

B-Engrossed
Senate Bill 1041

Ordered by the House May 24
Including Senate Amendments dated April 16 and House Amendments
dated May 24

Sponsored by COMMITTEE ON HEALTH CARE

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.

Grants to Oregon Health Authority powers to regulate financial condition of coordinated care organizations that align with powers of Department of Consumer and Business Services to regulate domestic insurers. **Requires authority to convene advisory group consisting of coordinated care organization representatives to recommend standards for reconciling differences in reporting needed by authority and reporting required under National Association of Insurance Commissioners' standards.**

Requires authority to make easily accessible on website and report to Legislative Assembly, specified financial information regarding coordinated care organizations and reports submitted to authority by coordinated care organizations beginning with information from 2020.

A BILL FOR AN ACT

1
2 Relating to the regulation of coordinated care organizations; creating new provisions; and amending
3 ORS 413.032, 413.037, 413.181, 414.625, 414.651 and 414.652.

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

5 **SECTION 1. As used in sections 1 to 52 of this 2019 Act:**

6 (1) **"Coordinated care organization" has the meaning given that term in ORS 414.025.**

7 (2) **"Medical assistance program" means the Oregon Integrated and Coordinated Health
8 Care Delivery System established in ORS 414.620.**

9 **SECTION 2. (1) An officer or employee of the Oregon Health Authority who is delegated
10 responsibilities in the enforcement of sections 1 to 52 of this 2019 Act or rules adopted pur-
11 suant to section 53 of this 2019 Act may not:**

12 (a) **Be a director, officer or employee of or be financially interested in any coordinated
13 care organization, except as a member of a coordinated care organization or by reason of
14 rights vested in compensation or benefits related to services performed prior to affiliation
15 with the authority; or**

16 (b) **Be engaged in any other business or occupation interfering with or inconsistent with
17 the duties of the authority.**

18 (2) **This section does not permit any conduct, affiliation or interest that is otherwise
19 prohibited by public policy.**

20 **SECTION 3. (1) The Oregon Health Authority shall enforce the provisions of sections 1
21 to 52 of this 2019 Act and rules adopted pursuant to section 53 of this 2019 Act for the public
22 good.**

23 (2) **The authority has the powers and authority expressly conferred by or reasonably**

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 implied from the provisions of sections 1 to 52 of this 2019 Act and rules adopted pursuant
2 to section 53 of this 2019 Act.

3 (3) The authority may conduct examinations and investigations of matters concerning
4 the regulation of coordinated care organizations as the authority considers proper to deter-
5 mine whether any person has violated any provision of sections 1 to 52 of this 2019 Act or
6 rules adopted pursuant to section 53 of this 2019 Act or to secure information useful in the
7 lawful administration of any of the provisions.

8 **SECTION 4.** (1) The Oregon Health Authority shall hold a contested case hearing upon
9 written request for a hearing by a person aggrieved by any act, threatened act or failure of
10 the authority to act under sections 1 to 52 of this 2019 Act or rules adopted pursuant to
11 section 53 of this 2019 Act.

12 (2) The provisions of ORS chapter 183 govern the hearing procedures and any judicial
13 review of a final order issued in a contested case hearing.

14 **SECTION 5.** A person may not file or cause to be filed with the Oregon Health Authority
15 any article, certificate, report, statement, application or other information required or per-
16 mitted to be filed under sections 1 to 52 of this 2019 Act or rules adopted pursuant to section
17 53 of this 2019 Act that is known by the person to be false or misleading in any material
18 respect.

19 **SECTION 6.** The Oregon Health Authority may request information from any coordinated
20 care organization or its officers in relation to the activities or condition of the coordinated
21 care organization or any other matter connected with a coordinated care organization's
22 transactions, and the person of whom the information is requested shall promptly and
23 truthfully reply using the form of communication requested by the authority and verified by
24 an officer of the coordinated care organization, if the authority so requires. A response is
25 subject to the provisions of section 5 of this 2019 Act.

26 **SECTION 7.** The Oregon Health Authority shall examine every coordinated care organ-
27 ization, including an audit of the financial affairs of the coordinated care organization, as
28 often as the authority determines an examination to be necessary but at least once every
29 five years. An examination shall be conducted for the purpose of determining the financial
30 condition of the coordinated care organization, its ability to fulfill its obligations and its
31 manner of fulfillment, the nature of its operations and its compliance with sections 1 to 52
32 of this 2019 Act or rules adopted pursuant to section 53 of this 2019 Act. The authority may
33 also examine any person holding the capital stock, membership or other ownership or con-
34 trolling interest in a coordinated care organization for the purpose of controlling the man-
35 agement of the coordinated care organization as a voting trustee or otherwise.

36 **SECTION 8.** The Oregon Health Authority, whenever the authority deems it advisable in
37 the interest of members of a coordinated care organization or for the public good, shall in-
38 vestigate into the affairs of:

39 (1) A coordinated care organization;

40 (2) A person proposing to form a coordinated care organization; or

41 (3) A person holding the capital stock, membership or other ownership or controlling
42 interest in one or more coordinated care organizations for the purpose of controlling the
43 management of the coordinated care organization as a voting trustee or otherwise.

44 **SECTION 9.** (1) When the Oregon Health Authority determines that an examination
45 should be conducted, the authority shall appoint one or more examiners to perform the ex-

1 amination and instruct them as to the scope of the examination. The authority may pre-
2 scribe the examiner handbook and employ other guidelines and procedures that the authority
3 determines to be appropriate.

4 (2) The authority may retain appraisers, independent actuaries, independent certified
5 public accountants or other professionals and specialists in conducting an examination, as
6 needed. The coordinated care organization that is the subject of the examination is respon-
7 sible for the cost of retaining the professionals and specialists.

8 (3) Upon an examination or investigation of a coordinated care organization, the Oregon
9 Health Authority may examine under oath all persons who may have material information
10 regarding the property or business of the coordinated care organization being examined or
11 investigated.

12 (4) Every person being examined or investigated shall produce all books, records, ac-
13 counts, papers, documents and computer and other recordings in its possession or control
14 relating to the matter under examination or investigation, including, in the case of an ex-
15 amination, the property, assets, business and affairs of the person.

16 (5) With regard to an examination, the officers, directors and agents of the coordinated
17 care organization being examined shall provide timely, convenient and free access at all
18 reasonable hours at the offices of the coordinated care organization being examined to all
19 books, records, accounts, papers, documents and computer and other recordings. The offi-
20 cers, directors, employees and agents of the person must facilitate the examination.

21 (6) In an investigation or examination of a coordinated care organization's financial
22 condition, the authority may order a coordinated care organization to produce information
23 the coordinated care organization does not possess but to which the coordinated care or-
24 ganization might have access by reason of a contractual relationship or a statutory obli-
25 gation or by other means. If the coordinated care organization cannot obtain the information
26 the authority requires, the coordinated care organization shall provide the authority with a
27 detailed explanation of the reason the coordinated care organization cannot obtain the in-
28 formation and shall identify the person that possesses the information. If the authority finds
29 that the coordinated care organization's explanation is without merit, the authority may
30 impose a civil penalty on the coordinated care organization as provided in rules adopted
31 pursuant to section 53 (2)(g) of this 2019 Act or may suspend or revoke the coordinated care
32 organization's contract.

33 **SECTION 10.** (1) Not later than the 60th day after an examination is completed, the ex-
34 aminer in charge of the examination shall submit to the Oregon Health Authority a full and
35 true report of the examination, verified by the oath of the examiner. The report shall com-
36 prise only facts appearing upon the books, papers, records, accounts, documents or comput-
37 ers and other recordings of the coordinated care organization, its agents or other persons
38 being examined or facts ascertained from testimony of individuals concerning the affairs of
39 the coordinated care organization, together with such conclusions and recommendations as
40 reasonably may be warranted from the facts.

41 (2) The authority shall make a copy of the report submitted under subsection (1) of this
42 section available to the coordinated care organization that is the subject of the examination
43 and shall give the coordinated care organization an opportunity to review and comment on
44 the report. The authority may request additional information or meet with the coordinated
45 care organization for the purpose of resolving questions or obtaining additional information

1 and may direct the examiner to consider the additional information for inclusion in the re-
2 port.

3 (3) Before the authority files the examination report as a final examination report or
4 makes the report or any matters relating to it public, the coordinated care organization be-
5 ing examined shall have an opportunity for a hearing. A copy of the report must be mailed
6 by certified mail to the coordinated care organization being examined. The coordinated care
7 organization may request a hearing not later than the 30th day after the date on which the
8 report was mailed. This subsection does not prohibit the authority from disclosing a final
9 examination report as provided in subsection (5) of this section.

10 (4) The authority shall consider comments presented at a hearing requested under sub-
11 section (3) of this section and may direct the examiner to consider the comments or direct
12 that the comments be included in documentation relating to the report, although not as part
13 of the report itself. The authority may file the report as a final examination report at any
14 time after consideration of the comments or at any time after the period for requesting a
15 hearing has passed if a hearing is not requested.

16 (5) A report filed as a final examination report is subject to public inspection. The au-
17 thority, after filing any report, if the authority considers it to be in the public interest, may
18 publish any report or the result of any examination contained in the report without expense
19 to the person examined.

20 **SECTION 11.** (1) A coordinated care organization shall have an annual audit conducted
21 by an independent certified public accountant and shall file an audited financial report an-
22 nually with the Oregon Health Authority by June 30 following the end of the period to which
23 the report applies. The annual audited financial report shall disclose:

24 (a) The financial position of the coordinated care organization as of the end of the most
25 recent calendar year; and

26 (b) The results of the coordinated care organization's operations, cash flows and changes
27 in capital, surplus and reserves for the year just ended.

28 (2) The authority shall adopt the following rules as needed for carrying out the require-
29 ments of this section prescribing the:

30 (a) Required contents and format of the audited financial report.

31 (b) Requirements for filing the report.

32 (c) Requirements applicable to qualifications and designation of certified public account-
33 ants for purposes of audits under this section, which may include limitations on length of
34 service for certified public accountants and may permit recognition of accountants
35 comparably qualified under the laws of another country.

36 (d) Requirements applicable to evaluation of the accounting procedures of a coordinated
37 care organization and its system of internal control by a certified public accountant.

38 (e) Standards governing the scope and preparation of the audit.

39 (f) Requirements and procedures relating to the reporting of the adverse financial con-
40 dition of a coordinated care organization by a certified public accountant.

41 (g) Requirements and procedures relating to the reporting of significant deficiencies for
42 internal controls of a coordinated care organization.

43 (h) Exemptions.

44 (i) Any other matter that the authority determines to be needed for preparation of or
45 inclusion in the financial report.

1 **SECTION 12.** (1) A complaint made to the Oregon Health Authority against a coordinated
2 care organization for a violation of sections 1 to 52 of this 2019 Act or rules adopted pursuant
3 to section 53 of this 2019 Act, and the record of the complaint, is confidential and may not
4 be disclosed except as provided in ORS 413.175 or 414.679. The complaint, and the record of
5 the complaint, may not be used in any action, suit or proceeding except to the extent the
6 authority considers necessary in prosecuting apparent violations of sections 1 to 52 of this
7 2019 Act, rules adopted pursuant to section 53 of this 2019 Act or other law.

8 (2) Data gathered pursuant to an investigation by the authority of a complaint is confi-
9 dential, may not be disclosed except as provided in ORS 413.175 and 414.679 and may not be
10 used in any action, suit or proceeding except to the extent the authority considers necessary
11 in investigating or prosecuting apparent violations of sections 1 to 52 of this 2019 Act, rules
12 adopted pursuant to section 53 of this 2019 Act or other law.

