House Bill 2301

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor Kate Brown for Oregon Health Authority)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Specifies circumstances under which Health Licensing Office is required or permitted to disclose information obtained during investigation of certain professions. Creates different standards for health-related professions and trade professions.

Directs coordinated care organizations to make use of qualified health care interpreters.

Changes qualifications to register as environmental health specialist.

Modifies membership composition of State Trauma Advisory Board, area trauma advisory boards and State Emergency Medical Service Committee.

Allows Director of Oregon Health Authority to designate individual to appoint members to Advisory Committee on Physician Credentialing Information.

For purposes of Oregon Health Authority collection of information related to cancer, applies law to borderline tumors of brain and central nervous system.

Makes certain changes to programs for treating allergic response, adrenal insufficiency or hypoglycemia.

Changes annual date by which health care acquired infections data must be made public.

Repeals obsolete health laws.

A BILL FOR AN ACT

Relating to health; creating new provisions; amending ORS 192.450, 336.241, 401.651, 414.625, 431A.055, 431A.070, 431A.850, 432.500, 432.510, 432.520, 432.530, 432.540, 432.550, 432.570, 433.045, 433.815, 433.817, 433.825, 441.057, 441.099, 441.221, 441.233, 676.110, 676.115, 676.120, 676.130, 676.160, 676.165, 676.350, 676.400, 676.608, 676.609, 678.725, 682.039, 682.079, 687.490, 700.030, 731.036, 743B.001, 743B.197, 743B.200 and 743B.454 and section 6, chapter 838, Oregon Laws 2007; and repealing ORS 127.675, 735.721, 735.723, 735.725, 735.727 and 743B.206.

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

DISCLOSURE OF INFORMATION BY THE HEALTH LICENSING OFFICE

(Health-Related Professions)

SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS 676.575 to 676.625.

SECTION 2. (1) As used in this section, "board" means the:

(a) Sex Offender Treatment Board established under ORS 675.395.

(b) Behavior Analysis Regulatory Board created under ORS 676.806.

(c) Nursing Home Administrators Board established under ORS 678.800.

(d) State Board of Denture Technology established under ORS 680.556.

(e) State Board of Direct Entry Midwifery established under ORS 687.470.

(f) Board of Athletic Trainers established under ORS 688.705.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under ORS 688.820.

(h) Board of Licensed Dietitians established under 691.485.

(i) Environmental Health Registration Board established under ORS 700.210.

(2) Except to the extent that disclosure is necessary to conduct a full and proper investigation, the Health Licensing Office may not disclose information, including complaints and information identifying complainants, obtained by the office as part of an investigation conducted under:

(a) ORS 675.360 to 675.410, 676.810 to 676.820, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.

(b) ORS 676.575 to 676.625 if the investigation is related to the regulation of:

(A) Sex offender therapy under ORS 675.360 to 675.410;

(B) Applied behavior analysis under ORS 676.810 to 676.820;

(C) Nursing home administration under ORS 678.710 to 678.820;

(D) The practice of denture technology under ORS 680.500 to 680.565;

(E) Direct entry midwifery under ORS 687.405 to 687.495;

(F) Athletic training under ORS 688.701 to 688.734;

(G) Respiratory care and polysomnography under ORS 688.800 to 688.840;

(H) Dietetics under ORS 691.405 to 691.485; or

(I) Environmental or waste water sanitation under ORS chapter 700.

(3) Notwithstanding subsection (2) of this section, if the office decides not to impose a disciplinary sanction after conducting an investigation described in subsection (2) of this section:

(a) The office shall disclose information obtained as part of the investigation if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(b) The office may disclose to a complainant who made a complaint related to the investigation a written summary of information obtained as part of the investigation to the extent that disclosure is necessary to explain the office's decision. The person who is the subject of the investigation may review and obtain a copy of a written summary disclosed under this paragraph after the office has redacted any information identifying the complainant.

(4) Notwithstanding subsection (2) of this section, if the office decides to impose a disciplinary sanction after conducting an investigation described in subsection (2) of this section, upon written request by the person who is the subject of the investigation, the office shall disclose to the person all information obtained by the office during the investigation, except that the office may not disclose:

(a) Information that is otherwise privileged or confidential under state or federal law.

(b) Information identifying a person who provided information that led to the investigation, unless the person will provide testimony at a hearing arising out of the investigation.

(c) Information identifying a complainant.

(d) Reports of expert witnesses.

(5) Information disclosed to a person under subsection (4) of this section may be further disclosed by the person only to the extent that disclosure is necessary to prepare for a hearing arising out of the investigation.

(6) The office shall disclose:

(a) Any notice related to the imposition of a disciplinary sanction.

(b) A final order related to the imposition of a disciplinary sanction.

(c) An emergency suspension order.

(d) A consent order or stipulated agreement that involves the conduct of a person against whom discipline is sought.

(e) Information to further an investigation into board conduct under ORS 192.685.

(7) The office must summarize the factual basis for the office's disposition of:

(a) A final order related to the imposition of a disciplinary sanction;

(b) An emergency suspension order; or

(c) A consent order or stipulated agreement that involves the conduct of a person against whom discipline is sought.

(8)(a) An office record or order, or any part of an office record or order, that is obtained during an investigation described in subsection (2) of this section, during a contested case proceeding or as a result of entering into a consent order or stipulated agreement is not admissible as evidence and may not preclude an issue or claim in a civil proceeding.

(b) This subsection does not apply to a proceeding between the office and a person against whom discipline is sought as otherwise authorized by law.

(9)(a) Notwithstanding subsection (2) of this section, the office is not publicly disclosing information when the office permits other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions may not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member, member-elect or employee of a public entity as defined in ORS 676.177.

(10) The office may establish fees reasonably calculated to reimburse the actual cost of disclosing information to a person against whom discipline is sought as required by subsection (4) of this section.

SECTION 3. (1) Notwithstanding section 2 of this 2017 Act, the Health Licensing Office, upon a determination by the office that it possesses information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose information to the other public entity.

(2) A public entity that receives information pursuant to subsection (1) of this section must agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" has the meaning given that term in ORS 676.177.

SECTION 4. ORS 192.450 is amended to read:

192.450. (1) Subject to ORS 192.480 and subsection (4) of this section, any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. Except as provided in subsection (5) of this section, the burden is on the agency to sustain its action. Except as provided in subsection (5) of this section, the Attorney General shall issue an order denying or granting the petition, or denying it in part and granting it in part, within seven days from

the day the Attorney General receives the petition.

(2) If the Attorney General grants the petition and orders the state agency to disclose the **public** record, or if the Attorney General grants the petition in part and orders the state agency to disclose a portion of the **public** record, the state agency shall comply with the order in full within seven days after issuance of the order, unless within the seven-day period it issues a notice of its intention to institute proceedings for injunctive or declaratory relief in the Circuit Court for Marion County or, as provided in subsection (6) of this section, in the circuit court of the county where the **public** record is held. Copies of the notice shall be sent to the Attorney General and by certified mail to the petitioner at the address shown on the petition. The state agency shall institute the proceedings within seven days after it issues its notice of intention to do so. If the Attorney General denies the petition in whole or in part, or if the state agency continues to withhold the **public** record or a part of it notwithstanding an order to disclose by the Attorney General, the person seeking disclosure may institute such proceedings.

(3) The Attorney General shall serve as counsel for the state agency in a suit filed under subsection (2) of this section if the suit arises out of a determination by the Attorney General that the public record should not be disclosed, or that a part of the public record should not be disclosed if the state agency has fully complied with the order of the Attorney General requiring disclosure of another part or parts of the public record, and in no other case. In any case in which the Attorney General is prohibited from serving as counsel for the state agency, the agency may retain special counsel.

(4)**(a)** A person denied the right to inspect or to receive a copy of [*any*] **a** public record of a health professional regulatory board, as defined in ORS 676.160, that contains information concerning a licensee or applicant, and petitioning the Attorney General to review the public record shall, on or before the date of filing the petition with the Attorney General, send a copy of the petition by first class mail to the health professional regulatory board. Not more than 48 hours after the board receives a copy of the petition, the board shall send a copy of the petition by first class mail to the licensee or applicant who is the subject of [*any*] **a public** record for which disclosure is sought. When sending a copy of the petition to the licensee or applicant, the board shall include a notice informing the licensee or applicant that a written response by the licensee or applicant may be filed with the Attorney General not later than seven days after the date that the notice was sent by the board. Immediately upon receipt of any written response from the licensee or applicant, the Attorney General shall send a copy of the response to the petitioner by first class mail.

