

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2466

By COMMITTEE ON HEALTH CARE

June 5

- 1 On page 1 of the printed A-engrossed bill, line 3, delete “743.748,”.
2 In line 7, delete “and 3” and insert “, 3 and 3a”.
3 Delete lines 9 through 28.
4 On page 2, delete lines 1 through 14 and insert:
5 **“SECTION 2. (1) As used in this section:**
6 **“(a) ‘Carrier’ has the meaning given that term in ORS 743.730.**
7 **“(b) ‘Grandfathered health plan’ has the meaning given that term in ORS 743.730.**
8 **“(c) ‘Health benefit plan’ has the meaning given that term in ORS 743.730.**
9 **“(d) ‘Transitional grandfathered health benefit plan’ means a grandfathered health plan**
10 **that is issued or renewed by an employer with 51 to 100 employees.**
11 **“(e) ‘Transitional health benefit plan’ means a health benefit plan, other than a grand-**
12 **fathered health plan, that is:**
13 **“(A) Before January 1, 2016, issued to or renewed by an employer with 51 to 100 em-**
14 **ployees on the date the plan is issued or renewed;**
15 **“(B) In effect on December 31, 2015; and**
16 **“(C) According to published federal guidance, not subject to enforcement by the United**
17 **States Department of Health and Human Services, the United States Department of Labor**
18 **or the United States Department of the Treasury, for compliance with the requirements of:**
19 **“(i) 42 U.S.C. 300gg;**
20 **“(ii) 42 U.S.C. 300gg-1;**
21 **“(iii) 42 U.S.C. 300gg-2;**
22 **“(iv) 42 U.S.C. 300gg-5;**
23 **“(v) 42 U.S.C. 300gg-6; and**
24 **“(vi) 42 U.S.C. 300gg-8.**
25 **“(2) A transitional health benefit plan and a transitional grandfathered health benefit**
26 **plan are not subject to the requirements:**
27 **“(a) In ORS 742.005 (6) unless otherwise required by rule by the Department of Consumer**
28 **and Business Services;**
29 **“(b) In ORS 743.736;**
30 **“(c) In ORS 743.737 (1)(a), (8), (10) and (11); and**
31 **“(d) Imposing limitations on participation and contribution rates contained in ORS**
32 **743.737.**
33 **“(3) On and after January 1, 2016, each transitional health benefit plan shall be renewable**
34 **with respect to all eligible enrollees at the option of the policyholder, employer or contract**
35 **holder unless the carrier discontinues both offering and renewing the health benefit plan in**

1 this state or in a specified service area within this state, other than a plan discontinued in
2 a specified service area within this state:

3 “(a) Because of the inability to reach an agreement with the health care providers or
4 organization of health care providers to provide services under the plan within the service
5 area;

6 “(b) That gives notice of the decision to discontinue the plan to the Department of Con-
7 sumer and Business Services and to all policyholders covered by the plan;

8 “(c) That does not cancel coverage under the plan for 90 days after the date of the notice
9 required under paragraph (b) of this subsection; and

10 “(d) That offers in writing to each policyholder covered by the plan, all other group
11 health benefit plans that the carrier offers in the specified service area. The carrier shall
12 offer the plans at least 90 days prior to discontinuation.

13 “(4) ORS 743.752 (2) does not apply when a carrier discontinues a group health benefit
14 plan due to the change in the definition of ‘small employer’ from an employer with a maxi-
15 mum of 50 employees to an employer with a maximum of 100 employees.

16 “(5) The Department of Consumer and Business Services may modify the requirements
17 of this section or extend or delay the operative date of this section to the extent necessary
18 to comply with published federal guidance described in subsection (1)(e)(C) of this section.

19 “(6) No later than September 1, 2018, the department shall report to the appropriate in-
20 terim committees of the Legislative Assembly on whether the repeal of this section by sec-
21 tion 32 of this 2015 Act should be extended to a later date.”.

22 After line 27, insert:

23 “**SECTION 3a.** (1) The Department of Consumer and Business Services shall adopt by rule
24 a method for determining whether:

25 “(a) An employee is an eligible employee as defined in ORS 743.730; and

26 “(b) An employer is a small employer as defined in ORS 743.730.

27 “(2) The method adopted by the department under subsection (1) of this section must be
28 consistent with corresponding federal requirements for the Small Business Health Options
29 Program as defined in ORS 741.300.”.

30 On page 7, line 19, after “(B)” insert “Subscriber contract of a”.

31 On page 9, line 16, after “18024” insert “unless otherwise prescribed by the department by rule
32 in accordance with guidance issued by the United States Department of Health and Human Services,
33 the United States Department of Labor or the United States Department of the Treasury”.

34 On page 11, line 11, after “(B)” insert “Subscriber contract of a”.

35 On page 15, delete lines 44 and 45 and delete pages 16 through 19 and insert:

36 “**SECTION 14.** ORS 743.737 is amended to read:

37 “743.737. (1) A health benefit plan issued to a small employer:

38 “(a) **Other than a grandfathered health plan**, must cover essential health benefits consistent
39 with 42 U.S.C. 300gg-11.

40 “(b) May[:]

41 “[A)] require an affiliation period that does not exceed two months for an enrollee or 90 days
42 for a late enrollee[:].

