

HOUSE MINORITY REPORT AMENDMENTS TO HOUSE BILL 2758

By Nonconcurring Members of COMMITTEE ON HEALTH CARE

April 28

- 1 On page 1 of the printed bill, line 2, delete “and” and after “ORS” insert “419B.050.”
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, including a confirmation and a reminder;**
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 from a carrier or a third party ad-**
19 **ministrator to a policyholder, certificate holder or enrollee that contains personal health**
20 **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 at a spec-**
23 **ified mail or electronic mail address or specified telephone number designated by the enrollee**
24 **and that the carrier or third party administrator refrain from sending communications**
25 **concerning the enrollee to the policyholder or certificate holder.**
26 **“(d) ‘Personal health information’ means information or data created by or derived from**
27 **a provider about an individual that relates to:**
28 **“(A) The past, present or future health condition of the individual;**
29 **“(B) The provision of health care to the individual;**
30 **“(C) A request for the provision of health care to the individual; or**
31 **“(D) The cost of or payment for health care provided to the individual.**
32 **“(2) A carrier and a third party administrator doing business in this state:**
33 **“(a) Shall comply with a confidential communications request made by an enrollee if the**
34 **enrollee states that disclosure of all or part of a communication regarding the enrollee may**

1 lead to abuse of the enrollee.

2 “(b) Shall update an enrollee on the status of implementing a confidential communi-
3 cations request upon the enrollee’s inquiry.

4 “(3) The procedure adopted by a carrier or third party administrator for enrollees to
5 make confidential communications requests:

6 “(a) Must use the form described in subsection (5) of this section and may also allow
7 enrollees to make the request by other means such as telephone or the Internet.

8 “(b) May not require the enrollee to explain why the enrollee fears that disclosure may
9 lead to abuse.

10 “(c) Shall ensure that the confidential communications request remains in effect until
11 the enrollee revokes the request in writing or submits a new confidential communications
12 request.

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

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

18 “(f) Must be easy to understand and to complete.

19 “(4) A provider may make an arrangement with an enrollee for the enrollee to pay to the
20 provider any cost sharing required under the health benefit plan and shall communicate the
21 arrangement to the carrier or third party administrator.

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

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

29 “(b) Allow an enrollee to indicate whether communications containing personal health
30 information should be withheld by the carrier or third party administrator or should be re-
31 directed to a specified mail or electronic mail address or specified telephone number;

32 “(c) Allow an enrollee to designate a mail or electronic mail address or telephone number
33 by which the carrier or third party administrator may contact the enrollee if additional in-
34 formation or clarification is necessary to process the confidential communications request;
35 and

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

38 “(6) The department shall work with carriers, third party administrators and other
39 stakeholders to develop effective systems to protect the confidentiality of personal health
40 information and to ensure that carriers and third party administrators communicate directly
41 with an enrollee regarding health care services sought or received by the enrollee.

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

44 “SECTION 3. (1) No later than February 1, 2017, the Department of Consumer and Busi-
45 ness Services shall report, in the manner prescribed by ORS 192.245, on:

