

LC 706
2015 Regular Session
96800-001
7/24/14 (MBM/ps)

D R A F T

SUMMARY

Requires regulation of bodywork in same manner that law currently regulates massage. Defines “bodywork.” Changes name of State Board of Massage Therapists to State Board of Massage Therapists and Bodyworkers.

Excludes community colleges and accredited colleges and universities from definition of “massage facility.”

Increases number of class hours required for licensure as massage therapist or bodyworker.

Authorizes board to require licensed massage therapists and licensed bodyworkers to acquire or renew endorsement before practicing advanced technique of massage or bodywork.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to therapeutic touching; creating new provisions; amending ORS 31.740, 182.454, 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 676.850, 677.060, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.059, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123, 687.250, 746.600 and 750.005 and section 1, chapter 5, Oregon Laws 2013; and declaring an emergency.

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

DEFINITIONS OF “BODYWORK”

AND “MASSAGE FACILITY”

SECTION 1. ORS 687.011 is amended to read:

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.

1 687.011. As used in ORS 687.011 to 687.250, 687.895 and 687.991:

2 (1) “Board” means the State Board of Massage Therapists and
3 **Bodyworkers.**

4 (2) “**Bodywork**” means any form of touch therapy that uses manip-
5 ulation, movement, energy or repatterning to produce structural and
6 functional changes to the body.

7 (3) “**Bodyworker**” means a person licensed under ORS 687.011 to
8 **687.250, 687.895 and 687.991 to practice bodywork.**

9 [(2)] (4) “Certified class” means a class that is approved by the **State**
10 **Board of Massage Therapists and Bodyworkers** and is offered:

11 (a) By a person or institution licensed as a career school under ORS
12 345.010 to 345.450;

13 (b) By a community college and approved by the Higher Education Coor-
14 dinating Commission;

15 (c) By an accredited college or university; or

16 (d) In another state and licensed or approved by the appropriate agency
17 in that state.

18 [(3)] (5) “Manual” means the use of the hands, feet or any other part of
19 the body in the performance of massage **or bodywork.**

20 [(4)] (6) “Massage” [*or “massage therapy”*] means the use of pressure,
21 friction, stroking, tapping or kneading on the human body, or the use of vi-
22 bration or stretching on the human body by manual or mechanical means
23 or gymnastics, with or without appliances such as vibrators, infrared heat,
24 sun lamps or external baths, and with or without lubricants such as salts,
25 powders, liquids or creams, for the purpose of, but not limited to, maintain-
26 ing good health and establishing and maintaining good physical condition.

27 [(5)(a)] (7)(a) “Massage facility” means a facility where a person engages
28 in the practice of massage **or bodywork.**

29 (b) “Massage facility” does not include:

30 (A) A career school licensed under ORS 345.010 to 345.450; [*or*]

31 (B) **An accredited college or university or a community college op-**

1 **erated under ORS chapter 341; or**

2 [(B)] (C) A clinic or facility owned or operated by a person authorized to
3 practice a profession by a health professional regulatory board, as defined
4 in ORS 676.160.

5 [(6)] (8) “Massage therapist” means a person licensed under ORS 687.011
6 to 687.250, 687.895 and 687.991 to practice massage.

7 (9) “**Practice of bodywork**” means the performance of bodywork:

8 (a) For purposes other than sexual contact, as defined in ORS
9 167.002; and

10 (b) For compensation.

11 [(7)] (10) “Practice of massage” means the performance of massage:

12 (a) For purposes other than sexual contact, as defined in ORS 167.002
13 [(5)]; and

14 (b) For compensation.

15 [(8)] (11) “Preceptor” means a licensed massage therapist **or licensed**
16 **bodyworker**, who contracts with an approved school or program of massage
17 **or bodywork** to provide direct on-site clinical supervision of a [*massage*]
18 student enrolled in a certified class.

19 [(9)] (12) “Supervision” means:

20 (a) The process of overseeing and directing the training of [*massage*] stu-
21 dents **enrolled in a certified class** as set forth in the rules of the board;

22 (b) The process of overseeing and directing a licensee, or a person that
23 has a permit to operate a massage facility, who is being disciplined by the
24 board; or

25 (c) Voluntary consultation with, and education of, less experienced li-
26 censed massage therapists, **bodyworkers** or practitioners in related fields.

27 [(10)] “*Treatment*” means the selection, application and practice of massage
28 or massage therapy essential to the effective execution and management of a
29 *plan of care.*]

30 [(11)] (13) “Unprofessional or dishonorable conduct” means a behavior,
31 practice or condition that is contrary to the ethical standards adopted by the

1 board.

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**REGULATION OF BODYWORK AND
TECHNIQUES OF MASSAGE OR BODYWORK**

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6 **SECTION 2.** ORS 687.021 is amended to read:

7 687.021. (1) A person may not:

8 (a) Engage in or purport to engage in the practice of massage **or**
9 **bodywork** without a massage therapist **or bodyworker** license issued by the
10 State Board of Massage Therapists **and Bodyworkers** under ORS 687.051.

11 (b) Operate a massage facility or purport to operate a massage facility
12 without a permit issued by the board under ORS 687.059, unless the person
13 is an individual massage therapist **or bodyworker**, who is working out of
14 the individual's home.

15 (c) Advertise that the person engages in the practice of massage **or**
16 **bodywork** unless the person is licensed under ORS 687.051 or holds a permit
17 under ORS 687.059.

18 (d) Use the word "massage" **or "bodywork"** in a business name unless
19 the person is licensed under ORS 687.051 or holds a permit under ORS
20 687.059.

21 (2) The board may exempt by rule a type of massage facility from the
22 prohibition in subsection (1)(b) of this section if the board finds that re-
23 quiring a permit for that type of facility is not necessary to regulate the
24 practice of massage [*therapy*] **or bodywork** or to protect the health and
25 safety of the public.

26 (3) The Attorney General, the prosecuting attorney of any county or the
27 board may maintain an action for an injunction against a person violating
28 this section. An injunction may be issued without proof of actual damages
29 sustained by a person. An injunction does not relieve a person from criminal
30 prosecution for violating this section or from any other civil, criminal or
31 disciplinary remedy.

1 **SECTION 3.** ORS 687.031 is amended to read:

2 687.031. (1) ORS 687.011 to 687.250, 687.895 and 687.991 do not apply to:

3 (a) Persons licensed under [*any other law*] **the laws** of this state to do
4 [*any acts*] **an act** included in the definition of massage **or bodywork** in ORS
5 687.011 or persons working under the direction of [*any*] such **a person, so**
6 **long as the licensed person is acting within the person's authorized**
7 **scope of practice.**

8 (b) Trainers of any amateur, semiprofessional or professional athlete or
9 athletic team.

10 (c) Massage **or bodywork** practiced at the athletic department of [*any*]
11 **an** institution maintained by public funds of the state or [*of any of*] its pol-
12 itical subdivisions.

13 (d) Massage **or bodywork** practiced at the athletic department of [*any*]
14 **a** school or college.

15 (e) Massage **or bodywork** clinics operated as part of a certified class for
16 the purpose of student training supervised by an approved instructor or
17 preceptor if:

18 (A) [*Any*] **The** charge for the massage **or bodywork services** does not
19 exceed the cost incurred in providing the [*massage*] **services**; and

20 (B) The student is not compensated.

21 (f) Students enrolled in a certified class when practicing massage **or**
22 **bodywork** techniques in a nonclinical setting, **whether** at or away from
23 massage school premises or program sites, under the supervision of an ap-
24 proved instructor or preceptor, if:

25 (A) The student is clearly identified as a student to [*any member of the*]
26 [*public*] **clients** receiving massage **or bodywork** services; and

27 (B) The student is not compensated.

28 (g) Nonresident practitioners **of massage or bodywork** holding a valid
29 license, permit, certificate or registration issued by [*any other*] **another** state
30 [*or*], **a** territory of the United States or [*by*] a foreign country and tempo-
31 rarily practicing massage **or bodywork** in this state for a period not ex-

1 ceeding 30 days for the purpose of:

2 (A) Presenting educational or clinical programs, lectures, seminars or
3 workshops;

4 (B) Furnishing massage **or bodywork** services during an emergency as
5 part of a disaster response team; or

6 (C) Consulting with a massage therapist **or bodyworker** licensed in this
7 state regarding massage **or bodywork** practices or services.

8 (h) Trained or licensed practitioners of psychotherapy or counseling
9 modalities that use physical techniques to access or support
10 psychotherapeutic processes [*when practicing*] **who:**

11 (A) **Practice** within the scope of a license; or

12 (B) [*if the practitioner has*] **Have** an express oral or written agreement
13 that **specifies that** the sole intent in using the physical techniques is to
14 render the psychotherapy or counseling.

15 (i) Practitioners of reflexology who do not claim expressly or implicitly
16 to be massage therapists **or bodyworkers** and who limit their work to the
17 practice of reflexology through the application of pressure with the thumbs
18 to reflex points on the feet, hands and ears for the purpose of bringing the
19 body into balance[, *thereby*] **and** promoting the well-being of clients.

20 (j) Practitioners who:

21 (A) Do not claim expressly or implicitly to be massage therapists **or**
22 **bodyworkers**;

23 (B) Limit their work to one or more of the following [*practices*] **tech-**
24 **niques**:

25 (i) Using touch, words and directed movement to deepen awareness of
26 existing patterns of movement and suggest new possibilities of movement;

27 (ii) Using minimal touch over specific points on the body to facilitate
28 balance in the nervous system; or

29 (iii) Using touch to affect the energy systems or channels of energy of the
30 body;

31 (C) Are certified by a professional organization or credentialing agency

1 that:

2 (i) Requires a minimum level of training, demonstration of competence
3 and adherence to an approved scope of practice and ethical standards; and

4 (ii) Maintains disciplinary procedures to ensure adherence to the re-
5 quirements of the organization or agency; and

6 (D) Provide contact information in the practitioner's place of business for
7 any organization or agency that has certified the practitioner.

8 (2) The State Board of Massage Therapists **and Bodyworkers** has the
9 authority to verify that a practitioner **of massage or bodywork** claiming
10 to be exempt from application of ORS 687.011 to 687.250, 687.895 and 687.991
11 under subsection (1)(j) of this section is certified by a professional organ-
12 ization or credentialing agency as required by subsection (1)(j)(C) of this
13 section.

14 (3) A nonresident practitioner performing massage **or bodywork** under
15 subsection (1)(g) of this section must obtain a temporary practice permit if
16 practicing in this state for [*a total of*] more than 30 days in a calendar year.
17 Applications must be accompanied by the application fee provided for in ORS
18 687.071. A temporary practice permit shall allow the nonresident practitioner
19 to practice massage **or bodywork** in this state for a maximum of 180 days
20 in a calendar year.

21 **SECTION 4.** ORS 687.041 is amended to read:

22 687.041. (1) Applications to the State Board of Massage Therapists **and**
23 **Bodyworkers** for a massage therapist **or bodyworker** license shall be made
24 on forms provided by the board and shall contain the information required
25 to assure the board of the applicant's eligibility for a license. The application
26 fee provided for in ORS 687.071 shall accompany the application.

27 (2) An applicant shall state on the application whether the applicant has
28 ever been arrested for or convicted of a [*crime exclusive of minor traffic of-*
29 *fenses and if so, where and when*] **misdemeanor or felony and the date**
30 **and location of the arrest or conviction.**

31 (3) The board may require that an applicant submit to fingerprinting and

1 may use the fingerprints to request a criminal records check of the applicant
2 under ORS 181.534. [It] **The board** may also require the photograph of the
3 applicant.

4 (4) All law enforcement agencies in this state shall cooperate with the
5 board in the administration of ORS 687.011 to 687.250, 687.895 and 687.991
6 and shall, when requested, investigate and report to the board their findings
7 regarding the arrest or conviction of the applicant for crimes within or
8 outside this state.

9 **SECTION 5.** ORS 687.051 is amended to read:

10 687.051. (1) To be eligible for issuance of an initial license in this state
11 as a massage therapist **or bodyworker**, the applicant shall:

12 (a) Furnish the State Board of Massage Therapists **and Bodyworkers**
13 with personal references required by rule of the board.

14 (b) Have attained the age of 18 years.

15 (c) Furnish the board with educational certificates or transcripts required
16 by law or rule of the board including but not limited to proof of certification
17 in cardiopulmonary resuscitation.

