Oregon Health Authority
2021 Legislative Agenda

Presented to
Oregon Health Policy Board
December 1, 2020

OHA's 2021 Legislative Priorities

The 10-year strategic goal of OHA is to eliminate health inequities. The 2021-2023 biennium offers OHA and partners an opportunity to advance this goal through legislation. OHA's legislative priorities are driven by and developed in collaboration with Oregon's communities.

- **anti-racism and health equity**
- **improve behavioral health care**
- **partner with community to address health inequities**

Better Health, Better Care, Lower Costs

Health Equity

The OHA and Oregon Health Policy Board has defined health equity: Oregon will have established a health system that creates health equity when all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances.

Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address: The equitable distribution or redistribution of resources and power; and recognizing, reconciling and rectifying historical and contemporary injustices.

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OHA's 2021 Legislative Concepts DRAFT

1.(LC0389): Tobacco flavor sales ban
2.(LC0390): Tobacco retail licensure
3.(LC0391): Home health fee
4.(LC0393): Public health housekeeping
5.(LC0394): Public health modernization
6.(LC0395): Prescription Drug Monitoring Program fees
7.(LC0396): Radiation protection fees
8.(LC0397): Emergency Medical Services modernization
9.(LC0398): Lead based paint remediation
10.(LC0403): Marketplace transfer to OHA
11.(LC0404): Health Policy & Analytics Division housekeeping
12.(LC0407): Mergers and acquisitions
13.(LC0408): Pharmacy omnibus
14.(LC0409): Sustainable healthcare cost growth target accountability
15.(LC0410): Statewide Value-Based Payment adoption and alignment
16.(LC0411): Public Employees Benefit Board & Oregon Educators Benefit Board coordinated care model
17.(LC0413): Medicaid buy-in pilot
18.(LC0416): Suicide reporting
19.(LC0417): Treatment of co-occurring disorders
20.(LC0419): Recommendations of Governor's Behavioral Health Advisory Council
21.(LC0420): System of care advisory council placeholder
22.(LC0421): Recovery housing
23.(LC0422): Healthcare interpreter workforce
24.(LC0423): Regional Health Equity Coalitions
25.(LC0425): Aid and assist placeholder
26.(LC0427): Oregon State Hospital omnibus
27.(LC0430): Access to criminal justice data for behavioral health outcomes
28.(LC0449): Create a tribal traditional health worker category
29. (LC TBD) Various general placeholders

Thank You

Oregon Health Authority

OHA 2021 Legislative Concepts

The 10-year strategic goal of Oregon Health Authority (OHA) is to eliminate health inequities. The 2021-2023 biennium offers OHA and partners an opportunity to advance this goal through legislation.

The OHA and Oregon Health Policy Board defined health equity: Oregon will have established a health system that creates health equity when all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances. Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address: The equitable distribution or redistribution of resources and power; and Recognizing, reconciling and rectifying historical and contemporary injustices.

The package of legislative concepts (LCs) OHA is considering for 2021 presents opportunities to: (1) increase access to quality behavioral health services and reduce inequities in the behavioral health system; (2) address systemic racism and health inequities in the health care system; and, (3) breakdown barriers to health in our communities.

OHA's concepts are draft and will continue to be shaped by community partner input and feedback. OHA will proactively partner with other stakeholders regarding concepts that will help reduce health inequities.

Below is a summary for each of OHA's proposed legislative concepts.

Improve access and quality of behavioral health services and decrease behavioral health inequities

1. Increase Access and Quality of Behavioral Health Services (LC 419)

Governor Brown issued an Executive Order in October 2019 to convene the Behavioral Health Advisory Council. The council developed recommendations aimed at improving access to effective behavioral health services and supports for all adults and transitional-aged youth with serious mental illness or co-occurring mental illness and substance use disorders. The Council recommended policies and funding to address behavioral health needed program and service capacity; a culturally and linguistically appropriate workforce; and housing and residential needs.

2. Improve Treatment of Co-occurring Disorders (LC 417)

The behavioral health workforce is not consistently trained to screen, assess or treat co-occurring disorders (mental health and a substance use, problem gambling or intellectual and developmental disabilities (I/DD) diagnosis). Additionally, Oregon facilities are credentialed or licensed as either substance use or mental health facilities, creating barriers to care for individuals seeking treatment. There is not a billing code for co-occurring disorders and there are separate funding sources for substance use and mental health. This results in lack of data for co-occurring disorders. Lastly, providers are required to complete separate assessment screenings and tools for mental health and substance use disorder (the American Society of Addiction Medicine (ASAM)). This placeholder LC will be used to address barriers to having a comprehensive system that treats the behavioral health needs of the individual holistically will be addressed.

3. **Expand Recovery Housing for Harm Reduction (LC 421)**

Current statute only allows for funding of recovery housing that is Alcohol and Drug Free, whereas a full range of options are necessary to ensure a continuum of care that embraces harm reduction as well as abstinence-based recovery. The proposed solution changes statutory language to allow for multiples treatment models in housing.

4. **Fill gaps in system of care (LC 420)**

The System of Care (SOC) Advisory Council is directed under SB 1 (2019) to improve the effectiveness and efficacy of child serving state agencies and the continuum of care that provides services to youth ages 0-25 by providing centralized and impartial forum for statewide policy development, funding strategy recommendations and planning. The recommendations to the legislature and agency directors are highly likely to include the need for new legislation and changes or updates to existing statutes in order to address continuum of care gaps and needs and develop and more functional SOC for Oregon.

