

A-Engrossed
Senate Bill 97

Ordered by the Senate April 12
Including Senate Amendments dated April 12

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that Director of Department of Consumer and Business Services must act as, or acknowledge another regulatory official as, group-wide supervisor for internationally active insurance group. Specifies criteria for and conditions under which director must assume authority to act as group-wide supervisor or acknowledge other regulatory official's authority as group-wide supervisor. Specifies actions director may take as group-wide supervisor.

Requires insurer or insurance group to submit corporate governance annual disclosure to director, or other regulatory official in lead state, *[by June 1 of each year]* **in accordance with schedule director specifies by rule**. Specifies corporate level of organization at which insurer or insurance group may choose to make corporate governance annual disclosure.

Specifies confidentiality requirements for documents, materials and other information that director receives, obtains, creates or discloses to, or receives in disclosure from, another person. Specifies conditions under which director may share documents, materials or other information and requirements for recipients of shared documents, materials or other information.

Specifies that if director places insurer under supervision, liquidation or rehabilitation, director retains authority over insurer's operations and over transactions in which insurer engages within insurance holding company system of which insurer is member.

Specifies period within which health benefit plan carrier may cancel coverage in identified circumstances.

Becomes operative on January 1, 2018.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to modernizing insurance corporate governance; creating new provisions; amending ORS
3 732.245, 732.528, 732.548, 732.588, 732.592, 732.650, 734.230, 743B.013, 743B.105, 743B.125, 750.015,
4 750.055 and 750.085; and declaring an emergency.

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

6 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS 732.517**
7 **to 732.592.**

8 **SECTION 2. (1) The Director of the Department of Consumer and Business Services**
9 **shall:**

10 (a) Act, in accordance with the provisions of this section, as the group-wide supervisor
11 for any internationally active insurance group; or

12 (b) Acknowledge another regulatory official as the group-wide supervisor for an interna-
13 tionally active insurance group if the internationally active insurance group:

14 (A) Does not have substantial insurance operations in the United States;

15 (B) Has substantial insurance operations in the United States but not in this state; or

16 (C) Has substantial insurance operations in this state but the director determines under

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 criteria set forth in subsections (2) and (6) of this section that the other regulatory official
2 is the appropriate group-wide supervisor.

3 (2) The director, in cooperation with other state, federal and international regulatory
4 agencies, shall identify a single group-wide supervisor for each internationally active insur-
5 ance group. The director may determine that the director is the appropriate group-wide
6 supervisor for an internationally active insurance group with substantial insurance oper-
7 ations in this state or the director may determine that another regulatory official is the
8 appropriate group-wide supervisor. In making the determination, the director shall consider:

9 (a) Where the insurers that have the largest share of the internationally active insurance
10 group's written premiums, assets or liabilities are domiciled;

11 (b) Where the top-tier insurers within the internationally active insurance group's in-
12 surance holding company system are domiciled;

13 (c) Where the internationally active insurance group has executive offices or the group's
14 largest operational offices;

15 (d) Whether another regulatory official is acting, or seeks to act, as the group-wide
16 supervisor for the internationally active insurance group under a regulatory system that the
17 director determines is:

18 (A) Substantially similar to the regulations set forth in the Insurance Code; or

19 (B) Otherwise sufficient to enable the regulatory official to engage in group-wide super-
20 vision and enterprise risk analysis and to cooperate with other regulatory officials; and

21 (e) Whether another regulatory official that is acting, or seeks to act, as the group-wide
22 supervisor provides the director with a reasonable degree of reciprocal acknowledgment and
23 cooperation.

24 (3) A regulatory official that the director determines under subsection (2) of this section
25 is the appropriate group-wide supervisor for an internationally active insurance group may
26 in turn acknowledge a different regulatory official as the appropriate group-wide supervisor.
27 Before acknowledging another regulatory official as an appropriate group-wide supervisor, a
28 regulatory official shall:

29 (a) Consider the criteria set forth in subsection (2) of this section;

30 (b) Cooperate with and obtain acknowledgment from other regulatory officials with re-
31 sponsibility for supervising the internationally active insurance group; and

32 (c) Consult with the internationally active insurance group.

33 (4) Notwithstanding any other provision of this section or section 3 of this 2017 Act, the
34 director shall acknowledge another regulatory official that is acting as a group-wide super-
35 visor for an internationally active insurance group unless a material change in the interna-
36 tionally active insurance group requires the director to make a determination under
37 subsection (2) of this section as to the appropriate group-wide supervisor for the interna-
38 tionally active insurance group. For purposes of this determination, a material change is:

39 (a) Insurers domiciled within this state come to hold the largest share of the interna-
40 tionally active insurance group's written premiums, assets or liabilities; or

41 (b) The top-tier insurers within the internationally active insurance group's insurance
42 holding company system become domiciled in this state.

43 (5) The director, in accordance with ORS 732.584, may order an insurer registered under
44 ORS 732.551 to produce any information the director requires to determine whether the di-
45 rector may act as, or must acknowledge another regulatory official as, the group-wide

1 supervisor for an internationally active insurance group. Before determining that the direc-
2 tor is the appropriate group-wide supervisor for an internationally active insurance group,
3 the director shall inform the insurer that provided the information and the controlling entity
4 within the internationally active insurance group, and give the internationally active insur-
5 ance group at least 30 days in which to provide any additional information that may relate
6 to the director's determination. The director shall identify internationally active insurance
7 groups for which the director acts as the group-wide supervisor on the Department of Con-
8 sumer and Business Services website.

9 (6) As the group-wide supervisor for an internationally active insurance group, the di-
10 rector may:

11 (a) Assess enterprise risks within the internationally active insurance group to evaluate
12 whether persons who manage members of the internationally active insurance group that
13 are engaged in transacting insurance have identified the members' material financial condi-
14 tion and liquidity risks and have established reasonable and effective mitigation measures;

15 (b) Request from any member of an internationally active insurance group subject to the
16 director's supervision information that is necessary and appropriate to enable the director
17 to assess enterprise risk for the member, including information about the member's:

18 (A) Governance, risk assessment and management;

19 (B) Capital adequacy; and

20 (C) Material intercompany transactions;

21 (c) Require members of internationally active insurance groups to develop and implement
22 reasonable measures to enable the members to timely recognize and mitigate enterprise
23 risks and, if necessary, assist the members or ask regulatory officials in jurisdictions in
24 which the members are domiciled to compel the members to develop and implement the
25 measures;

26 (d) Communicate and share information, including through a supervisory college de-
27 scribed in ORS 732.571, with other state, federal and international regulatory agencies that
28 have authority over members of internationally active insurance groups, subject to the
29 confidentiality provisions of ORS 705.137, 705.138, 705.139 and 732.586;

30 (e) Enter into agreements with, or obtain information from, any insurer registered under
31 ORS 732.551, any member of an internationally active insurance group or any other state,
32 federal or international regulatory agency with authority over the internationally active in-
33 surance group in order to clarify or provide a basis for the director's authority as a group-
34 wide supervisor, provided that the agreements or information:

35 (A) Enable the director to resolve disputes with other regulatory officials; and

36 (B) Will not serve as evidence in any proceeding that an insurer or person within an in-
37 surance holding company system that is not domiciled or organized in this state is trans-
38 acting insurance in this state or is otherwise subject to the jurisdiction of this state; or

39 (f) Perform any other activities the director deems necessary to exercise the functions
40 of a group-wide supervisor, provided the activities are consistent with the authority and the
41 purposes set forth in this section.

42 (7)(a) The director may cooperate, including through a supervisory college described in
43 ORS 732.571, with another regulatory official from a jurisdiction that the National Associ-
44 ation of Insurance Commissioners has not accredited in the regulatory official's role as a
45 group-wide supervisor if:

1 (A) The director acknowledges the regulatory official as a group-wide supervisor;

2 (B) The director's cooperation complies with the laws of this state; and

3 (C) The regulatory official cooperates with the director's activities as a group-wide
4 supervisor for other internationally active insurance groups as appropriate.

5 (b) The director may refuse to acknowledge and cooperate with a regulatory official who
6 does not reciprocate the director's acknowledgment and cooperation under this subsection.

7 (8) The director may enter into agreements with or obtain information from an insurer
8 registered under ORS 732.551, an affiliate of the insurer and any other state, federal or
9 international regulatory agency if the agreement or information clarifies or provides the
10 basis for a regulatory official's authority as a group-wide supervisor.

11 (9) An insurer that is subject to this section, or that is a member of an internationally
12 active insurance group that is subject to this section, shall pay the director's reasonable
13 expenses of administering this section, including expenses associated with engaging attor-
14 neys, actuaries or other professionals and reasonable travel expenses.

15 **SECTION 3.** An insurance holding company system that is not an internationally active
16 insurance group may request that the Director of the Department of Consumer and Business
17 Services determine or acknowledge a group-wide supervisor for the insurance holding com-
18 pany system in accordance with section 2 of this 2017 Act.

