bodywork." Changes name of State Board of Massage Therapists to State Board of Massage and Bodywork.

Authorizes board to require licensed massage and bodywork therapists to acquire or renew endorsement to practice advanced technique of massage or bodywork.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the regulation of bodywork; creating new provisions; amending ORS 31.740, 182.454,
3 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 677.060, 687.011, 687.021, 687.031, 687.041,
4 687.051, 687.057, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123,
5 687.250, 746.600 and 750.005; and declaring an emergency.

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

DEFINITION OF "BODYWORK"

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8
9
10 **SECTION 1.** ORS 687.011 is amended to read:

11 687.011. As used in ORS 687.011 to 687.250, 687.895 and 687.991:

12 (1) "Board" means the State Board of Massage [*Therapists*] **and Bodywork**.

13 (2) **"Bodywork" means any form of touch therapy that uses manipulation, movement,**
14 **energy or repatterning to produce structural and functional changes to the body.**

15 [(2)] (3) "Certified class" means a class that is approved by the **State Board of Massage and**
16 **Bodywork** and is offered:

17 (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450;

18 (b) By a community college and approved by the State Board of Education;

19 (c) By an accredited college or university; or

20 (d) In another state and licensed or approved by the appropriate agency in that state.

21 [(3)] (4) "Fraud or misrepresentation" means knowingly giving misinformation or a false im-
22 pression through the intentional misstatement of, concealment of or failure to make known a mate-
23 rial fact or by other means.

24 [(4)] (5) "Manual" means the use of the hands or the feet, or both, or any part of the body in
25 the performance of massage **or bodywork**.

26 [(5)] (6) "Massage" [*or "massage therapy"*] means the use on the human body of pressure, fric-
27 tion, stroking, tapping or kneading, vibration or stretching by manual or mechanical means or
28 gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external

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 baths, and with or without lubricants such as salts, powders, liquids or creams for the purpose of,
 2 but not limited to, maintaining good health and establishing and maintaining good physical condi-
 3 tion.

4 [(6)] (7) “Massage **and bodywork** therapist” means a person licensed under ORS 687.011 to
 5 687.250, 687.895 and 687.991 to practice massage **or bodywork**.

6 (8) “Practice of **bodywork**” means the performance of **bodywork**:

7 (a) For purposes other than sexual contact, as defined in ORS 167.002 (5); and

8 (b) For compensation.

9 [(7)] (9) “Practice of massage” means the performance of massage:

10 (a) For purposes other than sexual contact, as defined in ORS 167.002 (5); and

11 (b) For compensation.

12 [(8)] (10) “Preceptor” means a licensed massage **and bodywork** therapist who contracts with an
 13 approved school or program of massage **or bodywork** to provide direct on-site clinical supervision
 14 of a [massage] student enrolled in a certified class.

15 [(9)] (11) “Supervision” means:

16 (a) The process of overseeing and directing the training of [massage] students **enrolled in a**
 17 **certified class** as set forth in rules of the **State Board of Massage and Bodywork**;

18 (b) The process of overseeing and directing a licensee being disciplined by the board; or

19 (c) Voluntary consultation with, and education of, less experienced licensed massage **and**
 20 **bodywork** therapists or practitioners in related fields.

21 [(10)] (12) “Treatment” means the selection, application and practice of massage or [massage
 22 therapy] **bodywork** essential to the effective execution and management of a plan of care.

23 [(11)] (13) “Unprofessional or dishonorable conduct” means a behavior, practice or condition
 24 that is contrary to the ethical standards adopted by the board.

25
 26 **REGULATION OF BODYWORK AND**
 27 **TECHNIQUES OF MASSAGE OR BODYWORK**
 28

29 **SECTION 2.** ORS 687.021 is amended to read:

30 687.021. (1) [No person shall] **A person may not** engage in, or purport to be in, the practice
 31 of massage **or bodywork** without a massage **and bodywork** therapist license issued by the State
 32 Board of Massage [Therapists] **and Bodywork**.

33 (2) It is unlawful to advertise by printed publication or otherwise:

34 (a) The giving of massage **or bodywork** treatments in this state by a person **who is** not licensed
 35 under ORS 687.011 to 687.250, 687.895 and 687.991; or

36 (b) The use of **the term** “massage” **or the term** “**bodywork**” in [the] a business name unless
 37 the person providing the massage **or bodywork services** is licensed under ORS 687.011 to 687.250,
 38 687.895 and 687.991.

39 (3) The Attorney General, the prosecuting attorney of any county or the board, in its own name,
 40 may maintain an action for an injunction against any person violating this section. An injunction
 41 may be issued without proof of actual damage sustained by any person. An injunction does not re-
 42 lieve a person from criminal prosecution for violation of this section or from any other civil, crimi-
 43 nal or disciplinary remedy.

44 **SECTION 3.** ORS 687.031 is amended to read:

45 687.031. (1) ORS 687.011 to 687.250, 687.895 and 687.991 do not apply to:

1 (a) Persons licensed under *[any other]* a law of this state to do *[any acts]* **an act** included in the
 2 definition of **massage or bodywork** in ORS 687.011, or persons working under the direction of
 3 *[any]* such a person, **so long as the licensed person is acting within the recognized scope of the**
 4 **person's practice.**

5 (b) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

6 (c) **Massage or bodywork** practiced at the athletic department of *[any]* **an** institution main-
 7 tained by public funds of the state or of *[any of]* its political subdivisions.

8 (d) **Massage or bodywork** practiced at the athletic department of *[any]* **a** school or college.

9 (e) **Massage or bodywork** clinics operated as part of a certified class for the purpose of student
 10 training supervised by an approved instructor or preceptor if:

11 (A) *[Any]* **The charge for the massage or bodywork services** does not exceed the cost incurred
 12 in providing the *[massage]* **services**; and

13 (B) The student is not compensated.

14 (f) Students enrolled in a certified class when practicing **massage or bodywork** techniques in a
 15 nonclinical setting, **whether** at or away from massage school premises or program sites, under the
 16 supervision of an approved instructor or preceptor, if:

17 (A) The student is clearly identified as a student to *[any member of the public]* **clients** receiving
 18 **massage or bodywork** services; and

19 (B) The student is not compensated.

20 (g) Nonresident practitioners **of massage or bodywork** holding a valid license, permit, certif-
 21 icate or registration issued by *[any other]* **another** state or territory of the United States or by a
 22 foreign country and temporarily practicing **massage or bodywork** in this state for a period not ex-
 23 ceeding 30 days for the purpose of:

24 (A) Presenting educational or clinical programs, lectures, seminars or workshops;

25 (B) Furnishing **massage or bodywork** services during an emergency as part of a disaster re-
 26 sponse team; or

27 (C) Consulting with a **massage and bodywork** therapist licensed in this state regarding **massage**
 28 *[practices]* **or bodywork techniques** or services.

29 (h) Trained or licensed practitioners of psychotherapy or counseling modalities that use physical
 30 techniques to access or support psychotherapeutic processes *[when practicing]* **who:**

31 (A) **Practice** within the scope of a license; or

32 (B) **Have** *[if the practitioner has]* an express oral or written agreement that **specifies that** the
 33 sole intent in using the physical techniques is to render the psychotherapy or counseling.