13 (3) Notwithstanding subsections (1) and (2) of this section, the authority shall establish
14 by rule a method for publishing an annual statistical report containing the coordinated care
15 organization's name and the number, percentage, type and disposition of complaints the au-
16 thority receives against each coordinated care organization that contracts with the author-
17 ity.

18 **SECTION 13.** (1) Except in the case of malfeasance in office or willful or wanton neglect
19 of duty, a cause of action does not arise and liability may not be imposed against the Oregon
20 Health Authority, an authorized representative of the authority or any examiner appointed
21 by the authority for:

22 (a) Any statements made or conduct performed in good faith pursuant to an examination
23 or investigation.

24 (b) The authority's collection, review, analysis or dissemination of the data and infor-
25 mation collected from the filings required by rules adopted by sections 1 to 52 of this 2019
26 Act or rules adopted pursuant to section 53 of this 2019 Act.

27 (2) A cause of action does not arise and liability may not be imposed against any person
28 for communicating or delivering information or data to the authority or an authorized rep-
29 resentative of the authority or examiner pursuant to an examination or investigation if the
30 communication or delivery was performed in good faith and without fraudulent intent or an
31 intent to deceive.

32 (3) This section does not abrogate or modify in any way any common law or statutory
33 privilege or immunity otherwise enjoyed by any person to which subsection (1) or (2) of this
34 section applies.

35 (4) The court may award reasonable attorney fees to the prevailing party in a cause of
36 action arising out of activities of the authority or an examiner in carrying out an examina-
37 tion or investigation.

38 **SECTION 14.** (1) The Oregon Health Authority may disclose or use a report as considered
39 necessary by the authority in the administration of sections 1 to 52 of this 2019 Act, rules
40 adopted pursuant to section 53 of this 2019 Act or other law.

41 (2) A report filed with the authority according to requirements established by rule for
42 disclosure of material acquisitions or dispositions of assets is confidential.

43 (3) A report filed with the Oregon Health Authority according to requirements estab-
44 lished by rule for the purpose of determining the amount of restricted reserves, capital or
45 surplus that a coordinated care organization must maintain under ORS 414.625 (1)(b)(A) is

1 confidential and may not be disclosed.

2 (4) A financial plan of action stating corrective actions to be taken by a coordinated care
3 organization in response to a determination of inadequate restricted reserves, capital or
4 surplus that is filed by the coordinated care organization with the authority according to
5 requirements established by rule is confidential and may not be disclosed.

6 (5) The results or report of any examination or analysis of a coordinated care organiza-
7 tion performed by the authority in connection with a financial plan described in subsection
8 (4) of this section and any corrective order issued by the authority pursuant to such an ex-
9 amination or analysis is confidential and may not be disclosed.

10 (6) Information contained in documents described in subsections (1) to (4) of this section
11 that is also contained in final examination reports filed under section 10 of this 2019 Act is
12 not confidential under this section.

13 (7) All financial analysis ratios and examination synopses concerning coordinated care
14 organizations that are submitted to the authority by the Insurance Regulatory Information
15 System of the National Association of Insurance Commissioners are confidential.

16 **SECTION 15.** (1) The Oregon Health Authority may use reports and financial plans of
17 action that are made confidential under section 14 of this 2019 Act only for the purpose of
18 monitoring the solvency of coordinated care organizations and the need for possible correc-
19 tive action with respect to coordinated care organizations.

20 (2) The authority may not use reports and financial plans of action referred to in sub-
21 section (1) of this section for establishing global budgets or in any proceeding related to
22 global budgets.

23 (3) This section does not prohibit authority from using information included in reports
24 or financial plans referred to in subsection (1) of this section that is available from other
25 sources.

26 **SECTION 16.** As used in sections 16 to 22 of this 2019 Act:

27 (1) "Compliance audit" means a voluntary internal evaluation, review, assessment, audit
28 or investigation that is undertaken to identify or prevent noncompliance with, or promote
29 compliance with, laws, regulations, orders or professional standards, and that is conducted
30 by or on behalf of a coordinated care organization.

31 (2)(a) "Compliance self-evaluative audit document" means a document prepared as a re-
32 sult of or in connection with a compliance audit.

33 (b) "Compliance self-evaluative audit document" includes, but is not limited to:

34 (A) A written response to the findings of a compliance audit.

35 (B) Field notes and records of observations, findings, opinions, suggestions, conclusions,
36 drafts, memoranda, drawings, photographs, exhibits, computer-generated or electronically
37 recorded information, phone records, maps, charts, graphs and surveys, provided this sup-
38 porting information is collected or developed solely for the purpose of a compliance audit.

39 (C) A compliance audit report prepared by an auditor, who may be an employee of the
40 coordinated care organization or an independent contractor, which may include the scope of
41 the audit, the information gained in the audit and conclusions and recommendations, with
42 exhibits and appendices.

43 (D) Memoranda and documents analyzing portions or all of the compliance audit report
44 and discussing potential implementation issues.

45 (E) An implementation plan that addresses correcting past noncompliance, improving

1 current compliance and preventing future noncompliance.

2 (F) Analytic data generated in the course of conducting the compliance audit, not in-
3 cluding any analytic data that exists independently of the audit or existed before the audit
4 was conducted.

5 **SECTION 17.** Except as provided in sections 16 to 22 of this 2019 Act:

6 (1) A compliance self-evaluative audit document is privileged information and is not
7 discoverable or admissible as evidence in any civil, criminal or administrative proceeding.

8 (2) Any person who performs or directs the performance of an compliance audit, any of-
9 ficer, employee or agent of a coordinated care organization who is involved with a compliance
10 audit and any consultant who is hired for the purpose of performing a compliance audit may
11 not be examined in any civil, criminal or administrative proceeding about the compliance
12 audit or any compliance self-evaluative audit document.

13 **SECTION 18.** (1) Section 17 of this 2019 Act does not prohibit the Oregon Health Au-
14 thority from acquiring any compliance self-evaluative audit document or examining any
15 person in connection with the document. If the authority determines that the actions of a
16 coordinated care organization are egregious, the authority may introduce and use the docu-
17 ment in any administrative proceeding or civil action under sections 1 to 52 of this 2019 Act
18 or rules adopted pursuant to section 53 of this 2019 Act.

19 (2) Any compliance self-evaluative audit document submitted to the authority under this
20 section and in the possession of the authority remains the property of the coordinated care
21 organization and is not subject to disclosure or production under ORS 192.311 to 192.478.

22 (3)(a) The authority shall consider the corrective action taken by a coordinated care or-
23 ganization to eliminate problems identified in the compliance self-evaluative audit document
24 as a mitigating factor when determining a civil penalty or other action against the coordi-
25 nated care organization.

26 (b) The authority may, in the authority's sole discretion, decline to impose a civil penalty
27 or take other action against a coordinated care organization based on information obtained
28 from a compliance self-evaluative audit document if the coordinated care organization has
29 taken reasonable corrective action to eliminate the problems identified in the document.

30 (4) Disclosure of a compliance self-evaluative audit document to a governmental agency,
31 whether voluntarily or pursuant to compulsion of law, does not constitute a waiver of the
32 privilege set forth in section 17 of this 2019 Act for any other purpose.

33 (5) The authority may not be compelled to produce a compliance self-evaluative audit
34 document.

35 **SECTION 19.** (1) The privilege set forth in section 17 of this 2019 Act does not apply to
36 the extent that the privilege is expressly waived by the coordinated care organization that
37 prepared or caused to be prepared the compliance self-evaluative audit document.

38 (2) The privilege set forth in section 17 of this 2019 Act does not apply in any civil,
39 criminal or administrative proceeding commenced by the Attorney General relating to
40 Medicaid fraud, without regard to whether the proceeding is brought on behalf of the state,
41 a state agency or a federal agency. A coordinated care organization may request an in cam-
42 era review of any document or other evidence to be released or used under this subsection
43 and may request that appropriate protective orders be entered governing release and use of
44 the material.

45 (3) In any civil proceeding a court of record may, after an in camera review, require

1 disclosure of material for which the privilege set forth in section 17 of this 2019 Act is as-
2 serted if the court determines that the material is not subject to the privilege, or that the
3 privilege is asserted for a fraudulent purpose, including but not limited to an assertion of the
4 privilege for a compliance audit that was conducted for the purpose of concealing a violation
5 of any federal, state or local law or rule. This subsection may not be construed to prohibit
6 the Oregon Health Authority from acquiring, examining and using compliance self-evaluative
7 audit documents under section 17 of this 2019 Act.

8 (4) In a criminal proceeding, a court of record may, after an in camera review, require
9 disclosure of material for which the privilege set forth in section 17 of this 2019 Act is as-
10 serted if the court determines that:

11 (a) The privilege is asserted for a fraudulent purpose, including but not limited to an
12 assertion of the privilege for a compliance audit that was conducted for the purpose of con-
13 cealing a violation of any federal, state or local law or rule;

14 (b) The material is not subject to the privilege; or

15 (c) The material contains evidence relevant to commission of a criminal offense, and:

16 (A) A district attorney or the Attorney General has a compelling need for the informa-
17 tion;

18 (B) The information is not otherwise available; or

19 (C) The district attorney or Attorney General is unable to obtain the substantial equiv-
20 alent of the information by any other means without incurring unreasonable cost and delay.

21 **SECTION 20.** (1) Within 30 days after a district attorney or the Attorney General serves
22 on a coordinated care organization a written request by certified mail for disclosure of a
23 compliance self-evaluative audit document, the coordinated care organization that prepared
24 or caused the document to be prepared may file in circuit court a petition requesting an in
25 camera hearing on whether the compliance self-evaluative audit document or portions of the
26 document are privileged under section 17 of this 2019 Act or subject to disclosure. Failure
27 by the coordinated care organization to file a petition waives the privilege only with respect
28 to the specific request.

29 (2) A petition filed by a coordinated care organization under this section must contain
30 the following information:

31 (a) The date of the compliance self-evaluative audit document.

32 (b) The identity of the person that conducted the audit.

33 (c) The general nature of the activities covered by the compliance audit.

34 (d) An identification of the portions of the compliance self-evaluative audit document for
35 which the privilege is being asserted.

36 (3) Within 45 days after the filing of a petition by a coordinated care organization under
37 this section, the court shall schedule an in camera hearing to determine whether the com-
38 pliance self-evaluative audit document or portions of the document are privileged under
39 section 17 of this 2019 Act.

40 (4) The court, after an in camera review pursuant to this section, may require disclosure
41 of material for which the privilege established by section 17 of this 2019 Act is asserted if the
42 court determines that any of the conditions set forth in section 19 or 21 of this 2019 Act are
43 met. Upon making such a determination, the court may compel the disclosure of only those
44 portions of a compliance self-evaluative audit document relevant to issues in dispute in the
45 underlying proceeding. Any disclosure that is compelled by the court will not be considered

1 to be a public document or be deemed to be a waiver of the privilege for any other civil,
2 criminal or administrative proceeding. A party unsuccessfully opposing disclosure may apply
3 to the court for an appropriate order protecting the document from further disclosure.

4 (5) A coordinated care organization asserting the privilege established under section 17
5 of this 2019 Act has the burden of establishing that the privilege applies. If the coordinated
6 care organization establishes that the privilege applies, a party seeking disclosure under
7 section 19 of this 2019 Act has the burden of proving the elements set forth in section 19 of
8 this 2019 Act.

9 **SECTION 21.** The privilege established under section 17 of this 2019 Act does not apply
10 to any of the following:

11 (1) Documents, communications, data, reports or other information expressly required
12 to be collected, developed, maintained or reported to the Oregon Health Authority or other
13 regulatory agency under sections 1 to 52 of this 2019 Act, rules adopted pursuant to section
14 53 of this 2019 Act or other state or federal law;

15 (2) Information obtained by observation or monitoring by the authority or any regulatory
16 agency; or

17 (3) Information obtained from a source other than the compliance audit.

