

A-Engrossed
Senate Bill 1548

Ordered by the House February 20
Including House Amendments dated February 20

Sponsored by Senators MONNES ANDERSON, KRUSE; Senators DEMBROW, KNOPP, Representative GILLIAM
(Presession filed.)

SUMMARY

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

Amends certain statutes that reference "physician" to include references to "physician assistant" and "nurse practitioner."
Takes effect July 1, 2014.

A BILL FOR AN ACT

1
2 Relating to mid-level health care practitioners; amending ORS 3.450, 30.302, 30.800, 30.802, 87.555,
3 87.560, 87.565, 87.575, 87.581, 87.623, 109.640, 109.650, 109.675, 109.680, 109.685, 127.700, 127.710,
4 127.722, 127.727, 127.730, 135.139, 136.220, 137.076, 137.473, 146.181, 146.750, 147.287, 147.403,
5 169.076, 169.077, 169.750, 192.310, 192.547, 408.310, 408.315, 408.340, 410.530, 414.550, 414.618,
6 416.550, 419B.020, 419B.023, 419B.035, 419B.352, 421.467, 421.590, 430.401, 430.735, 431.180,
7 432.005, 432.088, 433.010, 433.017, 433.110, 433.260, 435.205, 435.305, 436.225, 436.235, 436.295,
8 443.065, 443.075, 443.850, 453.307, 475.744, 475.950, 475.975, 475.976, 475.978, 616.750, 628.270,
9 659A.150, 680.545, 694.042, 742.420, 742.504, 744.364, 744.367, 746.230 and 750.055 and sections 9
10 and 14, chapter 290, Oregon Laws 1987; and prescribing an effective date.

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

12 **SECTION 1.** ORS 3.450 is amended to read:

13 3.450. (1) As used in this section[,]:

14 (a) "Drug court program" means a program in which:

15 [(a)] (A) Individuals who are before the court obtain treatment for substance abuse issues and
16 report regularly to the court on the progress of their treatment; and

17 [(b)] (B) A local drug court team, consisting of the court, agency personnel and treatment and
18 service providers, monitors the individuals' participation in treatment.

19 (b) "**Individual-provider relationship**" includes a relationship between an individual and a
20 **physician, a physician assistant or nurse practitioner.**

21 (2)(a) The governing body of a county or a treatment provider may establish fees that individuals
22 participating in a drug court program may be required to pay for treatment and other services
23 provided as part of the drug court program.

24 (b) A court may order an individual participating in a drug court program to pay fees to par-
25 ticipate in the program. Fees imposed under this subsection may not be paid to the court.

26 (3) Records that are maintained by the circuit court specifically for the purpose of a drug court
27 program must be maintained separately from other court records. Records maintained by a circuit

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 court specifically for the purpose of a drug court program are confidential and may not be disclosed
2 except in accordance with regulations adopted under 42 U.S.C. 290dd-2, including under the cir-
3 cumstances described in subsections (4) to (7) of this section.

4 (4) If the individual who is the subject of the record gives written consent, a record described
5 in subsection (3) of this section may be disclosed to members of the local drug court team in order
6 to develop treatment plans, monitor progress in treatment and determine outcomes of participation
7 in the drug court program.

8 (5) A record described in subsection (3) of this section may not be introduced into evidence in
9 any legal proceeding other than the drug court program unless:

10 (a) The individual who is the subject of the record gives written consent for introduction of the
11 record; or

12 (b) The court finds good cause for introduction. In determining whether good cause exists for
13 purposes of this paragraph, the court shall weigh the public interest and the need for disclosure
14 against the potential injury caused by the disclosure to:

15 (A) The individual who is the subject of the record;

16 (B) The *[individual-physician]* **individual-provider** relationship; and

17 (C) The treatment services being provided to the individual who is the subject of the record.

18 (6) A court, the State Court Administrator, the Alcohol and Drug Policy Commission or the
19 Oregon Criminal Justice Commission:

20 (a) May use records described in subsection (3) of this section and other drug court program
21 information to track and develop statistics about the effectiveness, costs and other areas of public
22 interest concerning drug court programs.

23 (b) May release statistics developed under paragraph (a) of this subsection and analyses based
24 on the statistics to the public.

25 (7) Statistics and analyses released under subsection (6) of this section may not contain any in-
26 formation that identifies an individual participant in a drug court program.

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

28 30.302. (1) As used in this section, [*retired physician*] "**retired provider**" means any person:

29 (a) Who holds a degree of Doctor of Medicine, Doctor of Osteopathy or Doctor of Podiatric
30 Medicine, or who has met the minimum educational requirements for licensure to practice
31 naturopathic medicine **or as a physician assistant under ORS 677.505 to 677.525 or a nurse**
32 **practitioner under ORS 678.375 to 678.390;**

33 (b) Who has been licensed and is currently retired in accordance with the provisions of ORS
34 chapter 677, **678** or 685;

35 (c) Who is registered with the Oregon Medical Board as a retired emeritus physician or who
36 complies with the requirements of **the Oregon Medical Board as a retired physician assistant,**
37 **the Oregon State Board of Nursing as a retired nurse practitioner** or the Oregon Board of
38 Naturopathic Medicine as a retired naturopath;

39 (d) Who registers with the county health officer in the county in which the physician, **physician**
40 **assistant, nurse practitioner** or naturopath practices; and

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

43 (2) Any retired [*physician*] **provider** who treats patients pursuant to this section shall be con-
44 sidered to be an agent of a public body for the purposes of ORS 30.260 to 30.300.

45 **SECTION 3.** ORS 30.800 is amended to read:

1 30.800. (1) As used in this section and ORS 30.805, “emergency medical assistance” means:

2 (a) Medical or dental care not provided in a place where emergency medical or dental care is
3 regularly available, including but not limited to a hospital, industrial first-aid station or [*a*
4 *physician’s or dentist’s office*] **the office of a physician, physician assistant or dentist**, given
5 voluntarily and without the expectation of compensation to an injured person who is in need of im-
6 mediate medical or dental care and under emergency circumstances that suggest that the giving of
7 assistance is the only alternative to death or serious physical aftereffects; or

8 (b) Medical care provided voluntarily in good faith and without expectation of compensation by
9 a physician licensed [*by the Oregon Medical Board in the physician’s*] **under ORS chapter 677, a**
10 **physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed**
11 **under ORS 678.375 to 678.390 and in the person’s** professional capacity as a [*team physician*]
12 **provider of health care for an athletic team** at a public or private school or college athletic
13 event or as a volunteer [*physician*] **provider of health care** at other athletic events.

14 (2) No person may maintain an action for damages for injury, death or loss that results from acts
15 or omissions of a person while rendering emergency medical assistance unless it is alleged and
16 proved by the complaining party that the person was grossly negligent in rendering the emergency
17 medical assistance.

18 (3) The giving of emergency medical assistance by a person does not, of itself, establish [*the re-*
19 *lationship of physician and patient, dentist and patient or nurse and patient*] **a professional re-**
20 **lationship** between the person giving the assistance and the person receiving the assistance insofar
21 as the relationship carries with it any duty to provide or arrange for further medical care for the
22 injured person after the giving of emergency medical assistance.

23 **SECTION 4.** ORS 30.802 is amended to read:

24 30.802. (1) As used in this section:

25 (a) “Automated external defibrillator” means an automated external defibrillator approved for
26 sale by the federal Food and Drug Administration.

27 (b) “Public setting” means a location that is:

28 (A) Accessible to members of the general public, employees, visitors and guests, but that is not
29 a private residence;

30 (B) A public school facility as defined in ORS 327.365;

31 (C) A health club as defined in ORS 431.680; or

32 (D) A place of public assembly as defined in ORS 431.690.

33 (2) A person may not bring a cause of action against another person for damages for injury,
34 death or loss that result from acts or omissions involving the use, attempted use or nonuse of an
35 automated external defibrillator when the other person:

36 (a) Used or attempted to use an automated external defibrillator;

37 (b) Was present when an automated external defibrillator was used or should have been used;

38 (c) Provided training in the use of an automated external defibrillator;

39 (d) Is a physician, **physician assistant licensed under ORS 677.505 to 677.525 or nurse**
40 **practitioner licensed under ORS 678.375 to 678.390** and provided services related to the placement
41 or use of an automated external defibrillator; or

42 (e) Possesses or controls one or more automated external defibrillators placed in a public set-
43 ting.

44 (3) The immunity provided by this section does not apply if:

45 (a) The person against whom the action is brought acted with gross negligence or with reckless,

1 wanton or intentional misconduct; or

2 (b) The use, attempted use or nonuse of an automated external defibrillator occurred at a lo-
3 cation where emergency medical care is regularly available.

4 (4) Nothing in this section affects the liability of a manufacturer, designer, developer, distributor
5 or supplier of an automated external defibrillator, or an accessory for an automated external
6 defibrillator, under the provisions of ORS 30.900 to 30.920 or any other applicable state or federal
7 law.

8 **SECTION 5.** ORS 87.555 is amended to read:

9 87.555. (1) Except as otherwise provided by law, whenever any person receives hospitalization
10 or medical treatment on account of any injury, and the person, or the personal representative of the
11 person after the death of the person, claims damages from the person causing the injury, then the
12 hospital or any physician licensed under ORS chapter 677, **physician assistant licensed under**
13 **ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390** who treats
14 the injured person in the hospital or who provides medical services shall have a lien upon any sum
15 awarded the injured person or the personal representative of the person by judgment or award or
16 obtained by a settlement or compromise to the extent of the amount due the hospital and the phy-
17 sician, **physician assistant or nurse practitioner** for the reasonable value of such medical treat-
18 ment rendered prior to the date of judgment, award, settlement or compromise. However, no such
19 lien shall be valid against anyone coming under the Workers' Compensation Act.

20 (2) When the injured person receiving hospitalization or medical care from a physician, **physi-**
21 **cian assistant or nurse practitioner** is the beneficiary of an insurance policy, including a policy
22 that provides personal injury protection coverage or similar no-fault medical insurance but exclud-
23 ing a health insurance policy, that provides for payment of such hospitalization and medical care,
24 both the hospital and physician, **physician assistant or nurse practitioner** shall have liens upon
25 the amount payable under the insurance policy. If a hospital or physician, **physician assistant or**
26 **nurse practitioner** has properly perfected a lien pursuant to ORS 87.565 (2), the insurer obligated
27 to make payment shall pay the sum due under the insurance policy directly to the hospital and
28 physician, **physician assistant or nurse practitioner** in the amount due each for services ren-
29 dered, and such payment shall constitute a release of the insurer making the payment to the extent
30 of the payment.

31 (3) When there are insufficient funds to satisfy in full the liens of all hospitals [*and*],
32 physicians, **physician assistants and nurse practitioners** claiming a lien created by this section,
33 the insurer making the payment shall prorate the available funds without regard to the sequence
34 of the filing of the notice of lien by the hospitals [*or*], physicians, **physician assistants or nurse**
35 **practitioners** and pay the hospitals [*or*], physicians, **physician assistants or nurse practitioners**
36 in proportion to the amount due each for services rendered.

37 **SECTION 6.** ORS 87.560 is amended to read:

38 87.560. (1) No lien under ORS 87.555 (1) shall be allowed:

39 (a) For hospitalization and treatment from a physician, **physician assistant or nurse practi-**
40 **tioner** rendered after a settlement has been effected by or on behalf of the party causing the injury;

41 (b) Against any sum for necessary attorney fees, costs and expenses incurred by the injured
42 party in securing a settlement, compromise, award or judgment; or

43 (c) For an amount payable for medical services under a policy that provides personal injury
44 protection coverage provided to an injured person prior to a hospital [*or*], physician, **physician**
45 **assistant or nurse practitioner** perfecting a lien under ORS 87.565 (2).

1 (2) This section does not preclude a hospital [or], a physician licensed under ORS chapter 677,
2 **physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under**
3 **ORS 678.375 to 678.390** from perfecting a lien under ORS 87.555.

4 **SECTION 7.** ORS 87.565 is amended to read:

5 87.565. (1) In order to perfect a lien under ORS 87.555 (1), a hospital, an owner or operator of
6 a hospital [or], a physician, **a physician assistant or a nurse practitioner** shall:

7 (a) Not later than 30 days after the discharge of the patient from the hospital, file a notice of
8 lien substantially in the form prescribed in ORS 87.570, containing a statement of the amount
9 claimed, with the recording officer of the county wherein such hospital is located; and

10 (b) Prior to the date of judgment, award, settlement or compromise, serve a certified copy of the
11 notice of lien by registered or certified mail upon:

12 (A) The person alleged to be responsible for causing the injury and from whom damages are or
13 may be claimed or to the last-known address of the person; or

14 (B) The insurance carrier that has insured the person alleged to be responsible, if such insur-
15 ance carrier is known.

16 (2) In order to perfect a lien under ORS 87.555 (2), a hospital, an owner or operator of a hospital
17 [or], a physician, **a physician assistant or a nurse practitioner** shall:

18 (a) Not later than 30 days after the discharge of the patient from the hospital, file a notice of
19 lien substantially in the form prescribed in ORS 87.570, containing a statement of the amount
20 claimed, with the recording officer of the county wherein such hospital is located; and

21 (b) Serve a certified copy of the notice of lien by certified mail upon the insurance company that
22 is obligated to make payment for hospitalization and medical services.

23 **SECTION 8.** ORS 87.575 is amended to read:

24 87.575. Each recording officer shall maintain a [*hospital and physician*] lien docket in which,
25 upon the filing of a notice of lien, the recording officer shall enter the name of the injured person,
26 the approximate date of the hospitalization services or medical treatment, the name and address of
27 the hospital filing the notice and the amount claimed and the name and address of the physician,
28 **physician assistant or nurse practitioner** filing the notice and the amount claimed. The recording
29 officer shall make an index thereto in the names of the injured persons.

30 **SECTION 9.** ORS 87.581 is amended to read:

31 87.581. (1) A person or insurer shall be liable to a hospital and physician, **physician assistant**
32 **or nurse practitioner** for the reasonable value of hospitalization services and medical treatment
33 rendered out of the moneys due under any payment, award, judgment, settlement or compromise,
34 after paying the attorney fees, costs and expenses incurred in connection therewith, or the propor-
35 tion of that amount as determined under ORS 87.555 (3), if the person or insurer:

36 (a) Has received a notice of lien that complies with ORS 87.565;

37 (b) Has not paid the hospital and physician, **physician assistant or nurse practitioner** the
38 reasonable value of hospitalization services and medical treatment that the hospital and physician,
39 **physician assistant or nurse practitioner** rendered; and

40 (c) Pays moneys to the injured person, the heirs or personal representative of the injured person,
41 the attorney for the injured person or for the heirs or personal representative of the injured person,
42 or a person not claiming a valid lien under ORS 87.555, as compensation for the injury suffered or
43 as payment for the costs of hospitalization services or medical treatment incurred by the injured
44 person.

45 (2) An action arising under subsection (1) of this section shall be commenced within 180 days

1 after the date of payment under subsection (1)(c) of this section.

2 **SECTION 10.** ORS 87.623 is amended to read:

3 87.623. The recording officer of the county shall record the notices filed under ORS 87.613 in the
4 [hospital] lien docket maintained under ORS 87.575.

5 **SECTION 11.** ORS 109.640 is amended to read:

6 109.640. (1) Any physician, **physician assistant licensed under ORS 677.505 to 677.525** or
7 nurse practitioner **licensed under ORS 678.375 to 678.390** may provide birth control information
8 and services to any person without regard to the age of the person.

9 (2) A minor 15 years of age or older may give consent, without the consent of a parent or
10 guardian of the minor, to:

11 (a) Hospital care, medical or surgical diagnosis or treatment by a physician licensed by the
12 Oregon Medical Board, and dental or surgical diagnosis or treatment by a dentist licensed by the
13 Oregon Board of Dentistry, except as provided by ORS 109.660.

14 **(b) Diagnosis or treatment by a physician assistant who is licensed under ORS 677.505 to**
15 **677.525 and who is acting pursuant to a practice agreement as defined in ORS 677.495.**

16 [(b)] (c) Diagnosis and treatment by a nurse practitioner who is licensed by the Oregon State
17 Board of Nursing under ORS 678.375 and who is acting within the scope of practice for a nurse
18 practitioner.

19 [(c)] (d) Except when the minor is obtaining contact lenses for the first time, diagnosis and
20 treatment by an optometrist who is licensed by the Oregon Board of Optometry under ORS 683.010
21 to 683.340 and who is acting within the scope of practice for an optometrist.

22 **SECTION 12.** ORS 109.650 is amended to read:

23 109.650. A hospital or any physician, **physician assistant**, nurse practitioner, dentist or
24 optometrist described in ORS 109.640 may advise a parent or legal guardian of a minor of the care,
25 diagnosis or treatment of the minor or the need for any treatment of the minor, without the consent
26 of the minor, and is not liable for advising the parent or legal guardian without the consent of the
27 minor.

28 **SECTION 13.** ORS 109.675 is amended to read:

29 109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or consent,
30 outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, ex-
31 cluding methadone maintenance, by a physician **or physician assistant** licensed by the Oregon
32 Medical Board, a psychologist licensed by the State Board of Psychologist Examiners, a nurse
33 practitioner registered by the Oregon State Board of Nursing, a clinical social worker licensed by
34 the State Board of Licensed Social Workers, a professional counselor or marriage and family ther-
35 apist licensed by the Oregon Board of Licensed Professional Counselors and Therapists or a com-
36 munity mental health program established and operated pursuant to ORS 430.620 when approved to
37 do so by the Oregon Health Authority pursuant to rule.

38 (2) However, the person providing treatment shall have the parents of the minor involved before
39 the end of treatment unless the parents refuse or unless there are clear clinical indications to the
40 contrary, which shall be documented in the treatment record. The provisions of this subsection do
41 not apply to:

42 (a) A minor who has been sexually abused by a parent; or

43 (b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 and
44 109.520 or 419B.550 to 419B.558 or, for the purpose of this section only, emancipated by virtue of
45 having lived apart from the parents or legal guardian while being self-sustaining for a period of 90

1 days prior to obtaining treatment as provided by this section.

2 **SECTION 14.** ORS 109.680 is amended to read:

3 109.680. A physician, **physician assistant**, psychologist, nurse practitioner, clinical social
4 worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed
5 by the Oregon Board of Licensed Professional Counselors and Therapists or community mental
6 health program described in ORS 109.675 may advise the parent or parents or legal guardian of any
7 minor described in ORS 109.675 of the diagnosis or treatment whenever the disclosure is clinically
8 appropriate and will serve the best interests of the minor's treatment because the minor's condition
9 has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is nec-
10 essary, or the minor's condition requires detoxification in a residential or acute care facility. If such
11 disclosure is made, the physician, **physician assistant**, psychologist, nurse practitioner, clinical so-
12 cial worker licensed under ORS 675.530, professional counselor or marriage and family therapist li-
13 censed by the Oregon Board of Licensed Professional Counselors and Therapists or community
14 mental health program shall not be subject to any civil liability for advising the parent, parents or
15 legal guardian without the consent of the minor.

16 **SECTION 15.** ORS 109.685 is amended to read:

17 109.685. A physician, **physician assistant**, psychologist, nurse practitioner, clinical social
18 worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed
19 by the Oregon Board of Licensed Professional Counselors and Therapists or community mental
20 health program described in ORS 109.675 who in good faith provides diagnosis or treatment to a
21 minor as authorized by ORS 109.675 shall not be subject to any civil liability for providing such di-
22 agnosis or treatment without consent of the parent or legal guardian of the minor.

23 **SECTION 16.** ORS 127.700 is amended to read:

24 127.700. As used in ORS 127.700 to 127.737:

25 (1) "Attending physician" shall have the same meaning as provided in ORS 127.505.