(b) A person denied the right to inspect or to receive a copy of a public record of the Health Licensing Office that contains information concerning an individual who holds, or an applicant for, an authorization to practice a profession to which section 2 of this 2017 Act applies, and petitioning the Attorney General to review the public record shall, on or before the date of filing the petition with the Attorney General, send a copy of the petition by first class mail to the office. Not more than 48 hours after the office receives a copy of the petition, the office shall send a copy of the petition by first class mail to the holder of the authorization or the applicant who is the subject of a public record for which disclosure is sought. When sending a copy of the petition to the holder of the authorization or the applicant, the office shall include a notice informing the holder of the authorization or the applicant that a written response by the holder of the authorization or the applicant may be filed with the Attorney General not later than seven days after the date that the notice was sent by the office. Immediately upon receipt of any written response from the holder of the au-

thorization or the applicant, the Attorney General shall send a copy of the response to the petitioner by first class mail.

(5)**(a)** The person seeking disclosure of a public record of a health professional regulatory board, as defined in ORS 676.160, that is confidential or exempt from disclosure under ORS 676.165 or 676.175[,] shall have the burden of demonstrating to the Attorney General by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. The Attorney General shall issue an order denying or granting the petition, or denying or granting it in part, not later than the 15th day following the day that the Attorney General receives the petition. A copy of the Attorney General's order granting a petition or part of a petition shall be served by first class mail on the health professional regulatory board, the petitioner and the licensee or applicant who is the subject of [*any*] **a public** record ordered to be disclosed. The health professional regulatory board shall not disclose [*any*] **a public** record prior to the seventh day following the service of the Attorney General's order on a licensee or applicant entitled to receive notice under this [*subsection*] **paragraph**.

(b) The person seeking disclosure of a public record of the Health Licensing Office that is confidential or exempt from disclosure as described in section 2 of this 2017 Act shall have the burden of demonstrating to the Attorney General by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. The Attorney General shall issue an order denying or granting the petition, or denying or granting the petition in part, not later than the 15th day following the day that the Attorney General receives the petition. A copy of the Attorney General's order granting a petition or part of a petition shall be served by first class mail on the office, the petitioner and the holder of the authorization or the applicant who is the subject of a public record ordered to be disclosed. The office shall not disclose a public record prior to the seventh day following the service of the Attorney General's order on a holder of an authorization or an applicant entitled to receive notice under this paragraph.

(6)**(a)** If the Attorney General grants or denies the petition for a **public** record of a health professional regulatory board, as defined in ORS 676.160, that contains information concerning a licensee or applicant, the board, a person denied the right to inspect or receive a copy of the **public** record or the licensee or applicant who is the subject of the **public** record may institute proceedings for injunctive or declaratory relief in the circuit court for the county where the public record is held. The party seeking disclosure of the **public** record shall have the burden of demonstrating by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) If the Attorney General grants or denies the petition for a public record of the Health Licensing Office that contains information concerning a holder of an authorization to practice a profession or an applicant, the office, a person denied the right to inspect or receive a copy of the public record or the holder of the authorization or the applicant who is the subject of the public record may institute proceedings for injunctive or declaratory relief in the circuit court for the county where the public record is held. The party seeking disclosure of the public record shall have the burden of demonstrating by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(7) The Attorney General may comply with a request of a health professional regulatory board

or the Health Licensing Office to be represented by independent counsel in any proceeding under subsection (6) of this section.

(Trade Professions)

SECTION 5. ORS 676.609 is amended to read:

676.609. [*(1) If the Health Licensing Office intends to disclose a record pursuant to ORS 676.608, the office shall:*]

[*(a) Send a notice of the intended disclosure to the person who is the subject of a complaint or an investigation by first class mail at least 14 days before the disclosure date; and*]

[*(b) Describe in the notice the type of record being disclosed in sufficient detail to allow the person who is the subject of a complaint or an investigation to understand the contents of the record that the office intends to disclose.*]

[*(2) The office shall disclose information obtained as part of an investigation of a person charged if another person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.*]

(1) Upon request, the Health Licensing Office shall disclose to a person against whom disciplinary action is sought information, including complaints and information identifying complainants, but not including information that is otherwise privileged or confidential under state or federal law, obtained by the office as part of an investigation conducted under:

(a) ORS 676.630 to 676.660, 681.700 to 681.730, 690.005 to 690.225, 690.350 to 690.410 or 694.015 to 694.170.

(b) ORS 676.575 to 676.625 if the investigation is related to the regulation of:

(A) Advanced nonablative esthetics under ORS 676.630 to 676.660;

(B) Music therapy under ORS 681.700 to 681.730;

(C) Barbering, hair design, esthetics, nail technology or natural hair care under ORS 690.005 to 690.225;

(D) Electrologists and body art practitioners under ORS 690.350 to 690.410; or

(E) Dealing in hearing aids under ORS 694.015 to 694.170.

(2) The office shall disclose information obtained as part of an investigation described in subsection (1) of this section to a person who demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(Conforming Amendments)

SECTION 6. ORS 678.725 is amended to read:

678.725. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015, any licensee licensed by the Health Licensing Office, any physician licensed by the Oregon Medical Board, any licensed professional nurse and any licensed pharmacist shall report to the office suspected violations of ORS 678.710 to 678.820 and unsanitary or other unsatisfactory conditions in a nursing home.

(b) Unless state or federal laws relating to confidentiality or the protection of health information

prohibit disclosure, a licensee licensed under ORS 678.710 to 678.820 who has reasonable cause to believe that a licensee of any board as defined in ORS 676.150 has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(c) Any person may report to the office suspected violations of ORS 678.710 to 678.820 or unsanitary conditions in a nursing home.

[*(2) Information acquired by the office pursuant to subsection (1) of this section is confidential and is not subject to public disclosure.*]

[*(3) Any person who reports or provides information to the office under subsection (1) of this section and who provides information in good faith may not be subject to an action for civil damages as a result of making the report or providing the information.*]

(2) A person who in good faith provides information to the office under this section is not subject to an action for civil damages as a result of providing the information.

SECTION 7. ORS 687.490 is amended to read:

687.490. [*(1) Any information provided to the State Board of Direct Entry Midwifery or the Health Licensing Office under ORS 687.445 is confidential and is not subject to public disclosure or admissible as evidence in any judicial proceeding.*]

[*(2) Any person who in good faith provides information to the board or the office is not subject to an action for civil damages as a result thereof.*]

A person who in good faith provides information to the State Board of Direct Entry Midwifery or the Health Licensing Office for purposes related to an investigation conducted under ORS 676.575 to 676.625, if the investigation is related to the regulation of direct entry midwifery, or ORS 687.405 to 687.495 is not subject to an action for civil damages as a result of providing the information.

SECTION 8. ORS 676.160 is amended to read:

676.160. As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

(1) State Board of Examiners for Speech-Language Pathology and Audiology;

(2) State Board of Chiropractic Examiners;

(3) State Board of Licensed Social Workers;

(4) Oregon Board of Licensed Professional Counselors and Therapists;

(5) Oregon Board of Dentistry;

[*(6) Board of Licensed Dietitians;*]

[*(7)*] **(6)** State Board of Massage Therapists;

[*(8)*] **(7)** State Mortuary and Cemetery Board;

[*(9)*] **(8)** Oregon Board of Naturopathic Medicine;

[*(10)*] **(9)** Oregon State Board of Nursing;

[*(11) Nursing Home Administrators Board;*]

[*(12)*] **(10)** Oregon Board of Optometry;

[*(13)*] **(11)** State Board of Pharmacy;

[*(14)*] **(12)** Oregon Medical Board;

[*(15)*] **(13)** Occupational Therapy Licensing Board;

[*(16)*] **(14)** Physical Therapist Licensing Board;

[*(17)*] **(15)** State Board of Psychologist Examiners;

[*(18)*] **(16)** Board of Medical Imaging;

[*(19)*] **(17)** Oregon State Veterinary Medical Examining Board;

[*(20)*] **(18)** Oregon Health Authority, to the extent that the authority licenses emergency medical services providers; and

[*(21) Behavior Analysis Regulatory Board.*]

SECTION 9. ORS 676.165 is amended to read:

676.165. (1) When a health professional regulatory board [*or the Health Licensing Office*] receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board [*or office*] shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board [*or office*]. The investigator shall have all investigatory powers possessed by the board [*or office*].

(3) The report to the board [*or office*] shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the report, any disciplinary history with the board [*or office*] of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board [*or office*] not later than 120 days after the board [*or office*] receives the complaint. However, the board [*or office*] may extend the time for making the report by up to 30 days for just cause. The board [*or office*] may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved.

SECTION 10. ORS 401.651 is amended to read:

401.651. As used in ORS 401.651 to 401.670:

(1) "Health care facility" means a health care facility as defined in ORS 442.015 that has been licensed under ORS chapter 441.

(2) "Health care provider" means:

(a) An individual licensed, certified or otherwise authorized or permitted by the laws of this state or another state to administer health care services in the ordinary course of business or practice of a profession; and

(b) A person entered in the emergency health care provider registry under ORS 401.658.

(3) "Health professional regulatory board" [*has the meaning given that term in ORS 676.160.*] **means a health professional regulatory board, as defined in ORS 676.160, the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board.**

SECTION 11. ORS 431A.850 is amended to read:

431A.850. As used in ORS 431A.855 to 431A.900:

(1) "Dispense" and "dispensing" have the meanings given those terms in ORS 689.005.

