

A-Engrossed
House Bill 4115

Ordered by the House February 18
Including House Amendments dated February 18

Sponsored by Representative SALINAS, Senator MANNING JR, Representative ALONSO LEON, Senators FREDERICK, WAGNER; Representatives DOHERTY, HERNANDEZ, HOLVEY, KENY-GUYER, MEEK, MITCHELL, NERON, NOSSE, PRUSAK, SANCHEZ, SCHOUTEN, Senators DEMBROW, KNOPP, MONNES ANDERSON (Pre-session filed.)

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.

Requires *[health care providers, including coordinated care organizations, and]* companies providing health care interpreters to health care providers to use health care interpreters who are **listed on health care interpreter registry as being** qualified or certified by Oregon Health Authority. *[Specifies]* **Requires authority to adopt by rule exceptions. Directs Commissioner of Bureau of Labor and Industries to establish by rule standards, policies and processes to monitor compliance with and enforce requirements.**

Requires authority to *[cooperate with Oregon Council on Health Care Interpreters to]* establish registry of qualified and certified health care interpreters **and provide statewide health care interpreter training.**

Requires authority, by September 15, 2020, to *[make recommendations]* **report** to interim committee of House of Representatives related to health on *[design of health care interpreter program meeting specified criteria]* **costs to implement establishment of health care interpreter registry and to provide health care interpreter training.**

[Requires companies providing health care interpreters to register with authority and meet certain requirements.]

Makes health care interpreters subject workers for purposes of workers' compensation benefits. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care interpreters; creating new provisions; amending ORS 192.630, 413.550,
3 413.552, 413.556, 413.558, 414.572 and 656.027; and declaring an emergency.

4 Whereas current law contains a loophole for interpretation service companies to justify using
5 untrained health care interpreters despite the availability of health care interpreters who are qual-
6 ified or certified by the Oregon Health Authority; and

7 Whereas current law does not hold accountable interpretation service companies for failing to
8 use qualified or certified interpreters or for failing to use best practices in providing health care
9 interpretation services; and

10 Whereas there is currently no complaint process for health care interpreters who experience
11 wage or other labor violations; and

12 Whereas there is a growing demand for health care interpreters in rural communities in this
13 state, especially for interpreters capable of interpreting languages of limited diffusion in those areas;
14 and

15 Whereas health care interpreters suffer from the inequitable business practices of interpretation
16 service companies; and

17 Whereas due to the low demand for their services, the low payment rates and the rising cost

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.

1 of training and testing, current and potential health care interpreters are reluctant to invest in
2 training, testing, qualification or certification because of the low return on their investment; and

3 Whereas there is a lack of uniformity statewide in the quality of health care interpretation
4 services; now, therefore,

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

6 **SECTION 1. No later than September 15, 2020, the Oregon Health Authority shall report**
7 **to the interim committee of the House of Representatives related to health on the costs to**
8 **implement the amendments to ORS 413.556 and 413.558 by sections 5 and 6 of this 2020 Act.**

9 **SECTION 2. (1) As used in this section:**

10 (a) **“Health care interpreter” has the meaning given that term in ORS 413.550.**

11 (b) **“Interpretation service company” means an entity to the extent that it is engaged in**
12 **the business of furnishing health care interpreters to health care providers.**

13 (2) **Except as provided in subsection (3) of this section, an interpretation service company**
14 **may not employ or contract with a health care interpreter who is not listed on the health**
15 **care interpreter registry established under ORS 413.558.**

16 (3) **An interpretation service company may employ or contract with a health care inter-**
17 **preter who is not listed on the health care interpreter registry only if the company verifies**
18 **that the company has taken all steps, in accordance with rules adopted by the Oregon Health**
19 **Authority under ORS 413.558 (8)(c), to obtain a health care interpreter who is listed on the**
20 **health care registry.**

21 (4) **The Commissioner of the Bureau of Labor and Industries shall establish by rule**
22 **standards, policies and processes to hold accountable interpretation service companies for**
23 **contracting with or employing as health care interpreters only health care interpreters listed**
24 **on the health care interpreter registry in accordance with subsections (2) and (3) of this**
25 **section.**

26 (5) **The standards, policies and processes established under subsection (4) of this section**
27 **must include, at a minimum:**

28 (a) **A requirement for an interpretation service company to:**

29 (A) **Notify a health care provider if a health care interpreter furnished by the company**
30 **is not a qualified or certified health care interpreter listed on the health care interpreter**
31 **registry;**

32 (B) **Report to the commissioner, in the form and manner specified by the commissioner,**
33 **every case in which the company furnishes a health care interpreter who is not listed on the**
34 **health care interpreter registry; and**

35 (C) **Provide, upon the request of a health care interpreter, the terms of the contract**
36 **between the company and the health care interpreters that the company provides.**

