

HB 2340-1
(LC 713)
3/1/17 (LHF/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2340**

1 On page 1 of the printed bill, line 3, delete the first “and” and after
2 “ORS” insert “192.556, 433.443,” and before “743.402” insert “742.005,” and
3 before the period insert “; and repealing ORS 743A.050, 743A.120, 743A.144,
4 743A.164 and 743A.184”.

5 In line 18, delete the comma and insert “and” and delete “and 743A.164”.

6 On page 3, line 21, delete “and”.

7 In line 23, delete the period and insert “; and
8 “(c) Consumers who purchase insurance are protected.”.

9 In line 42, delete “and”.

10 In line 44, delete the period and insert “; and
11 “(c) Consumers who purchase insurance are protected.”.

12 On page 4, line 42, delete “and”.

13 In line 43, delete the period and lines 44 and 45 and delete pages 5
14 through 10 and insert “; and

15 “(c) Consumers who purchase insurance are protected.

16 “**SECTION 7.** ORS 750.055, as amended by section 7, chapter 59, Oregon
17 Laws 2015, is amended to read:

18 “750.055. (1) The following provisions [*of the Insurance Code*] apply to
19 health care service contractors to the extent not inconsistent with the ex-
20 press provisions of ORS 750.005 to 750.095:

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

1 “(b) **ORS** 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
2 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, **731.485**, as pro-
3 **vided in subsection (2) of this section, ORS** 731.488, 731.504, 731.508,
4 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, [731.592, 731.594,] 731.640
5 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, **731.808**
6 **and** 731.844 to 731.992[, 731.870 and 743A.252].

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

11 “(c) **ORS** 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
12 732.517 to 732.592, not including **ORS** 732.582.

13 “(d) **ORS** 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
14 733.680 and 733.695 to 733.780.

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

16 “(f) **ORS** 735.600 to 735.650.

17 “(g) **ORS** 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to
18 742.162[, 742.400, 742.520 to 742.540,] **and 742.518 to 742.542**.

19 “(h) **ORS** 743.004, **743.005**, **743.007**, 743.008, 743.010, 743.018, **743.019**,
20 **743.020**, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050,
21 743.100 to 743.109, 743.402, **743.405**, 743.406, 743.417, 743.472, 743.492, 743.495,
22 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656,
23 743.680 to 743.689, 743.788[,] **and** 743.790[.].

24 “(i) **ORS** 743A.010, 743A.012, **743A.014**, 743A.020, 743A.034, 743A.036,
25 **743A.040**, **743A.044**, 743A.048, 743A.051, **743A.052**, 743A.058, **743A.060**,
26 743A.062, **743A.063**, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
27 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
28 743A.105, **743A.108**, 743A.110, **743A.124**, 743A.140, 743A.141, [743A.144,]
29 743A.148, 743A.150, 743A.160, [743A.164,] 743A.168, 743A.170, 743A.175,
30 [743A.184,] 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, **743A.252 and**

1 **743A.260 and section 2, chapter 771, Oregon Laws 2013.**

2 **“(j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to**
3 **743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,**
4 **743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285,**
5 **743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342,**
6 **743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,**
7 **743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505,**
8 **[743B.540,] 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 [and section**
9 **2, chapter 771, Oregon Laws 2013].**

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

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

15 **“(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635,**
16 **744.650, 744.655 and 744.665, relating to the regulation of insurance**
17 **consultants; and**

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

20 **“[(i)] (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600,**
21 **746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655,**
22 **746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.**

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

28 **“(2) The following provisions of the Insurance Code apply to health**
29 **care service contractors except in the case of group practice health**
30 **maintenance organizations that are federally qualified pursuant to**

1 **Title XIII of the Public Health Service Act:**

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

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

7 “[2] (3) For the purposes of this section, health care service contractors
8 shall be deemed insurers.

9 “[3] (4) Any for-profit health care service contractor organized under the
10 laws of any other state that is not governed by the insurance laws of the
11 other state is subject to all requirements of ORS chapter 732.

12 “[4] (5) The Director of the Department of Consumer and Business Ser-
13 vices may, after notice and hearing, adopt reasonable rules not inconsistent
14 with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are
15 deemed necessary for the proper administration of these provisions.