(2) "Drug outlet" has the meaning given that term in ORS 689.005.

(3) "Health professional regulatory board" [*has the meaning given that term in ORS 676.160.*] **means a health professional regulatory board, as defined in ORS 676.160, the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board.**

(4) "Practitioner" means:

(a) A practitioner as defined in ORS 689.005; or

(b) An individual licensed to practice a profession in California, Idaho or Washington, if the requirements for licensure are similar, as determined by the Oregon Health Authority, to the requirements for being licensed as a practitioner as defined in ORS 689.005.

(5) "Prescription" has the meaning given that term in ORS 475.005.

(6) "Prescription drug" has the meaning given that term in ORS 689.005.

SECTION 12. ORS 433.045 is amended to read:

433.045. (1) As used in this section:

(a) "Health care provider" means an individual licensed by a health professional regulatory board, as [*that term is*] defined in ORS 676.160**, the Nursing Home Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board**.

(b) "HIV test" means a test of an individual for the presence of HIV, or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV.

(c) "Insurance producer" has the meaning given that term in ORS 746.600.

(d) "Insurance-support organization" has the meaning given that term in ORS 746.600.

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

(2) Except as provided in ORS 433.017, 433.055 (3) and 433.080, a health care provider or the provider's designee shall, before subjecting an individual to an HIV test:

(a) Notify the individual being tested; and

(b) Allow the individual being tested the opportunity to decline the test.

(3) The notification and opportunity to decline testing required under subsection (2) of this section may be verbal or in writing, and may be contained in a general medical consent form.

(4)(a) Regardless of the manner of receipt or the source of the information, including information received from the tested individual, a person may not disclose or be compelled to disclose the identity of any individual upon whom an HIV-related test is performed, or the results of such a test in a manner that permits identification of the subject of the test, except as required or permitted by federal law, the law of this state or any rule, including any authority rule considered necessary for public health or health care purposes, or as authorized by the individual whose blood is tested.

(b) This subsection does not apply to an individual acting in a private capacity and not in an employment, occupational or professional capacity.

(5) A person who complies with the requirements of this section is not subject to an action for civil damages.

(6) Whenever an insurer, insurance producer or insurance-support organization asks an applicant for insurance to take an HIV test in connection with an application for insurance, the insurer, insurance producer or insurance-support organization must reveal the use of the test to the applicant and obtain the written consent of the applicant. The consent form must disclose the purpose of the test and the persons to whom the results may be disclosed.

SECTION 13. ORS 441.057 is amended to read:

441.057. (1) Rules adopted pursuant to ORS 441.025 shall include procedures for the filing of complaints as to the standard of care in any health care facility and provide for the confidentiality of the identity of any complainant.

(2) A health care facility, or person acting in the interest of the facility, may not take any disciplinary or other adverse action against any employee who in good faith brings evidence of inappropriate care or any other violation of law or rules to the attention of the proper authority solely

because of the employee's action as described in this subsection.

(3) Any employee who has knowledge of inappropriate care or any other violation of law or rules shall utilize established reporting procedures of the health care facility administration before notifying the Department of Human Services, Oregon Health Authority or other state agency of the alleged violation, unless the employee believes that patient health or safety is in immediate jeopardy or the employee makes the report to the department or the authority under the confidentiality provisions of subsection (1) of this section.

(4) The protection of health care facility employees under subsection (2) of this section shall commence with the reporting of the alleged violation by the employee to the administration of the health care facility or to the department, authority or other state agency pursuant to subsection (3) of this section.

(5) Any person suffering loss or damage due to any violation of subsection (2) of this section has a right of action for damages in addition to other appropriate remedy.

(6) The provisions of this section do not apply to a nursing staff, as defined in ORS 441.179, who claims to be aggrieved by a violation of ORS 441.181 committed by a hospital.

(7) Information obtained by the department or the authority during an investigation of a complaint or reported violation under this section is confidential and not subject to public disclosure under ORS 192.410 to 192.505. Upon the conclusion of the investigation, the department or the authority may publicly release a report of the department's or the authority's findings but may not include information in the report that could be used to identify the complainant or any patient at the health care facility. The department or the authority may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a health care facility, and may report information obtained during an investigation to a health professional regulatory board as defined in ORS 676.160**, the Nursing Home Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board** as that information pertains to a licensee of the board.

SECTION 14. ORS 441.099 is amended to read:

441.099. (1) A health practitioner who fails to comply with ORS 441.098 (2), (3), (4) or (5) shall be subject to disciplinary action by the Health Licensing Office or by the appropriate health professional regulatory board as defined in ORS 676.160.

(2) The Health Licensing Office or the appropriate health professional regulatory board may investigate a claim under ORS 441.098 in accordance with the investigative authority granted **the office under section 2 of this 2017 Act or the board** under ORS 676.165.

SECTION 15. For purposes of ORS 676.110, 676.115, 676.120 and 676.130, "health professional regulatory board" means a health professional regulatory board, as defined in ORS 676.160, the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board.

SECTION 16. ORS 676.110 is amended to read:

676.110. (1) An individual practicing a health care profession may not use the title "doctor" in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual's field of practice; and

(b)(A) Is licensed by a health professional regulatory board [*as defined in ORS 676.160*] to practice the particular health care profession in which the individual's doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license

of a supervisor who is licensed by a health professional regulatory board [*as defined in ORS 676.160*] to practice the particular health care profession in which the individual's doctoral degree was earned.

(2) If an individual uses the title "doctor" in connection with a health care profession at any time, the individual must designate the health care profession in which the individual's doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual's name or the title "doctor" appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title "chiropractic physician";

(b) A naturopathic physician licensed under ORS chapter 685 from using the title "naturopathic physician";

(c) A person licensed to practice optometry under ORS chapter 683 from using the title "doctor of optometry" or "optometric physician"; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title "podiatric physician."

SECTION 17. ORS 676.115 is amended to read:

676.115. An individual may not use the title "nurse" unless the individual:

(1) Has earned a nursing degree or a nursing certificate from an accredited nursing program; and

(2) Is licensed by a health professional regulatory board [*as defined in ORS 676.160*] to practice the particular health care profession in which the individual's nursing degree or nursing certificate was earned.

SECTION 18. ORS 676.120 is amended to read:

676.120. Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board [*as defined in ORS 676.160*], the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent's name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner.

SECTION 19. ORS 676.130 is amended to read:

676.130. Each health professional regulatory board [*as defined in ORS 676.160*] shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 [*which*] **that** may be brought to the attention of [*such*] **the** board. The district attorney of the county in which [*any*] **a** violation of [*those sections*] **ORS 676.110, 676.115 or 676.120** takes place shall prosecute the violation upon being informed of the violation by [*any*] **a** person or by one of [*such*] **the** boards.

SECTION 20. ORS 676.350 is amended to read:

676.350. (1) As used in this section:

(a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs for the treatment of a sexually transmitted disease to the partner of a patient without first exam-

ining the partner of the patient.

(b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted disease identifies as a sexual partner of the patient.

(c) "Practitioner" has the meaning given that term in ORS 475.005.

(2) A health professional regulatory board, as defined in ORS 676.160, **the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board** may adopt rules permitting practitioners to practice expedited partner therapy. If a board adopts rules permitting practitioners to practice expedited partner therapy, the board shall consult with the Oregon Health Authority to determine which sexually transmitted diseases are appropriately addressed with expedited partner therapy.

(3) A prescription issued in the practice of expedited partner therapy authorized by the rules of a board is valid even if the name of the patient for whom the prescription is intended is not on the prescription.

(4) The authority shall make available informational material about expedited partner therapy that a practitioner may distribute to patients.

SECTION 21. ORS 676.400 is amended to read:

676.400. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:

(a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;

(b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;

(c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;

(d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and

(e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:

(a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and

(b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup

of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, "health professional regulatory board" [*has the meaning given that term in ORS 676.160.*] **means a health professional regulatory board, as defined in ORS 676.160, the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board.**

SECTION 22. ORS 676.608 is amended to read:

676.608. (1) As used in this section, "public entity" has the meaning given that term in ORS 676.177.

(2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce the provisions of ORS 676.575 to 676.625 and 676.992.

(b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards and councils listed in ORS 676.583.

[*(c) Subject to subsection (12) of this section, when the office receives a complaint against an authorization holder, the office shall investigate the complaint as provided in ORS 676.165.*]

(3) While conducting an investigation authorized under subsection (2) of this section or a hearing related to an investigation, the office may:

(a) Take evidence;

(b) Administer oaths;

(c) Take the depositions of witnesses, including the person charged;

(d) Compel the appearance of witnesses, including the person charged;

(e) Require answers to interrogatories;

(f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation; and

(g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

(4) In exercising its authority under this section, the office may issue subpoenas over the signature of the Director of the Health Licensing Office or designated employee of the director and in the name of the State of Oregon.