34 (i) Practitioners of reflexology who do not claim expressly or implicitly to be *[massage*
 35 *therapists]* **massage and bodywork therapists** and who limit their work to the practice of
 36 reflexology through the application of pressure with the thumbs to reflex points on the feet, hands
 37 and ears for the purpose of bringing the body into balance, *[thereby]* **and** promoting the well-being
 38 of clients.

39 (j) Practitioners who:

40 (A) Do not claim expressly or implicitly to be *[massage therapists]* **massage and bodywork**
 41 **therapists**;

42 (B) Limit their work to one or more of the following *[practices]* **techniques**:

43 (i) Using touch, words and directed movement to deepen awareness of existing patterns of
 44 movement and suggest new possibilities of movement;

45 (ii) Using minimal touch over specific points on the body to facilitate balance in the nervous

1 system; or

2 (iii) Using touch to affect the energy systems or channels of energy of the body;

3 (C) Are certified by a professional organization or credentialing agency that:

4 (i) Requires a minimum level of training, demonstration of competence and adherence to an ap-
5 proved scope of practice and ethical standards; and

6 (ii) Maintains disciplinary procedures to ensure adherence to the requirements of the organiza-
7 tion or agency; and

8 (D) Provide contact information in the practitioner's place of business for any organization or
9 agency that has certified the practitioner.

10 (2) The State Board of Massage [*Therapists*] **and Bodywork** has the authority to verify that a
11 practitioner claiming to be exempt from application of ORS 687.011 to 687.250, 687.895 and 687.991
12 under subsection (1)(j) of this section is certified by a professional organization or credentialing
13 agency as required by subsection (1)(j)(C) of this section.

14 (3) A nonresident practitioner **of massage or bodywork** performing massage **or bodywork** un-
15 der subsection (1)(g) of this section must obtain a temporary practice permit if practicing in this
16 state for [*a total of*] more than 30 days in a calendar year. Applications must be accompanied by
17 the application fee provided for in ORS 687.071. A temporary practice permit shall allow the non-
18 resident practitioner **of massage or bodywork** to practice massage **or bodywork** in this state for
19 a maximum of 180 days in a calendar year.

20 **SECTION 4.** ORS 687.041 is amended to read:

21 687.041. (1) Applications to the State Board of Massage [*Therapists*] **and Bodywork** for a mas-
22 sage **and bodywork** therapist license shall be made on forms provided by the board and shall con-
23 tain the information required to assure the board of the applicant's eligibility for a license. The
24 application fee provided for in ORS 687.071 shall accompany the application.

25 (2) An applicant shall state on the application whether the applicant has ever been arrested for
26 or convicted of a [*crime exclusive of minor traffic offenses and if so, where and when*] **misdemeanor**
27 **or felony and the date and location of the arrest or conviction.**

28 (3) The board may require that an applicant submit to fingerprinting and may use the finger-
29 prints to request a criminal records check of the applicant under ORS 181.534. [*It*] **The board** may
30 also require the photograph of the applicant.

31 (4) All law enforcement agencies in this state shall cooperate with the board in the adminis-
32 tration of ORS 687.011 to 687.250, 687.895 and 687.991 and shall, when requested, investigate and
33 report to the board their findings regarding the arrest or conviction of the applicant for crimes
34 within or outside this state.

35 **SECTION 5.** ORS 687.051 is amended to read:

36 687.051. (1) To be eligible for issuance of an initial license in this state as a massage **and**
37 **bodywork** therapist, the applicant shall:

38 (a) Furnish the State Board of Massage [*Therapists*] **and Bodywork** with personal references
39 required by rule of the board.

40 (b) Have attained the age of 18 years.

41 (c) Furnish the board with educational certificates or transcripts required by law or rule of the
42 board including but not limited to proof of certification in cardiopulmonary resuscitation.

43 (d)(A) Have completed a minimum of 500 contact hours of certified classes in the following
44 subjects:

45 (i) Anatomy and physiology;

1 (ii) Kinesiology;

2 (iii) Pathology;

3 (iv) Theory; and

4 (v) Hands-on practice of massage [*and*] **or** bodywork techniques, and professional practices, in-
5 cluding client communication and boundaries, professional and business ethics and sanitation; or

6 (B) Obtain the approval of the board after the board performs a credentialing review, including
7 but not limited to a review of the classes completed by the applicant and the applicant's professional
8 experience, to determine the applicant's proficiency [*in the field of massage*].

9 (e) Pass an examination prepared and conducted by the board or its authorized representative
10 establishing **the applicant's** competency and ability to engage in the practice of massage **and**
11 **bodywork**. The examination must be administered in the English language or another language ap-
12 proved by the board and may be in written, oral or practical form and may test the applicant for
13 the required level of knowledge and skill in any subject related to massage and bodywork. The board
14 shall accept passage of the National Certification Board for Therapeutic Massage and Bodywork
15 examination or another board-approved national standardized examination as meeting the written
16 examination requirement [*contained*] **described** in this paragraph.

17 (f) Submit the application with payment for licensing within one year after notification of having
18 passed the qualifying examination.

19 (2) An applicant must be a person of good moral character. For purposes of this section, the
20 lack of good moral character may be established by reference to acts or conduct reflecting moral
21 turpitude or to acts or conduct that would cause a reasonable person to have substantial doubts
22 about the applicant's ability to **engage in the practice of massage or bodywork** in accordance with
23 ORS 687.011 to 687.250, 687.895 and 687.991 and rules of the **State Board of Massage and**
24 **Bodywork**.

25 (3) The board may require that an applicant furnish evidence satisfactory to the board that the
26 applicant can safely and competently practice [*the profession of massage*] **massage or bodywork**.
27 The board may consider evidence including, but not limited to, indications of impairment as defined
28 in ORS 676.303 or of behavior, practices or conduct that would be considered unprofessional or
29 dishonorable conduct if engaged in by a person licensed under ORS 687.011 to 687.250, 687.895 and
30 687.991.

31 (4) The board shall adopt rules establishing the required hours for each subject listed in sub-
32 section (1)(d)(A) of this section.

33 (5) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board,
34 as determined by the board by rule, that the applicant has completed a minimum of 12 hours of
35 board-approved continuing education.

36 (6) To be eligible for inactive status, a licensed massage **and bodywork** therapist [*must not be*
37 *practicing*] **may not practice massage or bodywork** in this state.

38 **SECTION 6.** ORS 687.057 is amended to read:

39 687.057. (1) The State Board of Massage [*Therapists*] **and Bodywork** may license by indorsement
40 or reciprocity any individual who applies, meets the requirements established by the board and, on
41 the date of making application, is [*a massage therapist*] licensed **to practice massage or bodywork**
42 under the laws of [*any other*] **another** state or territory of the United States or by a foreign country
43 if the requirements **for licensure** in the state, territory or country where the applicant is licensed
44 are not less than [*those required in*] **the requirements of** ORS 687.011 to 687.250, 687.895 and
45 687.991. The board shall adopt rules for determining the necessity of an examination based on edu-

1 cational preparation, successful completion of other examinations, work experience and the number
2 of years in active practice of massage **or bodywork**.

