HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2009

By COMMITTEE ON HEALTH CARE

April 28

1 On page 1 of the printed A-engrossed bill, line 7, after "161.390," insert "163.206,".
2 On page 2, line 6, delete "414.536,".
3 In line 7, delete "414.706,".
4 On page 3, line 1, delete "442.045," and after "442.502," insert "442.584,".
5 In line 34, delete "731.216," and delete "731.840," and insert "731.988,".
6 In line 35, delete "735.700," and delete "743.736, 743.737,".
7 In line 36, delete "743.745, 743.760, 743.767, 743.807, 743.814, 743.817,".
8 In line 39, delete "sections 1,".
9 In line 40, delete "2, 5, 8, 10, 14 and 51, chapter 736, Oregon Laws 2003,".
10 In line 45, after "430.190," insert "442.035, 442.045, 442.057," and delete "4,".
11 On page 4, delete lines 1 through 3 and insert "10 and 13, chapter 810, Oregon Laws 2003; ap-
12 propriating money; and declaring an emergency.".
13 Delete lines 31 through 35 and insert:
14 "**NOTE:** Section 3 was deleted by amendment. Subsequent sections were not renumbered.".
15 On page 6, after line 29, insert:
16 "(c) The Health Care Workforce Committee shall conduct an inventory of all grants and other
17 state resources available for addressing the need to expand the health care workforce to meet the
18 needs of Oregonians for health care.".
19 After line 34, insert:
20 "**SECTION 7a. There is established in the State Treasury, separate and distinct from the
21 General Fund, the Health Care Workforce Strategic Fund. The fund shall consist of moneys
22 obtained from federal and private sources as well as any moneys appropriated to the fund
23 by the Legislative Assembly. Moneys in the fund are continuously appropriated to the Oregon
24 Health Authority to meet the goals established by the Health Care Workforce Committee
25 established pursuant to section 7 of this 2009 Act.**".
26 On page 7, line 33, delete "Approve" and insert "Develop and submit a plan to the Legislative
27 Assembly by December 31, 2010, with recommended".
28 Delete lines 35 through 37 and insert:
29 "(L) Develop and submit a plan to the Legislative Assembly by December 31, 2010, with recom-
30 mendations for the development of a publicly owned health benefit plan that operates in the ex-
31 change under the same rules and regulations as all health insurance plans offered through the
32 exchange, including fully allocated fixed and variable operating and capital costs.".
33 On page 8, after line 2, insert:
34 "(n) Meet cost-containment goals by structuring reimbursement rates to reward comprehensive
35 management of diseases, quality outcomes and the efficient use of resources by promoting cost-

effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations.

"(o) Oversee the expenditure of moneys from the Health Care Workforce Strategic Fund to support grants to primary care providers and rural health practitioners, to increase the number of primary care educators and to support efforts to create and develop career ladder opportunities.".

In line 35, delete "behavioral".

Delete line 39.

In line 41, delete "adopt by rule standards and methodologies for:" and delete lines 42 through 44 and insert "propose recommended standards and methodologies to the Seventy-sixth Legislative Assembly for:

"(A) Review of administrative expenses of health insurers;

"(B) Approval of rates; and

"(C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;

"(j) Structure reimbursement rates for providers that serve recipients of medical assistance to reward comprehensive management of diseases, quality outcomes and the efficient use of resources and to promote cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations;

"(k) Guide and support community three-share agreements in which an employer, state or local government and an individual all contribute a portion of a premium for a community-centered health initiative or for insurance coverage; and

"(L) Develop, in consultation with the Department of Consumer and Business Services and the Insurance Division Advisory Committee, one or more products designed to provide more affordable options for the small group market.".

On page 9, line 1, after "all-claims" insert ", all-payer".

In line 12, delete "for use" and insert "that may be used".

Delete lines 30 through 34 and insert:

"(3) The director shall have the power to:

"(a) Contract for and procure, on a fee or part-time basis, or both, such actuarial, technical or other professional services as may be required for the discharge of duties.

"(b) Obtain such other services as the director considers necessary or desirable, including participation in organizations of state insurance supervisory officials and appointment of advisory committees. A member of an advisory committee so appointed shall receive no compensation for services as a member, but, subject to any other applicable law regulating travel and other expenses of state officers, shall receive actual and necessary travel and other expenses incurred in the performance of official duties.

"(4) The director may apply for, receive and accept grants, gifts or other payments, including property or services from any governmental or other public or private person and may make arrangement for the use of the receipts, including the undertaking of special studies and other projects relating to the costs of health care, access to health care, public health and health care reform.

"**NOTE:** Section 12 was deleted by amendment. Subsequent sections were not renumbered.".

On page 11, line 16, delete "all" and insert "consideration".

Delete lines 31 and 32 and insert:

"(H) Maximizing the participation of private insurance plans offered through the exchange.

“(I) Determining how to ensure that employees of small employers, and part time and seasonal workers will have access to portability plans.”.

On page 12, line 10, delete “the following purposes:”.

Delete lines 11 through 18.

In line 19, delete “(5) Paying the costs of”.

On page 13, line 4, delete both commas and after the first “Board” insert “and”.

Delete line 5.

In line 6, delete “gram”.

Delete lines 11 through 45.

On page 14, delete lines 1 through 28 and insert:

“(4) All of the duties, functions and powers of the Office of Private Health Partnerships, including the administration of the Family Health Insurance Assistance Program, are imposed upon, transferred to and vested in the Oregon Health Authority.

“(5) The Oregon Health Policy Commission is abolished. On the operative date of this section, the tenure of office of the members of the Oregon Health Policy Commission ceases. All the duties, functions and powers of the Oregon Health Policy Commission are imposed upon, transferred to and vested in the Oregon Health Authority.

“(6) The directors of the Department of Human Services, the Oregon Department of Administrative Services and the Department of Consumer and Business Services and the Administrator of the Office of Private Health Partnerships shall work together to establish a timeline and to implement the transfer of duties, functions and powers pursuant to this section.

“(7) All changes necessary to accomplish this section shall be completed by June 30, 2011. When developing the 2011-2013 biennial budget, the Governor′s budget shall reflect the implementation of the provisions of this section.

“**SECTION 20. On or before January 2, 2012, the Department of Human Services and the Oregon Health Authority may delegate to each other any duties, functions or powers transferred by section 19 of this 2009 Act that the department or the authority deem necessary for the efficient and effective operation of their respective functions.**

“**SECTION 21. (1) No later than June 30, 2011, the Department of Human Services, the Oregon Department of Administrative Services, the Department of Consumer and Business Services, the Office of Private Health Partnerships and the Oregon Health Policy Commission shall:**

“(a) Deliver to the Oregon Health Authority all records and property within the jurisdiction of the departments and the office that relate to the duties, functions and powers transferred by section 19 of this 2009 Act; and

“(b) Transfer to the Oregon Health Authority those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 19 of this 2009 Act.