16 **“SECTION 8.** ORS 750.055, as amended by section 33, chapter 698, Oregon
17 Laws 2013, section 6, chapter 25, Oregon Laws 2014, section 81, chapter 45,
18 Oregon Laws 2014, section 8, chapter 59, Oregon Laws 2015, section 6, chap-
19 ter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws 2015, section
20 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015,
21 and section 29, chapter 515, Oregon Laws 2015, is amended to read:

22 “750.055. (1) The following provisions [*of the Insurance Code*] apply to
23 health care service contractors to the extent not inconsistent with the ex-
24 press provisions of ORS 750.005 to 750.095:

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

26 **“(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,**
27 **731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-**
28 **vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508,**
29 **731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, [731.592, 731.594,] 731.640**
30 **to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808**

1 **and** 731.844 to 731.992[, 731.870 and 743A.252].

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

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

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

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

11 “(f) ORS 735.600 to 735.650.

12 “(g) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to
13 742.162[, 742.400, 742.520 to 742.540,] **and 742.518 to 742.542**.

14 “(h) **ORS** 743.004, **743.005**, **743.007**, 743.008, 743.010, 743.018, **743.019**,
15 **743.020**, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050,
16 743.100 to 743.109, 743.402, **743.405**, 743.406, 743.417, 743.472, 743.492, 743.495,
17 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656,
18 743.680 to 743.689, 743.788[,] **and** 743.790[.].

19 “(i) **ORS** 743A.010, 743A.012, **743A.014**, 743A.020, 743A.034, 743A.036,
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26 **743A.260 and section 2, chapter 771, Oregon Laws 2013**.

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4 *2, chapter 771, Oregon Laws 2013*].

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

7 **“(A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022**
8 **to 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the**
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22 *tenance organization.*]

23 **“(2) The following provisions of the Insurance Code apply to health**
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26 **Title XIII of the Public Health Service Act:**

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

29 **“(b) ORS 743A.024, unless the patient is referred by a physician,**
30 **physician assistant or nurse practitioner associated with a group**

1 **practice health maintenance organization.**

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

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5 laws of any other state that is not governed by the insurance laws of the
6 other state is subject to all requirements of ORS chapter 732.

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10 deemed necessary for the proper administration of these provisions.

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12 Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45,
13 Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chap-
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16 2015, and section 30, chapter 515, Oregon Laws 2015, is amended to read:

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4 733.680 and 733.695 to 733.780.

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

6 “(f) ORS 735.600 to 735.650.

7 “(g) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061, 742.065, 742.150 to
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21 **743A.260.**

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27 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505,
28 [743B.540,] 743B.550, 743B.555, 743B.601, **743B.602** and 743B.800.

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

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

4 “(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635,
5 744.650, 744.655 and 744.665, relating to the regulation of insurance
6 consultants; and

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

9 “[(i)] (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600,
10 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655,
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12 “[(j) ORS 743A.024, except in the case of group practice health maintenance
13 organizations that are federally qualified pursuant to Title XIII of the Public
14 Health Service Act unless the patient is referred by a physician, physician
15 assistant or nurse practitioner associated with a group practice health main-
16 tenance organization.]

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

21 “(a) ORS 731.485, if the group practice health maintenance organ-
22 ization wholly owns and operates an in-house drug outlet.

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

26 “[(2)] (3) For the purposes of this section, health care service contractors
27 shall be deemed insurers.

28 “[(3)] (4) Any for-profit health care service contractor organized under the
29 laws of any other state that is not governed by the insurance laws of the
30 other state is subject to all requirements of ORS chapter 732.

1 “[(4)] (5) The Director of the Department of Consumer and Business Ser-
2 vices may, after notice and hearing, adopt reasonable rules not inconsistent
3 with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are
4 deemed necessary for the proper administration of these provisions.

5 “**SECTION 10.** ORS 750.333, as amended by section 10, chapter 59, Oregon
6 Laws 2015, is amended to read:

7 “750.333. (1) The following provisions [*of the Insurance Code*] apply to
8 trusts carrying out a multiple employer welfare arrangement:

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

10 “[*(a)*] (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to
11 731.316, 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410,
12 731.414, 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574
13 to 731.620, 731.640 to 731.652, 731.804, **731.808 and 731.844** to 731.992[, 743.029
14 *and 743A.252*].

15 “[*(b)*] (c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to
16 733.680 and 733.695 to 733.780.

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

18 “[*(d)*] (e) ORS 742.001 to 742.009, 742.013, **742.016**, 742.061 and [*742.400*]
19 **742.065.**

20 “[*(e)*] (f) ORS 743.004, **743.005, 743.007**, 743.008, **743.010, 743.018, 743.020,**
21 **743.023**, 743.028, **743.029**, 743.053, **743.405**, 743.406, 743.524, 743.526[, 743.528,]
22 **and 743.535**[,].