3 (2) The board may license by indorsement any individual who applies and successfully completes
4 a practical examination if the individual is already licensed under [*a law of this state to do an act*
5 *included in the definition of massage in ORS 687.011*] **the laws of this state to perform any of the**
6 **techniques described in the definition of “massage” or “bodywork” in ORS 687.011.**

7 (3) The board may enter into an agreement with the appropriate regulatory body of any other
8 state, territory or foreign country for reciprocal licensing if the board determines that the quali-
9 fications and standards of the other state, territory or foreign country are not less than those re-
10 quired in ORS 687.011 to 687.250, 687.895 and 687.991.

11 **SECTION 7.** ORS 687.061 is amended to read:

12 687.061. (1) Licenses issued under ORS 687.011 to 687.250, 687.895 and 687.991 expire on the date
13 established by the State Board of Massage [*Therapists*] **and Bodywork** by rule and may be renewed
14 after payment of the renewal fee established by the board. If the renewal fee is not paid by the
15 expiration date established by the board, a delinquency fee must be paid prior to renewal. Licenses
16 may be renewed within three years after the date of expiration upon payment of the renewal fee and
17 the delinquency fee established by the board.

18 (2) An individual who practices massage **or bodywork** without holding a valid unexpired license
19 issued under ORS 687.011 to 687.250, 687.895 and 687.991 is subject to disciplinary action and civil
20 penalty by the board, injunction and criminal prosecution. No disciplinary action, civil penalty or
21 criminal proceeding shall be initiated under this section after the date that a renewal [*and*] **or** de-
22 linquency fee is paid. However, payment of a renewal [*and*] **or** delinquency fee does not stay any
23 disciplinary action, civil penalty or criminal proceeding already assessed or initiated.

24 **SECTION 8.** ORS 687.071 is amended to read:

25 687.071. (1) The State Board of Massage [*Therapists*] **and Bodywork** shall impose fees for the
26 following:

27 (a) [*Massage therapist license*] Issuance or renewal **of a massage and bodywork therapist li-**
28 **cense.**

29 (b) Examinations and reexaminations.

30 (c) Inactive status.

31 (d) Delinquency in renewal of a license.

32 (e) Temporary practice permit.

33 (f) Application for [*massage*] license examination.

34 (2) If the effective period of the initial massage **and bodywork** therapist license is to be less
35 than 12 months by reason of the expiration date established by rule of the board, the required li-
36 cense fee shall be prorated to represent one-half of the biennial rate.

37 (3) The board shall examine or reexamine any applicant for a massage **and bodywork** therapist
38 license who pays a fee for each examination and who meets the requirements of ORS 687.051.

39 (4) All moneys received by the board shall be paid into the account created by the board under
40 ORS 182.470 and are [*appropriated*] continuously **appropriated** to the board and shall be used only
41 for the administration and enforcement of ORS 687.011 to 687.250, 687.895 and 687.991.

42 **SECTION 9.** ORS 687.081 is amended to read:

43 687.081. (1) The State Board of Massage [*Therapists*] **and Bodywork** may discipline a [*licensee*]
44 **person**, deny, suspend, revoke or refuse to renew a license **issued by the board**, issue a reprimand,
45 censure a licensee or place a licensee on probation if the [*licensee*] **person**:

1 (a) Has violated any provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the
2 board adopted under ORS 687.121.

3 (b) Has made any false representation or statement to the board in order to induce or prevent
4 action by the board.

5 (c) **Is a licensee and** has a physical or mental condition that makes the [*licensee*] **person** unable
6 to conduct safely the practice of massage **or bodywork**.

7 (d) **Is a licensee and** is habitually intemperate in the use of alcoholic beverages or is addicted
8 to the use of habit-forming drugs or controlled substances.

9 (e) Has misrepresented to any [*patron any*] **client any massage or bodywork** services rendered.

10 (f) Has been convicted of a crime that bears a demonstrable relationship to the practice of
11 massage **or bodywork**.

12 (g) Fails to meet with any requirement under ORS 687.051.

13 (h) Violates any provision of ORS 167.002 to 167.027.

14 (i) Engages in unprofessional or dishonorable conduct.

15 (j) Has been the subject of disciplinary action as a massage **or bodywork** therapist by [*any*
16 *other*] **another** state or territory of the United States or by a foreign country, and the board de-
17 termines that the cause of the disciplinary action would be a violation under ORS 687.011 to 687.250,
18 687.895 and 687.991 or rules of the board if [*it*] **the violation had** occurred in this state.

19 (2) If the board places a licensee on probation pursuant to subsection (1) of this section, the
20 board may impose and at any time modify the following conditions of probation:

21 (a) Limitation on the allowed scope of practice.

22 (b) Referral to the impaired health professional program established under ORS 676.190.

23 (c) Individual or peer supervision.

24 (d) Such other conditions as the board may consider necessary for the protection of the public
25 and the rehabilitation of the licensee.

26 (3) If the board determines that a licensee's continued practice **of massage or bodywork** con-
27 stitutes a serious danger to the public, the board may impose an emergency suspension of the license
28 without a hearing. Simultaneous with the order of suspension, the board shall institute proceedings
29 for a hearing as provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall
30 continue unless and until the licensee obtains injunctive relief from a court of competent jurisdiction
31 or the board determines that the suspension is no longer necessary for the protection of the public.

32 (4) In addition to the discipline described in subsection (1) of this section, the board may impose
33 a civil penalty as provided under ORS 687.250. Civil penalties under this subsection shall be imposed
34 pursuant to ORS 183.745.

35 (5) Prior to imposing any of the sanctions authorized under this section, the board shall con-
36 sider, but is not limited to, the following factors:

37 (a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and
38 687.991 and the rules adopted pursuant thereto;

39 (b) The effect of the violation on public safety and welfare;

40 (c) The degree to which the action subject to sanction violates professional ethics and standards
41 of practice;

42 (d) The economic and financial condition of the person subject to sanction; and

43 (e) Any mitigating factors that the board may choose to consider.

44 (6) In addition to the sanctions authorized by this section, the board may assess against a
45 licensee the costs associated with the disciplinary action taken against the licensee.

1 (7) The board shall adopt a code of ethical standards for [*practitioners of*] massage **and**
 2 **bodywork therapists** and shall take appropriate measures to ensure that all applicants and [*prac-*
 3 *titioners of*] **persons licensed to practice** massage **or bodywork** are aware of those standards.

4 (8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the board
 5 shall conduct an investigation as described under ORS 676.165.

6 (9) Information that the board obtains as part of an investigation into licensee or applicant
 7 conduct, or as part of a contested case proceeding, consent order or stipulated agreement involving
 8 licensee or applicant conduct, is confidential as provided under ORS 676.175.

9 **SECTION 10.** ORS 687.086 is amended to read:

10 687.086. (1) If the State Board of Massage [*Therapists*] **and Bodywork** proposes to impose any
 11 of the sanctions authorized in ORS 687.081 or take other disciplinary action, opportunity for hearing
 12 shall be accorded as provided in ORS chapter 183. Hearings under this section must be conducted
 13 by an administrative law judge assigned from the Office of Administrative Hearings established by
 14 ORS 183.605.

15 (2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules
 16 and orders shall be as provided in ORS chapter 183.

17 **SECTION 11.** ORS 687.095 is amended to read:

18 687.095. Unless state or federal laws relating to confidentiality or the protection of health in-
 19 formation prohibit disclosure, a massage **and bodywork** therapist **licensed by the State Board of**
 20 **Massage and Bodywork** who has reasonable cause to believe that a licensee of another board has
 21 engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the
 22 manner provided in ORS 676.150.