“(2) The Director of the Oregon Health Authority shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 19 of this 2009 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law. With respect to any employees transferred to the Oregon Health Authority under this section who are, on the effective date of this 2009 Act, represented by a labor organization or covered by a collective bargaining agreement, the authority shall recognize the labor organization as the collective bargaining representative for the employees and shall

adopt and apply the terms of the collective bargaining agreement covering the employees.

"(3) The Governor shall resolve any dispute between the Department of Human Services, the Department of Consumer and Business Services, the Oregon Department of Administrative Services, the Office of Private Health Partnerships or the Oregon Health Policy Commission and the Oregon Health Authority relating to transfers of records, property and employees under this section, and the Governor's decision is final.

"**(Effect on Actions, Proceedings and Prosecutions)**

"**SECTION 22. The transfer of duties, functions and powers to the Oregon Health Authority by section 19 of this 2009 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Health Authority is substituted for the Department of Human Services, the Oregon Department of Administrative Services, the Department of Consumer and Business Services, the Office of Private Health Partnerships or the Oregon Health Policy Commission in the action, proceeding or prosecution.**

"**(Effect on Liabilities, Duties and Obligations)**

"**SECTION 23. (1) Nothing in sections 19 to 22 of this 2009 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 19 of this 2009 Act. The Oregon Health Authority may undertake the collection or enforcement of any such liability, duty or obligation.**

"(2) The rights and obligations of the Department of Human Services, the Oregon Department of Administrative Services, the Department of Consumer and Business Services, the Office of Private Health Partnerships and the Oregon Health Policy Commission legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2009 Act and with respect to the duties, functions and powers transferred by section 19 of this 2009 Act are transferred to the Oregon Health Authority. For the purpose of succession to these rights and obligations, the Oregon Health Authority is a continuation of the Department of Human Services, the Oregon Department of Administrative Services, the Department of Consumer and Business Services, the Office of Private Health Partnerships and the Oregon Health Policy Commission and not a new authority.

"**SECTION 23a. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the Department of Human Services, the Oregon Department of Administrative Services, the Department of Consumer and Business Services, the Office of Private Health Partnerships or the Oregon Health Policy Commission or an executive, officer or employee of the departments, office or commission, with respect to the duties, functions and powers transferred by section 19 of this 2009 Act, the reference is considered to be a reference to the Oregon Health Authority Board, the Oregon Health Authority or an executive, officer or employee of the Oregon Health Authority.**".

In line 32, delete "23" and insert "23b" and after "insurers" delete the rest of the line and line 33.

In line 34, delete "the direction of the Oregon Health Authority" and insert "working under the

direction of the Oregon Health Authority and the Department of Consumer and Business Services pursuant to section 9 (1)(j) of this 2009 Act or participating in the Oregon Health Insurance Exchange created under section 17b of this 2009 Act".

Delete lines 38 through 45 and delete pages 15 through 22.

On page 23, delete line 1 and insert:

"**NOTE:** Sections 24 to 54 were deleted by amendment. Subsequent sections were not renumbered.".

On page 196, after line 14, insert:

"**SECTION 344a.** ORS 414.839 is amended to read:

"414.839. (1) Subject to funds available, the [*Department of Human Services*] **Oregon Health Authority** may provide public subsidies for the purchase of health insurance coverage provided by public programs or private insurance, including but not limited to the Family Health Insurance Assistance Program, for currently uninsured individuals based on incomes up to 200 percent of the federal poverty level. The objective is to create a transition from dependence on public programs to privately financed health insurance.

"(2) Public subsidies shall apply only to health benefit plans that meet or exceed the basic benchmark health benefit plan or plans established under ORS 735.733.

"(3) Cost sharing shall be permitted and structured in such a manner to encourage appropriate use of preventive care and avoidance of unnecessary services.

"(4) Cost sharing shall be based on an individual's ability to pay and may not exceed the cost of purchasing a plan.

"(5) The state may pay a portion of the cost of the subsidy, based on the individual's income and other resources.".

On page 397, delete lines 32 through 45.

On page 398, delete lines 1 through 12 and insert:

"**NOTE:** Section 750 was deleted by amendment. Subsequent sections were not renumbered.".

On page 561, delete lines 37 through 45.

On page 562, delete lines 1 through 9 and insert:

"**NOTE:** Section 1116 was deleted by amendment. Subsequent sections were not renumbered.".

In line 19, delete "eight" and insert "seven".

In line 21, restore the bracketed material and delete the boldfaced material.

In line 22, delete "shall be a member" and insert "and the Director of the Oregon Health Authority or the director's designee shall be members".

On page 564, delete lines 38 through 45.

On page 565, delete lines 1 through 19 and insert:

"**NOTE:** Section 1122 was deleted by amendment. Subsequent sections were not renumbered.".

Delete line 31 and insert:

"(2) All moneys in the".

On page 567, delete lines 15 through 45 and delete pages 568 through 578.

On page 579, delete lines 1 through 37 and insert:

"**NOTE:** Sections 1129 to 1136 were deleted by amendment. Subsequent sections were not renumbered.".

On page 593, after line 37, insert:

"**PATIENT CENTERED PRIMARY CARE HOME PROGRAM**

"**SECTION 1163. (1) There is established in the Office for Oregon Health Policy and Research the patient centered primary care home program. Through this program, the office shall:**

"(a) Define core attributes of the patient centered primary care home to promote a reasonable level of consistency of services provided by patient centered primary care homes in this state. In defining core attributes related to ensuring that care is coordinated, the office shall focus on determining whether these patient centered primary care homes offer comprehensive primary care, including prevention and disease management services;

"(b) Establish a simple and uniform process to identify patient centered primary care homes that meet the core attributes defined by the office under paragraph (a) of this subsection;

"(c) Develop uniform quality measures that build from nationally accepted measures and allow for standard measurement of patient centered primary care home performance;

"(d) Develop uniform quality measures for acute care hospital and ambulatory services that align with the patient centered primary care home quality measures developed under paragraph (c) of this subsection; and

"(e) Develop policies that encourage the retention of, and the growth in the numbers of, primary care providers.

"(2)(a) The Director of the Oregon Health Authority shall appoint an advisory committee to advise the office in carrying out subsection (1) of this section.

"(b) The director shall appoint to the advisory committee 15 individuals who represent a diverse constituency and are knowledgeable about patient centered primary care home delivery systems and health care quality.