18 **SECTION 22.** Nothing in sections 16 to 22 of this 2019 Act, or in the release of any com-
19 pliance self-evaluative audit document under sections 16 to 22 of this 2019 Act, shall limit,
20 waive or abrogate the scope or nature of any statutory or common law privilege or other
21 limitation on admissibility of evidence including, but not limited to, the work product doc-
22 trine, the lawyer-client privilege under ORS 40.225 or the subsequent remedial measures ex-
23 clusion provided by ORS 40.185.

24 **SECTION 23.** (1) An officer, manager, member of the governing board, trustee, owner,
25 employee or agent of a coordinated care organization, and any other person with authority
26 over or in charge of any portion of the coordinated care organization's affairs, including any
27 person who exercises control directly or indirectly over the activities of the coordinated care
28 organization through a holding company or other affiliate of the coordinated care organiza-
29 tion, shall cooperate with the Oregon Health Authority in any delinquency proceeding or any
30 investigation preliminary to the proceeding. For purposes of this section, cooperation with
31 the authority includes at least the following:

32 (a) Replying promptly in writing to any inquiry from the authority requesting such a
33 reply; and

34 (b) Making available to the authority any books, accounts, documents or other records,
35 information or property of or pertaining to the coordinated care organization and in the
36 possession, custody or control of the coordinated care organization.

37 (2) A person may not obstruct or interfere with the authority in conducting a delin-
38 quency proceeding or any investigation that is preliminary or incidental to a delinquency
39 proceeding.

40 (3) This section may not be construed to abridge existing legal rights, including the right
41 to resist a petition for liquidation or other delinquency proceedings, or other orders.

42 **SECTION 24.** (1) For any reason stated in subsection (2) of this section, the Oregon
43 Health Authority may order a coordinated care organization to be placed under supervision.

44 (2) The authority may place a coordinated care organization under supervision if upon
45 examination or at any other time the authority determines that:

1 **(a) The condition of the coordinated care organization renders the continuance of its**
2 **business hazardous to the public or to its members.**

3 **(b) The coordinated care organization has refused to permit examination of its books,**
4 **papers, accounts, records or affairs by the authority or any deputy, examiner or employee**
5 **representing the authority.**

6 **(c) A coordinated care organization has unlawfully removed from this state books, pa-**
7 **pers, accounts or records necessary for an examination of the coordinated care organization.**

8 **(d) The coordinated care organization has failed to comply promptly with the applicable**
9 **financial reporting statutes or rules and any request of the authority relating to financial**
10 **reporting.**

11 **(e) The coordinated care organization has failed to observe an order of the authority to**
12 **make good, within the time prescribed by law, any prohibited deficiency in its restricted re-**
13 **serves, capital, capital stock or surplus.**

14 **(f) The coordinated care organization is continuing to conduct business after its contract**
15 **has been revoked or suspended by the authority.**

16 **(g) The coordinated care organization, by contract or otherwise, has done any of the**
17 **following unlawfully, in violation of an order of the authority or without first having obtained**
18 **written approval of the authority:**

19 **(A) Totally reinsured its entire outstanding business; or**

20 **(B) Merged or consolidated substantially its entire property or business with another**
21 **entity.**

22 **(h) The coordinated care organization has engaged in any transaction in which it is not**
23 **authorized to engage under the laws of the state.**

24 **(i) The coordinated care organization has failed to comply with any other order of the**
25 **authority.**

26 **(j) The coordinated care organization has failed to comply with any other applicable pro-**
27 **visions of sections 1 to 52 of this 2019 Act or rules adopted pursuant to section 53 of this 2019**
28 **Act.**

29 **(k) The business of the coordinated care organization is being conducted fraudulently.**

30 **(L) The coordinated care organization agrees to supervision.**

31 **(3) If the authority determines that one or more conditions set forth in subsection (2)**
32 **of this section exist, the authority may do all of the following:**

33 **(a) Notify the coordinated care organization of the determination of the authority.**

34 **(b) Furnish to the coordinated care organization a written list of the requirements to**
35 **abate the condition or conditions determined to exist.**

36 **(c) Notify the coordinated care organization that it is under the supervision of the au-**
37 **thority and that the authority is applying this section and section 25 of this 2019 Act.**

38 **(4) The authority may act as the supervisor to conduct the supervision and otherwise**
39 **carry out an order under subsection (1) of this section or may appoint another person as**
40 **supervisor.**

41 **(5) The authority or the appointed supervisor may prohibit any person from taking any**
42 **of the following actions during the period of supervision without the prior approval of the**
43 **authority or supervisor:**

44 **(a) Disposing of, conveying or encumbering any of the coordinated care organization's**
45 **assets or its business in force.**

1 (b) **Withdrawing from any of the coordinated care organization's bank accounts.**

2 (c) **Lending any of the coordinated care organization's funds.**

3 (d) **Investing any of the coordinated care organization's funds.**

4 (e) **Transferring any of the coordinated care organization's property.**

5 (f) **Incurring any debt, obligation or liability on behalf of the coordinated care organiza-**
6 **tion.**

7 (g) **Merging or consolidating the coordinated care organization with another coordinated**
8 **care organization or other person.**

9 (h) **Entering into any new reinsurance contract or treaty.**

10 (i) **Making any material change in management.**

11 (j) **Increasing salaries and benefits of officers or directors.**

12 (k) **Making or increasing preferential payment of bonuses, dividends or other payments**
13 **determined by the authority to be preferential.**

14 (L) **Any other action affecting the business or condition of the coordinated care organ-**
15 **ization.**

16 (6) **The authority may apply to any circuit court for any restraining order, preliminary**
17 **and permanent injunctions and other orders necessary to enforce a supervision order.**

18 (7) **During the period of supervision, the coordinated care organization may file a written**
19 **request for a hearing to review the supervision or any action taken or proposed to be taken.**
20 **A request under this subsection does not suspend the supervision. The coordinated care or-**
21 **ganization must specify in the request the manner in which the action being complained of**
22 **would not result in improving the condition of the coordinated care organization. The hearing**
23 **shall be held within 30 days after the filing of the request. The authority shall complete the**
24 **review of the supervision or other action and shall take action under subsection (8) of this**
25 **section if appropriate within 30 days after the record for the hearing is closed.**

26 (8) **The authority shall release a coordinated care organization from supervision if the**
27 **authority determines upon hearing that none of the conditions giving rise to the supervision**
28 **exist.**

29 **SECTION 25. (1) A coordinated care organization placed under supervision must correct,**
30 **eliminate or remedy the acts, transactions or practices that are the basis for the order of**
31 **supervision and otherwise comply with the requirements of the Oregon Health Authority**
32 **within the period of time allowed by the authority, not to exceed 60 days, after the date on**
33 **which the order is served on the coordinated care organization.**

34 (2) **If the authority determines that the conditions giving rise to the supervision still**
35 **exist at the end of the supervision period established in subsection (1) of this section, the**
36 **authority may extend the period.**

37 (3) **During the period of supervision of a coordinated care organization, the authority**
38 **may institute rehabilitation or liquidation proceedings, extend the period of supervision or**
39 **take any other action authorized by law.**

40 (4) **The authority or supervisor on behalf of a coordinated care organization under**
41 **supervision may bring an action for damages against any person who violates any order of**
42 **the authority under section 24 of this 2019 Act if the violation reduces the net worth of the**
43 **coordinated care organization or results in loss to the coordinated care organization that the**
44 **coordinated care organization would not have suffered otherwise. The authority or supervi-**
45 **sor may recover damages to the extent of the reduction or loss.**

1 **SECTION 26.** (1) Whenever the Oregon Health Authority determines from any showing
2 or statement made to the authority from any examination made by the authority that the
3 assets of a coordinated care organization are less than its liabilities plus required capital-
4 ization, the authority may:

5 (a) Proceed immediately to petition for an order of rehabilitation or liquidation or to
6 commence a delinquency proceeding; or

7 (b) Allow the coordinated care organization a period of time, not to exceed 90 days, in
8 which to make good the amount of the impairment with cash or authorized investments.

9 (2) If the amount of the impairment is not made good within the time prescribed by the
10 authority under subsection (1) of this section, the authority shall proceed to petition for an
11 order of rehabilitation or liquidation or to commence a delinquency proceeding.

12 (3) An order directing a coordinated care organization to cure an impairment is confi-
13 dential for such time as the authority considers proper but not exceeding the time prescribed
14 by the authority for making the amount of the impairment good. If the authority determines
15 that the public interest in disclosure outweighs the public interest in protecting or salvaging
16 the solvency of the coordinated care organization, the authority may make the order avail-
17 able for public inspection.

18 **SECTION 27.** (1) The Oregon Health Authority may petition the circuit court for an or-
19 der:

20 (a) Directing the authority to rehabilitate a coordinated care organization on one or more
21 of the following grounds:

22 (A) The coordinated care organization is impaired.

23 (B) The coordinated care organization has failed to submit its books, papers, accounts
24 or affairs for the reasonable inspection and examination by the authority.

25 (C) Without first obtaining the written consent of the authority, the coordinated care
26 organization has by contract of reinsurance, or otherwise, transferred or attempted to
27 transfer substantially its entire property or business, or has entered into any transaction the
28 effect of which is to merge, consolidate or reinsure substantially its entire property or
29 business in or with the property or business of any other person, without first having com-
30 plied with rules adopted pursuant to section 53 (2)(i) of this 2019 Act.

31 (D) The coordinated care organization is in such condition that its further transaction
32 of business would be hazardous to its members, creditors, the state or the public.

33 (E) The coordinated care organization has violated its articles of incorporation, its by-
34 laws, any law of the state or any order of the authority.

35 (F) Any person who has executive authority in the coordinated care organization,
36 whether an officer, manager, general agent, member of the governing board or trustee, em-
37 ployee or other person, has refused to be examined under oath by the authority concerning
38 its affairs, whether in this state or elsewhere, and after reasonable notice of the fact, the
39 coordinated care organization has not promptly and effectively terminated the employment
40 and status of the person and all influence of the person on management.

41 (G) The coordinated care organization or its property has been or is the subject of an
42 application for the appointment of a receiver, trustee, custodian, conservator or sequestrator
43 or similar fiduciary of the coordinated care organization or of its property other than as
44 authorized under sections 1 to 52 of this 2019 Act and rules adopted pursuant to section 53
45 of this 2019 Act, and the appointment has been made or is imminent, and the appointment

1 might deprive the courts of this state of jurisdiction or might prejudice orderly delinquency
2 proceedings.

3 (H) The coordinated care organization has consented to the order by a vote of a majority
4 of its governing board.

5 (I) The coordinated care organization has failed to pay any obligation to any state or any
6 subdivision of the state.

7 (J) The coordinated care organization has failed to pay a binding final judgment rendered
8 against it by the later of:

9 (i) Sixty days after the judgment became final;

10 (ii) Sixty days after the time for taking an appeal expired; or

11 (iii) Sixty days after the dismissal of an appeal before final determination.

12 (K) There is reasonable cause to believe that there has been embezzlement from the co-
13 ordinated care organization, wrongful sequestration or diversion of the coordinated care
14 organization's assets, forgery or fraud affecting the coordinated care organization or other
15 illegal conduct in, by or with respect to the coordinated care organization that if established
16 would endanger assets in an amount threatening the solvency of the coordinated care or-
17 ganization.

18 (L) The coordinated care organization has failed to remove a person who has executive
19 authority in the coordinated care organization, whether an officer, manager, general agent,
20 member of the governing board, trustee, employee or other person, if the person has been
21 found by the authority to be dishonest or untrustworthy in a way affecting the coordinated
22 care organization's business.