23 **SECTION 12.** ORS 687.115 is amended to read:

24 687.115. (1) The State Board of Massage [*Therapists*] **and Bodywork** operates as a semi-
 25 independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the pro-
 26 visions of ORS 687.011 to 687.250, 687.895 and 687.991. The board consists of seven members
 27 appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS
 28 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the
 29 board:

30 (a) Four must be licensed massage **and bodywork** therapists.

31 (b) Three must be members of the public, including one public member selected from a health
 32 related field. Public members may not be:

33 (A) Massage **and bodywork** therapists; or

34 (B) A spouse, domestic partner, child, parent or sibling of a massage **and bodywork** therapist.

35 (2)(a) Board members required to be licensed massage **and bodywork** therapists may be selected
 36 by the Governor from a list of three to five nominees for each vacancy, submitted by a professional
 37 organization representing massage **and bodywork** therapists.

38 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
 39 tation on the board according to:

40 (A) Geographic areas of this state; and

41 (B) Ethnic group.

42 (3)(a) The term of office of each member is four years, but a member serves at the pleasure of
 43 the Governor. The terms must be staggered so that no more than three terms end each year. A
 44 member is eligible for reappointment. If there is a vacancy in the membership of the board for any
 45 reason, the Governor shall make an appointment to become immediately effective for the remainder

1 of the unexpired term.

2 (b) A board member shall be removed immediately from the board if, during the member's term,
3 the member:

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

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

7 (C) Is not a licensed massage **and bodywork** therapist or a retired massage **and bodywork**
8 therapist who was [*a licensed massage therapist*] in good standing at the time of retirement, if the
9 board member was appointed to serve on the board as a massage **and bodywork** therapist.

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

13 (5) The board may:

14 (a) Hold meetings at times and locations determined by the board.

15 (b) Hire, define the duties and fix the salary of an administrator who may hire and define the
16 duties and provide supervision and evaluation of other employees as necessary to carry out the
17 provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The administrator, with approval of the
18 board, may also employ special consultants. All salaries, compensation and expenses incurred or
19 allowed shall be paid out of funds received by the board.

20 **SECTION 13.** ORS 687.121 is amended to read:

21 687.121. The State Board of Massage [*Therapists*] **and Bodywork** may adopt rules:

22 (1) Establishing reasonable standards concerning the sanitary, hygienic and healthful conditions
23 of premises and facilities used by massage **and bodywork** therapists.

24 (2) Relating to the methods and procedures used in the practice of massage **or the practice of**
25 **bodywork.**

26 (3) Governing the examination and investigation of applicants for the licenses issued under ORS
27 687.011 to 687.250, 687.895 and 687.991 and the issuance, renewal, suspension and revocation of such
28 licenses.

29 (4) Setting standards for [*certifying*] **certified** classes under ORS 687.051.

30 (5) Requiring [*that*] massage **and bodywork** therapists **to** supply the board with the accurate,
31 current address or addresses [*where they*] **of the premises where the licensees** practice massage
32 **or bodywork.**

33 **(6) Regulating the practice of massage or bodywork. As part of such regulation, the board**
34 **may require a massage and bodywork therapist to:**

35 **(a) Acquire an endorsement to practice an advanced technique of massage or bodywork;**
36 **and**

37 **(b) Renew an endorsement issued pursuant to this subsection in a time and manner**
38 **prescribed by the board.**

39 [(6)] (7) Fixing the educational, training and experience requirements for licensing by indorse-
40 ment or reciprocity.

41 [(7)] (8) Establishing requirements for issuance and retention of an inactive license.

42 [(8)] (9) Regarding any matter that the board reasonably considers necessary and proper for the
43 administration and enforcement of ORS 687.011 to 687.250, 687.895 and 687.991.

44 **SECTION 14.** ORS 687.122 is amended to read:

45 687.122. (1) Upon the complaint of any [*citizen*] **resident** of this state, or upon its own motion,

1 the State Board of Massage [*Therapists*] **and Bodywork** may investigate any alleged violation of
 2 ORS 687.011 to 687.250, 687.895 and 687.991.

3 (2) In the conduct of investigations, the board may:

4 (a) Take evidence;

5 (b) Take the depositions of witnesses, including the person charged, in the manner provided by
 6 law in civil cases;

7 (c) Compel the appearance of witnesses, including the person charged, before the board in per-
 8 son the same as in civil cases;

9 (d) Require answers to interrogatories; and

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

12 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas
 13 over the signature of the board chairperson and the seal of the board in the name of the State of
 14 Oregon.

15 (4) If a person fails to comply with a subpoena issued under this section, the judge of the circuit
 16 court shall compel obedience by proceedings for contempt as in the case of disobedience of the re-
 17 quirements of a subpoena issued from the court.

18 **SECTION 15.** ORS 687.123 is amended to read:

19 687.123. Upon complaint about the premises [*on which*] **where** a massage **and bodywork** thera-
 20 pist practices massage **or bodywork**, the State Board of Massage [*Therapists*] **and Bodywork**, or
 21 its authorized representative, may inspect such premises in order to determine whether the premises
 22 meet the standards set by order of the board under ORS 687.121 (1).

23 **SECTION 16.** ORS 687.250 is amended to read:

24 687.250. (1) The State Board of Massage [*Therapists*] **and Bodywork** shall report to the proper
 25 district attorney all cases that in the judgment of the board warrant criminal prosecution under ORS
 26 687.991.

27 (2) The board may, in its own name, assess a civil penalty against any licensed or unlicensed
 28 person violating a provision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess
 29 the civil penalty instead of or in addition to disciplinary action under ORS 687.081, an injunction
 30 issued under ORS 687.021 or criminal prosecution by the district attorney under this section. The
 31 amount of the civil penalty may not exceed \$1,000 for any single violation. Except as the board may
 32 otherwise provide under ORS 182.462 (1)(e), moneys collected through the assessment of civil pen-
 33 alties by the board under this subsection or ORS 687.081 shall be deposited into the account created
 34 by the board pursuant to ORS 182.470 and are continuously appropriated to the board for carrying
 35 out the provisions of ORS 687.011 to 687.250, 687.895 and 687.991.

36
 37 **CONFORMING AMENDMENTS**

38
 39 **SECTION 17.** ORS 31.740 is amended to read:

40 31.740. Punitive damages may not be awarded against a health practitioner if:

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

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

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

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

45 (d) A physician under ORS 677.100 to 677.228;

- 1 (e) An emergency medical services provider under ORS chapter 682;
- 2 (f) A podiatric physician and surgeon under ORS 677.820 to 677.840;
- 3 (g) A nurse under ORS 678.040 to 678.101;
- 4 (h) A nurse practitioner under ORS 678.375 to 678.390;
- 5 (i) A dentist under ORS 679.060 to 679.180;
- 6 (j) A dental hygienist under ORS 680.040 to 680.100;
- 7 (k) A denturist under ORS 680.515 to 680.535;
- 8 (L) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
- 9 (m) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
- 10 (n) A chiropractor under ORS 684.040 to 684.105;
- 11 (o) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- 12 (p) A massage **and bodywork** therapist under ORS 687.011 to 687.250;
- 13 (q) A physical therapist under ORS 688.040 to 688.145;
- 14 (r) A medical imaging licensee under ORS 688.445 to 688.525;
- 15 (s) A pharmacist under ORS 689.151 and 689.225 to 689.285;
- 16 (t) A physician assistant as provided by ORS 677.505 to 677.525; or
- 17 (u) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and
- 18 (2) The health practitioner was engaged in conduct regulated by the license, registration or
- 19 certificate issued by the appropriate governing body and was acting within the scope of practice for
- 20 which the license, registration or certificate was issued and without malice.