26 (2) "Attorney-in-fact" means an adult validly appointed under ORS 127.540, 127.700 to 127.737
27 and 426.385 to make mental health treatment decisions for a principal under a declaration for mental
28 health treatment and also means an alternative attorney-in-fact.

29 (3) "Declaration" means a document making a declaration of preferences or instructions re-
30 garding mental health treatment.

31 (4) "Health care facility" shall have the same meaning as provided in ORS 127.505.

32 (5) "Incapable" means that, in the opinion of the court in a protective proceeding under ORS
33 chapter 125, or the opinion of two physicians, a person's ability to receive and evaluate information
34 effectively or communicate decisions is impaired to such an extent that the person currently lacks
35 the capacity to make mental health treatment decisions.

36 (6) "Mental health treatment" means convulsive treatment, treatment of mental illness with
37 psychoactive medication, admission to and retention in a health care facility for a period not to
38 exceed 17 days for care or treatment of mental illness, and outpatient services.

39 (7) "Outpatient services" means treatment for a mental or emotional disorder that is obtained
40 by appointment and is provided by an outpatient service as defined in ORS 430.010.

41 (8) "Provider" means a mental health treatment provider, **a physician assistant licensed under**
42 **ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390.**

43 (9) "Representative" means "attorney-in-fact" as defined in this section.

44 **SECTION 17.** ORS 127.710 is amended to read:

45 127.710. A declaration becomes operative when it is delivered to the principal's physician or

1 other [*mental health treatment*] provider and remains valid until revoked or expired. The physician
2 or provider shall act in accordance with an operative declaration when the principal has been found
3 to be incapable. The physician or provider shall continue to obtain the principal's informed consent
4 to all mental health treatment decisions if the principal is capable of providing informed consent or
5 refusal.

6 **SECTION 18.** ORS 127.722 is amended to read:

7 127.722. A declaration may be revoked in whole or in part at any time by the principal if the
8 principal is not incapable. A revocation is effective when a capable principal communicates the re-
9 vocation to the attending physician or other provider. The attending physician or other provider
10 shall note the revocation as part of the principal's medical record.

11 **SECTION 19.** ORS 127.727 is amended to read:

12 127.727. (1) None of the following may serve as attorney-in-fact:

13 (a) The attending physician or [*mental health service*] provider or an employee of the physician
14 or provider, if the physician, provider or employee is unrelated to the principal by blood, marriage
15 or adoption.

16 (b) An owner, operator or employee of a health care facility in which the principal is a patient
17 or resident, if the owner, operator or employee is unrelated to the principal by blood, marriage or
18 adoption.

19 (c) A person who is the principal's parent, guardian or former guardian if:

20 (A) At any time while the principal was under the care, custody or control of the person, a court
21 entered an order:

22 (i) Taking the principal into protective custody under ORS 419B.150; or

23 (ii) Committing the principal to the legal custody of the Department of Human Services for care,
24 placement and supervision under ORS 419B.337; and

25 (B) The court entered a subsequent order that:

26 (i) The principal should be permanently removed from the person's home, or continued in sub-
27 stitute care, because it was not safe for the principal to be returned to the person's home, and no
28 subsequent order of the court was entered that permitted the principal to return to the person's
29 home before the principal's wardship was terminated under ORS 419B.328; or

30 (ii) Terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524.

31 (4) A principal, while not incapable, may petition the court to remove a prohibition contained
32 in subsection (1)(c) of this section.

33 **SECTION 20.** ORS 127.730 is amended to read:

34 127.730. None of the following may serve as a witness to the signing of a declaration:

35 (1) The attending physician or [*mental health service*] provider or a relative of the physician or
36 provider;

37 (2) An owner, operator or relative of an owner or operator of a health care facility in which the
38 principal is a patient or resident; or

39 (3) A person related to the principal by blood, marriage or adoption.

40 **SECTION 21.** ORS 135.139 is amended to read:

41 135.139. (1) When a person has been charged with a crime in which it appears from the nature
42 of the charge that the transmission of body fluids from one person to another may have been in-
43 volved, the district attorney, upon the request of the victim or the parent or guardian of a minor
44 or incapacitated victim, shall seek the consent of the person charged to submit to a test for HIV
45 and any other communicable disease. In the absence of such consent or failure to submit to the test,

1 the district attorney may petition the court for an order requiring the person charged to submit to
2 a test for HIV and any other communicable disease.

3 (2)(a) At the time of an appearance before a circuit court judge on a criminal charge, the judge
4 shall inform every person arrested and charged with a crime, in which it appears from the nature
5 of the charge that the transmission of body fluids from one person to another may have been in-
6 volved, of the availability of testing for HIV and other communicable diseases and shall cause the
7 alleged victim of such a crime, if any, or a parent or guardian of the victim, if any, to be notified
8 that testing for HIV and other communicable diseases is available. The judge shall inform the person
9 arrested and charged and the victim, or parent or guardian of the victim, of the availability of
10 counseling under the circumstances described in subsection (7) of this section.

11 (b) Notwithstanding the provisions of ORS 433.045, if the district attorney files a petition under
12 subsection (1) of this section, the court shall order the person charged to submit to testing if the
13 court determines there is probable cause to believe that:

14 (A) The person charged committed the crime; and

15 (B) The victim has received a substantial exposure, as defined by rule of the Oregon Health
16 Authority.

17 (3) Notwithstanding the provisions of ORS 433.045, upon conviction of a person for any crime
18 in which the court determines from the facts that the transmission of body fluids from one person
19 to another was involved and if the person has not been tested pursuant to subsection (2) of this
20 section, the court shall seek the consent of the convicted person to submit to a test for HIV and
21 other communicable diseases. In the absence of such consent or failure to submit to the test, the
22 court shall order the convicted person to submit to the test if the victim of the crime, or a parent
23 or guardian of the victim, requests the court to make such order.

24 (4) When a test is ordered under subsection (2) or (3) of this section, the victim of the crime or
25 a parent or guardian of the victim, shall designate an attending physician, **a physician assistant**
26 **licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to**
27 **678.390** to receive such information on behalf of the victim.

28 (5) If an HIV test results in a negative reaction, the court may order the person to submit to
29 another HIV test six months after the first test was administered.

30 (6) The result of any test ordered under this section is not a public record and shall be available
31 only to:

32 (a) The victim.

33 (b) The parent or guardian of a minor or incapacitated victim.

34 (c) The attending physician [*who is licensed to practice medicine*], **physician assistant or nurse**
35 **practitioner**.

36 (d) The Oregon Health Authority.

37 (e) The person tested.

38 (7) If an HIV test ordered under this section results in a positive reaction, the individual subject
39 to the test shall receive post-test counseling as required by the Oregon Health Authority by rule.
40 The results of HIV tests ordered under this section shall be reported to the authority. Counseling
41 and referral for appropriate health care, testing and support services as directed by the Director
42 of the Oregon Health Authority shall be provided to the victim or victims at the request of the
43 victim or victims, or the parent or guardian of a minor or incapacitated victim.

44 (8) The costs of testing and counseling provided under subsections (2), (3) and (7) of this section
45 shall be paid through the compensation for crime victims program authorized by ORS 147.005 to

1 147.367 from amounts appropriated for such purposes. Restitution to the state for payment of the
2 costs of any counseling provided under this section and for payment of the costs of any test ordered
3 under this section shall be included by the court in any order requiring the convicted person to pay
4 restitution.

5 (9) When a court orders a convicted person to submit to a test under this section, the with-
6 drawal of blood may be performed only by [*a physician licensed to practice medicine or by a*] **a phy-**
7 **sician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to**
8 **677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390, or by another** licensed
9 health care provider acting within the provider's licensed scope of practice or acting under the
10 supervision of [*a physician licensed to practice medicine*] **a physician licensed under ORS chapter**
11 **677, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner li-**
12 **icensed under ORS 678.375 to 678.390.**

13 (10) No person authorized by subsection (9) of this section to withdraw blood, no person assist-
14 ing in the performance of the test nor any medical care facility where blood is withdrawn or tested
15 that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal
16 action when the act is performed in a reasonable manner according to generally accepted medical
17 practices.

18 (11) The results of tests or reports, or information therein, obtained under this section shall be
19 confidential and shall not be divulged to any person not authorized by this section to receive the
20 information. Any violation of this subsection is a Class C misdemeanor.

21 (12) As used in this section:

22 (a) "HIV test" means a test as defined in ORS 433.045.

23 (b) "Parent or guardian of the victim" means a custodial parent or legal guardian of a victim
24 who is a minor or incapacitated person.

25 (c) "Positive reaction" means a positive HIV test with a positive confirmatory test result as
26 specified by the Oregon Health Authority.

27 (d) "Transmission of body fluids" means the transfer of blood, semen, vaginal secretions or other
28 body fluids identified by rule of the authority, from the perpetrator of a crime to the mucous mem-
29 branes or potentially broken skin of the victim.

30 (e) "Victim" means the person or persons to whom transmission of body fluids from the
31 perpetrator of the crime occurred or was likely to have occurred in the course of the crime.

32 **SECTION 22.** ORS 136.220 is amended to read:

33 136.220. A challenge for implied bias shall be allowed for any of the following causes and for
34 no other:

35 (1) Consanguinity or affinity within the fourth degree to the person alleged to be injured by the
36 offense charged in the accusatory instrument, to the complainant or to the defendant.

37 (2) Standing in the relation of guardian and ward, attorney and client, physician and patient,
38 **physician assistant and patient, nurse practitioner and patient,** master and servant, debtor and
39 creditor, principal and agent or landlord and tenant with the:

40 (a) Defendant;

41 (b) Person alleged to be injured by the offense charged in the accusatory instrument; or

42 (c) Complainant.

43 (3) Being a member of the family, a partner in business with or in the employment of any person
44 referred to in subsection (2)(a), (b) or (c) of this section or a surety in the action or otherwise for
45 the defendant.

1 (4) Having served on the grand jury which found the indictment or on a jury of inquest which
2 inquired into the death of a person whose death is the subject of the indictment or information.

3 (5) Having been one of a jury formerly sworn in the same action, and whose verdict was set
4 aside or which was discharged without a verdict after the cause was submitted to it.

5 (6) Having served as a juror in a civil action, suit or proceeding brought against the defendant
6 for substantially the same act charged as an offense.

7 (7) Having served as a juror in a criminal action upon substantially the same facts, transaction
8 or criminal episode.

9 **SECTION 23.** ORS 137.076 is amended to read:

10 137.076. (1) This section applies to any person convicted of:

11 (a) A felony;

12 (b) Sexual abuse in the third degree or public indecency;

13 (c) Conspiracy or attempt to commit rape in the third degree, sodomy in the third degree, sexual
14 abuse in the second degree, burglary in the second degree or promoting prostitution; or

15 (d) Murder or aggravated murder.

16 (2) When a person is convicted of an offense listed in subsection (1) of this section:

17 (a) The person shall, whether or not ordered to do so by the court under paragraph (b) of this
18 subsection, provide a blood or buccal sample at the request of the appropriate agency designated in
19 paragraph (c) of this subsection.

20 (b) The court shall include in the judgment of conviction an order stating that a blood or buccal
21 sample is required to be obtained at the request of the appropriate agency and, unless the convicted
22 person lacks the ability to pay, that the person shall reimburse the appropriate agency for the cost
23 of obtaining and transmitting the blood or buccal sample. If the judgment sentences the convicted
24 person to probation, the court shall order the convicted person to submit to the obtaining of a blood
25 or buccal sample as a condition of the probation.

26 (c) The appropriate agency shall cause a blood or buccal sample to be obtained and transmitted
27 to the Department of State Police. The agency shall cause the sample to be obtained as soon as
28 practicable after conviction. The agency shall obtain the convicted person's thumbprint at the same
29 time the agency obtains the blood or buccal sample. The agency shall include the thumbprint with
30 the identifying information that accompanies the sample. Whenever an agency is notified by the
31 Department of State Police that a sample is not adequate for analysis, the agency shall obtain and
32 transmit a blood sample. The appropriate agency shall be:

33 (A) The Department of Corrections, whenever the convicted person is committed to the legal
34 and physical custody of the department.

35 (B) In all other cases, the law enforcement agency attending upon the court.

36 (3)(a) A blood sample may only be drawn in a medically acceptable manner by *[a licensed pro-*
37 *fessional nurse, a licensed practical nurse, a qualified medical technician,]* a licensed physician *[or],*
38 a person acting under the direction or control of a licensed physician, **a physician assistant li-**
39 **icensed under ORS 677.505 to 677.525, a nurse licensed under ORS chapter 678 or a qualified**
40 **medical technician.**

41 (b) A buccal sample may be obtained by anyone authorized to do so by the appropriate agency.
42 The person obtaining the buccal sample shall follow the collection procedures established by the
43 Department of State Police.

44 (c) A person authorized by this subsection to obtain a blood or buccal sample shall not be held
45 civilly liable for obtaining a sample in accordance with this subsection and subsection (2) of this

1 section, ORS 161.325 and 419C.473. The sample shall also be obtained and transmitted in accordance
 2 with any procedures that may be established by the Department of State Police. However, no test
 3 result or opinion based upon a test result shall be rendered inadmissible as evidence solely because
 4 of deviations from procedures adopted by the Department of State Police that do not affect the re-
 5 liability of the opinion or test result.

6 (4) No sample is required to be obtained if:

7 (a) The Department of State Police notifies the court or the appropriate agency that it has
 8 previously received an adequate blood or buccal sample obtained from the convicted person in ac-
 9 cordance with this section or ORS 161.325 or 419C.473; or

10 (b) The court determines that obtaining a sample would create a substantial and unreasonable
 11 risk to the health of the convicted person.

12 (5) The provisions of subsections (1) to (4) of this section apply to any person who, on or after
 13 September 29, 1991, is serving a term of incarceration as a sentence or as a condition of probation
 14 imposed for conviction of an offense listed in subsection (1) of this section, and any such person shall
 15 submit to the obtaining of a blood or buccal sample. Before releasing any such person from
 16 incarceration, the supervisory authority shall cause a blood or buccal sample and the person's
 17 thumbprint to be obtained and transmitted in accordance with subsections (1) to (4) of this section.

18 **SECTION 24.** ORS 137.473 is amended to read:

19 137.473. (1) The punishment of death shall be inflicted by the intravenous administration of a
 20 lethal quantity of an ultra-short-acting barbiturate in combination with a chemical paralytic agent
 21 and potassium chloride or other equally effective substances sufficient to cause death. The judgment
 22 shall be executed by the superintendent of the Department of Corrections institution in which the
 23 execution takes place, or by the designee of that superintendent. All executions shall take place
 24 within the enclosure of a Department of Corrections institution designated by the Director of the
 25 Department of Corrections. The superintendent of the institution shall be present at the execution
 26 and shall invite the presence of one or more physicians, **physician assistants** or nurse practition-
 27 ers, the Attorney General, the sheriff of the county in which the judgment was rendered and rep-
 28 resentatives from the media. At the request of the defendant, the superintendent shall allow no more
 29 than two members of the clergy designated by the defendant to be present at the execution. At the
 30 discretion of the superintendent, no more than five friends and relatives designated by the defendant
 31 may be present at the execution. The superintendent shall allow the presence of any peace officers
 32 as the superintendent thinks expedient.

33 (2) The person who administers the lethal injection under subsection (1) of this section shall not
 34 thereby be considered to be engaged in the practice of medicine.

35 (3)(a) Any wholesale drug outlet, as defined in ORS 689.005, registered with the State Board of
 36 Pharmacy under ORS 689.305 may provide the lethal substance or substances described in subsection
 37 (1) of this section upon written order of the Director of the Department of Corrections, accompanied
 38 by a certified copy of the judgment of the court imposing the punishment.

39 (b) For purposes of ORS 689.527 (7) the director shall be considered authorized to purchase the
 40 lethal substance or substances described in subsection (1) of this section.

41 (c) The lethal substance or substances described in subsection (1) of this section are not con-
 42 trolled substances when purchased, possessed or used for purposes of this section.

43 (4) The superintendent may require that persons who are present at the execution under sub-
 44 section (1) of this section view the initial execution procedures, prior to the point of the adminis-
 45 tration of the lethal injection, by means of a simultaneous closed-circuit television transmission

1 under the direction and control of the superintendent.

2 **SECTION 25.** ORS 146.181 is amended to read:

3 146.181. (1) When a person is reported as missing to any city, county or state police agency, the
4 agency, within 12 hours thereafter, shall enter into state and federal records maintained for that
5 purpose, a report of the missing person in a format and according to procedures established by the
6 authorities responsible respectively for the state and federal records.

7 (2) The law enforcement agency to which the report is made:

8 (a) May request from the person making the report information or material likely to be useful
9 in identifying the missing person or the human remains of the missing person, including, but not
10 limited to:

11 (A) The name of the missing person and any alternative names the person uses;

12 (B) The date of birth of the missing person;

13 (C) A physical description of the missing person, including the height, weight, gender, race, eye
14 color, current hair color and natural hair color of the missing person, any identifying marks on the
15 missing person, any prosthetics used by, or surgical implants in, the missing person and any physical
16 anomalies of the missing person;

17 (D) The blood type of the missing person;

18 (E) The driver license number of the missing person;

19 (F) The Social Security number of the missing person;

20 (G) A recent photograph of the missing person;

21 (H) A description of the clothing the missing person is believed to have been wearing at the time
22 the person disappeared;

23 (I) A description of items that the missing person is believed to have had with the person at the
24 time the person disappeared;

25 (J) Telephone numbers and electronic mail addresses of the missing person;

26 (K) The name and address of any school the missing person attends;

27 (L) The name and address of any employer of the missing person;

28 (M) The name and address of [*the primary care physician and dentist of*] **the physician, physi-**
29 **cian assistant, nurse practitioner or dentist who provides health care services to** the missing
30 person;

31 (N) A description of any vehicle that the missing person might have been driving or riding in
32 when the person disappeared;

33 (O) The reasons why the person making the missing person report believes the person is missing;

34 (P) Any circumstances that indicate that the missing person may be at risk of injury or death;

35 (Q) Any circumstances that may indicate that the disappearance is not voluntary;

36 (R) Information about a known or possible abductor or a person who was last seen with the
37 missing person; and

38 (S) The date of the last contact with the missing person.

39 (b) May request in writing from any dentist, denturist, physician, **physician assistant, nurse**
40 **practitioner**, optometrist or other medical practitioner possessing it such medical, dental or other
41 physically descriptive information as is likely to be useful in identifying the missing person or the
42 human remains of the missing person.

43 (3) The law enforcement agency, upon obtaining information pursuant to subsection (2) of this
44 section, shall make a supplementary entry of that information into the state and federal records
45 described in subsection (1) of this section. The supplementary report shall be in a format and ac-

1 cording to procedures established by the authorities responsible respectively for the state and fed-
2 eral records.

3 **SECTION 26.** ORS 146.750 is amended to read:

4 146.750. (1) Except as required in subsection (3) of this section, a physician, including an intern
5 and resident, **a physician assistant licensed under ORS 677.505 to 677.525** or a registered nurse
6 licensed under ORS [678.010 to 678.410] **chapter 678**, who has reasonable cause to suspect that a
7 person brought to the physician, **physician assistant** or registered nurse or coming before the
8 physician, **physician assistant** or registered nurse for examination, care or treatment has had in-
9 jury, as defined in ORS 146.710, inflicted upon the person other than by accidental means, shall re-
10 port or cause reports to be made in accordance with the provisions of subsection (2) of this section.

11 (2) An oral report must be made immediately by telephone or otherwise, and followed as soon
12 thereafter as possible by a report in writing, to an appropriate law enforcement agency.

13 (3) When an injury as defined in ORS 146.710 or abuse as defined in ORS 419B.005 occurs to an
14 unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 apply.