43 “[B) Impose an exclusion period for specified covered services, as established under ORS 743.745,
44 applicable to all individuals enrolling for the first time in the small employer health benefit plan; or]

45 “[C)] (c) **May** not apply a preexisting condition exclusion to any enrollee.

1 “(2) Late enrollees in a small employer health benefit plan may be subjected to a group eligi-
2 bility waiting period that does not exceed 90 days.

3 “(3) Each small employer health benefit plan shall be renewable with respect to all eligible
4 enrollees at the option of the policyholder, small employer or contract holder unless:

5 “(a) The policyholder, small employer or contract holder fails to pay the required premiums.

6 “(b) The policyholder, small employer or contract holder or, with respect to coverage of indi-
7 vidual enrollees, an enrollee or a representative of an enrollee engages in fraud or makes an in-
8 tentional misrepresentation of a material fact as prohibited by the terms of the plan.

9 “(c) The number of enrollees covered under the plan is less than the number or percentage of
10 enrollees required by participation requirements under the plan.

11 “(d) The small employer fails to comply with the contribution requirements under the health
12 benefit plan.

13 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing[,] all of its
14 small employer health benefit plans in this state or in a specified service area within this state. In
15 order to discontinue plans under this paragraph, the carrier:

16 “(A) Must give notice of the decision to the Department of Consumer and Business Services and
17 to all policyholders covered by the plans;

18 “(B) May not cancel coverage under the plans for 180 days after the date of the notice required
19 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
20 as provided in subparagraph (C) of this paragraph, in a specified service area; **and**

21 “(C) May not cancel coverage under the plans for 90 days after the date of the notice required
22 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
23 because of an inability to reach an agreement with the health care providers or organization of
24 health care providers to provide services under the plans within the service area[; *and*].

25 “[*(D) Must discontinue offering or renewing, or offering and renewing, all health benefit plans is-*
26 *ssued by the carrier in the small employer market in this state or in the specified service area.*]

27 “(f) The carrier discontinues **both** offering and renewing a small employer health benefit plan
28 in a specified service area within this state because of an inability to reach an agreement with the
29 health care providers or organization of health care providers to provide services under the plan
30 within the service area. In order to discontinue a plan under this paragraph, the carrier:

31 “(A) Must give notice to the department and to all policyholders covered by the plan;

32 “(B) May not cancel coverage under the plan for 90 days after the date of the notice required
33 under subparagraph (A) of this paragraph; and

34 “(C) Must offer in writing to each small employer covered by the plan, all other small employer
35 health benefit plans that the carrier offers to small employers in the specified service area. The
36 carrier shall issue any such plans pursuant to the provisions of ORS 743.733 to 743.737. The carrier
37 shall offer the plans at least 90 days prior to discontinuation.

38 “(g) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing[,] a health
39 benefit plan, other than a grandfathered health plan, for all small employers in this state or in a
40 specified service area within this state, other than a plan discontinued under paragraph (f) of this
41 subsection.

42 “(h) The carrier discontinues [*renewing or*] **both** offering and renewing a grandfathered health
43 plan for all small employers in this state or in a specified service area within this state, other than
44 a plan discontinued under paragraph (f) of this subsection.

45 “(i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-

1 section, the carrier must:

2 “(A) Offer in writing to each small employer covered by the plan, all other health benefit plans
3 that the carrier offers to small employers in the specified service area.

4 “(B) Issue any such plans pursuant to the provisions of ORS 743.733 to 743.737.

5 “(C) Offer the plans at least 90 days prior to discontinuation.

6 “(D) Act uniformly without regard to the claims experience of the affected policyholders or the
7 health status of any current or prospective enrollee.

8 “(j) The Director of the Department of Consumer and Business Services orders the carrier to
9 discontinue coverage in accordance with procedures specified or approved by the director upon
10 finding that the continuation of the coverage would:

11 “(A) Not be in the best interests of the enrollees; or

12 “(B) Impair the carrier’s ability to meet contractual obligations.

13 “(k) In the case of a small employer health benefit plan that delivers covered services through
14 a specified network of health care providers, there is no longer any enrollee who lives, resides or
15 works in the service area of the provider network.

16 “(L) In the case of a health benefit plan that is offered in the small employer market only to
17 one or more bona fide associations, the membership of an employer in the association ceases and
18 the termination of coverage is not related to the health status of any enrollee.

19 “(4) A carrier may modify a small employer health benefit plan at the time of coverage renewal.
20 The modification is not a discontinuation of the plan under subsection (3)(e), (g) and (h) of this sec-
21 tion.

22 “(5) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier
23 may not rescind the coverage of an enrollee in a small employer health benefit plan unless:

24 “(a) The enrollee or a person seeking coverage on behalf of the enrollee:

25 “(A) Performs an act, practice or omission that constitutes fraud; or

26 “(B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
27 plan;

28 “(b) The carrier provides at least 30 days’ advance written notice, in the form and manner pre-
29 scribed by the department, to the enrollee; and

30 “(c) The carrier provides notice of the rescission to the department in the form, manner and
31 time frame prescribed by the department by rule.

32 “(6) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier
33 may not rescind a small employer health benefit plan unless:

34 “(a) The small employer or a representative of the small employer:

35 “(A) Performs an act, practice or omission that constitutes fraud; or

36 “(B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
37 plan;

38 “(b) The carrier provides at least 30 days’ advance written notice, in the form and manner pre-
39 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-
40 age; and

41 “(c) The carrier provides notice of the rescission to the department in the form, manner and
42 time frame prescribed by the department by rule.