"(c) Members of the advisory committee are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds appropriated to the office for the purposes of the advisory committee.

"(d) The advisory committee shall use public input to guide policy development.

"(3) The office will also establish, as part of the patient centered primary care home program, a learning collaborative in which state agencies, private health insurance carriers, third party administrators and patient centered primary care homes can:

"(a) Share information about quality improvement;

"(b) Share best practices that increase access to culturally competent and linguistically appropriate care;

"(c) Share best practices that increase the adoption and use of the latest techniques in effective and cost-effective patient centered care;

"(d) Coordinate efforts to develop and test methods to align financial incentives to support patient centered primary care homes;

"(e) Share best practices for maximizing the utilization of patient centered primary care homes by individuals enrolled in medical assistance programs, including culturally specific and targeted outreach and direct assistance with applications to adults and children of racial, ethnic and language minority communities and other underserved populations;

"(f) Coordinate efforts to conduct research on patient centered primary care homes and evaluate strategies to implement the patient centered primary care home to improve health

1 **status and quality and reduce overall health care costs; and**

2 **"(g) Share best practices for maximizing integration to ensure that patients have access**
3 **to comprehensive primary care, including preventative and disease management services.**

4 **"(4) The Legislative Assembly declares that collaboration among public payers, private**
5 **health carriers, third party purchasers and providers to identify appropriate reimbursement**
6 **methods to align incentives in support of patient centered primary care homes is in the best**
7 **interest of the public. The Legislative Assembly therefore declares its intent to exempt from**
8 **state antitrust laws, and to provide immunity from federal antitrust laws, the collaborative**
9 **and associated payment reforms designed and implemented under subsection (3) of this sec-**
10 **tion that might otherwise be constrained by such laws. The Legislative Assembly does not**
11 **authorize any person or entity to engage in activities or to conspire to engage in activities**
12 **that would constitute per se violations of state or federal antitrust laws including, but not**
13 **limited to, agreements among competing health care providers or health carriers as to the**
14 **prices of specific levels of reimbursement for health care services.**

15 **"(5) The office may contract with a public or private entity to facilitate the work of the**
16 **learning collaborative described in subsection (3) of this section and may apply for, receive**
17 **and accept grants, gifts, payments and other funds and advances, appropriations, properties**
18 **and services from the United States, the State of Oregon or any governmental body or**
19 **agency or from any other public or private corporation or person for the purpose of estab-**
20 **lishing and maintaining the collaborative.**

21 "**SECTION 1164. (1) As funds are available, the Oregon Health Authority may provide**
22 **reimbursement in the state's medical assistance program for services provided by patient**
23 **centered primary care homes. If practicable, efforts to align financial incentives to support**
24 **patient centered primary care homes for enrollees in medical assistance programs should be**
25 **aligned with efforts of the learning collaborative described in section 1163 (3)(d) of this 2009**
26 **Act.**

27 **"(2) The authority may reimburse patient centered primary care homes for interpretive**
28 **services provided to people in the state's medical assistance programs if interpretive services**
29 **qualify for federal financial participation.**

30 **"(3) The authority shall require patient centered primary care homes receiving these**
31 **reimbursements to report on quality measures described in section 1163 (1)(c) of this 2009**
32 **Act.**

33 "**SECTION 1165. (1) The Oregon Health Authority, in collaboration with health insurers**
34 **and purchasers of health plans including the Public Employees' Benefit Board, the Oregon**
35 **Educators Benefit Board and other members of the patient centered primary care home**
36 **learning collaborative and the patient centered primary care home program advisory com-**
37 **mittee, shall:**

38 **"(a) Develop, test and evaluate strategies that reward enrollees in publicly funded health**
39 **plans for:**

40 **"(A) Receiving care through patient centered primary care homes that meet the core**
41 **attributes established in section 1163 of this 2009 Act;**

42 **"(B) Seeking preventative and wellness services;**

43 **"(C) Practicing healthy behaviors; and**

44 **"(D) Effectively managing chronic diseases.**

45 **"(b) Develop, test and evaluate community-based strategies that utilize community**

1 **health workers to enhance the culturally competent and linguistically appropriate health**
2 **services provided by patient centered primary care homes in underserved communities.**
3 **"(2) The authority shall focus on patients with chronic health conditions in developing**
4 **strategies under this section.**
5 **"(3) The authority, in collaboration with the Public Employees′ Benefit Board and the**
6 **Oregon Educators Benefit Board, shall establish uniform standards for contracts with health**
7 **benefit plans providing coverage to public employees to promote the provision of patient**
8 **centered primary care homes, especially for enrollees with chronic medical conditions, that**
9 **are consistent with the uniform quality measures established by the Office for Oregon Health**
10 **Policy and Research under section 1163 (1)(c) of this 2009 Act.**
11 **"(4) The standards established under subsection (3) of this section may direct health**
12 **benefit plans to provide incentives to primary care providers who serve vulnerable popu-**
13 **lations to partner with health-focused community-based organizations to provide culturally**
14 **specific health promotion and disease management services.**
15 "**<u>SECTION 1166.</u> (1) There is created in the Oregon Health Authority the Statewide**
16 **Health Improvement Program to support evidence-based community efforts to prevent**
17 **chronic disease and reduce the utilization of expensive and invasive acute treatments. The**
18 **program is composed of activities described in subsections (2) and (3) of this section.**
19 **"(2) The authority shall establish aggressive goals for the reduction of tobacco use,**
20 **obesity and other chronic disease risk factors. The authority shall collaborate with schools,**
21 **employers and community organizations to develop and implement a strategic plan to achieve**
22 **the goals.**
23 **"(3)(a) The authority shall award one or more grants to support community-based pri-**
24 **mary and secondary prevention activities focused on chronic diseases, and in line with the**
25 **goals of the Statewide Health Improvement Program.**
26 **"(b) To receive a grant under this subsection, an applicant must submit a proposal that:**
27 **"(A) Includes outside funding of at least 10 percent of the total funding required;**
28 **"(B) Is developed with community input, including the input of communities most af-**
29 **fected by health disparities;**
30 **"(C) Involves a range of community partners, including a range of multicultural com-**
31 **munity providers;**
32 **"(D) Is evidence-based;**
33 **"(E) Reduces health disparities among populations; and**
34 **"(F) Contains performance criteria and measurable outcomes to demonstrate, including**
35 **for communities most affected by health disparities as well as for individuals who are par-**
36 **ticipating in the community-based primary and secondary activity proposal, improvements**
37 **in population health status and health education and a reduction of chronic disease risk**
38 **factors.**
39
40 "**HEALTH INFORMATION TECHNOLOGY OVERSIGHT COUNCIL**
41
42 "**<u>SECTION 1167.</u> As used in sections 1167 to 1173 of this 2009 Act:**
43 **"(1) 'Electronic health exchange' means the electronic movement of health-related in-**
44 **formation among health care providers according to nationally recognized interoperability**
45 **standards.**

"(2) 'Electronic health record' means an electronic record of an individual's health-related information that conforms to nationally recognized interoperability standards and that can be created, managed and consulted by authorized clinicians and staff across more than one health care provider.