37 (b) **A standard prohibiting an interpretation service company from representing to a**
38 **health care provider that a contracted or employed health care interpreter furnished by the**
39 **company is a certified health care interpreter unless the interpreter has met the require-**
40 **ments for certification under ORS 413.558 and has been issued a valid certification by the**
41 **authority.**

42 (c) **A process for investigating and resolving complaints, in the manner provided in ORS**
43 **659A.820, about:**

44 (A) **The failure of an interpretation service company to contract with or employ health**
45 **care interpreters who are listed on the health care interpreter registry in accordance with**

1 subsections (2) and (3) of this section; and

2 (B) An interpretation service company's unfair labor or contracting practices, discrimi-
3 nation, violation of consumer protections, risks to the health or safety of patients, conflicts
4 of interest or compliance with law.

5 (6) Subsection (5)(c)(B) of this section may not be construed to impair, extinguish or in-
6 fringe on any existing rights, claims or remedies under state or federal law.

7 **SECTION 3.** ORS 413.550 is amended to read:

8 413.550. As used in ORS 413.550 to 413.558:

9 (1) "Certified health care interpreter" means an individual who has been approved and certified
10 by the Oregon Health Authority **under ORS 413.558.**

11 (2) "Health care" means medical, surgical or hospital care or any other remedial care recognized
12 by state law, including physical and behavioral health care.

13 (3) "Health care interpreter" means an individual who is readily able to:

14 (a) Communicate with a person with limited English proficiency;

15 (b) Accurately interpret the oral statements of a person with limited English proficiency, or the
16 statements of a person who communicates in sign language, into English; **and**

17 [(c) *Sight translate documents from a person with limited English proficiency;*]

18 [(d)] (c) Interpret the oral statements of other persons into the language of the person with
19 limited English proficiency or into sign language[; *and*].

20 [(e) *Sight translate documents in English into the language of the person with limited English*
21 *proficiency.*]

22 (4) **"Health care interpreter registry" means the registry established under ORS 413.558.**

23 [(4)] (5) "Person with limited English proficiency" means a person who, by reason of place of
24 birth or culture, speaks a language other than English and does not speak English with adequate
25 ability to communicate effectively with a health care provider.

26 [(5)] (6) "Qualified health care interpreter" means an individual who has received a valid letter
27 of qualification from the authority **under ORS 413.558.**

28 [(6) *"Sight translate" means to translate a written document into spoken or sign language.*]

29 **SECTION 4.** ORS 413.552 is amended to read:

30 413.552. (1) The Legislative Assembly finds that persons with limited English proficiency, or who
31 communicate in sign language, are often unable to interact effectively with health care providers.
32 Because of language differences, persons with limited English proficiency, or who communicate in
33 sign language, are often excluded from health care services, experience delays or denials of health
34 care services or receive health care services based on inaccurate or incomplete information.

35 (2) The Legislative Assembly further finds that the lack of competent health care interpreters
36 among health care providers impedes the free flow of communication between the health care pro-
37 vider and patient, preventing clear and accurate communication and the development of empathy,
38 confidence and mutual trust that is essential for an effective relationship between health care pro-
39 vider and patient.

40 (3) It is the policy of the Legislative Assembly to require the use of certified health care inter-
41 preters or qualified health care interpreters [*whenever possible*] **to the greatest extent practicable**
42 to ensure the accurate and adequate provision of health care to persons with limited English profi-
43 ciency and to persons who communicate in sign language.

44 (4) It is the policy of the Legislative Assembly that health care for persons with limited English
45 proficiency be provided according to the guidelines established under the policy statement issued

1 August 30, 2000, by the U.S. Department of Health and Human Services, Office for Civil Rights,
2 entitled, "Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against Na-
3 tional Origin Discrimination As It Affects Persons With Limited English Proficiency," and the 1978
4 Patient's Bill of Rights.

5 **SECTION 5.** ORS 413.556 is amended to read:

6 413.556. The Oregon [*Council on Health Care Interpreters*] **Health Authority** shall work in co-
7 operation with the Oregon [*Health Authority*] **Council on Health Care Interpreters** to[:]

8 [(1) *Develop testing, qualification and certification standards for health care interpreters for per-*
9 *sons with limited English proficiency and for persons who communicate in sign language.*]

10 [(2) *Coordinate with other states, the federal government or professional organizations to develop*
11 *and implement educational and testing programs for health care interpreters.*]

12 [(3) *Examine operational and funding issues, including but not limited to the feasibility of devel-*
13 *oping a central registry and annual subscription mechanism for health care interpreters.*]

14 [(4) *Do all other acts as shall be necessary or appropriate under the provisions of ORS 413.550 to*
15 *413.558.*] **provide all health care interpreter training in this state to professionalize the health**
16 **care interpreter workforce and ensure the use of qualified or certified health care inter-**
17 **preters throughout this state. The training must be free or provided at a cost that is af-**
18 **fordable.**