15 **SECTION 27.** ORS 147.287 is amended to read:

16 147.287. (1) In order to perfect a lien under ORS 147.285, the Department of Justice shall do all
17 of the following:

18 (a) Upon receiving notice under ORS 147.283, record a notice of lien in the County Clerk Lien
19 Record of the county in which the person against whom the claim is made or action is brought re-
20 sides. If the claim or action is against a corporation, the department shall record the notice of lien
21 in the County Clerk Lien Record of the county in which the corporation has its principal place of
22 business. If the claim or action is against a public body, as defined in ORS 174.109, the department
23 shall record the notice of lien in the County Clerk Lien Record of the county in which the public
24 body has its main office.

25 (b) Prior to the date of the satisfaction of the judgment or final payment under a settlement or
26 compromise, deliver a copy of the notice of lien by certified mail or personal service to all parties
27 bound by the judgment, settlement or compromise or to an attorney or insurer that represents a
28 party bound by the judgment, settlement or compromise. The department may send the notice by
29 first class mail to any party, attorney or insurer that does not accept the certified mail containing
30 the notice.

31 (2) Upon the recording of a notice of lien under subsection (1)(a) of this section, the recording
32 officer shall enter the name of the injured person, the approximate date of the injury and the name
33 of the department as a lienor in the [*hospital and physician*] lien docket under ORS 87.575 and shall
34 make an index to the [*hospital and physician*] lien docket in the names of the injured person and the
35 department.

36 **SECTION 28.** ORS 147.403 is amended to read:

37 147.403. (1) Each hospital, emergency medical service provider, intermediate care facility, skilled
38 nursing facility, long term care facility and residential care facility in this state shall adopt policies
39 for the treatment or referral of acute sexual assault patients, if such policies are not otherwise
40 provided for by statute or administrative rule.

41 (2)(a) Each hospital, emergency medical service provider, intermediate care facility, skilled
42 nursing facility, long term care facility and residential care facility in this state that performs
43 forensic medical examinations of sexual assault patients shall:

44 (A) Adopt, in addition to the facility's own guidelines, if any, the State of Oregon Medical
45 Guideline for Sexual Assault Evaluation of Adolescent and Adult Patients developed and published

1 by the Attorney General's Sexual Assault Task Force.

2 (B) Except as provided in paragraph (b) of this subsection, employ or contract with at least one
3 sexual assault forensic examiner who has completed didactic training sufficient to satisfy the train-
4 ing requirement for certification by the Oregon SAE/SANE Certification Commission established by
5 the Attorney General.

6 (b) Paragraph (a)(B) of this subsection does not apply to a hospital that performs forensic med-
7 ical examinations only of sexual assault patients who are minors. Such a hospital may use
8 physicians, **physician assistants licensed under ORS 677.505 to 677.525** and nurses to conduct the
9 examinations in consultation with a social worker trained in assisting sexual assault victims who
10 are minors.

11 **SECTION 29.** ORS 169.076 is amended to read:

12 169.076. Each local correctional facility shall:

13 (1) Provide sufficient staff to perform all audio and visual functions involving security, control,
14 custody and supervision of all confined detainees and prisoners, with personal inspection at least
15 once each hour. The supervision may include the use of electronic monitoring equipment when ap-
16 proved by the Department of Corrections and the governing body of the jurisdiction in which the
17 facility is located.

18 (2) Have a comprehensive written policy with respect to:

19 (a) Legal confinement authority.

20 (b) Denial of admission.

21 (c) Telephone calls.

22 (d) Admission and release medical procedures.

23 (e) Medication and prescriptions.

24 (f) Personal property accountability which complies with ORS 133.455.

25 (g) Vermin and communicable disease control.

26 (h) Release process to include authority, identification and return of personal property.

27 (i) Rules of the facility governing correspondence and visitations.

28 (3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, re-
29 bellions and other types of emergencies; and regulations for the operation of the facility.

30 (4) Not administer any physical punishment to any prisoner at any time.

31 (5) Provide for emergency medical and dental health, having written policies providing for:

32 (a) [*Licensed physician or nurse practitioner*] Review of the facility's medical and dental plans
33 **by a licensed physician, physician assistant or nurse practitioner.**

34 (b) The security of medication and medical supplies.

35 (c) A medical and dental record system to include request for medical and dental attention,
36 treatment prescribed, prescriptions, special diets and other services provided.

37 (d) First aid supplies and staff first aid training.

38 (6) Prohibit firearms from the security area of the facility except in times of emergency as de-
39 termined by the administrator of the facility.

40 (7) Ensure that confined detainees and prisoners:

41 (a) Will be fed daily at least three meals served at regular times, with no more than 14 hours
42 between meals except when routinely absent from the facility for work or other purposes.

43 (b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered
44 dietitian or the Oregon Health Authority.

45 (c) Be provided special diets as prescribed by the [*designated facility physician*] **facility's des-**

1 **igned physician, physician assistant** or nurse practitioner.

2 (d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions,
3 as defined by the authority under ORS 624.041.

4 (8) Ensure that the facility be clean, and provide each confined detainee or prisoner:

5 (a) Materials to maintain personal hygiene.

6 (b) Clean clothing twice weekly.

7 (c) Mattresses and blankets that are clean and fire-retardant.

8 (9) Require each prisoner to shower at least twice weekly.

9 (10) Forward, without examination or censorship, each prisoner's outgoing written communi-
10 cations to the Governor, jail administrator, Attorney General, judge, Department of Corrections or
11 the attorney of the prisoner.

12 (11) Keep the facility safe and secure in accordance with the State of Oregon Structural Spe-
13 cialty Code and Fire and Life Safety Code.

14 (12) Have and provide each prisoner with written rules for inmate conduct and disciplinary
15 procedures. If a prisoner cannot read or is unable to understand the written rules, the information
16 shall be conveyed to the prisoner orally.

17 (13) Not restrict the free exercise of religion unless failure to impose the restriction will cause
18 a threat to facility or order.

19 (14) Safeguard and ensure that the prisoner's legal rights to access to legal materials are pro-
20 tected.

21 **SECTION 30.** ORS 169.077 is amended to read:

22 169.077. Each lockup facility shall:

23 (1) Maintain 24-hour supervision when persons are confined. The supervision may include the
24 use of electronic monitoring equipment when approved by the Department of Corrections and the
25 governing body of the jurisdiction in which the facility is located.

26 (2) Make a personal inspection of each person confined at least once each hour.

27 (3) Prohibit firearms from the security area of the facility except in times of emergency as de-
28 termined by the administrator of the facility.

29 (4) Ensure that confined detainees and prisoners will be fed daily at least three nutritionally
30 adequate meals served at regular times, with no more than 14 hours between meals except when
31 routinely absent from the facility for work or other such purposes.

32 (5) Forward, without examination or censorship, each prisoner's outgoing written communi-
33 cations to the Governor, jail administrator, Attorney General, judge, Department of Corrections or
34 the attorney of the prisoner.

35 (6) Provide rules of the facility governing correspondence and visitations.

36 (7) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty
37 Code and Fire and Life Safety Code.

38 (8) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, re-
39 bellions and other types of emergencies; and policies and regulations for the operation of the facility.

40 (9) Ensure that the facility be clean, provide mattresses and blankets that are clean and fire-
41 retardant, and furnish materials to maintain personal hygiene.

42 (10) Provide for emergency medical and dental health, having written policies providing for [*li-*
43 *icensed physician*] review of the facility's medical and dental plans **by a licensed physician, physi-**
44 **cian assistant or nurse practitioner.**

45 **SECTION 31.** ORS 169.750 is amended to read:

1 169.750. A juvenile detention facility may not:

2 (1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of
3 or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals,
4 or isolation, or detention under conditions that violate the provisions of subsections (2) to (8) of this
5 section or ORS 169.076 (7) to (11), (13) or (14) or 169.740;

6 (2) Use any physical force, other means of physical control or isolation upon a detained juvenile
7 except as reasonably necessary and justified to prevent escape from the facility, physical injury to
8 another person, to protect a detained juvenile from physical self-injury or to prevent destruction of
9 property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for
10 in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that
11 the danger exists. A use of force or other physical means of control may not employ:

12 (a) The use of restraining devices for a purpose other than to prevent physical injury or escape,
13 or, in any case, for a period in excess of six hours. However, the time during which a detained ju-
14 venile is being transported to another facility pursuant to court order shall not be counted within
15 the six hours; or

16 (b) Isolation for a period in excess of six hours;

17 (3) Use roomlock except for the discipline and punishment of a detained juvenile for violation
18 of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct
19 that constitutes a crime under the laws of this state or that would justify physical force, control or
20 isolation under subsection (2) of this section;

21 (4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except
22 upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such exam-
23 ination and then only by a [*licensed physician or a nurse*] **physician licensed under ORS chapter**
24 **677, physician assistant licensed under ORS 677.505 to 677.525 or nurse licensed under ORS**
25 **chapter 678;**

26 (5)(a) Administer to any detained juvenile medication, except upon the informed consent of the
27 juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has
28 a contagious or communicable disease that poses an imminent threat to the health of other persons
29 in the facility. However, prescription medication may not be administered except upon a written
30 prescription or written order by [*a licensed physician or licensed dentist and administered by a li-*
31 *icensed physician, licensed dentist or other medical personnel authorized by the State of Oregon under*
32 *ORS chapter 677, 678 or 679*] **a physician licensed under ORS chapter 677, physician assistant**
33 **licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to**
34 **678.390 or dentist licensed under ORS chapter 679, and administered by a person authorized**
35 **under ORS chapter 677, 678 or 679** to administer medication. Facility staff not otherwise author-
36 ized by law to administer medications may administer noninjectable medications in accordance with
37 rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 (8);

38 (b) Nonmedical personnel shall receive training for administering medications, including recog-
39 nition of and response to drug reactions and unanticipated side effects, from the responsible physi-
40 cian, **physician assistant** or nurse and the official responsible for the facility. All personnel shall
41 be responsible for administering the dosage medications according to orders and for recording the
42 administrations of the dosage in a manner and on a form approved by the responsible physician,
43 **physician assistant or nurse practitioner;** and

44 (c) Notwithstanding any other provision of law, medication may not be administered unless a
45 [*registered nurse or*] physician, **physician assistant licensed under ORS 677.505 to 677.525 or**

1 **nurse licensed under ORS chapter 678** is either physically on the premises or readily available
2 by telephone and within 30 minutes travel time of the patient;

3 (6) Administer to any detained juvenile any medication or medical procedure for purposes of
4 experimentation;

5 (7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess
6 of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for
7 more than one day, except after:

8 (a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

9 (b) Providing the juvenile the opportunity to a hearing before a staff member who was not a
10 witness to the alleged offensive conduct or behavior;

11 (c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-
12 examine witnesses;

13 (d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile;
14 and

15 (e) A finding that the alleged conduct or behavior was proven by a preponderance of the evi-
16 dence and that it violated a rule of conduct or behavior of the facility as provided for in ORS
17 169.076 (12) or constituted a crime under the laws of this state; and

18 (8) Detain juveniles with emotional disturbances, mental retardation or physical disabilities on
19 the same charges and circumstances for which other juveniles would have been released or provided
20 with another alternative.

21 **SECTION 32.** ORS 192.310 is amended to read:

22 192.310. (1) With the exception of [*physicians*'] prescriptions, all records, reports and proceedings
23 required to be kept by law shall be in the English language or in a machine language capable of
24 being converted to the English language by a data processing device or computer.

25 (2) Violation of this section is a Class C misdemeanor.

26 **SECTION 33.** ORS 192.547 is amended to read:

27 192.547. (1)(a) The Oregon Health Authority shall adopt rules for conducting research using
28 DNA samples, genetic testing and genetic information. Rules establishing minimum research stan-
29 dards shall conform to the Federal Policy for the Protection of Human Subjects, 45 C.F.R. 46, that
30 is current at the time the rules are adopted. The rules may be changed from time to time as may
31 be necessary.

32 (b) The rules adopted by the Oregon Health Authority shall address the operation and appoint-
33 ment of institutional review boards. The rules shall conform to the compositional and operational
34 standards for such boards contained in the Federal Policy for the Protection of Human Subjects that
35 is current at the time the rules are adopted. The rules must require that research conducted under
36 paragraph (a) of this subsection be conducted with the approval of the institutional review board.

37 (c) Persons proposing to conduct anonymous research, coded research or genetic research that
38 is otherwise thought to be exempt from review must obtain from an institutional review board prior
39 to conducting such research a determination that the proposed research is exempt from review.

40 (2) A person proposing to conduct research under subsection (1) of this section, including
41 anonymous research or coded research, must disclose to the institutional review board the proposed
42 use of DNA samples, genetic testing or genetic information.

43 (3) The Oregon Health Authority shall adopt rules requiring that all institutional review boards
44 operating under subsection (1)(b) of this section register with the department. The Advisory Com-
45 mittee on Genetic Privacy and Research shall use the registry to educate institutional review boards

1 about the purposes and requirements of the genetic privacy statutes and administrative rules relat-
2 ing to genetic research.

3 (4) The Oregon Health Authority shall consult with the Advisory Committee on Genetic Privacy
4 and Research before adopting the rules required under subsections (1) and (3) of this section, in-
5 cluding rules identifying those parts of the Federal Policy for the Protection of Human Subjects that
6 are applicable to this section.

7 (5) Genetic research in which the DNA sample or genetic information is coded shall satisfy the
8 following requirements:

9 (a)(A) The subject has granted informed consent for the specific research project;

10 (B) The subject has consented to genetic research generally; or

11 (C) The DNA sample or genetic information is derived from a biological specimen or from clin-
12 ical individually identifiable health information that was obtained or retained in compliance with
13 ORS 192.537 (2).

14 (b) The research has been approved by an institutional review board after disclosure by the in-
15 vestigator to the board of risks associated with the coding.

16 (c) The code is:

17 (A) Not derived from individual identifiers;

18 (B) Kept securely and separately from the DNA samples and genetic information; and

19 (C) Not accessible to the investigator unless specifically approved by the institutional review
20 board.

21 (d) Data is stored securely in password protected electronic files or by other means with access
22 limited to necessary personnel.

23 (e) The data is limited to elements required for analysis and meets the criteria in 45 C.F.R
24 164.514(e) for a limited data set.

25 (f) The investigator is a party to the data use agreement as provided by 45 C.F.R. 164.514(e) for
26 limited data set recipients.

27 (6) Research conducted in accordance with this section is rebuttably presumed to comply with
28 ORS 192.535 and 192.539.

29 (7)(a) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information
30 obtained, with blanket informed consent, before June 25, 2001, for genetic research.

31 (b) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information ob-
32 tained without specific informed consent and derived from a biological specimen or clinical individ-
33 ually identifiable health information for anonymous research or coded research if an institutional
34 review board operating under subsection (1)(b) of this section:

35 (A) Waives or alters the consent requirements pursuant to the Federal Policy for the Protection
36 of Human Subjects; and

37 (B) Waives authorization pursuant to the federal Health Insurance Portability and Accountabil-
38 ity Act privacy regulations, 45 C.F.R. parts 160 and 164.

39 (c) Except as provided in subsection (5)(a) of this section or paragraph (b) of this subsection, a
40 person must have specific informed consent from an individual to use a DNA sample or genetic in-
41 formation of the individual obtained on or after June 25, 2001, for genetic research.

42 (8) Except as otherwise allowed by rule of the Oregon Health Authority, if DNA samples or
43 genetic information obtained for either clinical or research purposes is used in research, a person
44 may not recontact the individual or the *[individual's]* physician, **physician assistant or nurse**
45 **practitioner of the individual** by using research information that is identifiable or coded. The

1 Oregon Health Authority shall adopt by rule criteria for recontacting an individual or [*an*
2 *individual's physician*] **the physician, physician assistant or nurse practitioner of an**
3 **individual.** In adopting the criteria, the department shall consider the recommendations of national
4 organizations such as those created by executive order by the President of the United States and
5 the recommendations of the Advisory Committee on Genetic Privacy and Research.

6 (9) The requirements for consent to, or notification of, obtaining a DNA sample or genetic in-
7 formation for genetic research are governed by the provisions of ORS 192.531 to 192.549 and the
8 administrative rules that were in effect on the effective date of the institutional review board's most
9 recent approval of the study.

10 **SECTION 34.** ORS 408.310 is amended to read:

11 408.310. (1) A physician, **physician assistant licensed under ORS 677.505 to 677.525 or nurse**
12 **practitioner licensed under ORS 678.375 to 678.390** who has primary responsibility for the treat-
13 ment of a veteran who may have been exposed to causative agents while serving in the Armed
14 Forces of the United States or for the treatment of a veteran's spouse, surviving spouse or minor
15 child who may be exhibiting symptoms or conditions that may be attributable to the veteran's ex-
16 posure to causative agents shall, at the request and direction of the veteran, veteran's spouse or
17 surviving spouse or the parent or guardian of such minor child, submit a report to the Oregon
18 Health Authority. The report shall be made on a form adopted by the authority and made available
19 to physicians, **physician assistants, nurse practitioners** and hospitals in this state.

20 (2) If there is no physician, **physician assistant or nurse practitioner** having primary re-
21 sponsibility for the treatment of a veteran, veteran's spouse, surviving spouse or minor child, then
22 the senior medical supervisor of the hospital or clinic treating the veteran, veteran's spouse, sur-
23 viving spouse or minor child shall submit the report described in this section to the authority at the
24 request and direction of the veteran, veteran's spouse or surviving spouse or the parent or legal
25 guardian of a veteran's minor child.

26 (3) The form adopted by the authority under this section shall list the symptoms commonly at-
27 tributed to exposure to causative agents, and shall require the following information:

28 (a) Symptoms of the patient which may be related to exposure to causative agents.

29 (b) A diagnosis of the patient's condition.

30 (c) Methods of treatment prescribed.

31 (d) Any other information required by the authority.

32 (4) The authority, after receiving a report from a physician, **physician assistant, nurse prac-**
33 **titioner,** hospital or clinic under this section, may require the veteran, veteran's spouse, surviving
34 spouse or minor child to provide such other information as may be required by the authority.

35 **SECTION 35.** ORS 408.315 is amended to read:

36 408.315. (1) ORS 408.310 applies to all veterans, spouses, surviving spouses and minor children
37 of veterans treated by a physician, **physician assistant, nurse practitioner,** hospital or clinic after
38 January 1, 1982. Physicians, **physician assistants, nurse practitioners,** hospitals or clinics shall
39 submit the reports and study required under ORS 408.310 for veterans, spouses, surviving spouses
40 and minor children of veterans treated prior to that date when requested and directed to do so by
41 such individuals.

42 (2) ORS 408.300 to 408.340 apply to all physicians, **physician assistants, nurse practitioners,**
43 hospitals and clinics, whether public or private, within the State of Oregon.

44 **SECTION 36.** ORS 408.340 is amended to read:

45 408.340. (1) A physician, **physician assistant, nurse practitioner,** hospital or clinic subject to

1 ORS 408.300 to 408.340 shall not be subject to any criminal or civil liability for providing informa-
2 tion required under ORS 408.300 to 408.340.

3 (2) Nothing in this section shall prevent, however, any action for negligence by a physician,
4 **physician assistant, nurse practitioner**, hospital or clinic in choosing or providing medical
5 treatment.

6 **SECTION 37.** ORS 410.530 is amended to read:

7 410.530. (1) The Department of Human Services has the following authority which it may dele-
8 gate to any program certified by the department to provide assessment services:

9 (a) To provide information and education to the general public, hospitals, nursing facilities
10 [and], physicians, **physician assistants and nurses** regarding availability of the assessment pro-
11 gram.

12 (b) To accept referrals from individuals, families, physicians, human service professionals, nurs-
13 ing home professionals, social service agencies or other organizations.

14 (c) To assess the long term care needs of referred persons.

15 (d) To identify available noninstitutional services to meet the needs of referred persons, includ-
16 ing public and private case management services.

17 (e) To prepare, explain and document recommendations for persons receiving assessment pro-
18 gram services as to the need for skilled nursing care, for intermediate care as provided in a facility
19 or for other care which is available in the community.