23 “(g) **ORS 743A.010**, 743A.012, **743A.014**, 743A.020, **743A.024**, 743A.034,
24 **743A.036, 743A.040, 743A.048**, 743A.051, 743A.052, **743A.058, 743A.060,**
25 **743A.062, 743A.063**, 743A.064, 743A.065, **743A.066, 743A.068, 743A.070,**
26 743A.080, 743A.082, **743A.084, 743A.088, 743A.090**, 743A.100, 743A.104,
27 **743A.105, 743A.108**, 743A.110, **743A.124, 743A.140, 743A.141**, [*743A.144*,]
28 **743A.148**, 743A.150, **743A.160, 743A.168**, 743A.170, 743A.175, **743A.180,**
29 [*743A.184*,] **743A.185, 743A.188, 743A.190**, 743A.192, 743A.250, **743A.252 and**
30 **743A.260.**

1 **“(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127),**
2 **743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250,**
3 **743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310,**
4 **743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344,**
5 **743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451,**
6 **743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.**

7 *“[(f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036,*
8 *743A.040, 743A.048, 743A.058, 743A.066, 743A.068, 743A.070, 743A.084,*
9 *743A.088, 743A.090, 743A.105, 743A.140, 743A.141, 743A.148, 743A.168,*
10 *743A.180, 743A.185, 743A.188 and 743A.190. Multiple employer welfare ar-*
11 *rangements to which ORS 743.004, 743.022, 743.535 and 743B.003 to 743B.127*
12 *apply are subject to the sections referred to in this paragraph only as provided*
13 *in ORS 743.004, 743.022, 743.535 and 743B.003 to 743B.127.]*

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

16 **“(i) The following provisions of ORS chapter 744:**

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

20 **“(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635,**
21 **744.650, 744.655 and 744.665, relating to the regulation of insurance**
22 **consultants; and**

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

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

26 *“[(i) ORS 731.592 and 731.594.]*

27 *“[(j) ORS 731.870.]*

28 **“(2) For the purposes of this section:**

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

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

3 “(c) Contributions shall be considered premiums.

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

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

9 “**SECTION 11.** ORS 192.556 is amended to read:

10 “192.556. As used in ORS 192.553 to 192.581:

11 “(1) ‘Authorization’ means a document written in plain language that
12 contains at least the following:

13 “(a) A description of the information to be used or disclosed that identi-
14 fies the information in a specific and meaningful way;

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

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

19 “(d) A description of each purpose of the requested use or disclosure, in-
20 cluding but not limited to a statement that the use or disclosure is at the
21 request of the individual;

22 “(e) An expiration date or an expiration event that relates to the indi-
23 vidual or the purpose of the use or disclosure;

24 “(f) The signature of the individual or personal representative of the in-
25 dividual and the date;

26 “(g) A description of the authority of the personal representative, if ap-
27 plicable; and

28 “(h) Statements adequate to place the individual on notice of the follow-
29 ing:

30 “(A) The individual’s right to revoke the authorization in writing;

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

2 “(C) The ability or inability to condition treatment, payment, enrollment

3 or eligibility for benefits on whether the individual signs the authorization;

4 and

5 “(D) The potential for information disclosed pursuant to the authorization

6 to be subject to redisclosure by the recipient and no longer protected.

7 “(2) ‘Covered entity’ means:

8 “(a) A state health plan;

9 “(b) A health insurer;

10 “(c) A health care provider that transmits any health information in

11 electronic form to carry out financial or administrative activities in con-

12 nection with a transaction covered by ORS 192.553 to 192.581; or

13 “(d) A health care clearinghouse.

14 “(3) ‘Health care’ means care, services or supplies related to the health

15 of an individual.

16 “(4) ‘Health care operations’ includes but is not limited to:

17 “(a) Quality assessment, accreditation, auditing and improvement activ-

18 ities;

19 “(b) Case management and care coordination;

20 “(c) Reviewing the competence, qualifications or performance of health

21 care providers or health insurers;

22 “(d) Underwriting activities;

23 “(e) Arranging for legal services;

24 “(f) Business planning;

25 “(g) Customer services;

26 “(h) Resolving internal grievances;

27 “(i) Creating deidentified information; and

28 “(j) Fundraising.

