

## HOUSE AMENDMENTS TO HOUSE BILL 2758

By COMMITTEE ON HEALTH CARE

April 28

- 1 On page 1 of the printed bill, line 2, delete “and”.
- 2 In line 3, after “750.333” insert “; and declaring an emergency”.
- 3 Delete lines 5 through 29 and delete page 2.
- 4 On page 3, delete lines 1 through 40 and insert:
- 5 **“SECTION 1. Section 2 of this 2015 Act is added to and made a part of the Insurance**
- 6 **Code.**
- 7 **“SECTION 2. (1) As used in this section:**
- 8 **“(a) ‘Carrier’ has the meaning given that term in ORS 743.730.**
- 9 **“(b) ‘Communication’ includes:**
- 10 **“(A) An explanation of benefits notice;**
- 11 **“(B) Information about an appointment;**
- 12 **“(C) A notice of an adverse benefit determination;**
- 13 **“(D) A carrier’s or third party administrator’s request for additional information re-**
- 14 **garding a claim;**
- 15 **“(E) A notice of a contested claim;**
- 16 **“(F) The name and address of a provider, a description of services provided and other**
- 17 **visit information; and**
- 18 **“(G) Any written, oral or electronic communication described in this paragraph from a**
- 19 **carrier or a third party administrator to a policyholder, certificate holder or enrollee that**
- 20 **contains protected health information.**
- 21 **“(c) ‘Confidential communications request’ means a request from an enrollee to a carrier**
- 22 **or third party administrator that communications be sent directly to the enrollee and that**
- 23 **the carrier or third party administrator refrain from sending communications concerning**
- 24 **the enrollee to the policyholder or certificate holder.**
- 25 **“(d) ‘Protected health information’ has the meaning given that term in ORS 192.556.**
- 26 **“(2) A carrier and a third party administrator doing business in this state:**
- 27 **“(a) Shall permit any enrollee to submit a confidential communications request.**
- 28 **“(b) Shall update an enrollee on the status of implementing a confidential communi-**
- 29 **cations request upon the enrollee’s inquiry.**
- 30 **“(3) The procedure adopted by a carrier or third party administrator for enrollees to**
- 31 **make confidential communications requests:**
- 32 **“(a) Must allow enrollees to use the form described in subsection (4) of this section and**
- 33 **may also allow enrollees to make the request by other means such as telephone or the**
- 34 **Internet.**
- 35 **“(b) Shall ensure that the confidential communications request remains in effect until**

1 the enrollee revokes the request in writing or submits a new confidential communications  
2 request.

3 “(c) Shall ensure that the confidential communications request is acted upon and imple-  
4 mented by the carrier or third party administrator not later than seven days after receipt  
5 of a request by electronic means or 30 days after receipt of a request in hard copy.

6 “(d) May not require an enrollee to waive any right to limit disclosure under this section  
7 as a condition of eligibility for or coverage under a health benefit plan.

8 “(e) Must be easy to understand and to complete.

9 “(4) The Department of Consumer and Business Services shall work with stakeholders  
10 to develop and make available to the public a standardized form that an enrollee may submit  
11 to a carrier or third party administrator to make a confidential communications request.  
12 The department may encourage health care providers to clearly display the form and make  
13 it available to patients. At a minimum, the form must:

14 “(a) Inform an enrollee about the enrollee’s right to have protected health information  
15 sent to the enrollee and not disclosed to the policyholder or certificate holder;

16 “(b) Allow an enrollee to indicate where to redirect communications containing protected  
17 health information, including a specified mail or electronic mail address or specified tele-  
18 phone number;

19 “(c) Allow an enrollee to designate a mail or electronic mail address or telephone number  
20 for the carrier or third party administrator to contact the enrollee if additional information  
21 or clarification is necessary to process the confidential communications request; and

22 “(d) Include a disclaimer that it may take up to 30 days from the date of receipt for a  
23 carrier or third party administrator to process the form.

24 “(5) If an insurer makes an adverse benefit determination regarding a claim concerning  
25 health care provided to an enrollee who has made a confidential communications request:

26 “(a) The enrollee has the right to appeal the determination; and

27 “(b) The policyholder or certificate holder may not appeal the adverse benefit determi-  
28 nation unless the enrollee has signed an authorization to disclose claims information rele-  
29 vant to the appeal.

30 “(6) As used in this section, ‘enrollee’ does not include an individual who is in the custody  
31 of the Department of Corrections.

32 “(7) The department shall interpret this section in a manner that is consistent with fed-  
33 eral law.

34 “**SECTION 3.** (1) No later than December 1, 2016, the Department of Consumer and  
35 Business Services shall report, in the manner prescribed by ORS 192.245, on:

36 “(a) The effectiveness of the process described in section 2 of this 2015 Act in allowing  
37 health insurance enrollees to redirect insurance communications containing protected health  
38 information, the extent to which enrollees are using the process and whether the process is  
39 working properly; and

40 “(b) The education and outreach activities conducted by carriers or third party adminis-  
41 trators to inform Oregonians about their right to have protected health information redi-  
42 rected.

43 “(2) The department shall require carriers or third party administrators to report data  
44 necessary for the department to produce the report described in subsection (1) of this sec-  
45 tion.”.

1           On page 8, lines 22 through 25, delete the boldfaced material and insert “and the requirement  
2 under section 2 of this 2015 Act that a carrier or third party administrator send communications  
3 containing protected health information only to the enrollee who is the subject of the protected  
4 health information”.

5           On page 14, after line 39, insert:

6           “**SECTION 13. Section 2 of this 2015 Act applies to health benefit plans issued or renewed**  
7 **on or after January 1, 2016.**

8           “**SECTION 14. This 2015 Act being necessary for the immediate preservation of the public**  
9 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
10 **on its passage.**”.

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