18 (d)(A) Have completed a minimum of [500] **750** contact hours of certified
19 classes in the following subjects:

20 (i) Anatomy and physiology;

21 (ii) Kinesiology;

22 (iii) Pathology;

23 (iv) Theory; and

24 (v) Hands-on practice of massage [and] **or** bodywork techniques and pro-
25 fessional practices, including client communication and boundaries, profes-
26 sional and business ethics and sanitation; or

27 (B) Obtain the approval of the board after the board performs a creden-
28 tialing review, including but not limited to a review of the classes completed
29 by the applicant and the applicant's professional experience, to determine the
30 applicant's proficiency [*in the field of massage*].

31 (e) Pass an examination prepared and conducted by the board or its au-

1 thORIZED representative establishing **the applicant's** competency and ability
2 to engage in the practice of massage **or bodywork**. The examination must
3 be administered in the English language or another language approved by
4 the board and may be in written, oral or practical form and may test the
5 applicant for the required level of knowledge and skill in any subject related
6 to massage and bodywork. The **State Board of Massage Therapists and**
7 **Bodyworkers** shall accept passage of the National Certification Board for
8 Therapeutic Massage and Bodywork examination or another
9 [*board-approved*] national standardized examination **approved by the State**
10 **Board of Massage Therapists** as meeting the written examination require-
11 ment [*contained*] **described** in this paragraph.

12 (f) Submit the application with payment for licensing within one year af-
13 ter notification of having passed the qualifying examination.

14 (2) An applicant must be a person of good moral character. For purposes
15 of this section, the lack of good moral character may be established by ref-
16 erence to acts or conduct reflecting moral turpitude or to acts or conduct
17 that would cause a reasonable person to have substantial doubts about the
18 applicant's ability to **engage in the practice of massage or bodywork** in
19 accordance with ORS 687.011 to 687.250, 687.895 and 687.991 and rules of the
20 **State Board of Massage Therapists and Bodyworkers**.

21 (3) The board may require that an applicant furnish evidence satisfactory
22 to the board that the applicant can safely and competently practice [*the*
23 *profession of*] massage **or bodywork**. The board may consider evidence in-
24 cluding, but not limited to, indications of impairment as defined in ORS
25 676.303 or of behavior, practices or conduct that would be considered un-
26 professional or dishonorable conduct if engaged in by a person licensed under
27 ORS 687.011 to 687.250, 687.895 and 687.991.

28 (4) The board shall adopt rules establishing the required hours for each
29 subject listed in subsection (1)(d)(A) of this section.

30 (5) To be eligible for biennial renewal, a renewal applicant shall submit
31 evidence to the board, as determined by the board by rule, that the applicant

1 has completed a minimum of 12 hours of board-approved continuing educa-
2 tion.

3 (6) To be eligible for inactive status, a licensed massage therapist [*must*
4 *not be practicing*] **or bodyworker may not practice massage or bodywork**
5 in this state.

6 **SECTION 6.** ORS 687.057 is amended to read:

7 687.057. (1) The State Board of Massage Therapists **and Bodyworkers**
8 may license by [*indorsement*] **endorsement** or reciprocity any individual who
9 applies, meets the requirements established by the board and, on the date of
10 making application, is [*a massage therapist*] licensed **to practice massage**
11 **or bodywork** under the laws of [*any other*] **another** state [*or*], a territory
12 of the United States or [*by*] a foreign country if the requirements **for**
13 **licensure** in the state, territory or country where the applicant is licensed
14 are not less than [*those required in*] **the requirements of** ORS 687.011 to
15 687.250, 687.895 and 687.991. The board shall adopt rules for determining the
16 necessity of an examination based on educational preparation, successful
17 completion of other examinations, work experience and the number of years
18 in active practice of massage **or bodywork**.

19 (2) The board may license by [*indorsement*] **endorsement** any individual
20 who applies and successfully completes a practical examination if the indi-
21 vidual is already licensed under [*a law of this state to do an act included in*
22 *the definition of massage in ORS 687.011*] **the laws of this state to do an**
23 **act included in the definition of massage or bodywork in ORS 687.011.**

24 (3) The board may enter into an agreement with the appropriate regula-
25 tory body of any other state, territory or foreign country for reciprocal li-
26 censing if the board determines that the qualifications and standards of the
27 other state, territory or foreign country are not less than [*those required*]
28 **the qualifications and standards set forth** in ORS 687.011 to 687.250,
29 687.895 and 687.991.

30 **SECTION 7.** ORS 687.059 is amended to read:

31 687.059. (1) To be issued a permit to operate a massage facility in this

1 state, an applicant must:

2 (a) Submit an application to the State Board of Massage Therapists **and**
3 **Bodyworkers** in a form and manner prescribed by the board by rule;

4 (b) Comply with the health, safety and infection control requirements
5 adopted by the board under ORS 687.121;

6 (c) Pay the fee required under ORS 687.071 (1)(b);

7 (d) If the applicant is a natural person, be at least 18 years of age; and

8 (e) If the applicant is not a natural person, comport with the laws of this
9 state related to business formation, including making an appropriate filing
10 with the Secretary of State.

11 (2) A massage facility for which a person has been issued a permit under
12 this section may provide massage [*therapy*] **or bodywork services** only
13 through the use of massage therapists **or bodyworkers** licensed under ORS
14 [687.051] **687.011 to 687.250**.

15 (3) The board may authorize relocating a massage facility if:

16 (a) The permittee submits an application in a form and manner prescribed
17 by the board by rule;

18 (b) The permittee pays the fee required under ORS 687.071 (1)(h); and

19 (c) The permittee complies with any other applicable rule of the board.

20 (4) The board may authorize transferring a permit to operate a massage
21 facility from one person to another person if the person to whom the permit
22 will be transferred:

23 (a) Submits an application in a form and manner prescribed by the board
24 by rule;

25 (b) Pays the fee required under ORS 687.071 (1)(i);

26 (c) Makes all necessary changes to documents on file with the Secretary
27 of State; and

28 (d) Complies with any other applicable rule of the board.

29 (5) The board may authorize transferring the name of a massage facility
30 to another massage facility if the permittee who operates the massage facil-
31 ity to which the name will be transferred:

1 (a) Submits an application in a form and manner prescribed by the board
2 by rule;

3 (b) Pays the fee required under ORS 687.071 (1)(j);

4 (c) Makes all necessary changes to documents on file with the Secretary
5 of State; and

6 (d) Complies with any other applicable rule of the board.

7 **SECTION 8.** ORS 687.061 is amended to read:

8 687.061. (1) Licenses issued under ORS 687.051 and permits issued under
9 ORS 687.059 expire on the date established by the State Board of Massage
10 Therapists **and Bodyworkers** by rule and may be renewed after payment of
11 a renewal fee established by the board under ORS 687.071. If the renewal fee
12 is not paid by the expiration date established by the board, a delinquency fee
13 must be paid prior to renewal. Licenses and permits may be renewed within
14 three years after the date of expiration upon payment of the renewal fee and
15 the delinquency fee established by the board.

16 (2) An individual who engages in the practice of massage **or bodywork**
17 without holding a valid license issued under ORS 687.051 or a person who
18 operates a massage facility without holding a valid permit issued under ORS
19 687.059 is subject to disciplinary action and civil penalty by the board, in-
20 junction and criminal prosecution. No disciplinary action, civil penalty or
21 criminal proceeding shall be initiated under this section after the date that
22 a renewal [*and*] **or** delinquency fee is paid. However, payment of a renewal
23 [*and*] **or** delinquency fee does not stay any disciplinary action, civil penalty
24 or criminal proceeding already assessed or initiated.

25 **SECTION 9.** ORS 687.071 is amended to read:

26 687.071. (1) The State Board of Massage Therapists **and Bodyworkers**
27 shall impose fees for the following:

28 (a) Issuance or renewal of a massage therapist **or bodyworker** license.

29 (b) Issuance or renewal of a permit to operate a massage facility.

30 (c) Examinations and reexaminations.

31 (d) Inactive status.

1 (e) Delinquency in renewal of a license or of a permit to operate a mas-
2 sage facility.

3 (f) Temporary practice permit.

4 (g) Application for [*massage*] license examination.

5 (h) Relocation of a massage facility as described in ORS 687.059 (3).

6 (i) Transferring a permit to operate a massage facility from one person
7 to another person as described in ORS 687.059 (4).

8 (j) Transferring the name of a massage facility to another massage facility
9 as described in ORS 687.059 (5).

10 (2) If the effective period of an initial massage therapist **or bodyworker**
11 license or permit to operate a massage facility is to be less than 12 months
12 by reason of the expiration date established by [*rule of*] the board **by rule**,
13 the required license fee shall be prorated to represent one-half of the rate for
14 a biennial period.

15 (3) The board shall examine or reexamine an applicant for a massage
16 therapist **or bodyworker** license who pays a fee for each examination and
17 who meets the requirements of ORS 687.051.

18 (4) All moneys received by the board shall be paid into the account cre-
19 ated by the board under ORS 182.470 and are continuously appropriated to
20 the board for the administration and enforcement of ORS 687.011 to 687.250,
21 687.895 and 687.991.

22 **SECTION 10.** ORS 687.071, as amended by section 15, chapter 240, Oregon
23 Laws 2013, is amended to read:

24 687.071. (1) The State Board of Massage Therapists **and Bodyworkers**
25 shall impose fees for the following:

26 (a) Issuance or renewal of a massage therapist **or bodyworker** license.

27 (b) Issuance or renewal of a permit to operate a massage facility.

28 (c) Examinations and reexaminations.

29 (d) Inactive status.

30 (e) Delinquency in renewal of a license or of a permit to operate a mas-
31 sage facility.

1 (f) Temporary practice permit.

2 (g) Application for [*massage*] license examination.

3 (h) Relocation of a massage facility as described in ORS 687.059 (3).

4 (i) Transferring a permit to operate a massage facility from one person
5 to another person as described in ORS 687.059 (4).

6 (j) Transferring the name of a massage facility to another massage facility
7 as described in ORS 687.059 (5).

8 (2) If the effective period of an initial massage therapist **or bodyworker**
9 license or permit to operate a massage facility is to be less than 12 months
10 by reason of the expiration date established by [*rule of*] the board **by rule**,
11 the required license fee shall be prorated to represent one-half of the rate for
12 a biennial period.

13 (3) The board shall examine or reexamine an applicant for a massage
14 therapist **or bodyworker** license who pays a fee for each examination and
15 who meets the requirements of ORS 687.051.

16 (4) All moneys received by the board shall be paid into the account cre-
17 ated by the board under ORS 182.470 and are continuously appropriated to
18 the board for the administration and enforcement of ORS 676.850, 687.011 to
19 687.250, 687.895 and 687.991.

20 **SECTION 11.** ORS 687.081 is amended to read:

21 687.081. (1) The State Board of Massage Therapists **and Bodyworkers**
22 may discipline a person, deny, suspend, revoke or refuse to renew a license
23 [*to practice massage or a permit to operate a massage facility*] **or permit is-**
24 **sued by the board** and issue a reprimand to or censure or place on pro-
25 bation a licensee or permittee, if the person:

26 (a) Has violated a provision of ORS 687.011 to 687.250, 687.895 and 687.991
27 or any rule of the board adopted under ORS 687.121.

28 (b) Has made a false representation or statement to the board in order to
29 induce or prevent action by the board.

30 (c) Is licensed under ORS 687.051 or holds a permit under ORS 687.059 and
31 has a physical or mental condition that makes the licensee or permittee un-

1 able to conduct safely the practice of massage **or bodywork** or **the** operation
2 of a massage facility.

3 (d) Is licensed under ORS 687.051 or holds a permit under ORS 687.059
4 and is habitually intemperate in the use of alcoholic beverages or is addicted
5 to the use of habit-forming drugs or controlled substances.

6 (e) Has misrepresented to a [*patron*] **client any massage or bodywork**
7 services rendered.

8 (f) Has been convicted of a crime that bears a demonstrable relationship
9 to the practice of massage **or bodywork** or **the** operation of a massage fa-
10 cility.

11 (g) Whether licensed to practice massage **or bodywork** or applying for a
12 license to practice massage **or bodywork**, fails to meet a requirement under
13 ORS 687.051.

14 (h) Whether permitted to operate a massage facility or applying for a
15 permit to operate a massage facility, fails to meet a requirement under ORS
16 687.059.

17 (i) Violates a provision of ORS 167.002 to 167.027.

18 (j) Engages in unprofessional or dishonorable conduct.

19 (k) Has been the subject of disciplinary action as a massage therapist,
20 **bodyworker** or operator of a massage facility by another state [*or*], territory
21 of the United States or [*by a*] foreign country and the board determines that
22 the cause of the disciplinary action would be a violation under ORS 687.011
23 to 687.250, 687.895 or 687.991 or the rules of the board if the cause of the
24 disciplinary action had occurred in this state.