23 (M) Control of the coordinated care organization, whether by stock ownership or other-
24 wise, and whether direct or indirect, is in a person or persons who have been found by the
25 authority to be untrustworthy.

26 (N) The coordinated care organization has failed to file reports or financial data required
27 by statute or by rule within the time allowed by law or within any additional time allowed
28 by the authority.

29 (b) Authorizing the authority to seize all or part of the property, books, accounts and
30 other records of a coordinated care organization as well as the premises where health ser-
31 vices are provided or administrative functions for a coordinated care organization are
32 housed.

33 (c) Enjoining the coordinated care organization from disposing of its property and
34 transacting business except as allowed by written consent of the authority.

35 (2) The authority must include all of the following in the petition under subsection (1)
36 of this section:

37 (a) An allegation that one or more grounds exist that would justify a court order for a
38 rehabilitation or liquidation proceeding against the coordinated care organization.

39 (b) An allegation that the interests of members of the coordinated care organization,
40 creditors of the coordinated care organization or the public will be endangered by delay.

41 (c) The contents of the order that the authority requests the court to issue.

42 **SECTION 28.** (1) Upon petition by the Oregon Health Authority under section 27 of this
43 2019 Act, the court may issue the requested order immediately, ex parte and without hearing.
44 The court in its order shall specify the duration of the order. The duration of an order shall
45 be a period sufficient to enable the authority to ascertain the condition of the coordinated

1 care organization.

2 (2) On motion of the authority or the coordinated care organization against whom an
3 order under this section is issued, or on the court's own motion, the court may hold such
4 hearings from time to time as the court determines are desirable, after such notice as it
5 determines appropriate, and may extend, shorten or modify the terms of the order.

6 (3) The court may vacate an order issued under this section if the court determines that
7 the authority has not commenced a rehabilitation or liquidation proceeding within a reason-
8 able time.

9 (4) An order of the court directing a rehabilitation or liquidation proceeding vacates the
10 order issued under this section.

11 (5) Entry of a seizure order under this section does not constitute an anticipatory breach
12 of any contract of the coordinated care organization.

13 (6) At any time after a court issues an order under this section, the court may direct
14 that notice of the order be given to a person if the court determines both of the following:

15 (a) That the person was not notified of the hearing on the order and did not appear at
16 the hearing.

17 (b) That the interest of the person is or will be substantially affected by the order.

18 **SECTION 29.** (1) An order to rehabilitate a coordinated care organization shall direct the
19 Oregon Health Authority to take possession of the property of the coordinated care organ-
20 ization and to conduct the business of the coordinated care organization, and to take such
21 steps toward removing the causes and conditions that made rehabilitation necessary as di-
22 rected by the court.

23 (2) If at any time the authority deems that further efforts to rehabilitate the coordinated
24 care organization would be useless, the authority may apply to the court for an order of
25 liquidation under section 51 of this 2019 Act.

26 (3) The authority may apply at any time for an order terminating the rehabilitation pro-
27 ceeding and permitting the coordinated care organization to resume possession of its prop-
28 erty and the conduct of its business, but the order may not be granted except after a full
29 hearing.

30 **SECTION 30.** The Oregon Health Authority, after taking possession of the property and
31 business of any coordinated care organization, shall:

32 (1) Subject to a court's direction, immediately conduct the business of the coordinated
33 care organization or take steps authorized by law to rehabilitate, liquidate or conserve the
34 coordinated care organization;

35 (2) Be vested with the coordinated care organization's title and interest in and to all as-
36 sets and property of every kind, both tangible and intangible;

37 (3) Possess, in the name of the coordinated care organization or in the name of the au-
38 thority, all rights, privileges, powers and authority granted to coordinated care organizations
39 in this state or otherwise possessed by coordinated care organizations generally, without
40 regard to any limitations prescribed in the articles or bylaws of the coordinated care organ-
41 ization; and

42 (4) Perform and do all acts that the authority deems necessary, advisable or expedient.

43 **SECTION 31.** (1) A court may make an order declaring a coordinated care organization
44 insolvent at the time it grants an order of liquidation or at any time during the liquidation
45 proceedings. When the order is issued, the Oregon Health Authority shall provide notice, in

1 the manner determined by the court, to all persons who may have claims against the coord-
2 inated care organization and who have not filed proper proofs of their claims. The notice
3 must instruct the persons to present their claims to the authority, at a specified place,
4 within four months from the date of the entry of the insolvency order or within a longer
5 time as the court prescribes. The notice must specify the last day that persons may file
6 proofs of claims.

7 (2) A claimant filing a proof of claim after the last day specified for filing a claim may
8 share in the distribution of the assets after all allowed claims for which proofs were timely
9 filed are paid in full.

10 **SECTION 32.** (1) The circuit court shall have original jurisdiction of delinquency pro-
11 ceedings, and any court with jurisdiction is authorized to make all necessary or proper or-
12 ders to carry out the purposes of sections 23 to 52 of this 2019 Act.

13 (2) The venue of delinquency proceedings and proceedings under sections 23 to 52 of this
14 2019 Act against a coordinated care organization shall be in the Circuit Court for Marion
15 County.

16 (3) At any time after the commencement of a delinquency proceeding or a proceeding
17 under sections 23 to 52 of this 2019 Act, the court may issue an order changing the venue
18 of the proceeding on motion of the Oregon Health Authority or other interested person if the
19 court finds the proceedings may be more economically and efficiently conducted thereby.

20 **SECTION 33.** (1) Delinquency proceedings constitute the sole and exclusive method of
21 rehabilitating, liquidating or conserving a coordinated care organization, and a court may
22 not entertain a petition for the commencement of such proceedings, or any other similar
23 procedure, unless the Oregon Health Authority has filed such a petition in the name of the
24 state.

25 (2) A coordinated care organization shall appeal an order granting or refusing rehabili-
26 tation, liquidation or conservation and every order in delinquency proceedings that has the
27 character of a final order to the Court of Appeals.

28 **SECTION 34.** (1) The Oregon Health Authority shall (1) commence a delinquency proceeding
29 by an application to the court for an order directing the coordinated care organization to
30 show cause why the authority should not have the relief prayed for.

31 (2) The application shall be by petition, verified by the authority, setting forth the ground
32 or grounds for the proceeding and the relief demanded.

33 (3) If the court is satisfied from reading the authority's petition that the facts alleged,
34 if established, would constitute grounds for a delinquency proceeding, the court shall issue
35 an order to the coordinated care organization to show cause.

36 (4) On the return of the order to show cause, and after a full hearing, the court shall
37 either deny the application or grant the application, together with such other relief as the
38 nature of the case and the interests of the members of the coordinated care organization or
39 the public may require.

40 (5) After commencement of a delinquency proceeding by the authority, the court may
41 make any further orders necessary in response to the application of any interested person.

42 **SECTION 35.** (1) Upon application by the Oregon Health Authority for an order to show
43 cause under section 34 of this 2019 Act, or at any time thereafter, the court may, without
44 notice, issue an injunction restraining a coordinated care organization, its officers, members
45 of its governing board, agents, employees and all other persons from the transaction of its

1 **business or the waste or disposition of its property until the further order of the court.**

2 **(2) The court may at any time during a delinquency proceeding issue other injunctions**
3 **or orders to prevent any of the following activities:**

4 **(a) Transacting further business of the coordinated care organization.**

5 **(b) Transferring property.**

6 **(c) Interfering with the receiver or with a delinquency proceeding.**

7 **(d) Wasting assets of a coordinated care organization.**

8 **(e) Dissipating or transferring bank accounts.**

9 **(f) Instituting or further prosecuting any actions or proceedings.**

10 **(g) Obtaining preferences, judgments, attachments, garnishments or liens against the**
11 **coordinated care organization or its assets.**

12 **(h) Levying execution against the coordinated care organization or its assets.**

13 **(i) The making of a sale or deed for nonpayment of taxes or assessments that would**
14 **lessen the value of the assets of the coordinated care organization.**

15 **(j) Withholding from the receiver books, accounts, documents or other records relating**
16 **to the business of the coordinated care organization.**

17 **(k) Taking any other threatened or contemplated action that might lessen the value of**
18 **the assets of the coordinated care organization or prejudice the rights of the state, creditors**
19 **or other interested persons, or the administration of a delinquency proceeding.**

20 **(3) Notwithstanding any other provision of law, the authority may not be required to post**
21 **bond as a prerequisite for issuing any injunction or restraining order pursuant to this sec-**
22 **tion.**

23 **SECTION 36. (1) The following persons are entitled to protection under this section:**

24 **(a) All receivers responsible for the conduct of a delinquency proceeding under sections**
25 **23 to 52 of this 2019 Act, including present and former receivers.**

26 **(b) All employees of the receiver described in paragraph (a) of this subsection. For pur-**
27 **poses of this section, such employees include all present and former special deputies and**
28 **assistant special deputies appointed by the Oregon Health Authority and all persons whom**
29 **the authority, special deputies or assistant special deputies have employed to assist in a de-**
30 **linquency proceeding. Unless designated as special deputies, attorneys, accountants, auditors**
31 **and other professional persons or firms who are retained by the receiver as independent**
32 **contractors and their employees are not entitled to protection under this section.**

33 **(2) The receiver and employees of the receiver shall have official immunity and shall be**
34 **immune from civil action and liability, both personally and in their official capacities, for any**
35 **tort claim or demand, whether groundless or otherwise, arising out of any alleged act, error**
36 **or omission of the receiver or any employee occurring in the performance of duties. For**
37 **purposes of this section, "tort" has the meaning given that term in ORS 30.260.**

38 **(3) The receiver and employees of the receiver shall be indemnified from the assets of the**
39 **coordinated care organization against any tort claim arising out of any alleged act, error or**
40 **omission of the receiver or any employee occurring in the performance of duties, whether**
41 **personally or in the official capacity of the receiver or employee. Any indemnification made**
42 **under this subsection is an administrative expense of the coordinated care organization.**

43 **(4) The provisions of subsections (2) and (3) of this section do not apply in case of**
44 **malfeasance in office or willful or wanton neglect of duty.**

45 **(5) In any legal action in which the receiver is a defendant, the portion of any settlement**

1 relating to the alleged act, error or omission of the receiver is subject to the approval of the
2 court before which the delinquency proceeding is pending. The court may not approve the
3 portion of the settlement if it determines:

4 (a) That the claim did not occur in the performance of the receiver's duties; or

5 (b) That the claim was caused by malfeasance in office or willful or wanton neglect of
6 duty by the receiver.

7 (6) This section may not be construed or applied to deprive the receiver or any employee
8 of any immunity, indemnity, benefits of law, rights or any defense otherwise available.

9 **SECTION 37.** The Oregon Health Authority, in connection with supervising a coordinated
10 care organization or conducting a delinquency proceeding, may appoint one or more special
11 deputy directors to act for the authority and may employ counsel, clerks and assistants as
12 the authority deems necessary. Unless otherwise provided by the authority, a person so ap-
13 pointed is not a state employee solely by reason of the appointment. The compensation of the
14 special deputies, counsel, clerks or assistants and all expenses of supervising the coordinated
15 care organization or taking possession of a delinquent coordinated care organization and
16 conducting delinquency proceedings must be paid out of the funds or assets of the coordi-
17 nated care organization. A special deputy acting within limits the authority imposes with
18 respect to supervising a coordinated care organization or conducting delinquency proceedings
19 has a receiver's powers and is subject to a receiver's duties.

20 **SECTION 38.** (1) All claims against a coordinated care organization against which delin-
21 quency proceedings have been begun shall:

22 (a) Set forth in reasonable detail:

23 (A) The amount of the claim or the basis upon which the amount can be ascertained;

24 (B) The facts upon which the claim is based; and

25 (C) The priorities asserted, if any;

26 (b) Be verified by the affidavit of the claimant or someone authorized to act on behalf
27 of the claimant and having knowledge of the facts; and

28 (c) Be supported by documentation.

