

Enrolled
House Bill 3159

Sponsored by Representative NOSSE; Representatives ALONSO LEON, CAMPOS, DEXTER, GRAYBER, MEEK, PHAM, POWER, PRUSAK, SALINAS, SANCHEZ, SCHOUTEN, VALDERRAMA, WILLIAMS, Senators GELSER, LIEBER

CHAPTER

AN ACT

Relating to data collection; creating new provisions; amending ORS 413.161; repealing sections 40, 41 and 43, chapter 12, Oregon Laws 2020 (first special session); and prescribing an effective date.

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

SECTION 1. (1) As used in sections 1 to 3 of this 2021 Act:

(a) "Board" means the:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;**
- (B) State Board of Chiropractic Examiners;**
- (C) State Board of Licensed Social Workers;**
- (D) Oregon Board of Licensed Professional Counselors and Therapists;**
- (E) Oregon Board of Dentistry;**
- (F) State Board of Massage Therapists;**
- (G) Oregon Board of Naturopathic Medicine;**
- (H) Oregon State Board of Nursing;**
- (I) Oregon Board of Optometry;**
- (J) State Board of Pharmacy;**
- (K) Oregon Medical Board;**
- (L) Occupational Therapy Licensing Board;**
- (M) Oregon Board of Physical Therapy;**
- (N) Oregon Board of Psychology;**
- (O) Board of Medical Imaging;**
- (P) Long Term Care Administrators Board;**
- (Q) State Board of Direct Entry Midwifery;**
- (R) State Board of Denture Technology;**
- (S) Respiratory Therapist and Polysomnographic Technologist Licensing Board;**
- (T) Board of Licensed Dietitians; and**
- (U) Oregon Health Authority, to the extent that the authority:**
 - (i) Licenses emergency medical services providers under ORS 682.216; and**
 - (ii) Regulates traditional health workers under ORS 414.665.**
- (b) "Coordinated care organization" has the meaning given that term in ORS 414.025.**
- (c) "Health care provider" means an individual licensed, certified, registered or otherwise authorized to practice by a board.**
- (d) "Health insurer" has the meaning given that term in ORS 746.600.**

(2) At least once each calendar year and in accordance with timelines established by the authority by rule, a coordinated care organization, a health care provider or health care provider's designee, or a health insurer shall collect data on race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity from the coordinated care organization's, health care provider's or health insurer's patients, clients and members, in accordance with standards adopted by the authority pursuant to ORS 413.161. A coordinated care organization, health care provider or health insurer shall submit the data to the authority in the manner prescribed by the authority by rule.

(3)(a) The authority shall adopt rules, including but not limited to rules:

(A) Establishing standards for collecting, securely transmitting and reporting the data described in subsection (2) of this section;

(B) Establishing the timelines for collection and submission of data described in subsection (2) of this section;

(C) Permitting coordinated care organizations, health care providers and health insurers to report to the authority that a patient, client or member refused to answer questions regarding race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity;

(D) Establishing criteria for extensions of timelines established under this subsection and a process for reviewing requests for extensions; and

(E) Establishing criteria for exempting certain health care providers or classes of health care providers from the requirements of subsection (2) of this section and a process for reviewing requests for exemptions.

(b) In adopting rules under subsection (2) of this section, the authority shall:

(A) Consult with the advisory committee established under ORS 413.161;

(B) Allow coordinated care organizations, health care providers and health insurers to collect the data described in subsection (2) of this section on electronic or paper forms; and

(C) Require coordinated care organizations, health care providers and health insurers to inform patients, clients and members:

(i) That data collected under subsection (2) of this section is reported to the authority;

(ii) How the authority, coordinated care organization, health care provider and health insurer use the data;

(iii) Of the purposes for which the data may not be used; and

(iv) That the patient, client or member is not required to answer questions regarding race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity.

(4) Data collected under this section is confidential and not subject to disclosure under ORS 192.311 to 192.478. The authority may release the data collected under this section only if the data to be released is anonymized and aggregated so that the data released does not reasonably allow an individual whose information is included in the data to be identified.

(5) A coordinated care organization or health insurer transacting insurance in this state may not consider any data collected under subsection (2) of this section:

(a) In determining whether to deny, limit, cancel, rescind or refuse to renew an insurance policy;

(b) To establish premium rates for an insurance policy; or

(c) To establish the terms and conditions of an insurance policy.

(6) The authority may provide incentives to coordinated care organizations, health care providers and health insurers to assist in deferring the costs of making changes to electronic health records systems or similar systems to facilitate the collection of data described in subsection (2) of this section.

(7)(a) The authority shall monitor coordinated care organizations, health care providers and health insurers for compliance with the standards established under subsection (1) of this section.

(b) The authority may impose on a coordinated care organization, health care provider or health insurer a civil penalty for a violation of the requirements of this section or rules adopted under this section:

- (A) Not to exceed \$200 for the first violation;
- (B) Not to exceed \$400 for the second violation; and
- (C) Not to exceed \$500 for the third and subsequent violations.