19 **SECTION 6.** ORS 413.558 is amended to read:

20 413.558. (1) In consultation with the Oregon Council on Health Care Interpreters, the Oregon
21 Health Authority shall by rule establish procedures for testing, qualification and certification of
22 health care interpreters for persons with limited English proficiency or for persons who communi-
23 cate in sign language, including but not limited to:

24 (a) Minimum standards for qualification and certification as a health care interpreter, **which**
25 **may be modified as necessary**, including:

26 (A) Oral and written language skills in English and in the language for which health care in-
27 terpreter qualification or certification is granted; and

28 (B) Formal education or training in medical terminology, anatomy and physiology, medical in-
29 terpreting ethics and interpreting skills;

30 (b) Categories of expertise of health care interpreters based on the English and non-English
31 skills, or interpreting skills, and the medical terminology skills of the person seeking qualification
32 or certification;

33 (c) Procedures for receiving applications and for examining applicants for qualification or cer-
34 tification;

35 (d) The content and administration of required examinations;

36 (e) The requirements and procedures for reciprocity of qualification and certification for health
37 care interpreters qualified or certified in another state or territory of the United States or by an-
38 other certifying body in the United States; and

39 (f) Fees for application, examination, initial issuance, renewal and reciprocal acceptance of
40 qualification or certification as a health care interpreter if deemed necessary by the authority.

41 (2) Any person seeking qualification or certification as a health care interpreter must submit
42 an application to the authority. If the applicant meets the requirements for qualification or certi-
43 fication established by the authority under this section, the authority shall issue a letter of quali-
44 fication or a certification to the health care interpreter. **The authority shall make a**
45 **determination on an application no later than 60 days after the date the application is re-**

1 **ceived by the authority.**

2 (3) The authority shall work with other states, the federal government or professional organ-
3 izations to develop educational and testing programs and procedures for the qualification and cer-
4 tification of health care interpreters.

5 (4) In addition to the requirements for qualification established under subsection (1) of this
6 section, a person may be qualified as a health care interpreter only if the person:

7 (a) Is able to fluently interpret the dialect, slang or specialized vocabulary of the non-English
8 language for which qualification is sought; and

9 (b) Has had at least 60 hours of health care interpreter training that includes anatomy and
10 physiology and concepts of medical interpretation.

11 (5) A person may not use the title of “qualified health care interpreter” in this state unless the
12 person has met the requirements for qualification established under subsections (1) and (4) of this
13 section and has been issued a valid letter of qualification by the authority.

14 (6) In addition to the requirements for certification established under subsection (1) of this sec-
15 tion, a person may be certified as a health care interpreter only if:

16 (a) The person has met all the requirements established under subsection (4) of this section; and

17 (b) The person has passed written and oral examinations required by the authority in English,
18 in a non-English language or sign language and in medical terminology.

19 (7) A person may not use the title of “certified health care interpreter” in this state unless the
20 person has met the requirements for certification established under subsections (1) and (6) of this
21 section and has been issued a valid certification by the authority.

22 **(8) The authority shall:**

23 **(a) Establish and maintain a central registry for all health care interpreters who are**
24 **qualified or certified by the authority, establish a four-year subscription mechanism for the**
25 **registry and adopt by rule fees to cover the reasonable costs of administering the registry.**

26 **(b) Provide a website or otherwise implement a system, in collaboration with a labor**
27 **union or other representative of the health care interpreter workforce, that allows a patient**
28 **or health care provider to access the health care interpreter registry and schedule appoint-**
29 **ments with qualified or certified health care interpreters.**

30 **(c) Adopt by rule the steps that must be taken by an interpretation service company and**
31 **the verification required to allow the use of a health care interpreter who is not listed on**
32 **the health care interpreter registry established under this section, in accordance with sec-**
33 **tion 2 (3) of this 2020 Act.**

34 **(d) Track medical assistance expenditures under ORS chapter 414 on health care inter-**
35 **pretation services and the portion of the expenditures that are spent on administrative costs.**

36 **SECTION 7.** ORS 192.630 is amended to read:

37 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
38 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
39 to 192.690.

40 (2) A quorum of a governing body may not meet in private for the purpose of deciding on or
41 deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to
42 192.690.

43 (3) A governing body may not hold a meeting at any place where discrimination on the basis
44 of race, color, creed, sex, sexual orientation, national origin, age or disability is practiced. However,
45 the fact that organizations with restricted membership hold meetings at the place does not restrict

1 its use by a public body if use of the place by a restricted membership organization is not the pri-
2 mary purpose of the place or its predominant use.

