

**Enrolled**  
**House Bill 2089**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Authority)

CHAPTER .....

AN ACT

Relating to functions of the Oregon Health Authority; creating new provisions; amending ORS 114.525, 411.400, 411.402, 411.404, 414.312, 414.326, 418.748 and 676.410 and section 20, chapter 595, Oregon Laws 2009; and declaring an emergency.

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

**SECTION 1. The Oregon Health Authority and the Department of Human Services may be represented at contested case hearings by an officer or employee of either the authority or the department, subject to the requirements of ORS 183.452.**

**SECTION 2.** ORS 114.525 is amended to read:

114.525. An affidavit filed under ORS 114.515 shall:

- (1) State the name, age, domicile, post-office address and Social Security number of the decedent;
- (2) State the date and place of the decedent's death. A certified copy of the death certificate shall be attached to the affidavit;
- (3) Describe and state the fair market value of all property in the estate, including a legal description of any real property;
- (4) State that no application or petition for the appointment of a personal representative has been granted in Oregon;
- (5) State whether the decedent died testate or intestate, and if the decedent died testate, the will shall be attached to the affidavit;
- (6) List the heirs of the decedent and the last address of each heir as known to the affiant, and state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent died testate, will be delivered to each heir or mailed to the heir at the last-known address;
- (7) If the decedent died testate, list the devisees of the decedent and the last address of each devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing the date of filing will be delivered to each devisee or mailed to the devisee at the last-known address;
- (8) State the interest in the property described in the affidavit to which each heir or devisee is entitled and the interest, if any, that will escheat;
- (9) State that reasonable efforts have been made to ascertain creditors of the estate. List the expenses of and claims against the estate remaining unpaid or on account of which the affiant or any other person is entitled to reimbursement from the estate, including the known or estimated amounts thereof and the names and addresses of the creditors as known to the affiant, and state that a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been paid in full or mailed to the creditor at the last-known address;

(10) Separately list the name and address of each person known to the affiant to assert a claim against the estate that the affiant disputes and the known or estimated amount thereof and state that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed to the person at the last-known address;

(11) State that a copy of the affidavit showing the date of filing will be mailed or delivered to the Department of Human Services [and] **or to the Oregon Health Authority, as prescribed by rule by the authority;**

(12) State that claims against the estate not listed in the affidavit or in amounts larger than those listed in the affidavit may be barred unless:

(a) A claim is presented to the affiant within four months of the filing of the affidavit at the address stated in the affidavit for presentment of claims; or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555; and

(13) If the affidavit lists one or more claims that the affiant disputes, state that any such claim may be barred unless:

(a) A petition for summary determination is filed within four months of the filing of the affidavit; or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555.

**SECTION 3.** ORS 411.400 is amended to read:

411.400. (1) Application for any category of aid shall also constitute application for medical assistance.

(2) Except as otherwise provided in this section, a person shall request medical assistance by filing an application as provided in ORS 411.081.

(3) The Department of Human Services **and the Oregon Health Authority** shall determine eligibility for and fix the date on which medical assistance may begin, and shall obtain such other information required by the rules of the department and the [*Oregon Health*] authority under ORS 411.402.

(4) If an applicant is unable to make application for medical assistance, an application may be made by someone acting responsibly for the applicant.

(5) The department **and the authority** may modify the application requirements in ORS 411.081 for a person whose basis of eligibility for medical assistance changes from one category of aid to another category of aid under ORS 414.025 (2).

**SECTION 4.** ORS 411.402 is amended to read:

411.402. (1) The Department of Human Services and the Oregon Health Authority shall adopt by rule the documentation required from each person applying for medical assistance, including documentation of:

(a) The identity of the person;

(b) The category of aid that makes the person eligible for medical assistance or the way in which the person qualifies as categorically needy;

(c) The status of the person as a resident of this state; and

(d) Information concerning the income and resources of the person, which may include income tax return information and Social Security number, as necessary to establish financial eligibility for medical assistance, premium tax credits and cost-sharing reductions.

(2) Information obtained by the department or the authority under this section may be exchanged with **the Oregon Health Insurance Exchange Corporation** and other state or federal agencies for the purpose of:

(a) Verifying eligibility for medical assistance, participation in the Oregon Health Insurance Exchange or other health benefit programs;

(b) Establishing the amount of any tax credit due to the person, cost-sharing reduction or premium assistance;

(c) Improving the provision of services; and

(d) Administering health benefit programs.

**SECTION 5.** ORS 411.404 is amended to read:

411.404. (1) The Department of Human Services **and the Oregon Health Authority** shall determine eligibility for medical assistance according to criteria prescribed by *[rule in consultation with the Oregon Health Authority that]* **rules adopted by the department and the authority. The criteria must** take into account:

(a) The requirements and needs of the applicant and of the spouse and dependents of the applicant;

(b) The income, resources and maintenance available to the applicant; and

(c) The responsibility of the spouse of the applicant and, with respect to an applicant who is blind or is permanently and totally disabled or is under 21 years of age, the responsibility of the parents.

(2) Rules adopted by the department **and the authority** under subsection (1) of this section:

(a) Shall disregard resources for those who are eligible for medical assistance only by reason of ORS 414.025 (3)(s), except for the resources described in ORS 414.025 (3)(s).

(b) May disregard income and resources within the limits required or permitted by federal law, regulations or orders.

(c) May not require any needy person over 65 years of age, as a condition of entering or remaining in a hospital, nursing home or other congregate care facility, to sell any real property normally used as the person's home.

