

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3159**

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages
2 2 and 3 and insert:

3 **“SECTION 1. (1) As used in sections 1 to 3 of this 2021 Act:**

4 **“(a) ‘Board’ means the:**

5 **“(A) State Board of Examiners for Speech-Language Pathology and**
6 **Audiology;**

7 **“(B) State Board of Chiropractic Examiners;**

8 **“(C) State Board of Licensed Social Workers;**

9 **“(D) Oregon Board of Licensed Professional Counselors and Thera-**
10 **pists;**

11 **“(E) Oregon Board of Dentistry;**

12 **“(F) State Board of Massage Therapists;**

13 **“(G) Oregon Board of Naturopathic Medicine;**

14 **“(H) Oregon State Board of Nursing;**

15 **“(I) Oregon Board of Optometry;**

16 **“(J) State Board of Pharmacy;**

17 **“(K) Oregon Medical Board;**

18 **“(L) Occupational Therapy Licensing Board;**

19 **“(M) Oregon Board of Physical Therapy;**

20 **“(N) Oregon Board of Psychology;**

21 **“(O) Board of Medical Imaging;**

1 **“(P) Long Term Care Administrators Board;**
2 **“(Q) State Board of Direct Entry Midwifery;**
3 **“(R) State Board of Denture Technology;**
4 **“(S) Respiratory Therapist and Polysomnographic Technologist Li-**
5 **censing Board;**
6 **“(T) Board of Licensed Dietitians; and**
7 **“(U) Oregon Health Authority, to the extent that the authority:**
8 **“(i) Licenses emergency medical services providers under ORS**
9 **682.216; and**
10 **“(ii) Regulates traditional health workers under ORS 414.665.**
11 **“(b) ‘Coordinated care organization’ has the meaning given that**
12 **term in ORS 414.025.**
13 **“(c) ‘Health care provider’ means an individual licensed, certified,**
14 **registered or otherwise authorized to practice by a board.**
15 **“(d) ‘Health insurer’ has the meaning given that term in ORS**
16 **746.600.**
17 **“(2) At least once each calendar year and in accordance with**
18 **timelines established by the authority by rule, a coordinated care or-**
19 **ganization, a health care provider or health care provider’s designee,**
20 **or a health insurer shall collect data on race, ethnicity, preferred**
21 **spoken and written languages, disability status, sexual orientation and**
22 **gender identity from the coordinated care organization’s, health care**
23 **provider’s or health insurer’s patients, clients and members, in ac-**
24 **cordance with standards adopted by the authority pursuant to ORS**
25 **413.161. A coordinated care organization, health care provider or health**
26 **insurer shall submit the data to the authority in the manner pre-**
27 **scribed by the authority by rule.**
28 **“(3)(a) The authority shall adopt rules, including but not limited to**
29 **rules:**
30 **“(A) Establishing standards for collecting, securely transmitting**

1 and reporting the data described in subsection (2) of this section;

2 “(B) Establishing the timelines for collection and submission of
3 data described in subsection (2) of this section;

4 “(C) Permitting coordinated care organizations, health care provid-
5 ers and health insurers to report to the authority that a patient, client
6 or member refused to answer questions regarding race, ethnicity,
7 preferred spoken and written languages, disability status, sexual ori-
8 entation and gender identity;

9 “(D) Establishing criteria for extensions of timelines established
10 under this subsection and a process for reviewing requests for exten-
11 sions; and

12 “(E) Establishing criteria for exempting certain health care provid-
13 ers or classes of health care providers from the requirements of sub-
14 section (2) of this section and a process for reviewing requests for
15 exemptions.

16 “(b) In adopting rules under subsection (2) of this section, the au-
17 thority shall:

18 “(A) Consult with the advisory committee established under ORS
19 413.161;

20 “(B) Allow coordinated care organizations, health care providers
21 and health insurers to collect the data described in subsection (2) of
22 this section on electronic or paper forms; and

23 “(C) Require coordinated care organizations, health care providers
24 and health insurers to inform patients, clients and members:

25 “(i) That data collected under subsection (2) of this section is re-
26 ported to the authority;

27 “(ii) How the authority, coordinated care organization, health care
28 provider and health insurer use the data;

29 “(iii) Of the purposes for which the data may not be used; and

30 “(iv) That the patient, client or member is not required to answer

1 questions regarding race, ethnicity, preferred spoken and written lan-
2 guages, disability status, sexual orientation and gender identity.

3 “(4) Data collected under this section is confidential and not subject
4 to disclosure under ORS 192.311 to 192.478. The authority may release
5 the data collected under this section only if the data to be released is
6 anonymized and aggregated so that the data released does not rea-
7 sonably allow an individual whose information is included in the data
8 to be identified.

9 “(5) A coordinated care organization or health insurer transacting
10 insurance in this state may not consider any data collected under
11 subsection (2) of this section:

12 “(a) In determining whether to deny, limit, cancel, rescind or refuse
13 to renew an insurance policy;

14 “(b) To establish premium rates for an insurance policy; or

15 “(c) To establish the terms and conditions of an insurance policy.

16 “(6) The authority may provide incentives to coordinated care or-
17 ganizations, health care providers and health insurers to assist in de-
18 ferring the costs of making changes to electronic health records
19 systems or similar systems to facilitate the collection of data described
20 in subsection (2) of this section.

21 “(7)(a) The authority shall monitor coordinated care organizations,
22 health care providers and health insurers for compliance with the
23 standards established under subsection (1) of this section.