3 (4)(a) Meetings of the governing body of a public body shall be held:

4 (A) Within the geographic boundaries over which the public body has jurisdiction;

5 (B) At the administrative headquarters of the public body;

6 (C) At the nearest practical location; or

7 (D) If the public body is a state, county, city or special district entity, within Indian country of
8 a federally recognized Oregon Indian tribe that is within the geographic boundaries of this state.
9 For purposes of this subparagraph, "Indian country" has the meaning given that term in 18 U.S.C.
10 1151.

11 (b) Training sessions may be held outside the jurisdiction as long as no deliberations toward a
12 decision are involved.

13 (c) A joint meeting of two or more governing bodies or of one or more governing bodies and the
14 elected officials of one or more federally recognized Oregon Indian tribes shall be held within the
15 geographic boundaries over which one of the participating public bodies or one of the Oregon Indian
16 tribes has jurisdiction or at the nearest practical location.

17 (d) Meetings may be held in locations other than those described in this subsection in the event
18 of an actual emergency necessitating immediate action.

19 (5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet
20 in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard
21 of hearing, to fail to make a good faith effort to have an interpreter for persons who are deaf or
22 hard of hearing provided at a regularly scheduled meeting. The sole remedy for discrimination on
23 the basis of disability shall be as provided in ORS 192.680.

24 (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice
25 of the request for an interpreter, shall provide the name of the requester, sign language preference
26 and any other relevant information the governing body may request.

27 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have
28 an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

29 (d) If certification of interpreters occurs under state or federal law, the Oregon Health Author-
30 ity or other state or local agency shall [*try to*] **make a good faith effort to** refer only certified
31 interpreters to governing bodies for purposes of this subsection.

32 (e) As used in this subsection, "good faith effort" [*includes, but is not limited to, contacting the*
33 *department or other state or local agency that maintains a list of qualified interpreters and arranging*
34 *for the referral of one or more qualified interpreters to provide interpreter services*] **means taking the**
35 **steps prescribed by the authority by rule under ORS 413.558 (8).**

36 **SECTION 8.** ORS 414.572 is amended to read:

37 414.572. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and re-
38 quirements for a coordinated care organization and shall integrate the criteria and requirements
39 into each contract with a coordinated care organization. Coordinated care organizations may be
40 local, community-based organizations or statewide organizations with community-based participation
41 in governance or any combination of the two. Coordinated care organizations may contract with
42 counties or with other public or private entities to provide services to members. The authority may
43 not contract with only one statewide organization. A coordinated care organization may be a single
44 corporate structure or a network of providers organized through contractual relationships. The cri-
45 teria and requirements adopted by the authority under this section must include, but are not limited

1 to, a requirement that the coordinated care organization:

2 (a) Have demonstrated experience and a capacity for managing financial risk and establishing
3 financial reserves.

4 (b) Meet the following minimum financial requirements:

5 (A) Maintain restricted reserves of \$250,000 plus an amount equal to 50 percent of the coordi-
6 nated care organization's total actual or projected liabilities above \$250,000.

7 (B) Maintain capital or surplus of not less than \$2,500,000 and any additional amounts necessary
8 to ensure the solvency of the coordinated care organization, as specified by the authority by rules
9 that are consistent with ORS 731.554 (6), 732.225, 732.230 and 750.045.

10 (C) Expend a portion of the annual net income or reserves of the coordinated care organization
11 that exceed the financial requirements specified in this paragraph on services designed to address
12 health disparities and the social determinants of health consistent with the coordinated care
13 organization's community health improvement plan and transformation plan and the terms and con-
14 ditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42
15 U.S.C. 1315).

16 (c) Operate within a fixed global budget and, by January 1, 2023, spend on primary care, as de-
17 fined in section 2, chapter 575, Oregon Laws 2015, at least 12 percent of the coordinated care
18 organization's total expenditures for physical and mental health care provided to members, except
19 for expenditures on prescription drugs, vision care and dental care.

20 (d) Develop and implement alternative payment methodologies that are based on health care
21 quality and improved health outcomes.

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

24 (f) Engage community members and health care providers in improving the health of the com-
25 munity and addressing regional, cultural, socioeconomic and racial disparities in health care that
26 exist among the coordinated care organization's members and in the coordinated care organization's
27 community.

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

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

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

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

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

41 (e) Members receive assistance in navigating the health care delivery system, **receive assist-**
42 **ance** [*and*] in accessing community and social support services and statewide resources[, *including*
43 *through the use of*] **and have available to them** certified health care interpreters and qualified
44 health care interpreters **from the health care interpreter registry**, as those terms are defined in
45 ORS 413.550.

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

4 (g) Each coordinated care organization uses health information technology to link services and
5 care providers across the continuum of care to the greatest extent practicable and if financially vi-
6 able.

7 (h) Each coordinated care organization complies with the safeguards for members described in
8 ORS 414.605.

9 (i) Each coordinated care organization convenes a community advisory council that meets the
10 criteria specified in ORS 414.575.