5. **Improve Suicide Data Reporting and Uniform Postvention Response (LC 416)**

ORS 418.735 does not require medical examiners or law enforcement to report a suspected suicide death to the local mental health authorities (LMHAs), which creates inconsistent and unreliable suicide postvention responses. Currently, postvention response varies widely across the state – and in some counties there is no postvention response from the local mental health authority. This concept proposes changing the Oregon Revised Statute (ORS) 418.735 to address these concerns.

6. **Ban Flavored Tobacco Sales (LC 389)**

The legislative concept will ban the sale of all flavored tobacco products and Inhalant Delivery Systems (IDS) such as e-cigarettes or vape products. The flavor ban includes mint and menthol, as well as “concept flavors” such as “jazz” and “red”. The LC also will ban online and telephonic sales of all tobacco products to Oregon addresses, which would create parity with cigarettes and smokeless tobacco. Federal regulations prohibited flavored cigarettes, except for menthol flavored cigarettes, in 2009, but since then, a multitude of new flavored tobacco products designed to get around that prohibition have entered the market. These include e-cigarettes and vaping products, flavored little cigars, and novel alternative tobacco products.

7. **Create Tobacco Retail Licensure (LC 390)**

In Oregon, even as tobacco use remains the top preventable cause of death and disability in the state, no state license is required to sell tobacco products or inhalant delivery systems (IDS). In 2019, 16% of Oregon tobacco retailers illegally sold a tobacco product to a person under the age of 21. Without a state license, there is limited capacity to effectively enforce tobacco sales laws such as the minimum legal sales age. Statewide Tobacco Retailer Licensure will ensure retail store owners are held accountable for illegally selling tobacco to underage persons and for following other state and local tobacco regulations. Fees from licensing allow for sustainable administration and enforcement of the program, including regular inspection. Enforcement action is taken on the retailers, not on the youth buyer. Other states with tobacco retail licenses show that it can reduce youth access to tobacco products.

8. Maintain Prescription Drugs Monitoring Program (LC 395)

The Prescription Drug Monitoring Program (PDMP) allows prescribers to be fully informed of the prescription history of their patients when prescribing controlled substances. The PDMP was created by statute in 2009 and since then has expanded substantially in both function and size. New enhancements include interstate data sharing, health information technology (HIT) integration, improved user interface, and collection of additional drugs and fields for clinical use and research purposes, all of which keep the PDMP in line with legislative mandates and with emerging best practices. However, this growth has increased the cost of operation so that is no longer covered by the $25 annual fee paid by Oregon healthcare licensees. This legislative concept increases that fee to $35, to maintain sufficient capacity for program operations and database functions.

9. Oregon State Hospital (OSH) Technical Corrections (LC 427)

OHA proposes three statutory changes to ensure appropriate and efficient procedures at the state hospital. 1) OHA is seeking a technical fix to ORS 127.720 to include ORS 426.701 to the list of types of commitments cited in the statute. ORS 426.701 took effect after ORS 127.720 was last amended and therefore was inadvertently excluded. 2) OSH is currently unable to include outpatient services in the cost of care to a patient while at the state hospital. While OSH has a medical and dental clinic, patients at OSH come to the hospital with a variety of medical needs. Some needs, including terminal illnesses and surgeries, require sending patients to receive care at a facility outside OSH. OHA proposes amending ORS 179.701 to remove the language excluding outpatient services in the cost of care, which will allow OSH to include these costs of care in compliance with Medicare requirements.

10. Access to Criminal Justice Data for Behavioral Health Outcomes (LC 430)

OHA does not currently have access to Oregon criminal justice information that would allow the agency to track outcomes for consumers. OHA proposes changes to state statute to authorize the agency to access this information with appropriate parameters for the use and handling of the information.

11. Aid and Assist Placeholder (LC 425)

OHA maintains a concept to address unforeseen issues with ORS 161.370 arise during the legislative session.

Reduce barriers to health and health inequities in our communities

12. Expand and Sustain Tribal Traditional Health Workers (LC449)

OHA proposes to create a sixth traditional health worker (THW) category in statute. The services, training, qualifications, and certification of the Tribal Traditional Health Worker would be defined in administrative rule. Tribes are providing critical health services to tribal members, but many of these providers and practices do not fit within the five existing Traditional Health Worker categories. Creating a sixth, separate THW category for tribes would allow the tribes and urban Indian health program to receive reimbursement using tribal based practices and curricula developed by the tribes themselves.

13. Expand Regional Health Equity Coalitions (RHEC) (LC 423)

OHA is proposing a statewide expansion of the RHEC program, as well as defining RHECs and the RHEC model in statute to ensure fidelity. The RHECs have the expertise based in lived experience to identify most critical and regionally specific health equity issues, while crafting policy, system, and environmental solutions. Meaningfully impacting these issues and health inequities in general requires sustained, long-term efforts with dedicated fiscal investment. Specific benefits of sustained/expanded funding include: increased opportunities for coordinated care organizations (CCOs) to partner with RHECs, offer technical assistance and training to build CCO's capacity around health equity and the social determinants of health; providing coalitions the level of autonomy needed to improve health equity in meaningful and appropriate ways that ensures anti-racist priorities are not compromised; growing the necessary capacity of Oregon to address health equity issues in culturally specific and effective ways; creating additional opportunities to sustainably address issues related to avoidable policy and system barriers which may help lower costs to health and other related systems.

14. Modernize Public Health (LC 394)

For the past two biennia, the state Legislature has invested in modernizing state, local, and Tribal public health to more nimbly respond to emerging health issues. This legislative concept is a placeholder for statutory fixes to be determined, to help streamline delivery of public health services. It is tied to an agency budget request of $68 million.

15. Improve Home Health Care Oversight (LC 391)

Home Health Agencies (HHAs) provide skilled medical nursing services and other therapeutic services to patients in their homes. OHA is responsible for ensuring the quality of client care, complaint investigations and triennial surveys. OHA proposes raising fees to support the necessary regulation of home health licensees and in doing so to protect their clients. Current fee levels no longer support the cost of the regular surveys and complaint investigations.