43 “(7)(a) A carrier may continue to enforce reasonable employer participation and contribution
44 requirements on small employers. However, participation and contribution requirements shall be
45 applied uniformly among all small employer groups with the same number of eligible employees ap-

1 plying for coverage or receiving coverage from the carrier. In determining minimum participation
2 requirements, a carrier shall count only those employees who are not covered by an existing group
3 health benefit plan, Medicaid, Medicare, TRICARE, Indian Health Service or a publicly sponsored
4 or subsidized health plan, including but not limited to the medical assistance program under ORS
5 chapter 414.

6 “(b) A carrier may not deny a small employer’s application for coverage under a health benefit
7 plan based on participation or contribution requirements but may require small employers that do
8 not meet participation or contribution requirements to enroll during the open enrollment period
9 beginning November 15 and ending December 15.

10 “(8) Premium rates for small employer health benefit plans, **except grandfathered health**
11 **plans**, shall be subject to the following provisions:

12 “(a) Each carrier must file with the department the initial geographic average rate and any
13 changes in the geographic average rate with respect to each health benefit plan issued by the car-
14 rier to small employers.

15 “(b)(A) The variations in premium rates charged during a rating period for health benefit plans
16 issued to small employers shall be based solely on the factors specified in subparagraph (B) of this
17 paragraph. A carrier may elect which of the factors specified in subparagraph (B) of this paragraph
18 apply to premium rates for health benefit plans for small employers. All other factors must be ap-
19 plied in the same actuarially sound way to all small employer health benefit plans.

20 “(B) The variations in premium rates described in subparagraph (A) of this paragraph may be
21 based only on one or more of the following factors as prescribed by the department by rule:

22 “(i) The ages of enrolled employees and their dependents, except that the rate for adults may
23 not vary by more than three to one;

24 “(ii) The level at which enrolled employees and their dependents 18 years of age and older en-
25 gage in tobacco use, except that the rate may not vary by more than 1.5 to one; and

26 “(iii) Adjustments to reflect differences in family composition.

27 “(C) A carrier shall apply the carrier’s schedule of premium rate variations as approved by the
28 department and in accordance with this paragraph. Except as otherwise provided in this section, the
29 premium rate established by a carrier for a small employer health benefit plan shall apply uniformly
30 to all employees of the small employer enrolled in that plan.

31 “(c) Except as provided in paragraph (b) of this subsection, the variation in premium rates be-
32 tween different health benefit plans offered by a carrier to small employers must be based solely on
33 objective differences in plan design or coverage, age, tobacco use and family composition and must
34 not include differences based on the risk characteristics of groups assumed to select a particular
35 health benefit plan.

36 “(d) A carrier may not increase the rates of a health benefit plan issued to a small employer
37 more than once in a 12-month period. Annual rate increases shall be effective on the plan anniver-
38 sary date of the health benefit plan issued to a small employer. The percentage increase in the
39 premium rate charged to a small employer for a new rating period may not exceed the sum of the
40 following:

41 “(A) The percentage change in the geographic average rate measured from the first day of the
42 prior rating period to the first day of the new period; and

43 “(B) Any adjustment attributable to changes in age and differences in family composition.

44 “[e] Premium rates for small employer health benefit plans shall comply with the requirements of
45 this section.]

1 “(9) Premium rates for grandfathered health plans shall be subject to requirements pre-
2 scribed by the department by rule.

3 “[(9)] (10) In connection with the offering for sale of any health benefit plan to a small employer,
4 each carrier shall make a reasonable disclosure as part of its solicitation and sales materials of:

5 “(a) The full array of health benefit plans that are offered to small employers by the carrier;

6 “(b) The authority of the carrier to adjust rates and premiums, and the extent to which the
7 carrier [*will consider*] **considers** age, tobacco use, family composition and geographic factors in es-
8 tablishing and adjusting rates and premiums; and

9 “(c) The benefits and premiums for all health insurance coverage for which the employer is
10 qualified.

11 “[(10)(a)] (11)(a) Each carrier shall maintain at its principal place of business a complete and
12 detailed description of its rating practices and renewal underwriting practices relating to its small
13 employer health benefit plans, including information and documentation that demonstrate that its
14 rating methods and practices are based upon commonly accepted actuarial practices and are in ac-
15 cordance with sound actuarial principles.

16 “(b) A carrier offering a small employer health benefit plan shall file with the department at
17 least once every 12 months an actuarial certification that the carrier is in compliance with ORS
18 743.733 to 743.737 and that the rating methods of the carrier are actuarially sound. Each certifica-
19 tion shall be in a uniform form and manner and shall contain such information as specified by the
20 department. A copy of each certification shall be retained by the carrier at its principal place of
21 business. A carrier is not required to file the actuarial certification under this paragraph if the de-
22 partment has approved the carrier’s rate filing within the preceding 12-month period.

