

D R A F T

SUMMARY

Removes naturopathic physicians from list of medical professionals who conduct certain medical assessments for reported child abuse.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to naturopathic physicians; creating new provisions; amending ORS 418.747, 419B.020, 419B.023 and 419B.035; and declaring an emergency.

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

SECTION 1. ORS 418.747 is amended to read:

418.747. (1) The district attorney in each county shall be responsible for developing county multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, local health department personnel, county mental health department personnel who have experience with children and family mental health issues, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies that are represented on the team that specify:

(a) The role of each agency;

(b) Procedures to be followed to assess risks to the child;

1 (c) Guidelines for timely communication between member agencies;

2 (d) Guidelines for completion of responsibilities by member agencies;

3 (e) That upon clear disclosure that the alleged child abuse occurred in a
4 child care facility as defined in ORS 329A.250, immediate notification of
5 parents or guardians of children attending the child care facility is required
6 regarding any abuse allegation and pending investigation; and

7 (f) Criteria and procedures to be followed when removal of the child is
8 necessary for the child's safety.

9 (3) Each team member and the personnel conducting child abuse investi-
10 gations and interviews of child abuse victims shall be trained in risk as-
11 sessment, dynamics of child abuse, child sexual abuse and rape of children
12 and legally sound and age appropriate interview and investigatory tech-
13 niques.

14 (4) All investigations of child abuse and interviews of child abuse victims
15 shall be carried out by appropriate personnel using the protocols and proce-
16 dures called for in this section. If trained personnel are not available in a
17 timely fashion and, in the judgment of a law enforcement officer or child
18 protective services worker, there is reasonable cause to believe a delay in
19 investigation or interview of the child abuse victim could place the child in
20 jeopardy of physical harm, the investigation may proceed without full par-
21 ticipation of all personnel. This authority applies only for as long as rea-
22 sonable danger to the child exists. A law enforcement officer or child
23 protective services worker shall make a reasonable effort to find and provide
24 a trained investigator or interviewer.

25 (5) To ensure the protection and safe placement of a child, the Depart-
26 ment of Human Services may request that team members obtain criminal
27 history information on any person who is part of the household where the
28 department may place or has placed a child who is in the department's cus-
29 tody. All information obtained by the team members and the department in
30 the exercise of their duties is confidential and may be disclosed only when
31 necessary to ensure the safe placement of a child.

1 (6) Each team shall classify, assess and review cases under investigation.

2 (7)(a) Each team shall develop and implement procedures for evaluating
3 and reporting compliance of member agencies with the protocols and proce-
4 dures required under this section. Each team shall submit to the adminis-
5 trator of the Child Abuse Multidisciplinary Intervention Program copies of
6 the protocols and procedures required under this section and the results of
7 the evaluation as requested.

8 (b) The administrator may:

9 (A) Consider the evaluation results when making eligibility determi-
10 nations under ORS 418.746 (3);

11 (B) If requested by the Advisory Council on Child Abuse Assessment, ask
12 a team to revise the protocols and procedures being used by the team based
13 on the evaluation results; or

14 (C) Ask a team to evaluate the team's compliance with the protocols and
15 procedures in a particular case.

16 (c) The information and records compiled under this subsection are ex-
17 empt from ORS 192.311 to 192.478.

18 (8) Each team shall develop policies that provide for an independent re-
19 view of investigation procedures of sensitive cases after completion of court
20 actions on particular cases. The policies shall include independent citizen
21 input. Parents of child abuse victims shall be notified of the review proce-
22 dure.

23 (9) Each team shall designate at least one physician, physician
24 assistant[, *naturopathic physician*] or nurse practitioner who has been trained
25 to conduct child abuse medical assessments, as defined in ORS 418.782, and
26 who is, or who may designate another physician, physician assistant[,
27 *naturopathic physician*] or nurse practitioner who is, regularly available to
28 conduct the medical assessment described in ORS 419B.023.

29 (10) If photographs are taken pursuant to ORS 419B.028, and if the team
30 meets to discuss the case, the photographs shall be made available to each
31 member of the team at the first meeting regarding the child's case following

1 the taking of the photographs.