16. Sustain Radiation Protection Services (LC 396)

Radiation Protection Services (RPS) is charged to be the state radiation control program protecting Oregonians from unnecessary or harmful exposure and to promote beneficial uses of radiation. The program regulates over 4,200 registrants and licensees who provide services to patients and the public using 14,000 radiation devices and sources for medical, industrial, academic and research applications. Without additional funding to meet increasing demand, RPS will not be able to complete facility inspections of all registrants to ensure radiation

devices/sources are being used safely and within manufacturer specifications. This proposal would raise several fees paid by registrants and licensees, which will also better align Oregon's fee structure with the Washington and California tube-based fee models, and better ensure that Registrants are paying a registration fee based upon RPS staff's inspection time required to ensure safe machine operation.

17. Modernize Emergency Medical Services (LC 397)

Oregon does not currently have a comprehensive Emergency Medical Services (EMS) & Trauma system. There is no unifying individual, agency, or plan for the provision of emergency medical services throughout state government, no system for regionalization of emergency medical services to treat time-sensitive emergencies, and no plan that will allow for surge capability in the event of a medium or large size disaster. This concept provides for an integrated Emergency Healthcare System that recognizes problems, determines which services needed and then delivers the patient to those resources. Such a system can provide for better coordination of emergency care, regionalization to allow smaller agencies to benefit from economies of scale, improved targeted transport of patients to regional specialty centers, and improved assessment, triage and transfer from small general hospital to regional referral centers.

18. Remediate Lead-Based Paint Hazards (LC 398)

Lead-based paint is a source of neurotoxin exposure that continues to be a critical environmental health risk, particularly among young children. However, despite delegated authority to enforce federal regulations on lead-based paint, OHA does not have the authority to require property owners or contractors to properly assess and decontaminate a residence or facility. OHA can issue civil penalties if work was performed by uncertified firms or if lead-safe work practices were not followed but cannot mandate cleanup or issue stop-work orders in case of ongoing unsafe work. This proposal would add statutory authority for OHA to compel cleanup of a lead-contaminated site when OHA has determined a property owner has violated lead-based paint requirements, and to issue a stop-work order if necessary.

19. Technical Fixes for Public Health (LC 393)

This proposal contains several minor fixes to ease implementation of public health laws, tentatively including: bringing state law into alignment with federal regulations on lead-based paint remediation; clarifying the definitions of "health officer" and "local public health administrator"; allowing School Health Services Planning Grant Sites to pursue either a School-Based Health Center (SBHC) or an alternative model (school nursing) as best fits their community needs.

Reduce health inequities in the healthcare system and realize better care, better health and lower costs

20. Provide a Medicaid Buy-in Pilot Option (LC 413)

OHA proposes a pilot public option/Medicaid buy-in program to expand affordable healthcare access in Oregon and further move towards coverage of all people. The program would allow Oregon to move forward with a Medicaid buy-in like product by "piloting" the approach in a thoughtful and deliberate manner. The goal of the concept is to leverage the success of the Oregon's CCOs to provide health care services to individuals who are typically the most underserved and marginalized by establishing opportunities for coverage through a state-funded

subsidy structure. These structures will be based on 1) Affordable Care Act (ACA) affordability framework for individuals income is under 400% of the federal poverty level (FPL) and 2) ACA expansion population experience for individuals whose income is under 138% of FPL.

21. Improve Language Access and Health Care Interpreters (HCI) Workforce (LC 422)

OHA is proposing a legislative concept that expands and supports quality language access services for improved health outcomes for limited English proficient (LEP) and sign language patients. The concept is built to benefit both urban and rural communities in Oregon and will allow linguistically competent services to be utilized throughout the state. By strengthening existing requirements to work with trained HCIs, the LC will ensure that Coordinated Care Organizations (CCOs), provider networks and interpreting agencies, work with Qualified and Certified HCIs. To that end, the proposed LC is a needed step to professionalize Oregon's HCI workforce and ensure that a stable supply of quality trained interpreters is available across the state, especially in rural communities experiencing growth in LEP populations.

22. Enforce Cost Growth of Health Care (LC 409)

OHA is seeking legislative authority to implement mechanisms to hold insures and providers accountable for containing health care costs and meeting the annual cost growth target established by Senate Bill 889 (2019) and adopted by the Oregon Health Policy Board. SB 889, passed in 2019 with broad bipartisan support, directed the Oregon Health Authority (OHA) to work with stakeholders and consumers to set a Sustainable Health Care Cost Growth Target that would apply to insurance companies, hospitals and health care providers, so that health care costs do not outpace wages or the state's economy.

SB 889 directed OHA to begin data collection and public reporting on the cost growth target. However, additional legislative authority is needed before any payers or providers can be held accountable for meeting the annul health care cost growth target. Specific recommendations for accountability and enforcement (such as requiring performance improvement plans for payers or providers who exceed the cost growth target) will be made by the Implementation Committee by December 2020 and introduced as legislation for the 2021 session. COVID-19 and its economic impact have shown the continued need for the State to develop policies and programs that ensure affordable healthcare for all Oregonians.

23. Create Statewide Value-Based Payment System (LC 410)

OHA is proposing to work with a multi-stakeholder Advisory Committee under the direction of the Oregon Health Policy Board to develop a roadmap to increase utilization of payments that are based on health outcomes rather than the number of services provided, which is still the dominant form of payment for health care in Oregon. The Committee's work could include consideration and alignment of new payment methodologies so that providers are not faced with cascading and different payment structures for patients as well as consideration of health equity as a component of value-based payment arrangements. The Committee would also be charged with identifying potential infrastructure needs as well as possible roadmap components like milestones and benchmarks.