29 (2) All claims shall be filed with the receiver on or before the last date for filing as
30 specified in section 31 of this 2019 Act.

31 (3) After the expiration of any period for filing of claims, the receiver shall report the
32 claims timely filed to the court, with recommendations for the actions to be taken by the
33 court. Upon receipt of the report, the court shall fix a time for hearing the claims and shall
34 direct the claimants or the receiver, as specified by the court, to give notice to interested
35 persons, in the manner determined by the court, of the time and place of the hearing, the
36 amount and nature of the claim, the priorities asserted, if any, and the recommendation of
37 the receiver with respect to the claim.

38 (4) All interested persons shall be entitled to appear at the hearing, and the court shall
39 enter an order allowing, allowing in part or disallowing the claim. The order is an appealable
40 order.

41 **SECTION 39.** All claims that are preferred under the laws of the state, whether owing
42 to residents or nonresidents, shall be given equal priority of payment from the general assets
43 of a coordinated care organization in a delinquency proceeding against the coordinated care
44 organization regardless of where the assets are located.

45 **SECTION 40.** During the pendency of a delinquency proceeding against a coordinated care

1 organization, an action or proceeding to obtain an attachment, garnishment or execution
2 may not be commenced or maintained in the courts of this state against the delinquent co-
3 ordinated care organization or its assets. An attachment, garnishment or execution obtained
4 prior to the commencement of a delinquency proceeding or at any time thereafter shall be
5 void as against any rights arising in the delinquency proceeding unless the attachment,
6 garnishment or execution obtained by the action or proceeding was obtained more than four
7 months prior to the commencement of the delinquency proceeding.

8 **SECTION 41.** (1) A transfer of or lien upon the property of a coordinated care organiza-
9 tion, other than as provided in section 40 of this 2019 Act, is voidable if the transfer or lien
10 is:

11 (a) Made or created within four months prior to the commencement of a delinquency
12 proceeding;

13 (b) Made with the intent of giving to a transferee or lienor or enabling the transferee or
14 lienor to obtain a greater percentage of the debt than any other creditor of the same class;
15 and

16 (c) Accepted by a transferee or lienor who has reasonable cause to believe that the
17 transferee or lienor will obtain a greater percentage of the debt than any other creditor of
18 the same class.

19 (2) Every director, officer, employee or other person acting on behalf of a coordinated
20 care organization who participates in a transfer or lien described in subsection (1) of this
21 section, and every person receiving any property of the coordinated care organization or the
22 benefit of the transfer or lien, shall be personally liable as described in subsection (3) of this
23 section.

24 (3) The Oregon Health Authority, as a receiver in a delinquency proceeding, may avoid
25 any transfer of, or lien upon, the property of a coordinated care organization described in
26 subsection (1) of this section and may recover the property or value of the property trans-
27 ferred or attached unless the person in possession of the property or the lien was a bona fide
28 holder for value prior to the commencement of the delinquency proceeding.

29 **SECTION 42.** Except as provided in section 47 of this 2019 Act for secured claims, the
30 claims to be paid in full in delinquency proceedings against a coordinated care organization
31 prior to the payment of any other claims, and the order of payment, shall be:

32 (1) The expenses of administering the delinquency proceedings;

33 (2) Claims that are legally due and owing by the coordinated care organization to the
34 United States;

35 (3) Compensation or wages owed to employees other than officers of the coordinated care
36 organization, for services rendered within three months prior to the commencement of the
37 delinquency proceeding, but not exceeding \$5,000 for each employee;

38 (4) Claims legally due and owed by the coordinated care organization to the state; and

39 (5) Claims, including special deposit claims, owed to any person that by the laws of the
40 state is entitled to priority.

41 **SECTION 43.** Offsets may not be allowed in cases of mutual debts or mutual credits be-
42 tween the coordinated care organization and another person in connection with a delin-
43 quency proceeding, except with respect to reinsurance.

44 **SECTION 44.** (1) A contingent claim against a coordinated care organization shall be
45 filed, presented and reported in the same manner and within the same time limitations as

1 provided in section 31 of this 2019 Act for a noncontingent claim. Contingent claims shall be
2 allowed to share in a distribution of assets in the same manner as noncontingent claims of
3 the same class and priority, provided that the contingent claim becomes an absolute claim
4 either as a result of proof presented or litigation.

5 (2) Nothing in subsection (1) of this section prevents or bars the Oregon Health Authority
6 from compromising a disputed claim with a claimant, whether contingent or noncontingent,
7 if the compromise is justified and supported by the facts and circumstances.

8 (3) If full or partial distribution to noncontingent claimants is authorized or directed by
9 the court prior to satisfaction of the requirements of subsection (1) of this section, the au-
10 thority shall retain a sum equal to the amount that would have been paid on the contingent
11 claims if the requirements in subsection (1) of this section had been met. The amount with-
12 held shall be distributed to the person or persons found by the court to be entitled to a dis-
13 tribution when:

14 (a) The contingent claims are fully established as provided in subsection (1) of this sec-
15 tion; or

16 (b) The authority is satisfied that the contingent claims are without merit or cannot be
17 proved or established, or the statute of limitations would bar further consideration or re-
18 covery on the claim.

19 (4)(a) A judgment entered after the commencement of a delinquency proceeding is con-
20 clusive evidence in the liquidation proceeding, either of liability or of the amount of damages.

21 (b) A judgment entered after the date of entry of a liquidation order may not be consid-
22 ered in the liquidation proceedings as evidence of liability or of the amount of damages.

23 **SECTION 45.** (1) Whenever a receiver is to be appointed in delinquency proceedings for
24 a coordinated care organization, the court shall appoint the Oregon Health Authority as the
25 receiver. The court shall direct the receiver to take possession of the property of the coor-
26 dinated care organization and to administer the property as ordered by the court.

27 (2) Any deed or other instrument executed in a delinquency proceeding or by an order
28 of liquidation shall be valid and effectual for all purposes as though the same had been exe-
29 cuted by the person affected by any proceedings or by the officers of the coordinated care
30 organization pursuant to the direction of its governing board. A record of the order directing
31 possession to be taken, or a certified copy of the order, filed in the office where instruments
32 affecting title to property are required to be filed or recorded, shall have the same effect as
33 the filing or recording of a deed, bill of sale or other evidence of title.

34 (3) If any real property sold by the authority is located in a county other than the county
35 where the proceeding is pending, the authority shall file a certified copy of the order of the
36 appointment, or order authorizing or ratifying the sale, with the recording officer for the
37 county where the property is located.

38 (4) The authority as receiver shall be responsible on the official bond of the authority for
39 the proper administration of all property coming into the possession or control of the au-
40 thority. The court may at any time require an additional bond from the authority or the
41 deputies of the authority if deemed desirable for the protection of the property.

42 **SECTION 46.** The owners of special deposit claims against a coordinated care organiza-
43 tion for which a receiver is appointed shall be given priority against their several special
44 deposits in accordance with the provisions of the statutes governing the creation and main-
45 tenance of the deposits. If there is a deficiency in any deposit so that claims secured by the

1 deposit are not fully discharged, the claimants may share in the general assets of the coord-
2 inated care organization after:

3 (1) The payment of claims of general creditors; and

4 (2) Claimants against other special deposits, who have received smaller percentages from
5 their respective special deposits, have been paid percentages of their claims equal to the
6 percentage paid from the special deposit.

7 **SECTION 47.** The owner of a secured claim against a coordinated care organization for
8 which a receiver has been appointed may surrender the security and file a claim as a general
9 creditor, or the claim may be discharged by resort to the security, in which case the defi-
10 ciency, if any, shall be treated as a claim against the general assets of the coordinated care
11 organization on the same basis as claims of unsecured creditors.

12 **SECTION 48.** Notwithstanding ORS 37.040, the Oregon Receivership Code does not apply
13 to delinquency proceedings under sections 23 to 52 of this 2019 Act

14 **SECTION 49.** The Oregon Health Authority may apply for an order directing the au-
15 thority to liquidate the business of a coordinated care organization, regardless of whether
16 there has been a prior order directing the authority to rehabilitate the coordinated care or-
17 ganization, upon any of the grounds specified in section 27 of this 2019 Act, or if the coordi-
18 nated care organization:

19 (1) Has ceased transacting business for a period of one year;

20 (2) Under any laws except sections 23 to 52 of this 2019 Act or rules adopted pursuant to
21 section 53 of this 2019 Act, has:

22 (a) Commenced voluntary liquidation or dissolution;

23 (b) Attempted to commence or prosecute an action or proceeding to liquidate its business
24 or affairs;

25 (c) Commenced dissolving its corporate charter; or

26 (d) Commenced procuring the appointment of a receiver, trustee, custodian, or
27 sequestrator; or

28 (3) Is insolvent.

29 **SECTION 50.** The rights and liabilities of the coordinated care organization, its creditors
30 and all other persons interested in its assets shall, unless otherwise directed by the court,
31 be fixed as of the date on which an order directing the liquidation of the coordinated care
32 organization is filed in the office of the clerk of the court that made the order, subject to
33 the provisions of section 44 of this 2019 Act with respect to the rights of claimants holding
34 contingent claims.

35 **SECTION 51.** (1) An order to liquidate the business of a coordinated care organization
36 shall direct the Oregon Health Authority to:

37 (a) Take possession of the property of the coordinated care organization;

38 (b) Liquidate the business of the coordinated care organization;

39 (c) Deal with the coordinated care organization's property and business in the name of
40 the authority or in the name of the coordinated care organization as the court may direct;
41 and

42 (d) Give notice to all creditors who may have claims against the coordinated care or-
43 ganization to present such claims.

44 (2) The authority may apply to the court for an order dissolving the corporate existence
45 of a coordinated care organization at the time the authority applies for an order to liquidate

1 or at any time after an order to liquidate has been granted.

2 **SECTION 52.** (1) For the purpose of this section only, and only in the event of a finding
3 of impairment by the Oregon Health Authority, as described in section 26 of this 2019 Act,
4 or of a final order of liquidation, any covered health care service furnished within this state
5 by a provider to a member of a coordinated care organization shall be considered to have
6 been furnished pursuant to a contract between the provider and the coordinated care or-
7 ganization with whom the member was enrolled when the services were furnished.

8 (2) Each contract between a coordinated care organization and a provider of health care
9 services shall provide that if the coordinated care organization fails to pay for covered health
10 care services as set forth in the coordinated care organization's contract with the authority,
11 the member is not liable to the provider for any amounts owed by the coordinated care or-
12 ganization.

13 (3) If the contract between the contracting provider and the coordinated care organiza-
14 tion has not been reduced to writing or fails to contain the provisions required by subsection
15 (2) of this section, the member is not liable to the authority for any amounts owed by the
16 coordinated care organization.

17 (4) A contracting provider or agent, trustee or assignee of the contracting provider may
18 not maintain a civil action against a member to collect any amounts owed by the coordinated
19 care organization for which the member is not liable to the contracting provider under this
20 section.

21 (5) Nothing in this section impairs the right of a provider to charge, collect from, attempt
22 to collect from or maintain a civil action against a member for any of the following:

23 (a) Health care services not covered by the medical assistance program.

24 (b) Health care services rendered after the termination of the contract between the co-
25 ordinated care organization and the provider, unless the health care services were rendered
26 during the confinement in an inpatient facility and the confinement began prior to the date
27 of termination or unless the provider has assumed post-termination treatment obligations
28 under the contract.

29 (6) Nothing in this section prohibits a member from seeking noncovered health care
30 services from a provider and accepting financial responsibility for these services.