23 “(c) A carrier shall make the information and documentation described in paragraph (a) of this
24 subsection available to the department upon request. Except as provided in ORS 743.018 and except
25 in cases of violations of ORS 743.733 to 743.737, the information shall be considered proprietary and
26 trade secret information and shall not be subject to disclosure to persons outside the department
27 except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

28 “[(11)] (12) A carrier shall not provide any financial or other incentive to any insurance pro-
29 ducer that would encourage the insurance producer to [*market and*] sell health benefit plans of the
30 carrier to small employer groups based on a small employer group’s anticipated claims experience.

31 “[(12)] (13) For purposes of this section, the date a small employer health benefit plan is con-
32 tinued shall be the anniversary date of the first issuance of the health benefit plan.

33 “[(13)] (14) A carrier must include a provision that offers coverage to all eligible employees of
34 a small employer and to all dependents of the eligible employees to the extent the employer chooses
35 to offer coverage to dependents.

36 “[(14)] (15) All small employer health benefit plans shall contain special enrollment periods
37 during which eligible employees and dependents may enroll for coverage, as provided by federal law
38 and rules adopted by the department.

39 “[(15)] (16) A small employer health benefit plan may not impose annual or lifetime limits on the
40 dollar amount of essential health benefits.

41 “[(16) *This section does not require a carrier to actively market, offer, issue or accept applications*
42 *for a grandfathered health plan or from a small employer not eligible for coverage under such a*
43 *plan.].”*

44 On page 20, delete lines 1 through 4.

45 In line 15, delete “marketed” and insert “sold”.

1 In line 18, delete “marketing” and insert “selling”.

2 Delete lines 26 through 45 and delete page 21.

3 On page 22, delete lines 1 through 11 and insert:

4 “**NOTE:** Sections 16 and 17 were deleted by amendment. Subsequent sections were not renum-
5 bered.”.

6 Delete lines 38 through 45 and delete pages 23 through 29.

7 On page 30, delete lines 1 through 11 and insert:

8 “**SECTION 19.** ORS 743.754 is amended to read:

9 “743.754. The following requirements apply to all group health benefit plans other than small
10 employer health benefit plans covering two or more certificate holders:

11 “(1) [*Except in the case of a late enrollee and except as otherwise provided in this section,*] A
12 carrier offering a group health benefit plan may not decline to offer coverage to any eligible pro-
13 spective enrollee and may not impose different terms or conditions on the coverage, premiums or
14 contributions of any enrollee in the group that are based on the actual or expected health status
15 of the enrollee.

16 “(2) A group health benefit plan may not apply a preexisting condition exclusion to any enrollee
17 but may impose:

18 “(a) An affiliation period that does not exceed two months for an enrollee or three months for
19 a late enrollee; or

20 “[*(b) An exclusion period for specified covered services applicable to all individuals enrolling for*
21 *the first time in the plan.*]

22 “[*(3) Late enrollees may be subjected to*]

23 “(b) A group eligibility waiting period **for late enrollees** that does not exceed 90 days.

24 “[*(4)*] **(3)** Each group health benefit plan shall contain a special enrollment period during which
25 eligible employees and dependents may enroll for coverage, as provided by federal law and rules
26 adopted by the Department of Consumer and Business Services.

27 “(4)(a) **A carrier shall issue to a group any of the carrier’s group health benefit plans**
28 **offered by the carrier for which the group is eligible, if the group applies for the plan, agrees**
29 **to make the required premium payments and agrees to satisfy the other requirements of the**
30 **plan.**

31 “(b) **The department may waive the requirements of this subsection if the department**
32 **finds that issuing a plan to a group or groups would endanger the carrier’s ability to fulfill**
33 **its contractual obligations or result in financial impairment of the carrier.**

34 “(5) Each group health benefit plan shall be renewable with respect to all eligible enrollees at
35 the option of the policyholder unless:

36 “(a) The policyholder fails to pay the required premiums.

37 “(b) The policyholder or, with respect to coverage of individual enrollees, an enrollee or a rep-
38 resentative of an enrollee engages in fraud or makes an intentional misrepresentation of a material
39 fact as prohibited by the terms of the plan.

40 “(c) The number of enrollees covered under the plan is less than the number or percentage of
41 enrollees required by participation requirements under the plan.

42 “(d) The policyholder fails to comply with the contribution requirements under the plan.

43 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing, all of its
44 group health benefit plans in this state or in a specified service area within this state. In order to
45 discontinue plans under this paragraph, the carrier:

1 “(A) Must give notice of the decision to the department and to all policyholders covered by the
2 plans;

3 “(B) May not cancel coverage under the plans for 180 days after the date of the notice required
4 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
5 as provided in subparagraph (C) of this paragraph, in a specified service area; **and**

6 “(C) May not cancel coverage under the plans for 90 days after the date of the notice required
7 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
8 because of an inability to reach an agreement with the health care providers or organization of
9 health care providers to provide services under the plans within the service area[; *and*].

10 “[*D*] *Must discontinue offering or renewing, or offering and renewing, all health benefit plans is-*
11 *ssued by the carrier in the group market in this state or in the specified service area.*]

12 “(f) The carrier discontinues **both** offering and renewing a group health benefit plan in a spec-
13 ified service area within this state because of an inability to reach an agreement with the health
14 care providers or organization of health care providers to provide services under the plan within the
15 service area. In order to discontinue a plan under this paragraph, the carrier:

16 “(A) Must give notice of the decision to the department and to all policyholders covered by the
17 plan;

18 “(B) May not cancel coverage under the plan for 90 days after the date of the notice required
19 under subparagraph (A) of this paragraph; and

20 “(C) Must offer in writing to each policyholder covered by the plan, all other group health
21 benefit plans that the carrier offers in the specified service area. The carrier shall offer the plans
22 at least 90 days prior to discontinuation.