24. Leverage State's Purchasing Power to Reduce Pharmacy Costs (LC 408)

OHA is proposing legislation to address three issues to increase its bargaining power in negotiations with prescription drug manufactures. First, OHA will clarify authority to require that providers receive authorization from the state prior to prescribing drugs whose manufacturers have not negotiated satisfactory terms with state purchasers. Second, OHA is

requesting the legislature direct the Agency and CCOs to collaboratively develop a drug-purchasing plan that will improve member and provider experience while containing costs. Third, OHA seeks legislative authority to create a multi-agency pharmacy purchasing collaborative.

25. Leverage Purchasing Power of the Marketplace (LC 403)

Currently, the Marketplace for purchasing health plan coverage under the ACA is administered by the Oregon's Department of Consumer and Business Services (DCBS). OHA and DCBS are proposing that responsibility for running the Marketplace be moved to OHA. This would allow OHA to coordinate improving quality and reducing cost in health care coverage across Medicaid, public employee plans and ACA plans sold through the Marketplace. OHA's ability to align new payment methodologies and models for better coordinating patient care and health equity would be significantly enhanced.

26. Review Health Care Mergers and Acquisitions for Health Equity (LC 407)

OHA is seeking authority to expand its review of proposed mergers and acquisitions that would impact care received through commercial health insurance plans as well as Coordinated Care Organizations. The Oregon Health Policy Board (OHPB) approved a framework for OHA to use when reviewing and approving mergers and acquisitions related to Coordinated Care Organizations. The framework includes the OHPB approved definition of health equity and an investigation of how proposed mergers and acquisitions might impact equity goals.

27. Align Purchasing Power Across PEBB/OEBB and Other Public Purchasers (LC 411)

OHA proposes to expand the Public Employees Benefit (PEBB) and Oregon Educators Benefit Board (OEBB) enrollment footprint and procurement capability. The LC will provide additional special procurement authority for joint purchasing initiatives by PEBB and OEBB to allow new models of care that improve value of health plans offered by the boards. The LC adds resources to offer affordable health plan options to local governments and enroll interested entities.

28. Technical Fixes for Health Policy and Analytics (LC 404)

OHA' Health Policy and Analytics Division needs to make minor technical corrections to implement existing statutes as intended. The changes include: Removing Common Credentialing; Eliminating requirement for the Pain Management Commission to perform curriculum reviews; Revising requirements for licensed professionals to periodically complete a pain management education program; Discontinuing the Palliative Care and Quality of Life Interdisciplinary Advisory Council or reducing the annual meeting requirements from two to one; Amending PEBB's statute so it aligns with the Affordable Care Act regarding the coverage of temporary employees.

# # #

Everyone has a right to know about and use Oregon Health Authority (OHA) programs and services. OHA provides free help. Some examples of the free help OHA can provide are:

- Sign language and spoken language interpreters
- Written materials in other languages
- Braille
- Large print
- Audio and other formats

If you need help or have questions, please contact Matthew Green at 503-983-8257, 711 TTY, matthew.green@dhsoha.state.or.us.

LC 389
2021 Regular Session
44300-001
8/18/20 (SCT/ps)

D R A F T

SUMMARY

Prohibits remote sales of inhalant delivery systems. Defines "inhalant delivery system."

Prohibits distribution or sale of flavored inhalant delivery system product or flavored tobacco product. Defines "flavored inhalant delivery system product" and "flavored tobacco product." Allows Oregon Health Authority to impose civil penalty of up to $5,000 per violation.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to public health; creating new provisions; amending ORS 167.750, 180.405, 180.441, 180.451 and 431A.183; and prescribing an effective date.

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

REMOTE SALES PROHIBITION

SECTION 1. ORS 180.405 is amended to read:

180.405. As used in ORS 180.400 to 180.455 and 323.106:

(1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, cigarettes labeled "menthol," "lights," "kings," "100s" and any cigarettes sold under a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or other indicia of product identification, that are identical to, similar to or identifiable with a previously known brand of cigarettes.

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.

(2) "Cigarette" has the meaning given that term in ORS 323.800.

(3) "Distributor" means a person who is licensed under ORS 323.105 or 323.530 and any other person who is a distributor for the purposes of ORS 323.005 to 323.482 or 323.500 to 323.645.

(4) "Importer" has the meaning given that term in ORS 323.800.

(5)(a) "Inhalant delivery system" means:

(A) A device that can be used to deliver nicotine in the form of a vapor or aerosol to a person inhaling from the device; or

(B) A component of a device described in this paragraph, or a substance in any form, sold for the purpose of being vaporized or aerosolized by a device described in this paragraph, whether or not the component or substance is sold separately.

(b) "Inhalant delivery system" does not include:

(A) Any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or any other therapeutic purpose if the product is marketed and sold solely for the approved purpose;

(B) If sold separately, battery chargers, straps or lanyards; or

(C) Marijuana items, as defined in ORS 475B.015.

[*(5)*] **(6)** "Master Settlement Agreement" has the meaning given that term in ORS 323.800.

[*(6)*] **(7)** "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

[*(7)*] **(8)** "Participating manufacturer" has the meaning given that term in section II(jj) of the Master Settlement Agreement.

[*(8)*] **(9)** "Qualified escrow fund" has the meaning given that term in ORS 323.800.

[*(9)*] **(10)** "Retailer" means a person that sells cigarettes**, inhalant delivery systems** or smokeless tobacco products to individuals for personal consumption.

[*(10)*] **(11)** "Smokeless tobacco products" has the meaning given that term

in ORS 323.810.

[*(11)*] **(12)** "Tobacco product manufacturer" has the meaning given that term in ORS 323.800.