31 (7) A coordinated care organization may not limit the right of a provider of health care
32 services to contract with the patient for payment of services not within the scope of cover-
33 age under the medical assistance program.

34 **SECTION 53.** (1) The Oregon Health Authority may adopt rules to carry out the pro-
35 visions of sections 1 to 52 of this 2019 Act.

36 (2) The authority shall adopt rules for regulating the financial solvency of coordinated
37 care organizations that align with the following provisions of the Insurance Code regulating
38 domestic insurers, to the extent the provisions regarding insurers are applicable to coordi-
39 nated care organizations and are in accordance with ORS chapters 413 and 414:

40 (a) ORS 731.385;

41 (b) ORS 731.504;

42 (c) ORS 731.508;

43 (d) ORS 731.509 (1) to (8) and (10);

44 (e) ORS 731.574 (1) to (5);

45 (f) ORS 731.730;

- 1 (g) ORS 731.988;
- 2 (h) ORS 732.235;
- 3 (i) ORS 732.517 to 732.546, other than ORS 732.527, 732.531 and 732.541;
- 4 (j) ORS 732.548;
- 5 (k) ORS 732.549;
- 6 (L) ORS 732.551;
- 7 (m) ORS 732.552;
- 8 (n) ORS 732.553;
- 9 (o) ORS 732.554;
- 10 (p) ORS 732.556;
- 11 (q) ORS 732.558;
- 12 (r) ORS 732.564;
- 13 (s) ORS 732.566;
- 14 (t) ORS 732.567;
- 15 (u) ORS 732.568;
- 16 (v) ORS 732.569;
- 17 (w) ORS 732.574;
- 18 (x) ORS 732.576;
- 19 (y) ORS 732.578;
- 20 (z) ORS 732.592;
- 21 (aa) ORS 733.010 to 733.050;
- 22 (bb) ORS 733.140 to 733.170;
- 23 (cc) ORS 733.510 to 733.680;
- 24 (dd) ORS 733.695 to 733.780; and
- 25 (ee) ORS 734.014.

26 (3) Rules adopted by the authority in accordance with ORS 731.385 that establish mini-
27 mum standards for risk-based capital may not require a coordinated care organization to
28 take preventive or corrective measures to increase the coordinated care organization's cap-
29 ital, surplus or reserves to achieve more than 200 percent of the minimum risk-based capital.

30 **SECTION 54. (1) As used in this section:**

- 31 (a) "Coordinated care organization" has the meaning given that term in ORS 414.025.
- 32 (b) "Medical assistance" has the meaning given that term in ORS 414.025.
- 33 (c) "Related party" means an entity that:
 - 34 (A) Provides administrative services or financing to a coordinated care organization di-
35 rectly or through one or more unrelated parties; and
 - 36 (B) Is associated with the coordinated care organization by any form of affiliation, con-
37 trol or investment.
- 38 (d) "Risk accepting entity" means an entity that:
 - 39 (A) Enters into an arrangement or agreement with a coordinated care organization to
40 provide health services to members of the coordinated care organization;
 - 41 (B) Assumes the financial risk of providing health services to medical assistance recipi-
42 ents; and
 - 43 (C) Is compensated on a prepaid capitated basis for providing health services to members
44 of a coordinated care organization.
- 45 (e) "Risk adjusted rate of growth" means the percentage change in a coordinated care

1 organization's health care expenditures from one year to the next year, taking into account
2 the variability in the relative health status of the members of the coordinated care organ-
3 ization from one year to the next year.

4 (2) It is the intent of the Legislative Assembly that the expenditures of a coordinated
5 care organization serving medical assistance recipients be fully transparent and available to
6 the public.

7 (3) The Oregon Health Authority shall make readily available to the public on an easily
8 accessible website, and shall annually report to the Legislative Assembly, the following in-
9 formation for the preceding calendar year regarding each coordinated care organization
10 contracting with the authority:

11 (a) All financial distributions by the coordinated care organization to shareholders, equity
12 members, parent companies or any related parties.

13 (b) The annual audited financial statements of the coordinated care organization filed
14 with the authority under section 11 of this 2019 Act.

15 (c) The annual risk adjusted rate of growth for the coordinated care organization.

16 (d) Every report submitted by the coordinated care organization to the authority as re-
17 quired in the coordinated care organization's contract with the authority, except for reports
18 containing information protected from disclosure by state or federal law or protected from
19 disclosure as a trade secret, as defined in ORS 192.345, including compensation paid to pro-
20 viders by a coordinated care organization.

21 (4) The information described in subsection (3) of this section must be provided for each
22 calendar year beginning with 2020.

23 (5) The authority shall post the information described in subsection (3) of this section
24 no later than August 1 of the year following the year for which the information is reported.

25 **SECTION 54a.** The Oregon Health Authority shall report all information described in
26 section 54 of this 2019 Act that is made available to the public in a manner that is uniform
27 and sufficiently detailed to ensure accurate comparisons of the data between coordinated
28 care organizations.

29 **SECTION 54b.** The Oregon Health Authority shall make the information described in
30 section 54 of this 2019 Act available to the public, as required by section 54 (3) of this 2019
31 Act, no later than August 1, 2021.

32 **SECTION 54c.** (1) The Oregon Health Authority shall convene an advisory group con-
33 sisting of one representative from each coordinated care organization that contracts with
34 the authority. The advisory group shall recommend standards for reconciling the differences
35 between the financial reporting required by the National Association of Insurance Commis-
36 sioners and the financial reporting that the authority needs to regulate coordinated care
37 organizations as required by state and federal law.

38 (2) No later than September 15, 2020, the authority shall submit a report of the advisory
39 group's recommendations to the interim committees of the Legislative Assembly related to
40 health. The report must include:

41 (a) Recommendations for reducing redundant or duplicative reporting requirements; and

42 (b) Standard templates for any reporting required by the authority of financial informa-
43 tion that is in addition to the financial information reported in the National Association of
44 Insurance Commissioners' financial reporting requirements.

45 **SECTION 54d.** ORS 413.032 is amended to read:

- 1 413.032. (1) The Oregon Health Authority is established. The authority shall:
- 2 (a) Carry out policies adopted by the Oregon Health Policy Board;
- 3 (b) Administer the Oregon Integrated and Coordinated Health Care Delivery System established
- 4 in ORS 414.620;
- 5 (c) Administer the Oregon Prescription Drug Program;
- 6 (d) Develop the policies for and the provision of publicly funded medical care and medical as-
- 7 sistance in this state;
- 8 (e) Develop the policies for and the provision of mental health treatment and treatment of ad-
- 9 dictions;
- 10 (f) Assess, promote and protect the health of the public as specified by state and federal law;
- 11 (g) Provide regular reports to the board with respect to the performance of health services
- 12 contractors serving recipients of medical assistance, including reports of trends in health services
- 13 and enrollee satisfaction;
- 14 (h) Guide and support, with the authorization of the board, community-centered health initiatives
- 15 designed to address critical risk factors, especially those that contribute to chronic disease;
- 16 (i) Be the state Medicaid agency for the administration of funds from Titles XIX and XXI of the
- 17 Social Security Act and administer medical assistance under ORS chapter 414;
- 18 (j) In consultation with the Director of the Department of Consumer and Business Services, pe-
- 19 riodically review and recommend standards and methodologies to the Legislative Assembly for:
- 20 (A) Review of administrative expenses of health insurers;
- 21 (B) Approval of rates; and
- 22 (C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;
- 23 (k) Structure reimbursement rates for providers that serve recipients of medical assistance to
- 24 reward comprehensive management of diseases, quality outcomes and the efficient use of resources
- 25 and to promote cost-effective procedures, services and programs including, without limitation, pre-
- 26 ventive health, dental and primary care services, web-based office visits, telephone consultations and
- 27 telemedicine consultations;
- 28 (L) Guide and support community three-share agreements in which an employer, state or local
- 29 government and an individual all contribute a portion of a premium for a community-centered health
- 30 initiative or for insurance coverage;
- 31 (m) Develop, in consultation with the Department of Consumer and Business Services, one or
- 32 more products designed to provide more affordable options for the small group market;
- 33 (n) Implement policies and programs to expand the skilled, diverse workforce as described in
- 34 ORS 414.018 (4); and
- 35 (o) Implement a process for collecting the health outcome and quality measure data identified
- 36 by the Health Plan Quality Metrics Committee and report the data to the Oregon Health Policy
- 37 Board.
- 38 (2) The Oregon Health Authority is authorized to:
- 39 (a) Create an all-claims, all-payer database to collect health care data and monitor and evaluate
- 40 health care reform in Oregon and to provide comparative cost and quality information to consumers,
- 41 providers and purchasers of health care about Oregon's health care systems and health plan net-
- 42 works in order to provide comparative information to consumers.
- 43 (b) Develop uniform contracting standards for the purchase of health care, including the fol-
- 44 lowing:
- 45 (A) Uniform quality standards and performance measures;

1 (B) Evidence-based guidelines for major chronic disease management and health care services
2 with unexplained variations in frequency or cost;

3 (C) Evidence-based effectiveness guidelines for select new technologies and medical equipment;
4 and

5 (D) A statewide drug formulary that may be used by publicly funded health benefit plans.

6 (3) The enumeration of duties, functions and powers in this section is not intended to be exclu-
7 sive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Au-
8 thority by ORS 413.006 to 413.042 and 741.340 **and sections 1 to 52 of this 2019 Act** or by other
9 statutes.

10 **SECTION 55.** ORS 413.037 is amended to read:

11 413.037. (1) The Director of the Oregon Health Authority, each deputy director and authorized
12 representatives of the director may administer oaths, take depositions and issue subpoenas to compel
13 the attendance of witnesses and the production of documents or other written information necessary
14 to carry out the provisions of ORS 413.006 to 413.042 and 741.340 **and sections 1 to 52 of this 2019**
15 **Act.**

16 (2) If any person fails to comply with a subpoena issued under this section or refuses to testify
17 on matters on which the person lawfully may be interrogated, the director, deputy director or au-
18 thorized representative may follow the procedure set out in ORS 183.440 to compel obedience.

19 **SECTION 56.** ORS 413.181 is amended to read:

20 413.181. (1) The Department of Consumer and Business Services and the Oregon Health Au-
21 thority may enter into agreements governing the disclosure of information reported to the depart-
22 ment by insurers with certificates of authority to transact insurance in this state **and the**
23 **disclosure of information reported to the Oregon Health Authority by coordinated care or-**
24 **ganizations.**

25 (2) The authority may use information disclosed under subsection (1) of this section for the
26 purpose of carrying out ORS 413.032, 414.625, 414.635, 414.638, 414.645 and 414.651 **and sections 1**
27 **to 52 of this 2019 Act.**

28 **SECTION 57.** ORS 414.625, as amended by section 3, chapter 49, Oregon Laws 2018, is amended
29 to read:

30 414.625. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and re-
31 quirements for a coordinated care organization and shall integrate the criteria and requirements
32 into each contract with a coordinated care organization. Coordinated care organizations may be
33 local, community-based organizations or statewide organizations with community-based participation
34 in governance or any combination of the two. Coordinated care organizations may contract with
35 counties or with other public or private entities to provide services to members. The authority may
36 not contract with only one statewide organization. A coordinated care organization may be a single
37 corporate structure or a network of providers organized through contractual relationships. The cri-
38 teria and requirements adopted by the authority under this section must include, but are not limited
39 to, a requirement that the coordinated care organization:

40 (a) Have demonstrated experience and a capacity for managing financial risk and establishing
41 financial reserves.

42 (b) Meet the following minimum financial requirements:

43 (A) Maintain restricted reserves of \$250,000 plus an amount equal to 50 percent of the coordi-
44 nated care organization's total actual or projected liabilities above \$250,000.