11 (j) Each coordinated care organization prioritizes working with members who have high health
12 care needs, multiple chronic conditions, mental illness or chemical dependency and involves those
13 members in accessing and managing appropriate preventive, health, remedial and supportive care
14 and services, including the services described in ORS 414.766, to reduce the use of avoidable emer-
15 gency room visits and hospital admissions.

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

18 (A) Work together to develop best practices for care and service delivery to reduce waste and
19 improve the health and well-being of members.

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

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

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

25 (E) Include providers of specialty care.

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

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

31 (L) Each coordinated care organization reports on outcome and quality measures adopted under
32 ORS 414.638 and participates in the health care data reporting system established in ORS 442.372
33 and 442.373.

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

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

38 (o) Each coordinated care organization has a governing body that complies with ORS 414.584
39 and that includes:

40 (A) At least one member representing persons that share in the financial risk of the organiza-
41 tion;

42 (B) A representative of a dental care organization selected by the coordinated care organization;

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

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

45 (i) A physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS

1 678.375, whose area of practice is primary care; and

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

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

5 (F) At least two members of the community advisory council, one of whom is or was within the
6 previous six months a recipient of medical assistance and is at least 16 years of age, or a parent,
7 guardian or primary caregiver of an individual who is or was within the previous six months a re-
8 cipient of medical assistance.

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

12 (q) Each coordinated care organization publishes on a website maintained by or on behalf of the
13 coordinated care organization, in a manner determined by the authority, a document designed to
14 educate members about best practices, care quality expectations, screening practices, treatment
15 options and other support resources available for members who have mental illnesses or substance
16 use disorders.

17 (r) Each coordinated care organization works with the Tribal Advisory Council established in
18 ORS 414.581 and has a dedicated tribal liaison, selected by the council, to:

19 (A) Facilitate a resolution of any issues that arise between the coordinated care organization
20 and a provider of Indian health services within the area served by the coordinated care organiza-
21 tion;

22 (B) Participate in the community health assessment and the development of the health im-
23 provement plan;

24 (C) Communicate regularly with the Tribal Advisory Council; and

25 (D) Be available for training by the office within the authority that is responsible for tribal af-
26 fairs, any federally recognized tribe in Oregon and the urban Indian health program that is located
27 within the area served by the coordinated care organization and operated by an urban Indian or-
28 ganization pursuant to 25 U.S.C. 1651.

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

31 (4) In selecting one or more coordinated care organizations to serve a geographic area, the au-
32 thority shall:

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

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

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

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

40 **SECTION 9.** ORS 414.572, as amended by section 14, chapter 489, Oregon Laws 2017, section
41 4, chapter 49, Oregon Laws 2018, section 8, chapter 358, Oregon Laws 2019, section 2, chapter 364,
42 Oregon Laws 2019, section 58, chapter 478, Oregon Laws 2019, and section 7, chapter 529, Oregon
43 Laws 2019, is amended to read:

44 414.572. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and re-
45 quirements for a coordinated care organization and shall integrate the criteria and requirements

1 into each contract with a coordinated care organization. Coordinated care organizations may be
2 local, community-based organizations or statewide organizations with community-based participation
3 in governance or any combination of the two. Coordinated care organizations may contract with
4 counties or with other public or private entities to provide services to members. The authority may
5 not contract with only one statewide organization. A coordinated care organization may be a single
6 corporate structure or a network of providers organized through contractual relationships. The cri-
7 teria and requirements adopted by the authority under this section must include, but are not limited
8 to, a requirement that the coordinated care organization:

9 (a) Have demonstrated experience and a capacity for managing financial risk and establishing
10 financial reserves.

11 (b) Meet the following minimum financial requirements:

12 (A) Maintain restricted reserves of \$250,000 plus an amount equal to 50 percent of the coordi-
13 nated care organization's total actual or projected liabilities above \$250,000.

14 (B) Maintain capital or surplus of not less than \$2,500,000 and any additional amounts necessary
15 to ensure the solvency of the coordinated care organization, as specified by the authority by rules
16 that are consistent with ORS 731.554 (6), 732.225, 732.230 and 750.045.

17 (C) Expend a portion of the annual net income or reserves of the coordinated care organization
18 that exceed the financial requirements specified in this paragraph on services designed to address
19 health disparities and the social determinants of health consistent with the coordinated care
20 organization's community health improvement plan and transformation plan and the terms and con-
21 ditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42
22 U.S.C. 1315).

23 (c) Operate within a fixed global budget and spend on primary care, as defined by the authority
24 by rule, at least 12 percent of the coordinated care organization's total expenditures for physical
25 and mental health care provided to members, except for expenditures on prescription drugs, vision
26 care and dental care.

27 (d) Develop and implement alternative payment methodologies that are based on health care
28 quality and improved health outcomes.