[*(12)*] **(13)** "Units sold" has the meaning given that term in ORS 323.800.

SECTION 2. ORS 180.441 is amended to read:

180.441. (1)(a) A person engaged in the business of selling cigarettes**, inhalant delivery systems** or smokeless tobacco products for profit may not ship or transport, or cause to be shipped or transported, cigarettes**, inhalant delivery systems** or smokeless tobacco products ordered or purchased by mail or telephone or through a computer or other electronic network to any person in this state other than a distributor or retailer.

(b) Paragraph (a) of this subsection does not apply to a freight forwarder or motor carrier, as those terms are defined in 49 U.S.C. 13102, as in effect on August 8, 2017, or an air carrier, as defined in 49 U.S.C. 40102, as in effect on August 8, 2017.

(2) A retailer may not sell cigarettes**, inhalant delivery systems** or smokeless tobacco products unless the retailer or an employee of the retailer makes the sale to the purchaser in person as part of a face-to-face exchange.

(3) A person may not knowingly provide substantial assistance to a person that is violating subsection (1) or (2) of this section.

SECTION 3. ORS 180.451 is amended to read:

180.451. (1) The Attorney General may bring a civil action in the name of the State of Oregon against a person who violates ORS 180.441 or for the purpose of seeking an injunction to restrain an actual or threatened violation of ORS 180.441 and compel compliance with ORS 180.441.

(2) If a court determines that a person violated ORS 180.441, the court shall order the disgorgement of any profits, gain, gross receipts or other benefit from the violation. All moneys disgorged under this subsection must be deposited in the Tobacco Enforcement Fund established under ORS 180.205.

(3)(a) In any action brought pursuant to this section, the state may re-

cover the costs of the investigation, the costs of the action, reasonable attorney fees and a civil penalty for each violation, not to exceed $5,000 per violation. A civil penalty imposed under this section must be imposed in the manner provided by ORS 183.745.

(b) For the purposes of this subsection, each shipment or transport of cigarettes**, inhalant delivery systems** or smokeless tobacco products constitutes a separate violation.

(4) Unless expressly provided, the remedies or penalties under this section are cumulative to each other and to the remedies available under all other laws of this state.

SECTION 4. The amendments to ORS 180.405, 180.441 and 180.451 by sections 1 to 3 of this 2021 Act apply to inhalant delivery systems sold on or after the effective date of this 2021 Act.

FLAVORED ITEMS PROHIBITION

SECTION 5. (1) As used in this section:

(a) "Characterizing flavor" means a taste or aroma other than the taste or aroma of tobacco that is distinguishable by an ordinary consumer either prior to or during consumption, including but not limited to any taste or aroma relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey or fruit, any candy, dessert, alcoholic beverage, herb or spice or any concept flavor. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning the product, that the product has or produces a taste or aroma other than a taste or aroma of tobacco constitutes presumptive evidence that the product has a characterizing flavor.

(b)(A) "Flavored inhalant delivery system product" means a component of an inhalant delivery system or a substance in any form sold

for the purpose of being aerosolized or vaporized by an inhalant delivery system, regardless of whether the component or substance is sold separately, that has been manufactured to impart a characterizing flavor.

(B) "Flavored inhalant delivery system product" does not include:

(i) A product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose.

(ii) A product that contains cannabinoids.

(c) "Flavored tobacco product" means:

(A) Tobacco products, as defined in ORS 323.500, that have been manufactured to impart a characterizing flavor; or

(B) Cigarettes, as defined in ORS 323.010, that have been manufactured to impart a characterizing flavor.

(d) "Inhalant delivery system" means a device that can be used to deliver nicotine or other substances in the form of an aerosol or vapor to a person inhaling from the device.

(2) A person may not distribute, attempt to sell, sell or allow to be sold a flavored inhalant delivery system product or flavored tobacco product in this state.

(3) The Oregon Health Authority may impose a civil penalty of up to $5,000 for each violation of this section. All moneys collected pursuant to this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out this section.

(4) The authority may adopt rules to carry out this section.

SECTION 6. ORS 431A.183 is amended to read:

431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agencies to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco products or inhalant

delivery systems.

(b) The authority may commission employees of the authority as federal officers for the purpose of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this subsection.

(c) The authority may adopt rules and take any action necessary to carry out the authority's duties as established under an agreement entered into under paragraph (a) of this subsection.

(2) The authority may enter into an agreement with federal, state and local government agencies, including federal, state and local law enforcement agencies, to assist the authority in carrying out the authority's duties under ORS 431A.175 and to conduct random, unannounced inspections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance with the laws of this state designed to discourage the use of tobacco products and inhalant delivery systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760, 167.765, 167.775, 167.780 and 431A.175 **and section 5 of this 2021 Act**.

(3)(a) If the authority enters into an agreement with the Department of State Police under subsection (2) of this section, the department may employ retired state police officers who are active reserve officers. Service by a retired state police officer under this paragraph is subject to ORS 238.082.

(b) The department may not use the services of a retired state police officer to displace an active state police member.

(4)(a) The authority may apply for and accept moneys from the federal government or other public or private sources and, in accordance with any federal restrictions or other funding source restrictions, use those moneys to carry out the duties and functions related to preventing the use of tobacco products or inhalant delivery systems by persons who are not of the minimum age to purchase tobacco products or inhalant delivery systems.

(b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal restriction or other funding

source restriction must be accounted for separately from other fund moneys.

(5)(a) The authority shall submit a written report each biennium to the Governor and to the appropriate committee or interim committee of the Legislative Assembly to which matters of public health are assigned.

