

**PROPOSED AMENDMENTS TO
HOUSE BILL 2758**

- 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**
- 6 **of the Insurance 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**
- 12 **and a reminder;**
- 13 **“(C) A notice of an adverse benefit determination;**
- 14 **“(D) A carrier’s or third party administrator’s request for additional**
- 15 **information regarding a claim;**
- 16 **“(E) A notice of a contested claim;**
- 17 **“(F) The name and address of a provider, a description of services**
- 18 **provided and other visit information; and**
- 19 **“(G) Any written, oral or electronic communication from a carrier**
- 20 **or a third party administrator to a policyholder, certificate holder or**
- 21 **enrollee that contains personal health information.**
- 22 **“(c) ‘Confidential communications request’ means a request from**

1 an enrollee to a carrier or third party administrator that communi-
2 cations be sent directly to the enrollee at a specified mail or electronic
3 mail address or specified telephone number designated by the enrollee
4 and that the carrier or third party administrator refrain from sending
5 communications concerning the enrollee to the policyholder or certifi-
6 cate holder.

7 “(d) ‘Health benefit plan’ has the meaning given that term in ORS
8 743.730.

9 “(e) ‘Personal health information’ means information or data cre-
10 ated by or derived from a provider about an individual that relates to:

11 “(A) The past, present or future health condition of the individual;

12 “(B) The provision of health care to the individual;

13 “(C) A request for the provision of health care to the individual; or

14 “(D) The cost of or payment for health care provided to the indi-
15 vidual.

16 “(2) A carrier and a third party administrator doing business in this
17 state:

18 “(a) Shall permit any enrollee to submit a confidential communi-
19 cations request.

20 “(b) Shall comply with a confidential communications request made
21 by an enrollee if the enrollee states that disclosure of all or part of a
22 communication regarding the enrollee may lead to harassment or
23 abuse of the enrollee or may undermine the enrollee’s ability to access
24 health care.

25 “(c) Shall update an enrollee on the status of implementing a con-
26 fidential communications request upon the enrollee’s inquiry.

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

29 “(a) Must use the form described in subsection (5) of this section
30 and may also allow enrollees to make the request by other means such

1 as telephone or online.

2 “(b) May not require the enrollee to explain why the enrollee fears
3 that disclosure may lead to harassment or abuse or may undermine
4 the enrollee’s ability to access health care.

5 “(c) Shall ensure that the confidential communications request re-
6 mains in effect until the enrollee revokes the request in writing or
7 submits a new confidential communications request.

8 “(d) Shall ensure that the confidential communications request is
9 acted upon and implemented by the carrier or third party administra-
10 tor not later than seven days after receipt of a request by electronic
11 means or 30 days after receipt of a request in hard copy.

12 “(e) May not require an enrollee to waive any right to limit disclo-
13 sure under this section as a condition of eligibility for or coverage
14 under a health benefit plan.

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

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

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

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

30 “(b) Allow an enrollee to indicate whether communications con-

1 taining personal health information should be withheld by the carrier
2 or third party administrator or should be redirected to a specified mail
3 or electronic mail address or specified telephone number;

4 “(c) Allow an enrollee to designate a mail or electronic mail address
5 or telephone number for the carrier or third party administrator to
6 contact the enrollee if additional information or clarification is nec-
7 essary to process the confidential communications request; and

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

11 “(6) The department shall work with carriers, third party adminis-
12 trators and other stakeholders to develop effective systems to protect
13 the confidentiality of personal health information and to ensure that
14 carriers and third party administrators communicate directly with an
15 enrollee regarding health care services sought or received by the
16 enrollee.

17 “(7) The department shall interpret this section in a manner that
18 is consistent with federal law.

19 “SECTION 3. (1) No later than February 1, 2017, the Department of
20 Consumer and Business Services shall report, in the manner pre-
21 scribed by ORS 192.245, on:

22 “(a) The effectiveness of the process described in section 2 of this
23 2015 Act in allowing health insurance enrollees to redirect insurance
24 communications containing personal health information, the extent
25 to which enrollees are using the process and whether the process is
26 working properly; and

27 “(b) The education and outreach activities conducted by carriers or
28 third party administrators to inform Oregonians about their right to
29 have personal health information redirected.

30 “(2) The department shall require carriers or third party adminis-

1 **trators to report data necessary for the department to produce the**
2 **report described in subsection (1) of this section.”.**

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

8 On page 14, after line 39, insert:

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

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

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