

Enrolled House Bill 2340

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to the applicability of statutes that pertain to health insurance; creating new provisions; amending ORS 192.556, 433.443, 742.001, 742.005, 743.402, 743B.012, 743B.104, 743B.126, 750.055 and 750.333; and repealing ORS 743A.050, 743A.120, 743A.144, 743A.164 and 743A.184.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) ORS 731.097 and 731.098 are added to and made a part of ORS 731.004 to 731.150.

(2) ORS 731.590, 731.592 and 731.594 are added to and made a part of ORS 731.574 to 731.620.

(3) ORS 731.870 is added to and made a part of ORS 731.844 to 731.992.

SECTION 2. ORS 742.001 is amended to read:

742.001. **Except as specifically provided in ORS 750.055 and 750.333**, this chapter and ORS chapters 743, 743A and 743B apply to all insurance policies delivered or issued for delivery in this state except:

- (1) Reinsurance.
- (2) Wet marine and transportation insurance policies.
- (3) Surplus lines insurance policies.

SECTION 3. ORS 743.402 is amended to read:

743.402. [Nothing in] ORS 743.405 to 743.498[,] **and** 743A.160 [and 743A.164 shall] **do not** apply to or affect:

(1) Any workers' compensation insurance policy or any liability insurance policy with or without supplementary expense coverage therein;

(2) Any policy of reinsurance;

(3) Any blanket or group policy of insurance, **except as expressly provided in ORS 750.055**;

or
(4) Any life insurance policy, or policy supplemental thereto which contains only such provisions relating to health insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident;

or

(b) Operate to safeguard such policy against lapse, or to give a special surrender value or special benefit or an annuity in the event the insured shall become totally and permanently disabled, as defined by the policy or supplemental policy.

SECTION 4. ORS 743B.012 is amended to read:

743B.012. (1) As a condition of transacting business in the small employer health insurance market in this state, a carrier shall offer small employers all of the carrier's health benefit plans, approved by the Department of Consumer and Business Services for use in the small employer market, for which the small employer is eligible.

(2) A carrier shall issue to a small employer any health benefit plan that is offered by the carrier if the small employer applies for the plan and agrees to make the required premium payments and to satisfy the other provisions of the health benefit plan.

(3) A multiple employer welfare arrangement, professional or trade association or other similar arrangement established or maintained to provide benefits to a particular trade, business, profession or industry or their subsidiaries may not issue coverage to a group or individual that is not in the same trade, business, profession or industry as that covered by the arrangement. The arrangement shall accept all groups and individuals in the same trade, business, profession or industry or their subsidiaries that apply for coverage under the arrangement and that meet the requirements for membership in the arrangement. For purposes of this subsection, the requirements for membership in an arrangement may not include any requirements that relate to the actual or expected health status of the prospective enrollee.

(4) A carrier shall, pursuant to subsection (2) of this section, accept applications from and offer coverage to a small employer group covered under an existing health benefit plan regardless of whether a prospective enrollee is excluded from coverage under the existing plan because of late enrollment. When a carrier accepts an application for a small employer group, the carrier may continue to exclude the prospective enrollee excluded from coverage by the replaced plan until the prospective enrollee would have become eligible for coverage under that replaced plan.

(5) A carrier is not required to accept applications from and offer coverage pursuant to subsection (2) of this section if the department finds that acceptance of an application or applications would endanger the carrier's ability to fulfill its contractual obligations or result in financial impairment of the carrier.

(6) A carrier shall actively market all health benefit plans that are offered by the carrier to small employers in the geographical areas in which the carrier makes coverage available or provides benefits.

(7)(a) Subsection (2) of this section does not require a carrier to offer coverage to or accept applications from:

(A) A small employer if the small employer is not physically located in the carrier's approved service area;

(B) An employee of a small employer if the employee does not work or reside within the carrier's approved service areas; or

(C) Small employers located within an area where the carrier reasonably anticipates, and demonstrates to the department, that it will not have the capacity in its network of providers to deliver services adequately to the enrollees of those small employer groups because of its obligations to existing small employer group contract holders and enrollees.

(b) A carrier that does not offer coverage pursuant to paragraph (a)(C) of this subsection may not offer coverage in the applicable service area to new employer groups other than small employers until the carrier resumes enrolling groups of new small employers in the applicable area.