23 “(g) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing[,] a group
24 health benefit plan, other than a grandfathered health plan, for all groups in this state or in a
25 specified service area within this state, other than a plan discontinued under paragraph (f) of this
26 subsection.

27 “(h) The carrier discontinues [*renewing or*] **both** offering and renewing a grandfathered health
28 plan for all groups in this state or in a specified service area within this state, other than a plan
29 discontinued under paragraph (f) of this subsection.

30 “(i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-
31 section, the carrier must:

32 “(A) Offer in writing to each policyholder covered by the plan, one or more health benefit plans
33 that the carrier offers to groups in the specified service area.

34 “(B) Offer the plans at least 90 days prior to discontinuation.

35 “(C) Act uniformly without regard to the claims experience of the affected policyholders or the
36 health status of any current or prospective enrollee.

37 “(j) The Director of the Department of Consumer and Business Services orders the carrier to
38 discontinue coverage in accordance with procedures specified or approved by the director upon
39 finding that the continuation of the coverage would:

40 “(A) Not be in the best interests of the enrollees; or

41 “(B) Impair the carrier’s ability to meet contractual obligations.

42 “(k) In the case of a group health benefit plan that delivers covered services through a specified
43 network of health care providers, there is no longer any enrollee who lives, resides or works in the
44 service area of the provider network.

45 “(L) In the case of a health benefit plan that is offered in the group market only to one or more

1 bona fide associations, the membership of an employer in the association ceases and the termination
2 of coverage is not related to the health status of any enrollee.

3 “(6) A carrier may modify a group health benefit plan at the time of coverage renewal. The
4 modification is not a discontinuation of the plan under subsection (5)(e), (g) and (h) of this section.

5 “(7) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier
6 may not rescind the coverage of an enrollee under a group health benefit plan unless:

7 “(a) The enrollee:

8 “(A) Performs an act, practice or omission that constitutes fraud; or

9 “(B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
10 plan;

11 “(b) The carrier provides at least 30 days’ advance written notice, in the form and manner pre-
12 scribed by the department, to the enrollee; and

13 “(c) The carrier provides notice of the rescission to the department in the form, manner and
14 time frame prescribed by the department by rule.

15 “(8) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier
16 may not rescind a group health benefit plan unless:

17 “(a) The plan sponsor or a representative of the plan sponsor:

18 “(A) Performs an act, practice or omission that constitutes fraud; or

19 “(B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
20 plan;

21 “(b) The carrier provides at least 30 days’ advance written notice, in the form and manner pre-
22 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-
23 age; and

24 “(c) The carrier provides notice of the rescission to the department in the form, manner and
25 time frame prescribed by the department by rule.

26 “[9] *A carrier that continues to offer coverage in the group market in this state is not required to*
27 *offer coverage in all of the carrier’s group health benefit plans. If a carrier, however, elects to continue*
28 *a plan that is closed to new policyholders instead of offering alternative coverage in its other group*
29 *health benefit plans, the coverage for all existing policyholders in the closed plan is renewable in ac-*
30 *cordance with subsection (5) of this section.]*

31 “[10] (9) A group health benefit plan may not impose annual or lifetime limits on the dollar
32 amount of essential health benefits.

33 “[11] *This section does not require a carrier to actively market, offer, issue or accept applications*
34 *for a grandfathered health plan or from a group not eligible for coverage under such a plan.]*

35 “**SECTION 20.** ORS 743.766 is amended to read:

36 “743.766. (1) With respect to coverage under an individual health benefit plan, a carrier[:]

37 “[a)] may not impose an individual coverage waiting period [*that exceeds 90 days*].

38 “[b) *May impose an exclusion period for specified covered services applicable to all individuals*
39 *enrolling for the first time in the individual health benefit plan.]*

40 “[c) (2) With respect to individual coverage under a grandfathered health plan, a carrier
41 [*may*]:

42 “(a) **May impose an exclusion period for specified covered services applicable to all indi-**
43 **viduals enrolling for the first time in the individual health benefit plan.**

44 “(b) **May** not impose a preexisting condition exclusion unless the exclusion complies with the
45 following requirements:

1 “(A) The exclusion applies only to a condition for which medical advice, diagnosis, care or
2 treatment was recommended or received during the six-month period immediately preceding the
3 individual’s effective date of coverage.

4 “(B) The exclusion expires no later than six months after the individual’s effective date of cov-
5 erage.

6 “[(2)] (3) If the carrier elects to restrict coverage as described in subsection (1) **or** (2) of this
7 section, the carrier shall reduce the duration of the period during which the restriction is imposed
8 by an amount equal to the individual’s aggregate periods of creditable coverage if the most recent
9 period of creditable coverage is ongoing or ended within 63 days after the effective date of coverage
10 in the new individual health benefit plan. The crediting of prior coverage in accordance with this
11 subsection shall be applied without regard to the specific benefits covered during the prior period.

12 “[(3)] (4) An individual health benefit plan other than a grandfathered health plan must cover,
13 at a minimum, all essential health benefits.