(b) The report submitted under this subsection must contain information describing:

(A) The activities carried out to enforce the laws listed in subsection (2) of this section during the previous biennium;

(B) The extent of success achieved in reducing the availability of tobacco products and inhalant delivery systems to persons under 21 years of age; and

(C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section during the biennium following the report.

(6) The authority shall adopt rules for conducting random inspections of establishments that distribute or sell tobacco products or inhalant delivery systems **that are consistent with any federal law or regulation relating to the inspection of establishments that distribute or sell tobacco products or inhalant delivery systems**. The rules shall provide that inspections may take place:

(a) Only in areas open to the public;

(b) Only during the hours that tobacco products or inhalant delivery systems are distributed or sold; and

(c) No more frequently than once a month in any single establishment unless a compliance problem exists or is suspected.

SECTION 7. ORS 167.750 is amended to read:

167.750. For purposes of ORS 167.755 and 431A.175 **and section 5 of this 2021 Act**, "allows to be sold" includes the negligent omission of an act by a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the commission of which would have prevented the distribution or sale of the tobacco products or inhalant delivery system.

CAPTIONS

SECTION 8. **The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.**

OPERATIVE AND EFFECTIVE DATES

SECTION 9. **(1) Section 5 of this 2021 Act and the amendments to ORS 167.750 and 431A.183 by sections 6 and 7 of this 2021 Act become operative on January 1, 2022.**

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the authority by section 5 of this 2021 Act and the amendments to ORS 167.750 and 431A.183 by sections 6 and 7 of this 2021 Act.

SECTION 10. **This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

LC 390
2021 Regular Session
44300-002
7/24/20 (SCT/ps)

D R A F T

SUMMARY

Requires that Department of Revenue issue license to qualified retailers of tobacco products and inhalant delivery systems. Defines "tobacco products" and "inhalant delivery system." Allows department to impose civil penalty for specified violations. Directs department, Oregon Health Authority, local public health authorities and cities to share information for effective administration and enter into agreements for purposes of collecting fees imposed by Oregon Health Authority, local public health authorities and cities.

Allows Oregon Health Authority to impose civil penalty for violation of certain state public health and safety laws related to tobacco products and inhalant delivery systems.

Allows local public health authority or city to enforce local standards for regulation of sale of tobacco products and inhalant delivery systems or enforce state standards for regulation of sale of tobacco products and inhalant delivery systems. Prohibits city or local public health authority from adopting ordinance, after effective date of Act, to prohibit colocation of retailer of tobacco products or inhalant delivery systems with pharmacy.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to public health; creating new provisions; amending ORS 431A.178 and 431A.183; repealing ORS 431A.180; and prescribing an effective date.

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

TOBACCO RETAILER LICENSURE

SECTION 1. Definitions. As used in sections 1 to 15 of this 2021 Act:

(1) "Governing body of a local public health authority" has the

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.

meaning given that term in ORS 431.003.

(2) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(3) "Local public health authority" has the meaning given that term in ORS 431.003.

(4) "Premises" means the real property on which a business that makes retail sales of tobacco products or inhalant delivery systems is located.

(5) "Tobacco products" has the meaning given that term in ORS 431A.175.

SECTION 2. Purpose. The purpose of sections 1 to 15 of this 2021 Act is to improve enforcement of local ordinances and rules, state laws and rules and federal laws and regulations that govern the retail sale of tobacco products and inhalant delivery systems.

SECTION 3. Licensure requirement. A person may not make a retail sale of a tobacco product or an inhalant delivery system at or from a premises located in this state unless the person sells the tobacco product or inhalant delivery system at or from a premises licensed under section 5 of this 2021 Act.

SECTION 4. Premises to which Act does not apply. Notwithstanding section 3 of this 2021 Act, sections 1 to 15 of this 2021 Act do not apply to a person making a retail sale of an inhalant delivery system at a medical marijuana dispensary registered under ORS 475B.858 or at a premises for which a license has been issued under ORS 475B.105, unless the person makes a retail sale of an inhalant delivery system that contains nicotine.

SECTION 5. Licensure. (1) The Department of Revenue shall issue licenses to, and annually renew licenses for, a person that makes retail sales of tobacco products or inhalant delivery systems at qualified premises.

(2) To be qualified for licensure under this section, a premises:

(a) Must be a premises that is fixed, permanent and located in this state;

(b) May not be located in an area that is zoned exclusively for residential use; and

(c) Must meet any qualification for engaging in the retail sale of tobacco products and inhalant delivery systems adopted as an ordinance by a city or the governing body of a local public health authority under section 18 of this 2021 Act, provided that the department has knowledge of the qualification pursuant to an agreement entered into under section 14 of this 2021 Act.

(3) For the purpose of licensing premises under this section, the department shall adopt rules establishing:

(a) Procedures for applying for and renewing licenses; and

(b) Licensure application, issuance and renewal fees.

(4) An application submitted under this section and information related to applying for or renewing a license under this section are confidential and not subject to public disclosure under ORS 192.311 to 192.478. However, the department may share an application submitted under this section and information related to applying for or renewing a license under this section with the Department of Justice, the Oregon Health Authority or with a city or a local public health authority that adopts an ordinance under section 18 of this 2021 Act.

(5) The Department of Revenue shall publish a list that includes the name of each person to which a license has been issued under this section, the address of each premises for which a license has been issued under this section and any other information that the department determines is relevant to the public with respect to the retail sale of tobacco products and inhalant delivery systems.

(6) Fees established under subsection (3)(b) of this section must be reasonably calculated not to exceed the costs associated with the department administering sections 1 to 15 of this 2021 Act.

(7) All moneys collected under this section shall be deposited in the suspense account described in section 10 of this 2021 Act.