"(3) 'Health care provider' or 'provider' means a person who is licensed, certified or otherwise authorized by law in this state to administer health care in the ordinary course of business or in the practice of a health care profession.

"(4) 'Health information technology' means an information processing application using computer hardware and software for the storage, retrieval, sharing and use of health care information, data and knowledge for communication, decision-making, quality, safety and efficiency of a clinical practice. 'Health information technology' includes, but is not limited to:

"(a) An electronic health exchange.

"(b) An electronic health record.

"(c) A personal health record.

"(d) An electronic order from a provider for diagnosis, treatment or prescription drugs.

"(e) An electronic decision support system used to:

"(A) Assist providers in making clinical decisions by providing electronic alerts or reminders;

"(B) Improve compliance with best health care practices;

"(C) Promote regular screenings and other preventive health practices; or

"(D) Facilitate diagnoses and treatments.

"(f) Tools for the collection, analysis and reporting of information or data on adverse events, the quality and efficiency of care, patient satisfaction and other health care related performance measures.

"(5) 'Interoperability' means the capacity of two or more information systems to exchange information or data in an accurate, effective, secure and consistent manner.

"(6) 'Personal health record' means an individual's electronic health record that conforms to nationally recognized interoperability standards and that can be drawn from multiple sources while being managed, shared and controlled by the individual.

"**SECTION 1168. (1) There is established a Health Information Technology Oversight Council within the Oregon Health Authority, consisting of 11 members appointed by the Governor.**

"(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

"(3) The appointment of the Health Information Technology Oversight Council is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

"(4) A member of the Health Information Technology Oversight Council is not entitled to compensation for services as a member, but is entitled to expenses as provided in ORS 292.495 (2). Claims for expenses incurred in performing the functions of the council shall be paid out of funds appropriated to the Oregon Health Authority for that purpose.

"**SECTION 1169. Notwithstanding the term of office specified by section 1168 of this 2009**

1 **Act, of the members first appointed to the Health Information Technology Oversight Council:**
2 **"(1) Two shall serve for terms ending January 1, 2011.**
3 **"(2) Three shall serve for terms ending January 1, 2012.**
4 **"(3) Three shall serve for terms ending January 1, 2013.**
5 **"(4) Three shall serve for terms ending January 1, 2014.**
6 "**SECTION 1170.** **The members of the Health Information Technology Oversight Council**
7 **must be residents of this state from both the public and private sectors who are well in-**
8 **formed in the areas of health information technology, health care delivery, health policy and**
9 **health research. The membership must reflect the geographic diversity of Oregon and must**
10 **include consumers and providers of health care and privacy and information technology ex-**
11 **perts.**
12 "**SECTION 1171.** **The duties of the Health Information Technology Oversight Council are**
13 **to:**
14 **"(1) Set specific health information technology goals and develop a strategic health in-**
15 **formation technology plan for this state.**
16 **"(2) Monitor progress in achieving the goals established in subsection (1) of this section**
17 **and provide oversight for the implementation of the strategic health information technology**
18 **plan.**
19 **"(3) Maximize the distribution of resources expended on health information technology**
20 **across this state.**
21 **"(4) Create and provide oversight for a public-private purchasing collaborative or alter-**
22 **native mechanism to help small health care practices, primary care providers, rural provid-**
23 **ers and providers whose practices include a large percentage of medical assistance recipients**
24 **to obtain affordable rates for high-quality electronic health records hardware, software and**
25 **technical support for planning, installation, use and maintenance of health information**
26 **technology.**
27 **"(5) Identify and select the industry standards for all health information technology**
28 **promoted by the purchasing collaborative described in subsection (4) of this section, includ-**
29 **ing standards for:**
30 **"(a) Selecting, supporting and monitoring health information technology vendors, hard-**
31 **ware, software and technical support services; and**
32 **"(b) Ensuring that health information technology applications have appropriate privacy**
33 **and security controls and that data cannot be used for purposes other than patient care or**
34 **as otherwise allowed by law.**
35 **"(6) Enlist and leverage community resources to advance the adoption of health infor-**
36 **mation technology.**
37 **"(7) Educate the public and health care providers on the benefits and risks of information**
38 **technology infrastructure investment.**
39 **"(8) Coordinate health care sector activities that move the adoption of health information**
40 **technology forward and achieve health information technology interoperability.**
41 **"(9) Support and provide oversight for efforts by the Oregon Health Authority to imple-**
42 **ment a personal health records bank for medical assistance recipients and assess its poten-**
43 **tial to serve as a fundamental building block for a statewide health information exchange**
44 **that:**
45 **"(a) Ensures that patients' health information is available and accessible when and where**

they need it;

"(b) Applies only to patients who choose to participate in the exchange; and

"(c) Provides meaningful remedies if security or privacy policies are violated.

"(10) Determine a fair, appropriate method to reimburse providers for their use of electronic health records to improve patient care, starting with providers whose practices consist of a large percentage of medical assistance recipients.

"(11) Determine whether to establish a health information technology loan program and if so, to implement the program.

"**SECTION 1172. (1) The Governor shall appoint one of the members of the Health Information Technology Oversight Council as chairperson and another as vice chairperson, for such terms and with such duties and powers necessary for the performance of the functions of those offices as the Governor determines.**

"(2) A majority of the members of the council constitutes a quorum for the transaction of business.

"(3) The council shall meet at least quarterly at a place, day and hour determined by the council. The council may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the council.

"**SECTION 1173. In accordance with applicable provisions of ORS chapter 183, the Health Information Technology Oversight Council may adopt rules necessary for the administration of the laws that the council is charged with administering.**

"HEALTHCARE WORKFORCE DATA

"**SECTION 1174. (1) The Office for Oregon Health Policy and Research shall create and maintain a healthcare workforce database that will provide information upon request to state agencies and to the Legislative Assembly about Oregon's healthcare workforce, including:**

"(a) Demographics, including race and ethnicity.

"(b) Practice status.

"(c) Education and training background.

"(d) Population growth.

"(e) Economic indicators.

"(f) Incentives to attract qualified individuals, especially those from underrepresented minority groups, to healthcare education.