2 (11) No later than September 1, 2008, each team shall submit to the De-
3 partment of Justice a written summary identifying the designated medical
4 professional described in subsection (9) of this section. After that date, this
5 information shall be included in each regular report to the Department of
6 Justice.

7 (12) If, after reasonable effort, the team is not able to identify a desig-
8 nated medical professional described in subsection (9) of this section, the
9 team shall develop a written plan outlining the necessary steps, recruitment
10 and training needed to make such a medical professional available to the
11 children of the county. The team shall also develop a written strategy to
12 ensure that each child in the county who is a suspected victim of child abuse
13 will receive a medical assessment in compliance with ORS 419B.023. This
14 strategy, and the estimated fiscal impact of any necessary recruitment and
15 training, shall be submitted to the Department of Justice no later than Sep-
16 tember 1, 2008. This information shall be included in each regular report to
17 the Department of Justice for each reporting period in which a team is not
18 able to identify a designated medical professional described in subsection (9)
19 of this section.

20 **SECTION 2.** ORS 419B.020 is amended to read:

21 419B.020. (1) If the Department of Human Services or a law enforcement
22 agency receives a report of child abuse, the department or the agency shall
23 immediately:

24 (a) Cause an investigation to be made to determine the nature and cause
25 of the abuse of the child; and

26 (b) Notify the Office of Child Care if the alleged child abuse occurred in
27 a child care facility as defined in ORS 329A.250.

28 (2) If the abuse reported in subsection (1) of this section is alleged to have
29 occurred at a child care facility:

30 (a) The department and the law enforcement agency shall jointly deter-
31 mine the roles and responsibilities of the department and the agency in their

1 respective investigations; and

2 (b) The department and the agency shall each report the outcomes of their
3 investigations to the Office of Child Care.

4 (3) If the law enforcement agency conducting the investigation finds rea-
5 sonable cause to believe that abuse has occurred, the law enforcement
6 agency shall notify by oral report followed by written report the local office
7 of the department. The department shall provide protective social services
8 of its own or of other available social agencies if necessary to prevent fur-
9 ther abuses to the child or to safeguard the child's welfare.

10 (4) If a child is taken into protective custody by the department, the de-
11 partment shall promptly make reasonable efforts to ascertain the name and
12 address of the child's parents or guardian.

13 (5)(a) If a child is taken into protective custody by the department or a
14 law enforcement official, the department or law enforcement official shall,
15 if possible, make reasonable efforts to advise the parents or guardian imme-
16 diately, regardless of the time of day, that the child has been taken into
17 custody, the reasons the child has been taken into custody and general in-
18 formation about the child's placement, and the telephone number of the local
19 office of the department and any after-hours telephone numbers.

20 (b) Notice may be given by any means reasonably certain of notifying the
21 parents or guardian, including but not limited to written, telephonic or in-
22 person oral notification. If the initial notification is not in writing, the in-
23 formation required by paragraph (a) of this subsection also shall be provided
24 to the parents or guardian in writing as soon as possible.

25 (c) The department also shall make a reasonable effort to notify the
26 noncustodial parent of the information required by paragraph (a) of this
27 subsection in a timely manner.

28 (d) If a child is taken into custody while under the care and supervision
29 of a person or organization other than the parent, the department, if possible,
30 shall immediately notify the person or organization that the child has been
31 taken into protective custody.

1 (6) If a law enforcement officer or the department, when taking a child
2 into protective custody, has reasonable cause to believe that the child has
3 been affected by sexual abuse and rape of a child as defined in ORS 419B.005
4 (1)(a)(C) and that physical evidence of the abuse exists and is likely to dis-
5 appear, the court may authorize a physical examination for the purposes of
6 preserving evidence if the court finds that it is in the best interest of the
7 child to have such an examination. Nothing in this section affects the au-
8 thority of the department to consent to physical examinations of the child
9 at other times.