14 “[(4)] (5) A carrier shall renew an individual health benefit plan, including a health benefit plan
15 issued through a bona fide association, unless:

16 “(a) The policyholder fails to pay the required premiums.

17 “(b) The policyholder or a representative of the policyholder engages in fraud or makes an in-
18 tentional misrepresentation of a material fact as prohibited by the terms of the policy.

19 “(c) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing[,] all of its
20 individual health benefit plans in this state or in a specified service area within this state. In order
21 to discontinue the plans under this paragraph, the carrier:

22 “(A) Must give notice of the decision to the Department of Consumer and Business Services and
23 to all policyholders covered by the plans;

24 “(B) May not cancel coverage under the plans for 180 days after the date of the notice required
25 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
26 as provided in subparagraph (C) of this paragraph, in a specified service area; **and**

27 “(C) May not cancel coverage under the plans for 90 days after the date of the notice required
28 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
29 because of an inability to reach an agreement with the health care providers or organization of
30 health care providers to provide services under the plans within the service area[; *and*].

31 “[(D) *Must discontinue offering or renewing, or offering and renewing, all health benefit plans is-*
32 *ssued by the carrier in the individual market in this state or in the specified service area.*]

33 “(d) The carrier discontinues **both** offering and renewing an individual health benefit plan in a
34 specified service area within this state because of an inability to reach an agreement with the health
35 care providers or organization of health care providers to provide services under the plan within the
36 service area. In order to discontinue a plan under this paragraph, the carrier:

37 “(A) Must give notice of the decision to the department and to all policyholders covered by the
38 plan;

39 “(B) May not cancel coverage under the plan for 90 days after the date of the notice required
40 under subparagraph (A) of this paragraph; and

41 “(C) Must offer in writing to each policyholder covered by the plan, all other individual health
42 benefit plans that the carrier offers in the specified service area. The carrier shall offer the plans
43 at least 90 days prior to discontinuation.

44 “(e) The carrier discontinues [*offering or renewing, or*] **both** offering and renewing[,] an individ-
45 ual health benefit plan, other than a grandfathered health plan, for all individuals in this state or

1 in a specified service area within this state, other than a plan discontinued under paragraph (d) of
2 this subsection.

3 “(f) The carrier discontinues [*renewing or*] **both** offering and renewing a grandfathered health
4 plan for all individuals in this state or in a specified service area within this state, other than a plan
5 discontinued under paragraph (d) of this subsection.

6 “(g) With respect to plans that are being discontinued under paragraph (e) or (f) of this sub-
7 section, the carrier must:

8 “(A) Offer in writing to each policyholder covered by the plan, all health benefit plans that the
9 carrier offers to individuals in the specified service area.

10 “(B) Offer the plans at least 90 days prior to discontinuation.

11 “(C) Act uniformly without regard to the claims experience of the affected policyholders or the
12 health status of any current or prospective enrollee.

13 “(h) The Director of the Department of Consumer and Business Services orders the carrier to
14 discontinue coverage in accordance with procedures specified or approved by the director upon
15 finding that the continuation of the coverage would:

16 “(A) Not be in the best interests of the enrollee; or

17 “(B) Impair the carrier’s ability to meet its contractual obligations.

18 “(i) In the case of an individual health benefit plan that delivers covered services through a
19 specified network of health care providers, the enrollee no longer lives, resides or works in the
20 service area of the provider network and the termination of coverage is not related to the health
21 status of any enrollee.

22 “(j) In the case of a health benefit plan that is offered in the individual market only through one
23 or more bona fide associations, the membership of an individual in the association ceases and the
24 termination of coverage is not related to the health status of any enrollee.

25 “[5] (6) A carrier may modify an individual health benefit plan at the time of coverage renewal.
26 The modification is not a discontinuation of the plan under subsection [(4)(c)] (5)(c), (e) and (f) of
27 this section.

28 “[6] (7) Notwithstanding any other provision of this section, and subject to the provisions of
29 ORS 743.894 (2) and (4), a carrier may rescind an individual health benefit plan if the policyholder
30 or a representative of the policyholder:

31 “(a) Performs an act, practice or omission that constitutes fraud; or

32 “(b) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
33 policy.

34 “[7] (8) A carrier that continues to offer coverage in the individual market in this state is not
35 required to offer coverage in all of the carrier’s individual health benefit plans. However, if a carrier
36 elects to continue a plan that is closed to new individual policyholders instead of offering alterna-
37 tive coverage in its other individual health benefit plans, the coverage for all existing policyholders
38 in the closed plan is renewable in accordance with subsection [(4)] (5) of this section.

39 “[8] (9) An individual health benefit plan may not impose annual or lifetime limits on the dollar
40 amount of essential health benefits.

41 “(10) **A grandfathered health plan may not impose lifetime limits on the dollar amount**
42 **of essential health benefits.**

43 “[9] (11) This section does not require a carrier to actively market, offer, issue or accept ap-
44 plications for [*a grandfathered health plan or from an individual not eligible for coverage under such*
45 *a plan*]:

1 “(a) A bona fide association health benefit plan from individuals who are not members
2 of the bona fide association; or

3 “(b) A grandfathered health plan from individuals who are not eligible for coverage under
4 the plan.