19 **SECTION 4.** Sections 5 to 8 of this 2017 Act are added to and made a part of ORS 732.650
20 to 732.672.

21 **SECTION 5.** (1) An insurer, or the insurance group of which an insurer is a member,
22 each year in accordance with a schedule the Director of the Department of Consumer and
23 Business Services establishes in consultation with the insurer or insurance group, shall
24 submit to the director or to the chief insurance regulatory official in the state that the di-
25 rector determines is the lead state for the insurance group, a corporate governance annual
26 disclosure that has the information described in section 6 of this 2017 Act. The director shall
27 determine the lead state in accordance with procedures that the director adopts by rule after
28 considering procedures that are set forth in a financial analysis handbook that the National
29 Association of Insurance Commissioners has adopted. An insurer or a member of an insur-
30 ance group that is not subject to the requirement under this subsection to submit a disclo-
31 sure shall nevertheless submit the disclosure at the director's request.

32 (2) The chief executive officer or corporate secretary of an insurer or insurance group
33 shall sign the corporate governance annual disclosure and attest that to the best of the
34 officer's or secretary's belief and knowledge the insurer or insurance group has implemented
35 the corporate governance practices identified in the disclosure and that the insurer's or in-
36 surance group's board of directors, or an appropriate committee of the board of directors,
37 has received a copy of the disclosure.

38 (3)(a) An insurer or insurance group that submits a corporate governance annual dis-
39 closure under subsection (1) of this section may provide information in the disclosure:

40 (A) At the level of the individual legal entity, an intermediate holding company or the
41 controlling parent company, depending on how the insurer or insurance group has structured
42 corporate governance;

43 (B) At the level at which the insurer or insurance group determines the extent to which
44 the insurer or insurance group will accept risk;

45 (C) At the level at which the insurer or insurance group collectively oversees or coordi-

1 nates and exercises supervision over the insurer's or insurance group's earnings, capital,
2 liquidity operations and reputation; or

3 (D) At the level at which legal liability for failing in the duties of general corporate
4 governance would occur.

5 (b) An insurer or insurance group that determines the level at which the insurer or in-
6 surance group provides information in the corporate governance annual disclosure under
7 paragraph (a)(B), (C) or (D) of this subsection shall indicate which criteria the insurer or
8 insurance group used for the disclosure and explain any subsequent changes in the level at
9 which the disclosure occurs.

10 (4) If the director has determined a lead state in accordance with the procedures set
11 forth in the financial analysis handbook described in subsection (1) of this section, an ap-
12 propriate official in the lead state shall review the corporate governance annual disclosure
13 and request any other information necessary for the review.

14 (5) An insurer or insurance group that provides information that is substantially similar
15 to the information required under this section or section 6 of this 2017 Act in other docu-
16 ments that the insurer or insurance group submits to the director, including proxy state-
17 ments in conjunction with Form B requirements or other state or federal filings, need not
18 duplicate the information in the corporate governance annual disclosure, but must include
19 in the documents the insurer or insurance group submits to the director a cross-reference
20 to documents that have the required information.

21 **SECTION 6.** (1) An insurer or insurance group has discretion as to the form and content
22 of the insurer's or insurance group's responses to inquiries in a corporate governance annual
23 disclosure so long as the responses provide information the Director of the Department of
24 Consumer and Business Services requires to understand the insurer's or insurance group's
25 corporate governance structure, policies and practices. The director may request additional
26 information the director deems material and necessary to enable a clear understanding of
27 the corporate governance policies and the reporting, information systems or controls that
28 implement the policies.

29 (2) Notwithstanding the discretion permitted to an insurer or insurance group under
30 subsection (1) of this section, the insurer or insurance group shall prepare the corporate
31 governance annual disclosure in a manner consistent with rules the director adopts under
32 section 5 of this 2017 Act. The insurer or insurance group shall maintain documentation and
33 supporting information for the corporate governance annual disclosure and make the docu-
34 mentation and supporting information available during an examination of the insurer or
35 insurance group or otherwise at the director's request.

36 **SECTION 7.** (1)(a) Documents, materials or other information, including a corporate
37 governance annual disclosure, that the Director of the Department of Consumer and Busi-
38 ness Services discloses to, or receives in a submission or disclosure from, another person
39 or otherwise possesses, controls, obtains or creates in accordance with section 5 or 6 of this
40 2017 Act contains trade secrets, is proprietary, confidential and privileged and is not subject
41 to:

42 (A) Disclosure under ORS 192.410 to 192.505;

43 (B) Subpoena; or

44 (C) Discovery and is not admissible in evidence in a private civil action.

45 (b) The director may use documents, materials or other information described in para-

1 **graph (a) of this subsection in any regulatory or legal action to carry out the director's of-**
2 **cial duties without the prior written consent of the insurer or insurance group that**
3 **provided or served as a source or subject of the documents, materials or other information**
4 **but the director may not otherwise make the documents, materials or other information**
5 **available to the public without prior written consent from the insurer or insurance group.**

6 **(c) The director, any person that acted under the director's authority in an examination**
7 **or other regulatory action or any person that under section 5 or 6 of this 2017 Act received**
8 **shared documents, materials or other information described in paragraph (a) of this sub-**
9 **section may not testify concerning the documents, materials or other information in any**
10 **private civil action.**

11 **(2)(a) The director, in performing the director's regulatory duties, may:**

12 **(A) Share documents, materials and other information described in subsection (1)(a) of**
13 **this section, including information in or related to a corporate governance annual disclosure,**
14 **with other state, federal or international regulatory agencies, including members of a su-**
15 **pervisory college described in ORS 732.571, with the National Association of Insurance Com-**
16 **missioners and with consultants identified in section 8 of this 2017 Act if a regulatory agency,**
17 **the association or a consultant requests the documents, materials or other information and:**

18 **(i) Agrees in writing to maintain any privilege that applies to, and to keep confidential,**
19 **the documents, materials and other information; and**

20 **(ii) Verifies in writing that the regulatory agency, the association or the consultant has**
21 **legal authority to keep the documents, materials and other information confidential.**

22 **(B) Receive documents, materials and other information described in subsection (1)(a)**
23 **of this section from the National Association of Insurance Commissioners and other state,**
24 **federal and international regulatory agencies, including members of a supervisory college**
25 **described in ORS 732.571.**

26 **(b) The director shall maintain any privilege that applies to, and keep confidential, any**
27 **documents, materials or other information the director receives from any of the persons**
28 **described in paragraph (a)(B) of this subsection with notice or an understanding that the**
29 **documents, materials or information are privileged or are confidential under the laws of the**
30 **jurisdiction in which the person that is the source or subject of the documents, materials**
31 **or other information is domiciled or exercises regulatory authority.**

32 **(3) The director's or another person's disclosure of documents, materials or other infor-**
33 **mation described in this section does not waive any privilege or claim of confidentiality that**
34 **otherwise applies to the documents, materials or other information.**

35 **SECTION 8. (1)(a) The Director of the Department of Consumer and Business Services,**
36 **at the expense of the insurer or insurance group from which the director receives a corpo-**
37 **rate governance annual disclosure, may retain a consultant, including an attorney, actuary,**
38 **accountant or other expert, whenever the director reasonably requires assistance to review**
39 **the corporate governance annual disclosure or related information and to evaluate the**
40 **insurer's or insurance group's compliance with sections 5, 6, 7 and 8 of this 2017 Act.**

41 **(b) A consultant that the director retains under paragraph (a) of this subsection shall:**

42 **(A) Act solely under the director's supervision;**

43 **(B) Serve only in an advisory capacity; and**

44 **(C) Comply with the requirements for confidentiality set forth for the director in section**
45 **7 of this 2017 Act.**

1 **(2) The director may not retain a consultant unless the consultant demonstrates to the**
2 **director that the consultant:**

3 **(a) Does not have a conflict of interest; and**

4 **(b) Has internal procedures that enable the consultant to:**

5 **(A) Monitor and avoid conflicts of interest; and**

6 **(B) Comply with the requirements for confidentiality set forth for the director in section**
7 **7 of this 2017 Act.**

8 **(3) The director shall enter into a written agreement with a consultant that the director**
9 **retains under subsection (1) of this section, or with the National Association of Insurance**
10 **Commissioners if the director consults with the association, that specifies how the consult-**
11 **ant or association may share and use documents, materials or other information described**
12 **in section 7 (1)(a) of this 2017 Act. The terms of the agreement must require the consultant**
13 **or association to obtain written permission from the insurer or insurance group that is the**
14 **source or subject of the documents, materials or other information before making the doc-**
15 **uments, materials or other information public and must specify:**

16 **(a) Procedures and protocols for keeping the documents, materials and other information**
17 **secure and confidential;**

18 **(b) Conditions under which the consultant or the association may share the documents,**
19 **materials or other information, including requirements that the recipient of the documents,**
20 **materials or other information must:**