24 “(b) The authority may impose on a coordinated care organization,
25 health care provider or health insurer a civil penalty for a violation
26 of the requirements of this section or rules adopted under this section:

27 “(A) Not to exceed \$200 for the first violation;

28 “(B) Not to exceed \$400 for the second violation; and

29 “(C) Not to exceed \$500 for the third and subsequent violations.

30 “(c) Prior to imposing a penalty under paragraph (b) of this sub-

1 section, the authority shall provide notice to the coordinated care or-
2 ganization, health care provider or health insurer of the alleged
3 violation and provide the coordinated care organization, health care
4 provider or health insurer a reasonable time in which to correct the
5 violation.

6 **“SECTION 2.** The Oregon Health Authority shall establish a data
7 system for data on race, ethnicity, preferred spoken and written lan-
8 guages, disability status, sexual orientation and gender identity col-
9 lected under section 1 of this 2021 Act. The data system established
10 under this section must include:

11 **“(1)** A data registry to receive and store the data described in this
12 section from coordinated care organizations, health care providers and
13 health insurers, patients, clients and members of coordinated care
14 organizations, health care providers and health insurers, the authority
15 and the Department of Human Services. The registry must allow for
16 coordinated care organizations, health care providers and health
17 insurers to:

18 **“(a)** Electronically submit data collected under section 1 of this 2021
19 Act; and

20 **“(b)** Query the data registry to determine whether the registry
21 contains current data for a patient, member or client.

22 **“(2)** Functionality that allows a patient, member or client to di-
23 rectly submit to the data system their data described in this section.

24 **“SECTION 3.** No later than June 1, 2022, and every two years
25 thereafter, the Oregon Health Authority shall report to the appropri-
26 ate committees of the Legislative Assembly in the manner provided in
27 ORS 192.245 on the implementation of sections 1 and 2 of this 2021 Act.
28 The report must include, but is not limited to:

29 **“(1)** A description of uniform standards for data collection and im-
30 plementation of the standards; and

1 “(2) The challenges to implementing the standards and plan for
2 addressing the challenges.

3 “**SECTION 4.** (1) The Oregon Health Authority shall develop and
4 administer a grant program to provide funding for the purpose of
5 supporting safe data collection by community health organizations and
6 community-based groups with demonstrated experience serving tribal
7 communities, communities of color, LGBTQ+ people, people with dis-
8 abilities, people who speak primary languages other than English and
9 other underserved populations. An entity described in this subsection
10 that receives a grant under this section shall provide culturally re-
11 sponsive, trauma-informed trainings on the collection of the data de-
12 scribed in section 1 (2) of this 2021 Act.

13 “(2) The authority shall adopt rules to carry out this section.

14 “**SECTION 5.** ORS 413.161 is amended to read:

15 “413.161. (1) The Oregon Health Authority, in collaboration with the De-
16 partment of Human Services, shall adopt by rule uniform standards, based
17 on local, statewide and national best practices, for the collection of data on
18 race, ethnicity, preferred spoken and written languages [*and*], disability sta-
19 tus, **sexual orientation and gender identity**. The authority and the de-
20 partment shall use the standards, to the greatest extent practicable, in
21 surveys conducted and in all programs in which the authority or the de-
22 partment collects, records or reports [*such*] **the data described in this**
23 **subsection**. The authority and the department shall review and update the
24 standards at least once every two years to ensure that the standards are ef-
25 ficient, uniform and consistent with best practices.

26 “(2) The authority shall appoint an advisory committee in accordance
27 with ORS 183.333 composed of individuals likely to be affected by the stan-
28 dards and advocates for individuals likely to be affected by the standards.

29 “**SECTION 6. Sections 40, 41 and 43, chapter 12, Oregon Laws 2020**
30 **(first special session), are repealed on January 1, 2023.**

1 **“SECTION 7. (1) Not later than the operative date specified in sec-**
2 **tion 8 (1) of this 2021 Act, the Oregon Health Authority shall establish**
3 **a date by which a coordinated care organization, health care provider**
4 **and health insurer, as those terms are defined in section 1 of this 2021**
5 **Act, shall begin collecting and reporting the data described in section**
6 **1 (2) of this 2021 Act.**

7 **“(2) The authority may not impose a civil penalty on a coordinated**
8 **care organization, health care provider or health insurer until the**
9 **authority has established a process for submission of the data de-**
10 **scribed in section 1 (2) of this 2021 Act and the data system described**
11 **in section 2 of this 2021 Act.**

12 **“SECTION 8. (1) Sections 1 to 4 of this 2021 Act become operative**
13 **on January 1, 2022.**

14 **“(2) The amendments to ORS 413.161 by section 5 of this 2021 Act**
15 **become operative on July 1, 2022.**

16 **“(3) The Oregon Health Authority may take any action before the**
17 **operative date specified in subsection (1) of this section that is neces-**
18 **sary to enable the authority to exercise, on and after the operative**
19 **date specified in subsection (1) of this section, all of the duties, func-**
20 **tions and powers conferred on the authority by sections 1 to 4 of this**
21 **2021 Act and the amendments to ORS 413.161 by section 5 of this 2021**
22 **Act.**

23 **“SECTION 9. This 2021 Act takes effect on the 91st day after the**
24 **date on which the 2021 regular session of the Eighty-first Legislative**
25 **Assembly adjourns sine die.”.**

26 _____