25 (2) If the board places a licensee or permittee on probation pursuant to
26 subsection (1) of this section, the board may impose and at any time modify
27 the following conditions of probation:

28 (a) Limitation on the scope of the practice of massage **or bodywork** or
29 the operation of a massage facility.

30 (b) Referral to the impaired health professional program established under
31 ORS 676.190.

1 (c) Individual or peer supervision.

2 (d) Any other condition that the board considers necessary for the pro-
3 tection of the public or the rehabilitation of the licensee or permittee.

4 (3) If the board determines that the continued practice of massage **or**
5 **bodywork** by a licensee or the continued operation of a massage facility by
6 a permittee constitutes a serious danger to the public, the board may impose
7 an emergency suspension of the license or permit without a hearing. Simul-
8 taneous with the order of suspension, the board shall institute proceedings
9 for a hearing as provided under ORS 687.011 to 687.250, 687.895 and 687.991.
10 The suspension shall continue unless and until the licensee or permittee ob-
11 tains injunctive relief from a court of competent jurisdiction or the board
12 determines that the suspension is no longer necessary for the protection of
13 the public.

14 (4) In addition to or instead of the discipline described in subsection (1)
15 of this section, the board may impose a civil penalty under ORS 687.250. Civil
16 penalties under this subsection shall be imposed pursuant to ORS 183.745.

17 (5) Prior to imposing a sanction authorized under this section, the board
18 shall consider, but is not limited to considering, the following factors:

19 (a) The person's past history in observing the provisions of ORS 687.011
20 to 687.250, 687.895 and 687.991 and the rules of the board;

21 (b) The effect of the violation on public safety and welfare;

22 (c) The degree to which the action subject to sanction violates profes-
23 sional ethics and standards of practice;

24 (d) The economic and financial condition of the person subject to sanc-
25 tion; and

26 (e) Any mitigating factors that the board may choose to consider.

27 (6) In addition to the sanctions authorized by this section, the board may
28 assess against a person the reasonable costs of a disciplinary action taken
29 against the person.

30 (7) The board shall adopt a code of ethical standards for massage thera-
31 pists **and bodyworkers** and shall take appropriate measures to ensure that

1 all applicants and **persons licensed to practice** massage [*therapists*] or
2 **bodywork** are aware of those standards.

3 (8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and
4 687.991, the board shall conduct an investigation as described under ORS
5 676.165.

6 (9) Information that the board obtains as part of an investigation into the
7 conduct of a person or as part of a contested case proceeding, consent order
8 or stipulated agreement involving the conduct of a person is confidential as
9 provided under ORS 676.175.

10 **SECTION 12.** ORS 687.086 is amended to read:

11 687.086. (1) If the State Board of Massage Therapists **and Bodyworkers**
12 proposes to impose any of the sanctions authorized in ORS 687.081 or take
13 other disciplinary action, opportunity for a hearing shall be accorded as
14 provided in ORS chapter 183. Hearings under this section must be conducted
15 by an administrative law judge assigned from the Office of Administrative
16 Hearings established by ORS 183.605.

17 (2) Promulgation of **board** rules, conduct of **board** hearings, issuance of
18 **board** orders and judicial review of **board** rules and orders shall be as pro-
19 vided in ORS chapter 183.

20 **SECTION 13.** ORS 687.095 is amended to read:

21 687.095. Unless state or federal laws relating to confidentiality or the
22 protection of health information prohibit disclosure, a **licensed** massage
23 therapist **or licensed bodyworker** who has reasonable cause to believe that
24 a licensee of another board has engaged in prohibited conduct as defined in
25 ORS 676.150 shall report the prohibited conduct in the manner provided in
26 ORS 676.150.

27 **SECTION 14.** ORS 687.115 is amended to read:

28 687.115. (1) The State Board of Massage Therapists **and Bodyworkers**
29 operates as a semi-independent state agency subject to ORS 182.456 to
30 182.472, for purposes of carrying out the provisions of ORS 687.011 to 687.250,
31 687.895 and 687.991. The board consists of seven members appointed by the

1 Governor and subject to confirmation by the Senate in the manner provided
2 in ORS 171.562 and 171.565. All members of the board must be residents of
3 this state. Of the members of the board:

4 (a) Four must be licensed **as** massage therapists **or bodyworkers**.

5 (b) Three must be members of the public, including one public member
6 selected from a health related field. Public members may not be:

7 (A) Massage therapists **or bodyworkers**; or

8 (B) A spouse, domestic partner, child, parent or sibling of a massage
9 therapist **or bodyworker**.

10 (2)(a) Board members required to be licensed massage therapists **or li-**
11 **censed bodyworkers** may be selected by the Governor from a list of three
12 to five nominees for each vacancy, submitted by a professional organization
13 representing massage therapists **or bodyworkers**.

14 (b) In selecting the members of the board, the Governor shall strive to
15 balance the representation on the board according to:

16 (A) Geographic areas of this state; and

17 (B) Ethnic group.

18 (3)(a) The term of office of each member is four years, but a member
19 serves at the pleasure of the Governor. The terms must be staggered so that
20 no more than three terms end each year. A member is eligible for reap-
21 pointment. If there is a vacancy in the membership of the board for any
22 reason, the Governor shall make an appointment to become immediately ef-
23 fective for the remainder of the unexpired term.

24 (b) A board member shall be removed immediately from the board if,
25 during the member's term, the member:

26 (A) Is not a resident of this state;

27 (B) Has been absent from three consecutive board meetings, unless at
28 least one absence is excused; or

29 (C) **Was appointed under subsection (1)(a) of this section and** is not
30 a licensed massage therapist, **licensed bodyworker** or [a] retired massage
31 therapist **or bodyworker** who was [a *licensed massage therapist*] **licensed**

1 **and** in good standing **with the board** at the time of retirement[, *if the board*
2 *member was appointed to serve on the board as a massage therapist*].

3 (4) Members of the board are entitled to compensation and expenses as
4 provided in ORS 292.495. The board may provide by rule for compensation
5 to board members for the performance of official duties at a rate that is
6 greater than the rate provided in ORS 292.495.

7 (5) The board may:

8 (a) Hold meetings at times and locations determined by the board.

9 (b) Hire, define the duties and fix the salary of an administrator who may
10 hire and define the duties and provide supervision and evaluation of other
11 employees as necessary to carry out the provisions of ORS 687.011 to 687.250,
12 687.895 and 687.991. The administrator, with approval of the board, may also
13 employ special consultants. All salaries, compensation and expenses incurred
14 or allowed shall be paid out of funds received by the board.

15 **SECTION 15.** ORS 687.121 is amended to read:

16 687.121. The State Board of Massage Therapists **and Bodyworkers** may
17 adopt rules:

18 (1) Establishing reasonable standards concerning the sanitary and
19 hygienic conditions of, and public health and safety for, premises and facili-
20 ties used by massage therapists **and bodyworkers**.

21 (2) Establishing health, safety and infection control requirements for
22 massage facilities.

23 (3) Relating to the methods and procedures used in the practice of mas-
24 sage **or bodywork**.

25 (4) Governing the examination and investigation of applicants for a li-
26 cense under ORS 687.051 or a permit under ORS 687.059 and the issuance,
27 renewal, suspension and revocation of such licenses and permits.

28 (5) Setting standards for [*certifying*] **certified** classes under ORS 687.051.

29 (6) Requiring that a massage therapist **or bodyworker** supply the board
30 with the accurate, current address or addresses **of the premises** where the
31 massage therapist **or bodyworker** engages in the practice of massage **or**

1 **bodywork.**

2 (7) **Regulating the practice of massage or bodywork, including re-**
3 **quiring a licensed massage therapist or licensed bodyworker to acquire**
4 **an appropriate endorsement before practicing an advanced technique**
5 **of massage or bodywork and to renew that endorsement.**

6 [(7)] (8) Requiring that a person who holds a permit to operate a massage
7 facility supply the board with the accurate, current address where the mas-
8 sage facility is located.

9 [(8)] (9) Fixing the educational, training and experience requirements for
10 licensing by [*indorsement*] **endorsement** or reciprocity.

11 [(9)] (10) Establishing requirements for issuance and retention of an in-
12 active massage therapist **or bodyworker** license or permit to operate a
13 massage facility.

14 [(10)] (11) Regarding any other matter that the board reasonably considers
15 necessary and proper for the administration and enforcement of ORS 687.011
16 to 687.250, 687.895 and 687.991.

17 **SECTION 16.** ORS 687.122 is amended to read:

18 687.122. (1) Upon the complaint of any [*citizen*] **resident** of this state, or
19 upon its own motion, the State Board of Massage Therapists **and**
20 **Bodyworkers** may investigate any alleged violation of ORS 687.011 to
21 687.250, 687.895 and 687.991.

22 (2) In the conduct of investigations, the board may:

23 (a) Take evidence;

24 (b) Take the depositions of witnesses, including the person charged, in the
25 manner provided by law in civil cases;

26 (c) Compel the appearance of witnesses, including the person charged,
27 before the board in person the same as in civil cases;

28 (d) Require answers to interrogatories; and

29 (e) Compel the production of books, papers, accounts, documents and tes-
30 timony pertaining to the matter under investigation.

31 (3) In exercising its authority under subsection (2) of this section, the

1 board may issue subpoenas over the signature of the board chairperson and
2 the seal of the board in the name of the State of Oregon.

3 (4) If a person fails to comply with a subpoena issued under this section,
4 the judge of the circuit court shall compel obedience by proceedings for
5 contempt as in the case of disobedience of the requirements of a subpoena
6 issued from the court.

7 **SECTION 17.** ORS 687.123 is amended to read:

8 687.123. Upon complaint about a massage facility or the premises on
9 which a massage therapist practices massage **or a bodyworker practices**
10 **bodywork**, the State Board of Massage Therapists **and Bodyworkers** or
11 *[its]* **an** authorized representative **of the board** may inspect the massage fa-
12 cility or premises in order to determine whether the massage facility or
13 premises meet the standards set by order of the board under ORS 687.121 (1)
14 or (2).

15 **SECTION 18.** ORS 687.250 is amended to read:

16 687.250. (1) The State Board of Massage Therapists **and Bodyworkers**
17 shall report to the proper district attorney all cases that in the judgment of
18 the board warrant criminal prosecution under ORS 687.991.

19 (2) The board may, in its own name, assess a civil penalty against a per-
20 son who violates a provision of ORS 687.011 to 687.250, 687.895 and 687.991.
21 The board may assess the civil penalty instead of or in addition to discipli-
22 nary action under ORS 687.081, an injunction issued under ORS 687.021 or
23 criminal prosecution by the district attorney under this section. The amount
24 of the civil penalty may not exceed \$1,000 for any single violation. Except
25 as the board may otherwise provide under ORS 182.462 (1)(e), moneys col-
26 lected through the assessment of civil penalties by the board under this
27 subsection or ORS 687.081 shall be deposited into the account created by the
28 board pursuant to ORS 182.470 and are continuously appropriated to the
29 board for carrying out the provisions of ORS 687.011 to 687.250, 687.895 and
30 687.991.

31

CONFORMING AMENDMENTS

SECTION 19. ORS 31.740 is amended to read:

31.740. Punitive damages may not be awarded against a health practitioner if:

(1) The health practitioner is licensed, registered or certified as:

(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

(b) An occupational therapist under ORS 675.230 to 675.300;

(c) A regulated social worker under ORS 675.510 to 675.600;

(d) A physician under ORS 677.100 to 677.228 or 677.805 to 677.840;

(e) An emergency medical services provider under ORS chapter 682;

(f) A nurse under ORS 678.040 to 678.101;

(g) A nurse practitioner under ORS 678.375 to 678.390;

(h) A dentist under ORS 679.060 to 679.180;

(i) A dental hygienist under ORS 680.040 to 680.100;

(j) A denturist under ORS 680.515 to 680.535;

(k) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

(L) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

(m) A chiropractor under ORS 684.040 to 684.105;

(n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

(o) A massage therapist **or bodyworker** under ORS 687.011 to 687.250;

(p) A physical therapist under ORS 688.040 to 688.145;

(q) A medical imaging licensee under ORS 688.445 to 688.525;

(r) A pharmacist under ORS 689.151 and 689.225 to 689.285;

(s) A physician assistant as provided by ORS 677.505 to 677.525; or

(t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and

(2) The health practitioner was engaged in conduct regulated by the license, registration or certificate issued by the appropriate governing body and was acting within the scope of practice for which the license, registra-

1 tion or certificate was issued and without malice.