21 **(A) Agree in writing to keep the documents, materials and other information secure and**
22 **confidential; and**

23 **(B) Verify in writing that the consultant or association has legal authority to keep the**
24 **documents, materials or other information secure and confidential;**

25 **(c) That the consultant or association may share the documents, materials and other**
26 **information only with regulatory agencies in states that are domiciles of the insurer that is**
27 **the source or subject of the documents, materials or other information or of an insurer**
28 **within the insurance group that is the source or subject of the documents, materials or**
29 **other information;**

30 **(d) That the director retains ownership and control of the documents, materials or other**
31 **information and that the consultant or association may use the documents, materials or**
32 **other information only in accordance with the director's specifications or under the**
33 **director's supervision;**

34 **(e) That the consultant or association may not store the documents, materials or other**
35 **information in a permanent database or another form after the consultant or association**
36 **completes the consultation or finishes assisting the director;**

37 **(f) That the consultant or association must immediately notify the director and the**
38 **insurer or insurance group that is the source or subject of the documents, materials or other**
39 **information if the consultant or association receives a subpoena or other request to disclose**
40 **or produce the documents, materials or other information; and**

41 **(g) That the consultant or association agrees to permit the insurer or insurance group**
42 **that is the source or subject of the documents, materials or other information to intervene**
43 **in any administrative or judicial proceeding that might require the consultant or association**
44 **to disclose or produce the documents, materials or other information.**

45 **SECTION 9. ORS 732.245 is amended to read:**

1 732.245. (1) **Except as provided in subsection (4) of this section**, every domestic insurer shall
 2 have and maintain *[its]* **the domestic insurer's** principal place of business and home office in this
 3 state, and shall keep *[therein]* **within this state** accurate and complete accounts and records of
 4 *[its]* **the domestic insurer's** assets, transactions, and affairs in accordance with the provisions of
 5 the Insurance Code.

6 (2) Every domestic insurer shall have and maintain *[its]* **the domestic insurer's** assets in this
 7 state, except as to:

8 (a) Real property and personal property appurtenant *[thereto]* **to real property that is** lawfully
 9 owned by the insurer and located outside this state; and

10 (b) Such property of the insurer as may be customary, necessary and convenient to enable and
 11 facilitate the operation of *[its]* **the domestic insurer's** branch offices and regional home offices lo-
 12 cated outside this state as referred to in subsection (4) of this section.

13 (3) Removal or attempted removal of all or a material part of the records or assets of a domestic
 14 insurer from this state except pursuant to a merger approved by the Director of the Department of
 15 Consumer and Business Services under ORS 732.517 to 732.546, or for such reasonable purposes and
 16 periods of time as may be approved by the director in writing in advance of such removal, or
 17 concealment or attempted concealment of *[such]* records or assets or *[such]* **a material part**
 18 *[thereof]* **of the records or assets** from the director, is prohibited. *[Upon violation of this section, the*
 19 *director may institute delinquency proceedings against the insurer as provided in ORS 734.150]* **The**
 20 **director may apply under ORS 734.150 for an order to rehabilitate a domestic insurer that**
 21 **violates this section.**

22 (4)(a) **A domestic insurer that has and maintains a principal place of business and a home**
 23 **office in this state may keep electronic records in this or another state. If the domestic**
 24 **insurer keeps electronic records in another state, the domestic insurer shall provide the di-**
 25 **rector with access to the electronic records in a manner that allows the director to examine**
 26 **the insurer as if the electronic records were located in this state.**

27 (b) **A domestic insurer complies with the requirement set forth in paragraph (a) of this**
 28 **subsection if the domestic insurer:**

29 (A) **Provides the director with electronic access to, or printed copies of, all records that**
 30 **the director determines are necessary to conduct an examination of the domestic insurer:**

31 (i) **Within 24 hours after the director requests the records or at a mutually agreed time;**

32 (ii) **At the domestic insurer's principal place of business or home office in this state; and**

33 (iii) **With in-person or telephone access to the person that prepared the records, if the**
 34 **director requests access to the person; or**

35 (B) **Makes the records available for examination at an office outside this state if the do-**
 36 **mestic insurer pays the director's transportation and related expenses as provided in ORS**
 37 **731.316.**

38 ~~[(4)]~~ (5) This section *[shall]* **does** not prohibit an insurer from:

39 (a) Establishing and maintaining branch offices or regional home offices in other states where
 40 necessary or convenient to the transaction of *[its]* **the domestic insurer's** business, and keeping
 41 therein the detailed records and assets customary and necessary for the servicing of *[its]* **the do-**
 42 **mestic insurer's** insurance in force and affairs in the territory served by *[such an]* **the** office, as
 43 long as such records and assets are made readily available at such office for examination by the
 44 director at the director's request;

45 (b) Having, depositing or transmitting funds and assets of the insurer in or to jurisdictions out-

1 side of this state required by the law of such jurisdiction or as reasonably and customarily required
2 in the regular course of *[its]* **the domestic insurer's** business; or

3 (c) Using custodial arrangements for the holding of securities owned by the insurer, either in
4 or outside of this state, and either segregated from or commingled with securities owned by others,
5 if the arrangements conform to rules adopted by the director for safeguarding the assets and facili-
6 tating the director's examination of insurers using such custodial arrangements.

7 **SECTION 10.** ORS 732.548 is amended to read:

8 732.548. As used in ORS 732.517 to 732.592:

9 (1) "Affiliate" means a person that directly or indirectly, through one or more intermediaries,
10 controls, is controlled by, or is under common control with, another person.

11 (2) "Control" means possessing the direct or indirect power to manage a person or set the
12 person's policies, whether by owning voting securities, by contract other than a commercial contract
13 for goods or nonmanagement services, or otherwise, unless the power is the result of an official
14 position or corporate office the person holds.

15 (3) "Enterprise risk" means an activity, circumstance, event or series of events that involve one
16 or more of an insurer's affiliates and that, if not remedied promptly, are likely to have an adverse
17 material effect on the insurer's or the insurance holding company system's financial condition or
18 liquidity, including but not limited to an activity, circumstance, event or series of events that would
19 cause the insurer's risk-based capital to fall into company action level or cause the Director of the
20 Department of Consumer and Business Services to determine under ORS 731.385 that the insurer is
21 in hazardous financial condition.

22 (4) **"Group-wide supervisor" means a regulatory official that has the authority to conduct**
23 **and coordinate supervisory activities for an internationally active insurance group under**
24 **section 2 of this 2017 Act.**

25 [(4)] (5) "Insurance holding company system" means two or more affiliated persons, one or more
26 of which is an insurer, and includes a financial holding company as described in section 103 of the
27 federal Gramm-Leach-Bliley Act (P.L. 106-102).

28 [(5)] (6) "Insurer" has the meaning given that term in ORS 731.106 but does not include an
29 agency, authority or instrumentality of the United States, the Commonwealth of Puerto Rico, an-
30 other state or a political subdivision of another state.

31 (7) **"Internationally active insurance group" means an insurance holding company system**
32 **that includes an insurer that is registered under ORS 732.551 and that:**

33 (a) **Writes premiums in three or more countries;**

34 (b) **Writes 10 percent or more of the insurance holding company system's total gross**
35 **written premiums outside the United States; and**

36 (c) **Has \$50 billion or more of total assets, or \$10 billion or more of total gross written**
37 **premiums, based on a three-year rolling average.**

38 [(6)(a)] (8)(a) "Person" means an individual, corporation, limited liability company, partnership,
39 association, joint stock company, trust[,] or unincorporated organization, or *[a similar]* **an** entity or
40 combination of entities *[that are]* **similar to the entities** described in this *[subsection]* **paragraph.**

41 (b) "Person" does not include:

42 (A) A joint venture partnership that is engaged exclusively in owning, managing, leasing or de-
43 veloping real or tangible personal property; or

44 (B) For the purposes of ORS 732.518, 732.521, 732.523, 732.526 and 732.528, a securities broker
45 that holds, in the usual and customary broker's function, less than 20 percent of the voting securi-

1 ties of an insurer or of any person that controls an insurer.

2 [(7)] (9) "Security holder" means a person that owns a security of another person, including a
3 security denominated as common stock, preferred stock or a debt obligation and any instrument that
4 is convertible into or that is evidence of the right to acquire the security of another person.

5 [(8)] (10) "Subsidiary" means an affiliate that a person controls directly or indirectly through
6 one or more intermediaries.

7 [(9)] (11) "Voting security" means a security that entitles the owner or holder of the security
8 to vote at a meeting of shareholders, including a security that is convertible into a voting security
9 or that is evidence of a right to acquire a voting security.