"(2) The Administrator for the Office for Oregon Health Policy and Research may contract with a private or public entity to establish and maintain the database and to analyze the data. The office is not subject to the requirements of ORS chapters 279A, 279B and 279C with respect to the contract.

"**SECTION 1175. (1) As used in this section, 'healthcare workforce regulatory board' means the:**

"(a) Occupational Therapy Licensing Board;

"(b) Oregon Medical Board;

"(c) Oregon State Board of Nursing;

"(d) Oregon Board of Dentistry;

"(e) Physical Therapist Licensing Board;

"(f) State Board of Pharmacy; and

"(g) Board of Examiners of Licensed Dietitians.

"(2)(a) An applicant for a license from a healthcare workforce regulatory board or renewal of a license by a healthcare workforce regulatory board shall provide the information prescribed by the Office for Oregon Health Policy and Research pursuant to subsection (3) of this section.

"(b) Except as provided in subsection (4) of this section, a healthcare workforce regulatory board may not approve a subsequent application for a license or renewal of a license until the applicant provides the information.

"(3) The Administrator for the Office for Oregon Health Policy and Research shall collaborate with the healthcare workforce regulatory boards to adopt rules for the manner, form and content for reporting, and the information that must be provided to a healthcare workforce regulatory board under subsection (2) of this section, which may include:

"(a) Demographics, including race and ethnicity.

"(b) Education information.

"(c) License information.

"(d) Employment information.

"(e) Primary and secondary practice information.

"(f) Anticipated changes in the practice.

"(g) Languages spoken.

"(4)(a) A healthcare workforce regulatory board shall report healthcare workforce information collected under subsection (2) of this section to the Office for Oregon Health Policy and Research.

"(b) A healthcare workforce regulatory board shall keep confidential and not release personally identifiable data collected under this section for a person licensed, registered or certified by a board. This paragraph does not apply to the release of information to a law enforcement agency for investigative purposes or to the release to the Office for Oregon Health Policy and Research for state health planning purposes as described in ORS 414.021.

"(5) The requirements of subsection (2) of this section apply to an applicant for issuance or renewal of a license who is or who is applying to become:

"(a) An occupational therapist or certified occupational therapy assistant as defined in ORS 675.210;

"(b) A physician as defined in ORS 677.010;

"(c) A physician assistant as defined in ORS 677.495;

"(d) A nurse or nursing assistant licensed or certified under ORS 678.010 to 678.410;

"(e) A dentist or dental hygienist as defined in ORS 679.010;

"(f) A physical therapist or physical therapist assistant as defined in ORS 688.010;

"(g) A pharmacist or pharmacy technician as defined in ORS 689.005; or

"(h) A licensed dietitian, as defined in ORS 691.405.

"(6) A healthcare workforce regulatory board may adopt rules as necessary to perform the board's duties under this section.

"(7) In addition to licensing fees that may be imposed by a healthcare workforce regulatory board, the board may establish fees to be paid by applicants for issuance or renewal of licenses reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

"**SECTION 1176. Sections 1174 and 1175 of this 2009 Act become operative on January 1,**

2010.

"**SECTION 1177. A healthcare workforce regulatory board, as defined in section 1175 of this 2009 Act, and the Office for Oregon Health Policy and Research may take any action prior to the operative date specified in section 1176 of this 2009 Act that is necessary to enable a board or the office to exercise, on and after the operative date specified in section 1176 of this 2009 Act, all the duties, functions and powers conferred on a board and the office by sections 1174 and 1175 of this 2009 Act.**

"**SECTION 1178. Section 1175 of this 2009 Act applies to an application for a license or license renewal filed on or after the operative date specified in section 1176 of this 2009 Act.**

"**HEALTH CARE GUIDELINES**

"**SECTION 1179. (1) The Health Resources Commission established by ORS 442.580 shall conduct comparative effectiveness research of new and existing health treatments, procedures and services selected in accordance with ORS 442.583. The commission may conduct the research by comprehensive review of the comparative effectiveness research undertaken by recognized state, national or international entities. The commission shall disseminate the research findings to health care consumers, providers and third-party payers and to other interested stakeholders.**

"(2) The Health Services Commission established by ORS 414.715 shall develop or identify and shall disseminate evidence-based health care guidelines for use by providers, consumers and purchasers of health care in Oregon.

"(3) The Office for Oregon Health Policy and Research shall ensure that the work of the Health Services Commission and the Health Resources Commission under this section is aligned and coordinated.

"(4) The Public Employees' Benefit Board, the Oregon Educators Benefit Board, the Department of Corrections and the Oregon Health Authority shall vigorously pursue health care purchasing strategies that adopt the research findings described in subsection (1) of this section and the evidence-based health care guidelines described in subsection (2) of this section.

"(5) Public bodies, as defined in ORS 174.109, that purchase health care or provide health services directly shall adopt the research findings described in subsection (1) of this section and the evidence-based health care guidelines described in subsection (2) of this section.

"**SECTION 1180.** ORS 442.584 is amended to read:

"442.584. (1) All applicants for a certificate of need for any of the technologies or services under study by the Health Resources Commission shall provide the information specified in paragraphs (a) to (f) of this subsection. This information may be utilized by the commission in performing its functions under ORS 442.583 **and section 1179 of this 2009 Act**. The information shall include:

"(a) The estimated number of patients needing the service or procedure who are not currently being served and who cannot be served by existing programs in the service area.

"(b) The anticipated number of procedures to be performed per year for a five-year period commencing on the date the service is started or the technology is acquired.

"(c) The anticipated number of patients to be served by the applicant, based on the incidence in the population to be served or the conditions for which the technology or service will be used.

"(d) Clinical indications for ordering use of the technology or service, with appropriate refer-

ences to relevant literature.

"(e) An estimate of the treatment decisions likely to result from use of the technology or service.

"(f) A proposed method for collecting data on the patients served, costs engendered directly or indirectly and the health outcomes resulting from use of the technology or service.

"(2) An application shall be decided in accordance with the statutes and rules in effect at the time of filing of a completed letter of intent for that application.

"PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT REGISTRY

"**SECTION 1181. Sections 1181 to 1189 of this 2009 Act shall be known and may be cited as the Oregon POLST Registry Act.**

"**SECTION 1182. As used in sections 1181 to 1189 of this 2009 Act:**

"(1) 'Authorized user' means a person authorized by the Oregon Health Authority to provide information to or receive information from the POLST registry.

"(2) 'Life-sustaining treatment' means any medical procedure, pharmaceutical, medical device or medical intervention that maintains life by sustaining, restoring or supplanting a vital function. 'Life-sustaining treatment' does not include routine care necessary to sustain patient cleanliness and comfort.