20 (f) To inform referred persons of the extent to which home and community-based services are
21 available, and of their right to choose among the appropriate alternatives that may be available, in
22 consultation with an attending physician and a family member.

23 (g) To provide public education targeted at older persons, care givers and families regarding
24 alternative long term care services.

25 (h) To determine and publish minimum qualifications for members of the admission assessment
26 team.

27 (2)(a) After consultation with the committee appointed under subsection (3) of this section, the
28 Department of Human Services shall adopt by rule criteria and procedures for certifying and de-
29 certifying public or private admission assessment programs and contracting with certified programs.
30 The department shall establish a maximum fee that a certified program may charge for assessment
31 services. The rules shall specify that a certified program may not charge the person receiving as-
32 sessment services for any portion of the fee associated with the services necessary to meet the
33 minimum federal criteria.

34 (b) In certifying a program, the department shall determine that the program includes:

35 (A) Adequately trained personnel;

36 (B) Information regarding appropriate service and placement alternatives, including nursing fa-
37 cilities and community-based options;

38 (C) Provisions to the applicant of information about appropriate options; and

39 (D) Prohibition of an assessment being provided by any certified program which has any finan-
40 cial interest in the facility to which placement is recommended.

41 (c) The program shall not require the recommendation of the admission team be binding and the
42 applicant has the right to choose from any options that are available.

43 (3) The Director of Human Services shall appoint an advisory committee to advise the depart-
44 ment in certifying and decertifying programs that provide or fail to provide the service described in
45 this section. The director shall appoint representatives from the Oregon Association of Hospitals,

1 the Oregon Health Care Association, the Oregon Association of Homes for the Aging and repre-
2 sentatives of organizations of seniors.

3 **SECTION 38.** ORS 414.550 is amended to read:

4 414.550. As used in ORS 414.550 to 414.565:

5 (1) "Cystic fibrosis services" means a program for medical care, including the cost of prescribed
6 medications and equipment, respiratory therapy, physical therapy, counseling services that pertain
7 directly to cystic fibrosis related health needs and outpatient services including [*physicians'*] **phy-**
8 **sician, physician assistant or nurse practitioner** fees, X-rays and necessary clinical tests to in-
9 sure proper ongoing monitoring and maintenance of the patient's health.

10 (2) "Eligible individual" means a resident of the State of Oregon over 18 years of age.

11 **SECTION 39.** ORS 414.618 is amended to read:

12 414.618. (1) In areas that are not served by a coordinated care organization, the Oregon Health
13 Authority may execute prepaid capitated health service contracts for at least hospital [*or*],
14 physician, **physician assistant or nurse practitioner** medical care, [*or both,*] **or any combination**
15 **of such medical care**, with hospital and medical organizations, health maintenance organizations
16 and any other appropriate public or private persons.

17 (2) For purposes of ORS 279A.025, 279A.140, 414.145 and 414.610 to 414.620, instrumentalities and
18 political subdivisions of the state are authorized to enter into prepaid capitated health service con-
19 tracts with the authority and shall not thereby be considered to be transacting insurance.

20 (3) In the event that there is an insufficient number of qualified bids for coordinated care or-
21 ganizations or prepaid capitated health services contracts for hospital [*or*], physician, **physician**
22 **assistant or nurse practitioner** medical care[, *or both,*] in some areas of the state, the authority
23 may continue a fee for service payment system.

24 (4) Payments to providers may be subject to contract provisions requiring the retention of a
25 specified percentage in an incentive fund or to other contract provisions by which adjustments to
26 the payments are made based on utilization efficiency.

27 (5) Contracts described in this section are not subject to ORS chapters 279A and 279B, except
28 that the contracts are subject to ORS 279A.235 and 279A.250 to 279A.290.

29 **SECTION 40.** ORS 416.550 is amended to read:

30 416.550. (1) Upon receiving notice under ORS 416.530, to perfect its lien the Department of Hu-
31 man Services or the Oregon Health Authority shall:

32 (a) File a notice of lien, substantially in the form prescribed in ORS 416.560, with the recording
33 officer of the county in which the person against whom claim is made or action is brought resides.
34 If the claim or action is against a corporation, the notice of lien shall be filed with the recording
35 officer of the county within the state in which such corporation has its principal place of business.
36 If the claim or action is against a public body, agency or commission, the notice of lien shall be filed
37 with the recording officer of the county in which the public body, agency or commission has its main
38 offices; and

39 (b) Prior to the date of satisfaction of the judgment or payment under the settlement or com-
40 promise, send a certified copy of the notice of lien by registered mail or by certified mail with return
41 receipt to each person or public body, agency or commission against whom claim is made or action
42 is brought by the recipient.

43 (2) Upon the filing of a notice of lien by the department or the authority, the recording officer
44 shall enter the name of the injured person, the approximate date of the injury and the name of the
45 department or the authority as lienor in the [*hospital*] lien docket provided for in ORS 87.575 and

1 shall make an index thereto in the names of the injured persons and the department or the author-
2 ity.

3 **SECTION 41.** ORS 419B.020 is amended to read:

4 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-
5 port of child abuse, the department or the agency shall immediately:

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

8 (b) Notify the Office of Child Care if the alleged child abuse occurred in a child care facility
9 as defined in ORS 329A.250.

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

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

14 (b) The department and the agency shall each report the outcomes of their investigations to the
15 Office of Child Care.

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

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

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

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

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

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

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

45 (7) A minor child of 12 years of age or older may refuse to consent to the examination described

1 in subsection (6) of this section. The examination shall be conducted by or under the supervision
2 of a physician licensed under ORS chapter 677, **a physician assistant licensed under ORS 677.505**
3 **to 677.525** or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable,
4 trained in conducting such examinations.

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

11 **SECTION 42.** ORS 419B.023 is amended to read:

12 419B.023. (1) As used in this section:

13 (a) "Designated medical professional" means the person described in ORS 418.747 (9) or the
14 person's designee.

15 (b) "Suspicious physical injury" includes, but is not limited to:

16 (A) Burns or scalds;

17 (B) Extensive bruising or abrasions on any part of the body;

18 (C) Bruising, swelling or abrasions on the head, neck or face;

19 (D) Fractures of any bone in a child under the age of three;

20 (E) Multiple fractures in a child of any age;

21 (F) Dislocations, soft tissue swelling or moderate to severe cuts;

22 (G) Loss of the ability to walk or move normally according to the child's developmental ability;

23 (H) Unconsciousness or difficulty maintaining consciousness;

24 (I) Multiple injuries of different types;

25 (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function
26 of any bodily organ; or

27 (K) Any other injury that threatens the physical well-being of the child.

28 (2) If a person conducting an investigation under ORS 419B.020 observes a child who has suf-
29 fered suspicious physical injury and the person is certain or has a reasonable suspicion that the
30 injury is or may be the result of abuse, the person shall, in accordance with the protocols and pro-
31 cedures of the county multidisciplinary child abuse team described in ORS 418.747:

32 (a) Immediately photograph or cause to have photographed the suspicious physical injuries in
33 accordance with ORS 419B.028; and

34 (b) Ensure that a designated medical professional conducts a medical assessment within 48
35 hours, or sooner if dictated by the child's medical needs.

36 (3) The requirement of subsection (2) of this section shall apply:

37 (a) Each time suspicious physical injury is observed by Department of Human Services or law
38 enforcement personnel:

39 (A) During the investigation of a new allegation of abuse; or

40 (B) If the injury was not previously observed by a person conducting an investigation under ORS
41 419B.020; and

42 (b) Regardless of whether the child has previously been photographed or assessed during an in-
43 vestigation of an allegation of abuse.

44 (4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a des-
45 igned medical professional. If after reasonable efforts a designated medical professional is not

1 available to conduct a medical assessment within 48 hours, the child shall be evaluated by an
2 available physician, **a physician assistant licensed under ORS 677.505 to 677.525 or a nurse**
3 **practitioner licensed under ORS 678.375 to 678.390.**

4 (b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a
5 designated medical professional, the health care provider shall make photographs, clinical notes,
6 diagnostic and testing results and any other relevant materials available to the designated medical
7 professional for consultation within 72 hours following evaluation of the child.

8 (c) The person conducting the medical assessment may consult with and obtain records from the
9 child's *[regular pediatrician or family physician]* **health care provider** under ORS 419B.050.

10 (5) Nothing in this section prevents a person conducting a child abuse investigation from seek-
11 ing immediate medical treatment from a hospital emergency room or other medical provider for a
12 child who is physically injured or otherwise in need of immediate medical care.

13 (6) If the child described in subsection (2) of this section is less than five years of age, the des-
14 ignated medical professional may, within 14 days, refer the child for a screening for early inter-
15 vention services or early childhood special education, as those terms are defined in ORS 343.035.
16 The referral may not indicate the child is subject to a child abuse investigation unless written
17 consent is obtained from the child's parent authorizing such disclosure. If the child is already re-
18 ceiving those services, or is enrolled in the Head Start program, a person involved in the delivery
19 of those services to the child shall be invited to participate in the county multidisciplinary child
20 abuse team's review of the case and shall be provided with paid time to do so by the person's em-
21 ployer.

22 (7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability
23 of a minor to refuse to consent to the medical assessment described in this section.

24 **SECTION 43.** ORS 419B.035 is amended to read:

25 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and
26 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records
27 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
28 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
29 ment of Human Services shall make the records available to:

30 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of
31 subsequent investigation of child abuse;

32 (b) Any physician, **physician assistant licensed under ORS 677.505 to 677.525 or nurse**
33 **practitioner licensed under ORS 678.375 to 678.390**, at the request of the physician, **physician**
34 **assistant or nurse practitioner**, regarding any child brought to the physician, **physician assist-**
35 **ant or nurse practitioner** or coming before the physician, **physician assistant or nurse practi-**
36 **tioner** for examination, care or treatment;

37 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
38 ceeding;

39 (d) Citizen review boards established by the Judicial Department for the purpose of periodically
40 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile
41 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
42 participants in case reviews;

43 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
44 that a child has been subjected to child abuse or neglect;

45 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-

1 ties;

2 (g) The Office of Children’s Advocate;

3 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
4 342.176 involving any child or any student in grade 12 or below;

5 (i) Any person, upon request to the Department of Human Services, if the reports or records
6 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
7 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
8 disclosed in accordance with ORS 192.410 to 192.505; and

9 (j) The Office of Child Care for purposes of ORS 329A.030 (8)(g).

10 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-
11 partment of Human Services may exempt from disclosure the names, addresses and other identifying
12 information about other children, witnesses, victims or other persons named in the report or record
13 if the department determines, in written findings, that the safety or well-being of a person named in
14 the report or record may be jeopardized by disclosure of the names, addresses or other identifying
15 information, and if that concern outweighs the public’s interest in the disclosure of that information.

16 (b) If the Department of Human Services does not have a report or record of abuse regarding
17 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
18 161.015, the department may disclose that information.

19 (3) The Department of Human Services may make reports and records compiled under the pro-
20 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,
21 agency, organization or other entity when the department determines that such disclosure is neces-
22 sary to administer its child welfare services and is in the best interests of the affected child, or that
23 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect
24 children from abuse and neglect or for research when the Director of Human Services gives prior
25 written approval. The Department of Human Services shall adopt rules setting forth the procedures
26 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this
27 section. The name, address and other identifying information about the person who made the report
28 may not be disclosed pursuant to this subsection and subsection (1) of this section.

29 (4) A law enforcement agency may make reports and records compiled under the provisions of
30 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-
31 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement
32 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
33 to child abuse and neglect.

34 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
35 case relating to child abuse or neglect, shall make reports and records in the case available upon
36 request to any law enforcement agency or community corrections agency in this state, to the De-
37 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
38 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
39 or other form of conditional or supervised release. A law enforcement agency may make reports and
40 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
41 community corrections, corrections or parole agencies in an open case when the law enforcement
42 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
43 The name, address and other identifying information about the person who made the report may not
44 be disclosed under this subsection or subsection (6)(b) of this section.

45 (6)(a) Any record made available to a law enforcement agency or community corrections agency

1 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-
 2 vision or to a physician, **physician assistant or nurse practitioner** in this state, as authorized by
 3 subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board
 4 [or], physician, **physician or nurse practitioner**. Any record or report disclosed by the Department
 5 of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section
 6 shall be kept confidential.

7 (b) Notwithstanding paragraph (a) of this subsection:

8 (A) A law enforcement agency, a community corrections agency, the Department of Corrections
 9 and the State Board of Parole and Post-Prison Supervision may disclose records made available to
 10 them under subsection (5) of this section to each other, to law enforcement, community corrections,
 11 corrections and parole agencies of other states and to authorized treatment providers for the pur-
 12 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-
 13 vision or other form of conditional or supervised release.

14 (B) A person may disclose records made available to the person under subsection (1)(i) of this
 15 section if the records are disclosed for the purpose of advancing the public interest.

16 (7) An officer or employee of the Department of Human Services or of a law enforcement agency
 17 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section
 18 may not release any information not authorized by subsections (1) to (6) of this section.

19 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
 20 181.010.

21 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

22 **SECTION 44.** ORS 419B.352 is amended to read:

23 419B.352. The court may direct that the child or ward be examined or treated by a physician,
 24 psychiatrist [or], psychologist, **physician assistant licensed under ORS 677.505 to 677.525 or**
 25 **nurse practitioner licensed under ORS 678.375 to 678.390**, or receive other special care or
 26 treatment in a hospital or other suitable facility. If the court determines that mental health exam-
 27 ination and treatment should be provided by services delivered through the Department of Human
 28 Services, the department shall determine the appropriate placement or services in consultation with
 29 the court and other affected agencies. If an affected agency objects to the type of placement or
 30 services, the court shall determine the appropriate type of placement or service. During the exam-
 31 ination or treatment of the child or ward, the department may, if appropriate, be appointed guardian
 32 of the child or ward.

33 **SECTION 45.** ORS 421.467 is amended to read:

34 421.467. (1) Subject to ORS 421.468, the governing body of a county or city in this state may
 35 transfer a local inmate to the temporary custody of the Department of Corrections solely for em-
 36 ployment at a forest work camp established under ORS 421.455 to 421.480. The county or city
 37 transferring the local inmate shall pay the cost of transportation and other expenses incidental to
 38 the local inmate's conveyance to the forest work camp and the return of the local inmate to the
 39 county or city, including the expenses of law enforcement officers accompanying the local inmate,
 40 and is responsible for costs of any medical treatment of the local inmate while the local inmate is
 41 employed at the forest work camp not compensated under ORS 655.505 to 655.555.

42 (2) Before a local inmate is sent to a forest work camp, the governing body of the county or city
 43 shall cause the local inmate to be given such inoculations as are necessary in the public interest,
 44 and must submit to the Department of Corrections a certificate, signed by a physician licensed under
 45 ORS chapter 677, **physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-**

1 **tioner licensed under ORS 678.375 to 678.390** that the local inmate is physically and mentally able
2 to perform the work described in ORS 421.470, and is free from communicable disease.

3 **SECTION 46.** ORS 421.590 is amended to read:

4 421.590. (1) For the purposes of this section:

5 (a) "Medical treatment program" means a treatment program based on a successful medical
6 model that has been proven to reduce recidivism[, *and that may include*] **and that is within the**
7 **range of treatments generally recognized as acceptable within the medical community, in-**
8 **cluding:**

9 (A) Treatment by prescribed medication when recommended by a qualified psychiatrist [or],
10 physician, **physician assistant or nurse practitioner; or**

11 (B) Psychological treatment[, *or both*]. [*Any treatment administered under a medical treatment*
12 *program must be within the range of treatments generally recognized as acceptable within the medical*
13 *community.*]

14 (b) "Program participant" means a person sentenced for a term of imprisonment based on con-
15 viction of a sex crime or a felony attempt to commit a sex crime, or a person who is eligible for
16 parole or post-prison supervision after a term of imprisonment based on conviction of a sex crime
17 or a felony attempt to commit a sex crime, who agrees to participate in a medical treatment program
18 after having been evaluated to be a suitable candidate and who has been provided with adequate
19 information to give informed consent to participation.

20 (c) "Sex crime" means rape in any degree, sodomy in any degree, unlawful sexual penetration
21 in any degree and sexual abuse in the first or second degree.

22 (2) The Department of Corrections shall establish a medical treatment program for persons
23 convicted of a sex crime or a felony attempt to commit a sex crime. Any person sentenced for a sex
24 crime or a felony attempt to commit a sex crime may be evaluated to determine if available medical
25 or psychological treatment would be likely to reduce the biological, emotional or psychological im-
26 pulses that were the probable cause of the person's criminal conduct. If the evaluation determines
27 that the person is a suitable candidate, the department shall offer to allow the person to participate
28 in the medical treatment program. The person must agree to become a program participant.

29 (3) The State Board of Parole and Post-Prison Supervision shall offer as a condition of parole
30 or post-prison supervision to persons convicted of a sex crime or a felony attempt to commit a sex
31 crime the opportunity to participate in a medical treatment program established by the Department
32 of Corrections under this section. Any person eligible for release for a sex crime or felony attempt
33 to commit a sex crime may be evaluated to determine if available medical or psychological treatment
34 would be likely to reduce the biological, emotional or psychological impulses that were the probable
35 cause of the person's criminal conduct. If the evaluation determines that the person is a suitable
36 candidate, the board shall offer to allow the person to participate in the medical treatment program.
37 The person must agree to become a program participant.

38 (4) The Department of Corrections shall adopt rules prescribing the procedures and guidelines
39 for implementing the medical treatment programs required under the provisions of this section.

40 **SECTION 47.** ORS 430.401 is amended to read:

41 430.401. No peace officer, treatment facility and staff, physician, **physician assistant, nurse**
42 **practitioner** or judge shall be held criminally or civilly liable for actions pursuant to ORS 430.315,
43 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and
44 without malice.

45 **SECTION 48.** ORS 430.735 is amended to read:

- 1 430.735. As used in ORS 430.735 to 430.765:
- 2 (1) "Abuse" means one or more of the following:
- 3 (a) Abandonment, including desertion or willful forsaking of a person with a developmental dis-
- 4 ability or the withdrawal or neglect of duties and obligations owed a person with a developmental
- 5 disability by a caregiver or other person.
- 6 (b) Any physical injury to an adult caused by other than accidental means, or that appears to
- 7 be at variance with the explanation given of the injury.
- 8 (c) Willful infliction of physical pain or injury upon an adult.
- 9 (d) Sexual abuse of an adult.
- 10 (e) Neglect.
- 11 (f) Verbal abuse of a person with a developmental disability.
- 12 (g) Financial exploitation of a person with a developmental disability.
- 13 (h) Involuntary seclusion of a person with a developmental disability for the convenience of the
- 14 caregiver or to discipline the person.
- 15 (i) A wrongful use of a physical or chemical restraint upon a person with a developmental dis-
- 16 ability, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677,
- 17 **physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under**
- 18 **ORS 678.373 to 678.390** and any treatment activities that are consistent with an approved treatment
- 19 plan or in connection with a court order.
- 20 (j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
- 21 163.465 or 163.467.
- 22 (k) Any death of an adult caused by other than accidental or natural means.
- 23 (2) "Adult" means a person 18 years of age or older with:
- 24 (a) A developmental disability who is currently receiving services from a community program
- 25 or facility or was previously determined eligible for services as an adult by a community program
- 26 or facility; or
- 27 (b) A mental illness who is receiving services from a community program or facility.
- 28 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-
- 29 tation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and
- 30 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to
- 31 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides
- 32 for the greatest degree of independence.
- 33 (4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed re-
- 34 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.
- 35 (5) "Community program" means a community mental health program or a community develop-
- 36 mental disabilities program as established in ORS 430.610 to 430.695.
- 37 (6) "Facility" means a residential treatment home or facility, residential care facility, adult fos-
- 38 ter home, residential training home or facility or crisis respite facility.
- 39 (7) "Financial exploitation" means:
- 40 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a
- 41 person with a developmental disability.
- 42 (b) Alarming a person with a developmental disability by conveying a threat to wrongfully take
- 43 or appropriate money or property of the person if the person would reasonably believe that the
- 44 threat conveyed would be carried out.
- 45 (c) Misappropriating, misusing or transferring without authorization any money from any ac-

1 count held jointly or singly by a person with a developmental disability.