2 **SECTION 20.** ORS 182.454, as amended by section 19, chapter 722, Oregon
3 Laws 2013, and section 3, chapter 72, Oregon Laws 2014, is amended to read:

4 182.454. The following semi-independent state agencies are subject to ORS
5 182.456 to 182.472:

- 6 (1) The Appraiser Certification and Licensure Board.
- 7 (2) The State Board of Architect Examiners.
- 8 (3) The State Board of Examiners for Engineering and Land Surveying.
- 9 (4) The State Board of Geologist Examiners.
- 10 (5) The State Landscape Architect Board.
- 11 (6) The Oregon Board of Optometry.
- 12 (7) The Oregon Patient Safety Commission.
- 13 (8) The Oregon Wine Board.
- 14 (9) The State Board of Massage Therapists **and Bodyworkers**.
- 15 (10) The Physical Therapist Licensing Board.
- 16 (11) The State Landscape Contractors Board.
- 17 (12) The Citizens' Initiative Review Commission.

18 **SECTION 21.** ORS 182.460 is amended to read:

19 182.460. (1) Except as provided in subsections (2) and (3) of this section
20 and as otherwise provided by law, the provisions of ORS 283.085 to 283.092
21 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do
22 not apply to a board. A board is subject to all other statutes governing a
23 state agency that do not conflict with ORS 182.456 to 182.472, including the
24 tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS
25 chapter 183, and a board's employees are included within the Public Em-
26 ployees Retirement System.

27 (2) Notwithstanding subsection (1) of this section, the following pro-
28 visions apply to a board:

- 29 (a) ORS 240.309 (1) to (6) and 240.321;
- 30 (b) ORS 279A.250 to 279A.290;
- 31 (c) ORS 282.210 to 282.230; and

1 (d) ORS 293.240.

2 (3) Notwithstanding subsection (1) of this section, ORS chapter 240 ap-
3 plies to the Oregon Board of Optometry, the State Board of Massage Thera-
4 pists **and Bodyworkers** and the Physical Therapist Licensing Board.

5 (4) In carrying out the duties, functions and powers of a board, the board
6 may contract with any state agency for the performance of duties, functions
7 and powers as the board considers appropriate. A state agency may not
8 charge a board an amount that exceeds the actual cost of those services. ORS
9 182.456 to 182.472 do not require an agency to provide services to a board
10 other than pursuant to a voluntary interagency agreement or contract.

11 (5) A board shall adopt personnel policies and contracting and purchasing
12 procedures. The Oregon Department of Administrative Services shall review
13 those policies and procedures for compliance with applicable state and fed-
14 eral laws and collective bargaining contracts.

15 (6) Except as otherwise provided by law, directors and employees of a
16 board are eligible to receive the same benefits as state employees and are
17 entitled to retain their State of Oregon hire dates, transfer rights and job
18 bidding rights, all without loss of seniority, and to the direct transfer of all
19 accumulated state agency leaves.

20 **SECTION 22.** ORS 182.462 is amended to read:

21 182.462. (1)(a) A board shall adopt budgets on a biennial basis using
22 classifications of expenditures and revenues required by ORS 291.206 (1), but
23 the budget is not subject to review and approval by the Legislative Assembly
24 or to future modification by the Emergency Board or the Legislative As-
25 sembly.

26 (b) The budget referred to in paragraph (a) of this subsection shall be
27 adopted in accordance with applicable provisions of ORS chapter 183. Except
28 as provided in this paragraph, a board shall adopt or modify a budget only
29 after a public hearing thereon. A board must give notice of the hearing to
30 all holders of licenses issued by the board.

31 (c) A board shall follow generally accepted accounting principles and keep

1 financial and statistical information as necessary to completely and accu-
2 rately disclose the financial condition and financial operations of the board
3 as may be required by the Secretary of State.

4 (d) A board shall prepare an annual financial statement of board revenues
5 and expenses and shall make the statement available for public review. The
6 board shall provide a copy of the statement to the Oregon Department of
7 Administrative Services not later than the 90th day after the end of the state
8 fiscal year.

9 (e) A board may, by rule, elect to donate all or part of the revenue derived
10 by the board from civil penalties to the General Fund of the State Treasury.

11 (2) In addition to the reports required by ORS 182.472, the Oregon Board
12 of Optometry, the State Board of Massage Therapists **and Bodyworkers** and
13 the Physical Therapist Licensing Board shall, on or before February 1 of
14 each odd-numbered year, present the budget adopted by the board under this
15 section to the Governor, the President of the Senate, the Speaker of the
16 House of Representatives and the Legislative Fiscal Officer.

17 **SECTION 23.** ORS 192.556 is amended to read:

18 192.556. As used in ORS 192.553 to 192.581:

19 (1) "Authorization" means a document written in plain language that
20 contains at least the following:

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

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

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

27 (d) A description of each purpose of the requested use or disclosure, in-
28 cluding but not limited to a statement that the use or disclosure is at the
29 request of the individual;

30 (e) An expiration date or an expiration event that relates to the individ-
31 ual or the purpose of the use or disclosure;

1 (f) The signature of the individual or personal representative of the indi-
2 vidual and the date;

3 (g) A description of the authority of the personal representative, if ap-
4 plicable; and

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

6 (A) The individual's right to revoke the authorization in writing;

7 (B) The exceptions to the right to revoke the authorization;

8 (C) The ability or inability to condition treatment, payment, enrollment
9 or eligibility for benefits on whether the individual signs the authorization;
10 and

11 (D) The potential for information disclosed pursuant to the authorization
12 to be subject to redisclosure by the recipient and no longer protected.

13 (2) "Covered entity" means:

14 (a) A state health plan;

15 (b) A health insurer;

16 (c) A health care provider that transmits any health information in elec-
17 tronic form to carry out financial or administrative activities in connection
18 with a transaction covered by ORS 192.553 to 192.581; or

19 (d) A health care clearinghouse.

20 (3) "Health care" means care, services or supplies related to the health
21 of an individual.

22 (4) "Health care operations" includes but is not limited to:

23 (a) Quality assessment, accreditation, auditing and improvement activ-
24 ities;

25 (b) Case management and care coordination;

26 (c) Reviewing the competence, qualifications or performance of health
27 care providers or health insurers;

28 (d) Underwriting activities;

29 (e) Arranging for legal services;

30 (f) Business planning;

31 (g) Customer services;

- 1 (h) Resolving internal grievances;
- 2 (i) Creating deidentified information; and
- 3 (j) Fundraising.
- 4 (5) "Health care provider" includes but is not limited to:
- 5 (a) A psychologist, occupational therapist, regulated social worker, pro-
- 6 fessional counselor or marriage and family therapist licensed or otherwise
- 7 authorized to practice under ORS chapter 675 or an employee of the psy-
- 8 chologist, occupational therapist, regulated social worker, professional
- 9 counselor or marriage and family therapist;
- 10 (b) A physician or physician assistant licensed under ORS chapter 677,
- 11 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
- 12 cian, physician assistant or acupuncturist;
- 13 (c) A nurse or nursing home administrator licensed under ORS chapter
- 14 678 or an employee of the nurse or nursing home administrator;
- 15 (d) A dentist licensed under ORS chapter 679 or an employee of the den-
- 16 tist;
- 17 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an
- 18 employee of the dental hygienist or denturist;
- 19 (f) A speech-language pathologist or audiologist licensed under ORS
- 20 chapter 681 or an employee of the speech-language pathologist or audiologist;
- 21 (g) An emergency medical services provider licensed under ORS chapter
- 22 682;
- 23 (h) An optometrist licensed under ORS chapter 683 or an employee of the
- 24 optometrist;
- 25 (i) A chiropractic physician licensed under ORS chapter 684 or an em-
- 26 ployee of the chiropractic physician;
- 27 (j) A naturopathic physician licensed under ORS chapter 685 or an em-
- 28 ployee of the naturopathic physician;
- 29 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to
- 30 687.250 or an employee of the massage therapist **or bodyworker**;
- 31 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an

1 employee of the direct entry midwife;

2 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an em-
3 ployee of the physical therapist;

4 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
5 ployee of the medical imaging licensee;

6 (o) A respiratory care practitioner licensed under ORS 688.815 or an em-
7 ployee of the respiratory care practitioner;

8 (p) A polysomnographic technologist licensed under ORS 688.819 or an
9 employee of the polysomnographic technologist;

10 (q) A pharmacist licensed under ORS chapter 689 or an employee of the
11 pharmacist;

12 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
13 the dietitian;

14 (s) A funeral service practitioner licensed under ORS chapter 692 or an
15 employee of the funeral service practitioner;

16 (t) A health care facility as defined in ORS 442.015;

17 (u) A home health agency as defined in ORS 443.005;

18 (v) A hospice program as defined in ORS 443.850;

19 (w) A clinical laboratory as defined in ORS 438.010;

20 (x) A pharmacy as defined in ORS 689.005;

21 (y) A diabetes self-management program as defined in ORS 743A.184; and

22 (z) Any other person or entity that furnishes, bills for or is paid for health
23 care in the normal course of business.

24 (6) "Health information" means any oral or written information in any
25 form or medium that:

26 (a) Is created or received by a covered entity, a public health authority,
27 an employer, a life insurer, a school, a university or a health care provider
28 that is not a covered entity; and

29 (b) Relates to:

30 (A) The past, present or future physical or mental health or condition of
31 an individual;

1 (B) The provision of health care to an individual; or

2 (C) The past, present or future payment for the provision of health care
3 to an individual.

4 (7) "Health insurer" means:

5 (a) An insurer as defined in ORS 731.106 who offers:

6 (A) A health benefit plan as defined in ORS 743.730;

7 (B) A short term health insurance policy, the duration of which does not
8 exceed six months including renewals;

9 (C) A student health insurance policy;

10 (D) A Medicare supplemental policy; or

11 (E) A dental only policy.

12 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical
13 Insurance Pool Board under ORS 735.600 to 735.650.

14 (8) "Individually identifiable health information" means any oral or
15 written health information in any form or medium that is:

16 (a) Created or received by a covered entity, an employer or a health care
17 provider that is not a covered entity; and

18 (b) Identifiable to an individual, including demographic information that
19 identifies the individual, or for which there is a reasonable basis to believe
20 the information can be used to identify an individual, and that relates to:

21 (A) The past, present or future physical or mental health or condition of
22 an individual;

23 (B) The provision of health care to an individual; or

24 (C) The past, present or future payment for the provision of health care
25 to an individual.

26 (9) "Payment" includes but is not limited to:

27 (a) Efforts to obtain premiums or reimbursement;

28 (b) Determining eligibility or coverage;

29 (c) Billing activities;

30 (d) Claims management;

31 (e) Reviewing health care to determine medical necessity;

1 (f) Utilization review; and

2 (g) Disclosures to consumer reporting agencies.

3 (10) "Personal representative" includes but is not limited to:

4 (a) A person appointed as a guardian under ORS 125.305, 419B.372,
5 419C.481 or 419C.555 with authority to make medical and health care deci-
6 sions;

7 (b) A person appointed as a health care representative under ORS 127.505
8 to 127.660 or a representative under ORS 127.700 to 127.737 to make health
9 care decisions or mental health treatment decisions;

10 (c) A person appointed as a personal representative under ORS chapter
11 113; and

12 (d) A person described in ORS 192.573.

13 (11)(a) "Protected health information" means individually identifiable
14 health information that is maintained or transmitted in any form of elec-
15 tronic or other medium by a covered entity.

16 (b) "Protected health information" does not mean individually identifiable
17 health information in:

18 (A) Education records covered by the federal Family Educational Rights
19 and Privacy Act (20 U.S.C. 1232g);

20 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

21 (C) Employment records held by a covered entity in its role as employer.

22 (12) "State health plan" means:

23 (a) Medical assistance as defined in ORS 414.025;

24 (b) The Health Care for All Oregon Children program; or

25 (c) Any medical assistance or premium assistance program operated by
26 the Oregon Health Authority.

27 (13) "Treatment" includes but is not limited to:

28 (a) The provision, coordination or management of health care; and

29 (b) Consultations and referrals between health care providers.

30 **SECTION 24.** ORS 192.556, as amended by section 30, chapter 698, Oregon
31 Laws 2013, is amended to read:

1 192.556. As used in ORS 192.553 to 192.581:

2 (1) "Authorization" means a document written in plain language that
3 contains at least the following:

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

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

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

10 (d) A description of each purpose of the requested use or disclosure, in-
11 cluding but not limited to a statement that the use or disclosure is at the
12 request of the individual;

13 (e) An expiration date or an expiration event that relates to the individ-
14 ual or the purpose of the use or disclosure;

15 (f) The signature of the individual or personal representative of the indi-
16 vidual and the date;

17 (g) A description of the authority of the personal representative, if ap-
18 plicable; and

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

20 (A) The individual's right to revoke the authorization in writing;

21 (B) The exceptions to the right to revoke the authorization;

22 (C) The ability or inability to condition treatment, payment, enrollment
23 or eligibility for benefits on whether the individual signs the authorization;

24 and

25 (D) The potential for information disclosed pursuant to the authorization
26 to be subject to redisclosure by the recipient and no longer protected.