(8) For purposes of ORS 743B.010 to 743B.013, except as provided in this subsection, carriers that are affiliated carriers or that are eligible to file a consolidated tax return pursuant to ORS 317.715 shall be treated as one carrier and any restrictions or limitations imposed by ORS 743B.010 to 743B.013 apply as if all health benefit plans delivered or issued for delivery to small employers in this state by the affiliated carriers were issued by one carrier. However, any insurance company or health maintenance organization that is an affiliate of a health care service contractor located in this state, or any health maintenance organization located in this state that is an affiliate of an insurance company or health care service contractor, may treat the health maintenance organization as a separate carrier and each health maintenance organization that operates only one health maintenance organization in a service area in this state may be considered a separate carrier.

(9) A carrier that elects to discontinue offering all of its health benefit plans to small employers under ORS 743B.013 (3)(e) or elects to discontinue renewing all such plans is prohibited from offering health benefit plans to small employers in this state for a period of five years from *[one of the following dates]*:

(a) The date of notice to the department pursuant to ORS 743B.013 (3)(e); or

(b) If notice is not provided under paragraph (a) of this subsection, *[from]* the date on which the department provides notice to the carrier that the department has determined that the carrier has effectively discontinued offering health benefit plans to small employers in this state.

(10) The department may, in accordance with section 7 of this 2017 Act, shorten the period of prohibition described in subsection (9) of this section if necessary to ensure, in all geographic areas of this state, that:

(a) A competitive health insurance market exists;

(b) Small employers have a reasonable number of health insurance options available to them; and

(c) Consumers who purchase insurance are protected.

SECTION 5. ORS 743B.104 is amended to read:

743B.104. (1) Except in the case of a late enrollee and as otherwise provided in this section, a carrier offering a group health benefit plan to a group of two or more prospective certificate holders shall not decline to offer coverage to any eligible prospective enrollee and shall not impose different terms or conditions on the coverage, premiums or contributions of any enrollee in the group that are based on the actual or expected health status of the enrollee.

(2) A carrier that elects to discontinue offering all of its group health benefit plans under ORS 743B.105 (5)(e), elects to discontinue renewing all such plans or elects to discontinue offering and renewing all such plans is prohibited from offering health benefit plans in the group market in this state for a period of five years from *[one of the following dates]*:

(a) The date of notice to the Director of the Department of Consumer and Business Services pursuant to ORS 743B.105 (5)(e); or

(b) If notice is not provided under paragraph (a) of this subsection, *[from]* the date on which the director provides notice to the carrier that the director has determined that the carrier has effectively discontinued offering group health benefit plans in this state.

(3) The Department of Consumer and Business Services may, in accordance with section 7 of this 2017 Act, shorten the period of prohibition described in subsection (2) of this section if necessary to ensure, in all geographic areas of this state, that:

(a) A competitive health insurance market exists;

(b) Group purchasers have a reasonable number of health insurance options available to them; and

(c) Consumers who purchase insurance are protected.

[(3)] (4) Subsection (1) of this section applies only to group health benefit plans that are not small employer health benefit plans.

[(4)] (5) Nothing in this section shall prohibit an employer from providing different group health benefit plans to various categories of employees as defined by the employer nor prohibit an employer from providing health benefit plans through different carriers so long as the employer's categories of employees are established in a manner that does not relate to the actual or expected health status of the employees or their dependents.

[(5)] (6) A multiple employer welfare arrangement, professional or trade association, or other similar arrangement established or maintained to provide benefits to a particular trade, business, profession or industry or their subsidiaries, shall not issue coverage to a group or individual that is not in the same trade, business, profession or industry or their subsidiaries as that covered by the arrangement. The arrangement shall accept all groups and individuals in the same trade, business, profession or industry or their subsidiaries that apply for coverage under the arrangement and that meet the requirements for membership in the arrangement. For purposes of this subsection, the re-

quirements for membership in an arrangement shall not include any requirements that relate to the actual or expected health status of the prospective enrollee.

SECTION 6. ORS 743B.126 is amended to read:

743B.126. (1) Each carrier shall actively market all individual health benefit plans sold by the carrier that are not grandfathered health plans.

(2) Except as provided in subsection (3) of this section, no carrier or insurance producer shall, directly or indirectly, discourage an individual from filing an application for coverage because of the health status, claims experience, occupation or geographic location of the individual.

(3) Subsection (2) of this section does not apply with respect to information provided by a carrier to an individual regarding the established geographic service area or a restricted network provision of a carrier.

(4) Rejection by a carrier of an application for coverage shall be in writing and shall state the reason or reasons for the rejection.

(5) The Director of the Department of Consumer and Business Services may establish by rule additional standards to provide for the fair marketing and broad availability of individual health benefit plans.

(6) A carrier that elects to discontinue offering all of its individual health benefit plans under ORS 743B.125 (4)(c) or to discontinue both offering and renewing all such plans is prohibited from offering and renewing health benefit plans in the individual market in this state for a period of five years from the date of notice to the director pursuant to ORS 743B.125 (4)(c) or, if such notice is not provided, from the date on which the director provides notice to the carrier that the director has determined that the carrier has effectively discontinued offering individual health benefit plans in this state. This subsection does not apply with respect to a health benefit plan discontinued in a specified service area by a carrier that covers services provided only by a particular organization of health care providers or only by health care providers who are under contract with the carrier.

(7) The Department of Consumer and Business Services may, in accordance with section 7 of this 2017 Act, shorten the period of prohibition described in subsection (6) of this section if necessary to ensure, in all geographic areas of this state, that:

(a) A competitive health insurance market exists;

(b) Consumers have a reasonable number of health insurance options available to them; and

(c) Consumers who purchase insurance are protected.

SECTION 7. (1) As used in this section, “procedural requirements” means the processes that the Department of Consumer and Business Services will use to obtain public input such as public hearings, rule comment periods and the electronic distribution of information by the department.

(2) The department shall adopt rules establishing standards for shortening the period of prohibition under ORS 743B.012 (10), 743B.104 (3) and 743B.126 (7). The standards may include but are not limited to:

(a) Specified procedural requirements.

(b) Documentary standards for the submission of information by carriers or interested parties on whether the requirements of ORS 743B.012 (10), 743B.104 (3) and 743B.126 (7) have been met.

(c) Factors the department will consider in determining whether the requirements of ORS 743B.012 (10), 743B.104 (3) and 743B.126 (7) have been met, which may include:

(A) The reasons why the carrier elected to discontinue offering its health benefit plans in this state;

(B) The intent of the carrier in resuming to offer health benefit plans in this state; and

(C) Reasonable conditions, consistent with the Insurance Code, under which a carrier may be permitted to resume offering health benefit plans in this state.

SECTION 8. ORS 750.055, as amended by section 7, chapter 59, Oregon Laws 2015, is amended to read:

750.055. (1) The following provisions [of the Insurance Code] apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, **705.138** and 705.139[.].

(b) **ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, [731.592, 731.594,] 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992[, 731.870 and 743A.252].**

[*(b) ORS 731.485, except in the case of a group practice health maintenance organization that is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and operates an in-house drug outlet.*]

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS [*chapter 734*] **734.014 to 734.440.**

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to 742.162[, 742.400, 742.520 to 742.540,] **and 742.518 to 742.542.**

(h) **ORS 743.004, 743.005, 743.007**, 743.008, 743.010, 743.018, **743.019, 743.020**, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, **743.405**, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788[.] **and 743.790[.].**

(i) **ORS 743A.010, 743A.012, 743A.014**, 743A.020, 743A.034, 743A.036, **743A.040, 743A.044**, 743A.048, 743A.051, **743A.052**, 743A.058, **743A.060**, 743A.062, **743A.063**, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, **743A.108**, 743A.110, **743A.124**, 743A.140, 743A.141, [743A.144,] 743A.148, 743A.150, 743A.160, [743A.164,] 743A.168, 743A.170, 743A.175, [743A.184,] 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, **743A.252 and 743A.260 and section 2, chapter 771, Oregon Laws 2013.**

(j) **ORS 743B.001**, 743B.003 to 743B.127, **743B.128, 743B.130**, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, **743B.280 to 743B.285**, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, **743B.342**, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, [743B.540,] 743B.550, 743B.555, 743B.601, **743B.602** and 743B.800 [*and section 2, chapter 771, Oregon Laws 2013*].

[*(h)*] **(k)** The following provisions of ORS chapter 744 [*relating to the regulation of insurance producers and third party administrators.*]:

(A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

[*(i)*] **(L)** ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

[*(j)*] **ORS 743A.024, except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.**]

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) **ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.**

(b) **ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.**

[2] (3) For the purposes of this section, health care service contractors shall be deemed insurers.

[3] (4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

[4] (5) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed necessary for the proper administration of these provisions.

SECTION 9. ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section 6, chapter 25, Oregon Laws 2014, section 81, chapter 45, Oregon Laws 2014, section 8, chapter 59, Oregon Laws 2015, section 6, chapter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws 2015, section 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015, and section 29, chapter 515, Oregon Laws 2015, is amended to read:

750.055. (1) The following provisions *[of the Insurance Code]* apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, **705.138** and 705.139[.].

(b) **ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, [731.592, 731.594,] 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992[, 731.870 and 743A.252].**

[(b) ORS 731.485, except in the case of a group practice health maintenance organization that is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and operates an in-house drug outlet.]

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS *[chapter 734]* **734.014 to 734.440.**

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to 742.162[, 742.400, 742.520 to 742.540,] **and 742.518 to 742.542.**

(h) **ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788[.] and 743.790[.].**

(i) **ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, [743A.144,] 743A.148, 743A.150, 743A.160, [743A.164,] 743A.168, 743A.170, 743A.175, [743A.184,] 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2, chapter 771, Oregon Laws 2013.**

(j) **ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, [743B.540,] 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 [and section 2, chapter 771, Oregon Laws 2013].**

[(h)] **(k)** The following provisions of ORS chapter 744 [relating to the regulation of insurance producers and third party administrators.]:

(A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

[(i)] **(L)** ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

[(j) ORS 743A.024, except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.]

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

[(2)] **(3)** For the purposes of this section, health care service contractors shall be deemed insurers.

[(3)] **(4)** Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

[(4)] **(5)** The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed necessary for the proper administration of these provisions.

SECTION 10. ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, and section 30, chapter 515, Oregon Laws 2015, is amended to read:

750.055. (1) The following provisions [of the Insurance Code] apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, **705.138 and** 705.139[.].

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, [731.592, 731.594,] 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992 [, 731.870 and 743A.252].

[(b) ORS 731.485, except in the case of a group practice health maintenance organization that is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and operates an in-house drug outlet.]

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS [chapter 734] **734.014 to 734.440.**

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to 742.162[, 742.400, 742.520 to 742.540,] **and 742.518 to 742.542.**

(h) **ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788[,] and 743.790[.].**

(i) **ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, [743A.144,] 743A.148, 743A.150, 743A.160, [743A.164,] 743A.168, 743A.170, 743A.175, [743A.184,] 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.**

(j) **ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, [743B.540,] 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800.**

[*h*] (k) The following provisions of ORS chapter 744 [*relating to the regulation of insurance producers and third party administrators.*]:

(A) **ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;**

(B) **ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665, relating to the regulation of insurance consultants; and**

(C) **ORS 744.700 to 744.740, relating to the regulation of third party administrators.**

[*i*] (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

[*j*] *ORS 743A.024, except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.*

(2) **The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:**

(a) **ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.**

(b) **ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.**

[2] (3) For the purposes of this section, health care service contractors shall be deemed insurers.

[3] (4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

[4] (5) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed necessary for the proper administration of these provisions.

SECTION 11. ORS 750.333, as amended by section 10, chapter 59, Oregon Laws 2015, is amended to read:

750.333. (1) The following provisions [*of the Insurance Code*] apply to trusts carrying out a multiple employer welfare arrangement:

(a) **ORS 705.137, 705.138 and 705.139.**

[(a)] **(b)** ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, **731.808 and 731.844** to 731.992[, 743.029 and 743A.252].

[(b)] **(c)** ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

[(c)] **(d)** ORS [chapter 734] **734.014 to 734.440**.

[(d)] **(e)** ORS 742.001 to 742.009, 742.013, **742.016**, 742.061 and [742.400] **742.065**.

[(e)] **(f)** ORS 743.004, **743.005, 743.007**, 743.008, **743.010, 743.018, 743.020, 743.023**, 743.028, **743.029**, 743.053, **743.405**, 743.406, 743.524, 743.526[, 743.528,] **and** 743.535[.].