10 **SECTION 11.** ORS 732.528 is amended to read:

11 732.528. (1) The Director of the Department of Consumer and Business Services shall make a
12 determination concerning the proposed activity described in ORS 732.521 (1) [*not later than the 60th*
13 *day*] **within a period that begins 60 days** before the effective date of the activity. The director may
14 refuse, after a public hearing, to approve a proposed activity if:

15 (a) The activity is contrary to law or would result in a prohibited combination of risks or classes
16 of insurance.

17 (b) The activity is inequitable or unfair to the policyholders or shareholders of any insurer in-
18 volved in, or to any other person affected by, the proposed activity. However, in connection with
19 an acquisition of the insurer's voting securities from the insurer's shareholders, the director shall
20 evaluate whether the proposed acquisition is fair to the shareholders of the insurer to be acquired
21 only with respect to any shareholders that are unaffiliated with the acquiring party or parties and
22 that would remain after the acquisition is completed.

23 (c) The activity would substantially reduce the security of and service to be rendered to
24 policyholders of any domestic insurer involved in the proposed activity, or would otherwise preju-
25 dice the interests of such policyholders in this state or elsewhere.

26 (d) The activity provides for a foreign or alien insurer to be an acquiring party, and the director
27 further finds that the insurer cannot satisfy the requirements of this state for transacting an insur-
28 ance business involving the classes of insurance affected by the activity.

29 (e) The activity or the completion of the activity would substantially diminish competition in
30 insurance in this state or tend to create a monopoly. In determining whether the activity would
31 substantially diminish competition in insurance in this state or tend to create a monopoly, the di-
32 rector:

33 (A) Shall require the information described in ORS 732.539 and apply the standards set forth in
34 ORS 732.542.

35 (B) May not disapprove the activity if the director finds that the activity would yield substantial
36 economies of scale or increase the availability of insurance as provided in ORS 732.542 (9).

37 (C) May condition the director's approval of the activity on a party's removing the basis for the
38 director's disapproval within a specific period of time.

39 (f) After the change of control or ownership, the domestic insurer to which the activity de-
40 scribed in ORS 732.521 (1) applies would not be able to satisfy the requirements for receiving a
41 certificate of authority to transact the line or lines of insurance for which the domestic insurer is
42 currently authorized.

43 (g) The financial condition of any acquiring party might jeopardize the financial stability of the
44 insurer.

45 (h) The plans or proposals that the acquiring party has to liquidate the insurer, sell the insurer's

1 assets or consolidate or merge the insurer with any person, or to make any other material change
2 in the insurer's business or corporate structure or management, are unfair and unreasonable to the
3 insurer's policyholders and not in the public interest.

4 (i) The competence, experience and integrity of the persons that would control the operation of
5 the insurer are such that permitting the activity or permitting completion of the activity would not
6 be in the interest of the insurer's policyholders and the public.

7 (j) The activity or completing the activity is likely to be hazardous or prejudicial to the
8 insurance-buying public.

9 (k) The activity is subject to other material and reasonable objections.

10 (2) If the director disapproves the proposed activity, the director shall promptly notify, in writ-
11 ing, each insurer and each acquiring party involved in the proposed activity, specifying the bases,
12 factors and reasons for the disapproval and giving each insurer and each acquiring party that filed
13 the statement relating to the proposed activity an opportunity to amend the statement, if possible,
14 to obviate the director's objections.

15 (3) If the director determines that a party that acquires control of a domestic insurer must
16 maintain or restore the domestic insurer's capital to a level required under the laws and rules of
17 this state, the director shall make and communicate the determination to the acquiring party not
18 later than 60 days after the acquiring party files the statement required under ORS 732.523.

19 (4) The acquiring party or parties that filed a statement of acquisition under ORS 732.523 shall
20 file any amendment to the statement that responds to the director's objection and, if a hearing was
21 held on the proposed activity, shall resubmit the amendment at a hearing held under this section
22 unless the director finds that a hearing is not necessary to protect the policyholders, shareholders
23 or any other person the proposed activity affects.

24 (5) The director may retain at the acquiring party's expense any actuaries, accountants and
25 other experts not otherwise a part of the director's staff as the director may reasonably need to
26 assist the director in reviewing the proposed activity.

27 (6) The director may establish the effective date of an activity to which ORS 732.521 (1) applies
28 in the order that approves the activity.

29 (7) Within 60 days after receiving a notice of approval or disapproval, any insurer or other party
30 to a proposed activity, including the insurer subject to the acquisition, may appeal the director's
31 final order as provided in ORS chapter 183. For purposes of the judicial review, the specifications
32 the director must set forth in the director's written notice are the findings of fact and conclusions
33 of law of the Department of Consumer and Business Services.

34 (8) On petition to the court, the court's power extends to affirming the order of the director,
35 modifying all or any part of the director's objections, adding additional objections, approving the
36 proposed activity as submitted or subject to such modifications or changes as the court may find
37 proper, and requiring resubmission to the boards of directors or other governing bodies or for
38 hearing as provided in ORS 732.526.

39 **SECTION 12.** ORS 732.588 is amended to read:

40 732.588. (1) If the Director of the Department of Consumer and Business Services determines
41 that a person's violation of any provision of ORS 732.517 to 732.592 so impairs the financial condi-
42 tion of a domestic insurer as to threaten insolvency or makes the insurer's further transaction of
43 business hazardous to the insurer's policyholders, creditors, shareholders or the public, the director
44 may place the insurer under supervision or in rehabilitation or liquidation as provided in ORS
45 chapter 734.

1 (2) If the director determines that a person's violation of ORS 732.521, 732.523, 732.526, 732.541
 2 or 732.566 prevents the director from fully understanding the enterprise risk that an insurance
 3 holding company system or an affiliate of an insurer presents to the insurer, the director may, on
 4 the basis of the violation, disapprove a dividend or distribution and may place the insurer under
 5 supervision as provided in subsection (1) of this section.

6 **(3) If the director places an insurer under supervision as provided in ORS chapter 734**
 7 **and the insurer engages in transactions within an insurance holding company system as**
 8 **provided in ORS 732.574, the director retains authority over the insurer's operations and over**
 9 **transactions in which the insurer engages within an insurance holding company system of**
 10 **which the insurer is a member.**

11 **SECTION 13.** ORS 732.592 is amended to read:

12 732.592. (1) If an order for liquidation or rehabilitation of a domestic insurer has been entered,
 13 the receiver appointed under the order may recover, on behalf of the insurer, from any parent cor-
 14 poration or holding company or person or affiliate who otherwise controlled the insurer, the amount
 15 of distributions, other than distributions of shares of the same class of stock, paid by the insurer
 16 on [its] **the insurer's** capital stock, or any payment in the form of a bonus, termination settlement
 17 or extraordinary lump sum salary adjustment made by the insurer or [its] **the insurer's** subsidiary
 18 to a director, officer or employee, when such a distribution or payment is made at any time during
 19 the 12 calendar months preceding the petition for liquidation, conservation or rehabilitation, as the
 20 case may be, subject to the limitations of subsections (2), (3) and (4) of this section.

21 (2) A distribution to which subsection (1) of this section applies is not recoverable if the parent
 22 or affiliate shows that the distribution was lawful and reasonable when paid and that the insurer
 23 did not know and could not reasonably have known that the distribution might adversely affect the
 24 ability of the insurer to fulfill [its] **the insurer's** contractual obligations.

25 (3) Any person who was a parent corporation or holding company or a person who otherwise
 26 controlled the insurer or affiliate at the time a distribution to which subsection (1) of this section
 27 applies was paid [shall be] **is** liable in an amount that is not more than the amount of distributions
 28 or payments received by the person under subsection (1) of this section. Any person who otherwise
 29 controlled the insurer at the time such distributions were declared [shall be] **is** liable up to the
 30 amount of distributions the person would have received if the distributions had been paid imme-
 31 diately. If two or more persons are liable with respect to the same distributions, [they shall be] **the**
 32 **persons are** jointly and severally liable.

33 (4) The maximum amount recoverable under this section is the amount needed in excess of all
 34 other available assets of the impaired or insolvent insurer to pay the contractual obligations of the
 35 impaired or insolvent insurer and to reimburse any guaranty funds.

36 (5) To the extent that any person liable under subsection (3) of this section is insolvent or oth-
 37 erwise fails to pay claims due from the person pursuant to subsection (3) of this section, [its] **the**
 38 **person's** parent corporation or holding company or other person who otherwise controlled the per-
 39 son liable under subsection (3) of this section when the distribution was paid [shall be] **are** jointly
 40 and severally liable for any resulting deficiency in the amount recovered from the parent corpo-
 41 ration or holding company or person who otherwise controlled [it] **the person liable under sub-**
 42 **section (3) of this section.**

43 **(6) If the director places an insurer under liquidation or rehabilitation as provided in ORS**
 44 **chapter 734 and the insurer engages in transactions within an insurance holding company**
 45 **system as provided in ORS 732.574, the director retains authority over the insurer's oper-**

1 **ations and over transactions in which the insurer engages within an insurance holding**
2 **company system of which the insurer is a member.**

3 **SECTION 14.** ORS 732.650 is amended to read:

4 732.650. As used in ORS 732.650 to 732.672:

5 (1) **“Corporate governance annual disclosure” means a report that an insurer or insur-**
6 **ance group files with the Director of the Department of Consumer and Business Services in**
7 **accordance with sections 5 and 6 of this 2017 Act.**

8 [(1)] (2) “Insurance group” means insurers and affiliates within an insurance holding company
9 system, as defined in ORS 732.548.