5 “**SECTION 21.** ORS 743.766, as amended by section 20 of this 2015 Act, is amended to read:

6 “743.766. (1) With respect to coverage under an individual health benefit plan, a carrier may not
7 impose an individual coverage waiting period.

8 “(2) With respect to individual coverage under a grandfathered health plan, a carrier:

9 “(a) May impose an exclusion period for specified covered services applicable to all individuals
10 enrolling for the first time in the individual health benefit plan.

11 “(b) May not impose a preexisting condition exclusion unless the exclusion complies with the
12 following requirements:

13 “(A) The exclusion applies only to a condition for which medical advice, diagnosis, care or
14 treatment was recommended or received during the six-month period immediately preceding the
15 individual’s effective date of coverage.

16 “(B) The exclusion expires no later than six months after the individual’s effective date of cov-
17 erage.

18 “[(3) *If the carrier elects to restrict coverage as described in subsection (1) or (2) of this section,*
19 *the carrier shall reduce the duration of the period during which the restriction is imposed by an*
20 *amount equal to the individual’s aggregate periods of creditable coverage if the most recent period of*
21 *creditable coverage is ongoing or ended within 63 days after the effective date of coverage in the new*
22 *individual health benefit plan. The crediting of prior coverage in accordance with this subsection shall*
23 *be applied without regard to the specific benefits covered during the prior period.]*

24 “[(4)] (3) An individual health benefit plan other than a grandfathered health plan must cover,
25 at a minimum, all essential health benefits.

26 “[(5)] (4) A carrier shall renew an individual health benefit plan, including a health benefit plan
27 issued through a bona fide association, unless:

28 “(a) The policyholder fails to pay the required premiums.

29 “(b) The policyholder or a representative of the policyholder engages in fraud or makes an in-
30 tentional misrepresentation of a material fact as prohibited by the terms of the policy.

31 “(c) The carrier discontinues both offering and renewing all of its individual health benefit plans
32 in this state or in a specified service area within this state. In order to discontinue the plans under
33 this paragraph, the carrier:

34 “(A) Must give notice of the decision to the Department of Consumer and Business Services and
35 to all policyholders covered by the plans;

36 “(B) May not cancel coverage under the plans for 180 days after the date of the notice required
37 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except
38 as provided in subparagraph (C) of this paragraph, in a specified service area; and

39 “(C) May not cancel coverage under the plans for 90 days after the date of the notice required
40 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
41 because of an inability to reach an agreement with the health care providers or organization of
42 health care providers to provide services under the plans within the service area.

43 “(d) The carrier discontinues both offering and renewing an individual health benefit plan in a
44 specified service area within this state because of an inability to reach an agreement with the health
45 care providers or organization of health care providers to provide services under the plan within the

1 service area. In order to discontinue a plan under this paragraph, the carrier:

2 “(A) Must give notice of the decision to the department and to all policyholders covered by the
3 plan;

4 “(B) May not cancel coverage under the plan for 90 days after the date of the notice required
5 under subparagraph (A) of this paragraph; and

6 “(C) Must offer in writing to each policyholder covered by the plan, all other individual health
7 benefit plans that the carrier offers in the specified service area. The carrier shall offer the plans
8 at least 90 days prior to discontinuation.

9 “(e) The carrier discontinues both offering and renewing an individual health benefit plan, other
10 than a grandfathered health plan, for all individuals in this state or in a specified service area
11 within this state, other than a plan discontinued under paragraph (d) of this subsection.

12 “(f) The carrier discontinues both offering and renewing a grandfathered health plan for all in-
13 dividuals in this state or in a specified service area within this state, other than a plan discontinued
14 under paragraph (d) of this subsection.

15 “(g) With respect to plans that are being discontinued under paragraph (e) or (f) of this sub-
16 section, the carrier must:

17 “(A) Offer in writing to each policyholder covered by the plan, all health benefit plans that the
18 carrier offers to individuals in the specified service area.

19 “(B) Offer the plans at least 90 days prior to discontinuation.

20 “(C) Act uniformly without regard to the claims experience of the affected policyholders or the
21 health status of any current or prospective enrollee.

22 “(h) The Director of the Department of Consumer and Business Services orders the carrier to
23 discontinue coverage in accordance with procedures specified or approved by the director upon
24 finding that the continuation of the coverage would:

25 “(A) Not be in the best interests of the enrollee; or

26 “(B) Impair the carrier’s ability to meet its contractual obligations.

27 “(i) In the case of an individual health benefit plan that delivers covered services through a
28 specified network of health care providers, the enrollee no longer lives, resides or works in the
29 service area of the provider network and the termination of coverage is not related to the health
30 status of any enrollee.

31 “(j) In the case of a health benefit plan that is offered in the individual market only through one
32 or more bona fide associations, the membership of an individual in the association ceases and the
33 termination of coverage is not related to the health status of any enrollee.

34 “[6] (5) A carrier may modify an individual health benefit plan at the time of coverage renewal.
35 The modification is not a discontinuation of the plan under subsection [(5)(c)] (4)(c), (e) and (f) of
36 this section.

37 “[7] (6) Notwithstanding any other provision of this section, and subject to the provisions of
38 ORS 743.894 (2) and (4), a carrier may rescind an individual health benefit plan if the policyholder
39 or a representative of the policyholder:

40 “(a) Performs an act, practice or omission that constitutes fraud; or

41 “(b) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
42 policy.