"(3) 'Nurse practitioner' has the meaning given that term in ORS 678.010.

"(4) 'Physician' has the meaning given that term in ORS 677.010.

"(5) 'Physician assistant' has the meaning given that term in ORS 677.495.

"(6) 'POLST' means a physician order for life-sustaining treatment signed by a physician, nurse practitioner or physician assistant.

"(7) 'POLST registry' means the registry established in section 1184 of this 2009 Act.

"**SECTION 1183. Nothing in sections 1181 to 1189 of this 2009 Act is intended to require an individual to have a POLST or to require a health professional to authorize or execute a POLST. A POLST may be revoked at any time.**

"**SECTION 1184. (1) The Oregon Health Authority shall establish and operate a statewide registry for the collection and dissemination of physician orders for life-sustaining treatment to help ensure that medical treatment preferences for an individual nearing the end of the individual's life are honored.**

"(2) The authority shall adopt rules for the registry, including but not limited to rules that:

"(a) Require submission of the following documents to the registry, unless the patient has requested to opt out of the registry:

"(A) A copy of each POLST;

"(B) A copy of a revised POLST; and

"(C) Notice of any known revocation of a POLST;

"(b) Prescribe the manner for submitting information described in paragraph (a) of this subsection;

"(c) Require the release of registry information to authorized users for treatment purposes;

"(d) Authorize notification by the registry to specified persons of the receipt, revision or revocation of a POLST; and

"(e) Establish procedures to protect the accuracy and confidentiality of information submitted to the registry.

"(3) The authority may permit qualified researchers to access registry data. If the authority permits qualified researchers to have access to registry data, the authority shall adopt rules governing the access to data that shall include but need not be limited to:

"(a) The process for a qualified researcher to request access to registry data;

"(b) The types of data that a qualified researcher may be provided from the registry; and

"(c) The manner by which a researcher must protect registry data obtained under this subsection.

"(4) The authority may contract with a private or public entity to establish or maintain the registry, and such contract is exempt from the requirements of ORS chapters 279A, 279B and 279C.

"**SECTION 1185. Nothing in sections 1181 to 1189 of this 2009 Act requires the Oregon Health Authority to:**

"(1) Prescribe the form or content of a POLST;

"(2) Disseminate forms to be used for a POLST;

"(3) Educate the public about POLSTs, generally; or

"(4) Train health care providers about POLSTs.

"**SECTION 1186. (1) There is established the Oregon POLST Registry Advisory Committee to advise the Oregon Health Authority regarding the implementation, operation and evaluation of the POLST registry.**

"(2) The members of the Oregon POLST Registry Advisory Committee shall be appointed by the Director of the Oregon Health Authority and shall include, at a minimum:

"(a) A health professional with extensive experience and leadership in POLST issues;

"(b) A physician who is a supervising physician, as defined in ORS 682.025, for emergency medical technicians and who has extensive experience and leadership in POLST issues;

"(c) A representative from the hospital community with extensive experience and leadership in POLST issues;

"(d) A representative from the long term care community with extensive experience and leadership in POLST issues;

"(e) A representative from the hospice community with extensive experience and leadership in POLST issues;

"(f) An emergency medical technician actively involved in providing emergency medical services; and

"(g) Two members of the public with active interest in end-of-life treatment preferences, at least one of whom represents the interests of minorities.

"(3) The Director of the Emergency Medical Services and Trauma Systems Program within the Oregon Health Authority, or a designee of the director, shall serve as a voting ex officio member of the committee.

"(4) The Director of the Oregon Health Authority may appoint additional members to the committee.

"(5) The committee shall meet at least four times per year, at times and places specified by the Director of the Oregon Health Authority.

"(6) The Oregon Health Authority shall provide staff support for the committee.

"(7) Except for the Director of the Emergency Medical Services and Trauma Systems

Program, a member of the committee shall serve a term of two years. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 2 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Director of the Oregon Health Authority shall make an appointment to become immediately effective for the unexpired term.

"(8) The Director of the Oregon Health Authority, or a designee of the director, shall consult with the committee in drafting rules on the implementation, operation and evaluation of the POLST registry.

"**SECTION 1187. Notwithstanding the term of office specified in section 1186 of this 2009 Act, of the members described in section 1186 (2) of this 2009 Act who are first appointed to the Oregon POLST Registry Advisory Committee:**

"(1) At least two shall serve for terms ending January 1, 2011.

"(2) At least three shall serve for terms ending January 1, 2012.

"(3) At least three shall serve for terms ending January 1, 2013.

"**SECTION 1188. Except as provided in section 1184 of this 2009 Act, all information collected or developed by the POLST registry that identifies or could be used to identify a patient, health care provider or facility is confidential and is not subject to civil or administrative subpoena or to discovery in a civil action, including but not limited to a judicial, administrative, arbitration or mediation proceeding.**

"**SECTION 1189. Any person reporting information to the POLST registry or acting on information obtained from the POLST registry in good faith is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the reporting of information to the POLST registry or acting on information obtained from the POLST registry.**

"**SECTION 1190.** ORS 163.206 is amended to read:

"163.206. ORS 163.200 and 163.205 do not apply:

"(1) To a person acting pursuant to a court order, an advance directive or a power of attorney for health care pursuant to ORS 127.505 to 127.660 **or a POLST, as defined in section 1182 of this 2009 Act**;

"(2) To a person withholding or withdrawing life-sustaining procedures or artificially administered nutrition and hydration pursuant to ORS 127.505 to 127.660;

"(3) When a competent person refuses food, physical care or medical care;

"(4) To a person who provides an elderly person or a dependent person who is at least 15 years of age with spiritual treatment through prayer from a duly accredited practitioner of spiritual treatment as provided in ORS 124.095, in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination of which the elderly or dependent person is a member or an adherent; or

"(5) To a duly accredited practitioner of spiritual treatment as provided in ORS 124.095.

"UNIFORM STANDARDS FOR HEALTH INSURERS

"**SECTION 1191. Sections 1192, 1194 and 1195 of this 2009 Act are added to and made a part of the Insurance Code.**

"**SECTION 1192. The Director of the Department of Consumer and Business Services may establish by rule uniform standards applicable to health insurers licensed by the Department**

of Consumer and Business Services that incorporate the standards developed by the Office for Oregon Health Policy and Research pursuant to section 1193 of this 2009 Act.

"**SECTION 1193. (1) The Office for Oregon Health Policy and Research shall convene a stakeholder workgroup to develop uniform standards for health insurers licensed in this state, including but not limited to standards for:**

"(a) Eligibility verification.