10 (7) A minor child of 12 years of age or older may refuse to consent to the
11 examination described in subsection (6) of this section. The examination
12 shall be conducted by or under the supervision of a physician licensed under
13 ORS chapter 677, a physician assistant licensed under ORS 677.505 to
14 677.525[, *a naturopathic physician licensed under ORS chapter 685*] or a nurse
15 practitioner licensed under ORS chapter 678 and, whenever practicable,
16 trained in conducting such examinations.

17 (8) When the department completes an investigation under this section,
18 if the person who made the report of child abuse provided contact informa-
19 tion to the department, the department shall notify the person about whether
20 contact with the child was made, whether the department determined that
21 child abuse occurred and whether services will be provided. The department
22 is not required to disclose information under this subsection if the depart-
23 ment determines that disclosure is not permitted under ORS 419B.035.

24 **SECTION 3.** ORS 419B.023 is amended to read:

25 419B.023. (1) As used in this section:

26 (a) “Designated medical professional” means the person described in ORS
27 418.747 (9) or the person’s designee.

28 (b) “Suspicious physical injury” includes, but is not limited to:

29 (A) Burns or scalds;

30 (B) Extensive bruising or abrasions on any part of the body;

31 (C) Bruising, swelling or abrasions on the head, neck or face;

- 1 (D) Fractures of any bone in a child under the age of three;
- 2 (E) Multiple fractures in a child of any age;
- 3 (F) Dislocations, soft tissue swelling or moderate to severe cuts;
- 4 (G) Loss of the ability to walk or move normally according to the child's
- 5 developmental ability;
- 6 (H) Unconsciousness or difficulty maintaining consciousness;
- 7 (I) Multiple injuries of different types;
- 8 (J) Injuries causing serious or protracted disfigurement or loss or
- 9 impairment of the function of any bodily organ; or
- 10 (K) Any other injury that threatens the physical well-being of the child.

11 (2) If a person conducting an investigation under ORS 419B.020 observes
12 a child who has suffered suspicious physical injury and the person is certain
13 or has a reasonable suspicion that the injury is or may be the result of
14 abuse, the person shall, in accordance with the protocols and procedures of
15 the county multidisciplinary child abuse team described in ORS 418.747:

16 (a) Immediately photograph or cause to have photographed the suspicious
17 physical injuries in accordance with ORS 419B.028; and

18 (b) Ensure that a designated medical professional conducts a medical as-
19 sessment within 48 hours, or sooner if dictated by the child's medical needs.

20 (3) The requirement of subsection (2) of this section shall apply:

21 (a) Each time suspicious physical injury is observed by Department of
22 Human Services or law enforcement personnel:

23 (A) During the investigation of a new allegation of abuse; or

24 (B) If the injury was not previously observed by a person conducting an
25 investigation under ORS 419B.020; and

26 (b) Regardless of whether the child has previously been photographed or
27 assessed during an investigation of an allegation of abuse.

28 (4)(a) Department or law enforcement personnel shall make a reasonable
29 effort to locate a designated medical professional. If after reasonable efforts
30 a designated medical professional is not available to conduct a medical as-
31 sessment within 48 hours, the child shall be evaluated by an available phy-

1 sician, a physician assistant licensed under ORS 677.505 to 677.525[,
2 *naturopathic physician licensed under ORS chapter 685*] or a nurse practi-
3 tioner licensed under ORS 678.375 to 678.390.

4 (b) If the child is evaluated by a health care provider as defined in ORS
5 127.505 other than a designated medical professional, the health care pro-
6 vider shall make photographs, clinical notes, diagnostic and testing results
7 and any other relevant materials available to the designated medical profes-
8 sional for consultation within 72 hours following evaluation of the child.

9 (c) The person conducting the medical assessment may consult with and
10 obtain records from the child's health care provider under ORS 419B.050.

11 (5) Nothing in this section prevents a person conducting a child abuse
12 investigation from seeking immediate medical treatment from a hospital
13 emergency room or other medical provider for a child who is physically in-
14 jured or otherwise in need of immediate medical care.

15 (6) If the child described in subsection (2) of this section is less than five
16 years of age, the designated medical professional may, within 14 days, refer
17 the child for a screening for early intervention services or early childhood
18 special education, as those terms are defined in ORS 343.035. The referral
19 may not indicate the child is subject to a child abuse investigation unless
20 written consent is obtained from the child's parent authorizing such disclo-
21 sure. If the child is already receiving those services, or is enrolled in the
22 Head Start program, a person involved in the delivery of those services to
23 the child shall be invited to participate in the county multidisciplinary child
24 abuse team's review of the case and shall be provided with paid time to do
25 so by the person's employer.

26 (7) Nothing in this section limits the rights provided to minors in ORS
27 chapter 109 or the ability of a minor to refuse to consent to the medical as-
28 sessment described in this section.

29 **SECTION 4.** ORS 419B.035 is amended to read:

30 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
31 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-

1 cessibility for public inspection of public records and public documents, re-
2 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
3 are confidential and may not be disclosed except as provided in this section.

4 The Department of Human Services shall make the records available to:

5 (a) Any law enforcement agency or a child abuse registry in any other
6 state for the purpose of subsequent investigation of child abuse;

7 (b) Any physician, physician assistant licensed under ORS 677.505 to
8 677.525[, *naturopathic physician licensed under ORS chapter 685*] or nurse
9 practitioner licensed under ORS 678.375 to 678.390, at the request of the
10 physician, physician assistant[, *naturopathic physician*] or nurse practitioner,
11 regarding any child brought to the physician, physician assistant[,
12 *naturopathic physician*] or nurse practitioner or coming before the physician,
13 physician assistant[, *naturopathic physician*] or nurse practitioner for exam-
14 ination, care or treatment;

15 (c) Attorneys of record for the child or child's parent or guardian in any
16 juvenile court proceeding;

17 (d) Citizen review boards established by the Judicial Department for the
18 purpose of periodically reviewing the status of children, youths and youth
19 offenders under the jurisdiction of the juvenile court under ORS 419B.100
20 and 419C.005. Citizen review boards may make such records available to
21 participants in case reviews;

22 (e) A court appointed special advocate in any juvenile court proceeding
23 in which it is alleged that a child has been subjected to child abuse or neg-
24 lect;

25 (f) The Office of Child Care for certifying, registering or otherwise regu-
26 lating child care facilities;

27 (g) The Office of Children's Advocate;

28 (h) The Teacher Standards and Practices Commission for investigations
29 conducted under ORS 342.176 involving any child or any student in grade 12
30 or below;

31 (i) Any person, upon request to the Department of Human Services, if the

1 reports or records requested regard an incident in which a child, as the re-
2 sult of abuse, died or suffered serious physical injury as defined in ORS
3 161.015. Reports or records disclosed under this paragraph must be disclosed
4 in accordance with ORS 192.311 to 192.478;

5 (j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and
6 (i); and

7 (k) With respect to a report of abuse occurring at a school or in an edu-
8 cational setting that involves a child with a disability, Disability Rights
9 Oregon.

10 (2)(a) When disclosing reports and records pursuant to subsection (1)(i)
11 of this section, the Department of Human Services may exempt from disclo-
12 sure the names, addresses and other identifying information about other
13 children, witnesses, victims or other persons named in the report or record
14 if the department determines, in written findings, that the safety or well-
15 being of a person named in the report or record may be jeopardized by dis-
16 closure of the names, addresses or other identifying information, and if that
17 concern outweighs the public's interest in the disclosure of that information.

18 (b) If the Department of Human Services does not have a report or record
19 of abuse regarding a child who, as the result of abuse, died or suffered seri-
20 ous physical injury as defined in ORS 161.015, the department may disclose
21 that information.