(g) ORS **743A.010**, 743A.012, **743A.014**, 743A.020, **743A.024**, 743A.034, **743A.036, 743A.040, 743A.048**, 743A.051, 743A.052, **743A.058, 743A.060, 743A.062, 743A.063**, 743A.064, 743A.065, **743A.066, 743A.068, 743A.070**, 743A.080, 743A.082, **743A.084, 743A.088, 743A.090**, 743A.100, 743A.104, **743A.105, 743A.108**, 743A.110, **743A.124, 743A.140, 743A.141**, [743A.144,] **743A.148**, 743A.150, **743A.160, 743A.168**, 743A.170, 743A.175, **743A.180**, [743A.184,] **743A.185, 743A.188, 743A.190**, 743A.192, 743A.250, **743A.252 and 743A.260**.

(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

[(f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048, 743A.058, 743A.066, 743A.068, 743A.070, 743A.084, 743A.088, 743A.090, 743A.105, 743A.140, 743A.141, 743A.148, 743A.168, 743A.180, 743A.185, 743A.188 and 743A.190. Multiple employer welfare arrangements to which ORS 743.004, 743.022, 743.535 and 743B.003 to 743B.127 apply are subject to the sections referred to in this paragraph only as provided in ORS 743.004, 743.022, 743.535 and 743B.003 to 743B.127.]

[(g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insurance consultants, and ORS 744.700 to 744.740.]

(i) The following provisions of ORS chapter 744:

(A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

[(h)] **(j)** ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

[(i) ORS 731.592 and 731.594.]

[(j) ORS 731.870.]

(2) For the purposes of this section:

(a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

(b) References to certificates of authority shall be considered references to certificates of multiple employer welfare arrangement.

(c) Contributions shall be considered premiums.

(3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the transaction of health insurance.

(4) The Department of Consumer and Business Services may adopt rules that are necessary to implement the provisions of ORS 750.301 to 750.341.

SECTION 12. ORS 192.556 is amended to read:

192.556. As used in ORS 192.553 to 192.581:

(1) "Authorization" means a document written in plain language that contains at least the following:

(a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;

(b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;

(c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;

(d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;

(e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

(f) The signature of the individual or personal representative of the individual and the date;

(g) A description of the authority of the personal representative, if applicable; and

(h) Statements adequate to place the individual on notice of the following:

(A) The individual's right to revoke the authorization in writing;

(B) The exceptions to the right to revoke the authorization;

(C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and

(D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.

(2) "Covered entity" means:

(a) A state health plan;

(b) A health insurer;

(c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.553 to 192.581; or

(d) A health care clearinghouse.

(3) "Health care" means care, services or supplies related to the health of an individual.

(4) "Health care operations" includes but is not limited to:

(a) Quality assessment, accreditation, auditing and improvement activities;

(b) Case management and care coordination;

(c) Reviewing the competence, qualifications or performance of health care providers or health insurers;

(d) Underwriting activities;

(e) Arranging for legal services;

(f) Business planning;

(g) Customer services;

(h) Resolving internal grievances;

(i) Creating deidentified information; and

(j) Fundraising.

(5) "Health care provider" includes but is not limited to:

(a) A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;

(b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;

(c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;

(d) A dentist licensed under ORS chapter 679 or an employee of the dentist;

(e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;

(f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;

(g) An emergency medical services provider licensed under ORS chapter 682;

(h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

(i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;

(j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory care practitioner;

(p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the polysomnographic technologist;

(q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

(s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(t) A health care facility as defined in ORS 442.015;

(u) A home health agency as defined in ORS 443.014;

(v) A hospice program as defined in ORS 443.850;

(w) A clinical laboratory as defined in ORS 438.010;

(x) A pharmacy as defined in ORS 689.005; **and**

[*y*] *A diabetes self-management program as defined in ORS 743A.184; and*

[*z*] (**y**) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(6) "Health information" means any oral or written information in any form or medium that:

(a) Is created or received by a covered entity, a public health authority, an employer, a life insurer, a school, a university or a health care provider that is not a covered entity; and

(b) Relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(7) "Health insurer" means:

(a) An insurer as defined in ORS 731.106 who offers:

(A) A health benefit plan as defined in ORS 743B.005;

(B) A short term health insurance policy, the duration of which does not exceed six months including renewals;

(C) A student health insurance policy;

(D) A Medicare supplemental policy; or

(E) A dental only policy.