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

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

5 (9) "Law enforcement agency" means:

6 (a) Any city or municipal police department;

7 (b) A police department established by a university under ORS 352.383 or 353.125;

8 (c) Any county sheriff's office;

9 (d) The Oregon State Police; or

10 (e) Any district attorney.

11 (10) "Neglect" means:

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

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

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

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

21 (12) "Public or private official" means:

22 (a) Physician licensed under ORS chapter 677, **physician assistant licensed under ORS 677.505**
23 **to 677.525**, naturopathic physician, psychologist or chiropractor, including any intern or resident;

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

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

29 (d) Peace officer;

30 (e) Member of the clergy;

31 (f) Regulated social worker;

32 (g) Physical, speech or occupational therapist;

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

34 (i) Attorney;

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

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

38 (L) Firefighter or emergency medical services provider.

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

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

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

45 (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-

1 rial or language;

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

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

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

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

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

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

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

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

15 **SECTION 49.** ORS 431.180 is amended to read:

16 431.180. Nothing in the public health laws shall be construed to empower or authorize the
17 Oregon Health Authority or its representatives, or any county or district board of health or its
18 representatives to interfere in any manner with the individual's right to select the physician, **phy-**
19 **sician assistant or nurse practitioner of the choice of the individual** or mode of treatment of
20 the choice of the individual, nor interfere with the practice of any person whose religion treats or
21 administers to people who are sick or suffering by purely spiritual means. However, sanitary laws
22 and rules must be complied with.

23 **SECTION 50.** ORS 432.005 is amended to read:

24 432.005. As used in this chapter, unless the context requires otherwise:

25 (1) "Amendment" means a change to an item that appears on a certified copy of a vital record
26 after a certified copy has been issued.

27 (2) "Authorized representative" means an agent designated in a written statement signed by the
28 registrant or other qualified applicant, the signing of which was witnessed.

29 (3) "Certified copy" means the document, in either paper or electronic format, issued by the
30 State Registrar of the Center for Health Statistics and containing all or a part of the information
31 contained on the original vital record, and which, when issued by the state registrar, has the full
32 force and effect of the original vital record.

33 (4) "Certified copy item" means any item of information that appears on a certified copy.

34 (5) "Certifier" means a person required to attest to the accuracy of information submitted on a
35 report.

36 (6) "Correction" means a change to an item that is not included in a certified copy of a vital
37 record, or a change to an item that is included in a certified copy provided that no certified copy
38 has been issued.

39 (7) "Court of competent jurisdiction" means a court within the United States with jurisdiction
40 over a person subject to regulation under this chapter.

41 (8) "Date of registration" means the month, day and year a vital record is incorporated into the
42 official records of the Center for Health Statistics.

43 (9) "Dead body" means a human body or such parts of such human body from the condition of
44 which it reasonably may be concluded that death occurred.

45 (10) "Electronic signature" means an electronic sound, symbol or process attached to or log-

1 ically associated with a contract or other record that is executed or adopted by a person with the
2 intent to attest to the accuracy of the facts in the record.

3 (11) "Government agency" means a unit of federal, state, local or tribal government.

4 (12) "Health research" means a systematic study to gain information and understanding about
5 health, with the goal of finding ways to improve human health, that conforms to or is conducted in
6 accordance with generally accepted scientific standards or principles and that is designed to develop
7 or contribute to general scientific knowledge.

8 (13) "Facts of live birth" means the name of the child, date of birth, place of birth, sex and
9 parent's name or parents' names appearing on the record of live birth.

10 (14) "Fetal death" means death prior to the complete expulsion or extraction from its mother
11 of a product of human conception, irrespective of the duration of pregnancy, that is not an induced
12 termination of pregnancy. The death is indicated by the fact that after such expulsion or extraction
13 the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation
14 of the umbilical cord or definite movement of the voluntary muscles.

15 (15) "Final disposition" means the burial, interment, cremation, removal from the state or other
16 authorized disposition of a dead body or fetus, except that when removal from the state is conducted
17 by the holder of a certificate of removal registration issued under ORS 692.270, the final disposition
18 may not be considered complete until the report of death is filed.

19 (16)(a) "Human remains" means a dead body.

20 (b) "Human remains" does not include human ashes recovered after cremation.

21 (17)(a) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine
22 pregnancy with the intention other than to produce a live-born infant and that does not result in a
23 live birth.

24 (b) "Induced termination of pregnancy" does not include management of prolonged retention of
25 products of conception following fetal death.

26 (18) "Institution" means any establishment, public or private, that provides inpatient or outpa-
27 tient medical, surgical or diagnostic care or treatment or nursing, custodial or domiciliary care, or
28 to which persons are committed by law.

29 (19) "Interment" means the disposition of human remains by entombment or burial.

30 (20) "Legal representative" means a licensed attorney representing the registrant or other
31 qualified applicant.

32 (21) "Live birth" means the complete expulsion or extraction from its mother of a product of
33 human conception, irrespective of the duration of pregnancy, that, after such expulsion or ex-
34 traction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the
35 umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has
36 been cut or the placenta is attached.

37 (22) "Medical certifier" means a physician, physician assistant or nurse practitioner licensed
38 under the laws of this state or under the laws of Washington, Idaho or California who has treated
39 a decedent within the 12 months preceding death.

40 (23) "Person acting as a funeral service practitioner" means:

41 (a) A person other than a funeral service practitioner licensed under ORS 692.045, including but
42 not limited to a relative, friend or other interested party, who performs the duties of a funeral ser-
43 vice practitioner without payment; or

44 (b) A funeral service practitioner who submits reports of death in another state if the funeral
45 service practitioner is employed by a funeral establishment licensed in another state and registered

1 with the State Mortuary and Cemetery Board under ORS 692.270.

2 (24) "Person in charge of an institution" means the officer or employee who is responsible for
3 administration of an institution.

4 (25) "Personally identifiable information" means information that can be used to distinguish or
5 trace an individual's identity or, when combined with other personal or identifying information, is
6 linked or linkable to a specific individual.

7 (26) "Physician" means a person authorized to practice medicine, osteopathy, chiropractic or
8 naturopathic medicine under the laws of this state or under the laws of Washington, Idaho or
9 California, **a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner
10 licensed under ORS 678.375 to 678.390.**

11 (27) "Record" means a report that has been registered by the state registrar.

12 (28) "Record of foreign live birth" means a document registered by the state registrar for a
13 person born in a foreign country who may or may not be a citizen of the United States and who
14 was adopted under the laws of this state.

15 (29) "Registration" means the process by which vital records and reports are accepted and in-
16 corporated into the official records of the Center for Health Statistics.

17 (30) "Report" means a document, whether in paper or electronic format, containing information
18 related to a vital event submitted by a person required to submit the information to the state
19 registrar for the purpose of registering a vital event.

20 (31) "State" includes a state or territory of the United States, the District of Columbia and New
21 York City.

22 (32) "System of vital statistics" means:

23 (a) The collection, registration, preservation, amendment, certification and verification of, and
24 the maintenance of the security and integrity of, vital records;

25 (b) The collection of reports required by this chapter; and

26 (c) Activities related to the activities described in paragraphs (a) and (b) of this subsection, in-
27 cluding the tabulation, analysis, dissemination and publication of vital statistics and training in the
28 use of health data.

29 (33) "Verification" means confirmation of the information on a vital record based on the facts
30 contained in a report.

31 (34) "Vital record" means a report of a live birth, death, fetal death, marriage, declaration of
32 domestic partnership, dissolution of marriage or domestic partnership and related data that have
33 been accepted for registration and incorporated into the official records of the Center for Health
34 Statistics.

35 (35) "Vital statistics" means the aggregated data derived from records and reports of live birth,
36 death, fetal death, induced termination of pregnancy, marriage, declaration of domestic partnership,
37 dissolution of marriage, dissolution of domestic partnership and supporting documentation and re-
38 lated reports.

39 **SECTION 51.** ORS 432.088 is amended to read:

40 432.088. (1) A report of live birth for each live birth that occurs in this state shall be submitted
41 to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for
42 Health Statistics, within five calendar days after the live birth and shall be registered if the report
43 has been completed and filed in accordance with this section.

44 (2) The physician, institution or other person providing prenatal care related to a live birth shall
45 provide prenatal care information as required by the state registrar by rule to the institution where

1 the delivery is expected to occur not less than 30 calendar days prior to the expected delivery date.

2 (3) When a live birth occurs in an institution or en route to an institution, the person in charge
3 of the institution or an authorized designee shall obtain all data required by the state registrar,
4 prepare the report of live birth, certify either by signature or electronic signature that the child
5 was born alive at the place and time and on the date stated and submit the report as described in
6 subsection (1) of this section.

7 (4) In obtaining the information required for the report of live birth, an institution shall use
8 information gathering procedures provided or approved by the state registrar. Institutions may es-
9 tablish procedures to transfer, electronically or otherwise, information required for the report from
10 other sources, provided that the procedures are reviewed and approved by the state registrar prior
11 to the implementation of the procedures to ensure that the information being transferred is the same
12 as the information being requested.

13 (5)(a) When a live birth occurs outside an institution, the information for the report of live birth
14 shall be submitted within five calendar days of the live birth in a format adopted by the state
15 registrar by rule in the following order of priority:

16 (A) By an institution where the mother and child are examined, if examination occurs within
17 24 hours of the live birth;

18 (B) By a physician in attendance at the live birth;

19 (C) By a [*nurse practitioner, as defined in ORS 678.010, or*] direct entry midwife licensed under
20 ORS 687.405 to 687.495 in attendance at the live birth;

21 (D) By a person not described in subparagraphs (A) to (C) of this paragraph and not required
22 by law to be licensed to practice midwifery who is registered with the Center for Health Statistics
23 to submit reports of live birth and who was in attendance at the live birth; or

24 (E) By the father, the mother or, in the absence of the father and the inability of the mother,
25 the person in charge of the premises where the live birth occurred.

26 (b) The state registrar may establish by rule the manner of submitting the information for the
27 report of live birth by a person described in paragraph (a)(D) of this subsection or a physician[,
28 *nurse practitioner*] or licensed direct entry midwife who attends the birth of his or her own child,
29 grandchild, niece or nephew.

30 (6) When a report of live birth is submitted that does not include the minimum acceptable doc-
31 umentation required by this section or any rules adopted under this section, or when the state
32 registrar has cause to question the validity or adequacy of the documentation, the state registrar,
33 in the state registrar's discretion, may refuse to register the live birth and shall enter an order to
34 that effect stating the reasons for the action. The state registrar shall advise the applicant of the
35 right to appeal under ORS 183.484.

36 (7) When a live birth occurs on a moving conveyance:

37 (a) Within the United States and the child is first removed from the conveyance in this state,
38 the live birth shall be registered in this state and the place where it is first removed shall be con-
39 sidered the place of live birth.

40 (b) While in international waters or air space or in a foreign country or its air space and the
41 child is first removed from the conveyance in this state, the birth shall be registered in this state
42 but the report of live birth shall show the actual place of birth insofar as can be determined.

43 (8) For purposes of making a report of live birth and live birth registration, the woman who
44 gives live birth is the live birth mother. If a court of competent jurisdiction determines that a
45 woman other than the live birth mother is the biological or genetic mother, the court may order the

1 state registrar to amend the record of live birth. The record of live birth shall then be placed under
2 seal.

3 (9)(a) If the mother is married at the time of either conception or live birth, or within 300 days
4 before the live birth, the name of the husband shall be entered on the report of live birth as the
5 father of child unless parentage has been determined otherwise by a court of competent jurisdiction.

6 (b) If the mother is not married at the time of either conception or live birth, or within 300 days
7 before the live birth, the name of the father shall not be entered on the report of live birth unless
8 a voluntary acknowledgment of paternity form or other form prescribed under ORS 432.098 is:

9 (A) Signed by the mother and the person to be named as the father; and

10 (B) Filed with the state registrar.

11 (c) If the mother is a partner in a domestic partnership registered by the state at the time of
12 either conception or live birth, or between conception and live birth, the name of the mother's
13 partner shall be entered on the report of live birth as a parent of the child, unless parentage has
14 been determined otherwise by a court of competent jurisdiction.

15 (d) In any case in which paternity of a child is determined by a court of competent jurisdiction,
16 or by an administrative determination of paternity, the Center for Health Statistics shall enter the
17 name of the father on the new record of live birth. The Center for Health Statistics shall change the
18 surname of the child if so ordered by the court or, in a proceeding under ORS 416.430, by the ad-
19 ministrator as defined in ORS 25.010.

20 (e) If a biological parent is not named on the report of live birth, information other than the
21 identity of the biological parent may be entered on the report.

22 (10) A parent of the child, or other informant as determined by the state registrar by rule, shall
23 verify the accuracy of the personal data to be entered on a report of live birth in time to permit
24 submission of the report within the five calendar days of the live birth.

25 (11) A report of live birth submitted after five calendar days, but within one year after the date
26 of live birth, shall be registered in the manner prescribed in this section. The record shall not be
27 marked "Delayed."

28 (12) The state registrar may require additional evidence in support of the facts of live birth.

29 **SECTION 52.** ORS 433.010 is amended to read:

30 433.010. (1) No person shall willfully cause the spread of any communicable disease within this
31 state.

32 (2) Whenever [*Oregon Revised Statutes*] **the laws of this state** require a person to secure a
33 health certificate, such certificate shall be acquired from a physician licensed by the Oregon Med-
34 ical Board or the Oregon Board of Naturopathic Medicine, **a physician assistant licensed under**
35 **ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390** in ac-
36 cordance with [*the*] rules [*of*] **adopted by** the Oregon Health Authority.

37 **SECTION 53.** ORS 433.017 is amended to read:

38 433.017. (1) [*Every*] **A licensed physician, physician assistant licensed under ORS 677.505 to**
39 **677.525 or nurse practitioner licensed under ORS 678.375 to 678.390** attending a pregnant woman
40 in this state for conditions relating to her pregnancy during the period of gestation or at the time
41 of delivery shall, as required by rule of the Oregon Health Authority, take or cause to be taken a
42 sample of blood of every woman so attended at the time of the first professional visit or within 10
43 days thereafter. The blood specimen thus obtained shall be submitted to a licensed laboratory for
44 such tests related to any infectious condition which may affect a pregnant woman or fetus, as the
45 authority shall by rule require, including but not limited to an HIV test as defined in ORS 433.045.

1 (2) Every other person permitted by law to attend a pregnant woman in this state, but not per-
2 mitted by law to take blood samples, shall, as required by rule of the authority, cause a sample of
3 blood of such pregnant woman to be taken by a licensed physician, **physician assistant licensed**
4 **under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390** and
5 have such sample submitted to a licensed laboratory for the tests described under subsection (1) of
6 this section.

7 (3) In all cases under subsections (1) and (2) of this section the physician, **physician assistant**
8 **or nurse practitioner** shall request consent of the patient to take a blood sample. No sample shall
9 be taken without such consent.

10 **SECTION 54.** ORS 433.110 is amended to read:

11 433.110. Every physician, **physician assistant** or nurse attending a person affected with any
12 communicable disease shall use all precautionary measures to prevent the spread of the disease as
13 the Oregon Health Authority may prescribe by rule.

14 **SECTION 55.** ORS 433.260 is amended to read:

15 433.260. (1) Whenever any administrator has reason to suspect that any child or employee has
16 or has been exposed to any restrictable disease and is required by the rules of the Oregon Health
17 Authority to be excluded from a school or children's facility, the administrator shall send such
18 person home and, if the disease is one that must be reported to the authority, report the occurrence
19 to the local health department by the most direct means available.

20 (2) Any person excluded under subsection (1) of this section may not be permitted to be in the
21 school or facility until the person presents a certificate from a physician, **physician assistant li-**
22 **censed under ORS 677.505 to 677.525**, nurse practitioner **licensed under ORS 678.375 to 678.390**,
23 local health department nurse or school nurse stating that the person does not have or is not a
24 carrier of any restrictable disease.

25 **SECTION 56.** ORS 435.205 is amended to read:

26 435.205. (1) The Oregon Health Authority and every county health department shall offer family
27 planning and birth control services within the limits of available funds. Both agencies jointly may
28 offer such services. The Director of the Oregon Health Authority or a designee shall initiate and
29 conduct discussions of family planning with each person who might have an interest in and benefit
30 from such service. The authority shall furnish consultation and assistance to county health depart-
31 ments.

32 (2) Family planning and birth control services may include interviews with trained personnel;
33 distribution of literature; referral to a licensed physician, **physician assistant licensed under ORS**
34 **677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390** for consultation,
35 examination, medical treatment and prescription; and, to the extent so prescribed, the distribution
36 of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices
37 and similar products.

38 (3) Any literature, charts or other family planning and birth control information offered under
39 this section in counties in which a significant segment of the population does not speak English shall
40 be made available in the appropriate foreign language for that segment of the population.

41 (4) In carrying out its duties under this section, and with the consent of the county governing
42 body, any county health department may adopt a fee schedule for services provided by the county
43 health department. The fees shall be reasonably calculated not to exceed costs of services provided
44 and may be adjusted on a sliding scale reflecting ability to pay.

45 (5) The county health department shall collect fees according to the schedule adopted under

1 subsection (4) of this section. Such fees may be used to meet the expenses of providing the services
2 authorized by this section.

3 **SECTION 57.** ORS 435.305 is amended to read:

4 435.305. (1) A person may be sterilized by appropriate means upon request and upon the advice
5 of a [*physician licensed by the Oregon Medical Board*] **physician licensed under ORS chapter 677**
6 **or physician assistant licensed under ORS 677.505 to 677.525.**

7 (2) [*No physician or hospital may*] **A health care provider described in subsection (1) of this**
8 **section or a hospital may not** be held liable for performing a sterilization without obtaining the
9 consent of the spouse of the person sterilized.

10 (3) Free clinics to sterilize males under subsection (1) of this section may be conducted as a part
11 of the program provided for in ORS 435.205.

12 (4)(a) A nurse practitioner licensed by the Oregon State Board of Nursing under ORS 678.375
13 and acting within the scope of practice authorized by the board may provide medical advice to any
14 person about a sterilization procedure.

15 (b) A nurse practitioner may acknowledge and sign a consent to sterilization procedure form if,
16 no fewer than 30 days before the procedure, the form is provided to and signed by the person on
17 whom the procedure will be performed.

18 (c) A nurse practitioner may not acknowledge or sign a consent to sterilization procedure form
19 if the form is provided to or signed by the person on whom the procedure will be performed fewer
20 than 30 days before the procedure.

21 (d) A nurse practitioner may not perform a sterilization procedure on any person.

22 **SECTION 58.** ORS 436.225 is amended to read:

23 436.225. (1) In obtaining informed consent for sterilization a physician, **physician assistant or**
24 **nurse practitioner** must offer to answer any questions the individual to be sterilized may have
25 concerning the proposed procedure, and must provide orally all of the following information or ad-
26 vice to the individual to be sterilized:

27 (a) Advice that the individual is free to withhold or withdraw consent to the procedure at any
28 time before the sterilization without affecting the right to future care or treatment;

29 (b) A description of available alternative methods of family planning and birth control;

30 (c) Advice that the sterilization procedure is considered to be irreversible;

31 (d) A thorough explanation of the specific sterilization procedure to be performed;

32 (e) A full description of the discomforts and risks that may accompany or follow the performing
33 of the procedure, including an explanation of the type and possible effects of any anesthetic to be
34 used; and

35 (f) A full description of the benefits or advantages that may be expected as a result of the
36 sterilization.

