HB 2341-1
(LC 715)
3/7/17 (LHF/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE

PROPOSED AMENDMENTS TO HOUSE BILL 2341

1 On page 1 of the printed bill, line 2, after "ORS" insert "192.556,".
2 In line 3, delete "743A.141, 743B.001," and after "743B.005," insert
3 "743B.011," and delete "and 743B.800" and insert ", 743B.800 and 746.600".
4 After line 5, insert:
5 "**SECTION 1.** ORS 192.556 is amended to read:
6 "192.556. As used in ORS 192.553 to 192.581:
7 "(1) 'Authorization' means a document written in plain language that
8 contains at least the following:
9 "(a) A description of the information to be used or disclosed that identi-
10 fies the information in a specific and meaningful way;
11 "(b) The name or other specific identification of the person or persons
12 authorized to make the requested use or disclosure;
13 "(c) The name or other specific identification of the person or persons to
14 whom the covered entity may make the requested use or disclosure;
15 "(d) A description of each purpose of the requested use or disclosure, in-
16 cluding but not limited to a statement that the use or disclosure is at the
17 request of the individual;
18 "(e) An expiration date or an expiration event that relates to the indi-
19 vidual or the purpose of the use or disclosure;
20 "(f) The signature of the individual or personal representative of the in-
21 dividual and the date;

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

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

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

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

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

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

"(2) 'Covered entity' means:

"(a) A state health plan;

"(b) A health insurer;

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

"(d) A health care clearinghouse.

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

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

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

"(b) Case management and care coordination;

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

"(d) Underwriting activities;

"(e) Arranging for legal services;

"(f) Business planning;

"(g) Customer services;

1 “(h) Resolving internal grievances;
2 “(i) Creating deidentified information; and
3 “(j) Fundraising.
4 “(5) ‘Health care provider’ includes but is not limited to:
5 “(a) A psychologist, occupational therapist, regulated social worker, pro-
6 fessional counselor or marriage and family therapist licensed or otherwise
7 authorized to practice under ORS chapter 675 or an employee of the psy-
8 chologist, occupational therapist, regulated social worker, professional
9 counselor or marriage and family therapist;
10 “(b) A physician or physician assistant licensed under ORS chapter 677,
11 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
12 cian, physician assistant or acupuncturist;
13 “(c) A nurse or nursing home administrator licensed under ORS chapter
14 678 or an employee of the nurse or nursing home administrator;
15 “(d) A dentist licensed under ORS chapter 679 or an employee of the
16 dentist;
17 “(e) A dental hygienist or denturist licensed under ORS chapter 680 or
18 an employee of the dental hygienist or denturist;
19 “(f) A speech-language pathologist or audiologist licensed under ORS
20 chapter 681 or an employee of the speech-language pathologist or audiologist;
21 “(g) An emergency medical services provider licensed under ORS chapter
22 682;
23 “(h) An optometrist licensed under ORS chapter 683 or an employee of the
24 optometrist;
25 “(i) A chiropractic physician licensed under ORS chapter 684 or an em-
26 ployee of the chiropractic physician;
27 “(j) A naturopathic physician licensed under ORS chapter 685 or an em-
28 ployee of the naturopathic physician;
29 “(k) A massage therapist licensed under ORS 687.011 to 687.250 or an
30 employee of the massage therapist;