(b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board under ORS 735.600 to 735.650.

(8) "Individually identifiable health information" means any oral or written health information in any form or medium that is:

(a) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(9) "Payment" includes but is not limited to:

(a) Efforts to obtain premiums or reimbursement;

(b) Determining eligibility or coverage;

(c) Billing activities;

(d) Claims management;

(e) Reviewing health care to determine medical necessity;

(f) Utilization review; and

(g) Disclosures to consumer reporting agencies.

(10) "Personal representative" includes but is not limited to:

(a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with authority to make medical and health care decisions;

(b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions;

(c) A person appointed as a personal representative under ORS chapter 113; and

(d) A person described in ORS 192.573.

(11)(a) "Protected health information" means individually identifiable health information that is maintained or transmitted in any form of electronic or other medium by a covered entity.

(b) "Protected health information" does not mean individually identifiable health information in:

(A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);

(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

(C) Employment records held by a covered entity in its role as employer.

(12) "State health plan" means:

(a) Medical assistance as defined in ORS 414.025;

(b) The Health Care for All Oregon Children program; or

(c) Any medical assistance or premium assistance program operated by the Oregon Health Authority.

(13) "Treatment" includes but is not limited to:

(a) The provision, coordination or management of health care; and

(b) Consultations and referrals between health care providers.

SECTION 13. ORS 192.556, as amended by section 30, chapter 698, Oregon Laws 2013, is amended to read:

192.556. As used in ORS 192.553 to 192.581:

(1) "Authorization" means a document written in plain language that contains at least the following:

(a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;

(b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;

(c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;

(d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;

- (e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;
- (f) The signature of the individual or personal representative of the individual and the date;
- (g) A description of the authority of the personal representative, if applicable; and
- (h) Statements adequate to place the individual on notice of the following:
 - (A) The individual's right to revoke the authorization in writing;
 - (B) The exceptions to the right to revoke the authorization;
 - (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and
 - (D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.
- (2) "Covered entity" means:
 - (a) A state health plan;
 - (b) A health insurer;
 - (c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.553 to 192.581; or
 - (d) A health care clearinghouse.
- (3) "Health care" means care, services or supplies related to the health of an individual.
- (4) "Health care operations" includes but is not limited to:
 - (a) Quality assessment, accreditation, auditing and improvement activities;
 - (b) Case management and care coordination;
 - (c) Reviewing the competence, qualifications or performance of health care providers or health insurers;
 - (d) Underwriting activities;
 - (e) Arranging for legal services;
 - (f) Business planning;
 - (g) Customer services;
 - (h) Resolving internal grievances;
 - (i) Creating deidentified information; and
 - (j) Fundraising.
- (5) "Health care provider" includes but is not limited to:
 - (a) A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;
 - (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
 - (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;
 - (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
 - (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;
 - (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;
 - (g) An emergency medical services provider licensed under ORS chapter 682;
 - (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
 - (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;
 - (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory care practitioner;

(p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the polysomnographic technologist;

(q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

(s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(t) A health care facility as defined in ORS 442.015;

(u) A home health agency as defined in ORS 443.014;

(v) A hospice program as defined in ORS 443.850;

(w) A clinical laboratory as defined in ORS 438.010;

(x) A pharmacy as defined in ORS 689.005; **and**

[*y*] A *diabetes self-management program as defined in ORS 743A.184; and*

[*z*] (**y**) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(6) "Health information" means any oral or written information in any form or medium that:

(a) Is created or received by a covered entity, a public health authority, an employer, a life insurer, a school, a university or a health care provider that is not a covered entity; and

(b) Relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(7) "Health insurer" means an insurer as defined in ORS 731.106 who offers:

(a) A health benefit plan as defined in ORS 743B.005;

(b) A short term health insurance policy, the duration of which does not exceed six months including renewals;

(c) A student health insurance policy;

(d) A Medicare supplemental policy; or

(e) A dental only policy.