37 (2) A natural parent, or a legal guardian or conservator of a minor child or protected person
38 appointed under ORS chapter 125, may not give substitute consent for sterilization.

39 (3) Whenever any physician, **physician assistant or nurse practitioner** has reason to believe
40 an individual 15 years of age or older is unable to give informed consent, no sterilization shall be
41 performed until it is determined by a circuit court that the individual involved is able to and has
42 given informed consent. Whenever the court determines, under the provisions of this chapter, that
43 a person lacks the ability to give informed consent, the court shall permit sterilization only if the
44 person is 18 years of age or older and only upon showing that such operation, treatment or proce-
45 dure is in the best interest of the individual.

1 (4) Informed consent may not be obtained while the individual to be sterilized is:

2 (a) In labor or childbirth;

3 (b) Seeking to obtain or obtaining an abortion; or

4 (c) Under the influence of alcohol or other substances that affect the individual's state of
5 awareness.

6 **SECTION 59.** ORS 436.235 is amended to read:

7 436.235. A petition for a determination of a person's ability to give informed consent to a
8 sterilization procedure may be filed by the person seeking sterilization, the attending physician,
9 **physician assistant or nurse practitioner** of the person seeking sterilization, or by an interested
10 person concerned with the respondent's health and well-being. Such a petition shall be filed in the
11 circuit court in the county in which the respondent resides or has domicile.

12 **SECTION 60.** ORS 436.295 is amended to read:

13 436.295. (1) If the court does not determine by clear and convincing evidence that the respondent
14 lacks the ability to give informed consent for sterilization:

15 (a) If the court determines that the respondent has the ability to give informed consent to
16 sterilization, the court shall issue an order so stating and permitting the sterilization to be per-
17 formed. Prior to the performance of the sterilization, the physician, **physician assistant or nurse**
18 **practitioner** and hospital involved shall obtain the written informed consent of the person for
19 sterilization.

20 (b) If the respondent refuses to consent to sterilization, the court shall issue an order so stating
21 and forbidding sterilization of the respondent, unless the respondent later makes a different choice
22 and only after a rehearing under this section.

23 (2) If the court determines by clear and convincing evidence that the respondent lacks the
24 ability to give informed consent for sterilization, the court shall retain its jurisdiction and continue
25 the hearing to determine whether sterilization is in the best interests of the respondent.

26 **SECTION 61.** ORS 443.065 is amended to read:

27 443.065. The home health agency shall:

28 (1) Be primarily engaged in providing skilled nursing services and at least one other service
29 delineated in ORS 443.075 (1)(b) and (c);

30 (2) Have policies established by professional personnel associated with the agency or organiza-
31 tion, including one or more physicians and one or more registered nurses, at least two of whom are
32 neither owners nor employees of the agency, and two consumers, to govern the services that it
33 provides;

34 (3) Require supervision of services that it provides under subsection (1) of this section by a
35 physician, **physician assistant**, nurse practitioner or registered nurse, preferably a public health
36 nurse;

37 (4) Maintain clinical and financial records on all patients; and

38 (5) Have an overall plan and budget in effect.

39 **SECTION 62.** ORS 443.075 is amended to read:

40 443.075. (1) A home health agency must have an order for treatment, plan of treatment or plan
41 of care from a physician, **physician assistant licensed under ORS 677.505 to 677.525** or nurse
42 practitioner **licensed under ORS 678.375 to 678.390** for the following services and supplies:

43 (a) Home nursing care provided by or under the supervision of a registered nurse;

44 (b) Physical, occupational or speech therapy, medical social services or other therapeutic ser-
45 vices;

1 (c) Home health aide services; and

2 (d) Medical supplies, other than drugs and biologicals, and the use of medical appliances.

3 (2) A home health agency shall have each plan of treatment or plan of care reviewed by the
4 physician, **physician assistant** or nurse practitioner periodically, in accordance with rules adopted
5 by the Oregon Health Authority.

6 **SECTION 63.** ORS 443.850 is amended to read:

7 443.850. As used in ORS 443.850 to 443.869:

8 (1) "Hospice program" means a coordinated program of home and inpatient care, available 24
9 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and
10 supportive services to a patient-family unit experiencing a life threatening disease with a limited
11 prognosis. A hospice program is an institution for purposes of ORS 146.100.

12 (2) "Hospice services" means items and services provided to a patient-family unit by a hospice
13 program or by other individuals or community agencies under a consulting or contractual arrange-
14 ment with a hospice program. Hospice services include acute, respite, home care and bereavement
15 services provided to meet the physical, psychosocial, spiritual and other special needs of a patient-
16 family unit during the final stages of illness, dying and the bereavement period.

17 (3) "Interdisciplinary team" means a group of individuals working together in a coordinated
18 manner to provide hospice care. An interdisciplinary team includes, but is not limited to, the
19 patient-family unit, the patient's attending physician or clinician and one or more of the following
20 hospice program personnel:

21 (a) Physician.

22 **(b) Physician assistant.**

23 [(b)] **(c)** Nurse practitioner.

24 [(c)] **(d)** Nurse.

25 [(d)] **(e)** Nurse's aide.

26 [(e)] **(f)** Occupational therapist.

27 [(f)] **(g)** Physical therapist.

28 [(g)] **(h)** Trained lay volunteer.

29 [(h)] **(i)** Clergy or spiritual counselor.

30 [(i)] **(j)** Credentialed mental health professional such as psychiatrist, psychologist, psychiatric
31 nurse or social worker.

32 (4) "Patient-family unit" includes an individual who has a life threatening disease with a limited
33 prognosis and all others sharing housing, common ancestry or a common personal commitment with
34 the individual.

35 (5) "Person" includes individuals, organizations and groups of organizations.

36 **SECTION 64.** ORS 453.307 is amended to read:

37 453.307. As used in ORS 453.307 to 453.414:

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

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

45 (3) "Employer" means:

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

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

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

6 (5) "Hazardous substance" means:

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

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

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

15 (6) "Health professional" means a physician [*as defined in ORS 677.010,*] **licensed under ORS**
16 **chapter 677, physician assistant licensed under ORS 677.505 to 677.525**, registered nurse, in-
17 dustrial hygienist, toxicologist, epidemiologist or emergency medical services provider.

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

19 (8) "Local government" means a city, town, county, regional authority or other political subdi-
20 vision of this state.

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

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

25 **SECTION 65.** ORS 475.744 is amended to read:

26 475.744. (1) No person shall sell or give a hypodermic device to a minor unless the minor dem-
27 onstrates a lawful need therefor by authorization of a physician, **physician assistant licensed un-**
28 **der ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390**, parent
29 or legal guardian or by other means acceptable to the seller or donor.

30 (2) As used in this section, "hypodermic device" means a hypodermic needle or syringe or
31 medication packaged in a hypodermic syringe or any instrument adapted for the subcutaneous in-
32 jection of a controlled substance as defined in ORS 475.005.

33 **SECTION 66.** ORS 475.950 is amended to read:

34 475.950. (1) A person commits the offense of failure to report a precursor substances transaction
35 if the person does any of the following:

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

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

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

44 (a) Any pharmacist or other authorized person who sells or furnishes a precursor substance
45 upon the prescription of a physician licensed under ORS chapter 677, **physician assistant licensed**

1 **under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,** dentist
2 or veterinarian.

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

5 (c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise fur-
6 nishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677,
7 **physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under**
8 **ORS 678.375 to 678.390,** dentist or veterinarian for distribution to patients upon prescription.

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

11 (e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance
12 from a licensed pharmacist, physician licensed under ORS chapter 677, **physician assistant li-**
13 **icensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,**
14 dentist or veterinarian pursuant to a prescription.

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

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

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

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

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

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

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

30 **SECTION 67.** ORS 475.975 is amended to read:

31 475.975. (1) Except as otherwise provided in subsection (2) of this section, a person commits the
32 crime of unlawful possession of iodine in its elemental form if the person knowingly possesses iodine
33 in its elemental form.

34 (2) Subsection (1) of this section does not apply to:

35 (a) A physician, **physician assistant licensed under ORS 677.505 to 677.525, nurse practi-**
36 **tioner licensed under ORS 678.375 to 678.390,** pharmacist, retail distributor, wholesaler, manufac-
37 turer, warehouseman or common carrier or an agent of any of these persons who possesses iodine
38 in its elemental form in the regular course of lawful business activities;

39 (b) A person who possesses iodine in its elemental form in conjunction with experiments con-
40 ducted in a chemistry or chemistry related laboratory maintained by a:

41 (A) Regularly established public or private secondary school;

42 (B) Public or private institution of higher education that is accredited by a regional or national
43 accrediting agency recognized by the United States Department of Education; or

44 (C) Manufacturing, government agency or research facility in the course of lawful business ac-
45 tivities;

1 (c) A licensed veterinarian;

2 (d) A person working in a general hospital who possesses iodine in its elemental form in the
3 regular course of employment at the hospital; or

4 (e) A person who possesses iodine in its elemental form as a prescription drug pursuant to a
5 prescription issued by a licensed veterinarian [*or*], physician, **physician assistant licensed under**
6 **ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390.**

7 (3) Except as otherwise provided in subsection (4) of this section, a person who sells or other-
8 wise transfers iodine in its elemental form to another person shall make a record of each sale or
9 transfer. The record must be made on a form provided by the Department of State Police, completed
10 pursuant to instructions provided by the department and retained by the person for at least three
11 years or sent to the department if directed to do so by the department. Failure to make and retain
12 or send a record required under this subsection is a Class A misdemeanor.

13 (4) A licensed veterinarian is not required to make a record of a sale or transfer of iodine in its
14 elemental form under subsection (3) of this section if the veterinarian makes a record of the sale
15 or transfer under other applicable laws or rules regarding the prescribing and dispensing of regu-
16 lated or controlled substances by veterinarians.

17 (5) A person commits the crime of unlawful distribution of iodine in its elemental form if the
18 person knowingly sells or otherwise transfers iodine in its elemental form to a person not listed in
19 subsection (2) of this section.

20 (6) Unlawful possession of iodine in its elemental form is a Class A misdemeanor.

21 (7) Unlawful distribution of iodine in its elemental form is a Class A misdemeanor.

22 **SECTION 68.** ORS 475.976 is amended to read:

23 475.976. (1) Except as otherwise provided in subsection (2) of this section, a person commits the
24 crime of unlawful possession of an iodine matrix if the person knowingly possesses an iodine matrix.

25 (2) Subsection (1) of this section does not apply to:

26 (a) A person who possesses an iodine matrix as a prescription drug, pursuant to a prescription
27 issued by a licensed veterinarian [*or physician*], **physician, physician assistant licensed under**
28 **ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390;**

29 (b) A person who is actively engaged in the practice of animal husbandry of livestock as defined
30 in ORS 609.125;

31 (c) A person who possesses an iodine matrix in conjunction with experiments conducted in a
32 chemistry or chemistry related laboratory maintained by a:

33 (A) Regularly established public or private secondary school;

34 (B) Public or private institution of higher education that is accredited by a regional or national
35 accrediting agency recognized by the United States Department of Education; or

36 (C) Manufacturing, government agency or research facility in the course of lawful business ac-
37 tivities;

38 (d) A veterinarian, physician, **physician assistant licensed under ORS 677.505 to 677.525,**
39 **nurse practitioner licensed under ORS 678.375 to 678.390,** pharmacist, retail distributor, whole-
40 saler, manufacturer, warehouseman or common carrier or an agent of any of these persons who
41 possesses an iodine matrix in the regular course of lawful business activities; or

42 (e) A person working in a general hospital who possesses an iodine matrix in the regular course
43 of employment at the hospital.

44 (3) Except as otherwise provided in subsection (4) of this section, a person who sells or other-
45 wise transfers an iodine matrix to another person shall make a record of each sale or transfer. The

1 record must be made on a form provided by the Department of State Police, completed pursuant to
 2 instructions provided by the department and retained by the person for at least three years or sent
 3 to the department if directed to do so by the department. Failure to make and retain or send a re-
 4 cord required under this subsection is a Class A misdemeanor.

5 (4) A licensed veterinarian is not required to make a record of a sale or transfer of an iodine
 6 matrix under subsection (3) of this section if the veterinarian makes a record of the sale or transfer
 7 under other applicable laws or rules regarding the prescribing and dispensing of regulated or con-
 8 trolled substances by veterinarians.

9 (5) A person commits the crime of unlawful distribution of an iodine matrix if the person
 10 knowingly sells or otherwise transfers an iodine matrix to a person not listed in subsection (2) of
 11 this section.

12 (6) Unlawful possession of an iodine matrix is a Class A misdemeanor.

13 (7) Unlawful distribution of an iodine matrix is a Class A misdemeanor.

14 **SECTION 69.** ORS 475.978 is amended to read:

15 475.978. (1) A person who sells or otherwise transfers more than the amount permitted by ad-
 16 ministrative rule adopted by the Department of State Police of methyl sulfonyl methane to a person
 17 other than a physician, **physician assistant licensed under ORS 677.505 to 677.525, nurse prac-**
 18 **titioner licensed under ORS 678.375 to 678.390,** pharmacist, veterinarian, retail distributor,
 19 wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons
 20 shall make a record of each such sale or transfer. The record must be made on a form provided by
 21 the department, completed pursuant to instructions provided by the department and retained by the
 22 person for at least three years. Failure to make and retain a record required under this subsection
 23 is a Class A violation.

24 (2) The department shall adopt a rule establishing the minimum amount of methyl sulfonyl
 25 methane the sale or transfer of which requires a report under subsection (1) of this section. In es-
 26 tablishing the minimum amount, the department shall determine an amount that is reasonably de-
 27 signed not to infringe upon legitimate uses of methyl sulfonyl methane but that discourages the use
 28 of methyl sulfonyl methane in the illicit production and distribution of methamphetamine.

29 (3) This section applies to the sale or transfer of bulk methyl sulfonyl methane in its powder
 30 form only, and does not apply to the sale or transfer of products containing methyl sulfonyl methane
 31 in other forms including, but not limited to, liquids, tablets, capsules not containing methyl sulfonyl
 32 methane in pure powder form, ointments, creams, cosmetics, foods and beverages.

33 **SECTION 70.** ORS 616.750 is amended to read:

34 616.750. If the State Department of Agriculture for reasonable cause believes that any person
 35 working in any food establishment is affected with any infectious or contagious disease, the de-
 36 partment may require the person to be examined by a competent physician, **physician assistant**
 37 **or nurse practitioner** and that the physician, **physician assistant or nurse practitioner** furnish
 38 the department with a certificate stating whether [*upon examination the physician has found the*
 39 *person to be*] **the person is** affected with any infectious or contagious disease. If within five days
 40 after so required the person has not furnished the department with such a certificate by a competent
 41 physician, **physician assistant or nurse practitioner,** the person is guilty of a violation of ORS
 42 616.745 and the department may apply to the circuit court to enjoin the person from continuing to
 43 work in the food establishment until the certificate is furnished. The circuit court hereby is au-
 44 thorized to issue the injunction.

45 **SECTION 71.** ORS 628.270 is amended to read:

1 628.270. (1) The Oregon Health Authority may, by rule, define certain communicable diseases
2 which may be spread to the public through the handling of food in refrigerated locker plants.

3 (2) No person who has a communicable or infectious disease described in subsection (1) of this
4 section shall be permitted to work in or about any refrigerated locker plant or to handle any food
5 in connection with the operation of such plant.

6 (3) In the discretion of the State Department of Agriculture, an employee of a locker plant may
7 be required to furnish a certificate of health from a physician, **physician assistant or nurse**
8 **practitioner** duly accredited by the authority for the purpose of issuing such certificates. If such
9 certificate is required under municipal ordinance upon examination deemed adequate by the au-
10 thority, a certificate issued in compliance with such ordinance is sufficient under this section.

11 (4) Any health certificate required by this section shall be revoked by the authority at any time
12 that the holder thereof is found, upon physical examination of such holder, to have any
13 communicable or infectious disease. Refusal of any person employed in such locker plant to submit
14 to proper and reasonable physical examination, upon written demand by the authority or the de-
15 partment, is cause for revocation of the employee's health certificate and also is sufficient reason
16 for revocation of the locker plant's license unless the employee immediately is removed from any
17 work or operation in or about such locker plant involving the handling of food.

18 **SECTION 72.** ORS 659A.150 is amended to read:

19 659A.150. As used in ORS 659A.150 to 659A.186:

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

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

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

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

29 (5) "Health care provider" means:

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

33 (A) A physician licensed under ORS chapter 677;

34 **(B) A physician assistant licensed under ORS 677.505 to 677.525;**

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

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

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

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

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

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

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

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

44 [(J)] (K) A regulated social worker authorized to practice regulated social work under ORS
45 675.510 to 675.600; or

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

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

7 (6) "Serious health condition" means:

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

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

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

14 **SECTION 73.** ORS 680.545 is amended to read:

15 680.545. Denturists licensed prior to January 1, 2004, who have not received an oral pathology
16 endorsement from the State Board of Denture Technology may not treat any person without having
17 first received a statement, dated within 30 days of the date of treatment and signed by a dentist,
18 physician, **physician assistant licensed under ORS 677.505 to 677.525** or nurse practitioner **li-**
19 **censed under ORS 678.375 to 678.390**, that the person's oral cavity is substantially free from dis-
20 ease and mechanically sufficient to receive a denture.

21 **SECTION 74.** ORS 694.042 is amended to read:

22 694.042. (1) In addition to any other rights and remedies the purchaser may have, including
23 rights under ORS 646A.460 to 646A.476, the purchaser of a hearing aid shall have the right to
24 rescind the transaction if:

25 (a) The purchaser for whatever reason consults **with** a [*licensed medical physician specializing*]
26 **physician licensed under ORS chapter 677 to practice medicine who specializes in diseases**
27 **of the ear or with a physician assistant licensed under ORS 677.505 to 677.525 who specializes**
28 in diseases of the ear, or **consults with** an audiologist not licensed under this chapter and not af-
29 filiated with anyone licensed under this chapter and [*licensed medical physician*] **with a physician**
30 **licensed under ORS chapter 677 to practice medicine or with a physician assistant licensed**
31 **under ORS 677.505 to 677.525**, subsequent to purchasing the hearing aid, and the [*licensed*] physi-
32 cian **or physician assistant** advises such purchaser against purchasing or using a hearing aid and
33 in writing specifies the medical reason for the advice;

34 (b) The seller, in dealings with the purchaser, failed to adhere to the practice standards listed
35 in ORS 694.142, or failed to provide the statement required by ORS 694.036;

36 (c) The fitting of the hearing instrument failed to meet current industry standards; or

37 (d) The licensee fails to meet any standard of conduct prescribed in the law or rules regulating
38 fitting and dispensing of hearing aids and this failure affects in any way the transaction which the
39 purchaser seeks to rescind.

40 (2) The purchaser of a hearing aid shall have the right to rescind the transaction, for other than
41 the seller's breach, as provided in subsection (1)(a), (b), (c) or (d) of this section only if the purchaser
42 returns the product and it is in good condition less normal wear and tear and gives written notice
43 of the intent to rescind the transaction by either:

44 (a) Returning the product with a written notice of the intent to rescind sent by certified mail,
45 return receipt requested, to the licensee's regular place of business; or

1 (b) Returning the product with a written notice of the intent to rescind to an authorized repre-
2 sentative of the company from which it was purchased.

3 (3) The notice described in subsection (2) of this section shall state that the transaction is can-
4 celed pursuant to this section. The notice of intent to rescind must be postmarked:

5 (a) Within 30 days from the date of the original delivery; or

6 (b) Within specified time periods if the 30-day period has been extended in writing by both par-
7 ties. The consumer's rescission rights can only be extended through a written agreement by both
8 parties.