(c) Prior to imposing a penalty under paragraph (b) of this subsection, the authority shall provide notice to the coordinated care organization, health care provider or health insurer of the alleged violation and provide the coordinated care organization, health care provider or health insurer a reasonable time in which to correct the violation.

SECTION 2. The Oregon Health Authority shall establish a data system for data on race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity collected under section 1 of this 2021 Act. The data system established under this section must include:

(1) A data registry to receive and store the data described in this section from coordinated care organizations, health care providers and health insurers, patients, clients and members of coordinated care organizations, health care providers and health insurers, the authority and the Department of Human Services. The registry must allow for coordinated care organizations, health care providers and health insurers to:

- (a) Electronically submit data collected under section 1 of this 2021 Act; and
- (b) Query the data registry to determine whether the registry contains current data for a patient, member or client.

(2) Functionality that allows a patient, member or client to directly submit to the data system their data described in this section.

SECTION 3. No later than June 1, 2022, and every two years thereafter, the Oregon Health Authority shall report to the appropriate committees of the Legislative Assembly in the manner provided in ORS 192.245 on the implementation of sections 1 and 2 of this 2021 Act. The report must include, but is not limited to:

- (1) A description of uniform standards for data collection and implementation of the standards; and
- (2) The challenges to implementing the standards and plan for addressing the challenges.

SECTION 4. (1) The Oregon Health Authority shall develop and administer a grant program to provide funding for the purpose of supporting safe data collection by community health organizations and community-based groups with demonstrated experience serving tribal communities, communities of color, LGBTQ+ people, people with disabilities, people who speak primary languages other than English and other underserved populations. An entity described in this subsection that receives a grant under this section shall provide culturally responsive, trauma-informed trainings on the collection of the data described in section 1 (2) of this 2021 Act.

(2) The authority shall adopt rules to carry out this section.

SECTION 5. ORS 413.161 is amended to read:

413.161. (1) The Oregon Health Authority, in collaboration with the Department of Human Services, shall adopt by rule uniform standards, based on local, statewide and national best practices, for the collection of data on race, ethnicity, preferred spoken and written languages [*and*], disability status, **sexual orientation and gender identity**. The authority and the department shall use the standards, to the greatest extent practicable, in surveys conducted and in all programs in which the authority or the department collects, records or reports [*such*] **the data described in this subsection**. The authority and the department shall review and update the standards at least once every two years to ensure that the standards are efficient, uniform and consistent with best practices.

(2) The authority shall appoint an advisory committee in accordance with ORS 183.333 composed of individuals likely to be affected by the standards and advocates for individuals likely to be affected by the standards.

SECTION 6. Sections 40, 41 and 43, chapter 12, Oregon Laws 2020 (first special session), are repealed on January 1, 2023.

SECTION 7. (1) Not later than the operative date specified in section 11 (1) of this 2021 Act, the Oregon Health Authority shall establish a date by which a coordinated care organization, health care provider and health insurer, as those terms are defined in section 1 of this 2021 Act, shall begin collecting and reporting the data described in section 1 (2) of this 2021 Act.

(2) The authority may not impose a civil penalty on a coordinated care organization, health care provider or health insurer until the authority has established a process for submission of the data described in section 1 (2) of this 2021 Act and the data system described in section 2 of this 2021 Act.

SECTION 8. Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Health Authority by section 1 (3), chapter __, Oregon Laws 2021 (Enrolled House Bill 5024), for the biennium beginning July 1, 2021, for central services, state assessments and enterprise-wide costs, is increased by \$9,768,195, for the purposes of carrying out sections 1 to 5 of this 2021 Act.

SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (3), chapter __, Oregon Laws 2021 (Enrolled House Bill 5024), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, tobacco tax receipts, marijuana tax receipts, beer and wine tax receipts, provider taxes and Medicare receipts, but excluding lottery funds and federal funds not described in section 2, chapter __, Oregon Laws 2021 (Enrolled House Bill 5024), collected or received by the Oregon Health Authority, for central services, state assessments and enterprise-wide costs, is increased by \$5,624,767, for the purposes of carrying out sections 1 to 5 of this 2021 Act.

SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 5 (3), chapter __, Oregon Laws 2021 (Enrolled House Bill 5024), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter __, Oregon Laws 2021 (Enrolled House Bill 5024), collected or received by the Oregon Health Authority, for central services, state assessments and enterprise-wide costs, is increased by \$2,842,387, for the purposes of carrying out sections 1 to 5 of this 2021 Act.

SECTION 11. (1) Sections 1 to 4 of this 2021 Act become operative on January 1, 2022.

(2) The amendments to ORS 413.161 by section 5 of this 2021 Act become operative on July 1, 2022.

(3) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by sections 1 to 4 of this 2021 Act and the amendments to ORS 413.161 by section 5 of this 2021 Act.

SECTION 12. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 24, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State