"(b) Health care claims processes.

"(c) Payment and remittance advice.

"(2) The Office for Oregon Health Policy and Research shall report on progress toward the development of uniform standards under subsection (1) of this section to the appropriate interim committee of the Legislative Assembly no later than October 1, 2009.

"**DATA REPORTING BY INSURANCE CARRIERS**

"**SECTION 1194. 'Covered life' means a subscriber, policyholder, certificate holder, spouse, dependent child or any other individual insured under an insurance policy or whose benefits are administered by a third party administrator licensed under ORS 744.702.**

"**SECTION 1195. (1) A carrier offering a health benefit plan as defined in ORS 743.730 and a third party administrator licensed under ORS 744.702 shall annually submit to the Department of Consumer and Business Services, in a form and manner prescribed by the department, data concerning the number of covered lives of the carrier or third party administrator, reported by line of business and by zip code.**

"(2) The department shall aggregate the data collected under subsection (1) of this section and may publish reports on the number of covered lives in Oregon, by line of business and by region.

"**CAPITAL PROJECT REPORTING**

"**SECTION 1196. Sections 1197, 1198 and 1199 of this 2009 Act are added to and made a part of ORS chapter 442.**

"**SECTION 1197. As used in this section and sections 1198 and 1199 of this 2009 Act:**

"(1)(a) 'Capital project' means:

"(A) The construction, development, purchase, renovation or any construction expenditure by or on behalf of a reporting entity, for which the cost:

"(i) For type A hospitals, exceeds five percent of gross revenue.

"(ii) For type B hospitals, exceeds five percent of gross revenue.

"(iii) For DRG hospitals, exceeds 1.75 percent of gross revenue.

"(iv) For ambulatory surgery centers, exceeds $2 million.

"(B) The purchase or lease of, or other comparable arrangement for, a single piece of diagnostic or therapeutic equipment for which the cost or, in the case of a donation, the value exceeds $1 million. The acquisition of two or more pieces of diagnostic or therapeutic equipment that are necessarily interdependent in the performance of ordinary functions shall be combined in calculating the cost or value of the transaction.

"(b) 'Capital project' does not include a project financed entirely through charitable fundraising.

“(2) ‘DRG hospital’ means a hospital that is not a type A or type B hospital and that receives Medicare reimbursement based upon diagnostic related groups.

“(3) ‘Gross revenue’ has the meaning given that term in ORS 442.015.

“(4) ‘Reporting entity’ includes the following if licensed pursuant to ORS 441.015:

“(a) A type A hospital as described in ORS 442.470.

“(b) A type B hospital as described in ORS 442.470.

“(c) A DRG hospital.

“(d) An ambulatory surgical center as defined in ORS 442.015.

“**SECTION 1198. The Office for Oregon Health Policy and Research may adopt rules requiring reporting entities within the state to publicly report proposed capital projects. Rules adopted under this section must:**

“(1) Require a reporting entity to establish on the homepage of its website a prominently labeled link to information about proposed or pending capital projects. The information posted must include but is not limited to a report of the community benefit for the project, its estimated cost and a means for interested persons to submit comments. When a reporting entity posts the information required under this subsection, the reporting entity must notify the Office for Oregon Health Policy and Research of the posting in the manner prescribed by the office.

“(2) If a reporting entity does not have a website, require the reporting entity to publish notice of the proposed capital project in a major newspaper or online equivalent serving the region in which the proposed capital project will be located. The notice must include but is not limited to a report of the community benefit for the project, its estimated cost and a means for interested persons to submit comments. When a reporting entity publishes the information required under this subsection, the reporting entity must notify the Office for Oregon Health Policy and Research of the publication in the manner prescribed by the office.

“(3) Establish a publicly available resource for information collected under this section.

“**SECTION 1199. (1) Any reporting entity that fails to report as required by rules of the Office for Oregon Health Policy and Research adopted pursuant to section 1198 of this 2009 Act may be subject to a civil penalty.**

“(2) The Administrator of the Office for Oregon Health Policy and Research shall adopt a schedule of penalties, not to exceed $500 per day of violation, that are based on the severity of the violation.

“(3) Civil penalties imposed under this section shall be imposed as provided in ORS 183.745.

“(4) Civil penalties imposed under this section may be remitted or mitigated upon such terms and conditions as the administrator considers proper and consistent with the public health and safety.

“(5) Civil penalties incurred under any law of this state are not allowable as costs for the purpose of rate determination or for reimbursement by a third party payer.

“**HEALTH CARE DATA REPORTING**

“**SECTION 1200. As used in this section and section 1201 of this 2009 Act, ‘reporting entity’ means:**

“(1) An insurer as defined in ORS 731.106 or fraternal benefit society as described in ORS

748.106 required to have a certificate of authority to transact health insurance business in this state.

"(2) A health care service contractor as defined in ORS 750.005 that issues medical insurance in this state.

"(3) A third party administrator required to obtain a license under ORS 744.702.

"(4) A pharmacy benefit manager or fiscal intermediary, or other person that is by statute, contract or agreement legally responsible for payment of a claim for a health care item or service.

"(5) A prepaid managed care health services organization as defined in ORS 414.736.

"(6) An insurer providing coverage funded under Part A, Part B or Part D of Title XVIII of the Social Security Act, subject to approval by the United States Department of Health and Human Services.

"**SECTION 1201. (1) The Administrator of the Office for Oregon Health Policy and Research shall establish and maintain a program that requires reporting entities to report health care data for the following purposes:**

"(a) Determining the maximum capacity and distribution of existing resources allocated to health care.

"(b) Identifying the demands for health care.

"(c) Allowing health care policymakers to make informed choices.

"(d) Evaluating the effectiveness of intervention programs in improving health outcomes.

"(e) Comparing the costs and effectiveness of various treatment settings and approaches.

"(f) Providing information to consumers and purchasers of health care.

"(g) Improving the quality and affordability of health care and health care coverage.

"(h) Assisting the administrator in furthering the health policies expressed by the Legislative Assembly in ORS 442.025.

"(i) Evaluating health disparities, including but not limited to disparities related to race and ethnicity.

"(2) The Administrator of the Office for Oregon Health Policy and Research shall prescribe by rule standards that are consistent with standards adopted by the Accredited Standards Committee X12 of the American National Standards Institute, the Centers for Medicare and Medicaid Services and the National Council for Prescription Drug Programs that:

"(a) Establish the time, place, form and manner of reporting data under this section, including but not limited to:

"(A) Requiring the use of unique patient and provider identifiers;

"(B) Specifying a uniform coding system that reflects all health care utilization and costs for health care services provided to Oregon residents in other states; and

"(C) Establishing enrollment thresholds below which reporting will not be required.

