

# House Bill 2582

Sponsored by Representative MORGAN; Representative HELFRICH, Senator THATCHER (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 **as introduced**.

Provides that parent or legal guardian may be notified of minor's consent to treatment. Modifies definition of "personal representative" for purposes of protected health information to include parents of unmarried and unemancipated minors.

## A BILL FOR AN ACT

1  
2 Relating to parental rights to access minor child's medical information; creating new provisions; and  
3 amending ORS 109.650, 109.675, 109.680, 109.685 and 192.556.

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

5 **SECTION 1.** ORS 109.650 is amended to read:

6 109.650. (1) **A provider of hospital, medical or surgical care to a minor under ORS 109.610**  
7 **may notify the minor's parent or legal guardian of the minor's diagnosis or treatment.**

8 (2) A hospital or a physician, physician assistant, nurse practitioner, naturopathic physician,  
9 dentist or optometrist **providing information, services, care, diagnosis or treatment to a minor**  
10 **as** described in ORS 109.640 [*may advise a*] **may notify the minor's** parent or legal guardian [*of a*  
11 *minor*] of the **information, services, care, diagnosis or treatment** [*of*] **provided to** the minor or the  
12 need for any treatment of the minor[.].

13 (3) **Parental notification under this section may be made** without the consent of the minor,  
14 **and the hospital or a physician, physician assistant, nurse practitioner, naturopathic physi-**  
15 **cian, dentist or optometrist** is not liable for [*advising*] **notifying** the parent or legal guardian  
16 without the consent of the minor.

17 **SECTION 2.** Section 3 of this 2023 Act is added to and made a part of ORS 109.675 to  
18 **109.695.**

19 **SECTION 3.** As used in ORS 109.675 to 109.695:

20 (1) **"Mental health care provider"** means a physician or physician assistant licensed by  
21 **the Oregon Medical Board, psychologist licensed by the Oregon Board of Psychology, nurse**  
22 **practitioner registered by the Oregon State Board of Nursing, clinical social worker licensed**  
23 **under ORS 675.530, professional counselor or marriage and family therapist licensed by the**  
24 **Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician**  
25 **licensed under ORS chapter 685 or community mental health program established and oper-**  
26 **ated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pur-**  
27 **suant to rule.**

28 (2) **"Minor"** means a person who has not arrived at the age of majority, as described in  
29 **ORS 109.510.**

30 **SECTION 4.** ORS 109.675 is amended to read:

31 109.675. (1) A minor 14 years of age or older may obtain, without parental [*knowledge or*] con-

**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 sent, outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency,  
 2 excluding methadone maintenance, by a **mental health care provider**. [*physician or physician as-*  
 3 *stant licensed by the Oregon Medical Board, a psychologist licensed by the Oregon Board of Psy-*  
 4 *chology, a nurse practitioner registered by the Oregon State Board of Nursing, a clinical social worker*  
 5 *licensed by the State Board of Licensed Social Workers, a professional counselor or marriage and*  
 6 *family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, a*  
 7 *naturopathic physician licensed by the Oregon Board of Naturopathic Medicine or a community mental*  
 8 *health program established and operated pursuant to ORS 430.620 when approved to do so by the*  
 9 *Oregon Health Authority pursuant to rule.]*

10 (2) [However,] The person providing treatment **under this section** shall have the parents of the  
 11 minor involved before the end of treatment unless the parents refuse or unless there are clear  
 12 clinical indications to the contrary, which shall be documented in the treatment record. The pro-  
 13 visions of this subsection do not apply to:

14 (a) A minor who has been sexually abused by a parent; or

15 (b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 and  
 16 109.520 or 419B.550 to 419B.558 or, for the purpose of this section only, emancipated by virtue of  
 17 having lived apart from the parents or legal guardian while being self-sustaining for a period of 90  
 18 days prior to obtaining treatment as provided by this section.

19 **SECTION 5.** ORS 109.680 is amended to read:

20 109.680. [(1) As used in this section, “mental health care provider” means a physician or physician  
 21 assistant licensed by the Oregon Medical Board, psychologist licensed by the Oregon Board of Psy-  
 22 chology, nurse practitioner registered by the Oregon State Board of Nursing, clinical social worker li-  
 23 censed under ORS 675.530, professional counselor or marriage and family therapist licensed by the  
 24 Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed  
 25 under ORS chapter 685 or community mental health program established and operated pursuant to  
 26 ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.]

27 [(2)(a)] (1)(a) A mental health care provider that is providing services to a minor pursuant to  
 28 ORS 109.675 may disclose relevant health information about the minor without the minor’s consent  
 29 as provided in ORS 109.675 (2) and this subsection.