SECTION 6. Proof of licensure. A person to which a license has been issued under section 5 of this 2021 Act must post proof of licensure in a clear and conspicuous place at the premises for which the license has been issued.

SECTION 7. Revocation, suspension, refusal to issue or renew. (1) The Department of Revenue may revoke, suspend or refuse to issue or renew a license issued under section 5 of this 2021 Act if the person that holds or seeks the license, an individual who participates in the management of the premises for which the license has been or would be issued or an individual who is employed for the purpose of making retail sales at the premises:

(a) Violates sections 1 to 15 of this 2021 Act, a rule adopted under sections 1 to 15 of this 2021 Act or any other state law or rule or federal law or regulation that governs the retail sale of tobacco products or inhalant delivery systems or state taxation;

(b) Violates an ordinance adopted by a city or the governing body of a local public health authority or a rule adopted by a city or local public health authority that governs the retail sale of tobacco products or inhalant delivery systems; or

(c) Makes a false statement to the department.

(2) The department may only revoke, suspend or refuse to issue or renew a license pursuant to subsection (1)(b) of this section if a city or local public health authority:

(a) Has provided the person that holds or seeks the license, the individual who participates in the management of the premises for which the license has been or would be issued or the individual who is employed for the purpose of making retail sales at the premises with a process for contesting the violation that is substantially similar to the process provided under ORS 183.413 to 183.470; and

(b) Provides the department with a final order that establishes the person or individual is in violation of an ordinance that is substantially similar to the requirements for a final order under ORS 183.470.

(3) Except as provided by state tax law or as otherwise identified by the department by rule or order, a decision by the department to revoke, suspend or refuse to issue or renew a license under this section may be appealed as a contested case under ORS chapter 183.

SECTION 8. Civil penalty. (1) The Department of Revenue may impose a civil penalty against a person that holds or seeks a license issued under section 5 of this 2021 Act if the person that holds or seeks the license, an individual who participates in the management of the premises for which the license has been or would be issued or an individual who is employed for the purpose of making retail sales at the premises:

(a) Violates sections 1 to 15 of this 2021 Act, a rule adopted under sections 1 to 15 of this 2021 Act or any other state law or rule or federal law or regulation that governs the retail sale of tobacco products or inhalant delivery systems or state taxation; or

(b) Makes a false statement to the department.

(2) A civil penalty imposed under this section may not exceed $1,000 per violation.

(3) Amounts collected by the department under this section shall be deposited in the General Fund.

(4) Except as provided by state tax law or as otherwise identified by the department by rule or order, an imposition of a civil penalty under this section may be appealed as a contested case under ORS chapter 183.

(5) If a civil penalty is imposed under this section, a civil penalty may not be imposed for the commission of the same act under ORS 431A.178 or pursuant to an ordinance or rule adopted under section 18 of this 2021 Act.

SECTION 9. Seizure and forfeiture of contraband tobacco products and contraband inhalant delivery systems. (1) For purposes of this section, a tobacco product or inhalant delivery system sold or held for sale at or from a premises for which a license has not been issued under section 5 of this 2021 Act is a contraband tobacco product or contraband inhalant delivery system.

(2)(a) A contraband tobacco product or contraband inhalant delivery system found by the Department of Revenue or a law enforcement agency may be seized immediately by the department or agency and is subject to forfeiture. If seized and forfeited under this section, the contraband tobacco product or the contraband inhalant delivery system must be destroyed.

(b) The department or an agency may assess the actual costs incurred by the department or agency to the person responsible for the premises described in subsection (1) of this section.

(3) Notwithstanding ORS 305.280 or 323.416, a seizure and forfeiture made under this section may be appealed to the magistrate division of the Oregon Tax Court within 30 days of the date of the seizure in the manner provided in ORS 305.404 to 305.560.

SECTION 10. Suspense account for administration and enforcement. (1) Amounts collected by the Department of Revenue under section 5 of this 2021 Act shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445.

(2) From moneys held in the suspense account, the department may pay expenses for the administration and enforcement of sections 1 to 15 of this 2021 Act and the collection of fees under sections 1 to 15 of this 2021 Act. Refunds, including refunds of erroneous overpayments or refunds of other moneys received in which the department has no legal interest, shall be paid out of the suspense account.

(3) Amounts necessary to make payments as described in subsection (2) of this section are continuously appropriated to the department

from the suspense account.

SECTION 11. Rules. The Department of Revenue may adopt rules necessary for the effective administration of sections 1 to 15 of this 2021 Act.

SECTION 12. Oregon Liquor Control Commission. (1) The Department of Revenue and the Oregon Health Authority may request that the Oregon Liquor Control Commission assist the department and the authority in the administration and enforcement of ORS 431A.175 and 431A.183 and sections 1 to 15 and 18 of this 2021 Act.

(2) The department, the authority and the commission may, in collaboration with one another, adopt rules to carry out this section.

SECTION 13. Fees. The Oregon Health Authority shall adopt by rule fees necessary to pay the expenses of administering and enforcing ORS 431A.175 and 431A.183 and section 18 of this 2021 Act. Pursuant to an agreement entered into under section 14 of this 2021 Act, the Department of Revenue shall collect the fee moneys for, and transfer the fee moneys to, the authority. Moneys transferred to the authority under this section must be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys deposited in the fund under this section are continuously appropriated to the authority for the purposes of administering and enforcing ORS 431A.175 and 431A.183 and section 18 of this 2021 Act.

SECTION 14. Intergovernmental agreements. (1) The Department of Revenue and the Oregon Health Authority shall:

(a) Share information necessary for the effective administration of ORS 431A.175 and 431A.183 and sections 1 to 15 and 18 of this 2021 Act; and

(b) Enter into an agreement for purposes of collecting fee moneys for the authority pursuant to section 13 of this 2021 Act from each retailer of tobacco products or inhalant delivery systems at the same time that the department collects fee moneys under section 5 of this

2021 Act from the retailer, and transferring the fee moneys collected pursuant to section 13 of this 2021 Act to the authority for deposit in the Oregon Health Authority Fund established under ORS 413.101.