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

31 (f) Engage community members and health care providers in improving the health of the com-
32 munity and addressing regional, cultural, socioeconomic and racial disparities in health care that
33 exist among the coordinated care organization's members and in the coordinated care organization's
34 community.

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

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

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

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

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

3 (e) Members receive assistance in navigating the health care delivery system, **receive assist-**
4 **ance** [and] in accessing community and social support services and statewide resources[, *including*
5 *through the use of*] **and have available to them** certified health care interpreters and qualified
6 health care interpreters **from the health care interpreter registry**, as those terms are defined in
7 ORS 413.550.

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

11 (g) Each coordinated care organization uses health information technology to link services and
12 care providers across the continuum of care to the greatest extent practicable and if financially vi-
13 able.

14 (h) Each coordinated care organization complies with the safeguards for members described in
15 ORS 414.605.

16 (i) Each coordinated care organization convenes a community advisory council that meets the
17 criteria specified in ORS 414.575.

18 (j) Each coordinated care organization prioritizes working with members who have high health
19 care needs, multiple chronic conditions, mental illness or chemical dependency and involves those
20 members in accessing and managing appropriate preventive, health, remedial and supportive care
21 and services, including the services described in ORS 414.766, to reduce the use of avoidable emer-
22 gency room visits and hospital admissions.

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

25 (A) Work together to develop best practices for care and service delivery to reduce waste and
26 improve the health and well-being of members.

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

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

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

32 (E) Include providers of specialty care.

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

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

38 (L) Each coordinated care organization reports on outcome and quality measures adopted under
39 ORS 414.638 and participates in the health care data reporting system established in ORS 442.372
40 and 442.373.

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

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

45 (o) Each coordinated care organization has a governing body that complies with ORS 414.584

1 and that includes:

2 (A) At least one member representing persons that share in the financial risk of the organiza-
3 tion;

4 (B) A representative of a dental care organization selected by the coordinated care organization;

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

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

7 (i) A physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS
8 678.375, whose area of practice is primary care; and

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

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

12 (F) At least two members of the community advisory council, one of whom is or was within the
13 previous six months a recipient of medical assistance and is at least 16 years of age or a parent,
14 guardian or primary caregiver of an individual who is or was within the previous six months a re-
15 cipient of medical assistance.

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

19 (q) Each coordinated care organization publishes on a website maintained by or on behalf of the
20 coordinated care organization, in a manner determined by the authority, a document designed to
21 educate members about best practices, care quality expectations, screening practices, treatment
22 options and other support resources available for members who have mental illnesses or substance
23 use disorders.

24 (r) Each coordinated care organization works with the Tribal Advisory Council established in
25 ORS 414.581 and has a dedicated tribal liaison, selected by the council, to:

26 (A) Facilitate a resolution of any issues that arise between the coordinated care organization
27 and a provider of Indian health services within the area served by the coordinated care organiza-
28 tion;

29 (B) Participate in the community health assessment and the development of the health im-
30 provement plan;

31 (C) Communicate regularly with the Tribal Advisory Council; and

32 (D) Be available for training by the office within the authority that is responsible for tribal af-
33 fairs, any federally recognized tribe in Oregon and the urban Indian health program that is located
34 within the area served by the coordinated care organization and operated by an urban Indian or-
35 ganization pursuant to 25 U.S.C. 1651.

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

38 (4) In selecting one or more coordinated care organizations to serve a geographic area, the au-
39 thority shall:

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

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

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

44 (5) On or before July 1, 2014, each coordinated care organization must have a formal contractual
45 relationship with any dental care organization that serves members of the coordinated care organ-

1 ization in the area where they reside.

2 **SECTION 10.** ORS 656.027 is amended to read:

3 656.027. All workers are subject to this chapter except those nonsubject workers described in
4 the following subsections:

5 (1) A worker employed as a domestic servant in or about a private home. For the purposes of
6 this subsection “domestic servant” means any worker engaged in household domestic service by
7 private employment contract, including, but not limited to, home health workers.

8 (2) A worker employed to do gardening, maintenance, repair, remodeling or similar work in or
9 about the private home of the person employing the worker.

10 (3)(a) A worker whose employment is casual and either:

11 (A) The employment is not in the course of the trade, business or profession of the employer;

12 or

13 (B) The employment is in the course of the trade, business or profession of a nonsubject em-
14 ployer.

15 (b) For the purpose of this subsection, “casual” refers only to employments where the work in
16 any 30-day period, without regard to the number of workers employed, involves a total labor cost
17 of less than \$500.

18 (4) A person for whom a rule of liability for injury or death arising out of and in the course of
19 employment is provided by the laws of the United States.

20 (5) A worker engaged in the transportation in interstate commerce of goods, persons or property
21 for hire by rail, water, aircraft or motor vehicle, and whose employer has no fixed place of business
22 in this state.