21 **SECTION 18.** ORS 182.454 is amended to read:

22 182.454. The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

- 23 (1) The Appraiser Certification and Licensure Board.
- 24 (2) The State Board of Architect Examiners.
- 25 (3) The State Board of Examiners for Engineering and Land Surveying.
- 26 (4) The State Board of Geologist Examiners.
- 27 (5) The State Landscape Architect Board.
- 28 (6) The Oregon Board of Optometry.
- 29 (7) The Oregon Patient Safety Commission.
- 30 (8) The Oregon Wine Board.
- 31 (9) The State Board of Massage [*Therapists*] **and Bodywork**.
- 32 (10) The Physical Therapist Licensing Board.
- 33 (11) The State Landscape Contractors Board.

34 **SECTION 19.** ORS 182.460, as amended by section 59, chapter 107, Oregon Laws 2012, is

35 amended to read:

36 182.460. (1) Except as provided in subsections (2) and (3) of this section and as otherwise pro-

37 vided by law, the provisions of ORS 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C,

38 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing

39 a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability pro-

40 visions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are

41 included within the Public Employees Retirement System.

42 (2) Notwithstanding subsection (1) of this section, the following provisions apply to a board:

- 43 (a) ORS 240.309 (1) to (6) and 240.321;
- 44 (b) ORS 279A.250 to 279A.290;
- 45 (c) ORS 282.210 to 282.230; and

1 (d) ORS 293.240.

2 (3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board
 3 of Optometry, the State Board of Massage [*Therapists*] **and Bodywork** and the Physical Therapist
 4 Licensing Board.

5 (4) In carrying out the duties, functions and powers of a board, the board may contract with any
 6 state agency for the performance of duties, functions and powers as the board considers appropriate.
 7 A state agency may not charge a board an amount that exceeds the actual cost of those services.
 8 ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant
 9 to a voluntary interagency agreement or contract.

10 (5) A board shall adopt personnel policies and contracting and purchasing procedures. The
 11 Oregon Department of Administrative Services shall review those policies and procedures for com-
 12 pliance with applicable state and federal laws and collective bargaining contracts.

13 (6) Except as otherwise provided by law, directors and employees of a board are eligible to re-
 14 ceive the same benefits as state employees and are entitled to retain their State of Oregon hire
 15 dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer
 16 of all accumulated state agency leaves.

17 **SECTION 20.** ORS 182.462 is amended to read:

18 182.462. (1)(a) A board shall adopt budgets on a biennial basis using classifications of expen-
 19 ditures and revenues required by ORS 291.206 (1), but the budget is not subject to review and ap-
 20 proval by the Legislative Assembly or to future modification by the Emergency Board or the
 21 Legislative Assembly.

22 (b) The budget referred to in paragraph (a) of this subsection shall be adopted in accordance
 23 with applicable provisions of ORS chapter 183. Except as provided in this paragraph, a board shall
 24 adopt or modify a budget only after a public hearing thereon. A board must give notice of the
 25 hearing to all holders of licenses issued by the board.

26 (c) A board shall follow generally accepted accounting principles and keep financial and statis-
 27 tical information as necessary to completely and accurately disclose the financial condition and fi-
 28 nancial operations of the board as may be required by the Secretary of State.

29 (d) A board shall prepare an annual financial statement of board revenues and expenses and
 30 shall make the statement available for public review. The board shall provide a copy of the state-
 31 ment to the Oregon Department of Administrative Services not later than the 90th day after the end
 32 of the state fiscal year.

33 (e) A board may, by rule, elect to donate all or part of the revenue derived by the board from
 34 civil penalties to the General Fund of the State Treasury.

35 (2) In addition to the reports required by ORS 182.472, the Oregon Board of Optometry, the State
 36 Board of Massage [*Therapists*] **and Bodywork** and the Physical Therapist Licensing Board shall, on
 37 or before February 1 of each odd-numbered year, present the budget adopted by the board under this
 38 section to the Governor, the President of the Senate, the Speaker of the House of Representatives
 39 and the Legislative Fiscal Officer.

40 **SECTION 21.** ORS 192.556 is amended to read:

41 192.556. As used in ORS 192.553 to 192.581:

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (2) "Covered entity" means:

19 (a) A state health plan;

20 (b) A health insurer;

21 (c) A health care provider that transmits any health information in electronic form to carry out
22 financial or administrative activities in connection with a transaction covered by ORS 192.553 to
23 192.581; or

24 (d) A health care clearinghouse.

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

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

27 (a) Quality assessment, accreditation, auditing and improvement activities;

28 (b) Case management and care coordination;

29 (c) Reviewing the competence, qualifications or performance of health care providers or health
30 insurers;

31 (d) Underwriting activities;

32 (e) Arranging for legal services;

33 (f) Business planning;

34 (g) Customer services;

35 (h) Resolving internal grievances;

36 (i) Creating deidentified information; and

37 (j) Fundraising.

38 (5) "Health care provider" includes but is not limited to:

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

43 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
44 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
45 assistant or acupuncturist;

- 1 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
 2 the nurse or nursing home administrator;
- 3 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 4 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
 5 hygienist or denturist;
- 6 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
 7 of the speech-language pathologist or audiologist;
- 8 (g) An emergency medical services provider licensed under ORS chapter 682;
- 9 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 10 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
 11 physician;
- 12 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
 13 physician;
- 14 (k) A massage **and bodywork** therapist licensed under ORS 687.011 to 687.250 or an employee
 15 of the massage **and bodywork** therapist;
- 16 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
 17 entry midwife;
- 18 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
 19 therapist;
- 20 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
 21 imaging licensee;
- 22 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
 23 care practitioner;
- 24 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
 25 somnographic technologist;
- 26 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 27 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 28 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
 29 service practitioner;
- 30 (t) A health care facility as defined in ORS 442.015;
- 31 (u) A home health agency as defined in ORS 443.005;
- 32 (v) A hospice program as defined in ORS 443.850;
- 33 (w) A clinical laboratory as defined in ORS 438.010;
- 34 (x) A pharmacy as defined in ORS 689.005;
- 35 (y) A diabetes self-management program as defined in ORS 743A.184; and
- 36 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
 37 course of business.
- 38 (6) “Health information” means any oral or written information in any form or medium that:
- 39 (a) Is created or received by a covered entity, a public health authority, an employer, a life
 40 insurer, a school, a university or a health care provider that is not a covered entity; and
- 41 (b) Relates to:
- 42 (A) The past, present or future physical or mental health or condition of an individual;
- 43 (B) The provision of health care to an individual; or
- 44 (C) The past, present or future payment for the provision of health care to an individual.
- 45 (7) “Health insurer” means:

- 1 (a) An insurer as defined in ORS 731.106 who offers:
2 (A) A health benefit plan as defined in ORS 743.730;
3 (B) A short term health insurance policy, the duration of which does not exceed six months in-
4 cluding renewals;
5 (C) A student health insurance policy;
6 (D) A Medicare supplemental policy; or
7 (E) A dental only policy.
- 8 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
9 under ORS 735.600 to 735.650.
- 10 (8) "Individually identifiable health information" means any oral or written health information
11 in any form or medium that is:
12 (a) Created or received by a covered entity, an employer or a health care provider that is not
13 a covered entity; and
14 (b) Identifiable to an individual, including demographic information that identifies the individual,
15 or for which there is a reasonable basis to believe the information can be used to identify an indi-
16 vidual, and that relates to:
17 (A) The past, present or future physical or mental health or condition of an individual;
18 (B) The provision of health care to an individual; or
19 (C) The past, present or future payment for the provision of health care to an individual.
- 20 (9) "Payment" includes but is not limited to:
21 (a) Efforts to obtain premiums or reimbursement;
22 (b) Determining eligibility or coverage;
23 (c) Billing activities;
24 (d) Claims management;
25 (e) Reviewing health care to determine medical necessity;
26 (f) Utilization review; and
27 (g) Disclosures to consumer reporting agencies.
- 28 (10) "Personal representative" includes but is not limited to:
29 (a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
30 authority to make medical and health care decisions;
31 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
32 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
33 decisions;
34 (c) A person appointed as a personal representative under ORS chapter 113; and
35 (d) A person described in ORS 192.573.
- 36 (11)(a) "Protected health information" means individually identifiable health information that is
37 maintained or transmitted in any form of electronic or other medium by a covered entity.
38 (b) "Protected health information" does not mean individually identifiable health information in:
39 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
40 U.S.C. 1232g);
41 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
42 (C) Employment records held by a covered entity in its role as employer.
- 43 (12) "State health plan" means:
44 (a) Medical assistance as defined in ORS 414.025;
45 (b) The Health Care for All Oregon Children program;

- 1 (c) The Family Health Insurance Assistance Program established in ORS 414.841 to 414.864; or
- 2 (d) Any medical assistance or premium assistance program operated by the Oregon Health Au-
- 3 thority.

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

- 5 (a) The provision, coordination or management of health care; and
- 6 (b) Consultations and referrals between health care providers.

7 **SECTION 22.** ORS 433.443 is amended to read:

8 433.443. (1) As used in this section:

9 (a) "Covered entity" means:

- 10 (A) The Children's Health Insurance Program;
- 11 (B) The Family Health Insurance Assistance Program established under ORS 414.842;
- 12 (C) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insur-
- 13 ance as defined in ORS 731.162;
- 14 (D) The state medical assistance program; and
- 15 (E) A health care provider.

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

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

18 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675

19 or an employee of the psychologist, occupational therapist, regulated social worker, professional

20 counselor or marriage and family therapist;

21 (B) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed

22 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician

23 assistant or acupuncturist;

24 (C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of

25 the nurse or nursing home administrator;

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

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

28 hygienist or denturist;

29 (F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee

30 of the speech-language pathologist or audiologist;

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

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

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

34 physician;

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

36 physician;

37 (K) A massage **and bodywork** therapist licensed under ORS 687.011 to 687.250 or an employee

38 of the massage **and bodywork** therapist;

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

40 entry midwife;

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

42 therapist;

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

44 imaging licensee;

45 (O) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respir-

1 atory care practitioner;

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

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

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

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

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

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

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

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

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

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

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

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

17 (d) "Individually identifiable health information" means any oral or written health information
18 in any form or medium that is:

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

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

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

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

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

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

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

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

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

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

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

43 (E) Take any enforcement action authorized by ORS 431.262, including the imposition of civil
44 penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to
45 comply with requirements resulting from actions taken in accordance with the powers granted to

1 the Public Health Director under subparagraphs (A), (B) and (D) of this paragraph; and

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

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

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

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

13 (3) Civil penalties under subsection (2) of this section shall be imposed in the manner provided
14 in ORS 183.745. The Public Health Director must establish that the individual, institution or facility
15 subject to the civil penalty had actual notice of the action taken that is the basis for the penalty.
16 The maximum aggregate total for penalties that may be imposed against an individual, institution
17 or facility under subsection (2) of this section is \$500 for each day of violation, regardless of the
18 number of violations of subsection (2) of this section that occurred on each day of violation.

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

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

23 (B) Identify persons at risk;

24 (C) Identify patterns of transmission;

25 (D) Provide treatment; and

26 (E) Take steps to control the disease.

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

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

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

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

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

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

41 (d) Upon expiration of the state of public health emergency, the Public Health Director or local
42 public health administrators may not use or disclose any individually identifiable health information
43 that has been obtained under this section. If a state of emergency that is related to the state of
44 public health emergency has been declared under ORS 401.165, the Public Health Director and local
45 public health administrators may continue to use any individually identifiable information obtained

1 as provided under this section until termination of the state of emergency.

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

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

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

12 **SECTION 23.** ORS 676.150 is amended to read:

13 676.150. (1) As used in this section:

14 (a) "Board" means the:

15 (A) State Board of Examiners for Speech-Language Pathology and Audiology;

16 (B) State Board of Chiropractic Examiners;

17 (C) State Board of Licensed Social Workers;

18 (D) Oregon Board of Licensed Professional Counselors and Therapists;

19 (E) Oregon Board of Dentistry;

20 (F) Board of Licensed Dietitians;

21 (G) State Board of Massage [*Therapists*] **and Bodywork**;

22 (H) Oregon Board of Naturopathic Medicine;

23 (I) Oregon State Board of Nursing;

24 (J) Nursing Home Administrators Board;

25 (K) Oregon Board of Optometry;

26 (L) State Board of Pharmacy;

27 (M) Oregon Medical Board;

28 (N) Occupational Therapy Licensing Board;

29 (O) Physical Therapist Licensing Board;

30 (P) State Board of Psychologist Examiners;

31 (Q) Board of Medical Imaging;

32 (R) State Board of Direct Entry Midwifery;

33 (S) State Board of Denture Technology;

34 (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

35 (U) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
36 vices providers;

37 (V) Oregon State Veterinary Medical Examining Board; or

38 (W) State Mortuary and Cemetery Board.

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

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

41 (A) Constitutes a criminal act against a patient or client; or

42 (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

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

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

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

10 (4) The board responsible for a licensee who is reported to have engaged in prohibited or un-
 11 professional conduct shall investigate in accordance with the board’s rules. If the board has rea-
 12 sonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present
 13 the facts to an appropriate law enforcement agency without undue delay, but in no event later than
 14 10 working days after the board finds reasonable cause to believe that the licensee engaged in pro-
 15 hibited conduct.

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

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

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

23 (8) Except as part of an application for a license or for renewal of a license and except as pro-
 24 vided in subsection (3) of this section, a board may not require a licensee to report the licensee’s
 25 criminal conduct.