1 “(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an
2 employee of the direct entry midwife;
3 “(m) A physical therapist licensed under ORS 688.010 to 688.201 or an
4 employee of the physical therapist;
5 “(n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
6 ployee of the medical imaging licensee;
7 “(o) A respiratory care practitioner licensed under ORS 688.815 or an
8 employee of the respiratory care practitioner;
9 “(p) A polysomnographic technologist licensed under ORS 688.819 or an
10 employee of the polysomnographic technologist;
11 “(q) A pharmacist licensed under ORS chapter 689 or an employee of the
12 pharmacist;
13 “(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
14 the dietitian;
15 “(s) A funeral service practitioner licensed under ORS chapter 692 or an
16 employee of the funeral service practitioner;
17 “(t) A health care facility as defined in ORS 442.015;
18 “(u) A home health agency as defined in ORS 443.014;
19 “(v) A hospice program as defined in ORS 443.850;
20 “(w) A clinical laboratory as defined in ORS 438.010;
21 “(x) A pharmacy as defined in ORS 689.005;
22 “(y) A diabetes self-management program as defined in ORS 743A.184; and
23 “(z) Any other person or entity that furnishes, bills for or is paid for
24 health care in the normal course of business.
25 “(6) ‘Health information’ means any oral or written information in any
26 form or medium that:
27 “(a) Is created or received by a covered entity, a public health authority,
28 an employer, a life insurer, a school, a university or a health care provider
29 that is not a covered entity; and
30 “(b) Relates to:

1 “(A) The past, present or future physical or mental health or condition
2 of an individual;
3 “(B) The provision of health care to an individual; or
4 “(C) The past, present or future payment for the provision of health care
5 to an individual.
6 “(7) ‘Health insurer’ means:
7 “(a) An insurer as defined in ORS 731.106 who offers:
8 “(A) A health benefit plan as defined in ORS 743B.005;
9 “(B) A short term health insurance policy, the duration of which does not
10 exceed [*six*] **three** months including renewals;
11 “(C) A student health insurance policy;
12 “(D) A Medicare supplemental policy; or
13 “(E) A dental only policy.
14 “(b) The Oregon Medical Insurance Pool operated by the Oregon Medical
15 Insurance Pool Board under ORS 735.600 to 735.650.
16 “(8) ‘Individually identifiable health information’ means any oral or
17 written health information in any form or medium that is:
18 “(a) Created or received by a covered entity, an employer or a health care
19 provider that is not a covered entity; and
20 “(b) Identifiable to an individual, including demographic information that
21 identifies the individual, or for which there is a reasonable basis to believe
22 the information can be used to identify an individual, and that relates to:
23 “(A) The past, present or future physical or mental health or condition
24 of an individual;
25 “(B) The provision of health care to an individual; or
26 “(C) The past, present or future payment for the provision of health care
27 to an individual.
28 “(9) ‘Payment’ includes but is not limited to:
29 “(a) Efforts to obtain premiums or reimbursement;
30 “(b) Determining eligibility or coverage;

1 “(c) Billing activities;
2 “(d) Claims management;
3 “(e) Reviewing health care to determine medical necessity;
4 “(f) Utilization review; and
5 “(g) Disclosures to consumer reporting agencies.
6 “(10) ‘Personal representative’ includes but is not limited to:
7 “(a) A person appointed as a guardian under ORS 125.305, 419B.372,
8 419C.481 or 419C.555 with authority to make medical and health care deci-
9 sions;
10 “(b) A person appointed as a health care representative under ORS 127.505
11 to 127.660 or a representative under ORS 127.700 to 127.737 to make health
12 care decisions or mental health treatment decisions;
13 “(c) A person appointed as a personal representative under ORS chapter
14 113; and
15 “(d) A person described in ORS 192.573.
16 “(11)(a) ‘Protected health information’ means individually identifiable
17 health information that is maintained or transmitted in any form of elec-
18 tronic or other medium by a covered entity.
19 “(b) ‘Protected health information’ does not mean individually identifiable
20 health information in:
21 “(A) Education records covered by the federal Family Educational Rights
22 and Privacy Act (20 U.S.C. 1232g);
23 “(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
24 “(C) Employment records held by a covered entity in its role as employer.
25 “(12) ‘State health plan’ means:
26 “(a) Medical assistance as defined in ORS 414.025;
27 “(b) The Health Care for All Oregon Children program; or
28 “(c) Any medical assistance or premium assistance program operated by
29 the Oregon Health Authority.
30 “(13) ‘Treatment’ includes but is not limited to:

1 “(a) The provision, coordination or management of health care; and
2 “(b) Consultations and referrals between health care providers.
3 **“SECTION 2.** ORS 192.556, as amended by section 30, chapter 698, Oregon
4 Laws 2013, is amended to read:
5 “192.556. As used in ORS 192.553 to 192.581:
6 “(1) ‘Authorization’ means a document written in plain language that
7 contains at least the following:
8 “(a) A description of the information to be used or disclosed that identi-
9 fies the information in a specific and meaningful way;
10 “(b) The name or other specific identification of the person or persons
11 authorized to make the requested use or disclosure;
12 “(c) The name or other specific identification of the person or persons to
13 whom the covered entity may make the requested use or disclosure;
14 “(d) A description of each purpose of the requested use or disclosure, in-
15 cluding but not limited to a statement that the use or disclosure is at the
16 request of the individual;
17 “(e) An expiration date or an expiration event that relates to the indi-
18 vidual or the purpose of the use or disclosure;
19 “(f) The signature of the individual or personal representative of the in-
20 dividual and the date;
21 “(g) A description of the authority of the personal representative, if ap-
22 plicable; and
23 “(h) Statements adequate to place the individual on notice of the follow-
24 ing:
25 “(A) The individual’s right to revoke the authorization in writing;
26 “(B) The exceptions to the right to revoke the authorization;
27 “(C) The ability or inability to condition treatment, payment, enrollment
28 or eligibility for benefits on whether the individual signs the authorization;
29 and
30 “(D) The potential for information disclosed pursuant to the authorization

1 to be subject to redisclosure by the recipient and no longer protected.
2 "(2) 'Covered entity' means:
3 "(a) A state health plan;
4 "(b) A health insurer;
5 "(c) A health care provider that transmits any health information in
6 electronic form to carry out financial or administrative activities in con-
7 nection with a transaction covered by ORS 192.553 to 192.581; or
8 "(d) A health care clearinghouse.
9 "(3) 'Health care' means care, services or supplies related to the health
10 of an individual.
11 "(4) 'Health care operations' includes but is not limited to:
12 "(a) Quality assessment, accreditation, auditing and improvement activ-
13 ities;
14 "(b) Case management and care coordination;
15 "(c) Reviewing the competence, qualifications or performance of health
16 care providers or health insurers;
17 "(d) Underwriting activities;
18 "(e) Arranging for legal services;
19 "(f) Business planning;
20 "(g) Customer services;
21 "(h) Resolving internal grievances;
22 "(i) Creating deidentified information; and
23 "(j) Fundraising.
24 "(5) 'Health care provider' includes but is not limited to:
25 "(a) A psychologist, occupational therapist, regulated social worker, pro-
26 fessional counselor or marriage and family therapist licensed or otherwise
27 authorized to practice under ORS chapter 675 or an employee of the psy-
28 chologist, occupational therapist, regulated social worker, professional
29 counselor or marriage and family therapist;
30 "(b) A physician or physician assistant licensed under ORS chapter 677,

1 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
2 cian, physician assistant or acupuncturist;
3 "(c) A nurse or nursing home administrator licensed under ORS chapter
4 678 or an employee of the nurse or nursing home administrator;
5 "(d) A dentist licensed under ORS chapter 679 or an employee of the
6 dentist;
7 "(e) A dental hygienist or denturist licensed under ORS chapter 680 or
8 an employee of the dental hygienist or denturist;
9 "(f) A speech-language pathologist or audiologist licensed under ORS
10 chapter 681 or an employee of the speech-language pathologist or audiologist;
11 "(g) An emergency medical services provider licensed under ORS chapter
12 682;
13 "(h) An optometrist licensed under ORS chapter 683 or an employee of the
14 optometrist;
15 "(i) A chiropractic physician licensed under ORS chapter 684 or an em-
16 ployee of the chiropractic physician;
17 "(j) A naturopathic physician licensed under ORS chapter 685 or an em-
18 ployee of the naturopathic physician;
19 "(k) A massage therapist licensed under ORS 687.011 to 687.250 or an
20 employee of the massage therapist;
21 "(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an
22 employee of the direct entry midwife;
23 "(m) A physical therapist licensed under ORS 688.010 to 688.201 or an
24 employee of the physical therapist;
25 "(n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
26 ployee of the medical imaging licensee;
27 "(o) A respiratory care practitioner licensed under ORS 688.815 or an
28 employee of the respiratory care practitioner;
29 "(p) A polysomnographic technologist licensed under ORS 688.819 or an
30 employee of the polysomnographic technologist;