29 “(5) ‘Health care provider’ includes but is not limited to:

30 “(a) A psychologist, occupational therapist, regulated social worker, pro-

1 fessional counselor or marriage and family therapist licensed or otherwise
2 authorized to practice under ORS chapter 675 or an employee of the psy-
3 chologist, occupational therapist, regulated social worker, professional
4 counselor or marriage and family therapist;

5 “(b) A physician or physician assistant licensed under ORS chapter 677,
6 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
7 cian, physician assistant or acupuncturist;

8 “(c) A nurse or nursing home administrator licensed under ORS chapter
9 678 or an employee of the nurse or nursing home administrator;

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

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

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

16 “(g) An emergency medical services provider licensed under ORS chapter
17 682;

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

20 “(i) A chiropractic physician licensed under ORS chapter 684 or an em-
21 ployee of the chiropractic physician;

22 “(j) A naturopathic physician licensed under ORS chapter 685 or an em-
23 ployee of the naturopathic physician;

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

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

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

30 “(n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-

1 ployee of the medical imaging licensee;

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

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

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

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

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

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

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

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

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

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

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

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

21 “(6) ‘Health information’ means any oral or written information in any
22 form or medium that:

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

26 “(b) Relates to:

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

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

30 “(C) The past, present or future payment for the provision of health care

1 to an individual.

2 “(7) ‘Health insurer’ means:

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

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

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

7 “(C) A student health insurance policy;

8 “(D) A Medicare supplemental policy; or

9 “(E) A dental only policy.

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

12 “(8) ‘Individually identifiable health information’ means any oral or
13 written health information in any form or medium that is:

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

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

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

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

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

24 “(9) ‘Payment’ includes but is not limited to:

25 “(a) Efforts to obtain premiums or reimbursement;

26 “(b) Determining eligibility or coverage;

27 “(c) Billing activities;

28 “(d) Claims management;

29 “(e) Reviewing health care to determine medical necessity;

30 “(f) Utilization review; and

1 “(g) Disclosures to consumer reporting agencies.

2 “(10) ‘Personal representative’ includes but is not limited to:

3 “(a) A person appointed as a guardian under ORS 125.305, 419B.372,
4 419C.481 or 419C.555 with authority to make medical and health care deci-
5 sions;

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

9 “(c) A person appointed as a personal representative under ORS chapter
10 113; and

11 “(d) A person described in ORS 192.573.

12 “(11)(a) ‘Protected health information’ means individually identifiable
13 health information that is maintained or transmitted in any form of elec-
14 tronic or other medium by a covered entity.

15 “(b) ‘Protected health information’ does not mean individually identifiable
16 health information in:

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

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

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

21 “(12) ‘State health plan’ means:

22 “(a) Medical assistance as defined in ORS 414.025;

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

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

26 “(13) ‘Treatment’ includes but is not limited to:

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

28 “(b) Consultations and referrals between health care providers.

29 **“SECTION 12.** ORS 192.556, as amended by section 30, chapter 698,
30 Oregon Laws 2013, is amended to read:

1 “192.556. As used in ORS 192.553 to 192.581:

2 “(1) ‘Authorization’ means a document written in plain language that
3 contains at least the following:

4 “(a) A description of the information to be used or disclosed that identi-
5 fies the information in a specific and meaningful way;

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

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

10 “(d) A description of each purpose of the requested use or disclosure, in-
11 cluding but not limited to a statement that the use or disclosure is at the
12 request of the individual;

13 “(e) An expiration date or an expiration event that relates to the indi-
14 vidual or the purpose of the use or disclosure;

15 “(f) The signature of the individual or personal representative of the in-
16 dividual and the date;

17 “(g) A description of the authority of the personal representative, if ap-
18 plicable; and

19 “(h) Statements adequate to place the individual on notice of the follow-
20 ing:

21 “(A) The individual’s right to revoke the authorization in writing;

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

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

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

28 “(2) ‘Covered entity’ means:

29 “(a) A state health plan;

30 “(b) A health insurer;

1 “(c) A health care provider that transmits any health information in
2 electronic form to carry out financial or administrative activities in con-
3 nection with a transaction covered by ORS 192.553 to 192.581; or

4 “(d) A health care clearinghouse.

5 “(3) ‘Health care’ means care, services or supplies related to the health
6 of an individual.