23 (6) Firefighter and police employees of any city having a population of more than 200,000 that
24 provides a disability and retirement system by ordinance or charter.

25 (7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor
26 or services are performed under contract, the sole proprietor must qualify as an independent con-
27 tractor **to be a nonsubject worker.**

28 (b) Sole proprietors actively licensed under ORS 671.525 or 701.021. When labor or services are
29 performed under contract for remuneration, notwithstanding ORS 656.005 (30), the sole proprietor
30 must qualify as an independent contractor. Any sole proprietor licensed under ORS 671.525 or
31 701.021 and involved in activities subject thereto is conclusively presumed to be an independent
32 contractor.

33 (8) Except as provided in subsection (23) of this section, partners who are not engaged in work
34 performed in direct connection with the construction, alteration, repair, improvement, moving or
35 demolition of an improvement on real property or appurtenances thereto. When labor or services
36 are performed under contract, the partnership must qualify as an independent contractor **to be a**
37 **nonsubject worker.**

38 (9) Except as provided in subsection (25) of this section, members, including members who are
39 managers, of limited liability companies, regardless of the nature of the work performed. However,
40 members, including members who are managers, of limited liability companies with more than one
41 member, while engaged in work performed in direct connection with the construction, alteration,
42 repair, improvement, moving or demolition of an improvement on real property or appurtenances
43 thereto, are subject workers. When labor or services are performed under contract, the limited li-
44 ability company must qualify as an independent contractor **to be a nonsubject worker.**

45 (10) Except as provided in subsection (24) of this section, corporate officers who are directors

1 of the corporation and who have a substantial ownership interest in the corporation, regardless of
2 the nature of the work performed by such officers, subject to the following limitations:

3 (a) If the activities of the corporation are conducted on land that receives farm use tax assess-
4 ment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors
5 in the corporate bylaws, regardless of ownership interest, and who are members of the same family,
6 whether related by blood, marriage or adoption.

7 (b) If the activities of the corporation involve the commercial harvest of timber and all officers
8 of the corporation are members of the same family and are parents, daughters or sons, daughters-
9 in-law or sons-in-law or grandchildren, then all such officers may elect to be nonsubject workers.
10 For all other corporations involving the commercial harvest of timber, the maximum number of ex-
11 empt corporate officers for the corporation shall be whichever is the greater of the following:

12 (A) Two corporate officers; or

13 (B) One corporate officer for each 10 corporate employees.

14 (c) When labor or services are performed under contract, the corporation must qualify as an
15 independent contractor **to be a nonsubject worker**.

16 (11) A person performing services primarily for board and lodging received from any religious,
17 charitable or relief organization.

18 (12) A newspaper carrier utilized in compliance with the provisions of ORS 656.070 and 656.075.

19 (13) A person who has been declared an amateur athlete under the rules of the United States
20 Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for
21 performance of services as an athlete other than board, room, rent, housing, lodging or other rea-
22 sonable incidental subsistence allowance, or any amateur sports official who is certified by a re-
23 cognized Oregon or national certifying authority, which requires or provides liability and accident
24 insurance for such officials. A roster of recognized Oregon and national certifying authorities will
25 be maintained by the Department of Consumer and Business Services, from lists of certifying or-
26 ganizations submitted by the Oregon School Activities Association and the Oregon Park and Re-
27 creation Society.

28 (14) Volunteer personnel participating in the ACTION programs, organized under the Domestic
29 Volunteer Service Act of 1973, P.L. 93-113, known as the Foster Grandparent Program and the
30 Senior Companion Program, whether or not the volunteers receive a stipend or nominal reimburse-
31 ment for time and travel expenses.

32 (15) A person who has an ownership or leasehold interest in equipment and who furnishes,
33 maintains and operates the equipment. As used in this subsection "equipment" means:

34 (a) A motor vehicle used in the transportation of logs, poles or piling.

35 (b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

36 (c) A motor vehicle used in the transportation of property by a for-hire motor carrier that is
37 required under ORS 825.100 or 825.104 to possess a certificate or permit or to be registered.

38 (16) A person engaged in the transportation of the public for recreational down-river boating
39 activities on the waters of this state pursuant to a federal permit when the person furnishes the
40 equipment necessary for the activity. As used in this subsection, "recreational down-river boating
41 activities" means those boating activities for the purpose of recreational fishing, swimming or
42 sightseeing utilizing a float craft with oars or paddles as the primary source of power.

43 (17) A person who receives no wage other than ski passes or other noncash remuneration for
44 performing volunteer:

45 (a) Ski patrol activities; or

1 (b) Ski area program activities sponsored by a ski area operator, as defined in ORS 30.970, or
2 by a nonprofit corporation or organization.

3 (18) A person 19 years of age or older who contracts with a newspaper publishing company or
4 independent newspaper dealer or contractor to distribute newspapers to the general public and
5 perform or undertake any necessary or attendant functions related thereto.