1 “(q) A pharmacist licensed under ORS chapter 689 or an employee of the
2 pharmacist;
3 “(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
4 the dietitian;
5 “(s) A funeral service practitioner licensed under ORS chapter 692 or an
6 employee of the funeral service practitioner;
7 “(t) A health care facility as defined in ORS 442.015;
8 “(u) A home health agency as defined in ORS 443.014;
9 “(v) A hospice program as defined in ORS 443.850;
10 “(w) A clinical laboratory as defined in ORS 438.010;
11 “(x) A pharmacy as defined in ORS 689.005;
12 “(y) A diabetes self-management program as defined in ORS 743A.184; and
13 “(z) Any other person or entity that furnishes, bills for or is paid for
14 health care in the normal course of business.
15 “(6) ‘Health information’ means any oral or written information in any
16 form or medium that:
17 “(a) Is created or received by a covered entity, a public health authority,
18 an employer, a life insurer, a school, a university or a health care provider
19 that is not a covered entity; and
20 “(b) Relates to:
21 “(A) The past, present or future physical or mental health or condition
22 of an individual;
23 “(B) The provision of health care to an individual; or
24 “(C) The past, present or future payment for the provision of health care
25 to an individual.
26 “(7) ‘Health insurer’ means an insurer as defined in ORS 731.106 who of-
27 fers:
28 “(a) A health benefit plan as defined in ORS 743B.005;
29 “(b) A short term health insurance policy, the duration of which does not
30 exceed [*six*] **three** months including renewals;

1 “(c) A student health insurance policy;
2 “(d) A Medicare supplemental policy; or
3 “(e) A dental only policy.
4 “(8) ‘Individually identifiable health information’ means any oral or
5 written health information in any form or medium that is:
6 “(a) Created or received by a covered entity, an employer or a health care
7 provider that is not a covered entity; and
8 “(b) Identifiable to an individual, including demographic information that
9 identifies the individual, or for which there is a reasonable basis to believe
10 the information can be used to identify an individual, and that relates to:
11 “(A) The past, present or future physical or mental health or condition
12 of an individual;
13 “(B) The provision of health care to an individual; or
14 “(C) The past, present or future payment for the provision of health care
15 to an individual.
16 “(9) ‘Payment’ includes but is not limited to:
17 “(a) Efforts to obtain premiums or reimbursement;
18 “(b) Determining eligibility or coverage;
19 “(c) Billing activities;
20 “(d) Claims management;
21 “(e) Reviewing health care to determine medical necessity;
22 “(f) Utilization review; and
23 “(g) Disclosures to consumer reporting agencies.
24 “(10) ‘Personal representative’ includes but is not limited to:
25 “(a) A person appointed as a guardian under ORS 125.305, 419B.372,
26 419C.481 or 419C.555 with authority to make medical and health care deci-
27 sions;
28 “(b) A person appointed as a health care representative under ORS 127.505
29 to 127.660 or a representative under ORS 127.700 to 127.737 to make health
30 care decisions or mental health treatment decisions;