10 [(2)] (3) “Insurer” has the meaning given that term in ORS 732.548.

11 [(3)] (4) “Own risk and solvency assessment” means a confidential internal assessment of the
12 material and relevant risks associated with an insurer’s or insurance group’s business plan and of
13 the sufficiency of capital resources to support the business plan that the insurer or insurance group
14 conducts and that is appropriate for the nature, scale and complexity of the insurer or insurance
15 group.

16 [(4)] (5) “Own Risk and Solvency Assessment Guidance Manual” means the Own Risk and
17 Solvency Assessment Guidance Manual that the National Association of Insurance Commissioners
18 develops and adopts and that the Director of the Department of Consumer and Business Services
19 by rule or order designates as guidance and standards for completing an own risk and solvency as-
20 sessment.

21 [(5)] (6) “Own risk and solvency assessment summary report” means a confidential high-level
22 summary of an insurer’s or insurance group’s own risk and solvency assessment.

23 **SECTION 15.** ORS 734.230 is amended to read:

24 734.230. In connection with **supervising an insurer under the Insurance Code or conducting**
25 delinquency proceedings, the Director of the Department of Consumer and Business Services may
26 appoint one or more special deputy directors to act for the director, and may employ such counsel,
27 clerks, and assistants as the director deems necessary. Unless otherwise provided by the director,
28 [no] a person so appointed [*shall be deemed*] **is not** a state employee solely by reason of such ap-
29 pointment. The compensation of the special deputies, counsel, clerks or assistants and all expenses
30 of **supervising the insurer under the Insurance Code or** taking possession of [*the*] a delinquent
31 insurer and [*of*] conducting [*the*] delinquency proceedings [*shall*] **must** be paid out of the funds or
32 assets of the insurer. [*Within the limits of the duties imposed upon them special deputies shall possess*
33 *all the powers given to, and, in the exercise of those powers, shall be subject to all the duties imposed*
34 *upon, the receiver with respect to delinquency proceedings.*] **A special deputy acting within limits**
35 **the director imposes with respect to supervising an insurer under the Insurance Code or**
36 **conducting delinquency proceedings has a receiver’s powers and is subject to a receiver’s**
37 **duties.**

38 **SECTION 16.** ORS 743B.013 is amended to read:

39 743B.013. (1) A health benefit plan issued to a small employer:

40 (a) Other than a grandfathered health plan, must cover essential health benefits consistent with
41 42 U.S.C. 300gg-11.

42 (b) May require an affiliation period that does not exceed two months for an enrollee or 90 days
43 for a late enrollee.

44 (c) May not apply a preexisting condition exclusion to any enrollee.

45 (2) Late enrollees in a small employer health benefit plan may be subjected to a group eligibility

1 waiting period that does not exceed 90 days.

2 (3) Each small employer health benefit plan [*shall be*] is renewable with respect to all eligible
3 enrollees at the option of the policyholder, small employer or contract holder unless:

4 (a) The policyholder, small employer or contract holder fails to pay the required premiums.

5 (b) The policyholder, small employer or contract holder or, with respect to coverage of individ-
6 ual enrollees, an enrollee or a representative of an enrollee engages in fraud or makes an inten-
7 tional misrepresentation of a material fact as prohibited by the terms of the plan.

8 (c) The number of enrollees covered under the plan is less than the number or percentage of
9 enrollees required by participation requirements under the plan.

10 (d) The small employer fails to comply with the contribution requirements under the health
11 benefit plan.

12 (e) The carrier discontinues both offering and renewing all of [*its*] **the carrier's** small employer
13 health benefit plans in this state or in a specified service area within this state. In order to dis-
14 continue plans under this paragraph, the carrier:

15 (A) Must give notice of the decision to the Department of Consumer and Business Services and
16 to all policyholders covered by the plans;

17 (B) May not cancel coverage under the plans for 180 days after the date of the notice required
18 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or[, *except*
19 *as provided in subparagraph (C) of this paragraph,*] in a specified service area[; *and*], **except that:**

20 (i) **The carrier shall cancel coverage in accordance with subparagraph (C) of this para-**
21 **graph if the cancellation is for a specified service area in the circumstances described in**
22 **subparagraph (C) of this paragraph; and**

23 (ii) **The Director of the Department of Consumer and Business Services may specify a**
24 **cancellation date other than the cancellation date specified in this subparagraph if the car-**
25 **rier is subject to a delinquency proceeding, as defined in ORS 734.014; and**

26 (C) May not cancel coverage under the plans for 90 days after the date of the notice required
27 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
28 because of an inability to reach an agreement with the health care providers or organization of
29 health care providers to provide services under the plans within the service area.

30 (f) The carrier discontinues both offering and renewing a small employer health benefit plan in
31 a specified service area within this state because of an inability to reach an agreement with the
32 health care providers or organization of health care providers to provide services under the plan
33 within the service area. In order to discontinue a plan under this paragraph, the carrier:

34 (A) Must give notice to the department and to all policyholders covered by the plan;

35 (B) May not cancel coverage under the plan for 90 days after the date of the notice required
36 under subparagraph (A) of this paragraph; and

37 (C) Must offer in writing to each small employer covered by the plan, all other small employer
38 health benefit plans that the carrier offers to small employers in the specified service area. The
39 carrier shall issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013. The
40 carrier shall offer the plans at least 90 days prior to discontinuation.

41 (g) The carrier discontinues both offering and renewing a health benefit plan, other than a
42 grandfathered health plan, for all small employers in this state or in a specified service area within
43 this state, other than a plan discontinued under paragraph (f) of this subsection.

44 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all small
45 employers in this state or in a specified service area within this state, other than a plan discontin-

1 ued under paragraph (f) of this subsection.

2 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-
3 section, the carrier must:

4 (A) Offer in writing to each small employer covered by the plan, all other health benefit plans
5 that the carrier offers to small employers in the specified service area.

6 (B) Issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013.

7 (C) Offer the plans at least 90 days prior to discontinuation.

8 (D) Act uniformly without regard to the claims experience of the affected policyholders or the
9 health status of any current or prospective enrollee.

10 (j) The Director of the Department of Consumer and Business Services orders the carrier to
11 discontinue coverage in accordance with procedures specified or approved by the director upon
12 finding that the continuation of the coverage would:

13 (A) Not be in the best interests of the enrollees; or

14 (B) Impair the carrier's ability to meet contractual obligations.

15 (k) In the case of a small employer health benefit plan that delivers covered services through
16 a specified network of health care providers, there is no longer any enrollee who lives, resides or
17 works in the service area of the provider network.

18 (L) In the case of a health benefit plan that is offered in the small employer market only to one
19 or more bona fide associations, the membership of an employer in the association ceases and the
20 termination of coverage is not related to the health status of any enrollee.

21 (4) A carrier may modify a small employer health benefit plan at the time of coverage renewal.
22 The modification is not a discontinuation of the plan under subsection (3)(e), (g) and (h) of this sec-
23 tion.

24 (5) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may
25 not rescind the coverage of an enrollee in a small employer health benefit plan unless:

26 (a) The enrollee or a person seeking coverage on behalf of the enrollee:

27 (A) Performs an act, practice or omission that constitutes fraud; or

28 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
29 plan;

30 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-
31 scribed by the department, to the enrollee; and

32 (c) The carrier provides notice of the rescission to the department in the form, manner and time
33 frame prescribed by the department by rule.

34 (6) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may
35 not rescind a small employer health benefit plan unless:

36 (a) The small employer or a representative of the small employer:

37 (A) Performs an act, practice or omission that constitutes fraud; or

38 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
39 plan;

40 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-
41 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-
42 age; and

43 (c) The carrier provides notice of the rescission to the department in the form, manner and time
44 frame prescribed by the department by rule.

45 (7)(a) A carrier may continue to enforce reasonable employer participation and contribution re-

1 requirements on small employers. However, participation and contribution requirements shall be ap-
 2 plied uniformly among all small employer groups with the same number of eligible employees
 3 applying for coverage or receiving coverage from the carrier. In determining minimum participation
 4 requirements, a carrier shall count only those employees who are not covered by an existing group
 5 health benefit plan, Medicaid, Medicare, TRICARE, Indian Health Service or a publicly sponsored
 6 or subsidized health plan, including but not limited to the medical assistance program under ORS
 7 chapter 414.