(5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the office's authority in any way.

(7) In all investigations and hearings, the office and any person affected by the investigation or hearing may have the benefit of counsel.

(8) If an authorization holder who is the subject of a complaint or an investigation is to appear before the office, the office shall provide the authorization holder with a current summary of the complaint or the matter being investigated not less than 10 days before the date that the authorization holder is to appear. At the time the summary of the complaint or the matter being investigated is provided, the office shall provide the authorization holder with a current summary of

documents or alleged facts that the office has acquired as a result of the investigation. The name of the complainant may be withheld from the authorization holder.

(9) An authorization holder who is the subject of an investigation, and any person acting on behalf of the authorization holder, may not contact the complainant until the authorization holder has requested a contested case hearing and the office has authorized the taking of the complainant's deposition pursuant to ORS 183.425.

(10) Except in an investigation or proceeding conducted by the office or another public entity, or in an action, suit or proceeding in which a public entity is a party, an authorization holder may not be questioned or examined regarding any communication with the office made in an appearance before the office as part of an investigation.

(11) This section does not prohibit examination or questioning of an authorization holder regarding records about the authorization holder's care and treatment of a patient or affect the admissibility of those records.

(12) In conducting an investigation related to the practice of direct entry midwifery, as defined in ORS 687.405, the office shall:

(a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint before beginning the investigation;

(b) Allow the board to prioritize the investigation with respect to other investigations related to the practice of direct entry midwifery; and

(c) Consult with the board during and after the investigation for the purpose of determining whether to pursue disciplinary action.

SECTION 23. ORS 743B.454 is amended to read:

743B.454. (1) As used in this section:

(a) "Complete application" means a provider's application to a health insurer to become a credentialed provider that includes:

(A) Information required by the health insurer;

(B) Proof that the provider is licensed by a health professional regulatory board as defined in ORS 676.160**, the Nursing Home Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board**;

(C) Proof of current registration with the Drug Enforcement Administration of the United States Department of Justice, if applicable to the provider's practice; and

(D) Proof that the provider is covered by a professional liability insurance policy or certification meeting the health insurer's requirements.

(b) "Credentialing period" means the period beginning on the date a health insurer receives a complete application and ending on the date the health insurer approves or rejects the complete application or 90 days after the health insurer receives the complete application, whichever is earlier.

(c) "Health insurer" means an insurer that offers managed health insurance or preferred provider organization insurance, other than a health maintenance organization as defined in ORS 750.005.

(2) A health insurer shall approve or reject a complete application within 90 days of receiving the application.

(3)(a) A health insurer shall pay all claims for medical services covered by the health insurer that are provided by a provider during the credentialing period.

(b) A provider may submit claims for medical services provided during the credentialing period

during or after the credentialing period.

(c) A health insurer may pay claims for medical services provided during the credentialing period:

(A) During or after the credentialing period.

(B) At the rate paid to nonparticipating providers.

(d) If a provider submits a claim for medical services provided during the credentialing period within six months after the end of the credentialing period, the health insurer may not deny payment of the claim on the basis of the health insurer's rules relating to timely claims submission.

(4) Subsection (3) of this section does not require a health insurer to pay claims for medical services provided during the credentialing period if:

(a) The provider was previously rejected or terminated as a participating provider in any health benefit plan underwritten or administered by the health insurer;

(b) The rejection or termination was due to the objectively verifiable failure of the provider to provide medical services within the recognized standards of the provider's profession; and

(c) The provider was given the opportunity to contest the rejection or termination before a panel of peers in a proceeding conducted in conformity with the Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq.

(Miscellaneous)

SECTION 24. Sections 2 and 3 of this 2017 Act and the amendments to ORS 192.450, 676.160, 676.609, 678.725 and 687.490 by sections 4 to 8 of this 2017 Act apply to requests for information received by the Health Licensing Office before, on or after the effective date of this 2017 Act.

OCCUPATIONS, COMMITTEES AND BOARDS

(Health Care Interpreters)

SECTION 25. ORS 414.625 is amended to read:

414.625. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and requirements for a coordinated care organization and shall integrate the criteria and requirements into each contract with a coordinated care organization. Coordinated care organizations may be local, community-based organizations or statewide organizations with community-based participation in governance or any combination of the two. Coordinated care organizations may contract with counties or with other public or private entities to provide services to members. The authority may not contract with only one statewide organization. A coordinated care organization may be a single corporate structure or a network of providers organized through contractual relationships. The criteria adopted by the authority under this section must include, but are not limited to, the coordinated care organization's demonstrated experience and capacity for:

(a) Managing financial risk and establishing financial reserves.

(b) Meeting the following minimum financial requirements:

(A) Maintaining restricted reserves of $250,000 plus an amount equal to 50 percent of the coordinated care organization's total actual or projected liabilities above $250,000.

(B) Maintaining a net worth in an amount equal to at least five percent of the average combined

revenue in the prior two quarters of the participating health care entities.

(c) Operating within a fixed global budget.

(d) Developing and implementing alternative payment methodologies that are based on health care quality and improved health outcomes.

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

(f) Engaging community members and health care providers in improving the health of the community and addressing regional, cultural, socioeconomic and racial disparities in health care that exist among the coordinated care organization's members and in the coordinated care organization's community.

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

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

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

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

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

(e) Members receive assistance in navigating the health care delivery system and in accessing community and social support services and statewide resources, including through the use of certified health care interpreters **and qualified health care interpreters**, as **those terms are** defined in ORS 413.550, **and** community health workers and personal health navigators**,** who meet competency standards established by the authority under ORS 414.665 or who are certified by the Home Care Commission under ORS 410.604.

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

(g) Each coordinated care organization uses health information technology to link services and care providers across the continuum of care to the greatest extent practicable and if financially viable.

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

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

(j) Each coordinated care organization prioritizes working with members who have high health care needs, multiple chronic conditions, mental illness or chemical dependency and involves those members in accessing and managing appropriate preventive, health, remedial and supportive care and services to reduce the use of avoidable emergency room visits and hospital admissions.

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

(A) Work together to develop best practices for care and service delivery to reduce waste and

improve the health and well-being of members.

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

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

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

(E) Include providers of specialty care.

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

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

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

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

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

(o) Each coordinated care organization has a governing body that includes:

(A) Persons that share in the financial risk of the organization who must constitute a majority of the governing body;

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

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

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

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

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

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

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

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

(4) In selecting one or more coordinated care organizations to serve a geographic area, the authority shall:

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

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

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

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

(Environmental Health Specialists)

SECTION 26. ORS 700.030 is amended to read:

700.030. (1) Subject to ORS 676.612, upon application accompanied by payment of the applicable fees established under ORS 676.592, the Health Licensing Office shall issue a registration to any applicant who**:**

(a) Performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board**;** and

(b) Furnishes evidence satisfactory to the office that the applicant:

[*(a)*] **(A)** Has a bachelor's degree from an accredited college or university [*with at least 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation*] and two years of experience in environmental sanitation under the supervision of a registered environmental health specialist [*or a person possessing equal qualifications, as determined by the board. Accumulated schooling relevant to environmental sanitation gained while serving in the United States Public Health Service or a branch of the Armed Forces of the United States may be credited toward the educational requirement as evaluated by the current edition of the "Guide to Evaluation of Educational Experience in the Armed Services," by the American Council on Education; or*]**;**

[*(b)*] **(B)** Has a graduate degree in public or community health from an accredited college or university and one year of experience in environmental sanitation under the supervision of a registered environmental health specialist [*or a person possessing equal qualifications, as determined by the board.*]**; or**

(C) Possesses qualifications equivalent to those described in subparagraph (A) or (B) of this paragraph, as determined by the board by rule.

(2) For the purpose of meeting the qualifications set forth in subsection (1)(b)(A) of this section, accumulated schooling relevant to environmental sanitation gained while serving in the United States Public Health Service or a branch of the Armed Forces of the United States may be credited toward the educational requirement as evaluated by the current edition of the "Guide to Evaluation of Educational Experiences in the Armed Services" by the American Council on Education.

[*(2)*] **(3)** The office, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist when an individual's date of employment precedes attainment of registration.

SECTION 27. The amendments to ORS 700.030 by section 26 of this 2017 Act apply to evidence received by the Environmental Health Registration Board on and after the effective date of this 2017 Act.

(State Trauma Advisory Board)

SECTION 28. ORS 431A.055 is amended to read:

431A.055. (1) The State Trauma Advisory Board is established within the Oregon Health Authority. **The board must have at least 18 members. The Director of the Oregon Health Authority shall appoint at least 17 voting members as described in subsection (2) of this section. The chairperson of the State Emergency Medical Service Committee established under ORS 682.039, or the chairperson's designee, shall be a nonvoting member.**

(2) The director [*of the Oregon Health Authority*] shall, subject to subsection (3) of this section, appoint [*at least 17*] members to serve on the State Trauma Advisory Board, including:

(a) At least one member from each area trauma advisory board described in ORS 431A.070.

