

**PROPOSED MINORITY REPORT AMENDMENTS TO
HOUSE BILL 2758**

1 On page 1 of the printed bill, line 2, delete “and” and after “ORS” insert
2 “419B.050,”.

3 In line 3, after “750.333” insert “; and declaring an emergency”.

4 Delete lines 5 through 29 and delete page 2.

5 On page 3, delete lines 1 through 40 and insert:

6 **“SECTION 1. Section 2 of this 2015 Act is added to and made a part
7 of the Insurance Code.**

8 **“SECTION 2. (1) As used in this section:**

9 **“(a) ‘Carrier’ has the meaning given that term in ORS 743.730.**

10 **“(b) ‘Communication’ includes:**

11 **“(A) An explanation of benefits notice;**

12 **“(B) Information about an appointment, including a confirmation
13 and a reminder;**

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

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

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

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

20 **“(G) Any written, oral or electronic communication from a carrier
21 or a third party administrator to a policyholder, certificate holder or
22 enrollee that contains personal health information.**

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

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

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

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

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

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

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

17 “(a) Shall comply with a confidential communications request made
18 by an enrollee if the enrollee states that disclosure of all or part of a
19 communication regarding the enrollee may lead to abuse of the
20 enrollee.

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

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

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

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

30 “(c) Shall ensure that the confidential communications request re-

1 **mains in effect until the enrollee revokes the request in writing or**
2 **submits a new confidential communications request.**

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

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

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

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

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

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

25 **“(b) Allow an enrollee to indicate whether communications con-**
26 **taining personal health information should be withheld by the carrier**
27 **or third party administrator or should be redirected to a specified mail**
28 **or electronic mail address or specified telephone number;**

29 **“(c) Allow an enrollee to designate a mail or electronic mail address**
30 **or telephone number by which the carrier or third party administrator**

1 may contact the enrollee if additional information or clarification is
2 necessary to process the confidential communications request; and

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

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

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

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

17 “(a) The effectiveness of the process described in section 2 of this
18 2015 Act in allowing health insurance enrollees to redirect insurance
19 communications containing personal health information, the extent
20 to which enrollees are using the process and whether the process is
21 working properly; and

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

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

28 On page 8, lines 22 through 25, delete the boldfaced material and insert
29 “and the requirement under section 2 of this 2015 Act that a carrier or third
30 party administrator send communications containing personal health infor-

1 mation only to the enrollee who is the subject of the personal health infor-
2 mation”.

3 On page 14, after line 39, insert:

4 **“SECTION 13.** ORS 419B.050 is amended to read:

5 **“419B.050. (1) As used in this section, ‘health care provider’ has the**
6 **meaning given that term in ORS 192.556.**

7 **“(2) A health care provider may make a report of abuse, in accord-**
8 **ance with ORS 419B.015, if the provider receives from a patient a con-**
9 **fidential communications request, as defined in section 2 of this 2015**
10 **Act, and the patient:**

11 **“(a) Is an unemancipated minor under 19 years of age; and**

12 **“(b) States in the confidential communications request that disclo-**
13 **sure of all or part of a communication regarding the patient may lead**
14 **to abuse of the patient.**

15 **“[(1)] (3)** Upon notice by a law enforcement agency, the Department of
16 Human Services, a member agency of a county multidisciplinary child abuse
17 team or a member of a county multidisciplinary child abuse team that a child
18 abuse investigation is being conducted under ORS 419B.020, a health care
19 provider must permit the law enforcement agency, the department, the
20 member agency of the county multidisciplinary child abuse team or the
21 member of the county multidisciplinary child abuse team to inspect and copy
22 medical records, including, but not limited to, prenatal and birth records, of
23 the child involved in the investigation without the consent of the child, or
24 the parent or guardian of the child. A health care provider who in good faith
25 disclosed medical records under this section is not civilly or criminally liable
26 for the disclosure.

27 **“[(2) As used in this section, ‘health care provider’ has the meaning given**
28 **that term in ORS 192.556.]**

29 **“SECTION 14. Section 2 of this 2015 Act applies to health benefit**
30 **plans issued or renewed on or after January 1, 2016.**

1 **“SECTION 15. This 2015 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2015 Act takes effect on its passage.”.**

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