1 "(c) A person appointed as a personal representative under ORS chapter
2 113; and
3 "(d) A person described in ORS 192.573.
4 "(11)(a) 'Protected health information' means individually identifiable
5 health information that is maintained or transmitted in any form of elec-
6 tronic or other medium by a covered entity.
7 "(b) 'Protected health information' does not mean individually identifiable
8 health information in:
9 "(A) Education records covered by the federal Family Educational Rights
10 and Privacy Act (20 U.S.C. 1232g);
11 "(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
12 "(C) Employment records held by a covered entity in its role as employer.
13 "(12) 'State health plan' means:
14 "(a) Medical assistance as defined in ORS 414.025;
15 "(b) The Health Care for All Oregon Children program; or
16 "(c) Any medical assistance or premium assistance program operated by
17 the Oregon Health Authority.
18 "(13) 'Treatment' includes but is not limited to:
19 "(a) The provision, coordination or management of health care; and
20 "(b) Consultations and referrals between health care providers.".
21 In line 6, delete "1" and insert "3".
22 In line 13, delete "2" and insert "4".
23 In line 24, delete "3" and insert "5".
24 In line 30, delete "4" and insert "6".
25 On page 2, line 5, delete "5" and insert "7".
26 Delete lines 19 through 45 and delete pages 3 and 4.
27 On page 7, line 2, delete "12" and insert "three".
28 On page 8, after line 17, insert:
29 "**SECTION 9.** ORS 743B.011 is amended to read:
30 "743B.011. (1) Every health benefit plan shall be subject to the provisions

1 of ORS 743B.010 to 743B.013, if the plan provides health benefits covering
2 one or more employees of a small employer and if any one of the following
3 conditions is met:
4 "(a) Any portion of the premium or benefits is paid by a small employer
5 or any employee is reimbursed, whether through wage adjustments or other-
6 wise, by a small employer for any portion of the health benefit plan premium
7 **unless the reimbursement is made through a qualified small employer**
8 **health reimbursement arrangement, as defined in section 9831 of the**
9 **Internal Revenue Code**; or
10 "(b) The health benefit plan is treated by the employer or any of the em-
11 ployees as part of a plan or program for the purposes of section 106, section
12 125 or section 162 of the Internal Revenue Code of 1986, as amended.
13 "(2) Except as otherwise provided by ORS 743B.010 to 743B.013 or other
14 law, no health benefit plan offered to a small employer shall:
15 "(a) Inhibit a carrier from contracting with providers or groups of pro-
16 viders with respect to health care services or benefits; or
17 "(b) Impose any restriction on the ability of a carrier to negotiate with
18 providers regarding the level or method of reimbursing care or services pro-
19 vided under health benefit plans.
20 "(3)(a) A carrier may provide different health benefit plans to different
21 categories of employees of a small employer when the employer has chosen
22 to establish different categories of employees in a manner that does not re-
23 late to the actual or expected health status of such employees or their de-
24 pendents. The categories must be based on bona fide employment-based
25 classifications that are consistent with the employer's usual business prac-
26 tice.
27 "(b) Except as provided in ORS 743B.012 (7), a carrier that offers coverage
28 to a small employer shall offer coverage to all eligible employees of the small
29 employer.
30 "(c) If a small employer elects to offer coverage to dependents of eligible

1 employees, the carrier shall offer coverage to all dependents of eligible em-
2 ployees.
3 "(4) An insurer may not deny, delay or terminate participation of an in-
4 dividual in a group health benefit plan or exclude coverage otherwise pro-
5 vided to an individual under a group health benefit plan based on a
6 preexisting condition of the individual.".
7 In line 18, delete "9" and insert "10".
8 In line 26, delete "10" and insert "11".
9 On page 11, line 16, delete "11" and insert "12".
10 On page 12, line 9, delete "12" and insert "13".
11 On page 13, line 21, delete "13" and insert "14".
12 After line 34, insert:
13 **"SECTION 15.** ORS 746.600 is amended to read:
14 "746.600. As used in ORS 746.600 to 746.690:
15 "(1)(a) 'Adverse underwriting decision' means any of the following actions
16 with respect to insurance transactions involving insurance coverage that is
17 individually underwritten:
18 "(A) A declination of insurance coverage.
19 "(B) A termination of insurance coverage.
20 "(C) Failure of an insurance producer to apply for insurance coverage
21 with a specific insurer that the insurance producer represents and that is
22 requested by an applicant.
23 "(D) In the case of life or health insurance coverage, an offer to insure
24 at higher than standard rates.
25 "(E) In the case of insurance coverage other than life or health insurance
26 coverage:
27 "(i) Placement by an insurer or insurance producer of a risk with a resi-
28 dual market mechanism, an unauthorized insurer or an insurer that special-
29 izes in substandard risks.
30 "(ii) The charging of a higher rate on the basis of information that differs