22 (3) The Department of Human Services may make reports and records
23 compiled under the provisions of ORS 419B.010 to 419B.050 available to any
24 person, administrative hearings officer, court, agency, organization or other
25 entity when the department determines that such disclosure is necessary to
26 administer its child welfare services and is in the best interests of the af-
27 fected child, or that such disclosure is necessary to investigate, prevent or
28 treat child abuse and neglect, to protect children from abuse and neglect or
29 for research when the Director of Human Services gives prior written ap-
30 proval. The Department of Human Services shall adopt rules setting forth the
31 procedures by which it will make the disclosures authorized under this sub-

1 section or subsection (1) or (2) of this section. The name, address and other
2 identifying information about the person who made the report may not be
3 disclosed pursuant to this subsection and subsection (1) of this section.

4 (4) A law enforcement agency may make reports and records compiled
5 under the provisions of ORS 419B.010 to 419B.050 available to other law
6 enforcement agencies, district attorneys, city attorneys with criminal
7 prosecutorial functions and the Attorney General when the law enforcement
8 agency determines that disclosure is necessary for the investigation or
9 enforcement of laws relating to child abuse and neglect or necessary to de-
10 termine a claim for crime victim compensation under ORS 147.005 to 147.367.

11 (5) A law enforcement agency, upon completing an investigation and
12 closing the file in a specific case relating to child abuse or neglect, shall
13 make reports and records in the case available upon request to any law
14 enforcement agency or community corrections agency in this state, to the
15 Department of Corrections or to the State Board of Parole and Post-Prison
16 Supervision for the purpose of managing and supervising offenders in custody
17 or on probation, parole, post-prison supervision or other form of conditional
18 or supervised release. A law enforcement agency may make reports and re-
19 cords compiled under the provisions of ORS 419B.010 to 419B.050 available
20 to law enforcement, community corrections, corrections or parole agencies
21 in an open case when the law enforcement agency determines that the dis-
22 closure will not interfere with an ongoing investigation in the case. The
23 name, address and other identifying information about the person who made
24 the report may not be disclosed under this subsection or subsection (6)(b) of
25 this section.

26 (6)(a) Any record made available to a law enforcement agency or com-
27 munity corrections agency in this state, to the Department of Corrections
28 or the State Board of Parole and Post-Prison Supervision or to a physician,
29 physician assistant[, *naturopathic physician*] or nurse practitioner in this
30 state, as authorized by subsections (1) to (5) of this section, shall be kept
31 confidential by the agency, department, board, physician, physician

1 assistant[, *naturopathic physician*] or nurse practitioner. Any record or report
2 disclosed by the Department of Human Services to other persons or entities
3 pursuant to subsections (1) and (3) of this section shall be kept confidential.

4 (b) Notwithstanding paragraph (a) of this subsection:

5 (A) A law enforcement agency, a community corrections agency, the De-
6 partment of Corrections and the State Board of Parole and Post-Prison
7 Supervision may disclose records made available to them under subsection
8 (5) of this section to each other, to law enforcement, community corrections,
9 corrections and parole agencies of other states and to authorized treatment
10 providers for the purpose of managing and supervising offenders in custody
11 or on probation, parole, post-prison supervision or other form of conditional
12 or supervised release.

13 (B) A person may disclose records made available to the person under
14 subsection (1)(i) of this section if the records are disclosed for the purpose
15 of advancing the public interest.

16 (7) An officer or employee of the Department of Human Services or of a
17 law enforcement agency or any person or entity to whom disclosure is made
18 pursuant to subsections (1) to (6) of this section may not release any infor-
19 mation not authorized by subsections (1) to (6) of this section.

20 (8) As used in this section, “law enforcement agency” has the meaning
21 given that term in ORS 181A.010.

22 (9) A person who violates subsection (6)(a) or (7) of this section commits
23 a Class A violation.

24 **SECTION 5. The amendments to ORS 418.747, 419B.020, 419B.023 and**
25 **419B.035 by sections 1 to 4 of this 2019 Act apply to child abuse medical**
26 **assessments taking place on or after the effective date of this 2019 Act.**

27 **SECTION 6. This 2019 Act being necessary for the immediate pres-**
28 **ervation of the public peace, health and safety, an emergency is de-**
29 **clared to exist, and this 2019 Act takes effect on its passage.**

30