(b) At least two physicians who are trauma surgeons from each trauma center designated by the authority as a Level I trauma center.

(c) From trauma centers designated by the authority as Level I or Level II trauma centers:

(A) At least one physician who is a neurosurgeon; and

(B) At least one physician who is an orthopedic surgeon.

(d) From trauma centers designated by the authority as Level I trauma centers:

(A) At least one physician who practices emergency medicine; and

(B) At least one nurse who is a trauma program manager.

(e) From trauma centers designated by the authority as Level II trauma centers:

(A) At least one physician who is a trauma surgeon; and

(B) At least one nurse who is a trauma coordinator.

(f) From trauma centers designated by the authority as Level III trauma centers:

(A) At least one physician who is a trauma surgeon or who practices emergency medicine; and

(B) At least one nurse who is a trauma coordinator.

(g) At least one nurse who is a trauma coordinator from a trauma center designated by the authority as a Level IV trauma center.

(h) From a predominately urban area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(i) From a predominately rural area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(j) At least two public members.

[*(3)(a) In appointing members under subsection (2)(c) to (g) of this section, the director may not appoint a member from the same trauma center in consecutive terms.*]

[*(b)*] **(3)** In appointing members under subsection (2)(j) of this section, the director may not appoint a member who has an economic interest in the provision of emergency medical services or trauma care.

(4)(a) The State Trauma Advisory Board shall:

(A) Advise the authority with respect to the authority's duties and responsibilities under ORS 431A.050 to 431A.080, 431A.085, 431A.090, 431A.095, 431A.100 and 431A.105;

(B) Advise the authority with respect to the adoption of rules under ORS 431A.050 to 431A.080, 431A.085, 431A.095 and 431A.105;

(C) Analyze data related to the emergency medical services and trauma system developed pursuant to ORS 431A.050; and

(D) Suggest improvements to the emergency medical services and trauma system developed pursuant to ORS 431A.050.

(b) In fulfilling the duties, functions and powers described in this subsection, the board shall:

(A) Make evidence-based decisions that emphasize the standard of care attainable throughout this state and by individual communities located in this state; and

(B) Seek the advice and input of coordinated care organizations.

(5)(a) The State Trauma Advisory Board may establish a Quality Assurance Subcommittee for

the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding ORS 414.227, meetings of the subcommittee are not subject to ORS 192.610 to 192.690.

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to ORS 192.410 to 192.505.

(6) A majority of the **voting** members of the board constitutes a quorum for the transaction of business.

(7) Official action taken by the board requires the approval of a majority of the **voting** members of the board.

(8) The board shall nominate and elect a chairperson from among its **voting** members.

(9) The board shall meet at the call of the chairperson or of a majority of the **voting** members of the board.

(10) The board may adopt rules necessary for the operation of the board.

(11) The term of office of each **voting** member of the board is four years, but a **voting** member serves at the pleasure of the director. Before the expiration of the term of a **voting** member, the director shall appoint a successor whose term begins January 1 next following. A **voting** member is eligible for reappointment[*, but may not serve consecutive terms*]. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(12) Members of the board are not entitled to compensation, but may be reimbursed from funds available to the Oregon Health Authority, 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.

(Area Trauma Advisory Boards)

SECTION 29. ORS 431A.070 is amended to read:

431A.070. (1)**(a)** Area trauma advisory boards shall meet as often as necessary to**:**

(A) Identify specific trauma area needs and problems**;** and

(B) Propose to the Oregon Health Authority area trauma system plans and changes that meet state standards and objectives.

(b) The authority**,** acting with the advice of the State Trauma Advisory Board [*will have*] **established under ORS 431A.055, has** the authority to implement [*these*] plans **and changes proposed under paragraph (a) of this subsection**.

(2) In concurrence with the Governor, the authority shall select members for each **trauma** area from lists submitted by local associations of emergency medical services providers, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agencies and citizens at large. **The** members [*shall*] **of an area trauma advisory board must** be broadly representative of the trauma area as a whole [*and shall*]**. An area trauma advisory board must** consist of at least 15 members [*per area trauma advisory board, including:*] **and must include:**

(a) Three surgeons;

(b) Two physicians serving as emergency physicians;

(c) Two hospital administrators from different hospitals;

(d) Two nurses serving as emergency nurses;

(e) Two emergency medical services providers serving different emergency medical services;

(f) One emergency medical services medical director;

[*(f)*] **(g)** Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the authority[. *Public members shall not have an economic interest in any decision of the health care service areas*];

[*(g)*] **(h)** One representative of any bordering state [*which*] **that** is included within the patient referral area; **and**

[*(h) One anesthesiologist; and*]

(i) One ambulance service owner or operator or both.

(3) Members of an area trauma advisory board described in subsection (2)(g) of this section may not have an economic interest in health care services provided in the trauma area for which the area trauma advisory board makes proposals under subsection (1)(a)(B) of this section.

SECTION 30. The amendments to ORS 431A.070 by section 29 of this 2017 Act apply to selections for board membership made on and after the effective date of this 2017 Act.

(State Emergency Medical Service Committee)

SECTION 31. ORS 682.039 is amended to read:

682.039. [*(1) The Oregon Health Authority shall appoint a State Emergency Medical Service Committee composed of 18 members as follows:*]

(1) The State Emergency Medical Service Committee is established within the Oregon Health Authority. The committee must have at least 19 members. The Oregon Health Authority shall appoint at least 18 voting members as described in subsection (2) of this section. The chairperson of the State Trauma Advisory Board established under ORS 431A.055, or the chairperson's designee, shall be a nonvoting member.

(2) The authority shall appoint members to serve on the State Emergency Medical Service Committee, including:

(a) Seven physicians licensed under ORS chapter 677 whose practice consists of routinely treating emergencies**,** such as cardiovascular illness or trauma, appointed from a list submitted by the Oregon Medical Board.

(b) Four emergency medical services providers whose practices consist of routinely treating emergencies, [*including but not limited to*] **such as** cardiovascular illness or trauma[,]**.** At least one of [*whom is*] **the providers must be** at the lowest level of licensure for emergency medical services providers established by the authority at the time of appointment. Emergency medical services providers appointed pursuant to this paragraph must be selected from lists submitted by each area trauma advisory board. The lists must include nominations from [*entities including but not limited to*] organizations that represent emergency care providers in [*Oregon*] **this state**.

(c) One volunteer ambulance operator.

(d) One person representing governmental agencies that provide ambulance services.

(e) One person representing a private ambulance company.

(f) One hospital administrator.

(g) One nurse who has served at least two years in the capacity of an emergency department nurse.

(h) One representative of an emergency dispatch center.

(i) One community college or licensed career school representative.

[*(2)*] **(3)** The committee [*shall*] **must** include at least one resident**,** but no more than three residents**,** from each region served by one area trauma advisory board at the time of appointment.

[*(3)*] **(4)** Appointments [*shall be made*] **are** for a term of four years **and must be made** in a manner [*to preserve*] **that preserves** as much as possible the representation of the organization described in subsection [*(1)*] **(2)** of this section. [*Vacancies shall*] **A vacancy must** be filled for [*any*] **an** unexpired term as soon as the authority can make [*such appointments*] **the appointment**. The committee shall choose [*its own*] **a** chairperson and shall meet at the call of the chairperson or the Director of the Oregon Health Authority.

[*(4)*] **(5)** The State Emergency Medical Service Committee shall:

(a) Advise the authority concerning the adoption, amendment and repeal of rules authorized by this chapter;

(b) Assist the Emergency Medical Services and Trauma Systems Program in providing state and regional emergency medical services coordination and planning;

(c) Assist communities in identifying emergency medical service system needs and quality improvement initiatives;

(d) Assist the Emergency Medical Services and Trauma Systems Program in prioritizing, implementing and evaluating emergency medical service system quality improvement initiatives identified by communities;

(e) Review and prioritize rural community emergency medical service funding requests and provide input to the Rural Health Coordinating Council; and

(f) Review and prioritize funding requests for rural community emergency medical service training and provide input to the Area Health Education Center program.

[*(5)*] **(6)** The chairperson of the committee shall appoint a subcommittee on the licensure and discipline of emergency medical services providers, consisting of five physicians and four emergency medical services providers. The subcommittee shall advise the authority and the Oregon Medical Board on the adoption, amendment, repeal and application of rules [*concerning*] **implementing** ORS 682.204 to 682.220 and 682.245. The decisions of [*this*] **the** subcommittee are not subject to the review of the [*full State Emergency Medical Service*] committee.

[*(6)*] **(7)** Members **of the committee** are entitled to compensation as provided in ORS 292.495.