1 from that which the applicant or policyholder furnished.
2 "(iii) An increase in any charge imposed by the insurer for any personal
3 insurance in connection with the underwriting of insurance. For purposes
4 of this sub-subparagraph, the imposition of a service fee is not a charge.
5 "(b) 'Adverse underwriting decision' does not mean any of the following
6 actions, but the insurer or insurance producer responsible for the occurrence
7 of the action must nevertheless provide the applicant or policyholder with
8 the specific reason or reasons for the occurrence:
9 "(A) The termination of an individual policy form on a class or statewide
10 basis.
11 "(B) A declination of insurance coverage solely because the coverage is
12 not available on a class or statewide basis.
13 "(C) The rescission of a policy.
14 "(2) 'Affiliate of' a specified person or 'person affiliated with' a specified
15 person means a person who directly, or indirectly, through one or more in-
16 termediaries, controls, or is controlled by, or is under common control with,
17 the person specified.
18 "(3) 'Applicant' means a person who seeks to contract for insurance cov-
19 erage, other than a person seeking group insurance coverage that is not in-
20 dividually underwritten.
21 "(4) 'Consumer' means an individual, or the personal representative of the
22 individual, who seeks to obtain, obtains or has obtained one or more insur-
23 ance products or services from a licensee that are to be used primarily for
24 personal, family or household purposes, and about whom the licensee has
25 personal information.
26 "(5) 'Consumer report' means any written, oral or other communication
27 of information bearing on a natural person's creditworthiness, credit stand-
28 ing, credit capacity, character, general reputation, personal characteristics
29 or mode of living that is used or expected to be used in connection with an
30 insurance transaction.

1 "(6) 'Consumer reporting agency' means a person that, for monetary fees
2 or dues, or on a cooperative or nonprofit basis:
3 "(a) Regularly engages, in whole or in part, in assembling or preparing
4 consumer reports;
5 "(b) Obtains information primarily from sources other than insurers; and
6 "(c) Furnishes consumer reports to other persons.
7 "(7) 'Control' means, and the terms 'controlled by' or 'under common
8 control with' refer to, the possession, directly or indirectly, of the power to
9 direct or cause the direction of the management and policies of a person,
10 whether through the ownership of voting securities, by contract other than
11 a commercial contract for goods or nonmanagement services, or otherwise,
12 unless the power of the person is the result of a corporate office held in, or
13 an official position held with, the controlled person.
14 "(8) 'Covered entity' means:
15 "(a) A health insurer;
16 "(b) A health care provider that transmits any health information in
17 electronic form to carry out financial or administrative activities in con-
18 nection with a transaction covered by ORS 746.607 or by rules adopted under
19 ORS 746.608; or
20 "(c) A health care clearinghouse.
21 "(9) 'Credit history' means any written or other communication of any
22 information by a consumer reporting agency that:
23 "(a) Bears on a consumer's creditworthiness, credit standing or credit
24 capacity; and
25 "(b) Is used or expected to be used, or collected in whole or in part, as
26 a factor in determining eligibility, premiums or rates for personal insurance.
27 "(10) 'Customer' means a consumer who has a continuing relationship
28 with a licensee under which the licensee provides one or more insurance
29 products or services to the consumer that are to be used primarily for per-
30 sonal, family or household purposes.

“(11) ‘Declination of insurance coverage’ or ‘decline coverage’ means a denial, in whole or in part, by an insurer or insurance producer of an application for requested insurance coverage.

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

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

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

“(b) Case management and care coordination;

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

“(d) Underwriting activities;

“(e) Arranging for legal services;

“(f) Business planning;

“(g) Customer services;

“(h) Resolving internal grievances;

“(i) Creating deidentified information; and

“(j) Fundraising.