*[(3) Notwithstanding subsections (1) and (2) of this section, the authority may adopt rules necessary to implement the Health Care for All Oregon Children program established by ORS 414.231 or applicable provisions of federal law.]*

**SECTION 6.** ORS 414.312 is amended to read:

414.312. (1) As used in ORS 414.312 to 414.318:

(a) "Pharmacy benefit manager" means an entity that negotiates and executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Oregon Prescription Drug Program, prescription drug manufacturers and pharmacies.

(b) "Prescription drug claims processor" means an entity that processes and pays prescription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data between pharmacies and the Oregon Prescription Drug Program and processes related payments to pharmacies.

(c) "Program price" means the reimbursement rates and prescription drug prices established by the administrator of the Oregon Prescription Drug Program.

(2) The Oregon Prescription Drug Program is established in the Oregon Health Authority. The purpose of the program is to:

(a) Purchase prescription drugs, replenish prescription drugs dispensed or reimburse pharmacies for prescription drugs in order to receive discounted prices and rebates;

(b) Make prescription drugs available at the lowest possible cost to participants in the program as a means to promote health;

(c) Maintain a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices; and

(d) Promote health through the purchase and provision of discount prescription drugs and coordination of comprehensive prescription benefit services for eligible entities and members.

(3) The Director of the Oregon Health Authority shall appoint an administrator of the Oregon Prescription Drug Program. The administrator may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers or group purchasing organizations;

(b) Purchase prescription drugs on behalf of individuals and entities that participate in the program;

(c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine program prices and reimburse or replenish pharmacies for prescription drugs dispensed or transferred;

(e) Adopt and implement a preferred drug list for the program;

(f) Develop a system for allocating and distributing the operational costs of the program and any rebates obtained to participants of the program; and

(g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

(4) The following individuals or entities may participate in the program:

(a) Public Employees' Benefit Board, Oregon Educators Benefit Board and Public Employees Retirement System;

(b) Local governments as defined in ORS 174.116 and special government bodies as defined in ORS 174.117 that directly or indirectly purchase prescription drugs;

(c) Oregon Health and Science University established under ORS 353.020;

(d) State agencies that directly or indirectly purchase prescription drugs, including agencies that dispense prescription drugs directly to persons in state-operated facilities;

(e) Residents of this state who lack or are underinsured for prescription drug coverage;

(f) Private entities; and

(g) Labor organizations.

(5) The *[state agency that receives federal Medicaid funds and is responsible for implementing the state's medical assistance program may not participate in the program]* **authority may not purchase prescription drugs directly or indirectly through the program for recipients of medical assistance.**

(6) The administrator may establish different program prices for pharmacies in rural areas to maintain statewide access to the program.

(7) The administrator may establish the terms and conditions for a pharmacy to enroll in the program. A licensed pharmacy that is willing to accept the terms and conditions established by the administrator may apply to enroll in the program.

(8) Except as provided in subsection (9) of this section, the administrator may not:

(a) Contract with a pharmacy benefit manager;

(b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

(c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dispensed through the program.

(9) The administrator shall contract with one or more entities to perform any of the functions of the program, including but not limited to:

(a) Contracting with a pharmacy benefit manager and directly or indirectly with such pharmacy networks as the administrator considers necessary to maintain statewide access to the program.

(b) Negotiating with prescription drug manufacturers on behalf of the administrator.

(10) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(11) The program may contract with vendors as necessary to utilize discount purchasing programs, including but not limited to group purchasing organizations established to meet the criteria of the Nonprofit Institutions Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act, 15 U.S.C. 13.

**SECTION 7.** ORS 414.326 is amended to read:

414.326. (1) The *[Department of Human Services]* **Oregon Health Authority** shall negotiate and enter into agreements with pharmaceutical manufacturers for supplemental rebates that are in addition to the discount required under federal law to participate in the medical assistance program.

(2) The *[department]* **authority** may participate in a multistate prescription drug purchasing pool for the purpose of negotiating supplemental rebates.

(3) ORS 414.325 and 414.334 apply to prescription drugs purchased for the medical assistance program under this section.

**SECTION 8.** ORS 418.748 is amended to read:

418.748. (1) The **Oregon Health Authority, in collaboration with the** Department of Human Services, shall form a statewide interdisciplinary team to meet twice a year to review child fatality cases where child abuse or suicide is suspected, identify trends, make recommendations and take actions involving statewide issues.

(2) The statewide interdisciplinary team may recommend specific cases to a child fatality review team for its review under ORS 418.785.

(3) The statewide interdisciplinary team shall provide recommendations to child fatality review teams in the development of protocols. The recommendations shall address investigation, training, case selection and fatality review of child deaths, including but not limited to child abuse and youth suicide cases.

**SECTION 9.** ORS 676.410 is amended to read:

676.410. (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 Licensed Dietitians]* **Oregon Health Licensing Agency for dietitians licensed**

**under ORS 691.435.**

(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.

(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 Oregon Health Policy Board shall 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 10.** Section 20, chapter 595, Oregon Laws 2009, as amended by section 224, chapter 720, Oregon Laws 2011, is amended to read:

**Sec. 20.** *[On or before January 2, 2014, the Department]* **The Director** of Human Services and the **Director of the** Oregon Health Authority may delegate to each other **by interagency agreement** any duties, functions or powers *[transferred by section 19, chapter 595, Oregon Laws 2009, that the department or the authority deems]* **granted to the department or the authority by law, as the directors deem** necessary for the efficient and effective operation of their **agencies'** respective functions.

**SECTION 11.** **This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

**Passed by House February 11, 2013**

**Received by Governor:**

**Repassed by House March 13, 2013**

.....M.,....., 2013

**Approved:**

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Ramona J. Line, Chief Clerk of House

.....M.,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

**Passed by Senate March 7, 2013**

**Filed in Office of Secretary of State:**

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Peter Courtney, President of Senate

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Kate Brown, Secretary of State