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

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

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

33 **SECTION 24.** ORS 676.160 is amended to read:

34 676.160. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- 35 (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- 36 (2) State Board of Chiropractic Examiners;
- 37 (3) State Board of Licensed Social Workers;
- 38 (4) Oregon Board of Licensed Professional Counselors and Therapists;
- 39 (5) Oregon Board of Dentistry;
- 40 (6) Board of Licensed Dietitians;
- 41 (7) State Board of Massage [*Therapists*] **and Bodywork**;
- 42 (8) State Mortuary and Cemetery Board;
- 43 (9) Oregon Board of Naturopathic Medicine;
- 44 (10) Oregon State Board of Nursing;
- 45 (11) Nursing Home Administrators Board;

- 1 (12) Oregon Board of Optometry;
- 2 (13) State Board of Pharmacy;
- 3 (14) Oregon Medical Board;
- 4 (15) Occupational Therapy Licensing Board;
- 5 (16) Physical Therapist Licensing Board;
- 6 (17) State Board of Psychologist Examiners;
- 7 (18) Board of Medical Imaging;
- 8 (19) Oregon State Veterinary Medical Examining Board; and
- 9 (20) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
- 10 vices providers.

11 **SECTION 25.** ORS 677.060 is amended to read:

12 677.060. This chapter does not affect or prevent the following:

13 (1) The practice of medicine or podiatry in this state by any commissioned medical or podiatric
 14 officer serving in the Armed Forces of the United States or Public Health Service, or any medical
 15 or podiatric officer on duty with the United States Department of Veterans Affairs, while any such
 16 medical or podiatric officer is engaged in the performance of the actual duties prescribed by the
 17 laws and regulations of the United States.

18 (2) The meeting in this state of any licensed practitioner of medicine of any other state or
 19 country with a licensed practitioner of medicine in this state, for consultation.

20 (3) Supervised clinical training by an acupuncture student who is enrolled in a school approved
 21 to offer credit for post-secondary clinical education in Oregon or clinical practice of acupuncture
 22 by a practitioner licensed to practice acupuncture in another state or foreign country who is en-
 23 rolled in clinical training approved by the Oregon Medical Board.

24 (4) The furnishing of medical or surgical assistance in cases of emergency requiring immediate
 25 attention.

26 (5) The domestic administration of family remedies.

27 (6) The practice of dentistry, pharmacy, nursing, optometry, psychology, regulated social work,
 28 chiropractic, naturopathic medicine or cosmetic therapy, by any person authorized by this state.

29 (7) The practice of the religion of persons who endeavor to prevent or cure disease or suffering
 30 by prayer or other spiritual means in accordance with the tenets of any church. Nothing in this
 31 chapter interferes in any manner with the individual's right to select the practitioner or mode of
 32 treatment of an individual's choice, or interferes with the right of the person so employed to give
 33 the treatment so chosen if public health laws and rules are complied with.

34 (8) The sale of lenses, artificial eyes, limbs or surgical instruments or other apparatus or appli-
 35 ances of a similar character.

36 (9) The sale, rent or use for hire of any device or appliance, the sale of which is not prohibited
 37 by the laws of Oregon or the United States.

38 (10) The practice of physiotherapy, electrotherapy or hydrotherapy carried on by a duly licensed
 39 practitioner of medicine, naturopathic medicine or chiropractic, or by ancillary personnel certified
 40 by the State Board of Chiropractic Examiners, pursuant to ORS 684.155 (1)(c)(A), to provide
 41 physiotherapy, electrotherapy or hydrotherapy and working under the direction of a chiropractic
 42 physician.

43 (11) The **practice of bodywork or the** practice [*or use*] of massage, Swedish movement, physical
 44 culture, or other natural methods requiring use of the hands.

45 (12) The use of the title "doctor," "chiropractic physician," "naturopathic physician," "doctor

1 of optometry,” “optometric physician” or “podiatric physician” in accordance with ORS 676.110 and
2 676.120.

3 **SECTION 26.** ORS 746.600 is amended to read:

4 746.600. As used in ORS 746.600 to 746.690:

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

7 (A) A declination of insurance coverage.

8 (B) A termination of insurance coverage.

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

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

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

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

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

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

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

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

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

27 (C) The rescission of a policy.

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

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

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

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

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

43 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;

44 (b) Obtains information primarily from sources other than insurers; and

45 (c) Furnishes consumer reports to other persons.

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

7 (8) "Covered entity" means:

8 (a) A health insurer;

9 (b) A health care provider that transmits any health information in electronic form to carry out
10 financial or administrative activities in connection with a transaction covered by ORS 746.607 or
11 by rules adopted under ORS 746.608; or

12 (c) A health care clearinghouse.

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

15 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and

16 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
17 eligibility, premiums or rates for personal insurance.

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

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

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

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

25 (a) Quality assessment, accreditation, auditing and improvement activities;

26 (b) Case management and care coordination;

27 (c) Reviewing the competence, qualifications or performance of health care providers or health
28 insurers;

29 (d) Underwriting activities;

30 (e) Arranging for legal services;

31 (f) Business planning;

32 (g) Customer services;

33 (h) Resolving internal grievances;

34 (i) Creating deidentified information; and

35 (j) Fundraising.

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

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

41 (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed
42 under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician
43 assistant or acupuncturist;

44 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
45 the nurse or nursing home administrator;

- 1 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 2 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
3 hygienist or denturist;
- 4 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
5 of the speech-language pathologist or audiologist;
- 6 (g) An emergency medical services provider licensed under ORS chapter 682;
- 7 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 8 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
9 physician;
- 10 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
11 physician;
- 12 (k) A massage **and bodywork** therapist licensed under ORS 687.011 to 687.250 or an employee
13 of the massage **and bodywork** therapist;
- 14 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
15 entry midwife;
- 16 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
17 therapist;
- 18 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
19 imaging licensee;
- 20 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
21 care practitioner;
- 22 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
23 somnographic technologist;
- 24 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 25 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 26 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
27 service practitioner;
- 28 (t) A health care facility as defined in ORS 442.015;
- 29 (u) A home health agency as defined in ORS 443.005;
- 30 (v) A hospice program as defined in ORS 443.850;
- 31 (w) A clinical laboratory as defined in ORS 438.010;
- 32 (x) A pharmacy as defined in ORS 689.005;
- 33 (y) A diabetes self-management program as defined in ORS 743.694; and
- 34 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
35 course of business.
- 36 (15) “Health information” means any oral or written information in any form or medium that:
- 37 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
38 a university or a health care provider that is not a covered entity; and
- 39 (b) Relates to:
- 40 (A) The past, present or future physical or mental health or condition of an individual;
- 41 (B) The provision of health care to an individual; or
- 42 (C) The past, present or future payment for the provision of health care to an individual.
- 43 (16) “Health insurer” means:
- 44 (a) An insurer who offers:
- 45 (A) A health benefit plan as defined in ORS 743.730;

1 (B) A short term health insurance policy, the duration of which does not exceed six months in-
 2 cluding renewals;

3 (C) A student health insurance policy;

4 (D) A Medicare supplemental policy; or

5 (E) A dental only policy.

6 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
 7 under ORS 735.600 to 735.650.

8 (17) "Homeowner insurance" means insurance for residential property consisting of a combina-
 9 tion of property insurance and casualty insurance that provides coverage for the risks of owning
 10 or occupying a dwelling and that is not intended to cover an owner's interest in rental property or
 11 commercial exposures.