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

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

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

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

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

1 dentist;

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

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

6 "(g) An emergency medical services provider licensed under ORS chapter
7 682;

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

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

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

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

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

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

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

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

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

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

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

30 "(s) A funeral service practitioner licensed under ORS chapter 692 or an

1 employee of the funeral service practitioner;

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

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

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

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

6 "(x) A pharmacy as defined in ORS 689.005;

7 "(y) A diabetes self-management program as defined in ORS 743.694; and

8 "(z) Any other person or entity that furnishes, bills for or is paid for
9 health care in the normal course of business.

10 "(15) 'Health information' means any oral or written information in any
11 form or medium that:

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

15 "(b) Relates to:

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

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

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

21 "(16) 'Health insurer' means an insurer who offers:

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

23 "(b) A short term health insurance policy, the duration of which does not
24 exceed [*six*] **three** months including renewals;

25 "(c) A student health insurance policy;

26 "(d) A Medicare supplemental policy; or

27 "(e) A dental only policy.

28 "(17) 'Homeowner insurance' means insurance for residential property
29 consisting of a combination of property insurance and casualty insurance
30 that provides coverage for the risks of owning or occupying a dwelling and

1 that is not intended to cover an owner's interest in rental property or com-
2 mercial exposures.
3 "(18) 'Individual' means a natural person who:
4 "(a) In the case of life or health insurance, is a past, present or proposed
5 principal insured or certificate holder;
6 "(b) In the case of other kinds of insurance, is a past, present or proposed
7 named insured or certificate holder;
8 "(c) Is a past, present or proposed policyowner;
9 "(d) Is a past or present applicant;
10 "(e) Is a past or present claimant; or
11 "(f) Derived, derives or is proposed to derive insurance coverage under
12 an insurance policy or certificate that is subject to ORS 746.600 to 746.690.
13 "(19) 'Individually identifiable health information' means any oral or
14 written health information that is:
15 "(a) Created or received by a covered entity or a health care provider that
16 is not a covered entity; and
17 "(b) Identifiable to an individual, including demographic information that
18 identifies the individual, or for which there is a reasonable basis to believe
19 the information can be used to identify an individual, and that relates to:
20 "(A) The past, present or future physical or mental health or condition
21 of an individual;
22 "(B) The provision of health care to an individual; or
23 "(C) The past, present or future payment for the provision of health care
24 to an individual.
25 "(20) 'Institutional source' means a person or governmental entity that
26 provides information about an individual to an insurer, insurance producer
27 or insurance-support organization, other than:
28 "(a) An insurance producer;
29 "(b) The individual who is the subject of the information; or
30 "(c) A natural person acting in a personal capacity rather than in a

business or professional capacity.

"(21) 'Insurance producer' or 'producer' means a person licensed by the Director of the Department of Consumer and Business Services as a resident or nonresident insurance producer.

"(22) 'Insurance score' means a number or rating that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history.

"(23)(a) 'Insurance-support organization' means a person who regularly engages, in whole or in part, in assembling or collecting information about natural persons for the primary purpose of providing the information to an insurer or insurance producer for insurance transactions, including:

"(A) The furnishing of consumer reports to an insurer or insurance producer for use in connection with insurance transactions; and

"(B) The collection of personal information from insurers, insurance producers or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

"(b) 'Insurance-support organization' does not mean insurers, insurance producers, governmental institutions or health care providers.

"(24) 'Insurance transaction' means any transaction that involves insurance primarily for personal, family or household needs rather than business or professional needs and that entails:

"(a) The determination of an individual's eligibility for an insurance coverage, benefit or payment; or

"(b) The servicing of an insurance application, policy or certificate.

"(25) 'Insurer' has the meaning given that term in ORS 731.106.

"(26) 'Investigative consumer report' means a consumer report, or portion of a consumer report, for which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends,

1 associates, acquaintances or others who may have knowledge concerning
2 such items of information.

3 “(27) ‘Licensee’ means an insurer, insurance producer or other person
4 authorized or required to be authorized, or licensed or required to be li-
5 censed, pursuant to the Insurance Code.

6 “(28) ‘Loss history report’ means a report provided by, or a database
7 maintained by, an insurance-support organization or consumer reporting
8 agency that contains information regarding the claims history of the indi-
9 vidual property that is the subject of the application for a homeowner in-
10 surance policy or the consumer applying for a homeowner insurance policy.