7 “(4) ‘Health care operations’ includes but is not limited to:

8 “(a) Quality assessment, accreditation, auditing and improvement activ-
9 ities;

10 “(b) Case management and care coordination;

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

13 “(d) Underwriting activities;

14 “(e) Arranging for legal services;

15 “(f) Business planning;

16 “(g) Customer services;

17 “(h) Resolving internal grievances;

18 “(i) Creating deidentified information; and

19 “(j) Fundraising.

20 “(5) ‘Health care provider’ includes but is not limited to:

21 “(a) A psychologist, occupational therapist, regulated social worker, pro-
22 fessional counselor or marriage and family therapist licensed or otherwise
23 authorized to practice under ORS chapter 675 or an employee of the psy-
24 chologist, occupational therapist, regulated social worker, professional
25 counselor or marriage and family therapist;

26 “(b) A physician or physician assistant licensed under ORS chapter 677,
27 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
28 cian, physician assistant or acupuncturist;

29 “(c) A nurse or nursing home administrator licensed under ORS chapter
30 678 or an employee of the nurse or nursing home administrator;

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

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

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

7 “(g) An emergency medical services provider licensed under ORS chapter
8 682;

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

11 “(i) A chiropractic physician licensed under ORS chapter 684 or an em-
12 ployee of the chiropractic physician;

13 “(j) A naturopathic physician licensed under ORS chapter 685 or an em-
14 ployee of the naturopathic physician;

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

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

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

21 “(n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
22 ployee of the medical imaging licensee;

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

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

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

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

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

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

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

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

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

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

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

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

12 “(6) ‘Health information’ means any oral or written information in any
13 form or medium that:

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

17 “(b) Relates to:

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

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

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

23 “(7) ‘Health insurer’ means an insurer as defined in ORS 731.106 who of-
24 fers:

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

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

28 “(c) A student health insurance policy;

29 “(d) A Medicare supplemental policy; or

30 “(e) A dental only policy.

1 “(8) ‘Individually identifiable health information’ means any oral or
2 written health information in any form or medium that is:

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

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

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

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

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

13 “(9) ‘Payment’ includes but is not limited to:

14 “(a) Efforts to obtain premiums or reimbursement;

15 “(b) Determining eligibility or coverage;

16 “(c) Billing activities;

17 “(d) Claims management;

18 “(e) Reviewing health care to determine medical necessity;

19 “(f) Utilization review; and

20 “(g) Disclosures to consumer reporting agencies.

21 “(10) ‘Personal representative’ includes but is not limited to:

22 “(a) A person appointed as a guardian under ORS 125.305, 419B.372,
23 419C.481 or 419C.555 with authority to make medical and health care deci-
24 sions;

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

28 “(c) A person appointed as a personal representative under ORS chapter
29 113; and

30 “(d) A person described in ORS 192.573.

1 “(11)(a) ‘Protected health information’ means individually identifiable
2 health information that is maintained or transmitted in any form of elec-
3 tronic or other medium by a covered entity.

4 “(b) ‘Protected health information’ does not mean individually identifiable
5 health information in:

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

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

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

10 “(12) ‘State health plan’ means:

11 “(a) Medical assistance as defined in ORS 414.025;

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

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

15 “(13) ‘Treatment’ includes but is not limited to:

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

17 “(b) Consultations and referrals between health care providers.

18 **“SECTION 13.** ORS 433.443 is amended to read:

19 “433.443. (1) As used in this section:

20 “(a) ‘Covered entity’ means:

21 “(A) The Children’s Health Insurance Program;

22 “(B) A health insurer that is an insurer as defined in ORS 731.106 and
23 that issues health insurance as defined in ORS 731.162;

24 “(C) The state medical assistance program; and

25 “(D) A health care provider.

26 “(b) ‘Health care provider’ includes but is not limited to:

27 “(A) A psychologist, occupational therapist, regulated social worker, pro-
28 fessional counselor or marriage and family therapist licensed or otherwise
29 authorized to practice under ORS chapter 675 or an employee of the psy-
30 chologist, occupational therapist, regulated social worker, professional

1 counselor or marriage and family therapist;

2 “(B) A physician or physician assistant licensed under ORS chapter 677,
3 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
4 cian, physician assistant or acupuncturist;

5 “(C) A nurse or nursing home administrator licensed under ORS chapter
6 678 or an employee of the nurse or nursing home administrator;

7 “(D) A dentist licensed under ORS chapter 679 or an employee of the
8 dentist;

9 “(E) A dental hygienist or denturist licensed under ORS chapter 680 or
10 an employee of the dental hygienist or denturist;