8 (b) A carrier may not deny a small employer's application for coverage under a health benefit
 9 plan based on participation or contribution requirements but may require small employers that do
 10 not meet participation or contribution requirements to enroll during the open enrollment period
 11 beginning November 15 and ending December 15.

12 (8) Premium rates for small employer health benefit plans, except grandfathered health plans,
 13 *[shall be]* **are** subject to the following provisions:

14 (a) Each carrier must file with the department the initial geographic average rate and any
 15 changes in the geographic average rate with respect to each health benefit plan issued by the car-
 16 rier to small employers.

17 (b)(A) The variations in premium rates charged during a rating period for health benefit plans
 18 issued to small employers *[shall]* **must** be based solely on the factors specified in subparagraph (B)
 19 of this paragraph. A carrier may elect which of the factors specified in subparagraph (B) of this
 20 paragraph apply to premium rates for health benefit plans for small employers. All other factors
 21 must be applied in the same actuarially sound way to all small employer health benefit plans.

22 (B) The variations in premium rates described in subparagraph (A) of this paragraph may be
 23 based only on one or more of the following factors as prescribed by the department by rule:

24 (i) The ages of enrolled employees and their dependents, except that the rate for adults may not
 25 vary by more than three to one;

26 (ii) The level at which enrolled employees and *[their]* dependents **of enrolled employees who**
 27 **are** 18 years of age and older engage in tobacco use, except that the rate may not vary by more
 28 than 1.5 to one; and

29 (iii) Adjustments to reflect differences in family composition.

30 (C) A carrier shall apply the carrier's schedule of premium rate variations as approved by the
 31 department and in accordance with this paragraph. Except as otherwise provided in this section, the
 32 premium rate established by a carrier for a small employer health benefit plan *[shall apply]* **applies**
 33 uniformly to all employees of the small employer enrolled in that plan.

34 (c) Except as provided in paragraph (b) of this subsection, the variation in premium rates be-
 35 tween different health benefit plans offered by a carrier to small employers must be based solely on
 36 objective differences in plan design or coverage, age, tobacco use and family composition and must
 37 not include differences based on the risk characteristics of groups assumed to select a particular
 38 health benefit plan.

39 (d) A carrier may not increase the rates of a health benefit plan issued to a small employer more
 40 than once in a 12-month period. Annual rate increases *[shall be]* **are** effective on the plan anniver-
 41 sary date of the health benefit plan issued to a small employer. The percentage increase in the
 42 premium rate charged to a small employer for a new rating period may not exceed the sum of the
 43 following:

44 (A) The percentage change in the geographic average rate measured from the first day of the
 45 prior rating period to the first day of the new period; and

1 (B) Any adjustment attributable to changes in age and differences in family composition.

2 (9) Premium rates for grandfathered health plans *[shall be]* **are** subject to requirements pre-
3 scribed by the department by rule.

4 (10) In connection with the offering for sale of any health benefit plan to a small employer, each
5 carrier shall make a reasonable disclosure as part of *[its]* **the carrier's** solicitation and sales ma-
6 terials of:

7 (a) The full array of health benefit plans that are offered to small employers by the carrier;

8 (b) The authority of the carrier to adjust rates and premiums, and the extent to which the car-
9 rier considers age, tobacco use, family composition and geographic factors in establishing and ad-
10 justing rates and premiums; and

11 (c) The benefits and premiums for all health insurance coverage for which the employer is
12 qualified.

13 (11)(a) Each carrier shall maintain at *[its]* **the carrier's** principal place of business a complete
14 and detailed description of *[its]* **the carrier's** rating practices and renewal underwriting practices
15 relating to *[its]* **the carrier's** small employer health benefit plans, including information and doc-
16 umentation that demonstrate that *[its]* **the carrier's** rating methods and practices are based upon
17 commonly accepted actuarial practices and are in accordance with sound actuarial principles.

18 (b) A carrier offering a small employer health benefit plan shall file with the department at least
19 once every 12 months an actuarial certification that the carrier is in compliance with ORS 743B.010
20 to 743B.013 and that the rating methods of the carrier are actuarially sound. Each certification
21 *[shall]* **must** be in a uniform form and manner and *[shall]* **must** contain such information as speci-
22 fied by the department. *[A copy of each certification shall be retained by]* The carrier *[at its]* **shall**
23 **retain a copy of each certification at the carrier's** principal place of business. A carrier is not
24 required to file the actuarial certification under this paragraph if the department has approved the
25 carrier's rate filing within the preceding 12-month period.

26 (c) A carrier shall make the information and documentation described in paragraph (a) of this
27 subsection available to the department upon request. Except as provided in ORS 743.018 and except
28 in cases of violations of ORS 743B.010 to 743B.013, the information *[shall be considered]* **is** proprie-
29 tary and trade secret information and *[shall not be]* **is not** subject to disclosure to persons outside
30 the department except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

31 (12) A carrier *[shall]* **may** not provide any financial or other incentive to any insurance pro-
32 ducer that would encourage the insurance producer to sell health benefit plans of the carrier to
33 small employer groups based on a small employer group's anticipated claims experience.

34 (13) For purposes of this section, the date a small employer health benefit plan is continued
35 *[shall be]* **is** the anniversary date of the first issuance of the health benefit plan.

36 (14) A carrier *[must]* **shall** include a provision that offers coverage to all eligible employees of
37 a small employer and to all dependents of the eligible employees to the extent the employer chooses
38 to offer coverage to dependents.

39 (15) All small employer health benefit plans *[shall]* **must** contain special enrollment periods
40 during which eligible employees and dependents may enroll for coverage, as provided by federal law
41 and rules adopted by the department.

42 (16) A small employer health benefit plan may not impose annual or lifetime limits on the dollar
43 amount of essential health benefits.

44 **SECTION 17.** ORS 743B.105 is amended to read:

45 743B.105. The following requirements apply to all group health benefit plans other than small

1 employer health benefit plans covering two or more certificate holders:

2 (1) A carrier offering a group health benefit plan may not decline to offer coverage to any eli-
3 gible prospective enrollee and may not impose different terms or conditions on the coverage, pre-
4 miums or contributions of any enrollee in the group that are based on the actual or expected health
5 status of the enrollee.

6 (2) A group health benefit plan may not apply a preexisting condition exclusion to any enrollee
7 but may impose:

8 (a) An affiliation period that does not exceed two months for an enrollee or three months for a
9 late enrollee; or

10 (b) A group eligibility waiting period for late enrollees that does not exceed 90 days.

11 (3) Each group health benefit plan shall contain a special enrollment period during which eligi-
12 ble employees and dependents may enroll for coverage, as provided by federal law and rules adopted
13 by the Department of Consumer and Business Services.

14 (4)(a) A carrier shall issue to a group any of the carrier's group health benefit plans offered by
15 the carrier for which the group is eligible, if the group applies for the plan, agrees to make the re-
16 quired premium payments and agrees to satisfy the other requirements of the plan.

17 (b) The department may waive the requirements of this subsection if the department finds that
18 issuing a plan to a group or groups would endanger the carrier's ability to fulfill *[its]* **the carrier's**
19 contractual obligations or result in financial impairment of the carrier.

20 (5) Each group health benefit plan shall be renewable with respect to all eligible enrollees at
21 the option of the policyholder unless:

22 (a) The policyholder fails to pay the required premiums.

23 (b) The policyholder or, with respect to coverage of individual enrollees, an enrollee or a rep-
24 resentative of an enrollee engages in fraud or makes an intentional misrepresentation of a material
25 fact as prohibited by the terms of the plan.

26 (c) The number of enrollees covered under the plan is less than the number or percentage of
27 enrollees required by participation requirements under the plan.

28 (d) The policyholder fails to comply with the contribution requirements under the plan.

29 (e) The carrier discontinues both offering and renewing, all of *[its]* **the carrier's** group health
30 benefit plans in this state or in a specified service area within this state. In order to discontinue
31 plans under this paragraph, the carrier:

32 (A) Must give notice of the decision to the department and to all policyholders covered by the
33 plans;

34 (B) May not cancel coverage under the plans for 180 days after the date of the notice required
35 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, *except*
36 *as provided in subparagraph (C) of this paragraph,* in a specified service area; *and*, **except that:**

37 **(i) The carrier shall cancel coverage in accordance with subparagraph (C) of this para-**
38 **graph if the cancellation is for a specified service area in the circumstances described in**
39 **subparagraph (C) of this paragraph; and**

40 **(ii) The Director of the Department of Consumer and Business Services may specify a**
41 **cancellation date other than the cancellation date specified in this subparagraph if the car-**
42 **rier is subject to a delinquency proceeding, as defined in ORS 734.014; and**

43 (C) May not cancel coverage under the plans for 90 days after the date of the notice required
44 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
45 because of an inability to reach an agreement with the health care providers or organization of

1 health care providers to provide services under the plans within the service area.