43 “[8] (7) A carrier that continues to offer coverage in the individual market in this state is not
44 required to offer coverage in all of the carrier’s individual health benefit plans. However, if a carrier
45 elects to continue a plan that is closed to new individual policyholders instead of offering alterna-

1 tive coverage in its other individual health benefit plans, the coverage for all existing policyholders
2 in the closed plan is renewable in accordance with subsection [(5)] (4) of this section.

3 “[9)] (8) An individual health benefit plan may not impose annual or lifetime limits on the dollar
4 amount of essential health benefits.

5 “[10)] (9) A grandfathered health plan may not impose lifetime limits on the dollar amount of
6 essential health benefits.

7 “[11)] (10) This section does not require a carrier to actively market, offer, issue or accept ap-
8 plications for:

9 “(a) A bona fide association health benefit plan from individuals who are not members of the
10 bona fide association; or

11 “(b) A grandfathered health plan from individuals who are not eligible for coverage under the
12 plan.

13 “**SECTION 22.** ORS 743.769 is amended to read:

14 “743.769. (1) Each carrier shall actively market all individual health benefit plans sold by the
15 carrier that are not grandfathered health plans.

16 “(2) Except as provided in subsection (3) of this section, no carrier or insurance producer shall,
17 directly or indirectly, discourage an individual from filing an application for coverage because of the
18 health status, claims experience, occupation or geographic location of the individual.

19 “(3) Subsection (2) of this section does not apply with respect to information provided by a
20 carrier to an individual regarding the established geographic service area or a restricted network
21 provision of a carrier.

22 “(4) Rejection by a carrier of an application for coverage shall be in writing and shall state the
23 reason or reasons for the rejection.

24 “(5) The Director of the Department of Consumer and Business Services may establish by rule
25 additional standards to provide for the fair marketing and broad availability of individual health
26 benefit plans.

27 “(6) A carrier that elects to discontinue offering all of its individual health benefit plans under
28 ORS 743.766 [(4)(c)] (5)(c) or to discontinue **both** offering and renewing all such plans is prohibited
29 from offering and renewing health benefit plans in the individual market in this state for a period
30 of five years from the date of notice to the director pursuant to ORS 743.766 [(4)(c)] (5)(c) or, if such
31 notice is not provided, from the date on which the director provides notice to the carrier that the
32 director has determined that the carrier has effectively discontinued offering individual health ben-
33 efit plans in this state. This subsection does not apply with respect to a health benefit plan discon-
34 tinued in a specified service area by a carrier that covers services provided only by a particular
35 organization of health care providers or only by health care providers who are under contract with
36 the carrier.

37 “**SECTION 22a.** ORS 743.769, as amended by section 22 of this 2015 Act, is amended to read:

38 “743.769. (1) Each carrier shall actively market all individual health benefit plans sold by the
39 carrier that are not grandfathered health plans.

40 “(2) Except as provided in subsection (3) of this section, no carrier or insurance producer shall,
41 directly or indirectly, discourage an individual from filing an application for coverage because of the
42 health status, claims experience, occupation or geographic location of the individual.

43 “(3) Subsection (2) of this section does not apply with respect to information provided by a
44 carrier to an individual regarding the established geographic service area or a restricted network
45 provision of a carrier.

1 “(4) Rejection by a carrier of an application for coverage shall be in writing and shall state the
2 reason or reasons for the rejection.

3 “(5) The Director of the Department of Consumer and Business Services may establish by rule
4 additional standards to provide for the fair marketing and broad availability of individual health
5 benefit plans.

6 “(6) A carrier that elects to discontinue offering all of its individual health benefit plans under
7 ORS 743.766 [(5)(c)] (4)(c) or to discontinue both offering and renewing all such plans is prohibited
8 from offering and renewing health benefit plans in the individual market in this state for a period
9 of five years from the date of notice to the director pursuant to ORS 743.766 [(5)(c)] (4)(c) or, if such
10 notice is not provided, from the date on which the director provides notice to the carrier that the
11 director has determined that the carrier has effectively discontinued offering individual health ben-
12 efit plans in this state. This subsection does not apply with respect to a health benefit plan discon-
13 tinued in a specified service area by a carrier that covers services provided only by a particular
14 organization of health care providers or only by health care providers who are under contract with
15 the carrier.”.

16 On page 31, line 13, restore the bracketed material and delete “a”.

17 Delete line 14.

18 In lines 15 through 17, restore the bracketed material.

19 On page 35, delete lines 19 through 33 and insert:

20 “(2) The amendments to ORS 743.106 by section 5 of this 2015 Act apply to health benefit plans
21 issued or renewed on or after January 1, 2017.

22 “(3) The amendments to ORS 743.602, 743.730, 743.766, 743.769, 743.818 and 743A.141 and section
23 66, chapter 681, Oregon Laws 2013, by sections 7 to 10, 21, 22a, 23 and 26 of this 2015 Act apply to:

24 “(a) A health benefit plan issued or renewed on or after January 1, 2016; and

25 “(b) A health benefit plan that, according to its terms, would renew on or after January 1, 2016,
26 but is renewed prior to January 1, 2016.”.

27 In line 34, delete “22” and insert “22a”.