45 (B) Maintain *[a net worth in an amount equal to at least five percent of the average combined re-*

1 *venue in the prior two quarters of the participating health care entities.] capital or surplus of not*
2 **less than \$2,500,000 and any additional amounts necessary to ensure the solvency of the co-**
3 **ordinated care organization, as specified by the authority by rules that are consistent with**
4 **ORS 731.554 (6), 732.225, 732.230 and 750.045.**

5 (C) Expend a portion of the annual net income or reserves of the coordinated care organization
6 that exceed the financial requirements specified in this paragraph on services designed to address
7 health disparities and the social determinants of health consistent with the coordinated care
8 organization's community health improvement plan and transformation plan and the terms and con-
9 ditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42
10 U.S.C. 1315).

11 (c) Operate within a fixed global budget and, by January 1, 2023, spend on primary care, as de-
12 fined in section 2, chapter 575, Oregon Laws 2015, at least 12 percent of the coordinated care
13 organization's total expenditures for physical and mental health care provided to members, except
14 for expenditures on prescription drugs, vision care and dental care.

15 (d) Develop and implement alternative payment methodologies that are based on health care
16 quality and improved health outcomes.

17 (e) Coordinate the delivery of physical health care, mental health and chemical dependency
18 services, oral health care and covered long-term care services.

19 (f) Engage community members and health care providers in improving the health of the com-
20 munity and addressing regional, cultural, socioeconomic and racial disparities in health care that
21 exist among the coordinated care organization's members and in the coordinated care organization's
22 community.

23 (2) In addition to the criteria and requirements specified in subsection (1) of this section, the
24 authority must adopt by rule requirements for coordinated care organizations contracting with the
25 authority so that:

26 (a) Each member of the coordinated care organization receives integrated person centered care
27 and services designed to provide choice, independence and dignity.

28 (b) Each member has a consistent and stable relationship with a care team that is responsible
29 for comprehensive care management and service delivery.

30 (c) The supportive and therapeutic needs of each member are addressed in a holistic fashion,
31 using patient centered primary care homes, behavioral health homes or other models that support
32 patient centered primary care and behavioral health care and individualized care plans to the extent
33 feasible.

34 (d) Members receive comprehensive transitional care, including appropriate follow-up, when en-
35 tering and leaving an acute care facility or a long term care setting.

36 (e) Members receive assistance in navigating the health care delivery system and in accessing
37 community and social support services and statewide resources, including through the use of certi-
38 fied health care interpreters and qualified health care interpreters, as those terms are defined in
39 ORS 413.550.

40 (f) Services and supports are geographically located as close to where members reside as possi-
41 ble and are, if available, offered in nontraditional settings that are accessible to families, diverse
42 communities and underserved populations.

43 (g) Each coordinated care organization uses health information technology to link services and
44 care providers across the continuum of care to the greatest extent practicable and if financially vi-
45 able.

1 (h) Each coordinated care organization complies with the safeguards for members described in
2 ORS 414.635.

3 (i) Each coordinated care organization convenes a community advisory council that meets the
4 criteria specified in ORS 414.627.

5 (j) Each coordinated care organization prioritizes working with members who have high health
6 care needs, multiple chronic conditions, mental illness or chemical dependency and involves those
7 members in accessing and managing appropriate preventive, health, remedial and supportive care
8 and services, including the services described in ORS 414.766, to reduce the use of avoidable emer-
9 gency room visits and hospital admissions.

10 (k) Members have a choice of providers within the coordinated care organization's network and
11 that providers participating in a coordinated care organization:

12 (A) Work together to develop best practices for care and service delivery to reduce waste and
13 improve the health and well-being of members.

14 (B) Are educated about the integrated approach and how to access and communicate within the
15 integrated system about a patient's treatment plan and health history.

16 (C) Emphasize prevention, healthy lifestyle choices, evidence-based practices, shared decision-
17 making and communication.

18 (D) Are permitted to participate in the networks of multiple coordinated care organizations.

19 (E) Include providers of specialty care.

20 (F) Are selected by coordinated care organizations using universal application and credentialing
21 procedures and objective quality information and are removed if the providers fail to meet objective
22 quality standards.

23 (G) Work together to develop best practices for culturally appropriate care and service delivery
24 to reduce waste, reduce health disparities and improve the health and well-being of members.

25 (L) Each coordinated care organization reports on outcome and quality measures adopted under
26 ORS 414.638 and participates in the health care data reporting system established in ORS 442.464
27 and 442.466.

28 (m) Each coordinated care organization uses best practices in the management of finances,
29 contracts, claims processing, payment functions and provider networks.

30 (n) Each coordinated care organization participates in the learning collaborative described in
31 ORS 413.259 (3).

32 (o) Each coordinated care organization has a governing body that complies with section 2,
33 chapter 49, Oregon Laws 2018, and that includes:

34 (A) At least one member representing persons that share in the financial risk of the organiza-
35 tion;

36 (B) A representative of a dental care organization selected by the coordinated care organization;

37 (C) The major components of the health care delivery system;

38 (D) At least two health care providers in active practice, including:

39 (i) A physician licensed under ORS chapter 677 or a nurse practitioner certified under ORS
40 678.375, whose area of practice is primary care; and

41 (ii) A mental health or chemical dependency treatment provider;

42 (E) At least two members from the community at large, to ensure that the organization's
43 decision-making is consistent with the values of the members and the community; and

44 (F) At least one member of the community advisory council.

45 (p) Each coordinated care organization's governing body establishes standards for publicizing

1 the activities of the coordinated care organization and the organization's community advisory
2 councils, as necessary, to keep the community informed.

3 (3) The authority shall consider the participation of area agencies and other nonprofit agencies
4 in the configuration of coordinated care organizations.

5 (4) In selecting one or more coordinated care organizations to serve a geographic area, the au-
6 thority shall:

7 (a) For members and potential members, optimize access to care and choice of providers;

8 (b) For providers, optimize choice in contracting with coordinated care organizations; and

9 (c) Allow more than one coordinated care organization to serve the geographic area if necessary
10 to optimize access and choice under this subsection.

11 (5) On or before July 1, 2014, each coordinated care organization must have a formal contractual
12 relationship with any dental care organization that serves members of the coordinated care organ-
13 ization in the area where they reside.

14 **SECTION 58.** ORS 414.625, as amended by section 14, chapter 489, Oregon Laws 2017, and
15 section 4, chapter 49, Oregon Laws 2018, is amended to read:

16 414.625. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and re-
17 quirements for a coordinated care organization and shall integrate the criteria and requirements
18 into each contract with a coordinated care organization. Coordinated care organizations may be
19 local, community-based organizations or statewide organizations with community-based participation
20 in governance or any combination of the two. Coordinated care organizations may contract with
21 counties or with other public or private entities to provide services to members. The authority may
22 not contract with only one statewide organization. A coordinated care organization may be a single
23 corporate structure or a network of providers organized through contractual relationships. The cri-
24 teria and requirements adopted by the authority under this section must include, but are not limited
25 to, a requirement that the coordinated care organization:

26 (a) Have demonstrated experience and a capacity for managing financial risk and establishing
27 financial reserves.

28 (b) Meet the following minimum financial requirements:

29 (A) Maintain restricted reserves of \$250,000 plus an amount equal to 50 percent of the coordi-
30 nated care organization's total actual or projected liabilities above \$250,000.

31 (B) Maintain *[a net worth in an amount equal to at least five percent of the average combined re-*
32 *venue in the prior two quarters of the participating health care entities.]* **capital or surplus of not**
33 **less than \$2,500,000 and any additional amounts necessary to ensure the solvency of the co-**
34 **ordinated care organization, as specified by the authority by rules that are consistent with**
35 **ORS 731.554 (6), 732.225, 732.230 and 750.045.**

36 (C) Expend a portion of the annual net income or reserves of the coordinated care organization
37 that exceed the financial requirements specified in this paragraph on services designed to address
38 health disparities and the social determinants of health consistent with the coordinated care
39 organization's community health improvement plan and transformation plan and the terms and con-
40 ditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42
41 U.S.C. 1315).

42 (c) Operate within a fixed global budget and spend on primary care, as defined by the authority
43 by rule, at least 12 percent of the coordinated care organization's total expenditures for physical
44 and mental health care provided to members, except for expenditures on prescription drugs, vision
45 care and dental care.

1 (d) Develop and implement alternative payment methodologies that are based on health care
2 quality and improved health outcomes.

3 (e) Coordinate the delivery of physical health care, mental health and chemical dependency
4 services, oral health care and covered long-term care services.

5 (f) Engage community members and health care providers in improving the health of the com-
6 munity and addressing regional, cultural, socioeconomic and racial disparities in health care that
7 exist among the coordinated care organization's members and in the coordinated care organization's
8 community.

9 (2) In addition to the criteria and requirements specified in subsection (1) of this section, the
10 authority must adopt by rule requirements for coordinated care organizations contracting with the
11 authority so that:

12 (a) Each member of the coordinated care organization receives integrated person centered care
13 and services designed to provide choice, independence and dignity.

14 (b) Each member has a consistent and stable relationship with a care team that is responsible
15 for comprehensive care management and service delivery.

16 (c) The supportive and therapeutic needs of each member are addressed in a holistic fashion,
17 using patient centered primary care homes, behavioral health homes or other models that support
18 patient centered primary care and behavioral health care and individualized care plans to the extent
19 feasible.

20 (d) Members receive comprehensive transitional care, including appropriate follow-up, when en-
21 tering and leaving an acute care facility or a long term care setting.

22 (e) Members receive assistance in navigating the health care delivery system and in accessing
23 community and social support services and statewide resources, including through the use of certi-
24 fied health care interpreters and qualified health care interpreters, as those terms are defined in
25 ORS 413.550.

26 (f) Services and supports are geographically located as close to where members reside as possi-
27 ble and are, if available, offered in nontraditional settings that are accessible to families, diverse
28 communities and underserved populations.

29 (g) Each coordinated care organization uses health information technology to link services and
30 care providers across the continuum of care to the greatest extent practicable and if financially vi-
31 able.

32 (h) Each coordinated care organization complies with the safeguards for members described in
33 ORS 414.635.

34 (i) Each coordinated care organization convenes a community advisory council that meets the
35 criteria specified in ORS 414.627.

36 (j) Each coordinated care organization prioritizes working with members who have high health
37 care needs, multiple chronic conditions, mental illness or chemical dependency and involves those
38 members in accessing and managing appropriate preventive, health, remedial and supportive care
39 and services, including the services described in ORS 414.766, to reduce the use of avoidable emer-
40 gency room visits and hospital admissions.

41 (k) Members have a choice of providers within the coordinated care organization's network and
42 that providers participating in a coordinated care organization:

43 (A) Work together to develop best practices for care and service delivery to reduce waste and
44 improve the health and well-being of members.

45 (B) Are educated about the integrated approach and how to access and communicate within the

1 integrated system about a patient's treatment plan and health history.

2 (C) Emphasize prevention, healthy lifestyle choices, evidence-based practices, shared decision-
3 making and communication.

4 (D) Are permitted to participate in the networks of multiple coordinated care organizations.

5 (E) Include providers of specialty care.

6 (F) Are selected by coordinated care organizations using universal application and credentialing
7 procedures and objective quality information and are removed if the providers fail to meet objective
8 quality standards.

9 (G) Work together to develop best practices for culturally appropriate care and service delivery
10 to reduce waste, reduce health disparities and improve the health and well-being of members.

11 (L) Each coordinated care organization reports on outcome and quality measures adopted under
12 ORS 414.638 and participates in the health care data reporting system established in ORS 442.464
13 and 442.466.