2 (f) The carrier discontinues both offering and renewing a group health benefit plan in a specified
3 service area within this state because of an inability to reach an agreement with the health care
4 providers or organization of health care providers to provide services under the plan within the
5 service area. In order to discontinue a plan under this paragraph, the carrier:

6 (A) Must give notice of the decision to the department and to all policyholders covered by the
7 plan;

8 (B) May not cancel coverage under the plan for 90 days after the date of the notice required
9 under subparagraph (A) of this paragraph; and

10 (C) Must offer in writing to each policyholder covered by the plan, all other group health benefit
11 plans that the carrier offers in the specified service area. The carrier shall offer the plans at least
12 90 days prior to discontinuation.

13 (g) The carrier discontinues both offering and renewing a group health benefit plan, other than
14 a grandfathered health plan, for all groups in this state or in a specified service area within this
15 state, other than a plan discontinued under paragraph (f) of this subsection.

16 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all
17 groups in this state or in a specified service area within this state, other than a plan discontinued
18 under paragraph (f) of this subsection.

19 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-
20 section, the carrier must:

21 (A) Offer in writing to each policyholder covered by the plan, one or more health benefit plans
22 that the carrier offers to groups in the specified service area.

23 (B) Offer the plans at least 90 days prior to discontinuation.

24 (C) Act uniformly without regard to the claims experience of the affected policyholders or the
25 health status of any current or prospective enrollee.

26 (j) The director [*of the Department of Consumer and Business Services*] orders the carrier to
27 discontinue coverage in accordance with procedures specified or approved by the director upon
28 finding that the continuation of the coverage would:

29 (A) Not be in the best interests of the enrollees; or

30 (B) Impair the carrier's ability to meet contractual obligations.

31 (k) In the case of a group health benefit plan that delivers covered services through a specified
32 network of health care providers, there is no longer any enrollee who lives, resides or works in the
33 service area of the provider network.

34 (L) In the case of a health benefit plan that is offered in the group market only to one or more
35 bona fide associations, the membership of an employer in the association ceases and the termination
36 of coverage is not related to the health status of any enrollee.

37 (6) A carrier may modify a group health benefit plan at the time of coverage renewal. The
38 modification is not a discontinuation of the plan under subsection (5)(e), (g) and (h) of this section.

39 (7) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may
40 not rescind the coverage of an enrollee under a group health benefit plan unless:

41 (a) The enrollee:

42 (A) Performs an act, practice or omission that constitutes fraud; or

43 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
44 plan;

45 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-

1 scribed by the department, to the enrollee; and

2 (c) The carrier provides notice of the rescission to the department in the form, manner and time
3 frame prescribed by the department by rule.

4 (8) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may
5 not rescind a group health benefit plan unless:

6 (a) The plan sponsor or a representative of the plan sponsor:

7 (A) Performs an act, practice or omission that constitutes fraud; or

8 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
9 plan;

10 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-
11 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-
12 age; and

13 (c) The carrier provides notice of the rescission to the department in the form, manner and time
14 frame prescribed by the department by rule.

15 (9) A group health benefit plan may not impose annual or lifetime limits on the dollar amount
16 of essential health benefits.

17 **SECTION 18.** ORS 743B.125 is amended to read:

18 743B.125. (1) With respect to coverage under an individual health benefit plan, a carrier may
19 not impose an individual coverage waiting period.

20 (2) With respect to individual coverage under a grandfathered health plan, a carrier:

21 (a) May impose an exclusion period for specified covered services applicable to all individuals
22 enrolling for the first time in the individual health benefit plan.

23 (b) May not impose a preexisting condition exclusion unless the exclusion complies with the
24 following requirements:

25 (A) The exclusion applies only to a condition for which medical advice, diagnosis, care or
26 treatment was recommended or received during the six-month period immediately preceding the
27 individual's effective date of coverage.

28 (B) The exclusion expires no later than six months after the individual's effective date of cov-
29 erage.

30 (3) An individual health benefit plan other than a grandfathered health plan must cover, at a
31 minimum, all essential health benefits.

32 (4) A carrier shall renew an individual health benefit plan, including a health benefit plan issued
33 through a bona fide association, unless:

34 (a) The policyholder fails to pay the required premiums.

35 (b) The policyholder or a representative of the policyholder engages in fraud or makes an in-
36 tentional misrepresentation of a material fact as prohibited by the terms of the policy.

37 (c) The carrier discontinues both offering and renewing all of *[its]* **the carrier's** individual
38 health benefit plans in this state or in a specified service area within this state. In order to dis-
39 continue the plans under this paragraph, the carrier:

40 (A) *[Must]* **Shall** give notice of the decision to the Department of Consumer and Business Ser-
41 vices and to all policyholders covered by the plans;

42 (B) May not cancel coverage under the plans for 180 days after the date of the notice required
43 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, *except*
44 *as provided in subparagraph (C) of this paragraph,*] in a specified service area; *and*], **except that:**

45 (i) **The carrier shall cancel coverage in accordance with subparagraph (C) of this para-**

1 **graph if the cancellation is for a specified service area in the circumstances described in**
2 **subparagraph (C) of this paragraph; and**

3 **(ii) The Director of the Department of Consumer and Business Services may specify a**
4 **cancellation date other than the cancellation date specified in this subparagraph if the car-**
5 **rier is subject to a delinquency proceeding, as defined in ORS 734.014; and**

6 (C) May not cancel coverage under the plans for 90 days after the date of the notice required
7 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area
8 because of an inability to reach an agreement with the health care providers or organization of
9 health care providers to provide services under the plans within the service area.

10 (d) The carrier discontinues both offering and renewing an individual health benefit plan in a
11 specified service area within this state because of an inability to reach an agreement with the health
12 care providers or organization of health care providers to provide services under the plan within the
13 service area. In order to discontinue a plan under this paragraph, the carrier:

14 (A) *[Must]* **Shall** give notice of the decision to the department and to all policyholders covered
15 by the plan;

16 (B) May not cancel coverage under the plan for 90 days after the date of the notice required
17 under subparagraph (A) of this paragraph; and

18 (C) *[Must]* **Shall** offer in writing to each policyholder covered by the plan, all other individual
19 health benefit plans that the carrier offers in the specified service area. The carrier shall offer the
20 plans at least 90 days prior to discontinuation.

21 (e) The carrier discontinues both offering and renewing an individual health benefit plan, other
22 than a grandfathered health plan, for all individuals in this state or in a specified service area
23 within this state, other than a plan discontinued under paragraph (d) of this subsection.

24 (f) The carrier discontinues both offering and renewing a grandfathered health plan for all in-
25 dividuals in this state or in a specified service area within this state, other than a plan discontinued
26 under paragraph (d) of this subsection.

27 (g) With respect to plans that are being discontinued under paragraph (e) or (f) of this sub-
28 section, the carrier *[must]* **shall**:

29 (A) Offer in writing to each policyholder covered by the plan, all health benefit plans that the
30 carrier offers to individuals in the specified service area.

31 (B) Offer the plans at least 90 days prior to discontinuation.

32 (C) Act uniformly without regard to the claims experience of the affected policyholders or the
33 health status of any current or prospective enrollee.

34 (h) The Director of the Department of Consumer and Business Services orders the carrier to
35 discontinue coverage in accordance with procedures specified or approved by the director upon
36 finding that the continuation of the coverage would:

37 (A) Not be in the best interests of the enrollee; or

38 (B) Impair the carrier's ability to meet *[its]* **the carrier's** contractual obligations.

39 (i) In the case of an individual health benefit plan that delivers covered services through a
40 specified network of health care providers, the enrollee no longer lives, resides or works in the
41 service area of the provider network and the termination of coverage is not related to the health
42 status of any enrollee.

43 (j) In the case of a health benefit plan that is offered in the individual market only through one
44 or more bona fide associations, the membership of an individual in the association ceases and the
45 termination of coverage is not related to the health status of any enrollee.

1 (5) A carrier may modify an individual health benefit plan at the time of coverage renewal. The
2 modification is not a discontinuation of the plan under subsection (4)(c), (e) and (f) of this section.

3 (6) Notwithstanding any other provision of this section, and subject to the provisions of ORS
4 743B.310 (2) and (4), a carrier may rescind an individual health benefit plan if the policyholder or
5 a representative of the policyholder:

6 (a) Performs an act, practice or omission that constitutes fraud; or

7 (b) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the
8 policy.

9 (7) A carrier that continues to offer coverage in the individual market in this state is not re-
10 quired to offer coverage in all of the carrier's individual health benefit plans. However, if a carrier
11 elects to continue a plan that is closed to new individual policyholders instead of offering alterna-
12 tive coverage in [its] **the carrier's** other individual health benefit plans, the coverage for all exist-
13 ing policyholders in the closed plan is renewable in accordance with subsection (4) of this section.

14 (8) An individual health benefit plan may not impose annual or lifetime limits on the dollar
15 amount of essential health benefits.