11 “(29) ‘Nonaffiliated third party’ means any person except:

12 “(a) An affiliate of a licensee;

13 “(b) A person that is employed jointly by a licensee and by a person that
14 is not an affiliate of the licensee; and

15 “(c) As designated by the director by rule.

16 “(30) ‘Payment’ includes but is not limited to:

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

18 “(b) Determining eligibility or coverage;

19 “(c) Billing activities;

20 “(d) Claims management;

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

22 “(f) Utilization review; and

23 “(g) Disclosures to consumer reporting agencies.

24 “(31)(a) ‘Personal financial information’ means:

25 “(A) Information that is identifiable with an individual, gathered in con-
26 nection with an insurance transaction from which judgments can be made
27 about the individual’s character, habits, avocations, finances, occupations,
28 general reputation, credit or any other personal characteristics; or

29 “(B) An individual’s name, address and policy number or similar form of
30 access code for the individual’s policy.

"(b) 'Personal financial information' does not mean information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state or local government records, widely distributed media or disclosures to the public that are required by federal, state or local law.

"(32) 'Personal information' means:

"(a) Personal financial information;

"(b) Individually identifiable health information; or

"(c) Protected health information.

"(33) 'Personal insurance' means the following types of insurance products or services that are to be used primarily for personal, family or household purposes:

"(a) Private passenger automobile coverage;

"(b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and renters coverage;

"(c) Personal dwelling property coverage;

"(d) Personal liability and theft coverage, including excess personal liability and theft coverage; and

"(e) Personal inland marine coverage.

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

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

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

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

"(d) A person described in ORS 746.611.

"(35) 'Policyholder' means a person who:

1 “(a) In the case of individual policies of life or health insurance, is a
2 current policyowner;
3 “(b) In the case of individual policies of other kinds of insurance, is cur-
4 rently a named insured; or
5 “(c) In the case of group policies of insurance under which coverage is
6 individually underwritten, is a current certificate holder.
7 “(36) ‘Pretext interview’ means an interview wherein the interviewer, in
8 an attempt to obtain personal information about a natural person, does one
9 or more of the following:
10 “(a) Pretends to be someone the interviewer is not.
11 “(b) Pretends to represent a person the interviewer is not in fact repre-
12 senting.
13 “(c) Misrepresents the true purpose of the interview.
14 “(d) Refuses upon request to identify the interviewer.
15 “(37) ‘Privileged information’ means information that is identifiable with
16 an individual and that:
17 “(a) Relates to a claim for insurance benefits or a civil or criminal pro-
18 ceeding involving the individual; and
19 “(b) Is collected in connection with or in reasonable anticipation of a
20 claim for insurance benefits or a civil or criminal proceeding involving the
21 individual.
22 “(38)(a) ‘Protected health information’ means individually identifiable
23 health information that is transmitted or maintained in any form of elec-
24 tronic or other medium by a covered entity.
25 “(b) ‘Protected health information’ does not mean individually identifiable
26 health information in:
27 “(A) Education records covered by the federal Family Educational Rights
28 and Privacy Act (20 U.S.C. 1232g);
29 “(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
30 “(C) Employment records held by a covered entity in its role as employer.

1 “(39) ‘Residual market mechanism’ means an association, organization or
2 other entity involved in the insuring of risks under ORS 735.005 to 735.145,
3 737.312 or other provisions of the Insurance Code relating to insurance ap-
4 plicants who are unable to procure insurance through normal insurance
5 markets.
6 “(40) ‘Termination of insurance coverage’ or ‘termination of an insurance
7 policy’ means either a cancellation or a nonrenewal of an insurance policy,
8 in whole or in part, for any reason other than the failure of a premium to
9 be paid as required by the policy.
10 “(41) ‘Treatment’ includes but is not limited to:
11 “(a) The provision, coordination or management of health care; and
12 “(b) Consultations and referrals between health care providers.”.
13 In line 35, delete “14” and insert “16”.
14