14 (m) Each coordinated care organization uses best practices in the management of finances,
15 contracts, claims processing, payment functions and provider networks.

16 (n) Each coordinated care organization participates in the learning collaborative described in
17 ORS 413.259 (3).

18 (o) Each coordinated care organization has a governing body that complies with section 2,
19 chapter 49, Oregon Laws 2018, and that includes:

20 (A) At least one member representing persons that share in the financial risk of the organiza-
21 tion;

22 (B) A representative of a dental care organization selected by the coordinated care organization;

23 (C) The major components of the health care delivery system;

24 (D) At least two health care providers in active practice, including:

25 (i) A physician licensed under ORS chapter 677 or a nurse practitioner certified under ORS
26 678.375, whose area of practice is primary care; and

27 (ii) A mental health or chemical dependency treatment provider;

28 (E) At least two members from the community at large, to ensure that the organization's
29 decision-making is consistent with the values of the members and the community; and

30 (F) At least one member of the community advisory council.

31 (p) Each coordinated care organization's governing body establishes standards for publicizing
32 the activities of the coordinated care organization and the organization's community advisory
33 councils, as necessary, to keep the community informed.

34 (3) The authority shall consider the participation of area agencies and other nonprofit agencies
35 in the configuration of coordinated care organizations.

36 (4) In selecting one or more coordinated care organizations to serve a geographic area, the au-
37 thority shall:

38 (a) For members and potential members, optimize access to care and choice of providers;

39 (b) For providers, optimize choice in contracting with coordinated care organizations; and

40 (c) Allow more than one coordinated care organization to serve the geographic area if necessary
41 to optimize access and choice under this subsection.

42 (5) On or before July 1, 2014, each coordinated care organization must have a formal contractual
43 relationship with any dental care organization that serves members of the coordinated care organ-
44 ization in the area where they reside.

45 **SECTION 59.** ORS 414.651 is amended to read:

1 414.651. (1)[(a)] The Oregon Health Authority shall use, to the greatest extent possible, coordi-
 2 nated care organizations to provide fully integrated physical health services, chemical dependency
 3 and mental health services and oral health services. This section, and any contract entered into
 4 pursuant to this section, does not affect and may not alter the delivery of Medicaid-funded long term
 5 care services.

6 [(b)] (2) The authority shall execute contracts with coordinated care organizations that meet the
 7 criteria adopted by the authority under ORS 414.625. Contracts under this subsection are not subject
 8 to ORS chapters 279A and 279B, except ORS 279A.250 to 279A.290 and 279B.235.

9 [(c)] (3)(a) The authority shall establish financial reporting requirements for coordinated care
 10 organizations, **consistent with ORS 731.574 and section 11 of this 2019 Act, no less than 90 days**
 11 **before the beginning of the reporting period.** The authority shall prescribe [*a reporting procedure*
 12 *that elicits sufficiently detailed information for the authority to assess the financial condition of each*
 13 *coordinated care organization and*] **requirements and procedures for financial reporting** that:

14 (A) [*Enables*] **Enable** the authority to verify that the coordinated care organization's **capital,**
 15 **surplus,** reserves and other financial resources are adequate to ensure against the risk of
 16 insolvency; [*and*]

17 (B) [*Includes*] **Include** information on the three highest executive salary and benefit packages
 18 of each coordinated care organization;

19 (C) **Require quarterly reports to be filed with the authority by May 31, August 31 and**
 20 **November 30;**

21 (D) **In addition to the annual audited financial statement required by section 11 of this**
 22 **2019 Act, require an annual report to be filed with the authority by April 30 following the end**
 23 **of the period for which data is reported; and**

24 (E) **Align, to the greatest extent practicable, with the National Association of Insurance**
 25 **Commissioners' reporting forms to reduce the administrative costs of coordinated care or-**
 26 **ganizations that are also regulated by the Department of Consumer and Business Services**
 27 **or have affiliates that are regulated by the department.**

28 (b) **The authority shall provide information to coordinated care organizations about the**
 29 **reporting standards of the National Association of Insurance Commissioners and provide**
 30 **training on the reporting standards to the staff of coordinated care organizations who will**
 31 **be responsible for compiling the reports.**

32 [(d)] (4) The authority shall hold coordinated care organizations, contractors and providers ac-
 33 countable for timely submission of outcome and quality data, including but not limited to data de-
 34 scribed in ORS 442.466, prescribed by the authority by rule.

35 [(e)] (5) The authority shall require compliance with the provisions of [*paragraphs (c) and (d)*
 36 *of this subsection*] **subsections (3) and (4) of this section** as a condition of entering into a contract
 37 with a coordinated care organization. A coordinated care organization, contractor or provider that
 38 fails to comply with [*paragraph (c) or (d) of this subsection*] **subsection (3) or (4) of this section**
 39 may be subject to sanctions, including but not limited to civil penalties, barring any new enrollment
 40 in the coordinated care organization and termination of the contract.

41 [(f)(A)] (6)(a) The authority shall adopt rules and procedures to ensure that if a rural health
 42 clinic provides a health service to a member of a coordinated care organization, and the rural health
 43 clinic is not participating in the member's coordinated care organization, the rural health clinic re-
 44 ceives total aggregate payments from the member's coordinated care organization, other payers on
 45 the claim and the authority that are no less than the amount the rural health clinic would receive

1 in the authority's fee-for-service payment system. The authority shall issue a payment to the rural
 2 health clinic in accordance with this subsection within 45 days of receipt by the authority of a
 3 completed billing form.

4 [(B)] (b) "Rural health clinic," as used in this [paragraph] **subsection**, shall be defined by the
 5 authority by rule and shall conform, as far as practicable or applicable in this state, to the definition
 6 of that term in 42 U.S.C. 1395x(aa)(2).

7 [(2)] (7) The authority may contract with providers other than coordinated care organizations
 8 to provide integrated and coordinated health care in areas that are not served by a coordinated care
 9 organization or where the organization's provider network is inadequate. Contracts authorized by
 10 this subsection are not subject to ORS chapters 279A and 279B, except ORS 279A.250 to 279A.290
 11 and 279B.235.

12 [(3)] (8) [As provided in subsections (1) and (2) of this section,] The aggregate expenditures by the
 13 authority for health services provided pursuant to ORS [414.631, 414.651 and 414.688 to 414.745]
 14 **chapter 414** may not exceed the total dollars appropriated for health services under ORS [414.631,
 15 414.651 and 414.688 to 414.745] **chapter 414**.

16 [(4)] (9) Actions taken by providers, potential providers, contractors and bidders in specific ac-
 17 cordance with ORS [414.631, 414.651, 414.654 and 414.688 to 414.745] **chapter 414** in forming con-
 18 sortiums or in otherwise entering into contracts to provide health care services shall be performed
 19 pursuant to state supervision and shall be considered to be conducted at the direction of this state,
 20 shall be considered to be lawful trade practices and may not be considered to be the transaction
 21 of insurance for purposes of the Insurance Code.

22 [(5)] (10) Health care providers contracting to provide services under ORS [414.631, 414.651 and
 23 414.688 to 414.745] **chapter 414** shall advise a patient of any service, treatment or test that is med-
 24 ically necessary but not covered under the contract if an ordinarily careful practitioner in the same
 25 or similar community would do so under the same or similar circumstances.

26 [(6)] (11) A coordinated care organization shall provide information to a member as prescribed
 27 by the authority by rule, including but not limited to written information, within 30 days of enroll-
 28 ment with the coordinated care organization about available providers.

29 [(7)] (12) Each coordinated care organization shall work to provide assistance that is culturally
 30 and linguistically appropriate to the needs of the member to access appropriate services and par-
 31 ticipate in processes affecting the member's care and services.

32 [(8)] (13) Each coordinated care organization shall provide upon the request of a member or
 33 prospective member annual summaries of the organization's aggregate data regarding:

- 34 (a) Grievances and appeals; and
- 35 (b) Availability and accessibility of services provided to members.

36 [(9)] (14) A coordinated care organization may not limit enrollment in a geographic area based
 37 on the zip code of a member or prospective member.

38 **SECTION 60.** ORS 414.652, as amended by section 5, chapter 49, Oregon Laws 2018, is amended
 39 to read:

40 414.652. (1) As used in this section:

41 (a) "Benefit period" means a period of time, shorter than the five-year contract term, for which
 42 specific terms and conditions in a contract between a coordinated care organization and the Oregon
 43 Health Authority are in effect.

44 (b) "Renew" means an agreement by a coordinated care organization to amend the terms or
 45 conditions of an existing contract for the next benefit period.

1 (2) A contract entered into between the authority and a coordinated care organization under
2 ORS 414.625 (1):

3 (a) Shall be for a term of five years;

4 (b) Except as provided in subsection (4) of this section, may not be amended more than once in
5 each 12-month period; and

6 (c) May be terminated by the authority if a coordinated care organization fails to meet outcome
7 and quality measures specified in the contract or is otherwise in breach of the contract.

8 (3) This section does not prohibit the authority from allowing a coordinated care organization
9 a reasonable amount of time in which to cure any failure to meet outcome and quality measures
10 specified in the contract prior to the termination of the contract.

11 (4) A contract entered into between the authority and a coordinated care organization may be
12 amended more than once in each 12-month period if:

13 (a) The authority and the coordinated care organization mutually agree to amend the contract;
14 or

15 (b) Amendments are necessitated by changes in federal or state law.

16 (5) Except as provided in subsection [(7)] (8) of this section, the authority must give a coordi-
17 nated care organization at least 60 days' advance notice of any amendments the authority proposes
18 to existing contracts between the authority and the coordinated care organization.

19 (6) An amendment to a contract may apply retroactively only if:

20 (a) The amendment does not result in a claim by the authority for the recovery of amounts paid
21 by the authority to the coordinated care organization prior to the date of the amendment; or

22 (b) The Centers for Medicare and Medicaid Services notifies the authority, in writing, that the
23 amendment is a condition for approval of the contract by the Centers for Medicare and Medicaid
24 Services.

25 **(7) If an amendment to a contract under subsection (6)(b) of this section or other cir-**
26 **cumstances arise that result in a claim by the authority for the recovery of amounts previ-**
27 **ously paid to a coordinated care organization by the authority, the authority shall ensure**
28 **that the recovery does not have a material adverse effect on the coordinated care**
29 **organization's ability to maintain the required minimum amounts of risk-based capital.**

30 [(7)] (8) No later than 134 days prior to the end of a benefit period, the authority shall provide
31 to each coordinated care organization notice of the proposed changes to the terms and conditions
32 of a contract, as will be submitted to the Centers for Medicare and Medicaid Services for approval,
33 for the next benefit period.

34 [(8)] (9) A coordinated care organization must notify the authority of the coordinated care
35 organization's refusal to renew a contract with the authority no later than 14 days after the au-
36 thority provides the notice described in subsection [(7)] (8) of this section. Except as provided in
37 subsections [(9) and (10)] (10) and (11) of this section, a refusal to renew terminates the contract
38 at the end of the benefit period.

39 [(9)] (10) The authority may require a contract to remain in force into the next benefit period
40 and be amended as proposed by the authority until 90 days after the coordinated care organization
41 has, in accordance with criteria prescribed by the authority:

42 (a) Notified each of its members and contracted providers of the termination of the contract;

43 (b) Provided to the authority a plan to transition its members to another coordinated care or-
44 ganization; and

45 (c) Provided to the authority a plan for closing out its coordinated care organization business.

1 [(10)] **(11)** The authority may waive compliance with the deadlines in subsections [(8) and] (9)
2 **and (10)** of this section if the Director of the Oregon Health Authority finds that the waiver of the
3 deadlines is consistent with the effective and efficient administration of the medical assistance pro-
4 gram and the protection of medical assistance recipients.

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