16 (9) A grandfathered health plan may not impose lifetime limits on the dollar amount of essential
17 health benefits.

18 (10) This section does not require a carrier to actively market, offer, issue or accept applications
19 for:

20 (a) A bona fide association health benefit plan from individuals who are not members of the bona
21 fide association; or

22 (b) A grandfathered health plan from individuals who are not eligible for coverage under the
23 plan.

24 **SECTION 19.** ORS 750.015 is amended to read:

25 750.015. (1) Except as provided in subsection (2) of this section, [*not less than*] **at least** one-third
26 of the group of persons vested with [*the management of*] **managing** the affairs of a health care ser-
27 vice contractor, as defined in ORS 750.005 (4)(a), [*shall*] **must** be representatives of the public who
28 are not:

29 (a) Practicing doctors; or

30 (b) Employees or trustees of a participant hospital.

31 (2)(a) Notwithstanding subsection (1) of this section, the group of persons vested with [*the man-*
32 *agement of*] **managing** the affairs of a nonprofit private organization described in **paragraph (b)**
33 **of** this subsection [*shall*] **must** have at least two representatives of the public who are not:

34 (A) Practicing doctors, as defined in ORS 750.005[.]; or

35 (B) Employees or trustees of a participant hospital.

36 (b) This subsection applies to a nonprofit private organization that is a health maintenance or-
37 ganization, as defined in ORS 442.015, that is controlled by a single nonprofit hospital or by a group
38 of nonprofit hospitals under common ownership and that operates in a county with a population of
39 200,000 or more.

40 **SECTION 20.** ORS 750.055, as amended by section 7, chapter 59, Oregon Laws 2015, is amended
41 to read:

42 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
43 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

44 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
45 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,

1 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
2 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

10 (e) ORS chapter 734.

11 (f) ORS 735.600 to 735.650.

12 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
13 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,
14 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,
15 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
16 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,
17 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
18 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
19 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
20 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
21 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,
22 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,
23 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601
24 and 743B.800 and section 2, chapter 771, Oregon Laws 2013.

25 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and
26 third party administrators.

27 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
28 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

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

38 **(4)(a) A health care service contractor is a domestic insurance company for the purpose**
39 **of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C.**
40 **109.**

41 **(b) A health care service contractor's classification as a domestic insurance company**
42 **under paragraph (a) of this subsection does not subject the health care service contractor**
43 **to ORS 734.510 to 734.710.**

44 *[(4)]* (5) The Director of the Department of Consumer and Business Services may, after notice
45 and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005,

1 750.025 and 750.045 that are [*deemed*] necessary for the proper administration of these provisions.

2 **SECTION 21.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section
3 6, chapter 25, Oregon Laws 2014, section 81, chapter 45, Oregon Laws 2014, section 8, chapter 59,
4 Oregon Laws 2015, section 6, chapter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws
5 2015, section 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015, and
6 section 29, chapter 515, Oregon Laws 2015, is amended to read:

7 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
8 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

9 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
10 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
11 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
12 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

20 (e) ORS chapter 734.

21 (f) ORS 735.600 to 735.650.

22 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
23 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,
24 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,
25 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
26 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,
27 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
28 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
29 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
30 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
31 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,
32 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,
33 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601
34 and 743B.800 and section 2, chapter 771, Oregon Laws 2013.

35 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and
36 third party administrators.

37 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
38 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

45 (3) Any for-profit health care service contractor organized under the laws of any other state that

1 is not governed by the insurance laws of the other state is subject to all requirements of ORS
2 chapter 732.

3 **(4)(a) A health care service contractor is a domestic insurance company for the purpose**
4 **of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C.**
5 **109.**

6 **(b) A health care service contractor's classification as a domestic insurance company**
7 **under paragraph (a) of this subsection does not subject the health care service contractor**
8 **to ORS 734.510 to 734.710.**

9 [(4)] (5) The Director of the Department of Consumer and Business Services may, after notice
10 and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005,
11 750.025 and 750.045 that are [deemed] necessary for the proper administration of these provisions.

12 **SECTION 22.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section
13 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59,
14 Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws
15 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, and
16 section 30, chapter 515, Oregon Laws 2015, is amended to read:

17 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
18 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

19 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
20 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
21 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
22 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

30 (e) ORS chapter 734.

31 (f) ORS 735.600 to 735.650.

32 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
33 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,
34 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,
35 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
36 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,
37 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
38 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
39 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
40 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
41 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,
42 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,
43 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601
44 and 743B.800.

45 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and

1 third party administrators.

2 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
3 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

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

13 **(4)(a) A health care service contractor is a domestic insurance company for the purpose**
14 **of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C.**
15 **109.**

16 **(b) A health care service contractor's classification as a domestic insurance company**
17 **under paragraph (a) of this subsection does not subject the health care service contractor**
18 **to ORS 734.510 to 734.710.**

19 [(4)] (5) The Director of the Department of Consumer and Business Services may, after notice
20 and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005,
21 750.025 and 750.045 that are [*deemed*] necessary for the proper administration of these provisions.

22 **SECTION 23.** ORS 750.085 is amended to read:

23 750.085. (1) [*When*] **If** a final order of liquidation with a finding of insolvency has been entered
24 with respect to a health care service contractor by a court of competent jurisdiction in the domicile
25 of the health care service contractor, subscribers of the health care service contractor [*shall*] **must**
26 be offered replacement coverage as provided in this section.

27 (2) All insurers and health care service contractors that participated with the insolvent health
28 care service contractor in the open enrollment process at the last regular open enrollment period
29 for a group shall offer members of the group that are subscribers of the insolvent health care service
30 contractor an open enrollment period [*of 30 days*] **that the Director of the Department of Con-**
31 **sumer and Business Services establishes by rule**, commencing on the date on which the final
32 order of liquidation with a finding of insolvency was entered. Each of the insurers and health care
33 service contractors shall offer the subscribers of the insolvent health care service contractor the
34 same coverages and rates that the insurer or health care service contractor had offered to members
35 of the group at [*its*] **the group's** last regular open enrollment period.

36 (3) If no other insurer or health care service contractor offered health insurance coverage to a
37 group or groups whose members are enrolled with the insolvent health care service contractor, or
38 if the other insurers and health care service contractors lack sufficient health care delivery re-
39 sources to assure that health care services will be available and accessible to all of the group sub-
40 scribers of the insolvent health care service contractor, the Director of the Department of Consumer
41 and Business Services shall equitably allocate the contract or contracts for the group or groups
42 among all health care service contractors that operate within a portion of the service area of the
43 insolvent health care service contractor. The director shall take into consideration the health care
44 delivery resources of each health care service contractor. Each health care service contractor to
45 which a group or groups are so allocated shall offer to each such group the existing coverage of the

1 health care service contractor, at rates determined by the health care service contractor in ac-
2 cordance with [its] **the health care service contractor's** existing rating methodology. Each health
3 care service contractor to whom a group or groups are allocated may reevaluate the group or
4 groups at the end of the contractual period or at the end of six months after the allocation, which-
5 ever occurs first, in order to determine the appropriate premium for each such group.

6 (4) The director shall equitably allocate the nongroup subscribers of the insolvent health care
7 service contractor that are unable to obtain other coverage among all health care service contrac-
8 tors that operate within a portion of the service area of the insolvent health care service contractor.
9 The director shall take into consideration the health care delivery resources of each health care
10 service contractor. Each health care service contractor to which nongroup subscribers are allocated
11 shall offer [its] **the health care service contractor's** existing individual or conversion coverage to
12 nongroup subscribers, at rates determined in accordance with [its] **the health care service**
13 **contractor's** existing rating methodology. A health care service contractor that does not offer di-
14 rect nongroup enrollment may aggregate all of the allocated nongroup subscribers into one group
15 for rating and coverage purposes.

16 **SECTION 24.** (1) Sections 2, 3, 5, 6, 7 and 8 of this 2017 Act and the amendments to ORS
17 732.245, 732.528, 732.548, 732.588, 732.592, 732.650, 734.230, 743B.013, 743B.105, 743B.125, 750.015,
18 750.055 and 750.085 by sections 9 to 23 of this 2017 Act become operative January 1, 2018.

19 (2) The Director of the Department of Consumer and Business Services may adopt rules
20 and take any action before the operative date specified in subsection (1) of this section that
21 is necessary to enable the director, on and after the operative date specified in subsection
22 (1) of this section, to exercise all of the duties, powers and functions conferred on the di-
23 rector by sections 2, 3, 5, 6, 7 and 8 of this 2017 Act and the amendments to ORS 732.245,
24 732.528, 732.548, 732.588, 732.592, 732.650, 734.230, 743B.013, 743B.105, 743B.125, 750.015, 750.055
25 and 750.085 by sections 9 to 23 of this 2017 Act.

26 **SECTION 25.** This 2017 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
28 on its passage.

29