12 (18) "Individual" means a natural person who:

13 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
 14 certificate holder;

15 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
 16 certificate holder;

17 (c) Is a past, present or proposed policyowner;

18 (d) Is a past or present applicant;

19 (e) Is a past or present claimant; or

20 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
 21 certificate that is subject to ORS 746.600 to 746.690.

22 (19) "Individually identifiable health information" means any oral or written health information
 23 that is:

24 (a) Created or received by a covered entity or a health care provider that is not a covered en-
 25 tity; and

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

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

30 (B) The provision of health care to an individual; or

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

32 (20) "Institutional source" means a person or governmental entity that provides information
 33 about an individual to an insurer, insurance producer or insurance-support organization, other than:

34 (a) An insurance producer;

35 (b) The individual who is the subject of the information; or

36 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
 37 pacity.

38 (21) "Insurance producer" or "producer" means a person licensed by the Director of the De-
 39 partment of Consumer and Business Services as a resident or nonresident insurance producer.

40 (22) "Insurance score" means a number or rating that is derived from an algorithm, computer
 41 application, model or other process that is based in whole or in part on credit history.

42 (23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in
 43 part, in assembling or collecting information about natural persons for the primary purpose of pro-
 44 viding the information to an insurer or insurance producer for insurance transactions, including:

45 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-

1 nection with insurance transactions; and

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

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

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

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

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

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

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

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

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

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

25 (a) An affiliate of a licensee;

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

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

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

30 (a) Efforts to obtain premiums or reimbursement;

31 (b) Determining eligibility or coverage;

32 (c) Billing activities;

33 (d) Claims management;

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

35 (f) Utilization review; and

36 (g) Disclosures to consumer reporting agencies.

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

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

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

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

1 state or local law.

2 (32) “Personal information” means:

- 3 (a) Personal financial information;
- 4 (b) Individually identifiable health information; or
- 5 (c) Protected health information.

6 (33) “Personal insurance” means the following types of insurance products or services that are
7 to be used primarily for personal, family or household purposes:

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

15 (34) “Personal representative” includes but is not limited to:

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

22 (35) “Policyholder” means a person who:

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

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

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

34 (37) “Privileged information” means information that is identifiable with an individual and that:

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

39 (38)(a) “Protected health information” means individually identifiable health information that is
40 transmitted or maintained in any form of electronic or other medium by a covered entity.

41 (b) “Protected health information” does not mean individually identifiable health information in:

- 42 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
43 U.S.C. 1232g);
- 44 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
- 45 (C) Employment records held by a covered entity in its role as employer.

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

5 (40) “Termination of insurance coverage” or “termination of an insurance policy” means either
 6 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
 7 the failure of a premium to be paid as required by the policy.

8 (41) “Treatment” includes but is not limited to:

- 9 (a) The provision, coordination or management of health care; and
- 10 (b) Consultations and referrals between health care providers.

11 **SECTION 27.** ORS 750.005 is amended to read:

12 750.005. As used in ORS 750.005 to 750.095:

13 (1) “Claims” means any amount incurred by the insurer covering contracted benefits.

14 (2) “Complementary health services” means the following health care services:

- 15 (a) Chiropractic as defined in ORS 684.010;
- 16 (b) Naturopathic medicine as defined in ORS 685.010;
- 17 (c) Massage [*therapy*] **and bodywork, both** as defined in ORS 687.011; or
- 18 (d) Acupuncture as defined in ORS 677.757.

19 (3) “Doctor” means any person lawfully licensed or authorized by statute to render any health
 20 care services.

21 (4) “Health care service contractor” means:

22 (a) Any corporation that is sponsored by or otherwise intimately connected with a group of
 23 doctors licensed by this state, or by a group of hospitals licensed by this state, or both, under con-
 24 tracts with groups of doctors or hospitals that include conditions holding the subscriber harmless
 25 in the event of nonpayment by the health care service contract as provided in ORS 750.095, and that
 26 accepts prepayment for health care services; or

27 (b) Any person referred to in ORS 750.035.

28 (5) “Health care services” means the furnishing of medicine, medical or surgical treatment,
 29 nursing, hospital service, dental service, optometrical service, complementary health services or any
 30 or all of the enumerated services or any other necessary services of like character, whether or not
 31 contingent upon sickness or personal injury, as well as the furnishing to any person of any and all
 32 other services and goods for the purpose of preventing, alleviating, curing or healing human illness,
 33 physical disability or injury.

34 (6) “Health maintenance organization” means any health care service contractor operated on a
 35 for-profit or not-for-profit basis [*which*] **that**:

36 (a) Qualifies under Title XIII of the Public Health Service Act; or

37 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
 38 cluding at least the following basic health care services:

- 39 (i) Usual physician services;
- 40 (ii) Hospitalization;
- 41 (iii) Laboratory;
- 42 (iv) X-ray;
- 43 (v) Emergency and preventive services; and
- 44 (vi) Out-of-area coverage;

45 (B) Is compensated, except for copayments, for the provision of basic health care services listed

1 in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate ba-
 2 sis;

3 (C) Provides physicians' services primarily directly through physicians who are either employees
 4 or partners of such organization, or through arrangements with individual physicians or one or more
 5 groups of physicians organized on a group practice or individual practice basis; and

6 (D) Employs the terms "health maintenance organization" or "HMO" in its name, contracts,
 7 literature or advertising media on or before July 13, 1985.

8
 9 **NAME CHANGE PROVISION**

10
 11 **SECTION 28.** (1) The amendments to ORS 182.454, 182.460, 182.462, 676.150, 676.160,
 12 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.061, 687.071, 687.081, 687.086, 687.115,
 13 687.121, 687.122, 687.123 and 687.250 by sections 1 to 10, 12 to 16, 18 to 20, 23 and 24 of this 2013
 14 Act are intended to change the name of the "State Board of Massage Therapists" to the
 15 "State Board of Massage and Bodywork."

16 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Council
 17 may substitute for words designating the "State Board of Massage Therapists," wherever
 18 they occur in statutory law, other words designating the "State Board of Massage and
 19 Bodywork."

20
 21 **OPERATIVE DATE**

22
 23 **SECTION 29.** (1) The amendments to ORS 31.740, 182.454, 182.460, 182.462, 192.556, 433.443,
 24 676.150, 676.160, 677.060, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.061, 687.071,
 25 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123, 687.250, 746.600 and 750.005 by
 26 sections 1 to 27 of this 2013 Act become operative on January 1, 2014.

27 (2) The State Board of Massage and Bodywork may take any action before the operative
 28 date specified in subsection (1) of this section that is necessary to enable the board to exer-
 29 cise, on and after the operative date specified in subsection (1) of this section, all the duties,
 30 functions and powers conferred on the board by the amendments to ORS 31.740, 182.454,
 31 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 677.060, 687.011, 687.021, 687.031, 687.041,
 32 687.051, 687.057, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123,
 33 687.250, 746.600 and 750.005 by sections 1 to 27 of this 2013 Act.

34
 35 **CAPTIONS**

36
 37 **SECTION 30.** The unit captions used in this 2013 Act are provided only for the conven-
 38 ience of the reader and do not become part of the statutory law of this state or express any
 39 legislative intent in the enactment of this 2013 Act.

40
 41 **EMERGENCY CLAUSE**

42
 43 **SECTION 31.** This 2013 Act being necessary for the immediate preservation of the public
 44 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
 45 on its passage.