27 (2) "Covered entity" means:

28 (a) A state health plan;

29 (b) A health insurer;

30 (c) A health care provider that transmits any health information in elec-
31 tronic form to carry out financial or administrative activities in connection

1 with a transaction covered by ORS 192.553 to 192.581; or

2 (d) A health care clearinghouse.

3 (3) "Health care" means care, services or supplies related to the health
4 of an individual.

5 (4) "Health care operations" includes but is not limited to:

6 (a) Quality assessment, accreditation, auditing and improvement activ-
7 ities;

8 (b) Case management and care coordination;

9 (c) Reviewing the competence, qualifications or performance of health
10 care providers or health insurers;

11 (d) Underwriting activities;

12 (e) Arranging for legal services;

13 (f) Business planning;

14 (g) Customer services;

15 (h) Resolving internal grievances;

16 (i) Creating deidentified information; and

17 (j) Fundraising.

18 (5) "Health care provider" includes but is not limited to:

19 (a) A psychologist, occupational therapist, regulated social worker, pro-
20 fessional counselor or marriage and family therapist licensed or otherwise
21 authorized to practice under ORS chapter 675 or an employee of the psy-
22 chologist, occupational therapist, regulated social worker, professional
23 counselor or marriage and family therapist;

24 (b) A physician or physician assistant licensed under ORS chapter 677,
25 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
26 cian, physician assistant or acupuncturist;

27 (c) A nurse or nursing home administrator licensed under ORS chapter
28 678 or an employee of the nurse or nursing home administrator;

29 (d) A dentist licensed under ORS chapter 679 or an employee of the den-
30 tist;

31 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an

- 1 employee of the dental hygienist or denturist;
- 2 (f) A speech-language pathologist or audiologist licensed under ORS
3 chapter 681 or an employee of the speech-language pathologist or audiologist;
- 4 (g) An emergency medical services provider licensed under ORS chapter
5 682;
- 6 (h) An optometrist licensed under ORS chapter 683 or an employee of the
7 optometrist;
- 8 (i) A chiropractic physician licensed under ORS chapter 684 or an em-
9 ployee of the chiropractic physician;
- 10 (j) A naturopathic physician licensed under ORS chapter 685 or an em-
11 ployee of the naturopathic physician;
- 12 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to
13 687.250 or an employee of the massage therapist **or bodyworker**;
- 14 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an
15 employee of the direct entry midwife;
- 16 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an em-
17 ployee of the physical therapist;
- 18 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
19 ployee of the medical imaging licensee;
- 20 (o) A respiratory care practitioner licensed under ORS 688.815 or an em-
21 ployee of the respiratory care practitioner;
- 22 (p) A polysomnographic technologist licensed under ORS 688.819 or an
23 employee of the polysomnographic technologist;
- 24 (q) A pharmacist licensed under ORS chapter 689 or an employee of the
25 pharmacist;
- 26 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
27 the dietitian;
- 28 (s) A funeral service practitioner licensed under ORS chapter 692 or an
29 employee of the funeral service practitioner;
- 30 (t) A health care facility as defined in ORS 442.015;
- 31 (u) A home health agency as defined in ORS 443.005;

- 1 (v) A hospice program as defined in ORS 443.850;
- 2 (w) A clinical laboratory as defined in ORS 438.010;
- 3 (x) A pharmacy as defined in ORS 689.005;
- 4 (y) A diabetes self-management program as defined in ORS 743A.184; and
- 5 (z) Any other person or entity that furnishes, bills for or is paid for health
- 6 care in the normal course of business.

7 (6) "Health information" means any oral or written information in any

8 form or medium that:

9 (a) Is created or received by a covered entity, a public health authority,

10 an employer, a life insurer, a school, a university or a health care provider

11 that is not a covered entity; and

12 (b) Relates to:

13 (A) The past, present or future physical or mental health or condition of

14 an individual;

15 (B) The provision of health care to an individual; or

16 (C) The past, present or future payment for the provision of health care

17 to an individual.

18 (7) "Health insurer" means an insurer as defined in ORS 731.106 who of-

19 fers:

20 (a) A health benefit plan as defined in ORS 743.730;

21 (b) A short term health insurance policy, the duration of which does not

22 exceed six months including renewals;

23 (c) A student health insurance policy;

24 (d) A Medicare supplemental policy; or

25 (e) A dental only policy.

26 (8) "Individually identifiable health information" means any oral or

27 written health information in any form or medium that is:

28 (a) Created or received by a covered entity, an employer or a health care

29 provider that is not a covered entity; and

30 (b) Identifiable to an individual, including demographic information that

31 identifies the individual, or for which there is a reasonable basis to believe

1 the information can be used to identify an individual, and that relates to:

2 (A) The past, present or future physical or mental health or condition of
3 an individual;

4 (B) The provision of health care to an individual; or

5 (C) The past, present or future payment for the provision of health care
6 to an individual.

7 (9) "Payment" includes but is not limited to:

8 (a) Efforts to obtain premiums or reimbursement;

9 (b) Determining eligibility or coverage;

10 (c) Billing activities;

11 (d) Claims management;

12 (e) Reviewing health care to determine medical necessity;

13 (f) Utilization review; and

14 (g) Disclosures to consumer reporting agencies.

15 (10) "Personal representative" includes but is not limited to:

16 (a) A person appointed as a guardian under ORS 125.305, 419B.372,
17 419C.481 or 419C.555 with authority to make medical and health care deci-
18 sions;

19 (b) A person appointed as a health care representative under ORS 127.505
20 to 127.660 or a representative under ORS 127.700 to 127.737 to make health
21 care decisions or mental health treatment decisions;

22 (c) A person appointed as a personal representative under ORS chapter
23 113; and

24 (d) A person described in ORS 192.573.

25 (11)(a) "Protected health information" means individually identifiable
26 health information that is maintained or transmitted in any form of elec-
27 tronic or other medium by a covered entity.

28 (b) "Protected health information" does not mean individually identifiable
29 health information in:

30 (A) Education records covered by the federal Family Educational Rights
31 and Privacy Act (20 U.S.C. 1232g);

- 1 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
- 2 (C) Employment records held by a covered entity in its role as employer.

3 (12) “State health plan” means:

- 4 (a) Medical assistance as defined in ORS 414.025;
- 5 (b) The Health Care for All Oregon Children program; or
- 6 (c) Any medical assistance or premium assistance program operated by
- 7 the Oregon Health Authority.

8 (13) “Treatment” includes but is not limited to:

- 9 (a) The provision, coordination or management of health care; and
- 10 (b) Consultations and referrals between health care providers.

11 **SECTION 25.** ORS 433.443 is amended to read:

12 433.443. (1) As used in this section:

13 (a) “Covered entity” means:

- 14 (A) The Children’s Health Insurance Program;
- 15 (B) A health insurer that is an insurer as defined in ORS 731.106 and that
- 16 issues health insurance as defined in ORS 731.162;
- 17 (C) The state medical assistance program; and
- 18 (D) A health care provider.

19 (b) “Health care provider” includes but is not limited to:

- 20 (A) A psychologist, occupational therapist, regulated social worker, pro-
- 21 fessional counselor or marriage and family therapist licensed or otherwise
- 22 authorized to practice under ORS chapter 675 or an employee of the psy-
- 23 chologist, occupational therapist, regulated social worker, professional
- 24 counselor or marriage and family therapist;

- 25 (B) A physician or physician assistant licensed under ORS chapter 677,
- 26 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
- 27 cian, physician assistant or acupuncturist;

- 28 (C) A nurse or nursing home administrator licensed under ORS chapter
- 29 678 or an employee of the nurse or nursing home administrator;

- 30 (D) A dentist licensed under ORS chapter 679 or an employee of the den-
- 31 tist;

1 (E) A dental hygienist or denturist licensed under ORS chapter 680 or an
2 employee of the dental hygienist or denturist;

3 (F) A speech-language pathologist or audiologist licensed under ORS
4 chapter 681 or an employee of the speech-language pathologist or audiologist;

5 (G) An emergency medical services provider licensed under ORS chapter
6 682;

7 (H) An optometrist licensed under ORS chapter 683 or an employee of the
8 optometrist;

9 (I) A chiropractic physician licensed under ORS chapter 684 or an em-
10 ployee of the chiropractic physician;

11 (J) A naturopathic physician licensed under ORS chapter 685 or an em-
12 ployee of the naturopathic physician;

13 (K) A massage therapist **or bodyworker** licensed under ORS 687.011 to
14 687.250 or an employee of the massage therapist **or bodyworker**;

15 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an
16 employee of the direct entry midwife;

17 (M) A physical therapist licensed under ORS 688.010 to 688.201 or an
18 employee of the physical therapist;

19 (N) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
20 ployee of the medical imaging licensee;

21 (O) A respiratory care practitioner licensed under ORS 688.815 or an em-
22 ployee of the respiratory care practitioner;

23 (P) A polysomnographic technologist licensed under ORS 688.819 or an
24 employee of the polysomnographic technologist;

25 (Q) A pharmacist licensed under ORS chapter 689 or an employee of the
26 pharmacist;

27 (R) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
28 the dietitian;

29 (S) A funeral service practitioner licensed under ORS chapter 692 or an
30 employee of the funeral service practitioner;

31 (T) A health care facility as defined in ORS 442.015;

- 1 (U) A home health agency as defined in ORS 443.005;
- 2 (V) A hospice program as defined in ORS 443.850;
- 3 (W) A clinical laboratory as defined in ORS 438.010;
- 4 (X) A pharmacy as defined in ORS 689.005;
- 5 (Y) A diabetes self-management program as defined in ORS 743A.184; and
- 6 (Z) Any other person or entity that furnishes, bills for or is paid for
- 7 health care in the normal course of business.

8 (c) "Individual" means a natural person.

9 (d) "Individually identifiable health information" means any oral or

10 written health information in any form or medium that is:

11 (A) Created or received by a covered entity, an employer or a health care

12 provider that is not a covered entity; and

13 (B) Identifiable to an individual, including demographic information that

14 identifies the individual, or for which there is a reasonable basis to believe

15 the information can be used to identify an individual, and that relates to:

16 (i) The past, present or future physical or mental health or condition of

17 an individual;

18 (ii) The provision of health care to an individual; or

19 (iii) The past, present or future payment for the provision of health care

20 to an individual.

21 (e) "Legal representative" means attorney at law, person holding a gen-

22 eral power of attorney, guardian, conservator or any person appointed by a

23 court to manage the personal or financial affairs of a person, or agency le-

24 gally responsible for the welfare or support of a person.

25 (2)(a) During a public health emergency declared under ORS 433.441, the

26 Public Health Director may, as necessary to appropriately respond to the

27 public health emergency:

28 (A) Adopt reporting requirements for and provide notice of those re-

29 quirements to health care providers, institutions and facilities for the pur-

30 pose of obtaining information directly related to the public health

31 emergency;

1 (B) After consultation with appropriate medical experts, create and re-
2 quire the use of diagnostic and treatment protocols to respond to the public
3 health emergency and provide notice of those protocols to health care pro-
4 viders, institutions and facilities;

5 (C) Order, or authorize local public health administrators to order, public
6 health measures appropriate to the public health threat presented;

7 (D) Authorize pharmacists licensed under ORS chapter 689 to administer
8 vaccines to persons who are three years of age or older;

9 (E) Upon approval of the Governor, take other actions necessary to ad-
10 dress the public health emergency and provide notice of those actions to
11 health care providers, institutions and facilities, including public health
12 actions authorized by ORS 431.264;

13 (F) Take any enforcement action authorized by ORS 431.262, including the
14 imposition of civil penalties of up to \$500 per day against individuals, insti-
15 tutions or facilities that knowingly fail to comply with requirements result-
16 ing from actions taken in accordance with the powers granted to the Public
17 Health Director under subparagraphs (A), (B) and (E) of this paragraph; and

18 (G) The authority granted to the Public Health Director under this sec-
19 tion:

20 (i) Supersedes any authority granted to a local public health authority if
21 the local public health authority acts in a manner inconsistent with guide-
22 lines established or rules adopted by the director under this section; and

23 (ii) Does not supersede the general authority granted to a local public
24 health authority or a local public health administrator except as authorized
25 by law or necessary to respond to a public health emergency.

