

**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;**

12 **“(C) A notice of an adverse benefit determination;**

13 **“(D) A carrier’s or third party administrator’s request for additional**
14 **information regarding a claim;**

15 **“(E) A notice of a contested claim;**

16 **“(F) The name and address of a provider, a description of services**
17 **provided and other visit information; and**

18 **“(G) Any written, oral or electronic communication described in**
19 **this paragraph from a carrier or a third party administrator to a**
20 **policyholder, certificate holder or enrollee that contains protected**
21 **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 and that the carrier or third
3 party administrator refrain from sending communications concerning
4 the enrollee to the policyholder or certificate holder.

5 “(d) ‘Protected health information’ has the meaning given that
6 term in ORS 192.556.

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

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

11 “(b) Shall update an enrollee on the status of implementing a con-
12 fidential communications request upon the enrollee’s inquiry.

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

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

18 “(b) Shall ensure that the confidential communications request re-
19 mains in effect until the enrollee revokes the request in writing or
20 submits a new confidential communications request.

21 “(c) Shall ensure that the confidential communications request is
22 acted upon and implemented by the carrier or third party administra-
23 tor not later than seven days after receipt of a request by electronic
24 means or 30 days after receipt of a request in hard copy.

25 “(d) May not require an enrollee to waive any right to limit disclo-
26 sure under this section as a condition of eligibility for or coverage
27 under a health benefit plan.

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

29 “(4) The Department of Consumer and Business Services shall work
30 with stakeholders to develop and make available to the public a

1 standardized form that an enrollee may submit to a carrier or third
2 party administrator to make a confidential communications request.
3 The department may encourage health care providers to clearly dis-
4 play the form and make it available to patients. At a minimum, the
5 form must:

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

9 “(b) Allow an enrollee to indicate where to redirect communications
10 containing protected health information, including a specified mail or
11 electronic mail address or specified telephone number;

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

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

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

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

23 “(b) The policyholder or certificate holder may not appeal the ad-
24 verse benefit determination unless the enrollee has signed an author-
25 ization to disclose claims information relevant to the appeal.

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

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

30 **SECTION 3.** (1) No later than December 1, 2016, the Department

1 of Consumer and Business Services shall report, in the manner pre-
2 scribed by ORS 192.245, on:

3 “(a) The effectiveness of the process described in section 2 of this
4 2015 Act in allowing health insurance enrollees to redirect insurance
5 communications containing protected health information, the extent
6 to which enrollees are using the process and whether the process is
7 working properly; and

8 “(b) The education and outreach activities conducted by carriers or
9 third party administrators to inform Oregonians about their right to
10 have protected health information redirected.

11 “(2) The department shall require carriers or third party adminis-
12 trators to report data necessary for the department to produce the
13 report described in subsection (1) of this section.”.

14 On page 8, lines 22 through 25, delete the boldfaced material and insert
15 “and the requirement under section 2 of this 2015 Act that a carrier or third
16 party administrator send communications containing protected health infor-
17 mation only to the enrollee who is the subject of the protected health in-
18 formation”.

19 On page 14, after line 39, insert:

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

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

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