SECTION 32. ORS 682.079 is amended to read:

682.079. (1)**(a)** The Oregon Health Authority may grant exemptions or variances from one or more of the requirements of ORS 820.330 to 820.380 or this chapter or the rules adopted [*thereunder*] **under ORS 820.330 to 820.380 or this chapter** to any class of vehicles if [*it*] **the authority** finds that compliance with [*such*] **the** requirement or requirements is inappropriate**:**

(A) Because [*of*] special circumstances [*which*] **exist that** would render compliance unreasonable, burdensome or impractical [*due to*] **because of** special conditions or cause[*,*]**;** or

(B) Because compliance would result in substantial curtailment of necessary ambulance service. [*Such*]

(b) Exemptions or variances **granted under this subsection** may be limited in time or may be conditioned as the authority considers necessary to protect the public welfare.

(2) In determining whether or not a variance shall be granted, **the authority:**

(a) May receive the advice of the State Emergency Medical Service Committee [*shall be received*]**;** and

(b) In all cases**, shall weigh** the equities involved and the advantages and disadvantages to the welfare of patients and the owners of vehicles [*shall be weighed by the authority*].

(3) Rules under this section shall be adopted, amended or repealed in accordance with ORS 183.330.

(Advisory Committee on Physician Credentialing Information)

SECTION 33. ORS 441.221 is amended to read:

441.221. (1) The Advisory Committee on Physician Credentialing Information is established within the Oregon Health Authority. The committee consists of nine members appointed by the Director of the Oregon Health Authority **or the director's designee** as follows:

(a) Three members who are health care practitioners licensed by the Oregon Medical Board or representatives of health care practitioners' organizations doing business within the State of Oregon;

(b) Three representatives of hospitals licensed by the Oregon Health Authority; and

(c) Three representatives of health care service contractors that have been issued a certificate of authority to transact health insurance in this state by the Department of Consumer and Business Services.

(2) All members appointed pursuant to subsection (1) of this section [*shall*] **must** be knowledgeable about national standards relating to the credentialing of health care practitioners.

(3) The term of appointment for each member of the committee is three years. If, during a member's term of appointment, the member no longer qualifies to serve as designated by the criteria of subsection (1) of this section, the member must resign. If there is a vacancy for any cause, the director **or the director's designee** shall make an appointment to become immediately effective for the unexpired term.

(4) Members of the committee are not entitled to compensation or reimbursement of expenses.

(Electronic Credentialing)

SECTION 34. ORS 441.233 is amended to read:

441.233. The [*Director of the*] Oregon Health Authority shall adopt rules necessary for the administration of ORS 441.224 to 441.233.

CANCER AND TUMOR REGISTRY SYSTEM

SECTION 35. ORS 432.500 is amended to read:

432.500. As used in ORS 432.510 to 432.550 and 432.900:

(1) "Clinical laboratory" means a facility where microbiological, serological, chemical, hematological, immunohematological, immunological, toxicological, cytogenetical, exfoliative cytological, histological, pathological or other examinations are performed on material derived from the human body, for the purpose of diagnosis, prevention of disease or treatment of patients by physicians, dentists and other persons who are authorized by license to diagnose or treat humans.

(2) "Health care facility" means a hospital, as defined in ORS 442.015, [*or*] an ambulatory surgical center, as defined in ORS 442.015[.]**, or any other facility in which patients are diagnosed or provided treatment for cancer or benign or borderline tumors of the brain and central nervous system.**

(3) "Practitioner" means any person whose professional license allows the person to diagnose or treat cancer in patients.

SECTION 36. ORS 432.510 is amended to read:

432.510. (1) The Oregon Health Authority shall establish a uniform, statewide, population-based registry system for the collection of information determining the incidence of cancer and benign **or borderline** tumors of the brain and central nervous system and related data. The purpose of the registry shall be to provide information to design, target, monitor, facilitate and evaluate efforts to determine the causes or sources of cancer and benign **or borderline** tumors among the residents of [*Oregon*] **this state** and to reduce the burden of cancer and benign **or borderline** tumors in [*Oregon*] **this state**. Such efforts may include but are not limited to:

(a) Targeting populations in need of cancer screening services or evaluating screening or other cancer control services;

(b) Supporting the operation of hospital registries in monitoring and upgrading the care and the end results of treatment for cancer and benign **or borderline** tumors;

(c) Investigating suspected clusters or excesses of cancer and benign **or borderline** tumors both in occupational settings and in the state's environment generally;

(d) Conducting studies to identify cancer hazards to the public health and cancer hazard remedies; and

(e) Projecting the benefits or costs of alternative policies regarding the prevention or treatment of cancer and benign **or borderline** tumors.

(2) The authority shall adopt rules necessary to carry out the purposes of ORS 432.510 to 432.550 and 432.900, including but not limited to designating which types of cancer and benign **or borderline** tumors of the brain and central nervous system are reportable to the statewide registry, the data to be reported, the data reporting standards and format and the effective date after which reporting by health care facilities, clinical laboratories and practitioners shall be required. When adopting rules under this subsection, the authority shall, to the greatest extent practicable, conform the rules to the standards and procedures established by the American College of Surgeons Commission on Cancer, with the goal of achieving uniformity in the collection and reporting of data.

(3) The authority shall:

(a) Conduct a program of epidemiologic analyses of registry data collected under subsection (1) of this section to assess control, prevention, treatment and causation of cancer and benign **or borderline** tumors in [*Oregon*] **this state**; and

(b) Utilize the data to promote, facilitate and evaluate programs designed to reduce the burden of cancer and benign **or borderline** tumors among the residents of Oregon.

(4) The authority shall:

(a) Collaborate in studies of cancer and benign **or borderline** tumors with clinicians and epidemiologists and publish reports on the results of such studies; and

(b) Cooperate with the National Institutes of Health and the Centers for Disease Control and Prevention in providing incidence data for cancer and benign **or borderline** tumors.

(5) The authority shall establish a training program for the personnel of participating health care facilities and a quality control program for data for cancer and benign **or borderline** tumors reported to the state registry.

SECTION 37. ORS 432.520 is amended to read:

432.520. (1) Except as provided in subsection (2) of this section, any health care facility in which patients are diagnosed or provided treatment for cancer or benign **or borderline** tumors of the brain

and central nervous system shall report each case of cancer or benign **or borderline** tumors of the brain and central nervous system to the Oregon Health Authority within a time period and in a format prescribed by the authority. [*The authority shall provide, at cost, reporting services to any health care facility at the option of the health care facility.*] **The authority may provide, at cost, reporting services to health care facilities.** Health care facilities may also purchase reporting services from another facility or commercial vendor. If a health care facility is unable to report in conformance with the format and standards prescribed by the authority, the authority may, after consultation with the health care facility, elect to activate its reporting service for the facility. When activated, the authority may enter the facility, obtain the information and report it in conformance with the appropriate format and standards. In these instances, the facility shall reimburse the authority or its authorized representative for the cost of obtaining and reporting the information.

(2) Upon application to the authority by a health care facility, the authority shall grant to the health care facility an extension of time in which to meet the reporting requirements of this section. In no event shall the extension of time exceed [*two years*] **one year** from the date of application.

(3) Any practitioner diagnosing or providing treatment to patients with cancer or benign **or borderline** tumors of the brain and central nervous system shall report each case to the authority or its authorized representative within a time period and in a format prescribed by the authority. Those cases diagnosed or treated at an Oregon health care facility or previously admitted to an Oregon health care facility for diagnosis or treatment of that instance of cancer or benign **or borderline** tumors of the brain and central nervous system shall be considered by the authority to have been reported by the health care practitioner.

(4) Any clinical laboratory diagnosing cases of cancer or benign **or borderline** tumors of the brain and central nervous system shall report each case to the authority or its authorized representative within a time period and in a format prescribed by the authority.

(5) For the purpose of assuring the accuracy and completeness of reported data, the authority shall have the right to periodically review all records that would:

(a) Identify cases of cancer and benign **or borderline** tumors, the treatment of the cancer or benign **or borderline** tumors or the medical status of any patient identified as being treated for cancer or benign **or borderline** tumors; or

(b) Establish characteristics of the cancer or benign **or borderline** tumors.

(6) The authority may conduct special studies of cancer morbidity and mortality. As part of such studies, registry personnel may obtain additional information that applies to a patient's cancer or benign **or borderline** tumors and that may be in the medical record of the patient. The record holder may either provide the requested information to the registry personnel or provide the registry personnel access to the relevant portions of the patient's medical record. Neither the authority nor the record holder shall bill the other for the cost of providing or obtaining this information.

SECTION 38. ORS 432.530 is amended to read:

432.530. (1) All identifying information regarding individual patients, health care facilities and practitioners reported pursuant to ORS 432.520 shall be confidential and privileged. Except as required in connection with the administration or enforcement of public health laws or rules, no public health official, employee or agent shall be examined in an administrative or judicial proceeding as to the existence or contents of data collected under the registry system for cancer and benign **or borderline** tumors of the brain and central nervous system.

(2) All additional information reported in connection with a special study shall be confidential

and privileged and shall be used solely for the purposes of the study, as provided by ORS 413.196. Nothing in this section shall prevent the Oregon Health Authority from publishing statistical compilations relating to morbidity and mortality studies that do not identify individual cases or prevent use of this data by third parties to conduct research as provided by ORS 432.540 (1).