(8) "Individually identifiable health information" means any oral or written health information in any form or medium that is:

(a) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(A) The past, present or future physical or mental health or condition of an individual;

(B) The provision of health care to an individual; or

(C) The past, present or future payment for the provision of health care to an individual.

(9) "Payment" includes but is not limited to:

(a) Efforts to obtain premiums or reimbursement;

(b) Determining eligibility or coverage;

(c) Billing activities;

- (d) Claims management;
 - (e) Reviewing health care to determine medical necessity;
 - (f) Utilization review; and
 - (g) Disclosures to consumer reporting agencies.
- (10) "Personal representative" includes but is not limited to:
- (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with authority to make medical and health care decisions;
 - (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions;
 - (c) A person appointed as a personal representative under ORS chapter 113; and
 - (d) A person described in ORS 192.573.
- (11)(a) "Protected health information" means individually identifiable health information that is maintained or transmitted in any form of electronic or other medium by a covered entity.
- (b) "Protected health information" does not mean individually identifiable health information in:
- (A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);
 - (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
 - (C) Employment records held by a covered entity in its role as employer.
- (12) "State health plan" means:
- (a) Medical assistance as defined in ORS 414.025;
 - (b) The Health Care for All Oregon Children program; or
 - (c) Any medical assistance or premium assistance program operated by the Oregon Health Authority.
- (13) "Treatment" includes but is not limited to:
- (a) The provision, coordination or management of health care; and
 - (b) Consultations and referrals between health care providers.
- SECTION 14.** ORS 433.443 is amended to read:
- 433.443. (1) As used in this section:
- (a) "Covered entity" means:
 - (A) The Children's Health Insurance Program;
 - (B) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insurance as defined in ORS 731.162;
 - (C) The state medical assistance program; and
 - (D) A health care provider.
 - (b) "Health care provider" includes but is not limited to:
 - (A) A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;
 - (B) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
 - (C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;
 - (D) A dentist licensed under ORS chapter 679 or an employee of the dentist;
 - (E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental hygienist or denturist;
 - (F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;
 - (G) An emergency medical services provider licensed under ORS chapter 682;
 - (H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

(I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;

(J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;

(K) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;

(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;

(M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;

(N) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;

(O) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory care practitioner;

(P) A polysomnographic technologist licensed under ORS 688.819 or an employee of the polysomnographic technologist;

(Q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

(R) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

(S) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;

(T) A health care facility as defined in ORS 442.015;

(U) A home health agency as defined in ORS 443.014;

(V) A hospice program as defined in ORS 443.850;

(W) A clinical laboratory as defined in ORS 438.010;

(X) A pharmacy as defined in ORS 689.005; **and**

[*(Y) A diabetes self-management program as defined in ORS 743A.184; and*]

[*(Z)*] **(Y)** Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(c) "Individual" means a natural person.

(d) "Individually identifiable health information" means any oral or written health information in any form or medium that is:

(A) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and

(B) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:

(i) The past, present or future physical or mental health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The past, present or future payment for the provision of health care to an individual.

(e) "Legal representative" means attorney at law, person holding a general power of attorney, guardian, conservator or any person appointed by a court to manage the personal or financial affairs of a person, or agency legally responsible for the welfare or support of a person.

(2)(a) During a public health emergency declared under ORS 433.441, the Public Health Director may, as necessary to appropriately respond to the public health emergency:

(A) Adopt reporting requirements for and provide notice of those requirements to health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health emergency;

(B) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment protocols to respond to the public health emergency and provide notice of those protocols to health care providers, institutions and facilities;

(C) Order, or authorize local public health administrators to order, public health measures appropriate to the public health threat presented;

(D) Authorize pharmacists licensed under ORS chapter 689 to administer vaccines to persons who are three years of age or older;

(E) Upon approval of the Governor, take other actions necessary to address the public health emergency and provide notice of those actions to health care providers, institutions and facilities, including public health actions authorized by ORS 431A.015;

(F) Take any enforcement action authorized by ORS 431A.010, including the imposition of civil penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to comply with requirements resulting from actions taken in accordance with the powers granted to the Public Health Director under subparagraphs (A), (B) and (E) of this paragraph; and

(G) The authority granted to the Public Health Director under this section:

(i) Supersedes any authority granted to a local public health authority if the local public health authority acts in a manner inconsistent with guidelines established or rules adopted by the director under this section; and

(ii) Does not supersede the general authority granted to a local public health authority or a local public health administrator except as authorized by law or necessary to respond to a public health emergency.