11 “(F) A speech-language pathologist or audiologist licensed under ORS
12 chapter 681 or an employee of the speech-language pathologist or audiologist;

13 “(G) An emergency medical services provider licensed under ORS chapter
14 682;

15 “(H) An optometrist licensed under ORS chapter 683 or an employee of
16 the optometrist;

17 “(I) A chiropractic physician licensed under ORS chapter 684 or an em-
18 ployee of the chiropractic physician;

19 “(J) A naturopathic physician licensed under ORS chapter 685 or an em-
20 ployee of the naturopathic physician;

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

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

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

27 “(N) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
28 ployee of the medical imaging licensee;

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

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

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

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

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

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

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

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

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

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

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

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

18 “(c) ‘Individual’ means a natural person.

19 “(d) ‘Individually identifiable health information’ means any oral or
20 written health information in any form or medium that is:

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

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

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

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

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

1 “(e) ‘Legal representative’ means attorney at law, person holding a gen-
2 eral power of attorney, guardian, conservator or any person appointed by a
3 court to manage the personal or financial affairs of a person, or agency le-
4 gally responsible for the welfare or support of a person.

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

8 “(A) Adopt reporting requirements for and provide notice of those re-
9 quirements to health care providers, institutions and facilities for the pur-
10 pose of obtaining information directly related to the public health
11 emergency;

12 “(B) After consultation with appropriate medical experts, create and re-
13 quire the use of diagnostic and treatment protocols to respond to the public
14 health emergency and provide notice of those protocols to health care pro-
15 viders, institutions and facilities;

16 “(C) Order, or authorize local public health administrators to order, pub-
17 lic health measures appropriate to the public health threat presented;

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

20 “(E) Upon approval of the Governor, take other actions necessary to ad-
21 dress the public health emergency and provide notice of those actions to
22 health care providers, institutions and facilities, including public health
23 actions authorized by ORS 431A.015;

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

30 “(G) The authority granted to the Public Health Director under this sec-

1 tion:

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

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

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

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

22 “(4)(a) During a declared state of public health emergency, the Public
23 Health Director and local public health administrators shall be given imme-
24 diate access to individually identifiable health information necessary to:

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

27 “(B) Identify persons at risk;

28 “(C) Identify patterns of transmission;

29 “(D) Provide treatment; and

30 “(E) Take steps to control the disease.

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

6 “(c) Individually identifiable health information obtained by the Public
7 Health Director or local public health administrators under this subsection
8 may not be disclosed without written authorization of the identified indi-
9 vidual except:

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

12 “(B) To state, local or federal agencies authorized to receive such infor-
13 mation by state or federal law;

14 “(C) To identify or to determine the cause or manner of death of a de-
15 ceased individual; or

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

19 “(d) Upon expiration of the state of public health emergency, the Public
20 Health Director or local public health administrators may not use or disclose
21 any individually identifiable health information that has been obtained under
22 this section. If a state of emergency that is related to the state of public
23 health emergency has been declared under ORS 401.165, the Public Health
24 Director and local public health administrators may continue to use any in-
25 dividually identifiable information obtained as provided under this section
26 until termination of the state of emergency.

27 “(5) All civil penalties recovered under this section shall be paid into the
28 State Treasury and credited to the General Fund and are available for gen-
29 eral governmental expenses.

30 “(6) The Public Health Director may request assistance in enforcing or-

1 ders issued pursuant to this section from state or local law enforcement au-
2 thorities. If so requested by the Public Health Director, state and local law
3 enforcement authorities, to the extent resources are available, shall assist in
4 enforcing orders issued pursuant to this section.

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

10 **“SECTION 14.** ORS 742.005 is amended to read:

11 “742.005. The Director of the Department of Consumer and Business Ser-
12 vices shall disapprove any form requiring the director’s approval:

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

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

19 “(3) If, in the director’s judgment, its use would be prejudicial to the in-
20 terests of the insurer’s policyholders;

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

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

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

28 “(a) Individual health insurance policy forms, including benefit certifi-
29 cates issued by fraternal benefit societies and individual policies issued by
30 health care service contractors, but excluding policies referred to in ORS

1 743.402 as exempt from the application of ORS 743.405 to 743.498[,] **and**
2 743A.160 [*and 743A.164*];

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

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

8 **“SECTION 15. ORS 743A.050, 743A.120, 743A.144, 743A.164 and**
9 **743A.184 are repealed.”.**

10