9 (4) If the conditions of subsection (1)(a), (b), (c) or (d) of this section and subsection (2)(a) or (b)
10 of this section have been met, the seller, without further request and within 10 days after the can-
11 cellation, shall issue a refund to the purchaser. However, the hearing aid specialist may retain a
12 portion of the purchase price as specified by rule by the Health Licensing Office when the purchaser
13 rescinds the sale during the 30-day rescission period. At the same time, the seller shall return all
14 goods traded in to the seller on account of or in contemplation of the sale. The purchaser shall
15 incur no additional liability for the cancellation.

16 **SECTION 75.** ORS 742.420 is amended to read:

17 742.420. As used in ORS 742.420 to 742.440:

18 (1) "Discount medical plan" means a contract, agreement or other business arrangement be-
19 tween a discount medical plan organization and a plan member in which the organization, in ex-
20 change for fees, service or subscription charges, dues or other consideration, offers or purports to
21 offer the plan member access to providers and the right to receive medical and ancillary services
22 at a discount from providers.

23 (2) "Discount medical plan organization" means a person that contracts on behalf of plan mem-
24 bers with a provider, a provider network or another discount medical plan organization for access
25 to medical and ancillary services at a discounted rate and determines what plan members will pay
26 as a fee, service or subscription charge, dues or other consideration for a discount medical plan.

27 (3) "Licensee" means a discount medical plan organization that has obtained a license from the
28 Director of the Department of Consumer and Business Services in accordance with ORS 742.426.

29 (4) "Medical and ancillary services" means, except when administered by or under contract with
30 the State of Oregon, any care, service, treatment or product provided for any dysfunction, injury or
31 illness of the human body including, but not limited to, [*physician care*] **care provided by a physi-**
32 **cian, physician assistant or nurse practitioner**, inpatient care, hospital and surgical services,
33 emergency and ambulance services, audiology services, dental care services, vision care services,
34 mental health services, substance abuse counseling or treatment, chiropractic services, podiatric
35 care services, laboratory services, home health care services, medical equipment and supplies or
36 prescription drugs.

37 (5) "Plan member" means an individual who pays fees, service or subscription charges, dues or
38 other consideration in exchange for the right to participate in a discount medical plan.

39 (6)(a) "Provider" means a person that has contracted or otherwise agreed with a discount med-
40 ical plan organization to provide medical and ancillary services to plan members at a discount from
41 the person's ordinary or customary fees or charges.

42 (b) "Provider" does not include:

43 (A) A person that, apart from any agreement or contract with a discount medical plan organ-
44 ization, provides medical and ancillary services at a discount or at fixed or scheduled prices to pa-
45 tients or customers the person serves regularly; or

1 (B) A person that does not charge fees, service or subscription charges, dues or other consid-
2 eration in exchange for providing medical and ancillary services at a discount or at fixed or sched-
3 uled prices.

4 (7) "Provider network" means a person that negotiates directly or indirectly with a discount
5 medical plan organization on behalf of more than one provider that provides medical or ancillary
6 services to plan members.

7 **SECTION 76.** ORS 742.504 is amended to read:

8 742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide
9 uninsured motorist coverage that in each instance is no less favorable in any respect to the insured
10 or the beneficiary than if the following provisions were set forth in the policy. However, nothing
11 contained in this section requires the insurer to reproduce in the policy the particular language of
12 any of the following provisions:

13 (1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all sums that the insured, the
14 heirs or the legal representative of the insured is legally entitled to recover as general and special
15 damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by
16 the insured caused by accident and arising out of the ownership, maintenance or use of the
17 uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal
18 representative is legally entitled to recover such damages, and if so, the amount thereof, shall be
19 made by agreement between the insured and the insurer, or, in the event of disagreement, may be
20 determined by arbitration as provided in subsection (10) of this section.

21 (b) No judgment against any person or organization alleged to be legally responsible for bodily
22 injury, except for proceedings instituted against the insurer as provided in this policy, shall be
23 conclusive, as between the insured and the insurer, on the issues of liability of the person or or-
24 ganization or of the amount of damages to which the insured is legally entitled.

25 (2) As used in this policy:

26 (a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

27 (b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of
28 physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the
29 time of the accident, provided:

30 (A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascer-
31 tained;

32 (B) The insured or someone on behalf of the insured reported the accident within 72 hours to
33 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
34 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
35 a statement under oath that the insured or the legal representative of the insured has a cause or
36 causes of action arising out of the accident for damages against a person or persons whose identities
37 are unascertainable, and setting forth the facts in support thereof; and

38 (C) At the insurer's request, the insured or the legal representative of the insured makes avail-
39 able for inspection the vehicle the insured was occupying at the time of the accident.

40 (c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

41 (A) The named insured as stated in the policy and any person designated as named insured in
42 the schedule and, while residents of the same household, the spouse of any named insured and rel-
43 atives of either, provided that neither the relative nor the spouse is the owner of a vehicle not de-
44 scribed in the policy and that, if the named insured as stated in the policy is other than an
45 individual or husband and wife who are residents of the same household, the named insured shall

1 be only a person so designated in the schedule;

2 (B) Any child residing in the household of the named insured if the insured has performed the
3 duties of a parent to the child by rearing the child as the insured's own although the child is not
4 related to the insured by blood, marriage or adoption; and

5 (C) Any other person while occupying an insured vehicle, provided the actual use thereof is with
6 the permission of the named insured.

7 (d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

8 (A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of
9 those terms is defined in the public liability coverage of the policy, insured under the public liability
10 provisions of the policy; or

11 (B) A nonowned vehicle operated by the named insured or spouse if a resident of the same
12 household, provided that the actual use thereof is with the permission of the owner of the vehicle
13 and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any
14 member of the same household.

15 (e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described ve-
16 hicle in the policy.

17 (f) "Occupying" means in or upon or entering into or alighting from.

18 (g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a
19 motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or
20 the vehicle the insured is occupying at the time of the accident, provided:

21 (A) The identity of either the operator or the owner of the phantom vehicle cannot be ascer-
22 tained;

23 (B) The facts of the accident can be corroborated by competent evidence other than the testi-
24 mony of the insured or any person having an uninsured motorist claim resulting from the accident;
25 and

26 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
27 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
28 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
29 a statement under oath that the insured or the legal representative of the insured has a cause or
30 causes of action arising out of the accident for damages against a person or persons whose identities
31 are unascertainable, and setting forth the facts in support thereof.

32 (h) "State" includes the District of Columbia, a territory or possession of the United States and
33 a province of Canada.

34 (i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising
35 out of a motor vehicle accident if:

36 (A) The vehicle is operated without the consent of the insured;

37 (B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability
38 insurance;

39 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
40 a police, peace or judicial officer or to the equivalent department in the state where the accident
41 occurred; and

42 (D) The insured or someone on behalf of the insured cooperates with the appropriate law
43 enforcement agency in the prosecution of the theft of the vehicle.

44 (j) "Sums that the insured, the heirs or the legal representative of the insured is legally entitled
45 to recover as general and special damages from the owner or operator of an uninsured vehicle"

1 means the amount of damages that:

2 (A) A claimant could have recovered in a civil action from the owner or operator at the time
3 of the injury after determination of fault or comparative fault and resolution of any applicable de-
4 fenses;

5 (B) Are calculated without regard to the tort claims limitations of ORS 30.260 to 30.300; and

6 (C) Are no larger than benefits payable under the terms of the policy as provided in subsection
7 (7) of this section.

8 (k) "Uninsured vehicle," except as provided in paragraph (L) of this provision, means:

9 (A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible
10 motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily
11 injury or death under ORS 806.070 applicable at the time of the accident with respect to any person
12 or organization legally responsible for the use of the vehicle, or with respect to which there is
13 collectible bodily injury liability insurance applicable at the time of the accident but the insurance
14 company writing the insurance denies coverage or the company writing the insurance becomes vol-
15 untarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insol-
16 vent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and
17 the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident,
18 the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at
19 the time of the accident.

20 (B) A hit-and-run vehicle.

21 (C) A phantom vehicle.

22 (D) A stolen vehicle.

23 (E) A vehicle that is owned or operated by a self-insurer:

24 (i) That is not in compliance with ORS 806.130 (1)(c); or

25 (ii) That provides recovery to an insured in an amount that is less than the limits for uninsured
26 motorist coverage of the insured.

27 (L) "Uninsured vehicle" does not include:

28 (A) An insured vehicle, unless the vehicle is a stolen vehicle;

29 (B) Except as provided in paragraph (k)(E) of this subsection, a vehicle that is owned or oper-
30 ated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor
31 carrier law or any similar law;

32 (C) A vehicle that is owned by the United States of America, Canada, a state, a political sub-
33 division of any such government or an agency of any such government;

34 (D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for
35 use as a residence or premises and not as a vehicle;

36 (E) A farm-type tractor or equipment designed for use principally off public roads, except while
37 actually upon public roads; or

38 (F) A vehicle owned by or furnished for the regular or frequent use of the insured or any
39 member of the household of the insured.

40 (m) "Vehicle" means every device in, upon or by which any person or property is or may be
41 transported or drawn upon a public highway, but does not include devices moved by human power
42 or used exclusively upon stationary rails or tracks.

43 (3) This coverage applies only to accidents that occur on and after the effective date of the
44 policy, during the policy period and within the United States of America, its territories or pos-
45 sessions, or Canada.

1 (4)(a) This coverage does not apply to bodily injury of an insured with respect to which the in-
2 sured or the legal representative of the insured shall, without the written consent of the insurer,
3 make any settlement with or prosecute to judgment any action against any person or organization
4 who may be legally liable therefor.

5 (b) This coverage does not apply to bodily injury to an insured while occupying a vehicle, other
6 than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any
7 relative resident in the same household, or through being struck by the vehicle.

8 (c) This coverage does not apply so as to inure directly or indirectly to the benefit of any
9 workers' compensation carrier, any person or organization qualifying as a self-insurer under any
10 workers' compensation or disability benefits law or any similar law or the State Accident Insurance
11 Fund Corporation.

12 (d) This coverage does not apply with respect to underinsured motorist benefits unless:

13 (A) The limits of liability under any bodily injury liability insurance applicable at the time of
14 the accident regarding the injured person have been exhausted by payment of judgments or settle-
15 ments to the injured person or other injured persons;

16 (B) The described limits have been offered in settlement, the insurer has refused consent under
17 paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the
18 claim against the tortfeasor;

19 (C) The insured gives credit to the insurer for the unrealized portion of the described liability
20 limits as if the full limits had been received if less than the described limits have been offered in
21 settlement, and the insurer has consented under paragraph (a) of this subsection; or

22 (D) The insured gives credit to the insurer for the unrealized portion of the described liability
23 limits as if the full limits had been received if less than the described limits have been offered in
24 settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured
25 protects the insurer's right of subrogation to the claim against the tortfeasor.

26 (e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow
27 the insurer a reasonable time in which to collect and evaluate information related to consent to the
28 proposed offer of settlement. The insured shall provide promptly to the insurer any information that
29 is reasonably requested by the insurer and that is within the custody and control of the insured.
30 Consent will be presumed to be given if the insurer does not respond within a reasonable time. For
31 purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt
32 of a written request for consent, unless the insured and the insurer agree otherwise.

33 (5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer
34 written proof of claim, under oath if required, including full particulars of the nature and extent of
35 the injuries, treatment and other details entering into the determination of the amount payable
36 hereunder. The insured and every other person making claim hereunder shall submit to examinations
37 under oath by any person named by the insurer and subscribe the same, as often as may reasonably
38 be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails
39 to furnish the forms within 15 days after receiving notice of claim.

40 (b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit
41 to physical examinations by physicians, **physician assistants or nurse practitioners** selected by
42 the insurer and shall, upon each request from the insurer, execute authorization to enable the
43 insurer to obtain medical reports and copies of records.

44 (6) If, before the insurer makes payment of loss hereunder, the insured or the legal represen-
45 tative of the insured institutes any legal action for bodily injury against any person or organization

1 legally responsible for the use of a vehicle involved in the accident, a copy of the summons and
2 complaint or other process served in connection with the legal action shall be forwarded imme-
3 diately to the insurer by the insured or the legal representative of the insured.

4 (7)(a) The limit of liability stated in the declarations as applicable to “each person” is the limit
5 of the insurer’s liability for all damages because of bodily injury sustained by one person as the
6 result of any one accident and, subject to the above provision respecting each person, the limit of
7 liability stated in the declarations as applicable to “each accident” is the total limit of the
8 company’s liability for all damages because of bodily injury sustained by two or more persons as the
9 result of any one accident.

10 (b) Any payment made under this coverage to or for an insured shall be applied in reduction
11 of any amount that the insured may be entitled to recover from any person who is an insured under
12 the bodily injury liability coverage of this policy.

13 (c) Any amount payable under the terms of this coverage because of bodily injury sustained in
14 an accident by a person who is an insured under this coverage shall be reduced by:

15 (A) All sums paid on account of the bodily injury by or on behalf of the owner or operator of
16 the uninsured vehicle and by or on behalf of any other person or organization jointly or severally
17 liable together with the owner or operator for the bodily injury, including all sums paid under the
18 bodily injury liability coverage of the policy; and

19 (B) The amount paid and the present value of all amounts payable on account of the bodily in-
20 jury under any workers’ compensation law, disability benefits law or any similar law.

21 (d) Any amount payable under the terms of this coverage because of bodily injury sustained in
22 an accident by a person who is an insured under this coverage shall be reduced by the credit given
23 to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

24 (e) The amount payable under the terms of this coverage may not be reduced by the amount of
25 liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been
26 paid to the injured person. If liability proceeds have been offered and not paid, the amount payable
27 under the terms of the coverage shall include the amount of liability limits offered but not accepted
28 due to the insurer’s refusal to consent. The insured shall cooperate so as to permit the insurer to
29 proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.

30 (8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured
31 or the legal representative of the insured has fully complied with all the terms of this policy.

32 (9)(a) With respect to bodily injury to an insured:

33 (A) While occupying a vehicle owned by a named insured under this coverage, the insurance
34 under this coverage is primary.

35 (B) While occupying a vehicle not owned by a named insured under this coverage, the insurance
36 under this coverage shall apply only as excess insurance over any primary insurance available to
37 the occupant that is similar to this coverage, and this excess insurance shall then apply only in the
38 amount by which the applicable limit of liability of this excess coverage exceeds the sum of the
39 applicable limits of liability of all primary insurance available to the occupant.

40 (b) If an insured is an insured under other primary or excess insurance available to the insured
41 that is similar to this coverage, then the insured’s damages are deemed not to exceed the higher of
42 the applicable limits of liability of this insurance or the additional primary or excess insurance
43 available to the insured, and the insurer is not liable under this coverage for a greater proportion
44 of the insured’s damages than the applicable limit of liability of this coverage bears to the sum of
45 the applicable limits of liability of this insurance and other primary or excess insurance available

1 to the insured.

2 (c) With respect to bodily injury to an insured while occupying any motor vehicle used as a
3 public or livery conveyance, the insurance under this coverage shall apply only as excess insurance
4 over any other insurance available to the insured that is similar to this coverage, and this insurance
5 shall then apply only in the amount by which the applicable limit of liability of this coverage ex-
6 ceeds the sum of the applicable limits of liability of all other insurance.

7 (10) If any person making claim hereunder and the insurer do not agree that the person is le-
8 gally entitled to recover damages from the owner or operator of an uninsured vehicle because of
9 bodily injury to the insured, or do not agree as to the amount of payment that may be owing under
10 this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time
11 of the dispute to settle the matter by arbitration, the arbitration shall take place as described in
12 ORS 742.505. Any judgment upon the award rendered by the arbitrators may be entered in any court
13 having jurisdiction thereof, provided, however, that the costs to the insured of the arbitration pro-
14 ceeding do not exceed \$100 and that all other costs of arbitration are borne by the insurer.
15 "Costs" as used in this provision does not include attorney fees or expenses incurred in the pro-
16 duction of evidence or witnesses or the making of transcripts of the arbitration proceedings. The
17 person and the insurer each agree to consider themselves bound and to be bound by any award made
18 by the arbitrators pursuant to this coverage in the event of such election. At the election of the
19 insured, the arbitration shall be held:

20 (a) In the county and state of residence of the insured;

21 (b) In the county and state where the insured's cause of action against the uninsured motorist
22 arose; or

23 (c) At any other place mutually agreed upon by the insured and the insurer.

24 (11) In the event of payment to any person under this coverage:

25 (a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement
26 or judgment that may result from the exercise of any rights of recovery of the person against any
27 uninsured motorist legally responsible for the bodily injury because of which payment is made;

28 (b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the
29 person shall have against such other uninsured person or organization because of the damages that
30 are the subject of claim made under this coverage, but only to the extent that the claim is made or
31 paid herein;

32 (c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one
33 or more of whom is uninsured, the insured shall have the election to receive from the insurer any
34 payment to which the insured would be entitled under this coverage by reason of the act or acts
35 of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with
36 legal action against any or all persons claimed to be liable to the insured for the injuries. If the
37 insured elects to receive payment from the insurer under this coverage, then the insured shall hold
38 in trust for the benefit of the insurer all rights of recovery the insured shall have against any other
39 person, firm or organization because of the damages that are the subject of claim made under this
40 coverage, but only to the extent of the actual payment made by the insurer;

41 (d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice
42 such rights;

43 (e) If requested in writing by the insurer, the person shall take, through any representative not
44 in conflict in interest with the person, designated by the insurer, such action as may be necessary
45 or appropriate to recover payment as damages from such other uninsured person or organization,

1 such action to be taken in the name of the person, but only to the extent of the payment made
2 hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for ex-
3 penses, costs and attorney fees incurred by the insurer in connection therewith; and

4 (f) The person shall execute and deliver to the insurer any instruments and papers as may be
5 appropriate to secure the rights and obligations of the person and the insurer established by this
6 provision.

7 (12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured
8 under this coverage unless within two years from the date of the accident:

9 (A) Agreement as to the amount due under the policy has been concluded;

10 (B) The insured or the insurer has formally instituted arbitration proceedings;

11 (C) The insured has filed an action against the insurer; or

12 (D) Suit for bodily injury has been filed against the uninsured motorist and, within two years
13 from the date of settlement or final judgment against the uninsured motorist, the insured has
14 formally instituted arbitration proceedings or filed an action against the insurer.

15 (b) For purposes of this subsection:

16 (A) "Date of settlement" means the date on which a written settlement agreement or release is
17 signed by an insured or, in the absence of these documents, the date on which the insured or the
18 attorney for the insured receives payment of any sum required by the settlement agreement. An
19 advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for pur-
20 poses of the time limitation in this subsection.

21 (B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by
22 entry in an appellate court of an appellate judgment.

23 **SECTION 77.** ORS 744.364 is amended to read:

24 744.364. (1)(a) A life settlement provider entering into a life settlement contract shall first ob-
25 tain:

26 (A) If the owner is the insured, a written statement from [*a licensed attending physician*] **a li-**
27 **icensed physician, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse**
28 **practitioner licensed under ORS 678.375 to 678.390** that the owner is of sound mind and under
29 no constraint or undue influence to enter into a life settlement contract; and

30 (B) A document in which the insured consents to the release of the insured's medical records
31 to a licensed life settlement provider, life settlement broker and the insurance company that issued
32 the life insurance policy covering the life of the insured.

33 (b) Within 20 days after an owner executes documents necessary to transfer any rights under
34 an insurance policy or, if the insured is terminally ill, within 20 days after an owner entering any
35 agreement, option, promise or any other form of understanding, expressed or implied, to transfer the
36 policy for value, the life settlement provider shall give written notice to the insurer that issued the
37 insurance policy that the policy has or will become a settled policy. The notice must be accompanied
38 by the documents required by paragraph (c) of this subsection.