SECTION 39. ORS 432.540 is amended to read:

432.540. (1) The Oregon Health Authority shall adopt rules under which confidential data may be used by third parties to conduct research and studies for the public good. Research and studies conducted using confidential data from the statewide registry must be reviewed and approved by the Committee for the Protection of Human Research Subjects established in accordance with 45 C.F.R. 46.

(2) The authority may enter into agreements to exchange information with other registries for cancer and benign **or borderline** tumors of the brain and central nervous system in order to obtain complete reports of Oregon residents diagnosed or treated in other states and to provide information to other states regarding the residents of other states diagnosed or treated in Oregon. Prior to providing information to any other registry, the authority shall ensure that the recipient registry has comparable confidentiality protections.

SECTION 40. ORS 432.550 is amended to read:

432.550. (1) No action for damages arising from the disclosure of confidential or privileged information may be maintained against any person, or the employer or employee of any person, who participates in good faith in the reporting of registry data for cancer or benign **or borderline** tumors of the brain and central nervous system or data for cancer morbidity or mortality studies in accordance with ORS 432.510 to 432.540 and 432.900.

(2) No license of a health care facility or practitioner may be denied, suspended or revoked for the good faith disclosure of confidential or privileged information in the reporting of registry data for cancer or benign **or borderline** tumors of the brain and central nervous system or data for cancer morbidity or mortality studies in accordance with ORS 432.510 to 432.540 and 432.900.

(3) Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

SECTION 41. ORS 432.570 is amended to read:

432.570. Nothing in ORS 432.510 to 432.550 and 432.900 shall prohibit a health care facility from operating its own registry for cancer and benign **or borderline** tumors of the brain and central nervous system or require a health care facility to operate its own registry for cancer and benign **or borderline** tumors.

SECTION 42. The amendments to ORS 432.520 (2) by section 37 of this 2017 Act apply to extensions of time applied for on and after the effective date of this 2017 Act.

PROGRAMS FOR TREATING ALLERGIC RESPONSE, ADRENAL INSUFFICIENCY OR HYPOGLYCEMIA

SECTION 43. ORS 433.815 is amended to read:

433.815. (1) Educational training on the treatment of allergic responses, as required by ORS 433.800 to 433.830, shall be conducted [*under the supervision of*] **by** a physician or nurse practitioner. The training may be conducted by any other health care professional licensed under ORS chapter 678 as [*delegated*] **assigned** by a [*supervising*] physician or nurse practitioner, or by an emergency

medical services provider meeting the requirements established by the Oregon Health Authority by rule. The curricula shall include, at a minimum, the following subjects:

(a) Recognition of the symptoms of systemic allergic responses to insect stings and other allergens;

(b) Familiarity with common factors that are likely to elicit systemic allergic responses;

(c) Proper administration of an intramuscular or subcutaneous injection of epinephrine for severe allergic responses to insect stings and other specific allergens; and

(d) Necessary follow-up treatment.

(2) Educational training on the treatment of hypoglycemia, as required by ORS 433.800 to 433.830, shall be conducted [*under the supervision of*] **by** a physician [*or*]**,** nurse practitioner[. *The training may be conducted by*] **or** any other health care professional licensed under ORS chapter 678 [*as delegated by a supervising physician or nurse practitioner*]. The curricula shall include, at a minimum, the following subjects:

(a) Recognition of the symptoms of hypoglycemia;

(b) Familiarity with common factors that may induce hypoglycemia;

(c) Proper administration of a subcutaneous injection of glucagon for severe hypoglycemia when other treatment has failed or cannot be initiated; and

(d) Necessary follow-up treatment.

(3) Educational training on the treatment of adrenal insufficiency, as required by ORS 433.800 to 433.830, shall be conducted [*under the supervision of*] **by** a physician [*or*]**,** nurse practitioner[. *The training may be conducted by*] **or** any other health care professional licensed under ORS chapter 678 [*as delegated by a supervising physician or nurse practitioner*]. The curricula shall include, at a minimum, the following subjects:

(a) General information about adrenal insufficiency and the dangers associated with adrenal insufficiency;

(b) Recognition of the symptoms of a person who is experiencing an adrenal crisis;

(c) The types of medications that are available for treating adrenal insufficiency; and

(d) Proper administration of medications that treat adrenal insufficiency.

SECTION 44. ORS 433.817 is amended to read:

433.817. Educational training on the treatment of allergic responses, as required by ORS 433.800 to 433.830, may be conducted by a public health authority or organization or by [*a person who has successfully completed educational training as described in ORS 433.815*] **any other entity or individual approved by the Oregon Health Authority by rule**. The training curricula under this section must include the following subjects:

(1) Recognition of the symptoms of systemic allergic responses to insect stings and other allergens;

(2) Familiarity with common factors that are likely to elicit systemic allergic responses;

(3) Proper administration of an intramuscular or subcutaneous injection of epinephrine for severe allergic responses to insect stings and other specific allergens; and

(4) Necessary follow-up treatment.

SECTION 45. ORS 433.825 is amended to read:

433.825. (1)(a) A person who has successfully completed educational training described in ORS 433.815 **or 433.817** for severe allergic responses may receive from any health care professional who has appropriate prescriptive privileges and who is licensed under ORS chapter 677 or 678 [*in this state*] a prescription for premeasured doses of epinephrine and the necessary paraphernalia for ad-

ministration.

(b) An entity that employs a person described in paragraph (a) of this subsection may acquire**, possess and make available** premeasured doses of epinephrine and the necessary paraphernalia for administration [*in accordance with*] **as described in** paragraph (c) of this subsection. A health care [*practitioner*] **professional** who has appropriate prescriptive privileges and is licensed under ORS chapter 677 or 678 may write a prescription for premeasured doses of epinephrine and the necessary paraphernalia in the name of an entity that employs a person described in paragraph (a) of this subsection.

(c) A person described in paragraph (a) of this subsection may**, pursuant to a prescription issued under paragraph (a) or (b) of this subsection, acquire,** possess and administer, in an emergency situation when a licensed health care professional is not immediately available, prescribed epinephrine to any person suffering a severe allergic response.

(2) A person who has successfully completed educational training in the administration of glucagon as described in ORS 433.815 for hypoglycemia may receive from the parent or guardian of a student glucagon prescribed by a health care professional who has appropriate prescriptive privileges and is licensed under ORS chapter 677 or 678, as well as the necessary paraphernalia for administration. The person may possess the glucagon and administer the glucagon to the student for whom the glucagon is prescribed if the student is suffering a severe hypoglycemic reaction in an emergency situation when a licensed health care professional is not immediately available and other treatment has failed or cannot be initiated.

(3) A person who has successfully completed educational training in the treatment of adrenal insufficiency as described in ORS 433.815 may receive from the parent or guardian of a student a medication that treats adrenal insufficiency and that is prescribed by a health care professional who has appropriate prescriptive privileges and is licensed under ORS chapter 677 or 678, as well as the necessary paraphernalia for administration. The person may possess the medication and administer the medication to the student for whom the medication is prescribed if the student is suffering an adrenal crisis in an emergency situation when a licensed health care professional is not immediately available.

DATE BY WHICH HEALTH CARE ACQUIRED INFECTIONS DATA MUST BE MADE PUBLIC

SECTION 46. Section 6, chapter 838, Oregon Laws 2007, as amended by section 8, chapter 61, Oregon Laws 2013, in amended to read:

Sec. 6. (1) In addition to any report required pursuant to section 3, chapter 838, Oregon Laws 2007, on or before [*April 30*] **August 31** of each year, the Oregon Health Authority shall prepare an annual report summarizing the health care facility reports submitted pursuant to section 3, chapter 838, Oregon Laws 2007. The authority shall make the reports available to the public in the manner provided in ORS 192.243 and to the Legislative Assembly in the manner provided in ORS 192.245.

(2) The annual report shall, for each health care facility in the state, compare the health care acquired infection measures reported under section 3, chapter 838, Oregon Laws 2007. The authority, in consultation with the Health Care Acquired Infection Advisory Committee, shall provide the information in the report in a format that is as [*easily*] comprehensible as possible.

(3) The annual report may include findings, conclusions and trends concerning the health care

acquired infection measures reported under section 3, chapter 838, Oregon Laws 2007, a comparison to the health care acquired infection measures reported in prior years and any policy recommendations **based on those findings, conclusions, trends and comparisons**.

(4) The authority shall publicize the annual report and its availability to interested persons, including providers, media organizations, health insurers, health maintenance organizations, purchasers of health insurance, organized labor, consumer and patient advocacy groups and individual consumers.

(5) The annual report and quarterly reports under this section and section 3, chapter 838, Oregon Laws 2007, may not contain information that identifies a patient, a licensed health care professional or an employee of a health care facility in connection with a specific infection incident.

SECTION 47. The amendments to section 6, chapter 838, Oregon Laws 2007, by section 46 of this 2017 Act apply to reports made available to the public after the effective date of this 2017 Act.