6 (19) A person performing foster parent or adult foster care duties pursuant to ORS 412.001 to
7 412.161 and 412.991 or ORS chapter [411,] 418, 430 or 443.

8 (20) A person performing services on a volunteer basis for a nonprofit, religious, charitable or
9 relief organization, whether or not such person receives meals or lodging or nominal reimbursements
10 or vouchers for meals, lodging or expenses.

11 (21) A person performing services under a property tax work-off program established under ORS
12 310.800.

13 (22) A person who performs service as a caddy at a golf course in an established program for
14 the training and supervision of caddies under the direction of a person who is an employee of the
15 golf course.

16 (23)(a) Partners who are actively licensed under ORS 671.525 or 701.021 and who have a sub-
17 stantial ownership interest in a partnership. If all partners are members of the same family and are
18 parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchil-
19 dren, all such partners may elect to be nonsubject workers. For all other partnerships licensed un-
20 der ORS 671.510 to 671.760 or 701.021, the maximum number of exempt partners shall be whichever
21 is the greater of the following:

22 (A) Two partners; or

23 (B) One partner for each 10 partnership employees.

24 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
25 656.005 (30), the partnership qualifies as an independent contractor. Any partnership licensed under
26 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an
27 independent contractor.

28 (24)(a) Corporate officers who are directors of a corporation actively licensed under ORS 671.525
29 or 701.021 and who have a substantial ownership interest in the corporation, regardless of the na-
30 ture of the work performed. If all officers of the corporation are members of the same family and
31 are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grand-
32 children, all such officers may elect to be nonsubject workers. For all other corporations licensed
33 under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt corporate officers shall
34 be whichever is the greater of the following:

35 (A) Two corporate officers; or

36 (B) One corporate officer for each 10 corporate employees.

37 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
38 656.005 (30), the corporation qualifies as an independent contractor. Any corporation licensed under
39 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an
40 independent contractor.

41 (25)(a) Limited liability company members who are members of a company actively licensed un-
42 der ORS 671.525 or 701.021 and who have a substantial ownership interest in the company, regard-
43 less of the nature of the work performed. If all members of the company are members of the same
44 family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law
45 or grandchildren, all such members may elect to be nonsubject workers. For all other companies

1 licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt company members
2 shall be whichever is the greater of the following:

3 (A) Two company members; or

4 (B) One company member for each 10 company employees.

5 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
6 656.005 (30), the company qualifies as an independent contractor. Any company licensed under ORS
7 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an in-
8 dependent contractor.

9 (26) A person serving as a referee or assistant referee in a youth or adult recreational soccer
10 match whose services are retained on a match-by-match basis.

11 (27) A person performing language translator or interpreter services that are provided for others
12 through an agent or broker **other than a qualified or certified health care interpreter, as de-**
13 **defined in ORS 413.550.**

14 (28) A person who operates, and who has an ownership or leasehold interest in, a passenger
15 motor vehicle that is operated as a taxicab or for nonemergency medical transportation. As used in
16 this subsection:

17 (a) "Lease" means a contract under which the lessor provides a vehicle to a lessee for consid-
18 eration.

19 (b) "Leasehold" includes, but is not limited to, a lease for a shift or a longer period.

20 (c) "Passenger motor vehicle that is operated as a taxicab" means a vehicle that:

21 (A) Has a passenger seating capacity that does not exceed seven persons;

22 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

23 (C)(i) Carries passengers for hire when the destination and route traveled may be controlled by
24 a passenger and the fare is calculated on the basis of any combination of an initial fee, distance
25 traveled or waiting time; or

26 (ii) Is in use under a contract to provide specific service to a third party to transport designated
27 passengers or to provide errand services to locations selected by the third party.

28 (d) "Passenger motor vehicle that is operated for nonemergency medical transportation" means
29 a vehicle that:

30 (A) Has a passenger seating capacity that does not exceed seven persons;

31 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

32 (C) Provides medical transportation services under contract with or on behalf of a mass transit
33 or transportation district.

34 **SECTION 11. (1) Section 2 of this 2020 Act and the amendments to ORS 192.630, 413.550,**
35 **413.556, 413.558 and 414.572 by sections 3 and 5 to 9 of this 2020 Act become operative on July**
36 **1, 2022.**

37 **(2) The Commissioner of the Bureau of Labor and Industries and the Oregon Health**
38 **Authority shall take all steps necessary before July 1, 2022, to carry out the provisions of**
39 **section 2 of this 2020 Act and the amendments to ORS 192.630, 413.550, 413.556, 413.558 and**
40 **414.572 by sections 3 and 5 to 9 of this 2020 Act on and after July 1, 2022.**

41 **SECTION 12. This 2020 Act being necessary for the immediate preservation of the public**
42 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
43 **on its passage.**