26 (b) The authority of the Public Health Director to take administrative
27 action, and the effectiveness of any action taken, under paragraph (a)(A), (B)
28 and (D) to (G) of this subsection terminates upon the expiration of the de-
29 clared state of public health emergency, unless the actions are continued
30 under other applicable law.

31 (3) Civil penalties under subsection (2) of this section shall be imposed

1 in the manner provided in ORS 183.745. The Public Health Director must
2 establish that the individual, institution or facility subject to the civil pen-
3 alty had actual notice of the action taken that is the basis for the penalty.
4 The maximum aggregate total for penalties that may be imposed against an
5 individual, institution or facility under subsection (2) of this section is \$500
6 for each day of violation, regardless of the number of violations of subsection
7 (2) of this section that occurred on each day of violation.

8 (4)(a) During a declared state of public health emergency, the Public
9 Health Director and local public health administrators shall be given imme-
10 diate access to individually identifiable health information necessary to:

11 (A) Determine the causes of an illness related to the public health emer-
12 gency;

13 (B) Identify persons at risk;

14 (C) Identify patterns of transmission;

15 (D) Provide treatment; and

16 (E) Take steps to control the disease.

17 (b) Individually identifiable health information accessed as provided by
18 paragraph (a) of this subsection may not be used for conducting non-
19 emergency epidemiologic research or to identify persons at risk for post-
20 traumatic mental health problems, or for any other purpose except the
21 purposes listed in paragraph (a) of this subsection.

22 (c) Individually identifiable health information obtained by the Public
23 Health Director or local public health administrators under this subsection
24 may not be disclosed without written authorization of the identified indi-
25 vidual except:

26 (A) Directly to the individual who is the subject of the information or to
27 the legal representative of that individual;

28 (B) To state, local or federal agencies authorized to receive such infor-
29 mation by state or federal law;

30 (C) To identify or to determine the cause or manner of death of a deceased
31 individual; or

1 (D) Directly to a health care provider for the evaluation or treatment of
2 a condition that is the subject of a proclamation of a state of public health
3 emergency issued under ORS 433.441.

4 (d) Upon expiration of the state of public health emergency, the Public
5 Health Director or local public health administrators may not use or disclose
6 any individually identifiable health information that has been obtained under
7 this section. If a state of emergency that is related to the state of public
8 health emergency has been declared under ORS 401.165, the Public Health
9 Director and local public health administrators may continue to use any in-
10 dividually identifiable information obtained as provided under this section
11 until termination of the state of emergency.

12 (5) All civil penalties recovered under this section shall be paid into the
13 State Treasury and credited to the General Fund and are available for gen-
14 eral governmental expenses.

15 (6) The Public Health Director may request assistance in enforcing orders
16 issued pursuant to this section from state or local law enforcement authori-
17 ties. If so requested by the Public Health Director, state and local law
18 enforcement authorities, to the extent resources are available, shall assist in
19 enforcing orders issued pursuant to this section.

20 (7) If the Oregon Health Authority adopts temporary rules to implement
21 the provisions of this section, the rules adopted are not subject to the pro-
22 visions of ORS 183.335 (6)(a). The authority may amend temporary rules
23 adopted pursuant to this subsection as often as necessary to respond to the
24 public health emergency.

25 **SECTION 26.** ORS 676.150 is amended to read:

26 676.150. (1) As used in this section:

27 (a) "Board" means the:

28 (A) State Board of Examiners for Speech-Language Pathology and
29 Audiology;

30 (B) State Board of Chiropractic Examiners;

31 (C) State Board of Licensed Social Workers;

- 1 (D) Oregon Board of Licensed Professional Counselors and Therapists;
2 (E) Oregon Board of Dentistry;
3 (F) Board of Licensed Dietitians;
4 (G) State Board of Massage Therapists **and Bodyworkers**;
5 (H) Oregon Board of Naturopathic Medicine;
6 (I) Oregon State Board of Nursing;
7 (J) Nursing Home Administrators Board;
8 (K) Oregon Board of Optometry;
9 (L) State Board of Pharmacy;
10 (M) Oregon Medical Board;
11 (N) Occupational Therapy Licensing Board;
12 (O) Physical Therapist Licensing Board;
13 (P) State Board of Psychologist Examiners;
14 (Q) Board of Medical Imaging;
15 (R) State Board of Direct Entry Midwifery;
16 (S) State Board of Denture Technology;
17 (T) Respiratory Therapist and Polysomnographic Technologist Licensing
18 Board;
19 (U) Oregon Health Authority, to the extent that the authority licenses
20 emergency medical services providers;
21 (V) Oregon State Veterinary Medical Examining Board; or
22 (W) State Mortuary and Cemetery Board.
23 (b) "Licensee" means a health professional licensed or certified by or
24 registered with a board.
25 (c) "Prohibited conduct" means conduct by a licensee that:
26 (A) Constitutes a criminal act against a patient or client; or
27 (B) Constitutes a criminal act that creates a risk of harm to a patient or
28 client.
29 (d) "Unprofessional conduct" means conduct unbecoming a licensee or
30 detrimental to the best interests of the public, including conduct contrary
31 to recognized standards of ethics of the licensee's profession or conduct that

1 endangers the health, safety or welfare of a patient or client.

2 (2) Unless state or federal laws relating to confidentiality or the pro-
3 tection of health information prohibit disclosure, a licensee who has rea-
4 sonable cause to believe that another licensee has engaged in prohibited or
5 unprofessional conduct shall report the conduct to the board responsible for
6 the licensee who is believed to have engaged in the conduct. The reporting
7 licensee shall report the conduct without undue delay, but in no event later
8 than 10 working days after the reporting licensee learns of the conduct.

9 (3) A licensee who is convicted of a misdemeanor or felony or who is ar-
10 rested for a felony crime shall report the conviction or arrest to the
11 licensee's board within 10 days after the conviction or arrest.

12 (4) The board responsible for a licensee who is reported to have engaged
13 in prohibited or unprofessional conduct shall investigate in accordance with
14 the board's rules. If the board has reasonable cause to believe that the
15 licensee has engaged in prohibited conduct, the board shall present the facts
16 to an appropriate law enforcement agency without undue delay, but in no
17 event later than 10 working days after the board finds reasonable cause to
18 believe that the licensee engaged in prohibited conduct.

19 (5) A licensee who fails to report prohibited or unprofessional conduct as
20 required by subsection (2) of this section or the licensee's conviction or ar-
21 rest as required by subsection (3) of this section is subject to discipline by
22 the board responsible for the licensee.

23 (6) A licensee who fails to report prohibited conduct as required by sub-
24 section (2) of this section commits a Class A violation.

25 (7) Notwithstanding any other provision of law, a report under subsection
26 (2) or (3) of this section is confidential under ORS 676.175. A board may
27 disclose a report as provided in ORS 676.177.

28 (8) Except as part of an application for a license or for renewal of a li-
29 cense and except as provided in subsection (3) of this section, a board may
30 not require a licensee to report the licensee's criminal conduct.

31 (9) The obligations imposed by this section are in addition to and not in

1 lieu of other obligations to report unprofessional conduct as provided by
2 statute.

3 (10) A licensee who reports to a board in good faith as required by sub-
4 section (2) of this section is immune from civil liability for making the re-
5 port.

6 (11) A board and the members, employees and contractors of the board
7 are immune from civil liability for actions taken in good faith as a result
8 of a report received under subsection (2) or (3) of this section.

9 **SECTION 27.** ORS 676.160 is amended to read:

10 676.160. As used in ORS 676.165 to 676.180, “health professional regulatory
11 board” means the:

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

14 (2) State Board of Chiropractic Examiners;

15 (3) State Board of Licensed Social Workers;

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

17 (5) Oregon Board of Dentistry;

18 (6) Board of Licensed Dietitians;

19 (7) State Board of Massage Therapists **and Bodyworkers**;

20 (8) State Mortuary and Cemetery Board;

21 (9) Oregon Board of Naturopathic Medicine;

22 (10) Oregon State Board of Nursing;

23 (11) Nursing Home Administrators Board;

24 (12) Oregon Board of Optometry;

25 (13) State Board of Pharmacy;

26 (14) Oregon Medical Board;

27 (15) Occupational Therapy Licensing Board;

28 (16) Physical Therapist Licensing Board;

29 (17) State Board of Psychologist Examiners;

30 (18) Board of Medical Imaging;

31 (19) Oregon State Veterinary Medical Examining Board; and

1 (20) Oregon Health Authority, to the extent that the authority licenses
2 emergency medical services providers.

3 **SECTION 28.** ORS 676.850 is amended to read:

4 676.850. (1) As used in this section, “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 Therapists;

10 (e) Oregon Board of Dentistry;

11 (f) Board of Licensed Dietitians;

12 (g) State Board of Massage Therapists **and Bodyworkers**;

13 (h) Oregon Board of Naturopathic Medicine;

14 (i) Oregon State Board of Nursing;

15 (j) Nursing Home Administrators Board;

16 (k) Oregon Board of Optometry;

17 (L) State Board of Pharmacy;

18 (m) Oregon Medical Board;

19 (n) Occupational Therapy Licensing Board;

20 (o) Physical Therapist Licensing Board;

21 (p) State Board of Psychologist Examiners;

22 (q) Board of Medical Imaging;

23 (r) State Board of Direct Entry Midwifery;

24 (s) State Board of Denture Technology;

25 (t) Respiratory Therapist and Polysomnographic Technologist Licensing
26 Board;

27 (u) Home Care Commission; and

28 (v) Oregon Health Authority, to the extent that the authority licenses
29 emergency medical service providers.

30 (2)(a) In collaboration with the Oregon Health Authority, a board may
31 adopt rules under which the board may require a person authorized to prac-

1 tice the profession regulated by the board to receive cultural competency
2 continuing education approved by the authority under ORS 413.450.

3 (b) Cultural competency continuing education courses may be taken in
4 addition to or, if a board determines that the cultural competency continuing
5 education fulfills existing continuing education requirements, instead of any
6 other continuing education requirement imposed by the board.

7 (3)(a) A board, or the Health Licensing Office for those boards for which
8 the office issues and renews authorizations to practice the profession regu-
9 lated by the board, shall document participation in cultural competency
10 continuing education by persons authorized to practice a profession regu-
11 lated by the board.

12 (b) For purposes of documenting participation under this subsection, a
13 board may adopt rules requiring persons authorized to practice the profes-
14 sion regulated by the board to submit documentation to the board, or to the
15 office for those boards for which the office issues and renews authorizations
16 to practice the profession regulated by the board, of participation in cultural
17 competency continuing education.

18 (4) A board shall report biennially to the authority on the participation
19 documented under subsection (3) of this section.

20 (5) The authority, on or before August 1 of each even-numbered year, shall
21 report to the interim committees of the Legislative Assembly related to
22 health care on the information submitted to the authority under subsection
23 (4) of this section.

24 **SECTION 29.** ORS 677.060 is amended to read:

25 677.060. This chapter does not affect or prevent the following:

26 (1) The practice of medicine or podiatry in this state by any commissioned
27 medical or podiatric officer serving in the Armed Forces of the United States
28 or Public Health Service, or any medical or podiatric officer on duty with
29 the United States Department of Veterans Affairs, while any such medical
30 or podiatric officer is engaged in the performance of the actual duties pre-
31 scribed by the laws and regulations of the United States.

1 (2) The meeting in this state of any licensed practitioner of medicine of
2 any other state or country with a licensed practitioner of medicine in this
3 state, for consultation.

4 (3) Supervised clinical training by an acupuncture student who is enrolled
5 in a school approved to offer credit for post-secondary clinical education in
6 Oregon or clinical practice of acupuncture by a practitioner licensed to
7 practice acupuncture in another state or foreign country who is enrolled in
8 clinical training approved by the Oregon Medical Board.

9 (4) The practice of medicine or podiatry by an individual licensed to
10 practice medicine or podiatry in another state or country who is providing
11 health care services for an out-of-state athletic team provided that:

12 (a) The individual is practicing pursuant to a written agreement with the
13 team under which the individual provides health care services:

14 (A) Only for team members, team staff members or family members trav-
15 eling with the team; and

16 (B) For a specific athletic event taking place in this state;

17 (b) The individual practices medicine or podiatry for no more than 10
18 consecutive days for each athletic event or, upon written order by the exec-
19 utive director of the Oregon Medical Board, an additional amount of time
20 not to exceed 21 consecutive days for each athletic event;

21 (c) The individual does not provide health care services or perform con-
22 sultations for a resident of this state unless the resident is a team member,
23 team staff member or family member traveling with the team; and

24 (d) The individual does not provide health care services at a health care
25 facility, as defined in ORS 442.015, unless the health care facility is located
26 in an arena or stadium or on a college campus or is a temporary facility
27 established for an athletic event.