30 (b) If the minor’s condition has deteriorated or the risk of a suicide attempt has become such  
 31 that inpatient treatment is necessary, or if the minor’s condition requires detoxification in a resi-  
 32 dential or acute care facility, the minor’s mental health care provider may disclose the relevant in-  
 33 formation regarding the minor’s diagnosis and treatment to the minor’s parent or legal guardian to  
 34 the extent the mental health care provider determines the disclosure is clinically appropriate and  
 35 will serve the best interests of the minor’s treatment.

36 (c) If the mental health care provider assesses the minor to be at serious and imminent risk of  
 37 a suicide attempt but inpatient treatment is not necessary or practicable:

38 (A) The mental health care provider shall disclose relevant information about the minor to and  
 39 engage in safety planning with the minor’s parent, legal guardian or other individuals the provider  
 40 reasonably believes may be able to prevent or lessen the minor’s risk of a suicide attempt.

41 (B) The mental health care professional may disclose relevant information regarding the minor’s  
 42 treatment and diagnosis that the mental health care professional determines is necessary to further  
 43 the minor’s treatment to those organizations, including appropriate schools and social service enti-  
 44 ties, that the mental health care provider reasonably believes will provide treatment support to the  
 45 minor to the extent the mental health care provider determines necessary.

1 (d) Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of this subsection, if a  
 2 mental health care provider has provided the minor with the opportunity to object to the disclosure  
 3 and the minor has not expressed an objection, the mental health care provider may disclose infor-  
 4 mation related to the minor's treatment and diagnosis to individuals, including the minor's parent  
 5 or legal guardian, and organizations when the information directly relates to the individual's or  
 6 organization's involvement in the minor's treatment.

7 [(3)] (2) Notwithstanding subsection [(2)(c)(A)] (1)(c)(A) of this section, a mental health care  
 8 provider is not required to disclose the minor's treatment and diagnosis information to an individual  
 9 **other than the minor's parent or legal guardian** if the mental health care provider:

10 (a) Reasonably believes the individual has abused or neglected the minor or subjected the minor  
 11 to domestic violence or may abuse or neglect the minor or subject the minor to domestic violence;

12 (b) Reasonably believes disclosure of the minor's information to the individual could endanger  
 13 the minor; or

14 (c) Determines that it is not in the minor's best interest to disclose the information to the indi-  
 15 vidual.

16 [(4)] (3) Nothing in this section is intended to limit a mental health care provider's authority to  
 17 disclose information related to the minor with the minor's consent.

18 [(5)] (4) If a mental health care provider discloses a minor's information as provided in sub-  
 19 section (1) [or (2)] of this section in good faith, the mental health care provider is immune from civil  
 20 liability for making the disclosure without the consent of the minor.

21 **SECTION 6.** ORS 109.685 is amended to read:

22 109.685. A [*physician, physician assistant, psychologist, nurse practitioner, clinical social worker*  
 23 *licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the*  
 24 *Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed*  
 25 *under ORS chapter 685 or community mental health program described in ORS 109.675] **mental**  
 26 **health care provider** who in good faith provides diagnosis or treatment to a minor as authorized  
 27 by ORS 109.675 [*shall not be*] **is not** subject to any civil liability for providing such diagnosis or  
 28 treatment without consent of the parent or legal guardian of the minor.*

29 **SECTION 7.** ORS 192.556 is amended to read:

30 192.556. As used in ORS 192.553 to 192.581:

31 (1) "Authorization" means a document written in plain language that contains at least the fol-  
 32 lowing:

33 (a) A description of the information to be used or disclosed that identifies the information in a  
 34 specific and meaningful way;

35 (b) The name or other specific identification of the person or persons authorized to make the  
 36 requested use or disclosure;

37 (c) The name or other specific identification of the person or persons to whom the covered entity  
 38 may make the requested use or disclosure;

39 (d) A description of each purpose of the requested use or disclosure, including but not limited  
 40 to a statement that the use or disclosure is at the request of the individual;

41 (e) An expiration date or an expiration event that relates to the individual or the purpose of the  
 42 use or disclosure;

43 (f) The signature of the individual or personal representative of the individual and the date;

44 (g) A description of the authority of the personal representative, if applicable; and

45 (h) Statements adequate to place the individual on notice of the following:

- 1 (A) The individual's right to revoke the authorization in writing;  
2 (B) The exceptions to the right to revoke the authorization;  
3 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits  
4 on whether the individual signs the authorization; and  
5 (D) The potential for information disclosed pursuant to the authorization to be subject to  
6 redisclosure by the recipient and no longer protected.
- 7 (2) "Covered entity" means:  
8 (a) A state health plan;  
9 (b) A health insurer;  
10 (c) A health care provider that transmits any health information in electronic form to carry out  
11 financial or administrative activities in connection with a transaction covered by ORS 192.553 to  
12 192.581; or  
13 (d) A health care clearinghouse.  
14 (3) "Health care" means care, services or supplies related to the health of an individual.  
15 (4) "Health care operations" includes but is not limited to:  
16 (a) Quality assessment, accreditation, auditing and improvement activities;  
17 (b) Case management and care coordination;  
18 (c) Reviewing the competence, qualifications or performance of health care providers or health  
19 insurers;  
20 (d) Underwriting activities;  
21 (e) Arranging for legal services;  
22 (f) Business planning;  
23 (g) Customer services;  
24 (h) Resolving internal grievances;  
25 (i) Creating deidentified information; and  
26 (j) Fundraising.  
27 (5) "Health care provider" includes but is not limited to:  
28 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or  
29 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675  
30 or an employee of the psychologist, occupational therapist, regulated social worker, professional  
31 counselor or marriage and family therapist;  
32 (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed  
33 under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;  
34 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of  
35 the nurse or nursing home administrator;  
36 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;  
37 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental  
38 hygienist or denturist;  
39 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee  
40 of the speech-language pathologist or audiologist;  
41 (g) An emergency medical services provider licensed under ORS chapter 682;  
42 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;  
43 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic  
44 physician;  
45 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic

- 1 physician;
- 2 (k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage  
3 therapist;
- 4 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct  
5 entry midwife;
- 6 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical  
7 therapist;
- 8 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical  
9 imaging licensee;
- 10 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory  
11 care practitioner;
- 12 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-  
13 somnographic technologist;
- 14 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 15 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 16 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral  
17 service practitioner;
- 18 (t) A health care facility as defined in ORS 442.015;
- 19 (u) A home health agency as defined in ORS 443.014;
- 20 (v) A hospice program as defined in ORS 443.850;
- 21 (w) A clinical laboratory as defined in ORS 438.010;
- 22 (x) A pharmacy as defined in ORS 689.005; and
- 23 (y) Any other person or entity that furnishes, bills for or is paid for health care in the normal  
24 course of business.
- 25 (6) "Health information" means any oral or written information in any form or medium that:
- 26 (a) Is created or received by a covered entity, a public health authority, an employer, a life  
27 insurer, a school, a university or a health care provider that is not a covered entity; and
- 28 (b) Relates to:
- 29 (A) The past, present or future physical or mental health or condition of an individual;
- 30 (B) The provision of health care to an individual; or
- 31 (C) The past, present or future payment for the provision of health care to an individual.
- 32 (7) "Health insurer" means an insurer as defined in ORS 731.106 who offers:
- 33 (a) A health benefit plan as defined in ORS 743B.005;
- 34 (b) A short term health insurance policy, the duration of which does not exceed three months  
35 including renewals;
- 36 (c) A student health insurance policy;
- 37 (d) A Medicare supplemental policy; or
- 38 (e) A dental only policy.
- 39 (8) "Individually identifiable health information" means any oral or written health information  
40 in any form or medium that is:
- 41 (a) Created or received by a covered entity, an employer or a health care provider that is not  
42 a covered entity; and
- 43 (b) Identifiable to an individual, including demographic information that identifies the individual,  
44 or for which there is a reasonable basis to believe the information can be used to identify an indi-  
45 vidual, and that relates to:

- 1 (A) The past, present or future physical or mental health or condition of an individual;  
2 (B) The provision of health care to an individual; or  
3 (C) The past, present or future payment for the provision of health care to an individual.  
4 (9) "Payment" includes but is not limited to:  
5 (a) Efforts to obtain premiums or reimbursement;  
6 (b) Determining eligibility or coverage;  
7 (c) Billing activities;  
8 (d) Claims management;  
9 (e) Reviewing health care to determine medical necessity;  
10 (f) Utilization review; and  
11 (g) Disclosures to consumer reporting agencies.  
12 (10) "Personal representative" includes but is not limited to:  
13 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with  
14 authority to make medical and health care decisions;  
15 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-  
16 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment  
17 decisions;  
18 (c) A person appointed as a personal representative under ORS chapter 113; *[and]*  
19 (d) A person described in ORS 192.573[.]; **and**  
20 (e) **The parent or legal guardian of an unmarried and unemancipated person under 18**  
21 **years of age.**  
22 (11)(a) "Protected health information" means individually identifiable health information that is  
23 maintained or transmitted in any form of electronic or other medium by a covered entity.  
24 (b) "Protected health information" does not mean individually identifiable health information in:  
25 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20  
26 U.S.C. 1232g);  
27 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or  
28 (C) Employment records held by a covered entity in its role as employer.  
29 (12) "State health plan" means:  
30 (a) Medical assistance as defined in ORS 414.025;  
31 (b) The Cover All People program; or  
32 (c) Any medical assistance or premium assistance program operated by the Oregon Health Au-  
33 thority.  
34 (13) "Treatment" includes but is not limited to:  
35 (a) The provision, coordination or management of health care; and  
36 (b) Consultations and referrals between health care providers.  
37