MARIJUANA ABUSE PREVENTION

SECTION 48. ORS 336.241, as amended by section 32, chapter 83, Oregon Laws 2016, is amended to read:

336.241. (1) As part of the comprehensive alcohol and drug abuse policy and implementation plan described in ORS 336.222, the Oregon Health Authority, State Board of Education and Alcohol and Drug Policy Commission shall collaborate on developing [*supplemental*] curricula **supplements** for marijuana abuse prevention and public information programs for students, parents, teachers, administrators and school board members.

(2) In the manner provided by ORS 192.245, the authority shall report on the implementation of this section to the Legislative Assembly on or before February 1 of each odd-numbered year.

REPEALS

(Oregon POLST Registry Advisory Committee)

SECTION 49. ORS 127.675 is repealed.

(Community-Based Health Care Initiatives)

SECTION 50. ORS 735.721, 735.723, 735.725 and 735.727 are repealed.

SECTION 51. ORS 731.036 is amended to read:

731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, if the organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743, 743A and 743B;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The individual or jointly self-insured program shall be subject to assessment in accordance with section 2, chapter 698, Oregon Laws 2013;

(h) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(i) Each public body in a joint insurance program is liable only to its own employees and no others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, that represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be

purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) "Affordable housing entity" means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

[*(11) A community-based health care initiative approved by the Oregon Health Authority under ORS 735.723 operating a community-based health care improvement program approved by the authority.*]

(12) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

SECTION 52. ORS 731.036, as amended by section 37, chapter 698, Oregon Laws 2013, and section 42, chapter 318, Oregon Laws 2015, is amended to read:

731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, if the organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743, 743A and 743B;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(h) Each public body in a joint insurance program is liable only to its own employees and no

others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, that represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) "Affordable housing entity" means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

[*(11) A community-based health care initiative approved by the Oregon Health Authority under ORS 735.723 operating a community-based health care improvement program approved by the authority.*]

[*(12)*] **(11)** Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

(Managed Health Care Consortium)

SECTION 53. ORS 743B.206 is repealed.

SECTION 54. ORS 743B.001, as amended by sections 3 and 4, chapter 59, Oregon Laws 2015, is amended to read:

743B.001. As used in this section and ORS 743.008, 743.035, 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, [*743B.206,*] 743B.220, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.400, 743B.403, 743B.405, 743B.420, 743B.422, 743B.423, 743B.424, 743B.450, 743B.451, 743B.452, 743B.453, 743B.454, 743B.505, 743B.550 and 743B.555:

(1) "Adverse benefit determination" means an insurer's denial, reduction or termination of a health care item or service, or an insurer's failure or refusal to provide or to make a payment in whole or in part for a health care item or service, that is based on the insurer's:

(a) Denial of eligibility for or termination of enrollment in a health benefit plan;

(b) Rescission or cancellation of a policy or certificate;

(c) Imposition of a preexisting condition exclusion as defined in ORS 743B.005, source-of-injury exclusion, network exclusion, annual benefit limit or other limitation on otherwise covered items or services;

(d) Determination that a health care item or service is experimental, investigational or not medically necessary, effective or appropriate; or

(e) Determination that a course or plan of treatment that an enrollee is undergoing is an active course of treatment for purposes of continuity of care under ORS 743B.225.

(2) "Authorized representative" means an individual who by law or by the consent of a person may act on behalf of the person.

(3) "Credit card" has the meaning given that term in 15 U.S.C. 1602.

(4) "Electronic funds transfer" has the meaning given that term in ORS 293.525.

(5) "Enrollee" has the meaning given that term in ORS 743B.005.

(6) "Essential community provider" has the meaning given that term in rules adopted by the Department of Consumer and Business Services consistent with the description of the term in 42 U.S.C. 18031 and the rules adopted by the United States Department of Health and Human Services, the United States Department of the Treasury or the United States Department of Labor to carry out 42 U.S.C. 18031.

(7) "Grievance" means:

(a) A communication from an enrollee or an authorized representative of an enrollee expressing

dissatisfaction with an adverse benefit determination, without specifically declining any right to appeal or review, that is:

(A) In writing, for an internal appeal or an external review; or

(B) In writing or orally, for an expedited response described in ORS 743B.250 (2)(d) or an expedited external review; or

(b) A written complaint submitted by an enrollee or an authorized representative of an enrollee regarding the:

(A) Availability, delivery or quality of a health care service;

(B) Claims payment, handling or reimbursement for health care services and, unless the enrollee has not submitted a request for an internal appeal, the complaint is not disputing an adverse benefit determination; or

(C) Matters pertaining to the contractual relationship between an enrollee and an insurer.

(8) "Health benefit plan" has the meaning given that term in ORS 743B.005.

(9) "Independent practice association" means a corporation wholly owned by providers, or whose membership consists entirely of providers, formed for the sole purpose of contracting with insurers for the provision of health care services to enrollees, or with employers for the provision of health care services to employees, or with a group, as described in ORS 731.098, to provide health care services to group members.

(10) "Insurer" includes a health care service contractor as defined in ORS 750.005.

(11) "Internal appeal" means a review by an insurer of an adverse benefit determination made by the insurer.

(12) "Managed health insurance" means any health benefit plan that:

(a) Requires an enrollee to use a specified network or networks of providers managed, owned, under contract with or employed by the insurer in order to receive benefits under the plan, except for emergency or other specified limited service; or

(b) In addition to the requirements of paragraph (a) of this subsection, offers a point-of-service provision that allows an enrollee to use providers outside of the specified network or networks at the option of the enrollee and receive a reduced level of benefits.

(13) "Medical services contract" means a contract between an insurer and an independent practice association, between an insurer and a provider, between an independent practice association and a provider or organization of providers, between medical or mental health clinics, and between a medical or mental health clinic and a provider to provide medical or mental health services. "Medical services contract" does not include a contract of employment or a contract creating legal entities and ownership thereof that are authorized under ORS chapter 58, 60 or 70, or other similar professional organizations permitted by statute.

(14)(a) "Preferred provider organization insurance" means any health benefit plan that:

(A) Specifies a preferred network of providers managed, owned or under contract with or employed by an insurer;

(B) Does not require an enrollee to use the preferred network of providers in order to receive benefits under the plan; and

(C) Creates financial incentives for an enrollee to use the preferred network of providers by providing an increased level of benefits.

(b) "Preferred provider organization insurance" does not mean a health benefit plan that has as its sole financial incentive a hold harmless provision under which providers in the preferred network agree to accept as payment in full the maximum allowable amounts that are specified in

the medical services contracts.

(15) "Prior authorization" means a determination by an insurer prior to provision of services that the insurer will provide reimbursement for the services. "Prior authorization" does not include referral approval for evaluation and management services between providers.

(16)(a) "Provider" means a person licensed, certified or otherwise authorized or permitted by laws of this state to administer medical or mental health services in the ordinary course of business or practice of a profession.

(b) With respect to the statutes governing the billing for or payment of claims, "provider" also includes an employee or other designee of the provider who has the responsibility for billing claims for reimbursement or receiving payments on claims.

(17) "Utilization review" means a set of formal techniques used by an insurer or delegated by the insurer designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy or efficiency of health care services, procedures or settings.

SECTION 55. ORS 743B.197 is amended to read:

743B.197. The Director of the Department of Consumer and Business Services shall appoint a Health Care Consumer Protection Advisory Committee with fair representation of health care consumers, providers and insurers. The committee shall advise the director regarding the implementation of ORS 743.008, 743A.012, 743B.001, 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, [*743B.206,*] 743B.220, 743B.250, 743B.400, 743B.403, 743B.405, 743B.420, 743B.422, 743B.423, 743B.424 and 743B.550 and other issues related to health care consumer protection.

SECTION 56. ORS 743B.200 is amended to read:

743B.200. All insurers offering managed health insurance in this state shall:

(1) Have a quality assessment program that enables the insurer to evaluate, maintain and improve the quality of health services provided to enrollees. The program shall include data gathering that allows the plan to measure progress on specific quality improvement goals chosen by the insurer.

(2) File an annual summary with the Department of Consumer and Business Services that describes quality assessment activities, including any activities related to credentialing of providers, and reports any progress on the insurer's quality improvement goals.

(3) File annually with the department the following information:

(a) Results of all publicly available federal Centers for Medicare and Medicaid Services reports and accreditation surveys by national accreditation organizations.

(b) The insurer's health promotion and disease prevention activities, if any, including a summary of screening and preventive health care activities covered by the insurer. In addition to the summary required in this paragraph, [*the consortium established pursuant to ORS 743B.206 shall develop recommendations for, and*] the department shall adopt rules requiring, reporting of an insurer's health promotion and disease prevention activities related to:

(A) Two specific preventive measures;

(B) One specific chronic condition; and

(C) One specific acute condition.

UNIT CAPTIONS

SECTION 57. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any

legislative intent in the enactment of this 2017 Act.