28 (5) The furnishing of medical or surgical assistance in cases of emergency
29 requiring immediate attention.

30 (6) The domestic administration of family remedies.

31 (7) The practice of dentistry, pharmacy, nursing, optometry, psychology,

1 regulated social work, chiropractic, naturopathic medicine or cosmetic ther-
2 apy, by any person authorized by this state.

3 (8) The practice of the religion of persons who endeavor to prevent or
4 cure disease or suffering by prayer or other spiritual means in accordance
5 with the tenets of any church. Nothing in this chapter interferes in any
6 manner with the individual's right to select the practitioner or mode of
7 treatment of an individual's choice, or interferes with the right of the person
8 so employed to give the treatment so chosen if public health laws and rules
9 are complied with.

10 (9) The sale of lenses, artificial eyes, limbs or surgical instruments or
11 other apparatus or appliances of a similar character.

12 (10) The sale, rent or use for hire of any device or appliance, the sale of
13 which is not prohibited by the laws of Oregon or the United States.

14 (11) The practice of physiotherapy, electrotherapy or hydrotherapy carried
15 on by a duly licensed practitioner of medicine, naturopathic medicine or
16 chiropractic, or by ancillary personnel certified by the State Board of
17 Chiropractic Examiners, pursuant to ORS 684.155 (1)(c)(A), to provide
18 physiotherapy, electrotherapy or hydrotherapy and working under the direc-
19 tion of a chiropractic physician.

20 (12) The practice [*or use*] of massage **or bodywork**, Swedish movement,
21 physical culture, or other natural methods requiring use of the hands.

22 (13) The use of the title "doctor," "chiropractic physician," "naturopathic
23 physician," "doctor of optometry," "optometric physician" or "podiatric phy-
24 sician" in accordance with ORS 676.110 and 676.120.

25 **SECTION 30.** ORS 746.600 is amended to read:

26 746.600. As used in ORS 746.600 to 746.690:

27 (1)(a) "Adverse underwriting decision" means any of the following actions
28 with respect to insurance transactions involving insurance coverage that is
29 individually underwritten:

30 (A) A declination of insurance coverage.

31 (B) A termination of insurance coverage.

1 (C) Failure of an insurance producer to apply for insurance coverage with
2 a specific insurer that the insurance producer represents and that is re-
3 quested by an applicant.

4 (D) In the case of life or health insurance coverage, an offer to insure at
5 higher than standard rates.

6 (E) In the case of insurance coverage other than life or health insurance
7 coverage:

8 (i) Placement by an insurer or insurance producer of a risk with a resi-
9 dual market mechanism, an unauthorized insurer or an insurer that special-
10 izes in substandard risks.

11 (ii) The charging of a higher rate on the basis of information that differs
12 from that which the applicant or policyholder furnished.

13 (iii) An increase in any charge imposed by the insurer for any personal
14 insurance in connection with the underwriting of insurance. For purposes
15 of this sub-subparagraph, the imposition of a service fee is not a charge.

16 (b) "Adverse underwriting decision" does not mean any of the following
17 actions, but the insurer or insurance producer responsible for the occurrence
18 of the action must nevertheless provide the applicant or policyholder with
19 the specific reason or reasons for the occurrence:

20 (A) The termination of an individual policy form on a class or statewide
21 basis.

22 (B) A declination of insurance coverage solely because the coverage is
23 not available on a class or statewide basis.

24 (C) The rescission of a policy.

25 (2) "Affiliate of" a specified person or "person affiliated with" a specified
26 person means a person who directly, or indirectly, through one or more in-
27 termediaries, controls, or is controlled by, or is under common control with,
28 the person specified.

29 (3) "Applicant" means a person who seeks to contract for insurance cov-
30 erage, other than a person seeking group insurance coverage that is not in-
31 dividually underwritten.

1 (4) "Consumer" means an individual, or the personal representative of the
2 individual, who seeks to obtain, obtains or has obtained one or more insur-
3 ance products or services from a licensee that are to be used primarily for
4 personal, family or household purposes, and about whom the licensee has
5 personal information.

6 (5) "Consumer report" means any written, oral or other communication
7 of information bearing on a natural person's creditworthiness, credit stand-
8 ing, credit capacity, character, general reputation, personal characteristics
9 or mode of living that is used or expected to be used in connection with an
10 insurance transaction.

11 (6) "Consumer reporting agency" means a person that, for monetary fees
12 or dues, or on a cooperative or nonprofit basis:

13 (a) Regularly engages, in whole or in part, in assembling or preparing
14 consumer reports;

15 (b) Obtains information primarily from sources other than insurers; and

16 (c) Furnishes consumer reports to other persons.

17 (7) "Control" means, and the terms "controlled by" or "under common
18 control with" refer to, the possession, directly or indirectly, of the power to
19 direct or cause the direction of the management and policies of a person,
20 whether through the ownership of voting securities, by contract other than
21 a commercial contract for goods or nonmanagement services, or otherwise,
22 unless the power of the person is the result of a corporate office held in, or
23 an official position held with, the controlled person.

24 (8) "Covered entity" means:

25 (a) A health insurer;

26 (b) A health care provider that transmits any health information in elec-
27 tronic form to carry out financial or administrative activities in connection
28 with a transaction covered by ORS 746.607 or by rules adopted under ORS
29 746.608; or

30 (c) A health care clearinghouse.

31 (9) "Credit history" means any written or other communication of any

1 information by a consumer reporting agency that:

2 (a) Bears on a consumer's creditworthiness, credit standing or credit ca-
3 pacity; and

4 (b) Is used or expected to be used, or collected in whole or in part, as a
5 factor in determining eligibility, premiums or rates for personal insurance.

6 (10) "Customer" means a consumer who has a continuing relationship
7 with a licensee under which the licensee provides one or more insurance
8 products or services to the consumer that are to be used primarily for per-
9 sonal, family or household purposes.

10 (11) "Declination of insurance coverage" or "decline coverage" means a
11 denial, in whole or in part, by an insurer or insurance producer of an ap-
12 plication for requested insurance coverage.

13 (12) "Health care" means care, services or supplies related to the health
14 of an individual.

15 (13) "Health care operations" includes but is not limited to:

16 (a) Quality assessment, accreditation, auditing and improvement activ-
17 ities;

18 (b) Case management and care coordination;

19 (c) Reviewing the competence, qualifications or performance of health
20 care providers or health insurers;

21 (d) Underwriting activities;

22 (e) Arranging for legal services;

23 (f) Business planning;

24 (g) Customer services;

25 (h) Resolving internal grievances;

26 (i) Creating deidentified information; and

27 (j) Fundraising.

28 (14) "Health care provider" includes but is not limited to:

29 (a) A psychologist, occupational therapist, regulated social worker, pro-
30 fessional counselor or marriage and family therapist licensed or otherwise
31 authorized to practice under ORS chapter 675 or an employee of the psy-

1 chologist, occupational therapist, regulated social worker, professional
2 counselor or marriage and family therapist;

3 (b) A physician or physician assistant licensed under ORS chapter 677,
4 an acupuncturist licensed under ORS 677.759 or an employee of the physi-
5 cian, physician assistant or acupuncturist;

6 (c) A nurse or nursing home administrator licensed under ORS chapter
7 678 or an employee of the nurse or nursing home administrator;

8 (d) A dentist licensed under ORS chapter 679 or an employee of the den-
9 tist;

10 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an
11 employee of the dental hygienist or denturist;

12 (f) A speech-language pathologist or audiologist licensed under ORS
13 chapter 681 or an employee of the speech-language pathologist or audiologist;

14 (g) An emergency medical services provider licensed under ORS chapter
15 682;

16 (h) An optometrist licensed under ORS chapter 683 or an employee of the
17 optometrist;

18 (i) A chiropractic physician licensed under ORS chapter 684 or an em-
19 ployee of the chiropractic physician;

20 (j) A naturopathic physician licensed under ORS chapter 685 or an em-
21 ployee of the naturopathic physician;

22 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to
23 687.250 or an employee of the massage therapist **or bodyworker**;

24 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an
25 employee of the direct entry midwife;

26 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an em-
27 ployee of the physical therapist;

28 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an em-
29 ployee of the medical imaging licensee;

30 (o) A respiratory care practitioner licensed under ORS 688.815 or an em-
31 ployee of the respiratory care practitioner;

1 (p) A polysomnographic technologist licensed under ORS 688.819 or an
2 employee of the polysomnographic technologist;

3 (q) A pharmacist licensed under ORS chapter 689 or an employee of the
4 pharmacist;

5 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of
6 the dietitian;

7 (s) A funeral service practitioner licensed under ORS chapter 692 or an
8 employee of the funeral service practitioner;

9 (t) A health care facility as defined in ORS 442.015;

10 (u) A home health agency as defined in ORS 443.005;

11 (v) A hospice program as defined in ORS 443.850;

12 (w) A clinical laboratory as defined in ORS 438.010;

13 (x) A pharmacy as defined in ORS 689.005;

14 (y) A diabetes self-management program as defined in ORS 743.694; and

15 (z) Any other person or entity that furnishes, bills for or is paid for health
16 care in the normal course of business.

17 (15) "Health information" means any oral or written information in any
18 form or medium that:

19 (a) Is created or received by a covered entity, a public health authority,
20 a life insurer, a school, a university or a health care provider that is not a
21 covered entity; and

22 (b) Relates to:

23 (A) The past, present or future physical or mental health or condition of
24 an individual;

25 (B) The provision of health care to an individual; or

26 (C) The past, present or future payment for the provision of health care
27 to an individual.

28 (16) "Health insurer" means an insurer who offers:

29 (a) A health benefit plan as defined in ORS 743.730;

30 (b) A short term health insurance policy, the duration of which does not
31 exceed six months including renewals;

- 1 (c) A student health insurance policy;
- 2 (d) A Medicare supplemental policy; or
- 3 (e) A dental only policy.

4 (17) "Homeowner insurance" means insurance for residential property
5 consisting of a combination of property insurance and casualty insurance
6 that provides coverage for the risks of owning or occupying a dwelling and
7 that is not intended to cover an owner's interest in rental property or com-
8 mercial exposures.

9 (18) "Individual" means a natural person who:

10 (a) In the case of life or health insurance, is a past, present or proposed
11 principal insured or certificate holder;

12 (b) In the case of other kinds of insurance, is a past, present or proposed
13 named insured or certificate holder;

14 (c) Is a past, present or proposed policyowner;

15 (d) Is a past or present applicant;

16 (e) Is a past or present claimant; or

17 (f) Derived, derives or is proposed to derive insurance coverage under an
18 insurance policy or certificate that is subject to ORS 746.600 to 746.690.

19 (19) "Individually identifiable health information" means any oral or
20 written health information that is:

21 (a) Created or received by a covered entity or a health care provider that
22 is not a covered entity; and

23 (b) Identifiable to an individual, including demographic information that
24 identifies the individual, or for which there is a reasonable basis to believe
25 the information can be used to identify an individual, and that relates to:

26 (A) The past, present or future physical or mental health or condition of
27 an individual;

28 (B) The provision of health care to an individual; or

29 (C) The past, present or future payment for the provision of health care
30 to an individual.

31 (20) "Institutional source" means a person or governmental entity that

1 provides information about an individual to an insurer, insurance producer
2 or insurance-support organization, other than:

3 (a) An insurance producer;

4 (b) The individual who is the subject of the information; or

5 (c) A natural person acting in a personal capacity rather than in a busi-
6 ness or professional capacity.

7 (21) “Insurance producer” or “producer” means a person licensed by the
8 Director of the Department of Consumer and Business Services as a resident
9 or nonresident insurance producer.

10 (22) “Insurance score” means a number or rating that is derived from an
11 algorithm, computer application, model or other process that is based in
12 whole or in part on credit history.

13 (23)(a) “Insurance-support organization” means a person who regularly
14 engages, in whole or in part, in assembling or collecting information about
15 natural persons for the primary purpose of providing the information to an
16 insurer or insurance producer for insurance transactions, including:

17 (A) The furnishing of consumer reports to an insurer or insurance pro-
18 ducer for use in connection with insurance transactions; and

19 (B) The collection of personal information from insurers, insurance pro-
20 ducers or other insurance-support organizations for the purpose of detecting
21 or preventing fraud, material misrepresentation or material nondisclosure in
22 connection with insurance underwriting or insurance claim activity.

23 (b) “Insurance-support organization” does not mean insurers, insurance
24 producers, governmental institutions or health care providers.