39 (c) The life settlement provider shall deliver a copy of the medical release required under par-
40 agraph (a)(B) of this subsection, a copy of the owner's application for the life settlement contract,
41 the notice required under paragraph (b) of this subsection and a request for verification of coverage
42 to the insurer that issued the life policy that is the subject of the life transaction. The Director of
43 the Department of Consumer and Business Services shall develop and approve a form for the request
44 for verification.

45 (d) The insurer shall respond to a request for verification of coverage submitted on an approved

1 form by a life settlement provider or life settlement broker within 30 calendar days of the date the
2 request is received and shall indicate whether, based on the medical evidence and documents pro-
3 vided, the insurer intends to pursue an investigation at this time regarding the validity of the in-
4 surance contract or possible fraud. The insurer shall accept a request for verification of coverage
5 made on a form approved by the director. The insurer shall accept an original or facsimile or elec-
6 tronic copy of such request and any accompanying authorization signed by the owner. Failure by the
7 insurer to meet its obligations under this subsection is a violation of the Insurance Code.

8 (e) Prior to or at the time of execution of the life settlement contract, the life settlement pro-
9 vider shall obtain a witnessed document in which the owner consents to the life settlement contract,
10 represents that the owner has a full and complete understanding of the life settlement contract, that
11 the owner has a full and complete understanding of the benefits of the life insurance policy, ac-
12 knowledges that the owner is entering into the life settlement contract freely and voluntarily and,
13 for persons with a terminal illness or chronic illness or condition, acknowledges that the insured
14 has a terminal illness or chronic illness and that the terminal illness or chronic illness or condition
15 was diagnosed after the life insurance policy was issued.

16 (f) If a life settlement broker performs any of the activities required of the life settlement pro-
17 vider, the provider is deemed to have fulfilled the requirements of this section that were performed
18 by the broker.

19 (2) All medical information solicited or obtained by any licensee is privileged and confidential
20 under ORS 705.137.

21 (3)(a) All life settlement contracts entered into in this state must provide the owner with an
22 absolute right to rescind the contract before the earlier of 60 calendar days after the date upon
23 which the life settlement contract is executed by all parties or 30 calendar days after the life
24 settlement proceeds have been sent to the owner under subsection (5) of this section.

25 (b) The life settlement provider may condition rescission upon the owner both giving notice and
26 repaying to the life settlement provider within the rescission period all proceeds of the settlement
27 and any premiums, loans and loan interest paid by or on behalf of the life settlement provider in
28 connection with or as a consequence of the life settlement.

29 (c) If the insured dies during the rescission period, the life settlement contract is deemed to have
30 been rescinded, subject to repayment within 60 calendar days of the death of the insured to the life
31 settlement provider or purchaser of all life settlement proceeds and any premiums, loans and loan
32 interest that have been paid by the life settlement provider or purchaser.

33 (d) In the event of any rescission, if the life settlement provider has paid commissions or other
34 compensation to a life settlement broker in connection with the rescinded transaction, the life
35 settlement broker shall refund all such commissions and compensation to the life settlement provider
36 within five business days following receipt of written demand from the life settlement provider. The
37 demand must be accompanied by either the owner's notice of rescission if rescinded at the election
38 of the owner, or the notice of the death of the insured if rescinded by reason of the death of the
39 insured within the applicable rescission period.

40 (4) The life settlement purchaser shall have the right to rescind a life settlement contract within
41 three days after the disclosures mandated by ORS 744.354 (7) are received by the purchaser.

42 (5)(a) The life settlement provider shall instruct the owner to send the executed documents re-
43 quired to effect the change in ownership, assignment or change in beneficiary directly to an inde-
44 pendent escrow agent selected by the provider.

45 (b) Within three business days after the date the escrow agent receives the document, or from

1 the date the life settlement provider receives the documents, if the owner erroneously provides the
2 documents directly to the provider, the provider shall pay or transfer the proceeds of the life
3 settlement into an escrow or trust account maintained in a state or federally chartered financial
4 institution whose deposits are insured by the Federal Deposit Insurance Corporation.

5 (c) Upon payment of the settlement proceeds into the escrow account, the escrow agent shall
6 deliver the original change in ownership, assignment or change in beneficiary forms to the life
7 settlement provider or related provider trust or other designated representative of the life settle-
8 ment provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed
9 transfer of ownership, assignment or designation of beneficiary from the insurance company, the
10 escrow agent shall pay the settlement proceeds to the owner.

11 (6) Failure to pay the owner the full contract amount for the life settlement contract within the
12 time set forth under subsection (5) of this section renders the life settlement contract voidable by
13 the owner until the time full payment is tendered to and accepted by the owner. Funds are deemed
14 sent by a life settlement provider to an owner as of the date that the escrow agent either releases
15 funds for wire transfer to the owner or places a check for delivery to the owner via the United
16 States Postal Service or another nationally recognized delivery service.

17 (7)(a) Contacts with the insured for the purpose of determining the health status of the insured
18 by the life settlement provider or life settlement broker after the life settlement has occurred may
19 be made only by the life settlement provider or broker licensed in this state or its authorized rep-
20 resentatives and are limited to once every three months for insureds with a life expectancy of more
21 than one year, and to no more than once per month for insureds with a life expectancy of one year
22 or less.

23 (b) The limitations set forth in this subsection do not apply to any contacts with an insured for
24 reasons other than determining the insured's health status.

25 **SECTION 78.** ORS 744.367 is amended to read:

26 744.367. (1) A person may not enter into a life settlement contract at any time prior to the ap-
27 plication or issuance of a policy that is the subject of a life settlement contract or within a five-year
28 period commencing with the date of issuance of the insurance policy or certificate. However, this
29 five-year restriction does not apply if the owner certifies to the life settlement provider that any one
30 or more of the following conditions has been met within the five-year period:

31 (a) The policy was issued upon the owner's exercise of conversion rights arising out of a group
32 or individual policy if the total of the time covered under the conversion policy plus the time cov-
33 ered under the prior policy is at least 60 months. The time covered under a group policy is calcu-
34 lated without regard to any change in insurance carriers, provided the coverage has been
35 continuous and under the same group sponsorship;

36 (b) The owner submits independent evidence to the life settlement provider that one or more of
37 the following conditions have been met within the five-year period:

38 (A) The owner or insured is terminally ill or chronically ill;

39 (B) The owner's spouse dies;

40 (C) The owner divorces the owner's spouse;

41 (D) The owner retires from full-time employment;

42 (E) The owner becomes physically or mentally disabled and a physician, **physician assistant**
43 **licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to**
44 **678.390** determines that the disability prevents the owner from maintaining full-time employment;

45 or

1 (F) A final order, judgment or decree is entered by a court of competent jurisdiction, on the
2 application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving
3 a petition seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all
4 or a substantial part of the owner's assets; or

5 (c) The owner enters into a life settlement contract more than two years after the date of issu-
6 ance of a policy and, with respect to the policy, at all times prior to the date that is two years after
7 policy issuance, the following conditions are met:

8 (A) Policy premiums have been funded exclusively with unencumbered assets, including an in-
9 terest in the life insurance policy being financed only to the extent of its net cash surrender value,
10 provided by, or full recourse liability incurred by, the insured or a person closely related to the in-
11 sured by blood or law or a party having a lawful substantial economic interest in the continued life,
12 health and bodily safety of the person insured, or a trust established primarily for the benefit of such
13 parties;

14 (B) There is no agreement or understanding with any other person to guarantee any such li-
15 ability or to purchase or stand ready to purchase the policy, including through an assumption or
16 forgiveness of the loan; and

17 (C) Neither the insured nor the policy has been evaluated for settlement.

18 (2) Copies of the independent evidence described in subsection (1)(b) of this section and docu-
19 ments required by ORS 744.364 (1) must be submitted to the insurer when the life settlement pro-
20 vider or other party entering into a life settlement contract with an owner submits a request to the
21 insurer for verification of coverage. The copies must be accompanied by a letter of attestation from
22 the life settlement provider that the copies are true and correct copies of the documents received
23 by the life settlement provider.

24 (3) If the life settlement provider submits to the insurer a copy of the owner's or insured's cer-
25 tification described in and the documents required by ORS 744.364 (1) when the provider submits a
26 request to the insurer to effect the transfer of the policy or certificate to the life settlement pro-
27 vider, the copy conclusively establishes that the life settlement contract satisfies the requirements
28 of this section and the insurer shall respond in a timely manner to the request.

29 (4) An insurer may not, as a condition of responding to a request for verification of coverage
30 or effecting the transfer of a policy pursuant to a life settlement contract, require that the owner,
31 insured, life settlement provider or life settlement broker sign any forms, disclosures, consent or
32 waiver form that has not been expressly approved by the Director of the Department of Consumer
33 and Business Services for use in connection with life settlement contracts in this state.

34 (5) Upon receipt of a properly completed request for a change of ownership or beneficiary of a
35 policy, the insurer shall respond in writing within 30 calendar days with written acknowledgement
36 confirming that the change has been effected or specifying the reasons why the requested change
37 cannot be processed. The insurer may not unreasonably delay effecting change of ownership or
38 beneficiary and may not otherwise seek to interfere with any life settlement contract lawfully en-
39 tered into in this state.

40 **SECTION 79.** ORS 746.230 is amended to read:

41 746.230. (1) No insurer or other person shall commit or perform any of the following unfair claim
42 settlement practices:

43 (a) Misrepresenting facts or policy provisions in settling claims;

44 (b) Failing to acknowledge and act promptly upon communications relating to claims;

45 (c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

1 (d) Refusing to pay claims without conducting a reasonable investigation based on all available
2 information;

3 (e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof
4 of loss statements have been submitted;

5 (f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has
6 become reasonably clear;

7 (g) Compelling claimants to initiate litigation to recover amounts due by offering substantially
8 less than amounts ultimately recovered in actions brought by such claimants;

9 (h) Attempting to settle claims for less than the amount to which a reasonable person would
10 believe a reasonable person was entitled after referring to written or printed advertising material
11 accompanying or made part of an application;

12 (i) Attempting to settle claims on the basis of an application altered without notice to or consent
13 of the applicant;

14 (j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them,
15 of the coverage under which payment has been made;

16 (k) Delaying investigation or payment of claims by requiring a claimant or [*the physician of the*
17 *claimant*] **the claimant's physician, physician assistant or nurse practitioner** to submit a pre-
18 liminary claim report and then requiring subsequent submission of loss forms when both require
19 essentially the same information;

20 (L) Failing to promptly settle claims under one coverage of a policy where liability has become
21 reasonably clear in order to influence settlements under other coverages of the policy; or

22 (m) Failing to promptly provide the proper explanation of the basis relied on in the insurance
23 policy in relation to the facts or applicable law for the denial of a claim.

24 (2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages
25 provided by its policies with such frequency as to indicate a general business practice in this state,
26 which general business practice is evidenced by:

27 (a) A substantial increase in the number of complaints against the insurer received by the De-
28 partment of Consumer and Business Services;

29 (b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by
30 claimants; or

31 (c) Other relevant evidence.

32 (3)(a) No health maintenance organization, as defined in ORS 750.005, shall unreasonably with-
33 hold the granting of participating provider status from a class of statutorily authorized health care
34 providers for services rendered within the lawful scope of practice if the health care providers are
35 licensed as such and reimbursement is for services mandated by statute.

36 (b) Any health maintenance organization that fails to comply with paragraph (a) of this sub-
37 section shall be subject to discipline under ORS 746.015.

38 (c) This subsection does not apply to group practice health maintenance organizations that are
39 federally qualified pursuant to Title XIII of the Health Maintenance Organization Act.

40 **SECTION 80.** ORS 750.055 is amended to read:

41 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
42 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

43 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
44 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
45 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,

1 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

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

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

6 (d) ORS chapter 734.

7 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
8 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
9 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550 to
10 743.552, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to
11 743.839, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864,
12 743.894, 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036,
13 743A.048, 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082,
14 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144,
15 743A.148, 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188,
16 743A.190, 743A.192 and 743A.250 and section 2, chapter 771, Oregon Laws 2013.

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

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

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

24 (i) ORS 735.600 to 735.650.

25 (j) ORS 743.680 to 743.689.

26 (k) ORS 744.700 to 744.740.

27 (L) ORS 743.730 to 743.773.

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

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

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

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

38 **SECTION 81.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, is
39 amended to read:

40 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
41 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

42 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
43 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
44 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
45 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

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

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

5 (d) ORS chapter 734.

6 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
7 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
8 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550, 743.552,
9 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to 743.839,
10 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.894,
11 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048,
12 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084,
13 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148,
14 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190,
15 743A.192 and 743A.250 and section 2, chapter 771, Oregon Laws 2013.

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

17 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
18 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

19 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that
20 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
21 referred by a physician, **physician assistant or nurse practitioner** associated with a group prac-
22 tice health maintenance organization.

23 (i) ORS 743.680 to 743.689.

24 (j) ORS 744.700 to 744.740.

25 (k) ORS 743.730 to 743.773.

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

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

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

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

36 **SECTION 82.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, and
37 section 21, chapter 771, Oregon Laws 2013, is amended to read:

38 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
39 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

40 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
41 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
42 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
43 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

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

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

3 (d) ORS chapter 734.

4 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
5 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
6 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550, 743.552,
7 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to 743.839,
8 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.894,
9 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048,
10 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084,
11 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148,
12 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190,
13 743A.192 and 743A.250.

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

15 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
16 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

17 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that
18 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
19 referred by a physician, **physician assistant or nurse practitioner** associated with a group prac-
20 tice health maintenance organization.

21 (i) ORS 743.680 to 743.689.

22 (j) ORS 744.700 to 744.740.

23 (k) ORS 743.730 to 743.773.

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

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

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

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

34 **SECTION 83.** Section 9, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 872,
35 Oregon Laws 1991, section 32, chapter 280, Oregon Laws 1995, section 2, chapter 451, Oregon Laws
36 1995, section 1, chapter 384, Oregon Laws 1999, section 1, chapter 28, Oregon Laws 2007, section
37 353, chapter 70, Oregon Laws 2007, section 2, chapter 78, Oregon Laws 2011, and section 1, chapter
38 264, Oregon Laws 2011, is amended to read:

39 **Sec. 9.** As used in sections 9 to 14, chapter 290, Oregon Laws 1987, unless the context requires
40 otherwise:

41 (1) "Adaptive equipment" means equipment that permits a person with a disability, other than
42 a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.

43 (2) "Applicant" means a person who applies for an assistive telecommunication device, adaptive
44 equipment or a signal device.

45 (3) "Assistive telecommunication device" means a device that utilizes a keyboard, acoustic cou-

1 pler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-
2 blind, hard of hearing or speech impaired to communicate effectively on the telephone.

3 (4) "Audiologist" means a person who has a master's or doctoral degree in audiology and a
4 Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Asso-
5 ciation.

6 (5) "Deaf" means a profound hearing loss, as determined by an audiologist, licensed physician,
7 **physician assistant**, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor
8 of the Department of Human Services, that requires use of an assistive telecommunication device
9 to communicate effectively on the telephone.

10 (6) "Deaf-blind" means a hearing loss and a visual impairment that require use of an assistive
11 telecommunication device to communicate effectively on the telephone. For purposes of this sub-
12 section:

13 (a) A hearing loss must be determined by an audiologist, licensed physician, **physician assist-**
14 **ant**, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Depart-
15 ment of Human Services.

16 (b) A visual impairment must be determined by a licensed physician, **physician assistant**, nurse
17 practitioner, vocational rehabilitation counselor of the Department of Human Services or rehabili-
18 tation instructor for persons who are blind.

19 (7) "Disability" means a physical condition, as determined by a licensed physician, **physician**
20 **assistant**, nurse practitioner or vocational rehabilitation counselor of the Department of Human
21 Services, other than hearing or speech impairment that requires use of adaptive equipment to utilize
22 the telephone.

23 (8) "Hard of hearing" means a hearing loss, as determined by an audiologist, licensed physician,
24 **physician assistant**, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor
25 of the Department of Human Services, that requires use of an assistive telecommunication device
26 to communicate effectively on the telephone.

27 (9) "Hearing aid specialist" means a person licensed to deal in hearing aids under ORS chapter
28 694.

29 (10) "Nurse practitioner" has the meaning given that term in ORS 678.010.

30 (11) "Physician" means an applicant's primary care physician or a medical specialist who is able
31 to determine an applicant's disability and to whom the applicant was referred by the primary care
32 physician.

33 **(12) "Physician assistant" has the meaning given that term in ORS 677.495.**

34 [(12)] (13) "Recipient" means a person who receives adaptive equipment, an assistive telecom-
35 munication device or a signal device.

36 [(13)] (14) "Rehabilitation instructor for persons who are blind" means an employee of the
37 Commission for the Blind who:

38 (a) Meets the minimum qualifications set by the commission to assess adult clients referred for
39 services;

40 (b) Develops individualized training programs; and

41 (c) Instructs and counsels clients of the commission on adapting to sight loss.

42 [(14)] (15) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind
43 or hard of hearing of an incoming telephone call.

44 [(15)] (16) "Speech impaired" means a speech disability, as determined by a licensed physician,
45 **physician assistant**, nurse practitioner, speech-language pathologist or vocational rehabilitation

1 counselor of the Department of Human Services, that requires use of an assistive telecommunication
2 device to communicate effectively on the telephone.

3 [(16)] (17) “Speech-language pathologist” means a person who has a master’s degree or equiv-
4 alency in speech-language pathology and a Certificate of Clinical Competence issued by the Ameri-
5 can Speech-Language-Hearing Association.

6 [(17)] (18) “Telecommunications relay center” means a facility authorized by the Public Utility
7 Commission to provide telecommunications relay service.

8 [(18)] (19) “Telecommunications relay service” means a telephone transmission service that
9 provides the ability for an individual who has a hearing or speech disability to engage in commu-
10 nication by wire or radio with a hearing individual in a manner that is functionally equivalent to
11 the ability of an individual who does not have a hearing or speech disability to communicate using
12 voice communication services by wire or radio. “Telecommunications relay service” includes, but
13 is not limited to:

14 (a) Services that enable two-way communication between an individual using a text telephone
15 or other nonvoice terminal device and an individual not using such a device;

16 (b) Speech-to-speech services; and

17 (c) Non-English relay services.

18 **SECTION 84.** Section 14, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 115,
19 Oregon Laws 1989, section 7, chapter 872, Oregon Laws 1991, section 33, chapter 280, Oregon Laws
20 1995, section 5, chapter 384, Oregon Laws 1999, section 2, chapter 28, Oregon Laws 2007, section
21 357, chapter 70, Oregon Laws 2007, and section 4, chapter 264, Oregon Laws 2011, is amended to
22 read:

23 **Sec. 14.** (1)(a) In order to be eligible to receive assistive telecommunication devices or adaptive
24 equipment, individuals must be certified as deaf, hard of hearing, speech impaired or deaf-blind by
25 a licensed physician, **physician assistant**, nurse practitioner, audiologist, hearing aid specialist,
26 speech-language pathologist, rehabilitation instructor for persons who are blind or vocational reha-
27 bilitation counselor of the Department of Human Services. Certification implies that the individual
28 cannot use the telephone for expressive or receptive communication.

29 (b) No more than one assistive telecommunication device or adaptive equipment device may be
30 provided to a household. However, two assistive telecommunication devices or adaptive equipment
31 devices may be provided to a household if more than one eligible person permanently resides in the
32 household. Households without any assistive telecommunication devices or adaptive equipment shall
33 be given priority over households with one assistive telecommunication device or adaptive equip-
34 ment device when such devices are distributed.

35 (c) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility
36 to provide an assistive telecommunication device to any person in violation of ORS 646.730.

37 (2)(a) In order to be eligible to receive adaptive equipment, individuals must be certified to have
38 the required disability by a person or agency designated by the Public Utility Commission to make
39 such certifications. Certification implies that the individual is unable to use the telephone.

40 (b) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility
41 to provide adaptive equipment to any person in violation of ORS 646.730.

42 **SECTION 85. This 2014 Act takes effect on July 1, 2014.**