"(b) Establish the types of data to be reported under this section, including but not limited to:

"(A) Health care claims and enrollment data used by reporting entities and paid health care claims data;

"(B) Reports, schedules, statistics or other data relating to health care costs, prices, quality, utilization or resources determined by the administrator to be necessary to carry out the purposes of this section; and

"(C) Data related to race, ethnicity and primary language collected in a manner consistent with established national standards.

"(3) Any third party administrator that is not required to obtain a license under ORS 744.702 and that is legally responsible for payment of a claim for a health care item or service provided to an Oregon resident may report to the Administrator of the Office for Oregon Health Policy and Research the health care data described in subsection (2) of this section.

"(4) The Administrator of the Office for Oregon Health Policy and Research shall adopt rules establishing requirements for reporting entities to train providers on protocols for collecting race, ethnicity and primary language data in a culturally competent manner.

"(5) The Administrator of the Office for Oregon Health Policy and Research shall use data collected under this section to provide information to consumers of health care to empower the consumers to make economically sound and medically appropriate decisions. The information must include, but not be limited to, the prices and quality of health care services.

"(6) The Administrator of the Office for Oregon Health Policy and Research may contract with a third party to collect and process the health care data reported under this section. The contract must prohibit the collection of Social Security numbers and must prohibit the disclosure or use of the data for any purpose other than those specifically authorized by the contract. The contract must require the third party to transmit all data collected and processed under the contract to the Office for Oregon Health Policy and Research.

"(7) The Administrator of the Office for Oregon Health Policy and Research shall facilitate a collaboration between the Department of Human Services, the Oregon Health Authority, the Department of Consumer and Business Services and interested stakeholders to develop a comprehensive health care information system using the data reported under this section and collected by the office under ORS 442.120 and 442.400 to 442.463. The administrator, in consultation with interested stakeholders, shall:

"(a) Formulate the data sets that will be included in the system;

"(b) Establish the criteria and procedures for the development of limited use data sets;

"(c) Establish the criteria and procedures to ensure that limited use data sets are accessible and compliant with federal and state privacy laws; and

"(d) Establish a time frame for the creation of the comprehensive health care information system.

"(8) Information disclosed through the comprehensive health care information system described in subsection (7) of this section:

"(a) Shall be available, when disclosed in a form and manner that ensures the privacy and security of personal health information as required by state and federal laws, as a resource to insurers, employers, providers, purchasers of health care and state agencies to allow for continuous review of health care utilization, expenditures and performance in this state;

"(b) Shall be available to Oregon programs for quality in health care for use in improving health care in Oregon, subject to rules prescribed by the Administrator of the Office for Oregon Health Policy and Research conforming to state and federal privacy laws or limiting access to limited use data sets;

"(c) Shall be presented to allow for comparisons of geographic, demographic and economic factors and institutional size; and

1 **“(d) May not disclose trade secrets of reporting entities.**

2 **“(9) The collection, storage and release of health care data and other information under**
3 **this section is subject to the requirements of the federal Health Insurance Portability and**
4 **Accountability Act.**

5 “**SECTION 1202. (1) Any reporting entity that fails to report as required in section 1201**
6 **of this 2009 Act or rules of the Office for Oregon Health Policy and Research adopted pur-**
7 **suant to section 1201 of this 2009 Act may be subject to a civil penalty.**

8 **“(2) The Administrator of the Office for Oregon Health Policy and Research shall adopt**
9 **a schedule of penalties not to exceed $500 per day of violation, determined by the severity**
10 **of the violation.**

11 **“(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.**

12 **“(4) Civil penalties imposed under this section may be remitted or mitigated upon such**
13 **terms and conditions as the administrator considers proper and consistent with the public**
14 **health and safety.**

15 **“(5) Civil penalties incurred under any law of this state are not allowable as costs for the**
16 **purpose of rate determination or for reimbursement by a third-party payer.**

17 “**SECTION 1203.** ORS 731.988 is amended to read:

18 “731.988. (1) [*Any person who violates any provision of the Insurance Code, any lawful rule or*
19 *final order of the Director of the Department of Consumer and Business Services or any judgment*
20 *made by any court upon application of the director, shall forfeit and pay to the General Fund of the*
21 *State Treasury a civil penalty in an amount determined by the director of not more than $10,000 for*
22 *each offense. In the case of individual insurance producers, adjusters or insurance consultants, the civil*
23 *penalty shall be not more than $1,000 for each offense. Each violation shall be deemed a separate of-*
24 *fense.*] **A person shall forfeit and pay to the General Fund of the State Treasury a civil penalty**
25 **in an amount determined by the Director of the Department of Consumer and Business**
26 **Services of not more than $10,000 for each violation of:**

27 **“(a) Any provision of the Insurance Code;**

28 **“(b) Any lawful rule or final order of the director;**

29 **“(c) Any judgment made by a court upon application made by the director; or**

30 **“(d) Any rule adopted by the Administrator of the Office for Oregon Health Policy and**
31 **Research for the reporting of data pursuant to section 1201 of this 2009 Act.**

32 “(2) In addition to the civil penalty set forth in subsection (1) of this section, any person who
33 violates any provision of the Insurance Code, any lawful rule or final order of the director or any
34 judgment made by any court upon application of the director, may be required to forfeit and pay to
35 the General Fund of the State Treasury a civil penalty in an amount determined by the director but
36 not to exceed the amount by which such person profited in any transaction which violates any such
37 provision, rule, order or judgment.

38 “(3) In addition to the civil penalties set forth in subsections (1) and (2) of this section, any
39 insurer that is required to make a report under ORS 742.400 and that fails to do so within the
40 specified time may be required to pay to the General Fund of the State Treasury a civil penalty in
41 an amount determined by the director but not to exceed $10,000.

42 “(4) A civil penalty imposed under this section may be recovered either as provided in sub-
43 section (5) of this section or in an action brought in the name of the State of Oregon in any court
44 of appropriate jurisdiction.

45 “(5) Civil penalties under this section shall be imposed and enforced in the manner provided by

1 ORS 183.745.
2 "(6) The provisions of this section are in addition to and not in lieu of any other enforcement
3 provisions contained in the Insurance Code.".
4 In line 41, delete "1163" and insert "1204".
5 On page 594, delete lines 1 through 4.
6 In line 8, delete "1165" and insert "1205".
7 Delete lines 12 through 15 and insert:
8
9 "**EMERGENCY CLAUSE**
10
11 "**SECTION 1206. This 2009 Act being necessary for the immediate preservation of the
12 public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes
13 effect on its passage.**".
14