25 (24) “Insurance transaction” means any transaction that involves insur-
26 ance primarily for personal, family or household needs rather than business
27 or professional needs and that entails:

28 (a) The determination of an individual’s eligibility for an insurance cov-
29 erage, benefit or payment; or

30 (b) The servicing of an insurance application, policy or certificate.

31 (25) “Insurer” has the meaning given that term in ORS 731.106.

1 (26) "Investigative consumer report" means a consumer report, or portion
2 of a consumer report, for which information about a natural person's char-
3 acter, general reputation, personal characteristics or mode of living is ob-
4 tained through personal interviews with the person's neighbors, friends,
5 associates, acquaintances or others who may have knowledge concerning
6 such items of information.

7 (27) "Licensee" means an insurer, insurance producer or other person
8 authorized or required to be authorized, or licensed or required to be li-
9 censed, pursuant to the Insurance Code.

10 (28) "Loss history report" means a report provided by, or a database
11 maintained by, an insurance-support organization or consumer reporting
12 agency that contains information regarding the claims history of the indi-
13 vidual property that is the subject of the application for a homeowner in-
14 surance policy or the consumer applying for a homeowner insurance policy.

15 (29) "Nonaffiliated third party" means any person except:

16 (a) An affiliate of a licensee;

17 (b) A person that is employed jointly by a licensee and by a person that
18 is not an affiliate of the licensee; and

19 (c) As designated by the director by rule.

20 (30) "Payment" includes but is not limited to:

21 (a) Efforts to obtain premiums or reimbursement;

22 (b) Determining eligibility or coverage;

23 (c) Billing activities;

24 (d) Claims management;

25 (e) Reviewing health care to determine medical necessity;

26 (f) Utilization review; and

27 (g) Disclosures to consumer reporting agencies.

28 (31)(a) "Personal financial information" means:

29 (A) Information that is identifiable with an individual, gathered in con-
30 nection with an insurance transaction from which judgments can be made
31 about the individual's character, habits, avocations, finances, occupations,

1 general reputation, credit or any other personal characteristics; or

2 (B) An individual's name, address and policy number or similar form of
3 access code for the individual's policy.

4 (b) "Personal financial information" does not mean information that a
5 licensee has a reasonable basis to believe is lawfully made available to the
6 general public from federal, state or local government records, widely dis-
7 tributed media or disclosures to the public that are required by federal, state
8 or local law.

9 (32) "Personal information" means:

10 (a) Personal financial information;

11 (b) Individually identifiable health information; or

12 (c) Protected health information.

13 (33) "Personal insurance" means the following types of insurance products
14 or services that are to be used primarily for personal, family or household
15 purposes:

16 (a) Private passenger automobile coverage;

17 (b) Homeowner, mobile homeowners, manufactured homeowners, condo-
18 minium owners and renters coverage;

19 (c) Personal dwelling property coverage;

20 (d) Personal liability and theft coverage, including excess personal li-
21 ability and theft coverage; and

22 (e) Personal inland marine coverage.

23 (34) "Personal representative" includes but is not limited to:

24 (a) A person appointed as a guardian under ORS 125.305, 419B.372,
25 419C.481 or 419C.555 with authority to make medical and health care deci-
26 sions;

27 (b) A person appointed as a health care representative under ORS 127.505
28 to 127.660 or 127.700 to 127.737 to make health care decisions or mental
29 health treatment decisions;

30 (c) A person appointed as a personal representative under ORS chapter
31 113; and

1 (d) A person described in ORS 746.611.

2 (35) "Policyholder" means a person who:

3 (a) In the case of individual policies of life or health insurance, is a cur-
4 rent policyowner;

5 (b) In the case of individual policies of other kinds of insurance, is cur-
6 rently a named insured; or

7 (c) In the case of group policies of insurance under which coverage is
8 individually underwritten, is a current certificate holder.

9 (36) "Pretext interview" means an interview wherein the interviewer, in
10 an attempt to obtain personal information about a natural person, does one
11 or more of the following:

12 (a) Pretends to be someone the interviewer is not.

13 (b) Pretends to represent a person the interviewer is not in fact repre-
14 senting.

15 (c) Misrepresents the true purpose of the interview.

16 (d) Refuses upon request to identify the interviewer.

17 (37) "Privileged information" means information that is identifiable with
18 an individual and that:

19 (a) Relates to a claim for insurance benefits or a civil or criminal pro-
20 ceeding involving the individual; and

21 (b) Is collected in connection with or in reasonable anticipation of a claim
22 for insurance benefits or a civil or criminal proceeding involving the indi-
23 vidual.

24 (38)(a) "Protected health information" means individually identifiable
25 health information that is transmitted or maintained in any form of elec-
26 tronic or other medium by a covered entity.

27 (b) "Protected health information" does not mean individually identifiable
28 health information in:

29 (A) Education records covered by the federal Family Educational Rights
30 and Privacy Act (20 U.S.C. 1232g);

31 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

1 (C) Employment records held by a covered entity in its role as employer.

2 (39) “Residual market mechanism” means an association, organization or
3 other entity involved in the insuring of risks under ORS 735.005 to 735.145,
4 737.312 or other provisions of the Insurance Code relating to insurance ap-
5 plicants who are unable to procure insurance through normal insurance
6 markets.

7 (40) “Termination of insurance coverage” or “termination of an insurance
8 policy” means either a cancellation or a nonrenewal of an insurance policy,
9 in whole or in part, for any reason other than the failure of a premium to
10 be paid as required by the policy.

11 (41) “Treatment” includes but is not limited to:

12 (a) The provision, coordination or management of health care; and

13 (b) Consultations and referrals between health care providers.

14 **SECTION 31.** ORS 750.005 is amended to read:

15 750.005. As used in ORS 750.005 to 750.095:

16 (1) “Claims” means any amount incurred by the insurer covering con-
17 tracted benefits.

18 (2) “Complementary health services” means the following health care
19 services:

20 (a) Chiropractic as defined in ORS 684.010;

21 (b) Naturopathic medicine as defined in ORS 685.010;

22 (c) Massage [*therapy*] **and bodywork** as defined in ORS 687.011; or

23 (d) Acupuncture as defined in ORS 677.757.

24 (3) “Doctor” means any person lawfully licensed or authorized by statute
25 to render any health care services.

26 (4) “Health care service contractor” means:

27 (a) Any corporation that is sponsored by or otherwise intimately con-
28 nected with a group of doctors licensed by this state, or by a group of hos-
29 pitals licensed by this state, or both, under contracts with groups of doctors
30 or hospitals that include conditions holding the subscriber harmless in the
31 event of nonpayment by the health care service contract as provided in ORS

1 750.095, and that accepts prepayment for health care services; or

2 (b) Any person referred to in ORS 750.035.

3 (5) "Health care services" means the furnishing of medicine, medical or
4 surgical treatment, nursing, hospital service, dental service, optometrical
5 service, complementary health services or any or all of the enumerated ser-
6 vices or any other necessary services of like character, whether or not con-
7 tingent upon sickness or personal injury, as well as the furnishing to any
8 person of any and all other services and goods for the purpose of preventing,
9 alleviating, curing or healing human illness, physical disability or injury.

10 (6) "Health maintenance organization" means any health care service
11 contractor operated on a for-profit or not for-profit basis which:

12 (a) Qualifies under Title XIII of the Public Health Service Act; or

13 (b)(A) Provides or otherwise makes available to enrolled participants
14 health care services, including at least the following basic health care ser-
15 vices:

16 (i) Usual physician services;

17 (ii) Hospitalization;

18 (iii) Laboratory;

19 (iv) X-ray;

20 (v) Emergency and preventive services; and

21 (vi) Out-of-area coverage;

22 (B) Is compensated, except for copayments, for the provision of basic
23 health care services listed in subparagraph (A) of this paragraph to enrolled
24 participants on a predetermined periodic rate basis;

25 (C) Provides physicians' services primarily directly through physicians
26 who are either employees or partners of such organization, or through ar-
27 rangements with individual physicians or one or more groups of physicians
28 organized on a group practice or individual practice basis; and

29 (D) Employs the terms "health maintenance organization" or "HMO" in
30 its name, contracts, literature or advertising media on or before July 13,
31 1985.

1 **SECTION 32.** Section 1, chapter 5, Oregon Laws 2013, is amended to read:

2 **Sec. 1.** As used in sections 1 to 10, **chapter 5, Oregon Laws 2013** [*of this*
3 *2013 Act*]:

4 (1) “Adverse health care incident” means an objective, definable and un-
5 anticipated consequence of patient care that is usually preventable and re-
6 sults in the death of or serious physical injury to the patient.

7 (2) “Health care facility” has the meaning given that term in ORS 442.015.

8 (3) “Health care provider” means a person practicing within the scope of
9 the person’s license, registration or certification to practice as:

10 (a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

11 (b) An occupational therapist under ORS 675.230 to 675.300;

12 (c) A physician under ORS 677.100 to 677.228;

13 (d) An emergency medical services provider under ORS chapter 682;

14 (e) A podiatric physician and surgeon under ORS 677.820 to 677.840;

15 (f) A registered nurse under ORS 678.010 to 678.410;

16 (g) A dentist under ORS 679.060 to 679.180;

17 (h) A dental hygienist under ORS 680.040 to 680.100;

18 (i) A denturist under ORS 680.515 to 680.535;

19 (j) An audiologist or speech-language pathologist under ORS 681.250 to
20 681.350;

21 (k) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

22 (L) A chiropractor under ORS 684.040 to 684.105;

23 (m) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

24 (n) A massage therapist **or bodyworker** under ORS 687.011 to 687.250;

25 (o) A direct entry midwife under ORS 687.405 to 687.495;

26 (p) A physical therapist under ORS 688.040 to 688.145;

27 (q) A medical imaging licensee under ORS 688.445 to 688.525;

28 (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;

29 (s) A physician assistant under ORS 677.505 to 677.525; or

30 (t) A professional counselor or marriage and family therapist under ORS
31 675.715 to 675.835.

1 (4) "Patient" means the patient or, if the patient is a minor, is deceased
2 or has been medically confirmed by the patient's treating physician to be
3 incapable of making decisions for purposes of sections 1 to 10, **chapter 5,**
4 **Oregon Laws 2013** [*of this 2013 Act*], the patient's representative as provided
5 in section 8, **chapter 5, Oregon Laws 2013** [*of this 2013 Act*].

6
7 **NAME CHANGE PROVISION**

8
9 **SECTION 33.** (1) The amendments to ORS 182.454, 182.460, 182.462,
10 676.150, 676.160, 676.850, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057,
11 687.059, 687.061, 687.071, 687.081, 687.086, 687.115, 687.121, 687.122, 687.123
12 and 687.250 by sections 1 to 12, 14 to 18, 20 to 22 and 26 to 28 of this 2015
13 Act are intended to change the name of the "State Board of Massage
14 Therapists" to the "State Board of Massage Therapists and
15 Bodyworkers."

16 (2) For the purpose of harmonizing and clarifying statutory law, the
17 Legislative Counsel may substitute for words designating the "State
18 Board of Massage Therapists," wherever they occur in statutory law,
19 other words designating the "State Board of Massage Therapists and
20 Bodyworkers."

21
22 **OPERATIVE DATE**

23
24 **SECTION 34.** (1) Section 33 of this 2015 Act and the amendments to
25 ORS 31.740, 182.454, 182.460, 182.462, 192.556, 433.443, 676.150, 676.160,
26 676.850, 677.060, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.059,
27 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123,
28 687.250, 746.600 and 750.005 and section 1, chapter 5, Oregon Laws 2013,
29 by sections 1 to 32 of this 2015 Act become operative on January 1, 2016.

30 (2) The State Board of Massage Therapists may take any action
31 before the operative date specified in subsection (1) of this section that

1 is necessary to enable the board to exercise, on and after the operative
2 date specified in subsection (1) of this section, all the duties, functions
3 and powers conferred on the board by the amendments to ORS 31.740,
4 182.454, 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 676.850, 677.060,
5 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.059, 687.061, 687.071,
6 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123, 687.250, 746.600
7 and 750.005 and section 1, chapter 5, Oregon Laws 2013, by sections 1
8 to 32 of this 2015 Act.

9

10

CAPTIONS

11

12 SECTION 35. The unit captions used in this 2015 Act are provided
13 only for the convenience of the reader and do not become part of the
14 statutory law of this state or express any legislative intent in the
15 enactment of this 2015 Act.

16

17

EMERGENCY CLAUSE

18

19 SECTION 36. This 2015 Act being necessary for the immediate
20 preservation of the public peace, health and safety, an emergency is
21 declared to exist, and this 2015 Act takes effect on its passage.

22