(b) The authority of the Public Health Director to take administrative action, and the effectiveness of any action taken, under paragraph (a)(A), (B) and (D) to (G) of this subsection terminates upon the expiration of the declared state of public health emergency, unless the actions are continued under other applicable law.

(3) Civil penalties under subsection (2) of this section shall be imposed in the manner provided in ORS 183.745. The Public Health Director must establish that the individual, institution or facility subject to the civil penalty had actual notice of the action taken that is the basis for the penalty. The maximum aggregate total for penalties that may be imposed against an individual, institution or facility under subsection (2) of this section is \$500 for each day of violation, regardless of the number of violations of subsection (2) of this section that occurred on each day of violation.

(4)(a) During a declared state of public health emergency, the Public Health Director and local public health administrators shall be given immediate access to individually identifiable health information necessary to:

(A) Determine the causes of an illness related to the public health emergency;

(B) Identify persons at risk;

(C) Identify patterns of transmission;

(D) Provide treatment; and

(E) Take steps to control the disease.

(b) Individually identifiable health information accessed as provided by paragraph (a) of this subsection may not be used for conducting nonemergency epidemiologic research or to identify persons at risk for post-traumatic mental health problems, or for any other purpose except the purposes listed in paragraph (a) of this subsection.

(c) Individually identifiable health information obtained by the Public Health Director or local public health administrators under this subsection may not be disclosed without written authorization of the identified individual except:

(A) Directly to the individual who is the subject of the information or to the legal representative of that individual;

(B) To state, local or federal agencies authorized to receive such information by state or federal law;

(C) To identify or to determine the cause or manner of death of a deceased individual; or

(D) Directly to a health care provider for the evaluation or treatment of a condition that is the subject of a [*proclamation*] **declaration** of a state of public health emergency issued under ORS 433.441.

(d) Upon expiration of the state of public health emergency, the Public Health Director or local public health administrators may not use or disclose any individually identifiable health information that has been obtained under this section. If a state of emergency that is related to the state of

public health emergency has been declared under ORS 401.165, the Public Health Director and local public health administrators may continue to use any individually identifiable information obtained as provided under this section until termination of the state of emergency.

(5) All civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

(6) The Public Health Director may request assistance in enforcing orders issued pursuant to this section from state or local law enforcement authorities. If so requested by the Public Health Director, state and local law enforcement authorities, to the extent resources are available, shall assist in enforcing orders issued pursuant to this section.

(7) If the Oregon Health Authority adopts temporary rules to implement the provisions of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the public health emergency.

SECTION 15. ORS 742.005 is amended to read:

742.005. The Director of the Department of Consumer and Business Services shall disapprove any form requiring the director's approval:

(1) If the director finds it does not comply with the law;

(2) If the director finds it contains any provision, including statement of premium, or has any label, description of its contents, title, heading, backing or other indication of its provisions, which is unintelligible, uncertain, ambiguous or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued;

(3) If, in the director's judgment, its use would be prejudicial to the interests of the insurer's policyholders;

(4) If the director finds it contains provisions which are unjust, unfair or inequitable;

(5) If the director finds sales presentation material disapproved by the director pursuant to ORS 742.009 is being used with respect to the form; or

(6) If, with respect to any of the following forms, the director finds the benefits provided therein are not reasonable in relation to the premium charged:

(a) Individual health insurance policy forms, including benefit certificates issued by fraternal benefit societies and individual policies issued by health care service contractors, but excluding policies referred to in ORS 743.402 as exempt from the application of ORS 743.405 to 743.498[,] and 743A.160 [and 743A.164];

(b) Small employer group health benefit plan forms for small employers as that term is defined in ORS 743B.005, including small employer group policies issued by health care service contractors; or

(c) Credit life and credit health insurance forms subject to ORS 743.371 to 743.380.

SECTION 16. ORS 743A.050, 743A.120, 743A.144, 743A.164 and 743A.184 are repealed.

Passed by House March 22, 2017

Repassed by House May 23, 2017

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate May 18, 2017

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State