(2) The Department of Revenue, and each city and local public health authority that adopts an ordinance pursuant to section 18 of this 2021 Act, shall:

(a) Share information necessary for the effective administration of sections 1 to 15 and 18 of this 2021 Act; and

(b) Enter into an agreement for purposes of collecting any fee moneys for the city or local public health authority pursuant to section 18 of this 2021 Act from each retailer of tobacco products or inhalant delivery systems located within the area over which the city or local public health authority has jurisdiction at the same time that the department collects fee moneys under section 5 of this 2021 Act from the retailer, and transferring the fee moneys collected pursuant to section 18 of this 2021 Act to the city or local public health authority for deposit in a fund of the city or local public health authority.

(3) The Oregon Health Authority, and each city and local public health authority that adopts an ordinance pursuant to section 18 of this 2021 Act, shall share information necessary for the effective administration of ORS 431A.175 and 431A.183 and sections 1 to 15 and 18 of this 2021 Act.

SECTION 15. Suspense account for fee money transfers. (1) Amounts collected by the Department of Revenue pursuant to agreements entered into under section 14 of this 2021 Act shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445.

(2) From moneys held in the suspense account, the department shall make transfers to the Oregon Health Authority, cities and local public health authorities as required by section 14 of this 2021 Act.

(3) Amounts necessary to make transfers as described in subsection

(2) of this section are continuously appropriated to the department from the suspense account.

STATE PUBLIC HEALTH AND SAFETY LAWS

SECTION 16. ORS 431A.178 is amended to read:

431A.178. [*(1) The Oregon Health Authority may impose a civil penalty for each violation of ORS 431A.175. A civil penalty imposed under this section may not be less than $250 or more than $1,000.*]

(1) The Oregon Health Authority may impose a civil penalty against a person that engages in the wholesale or retail sale of tobacco products or inhalant delivery systems, as those terms are defined in ORS 431A.175, if the person violates:

(a) ORS 431A.175 or a rule adopted under ORS 431A.175; or

(b) A state law or rule or federal law or regulation that governs the wholesale or retail sale of tobacco products or inhalant delivery systems for purposes related to public health and safety.

(2) A civil penalty imposed under this section may not be more than $5,000 per violation.

[*(2)(a) Amounts collected under subsection (1) of this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Except as provided in paragraph (b) of this subsection, moneys deposited in the fund under this subsection are continuously appropriated to the authority for carrying out the duties, functions and powers of the authority under ORS 431A.175 and 431A.183.*]

[*(b) At the end of each biennium, the authority shall transfer the unobligated moneys collected under subsection (1) of this section remaining in the fund to the Tobacco Use Reduction Account established under ORS 431A.153.*]

(3) Amounts collected under this section shall be deposited in the General Fund.

(4) If a civil penalty is imposed under this section, a civil penalty may not be imposed for the commission of the same act under section 8 or 18 of this 2021 Act.

SECTION 17. ORS 431A.183 is amended to read:

431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agencies to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco products or inhalant delivery systems.

(b) The authority may commission employees of the authority as federal officers for the purpose of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this subsection.

(c) The authority may adopt rules and take any action necessary to carry out the authority's duties as established under an agreement entered into under paragraph (a) of this subsection.

(2)**(a)** The authority may enter into an agreement with federal, state and local government agencies, including federal, state and local law enforcement agencies, to assist the authority in carrying out the authority's duties under ORS 431A.175 and to conduct random, unannounced inspections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance with the laws of this state designed to discourage the use of tobacco products and inhalant delivery systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760, 167.765, 167.775, 167.780 and 431A.175.

(b) The authority shall ensure that a retailer is inspected as described in this subsection at least once each year.

(3)(a) If the authority enters into an agreement with the Department of State Police under subsection (2) of this section, the department may employ retired state police officers who are active reserve officers. Service by a retired state police officer under this paragraph is subject to ORS 238.082.

(b) The department may not use the services of a retired state police officer to displace an active state police member.

(4)(a) The authority may apply for and accept moneys from the federal government or other public or private sources and, in accordance with any federal restrictions or other funding source restrictions, use those moneys to carry out the duties and functions related to preventing the use of tobacco products or inhalant delivery systems by persons who are not of the minimum age to purchase tobacco products or inhalant delivery systems.

(b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other fund moneys.

(5)(a) The authority shall submit a written report each biennium to the Governor and to the appropriate committee or interim committee of the Legislative Assembly to which matters of public health are assigned.

(b) The report submitted under this subsection must contain information describing:

(A) The activities carried out to enforce the laws listed in subsection (2) of this section during the previous biennium;

(B) The extent of success achieved in reducing the availability of tobacco products and inhalant delivery systems to persons under 21 years of age; and

(C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section during the biennium following the report.

(6) The authority shall adopt rules for conducting random inspections of establishments that distribute or sell tobacco products or inhalant delivery systems. The rules shall provide that inspections may take place:

[*(a) Only in areas open to the public;*]

[*(b)*] **(a)** Only during the hours that tobacco products or inhalant delivery systems are distributed or sold; and

[*(c)*] **(b)** No more frequently than once a month in any single establishment unless a compliance problem exists or is suspected.

LOCAL REGULATION

SECTION 18. **(1) As used in this section:**

(a) "Governing body of a local public health authority" has the meaning given that term in ORS 431.003.

(b) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(c) "Local public health authority" has the meaning given that term in ORS 431.003.

(d) "Tobacco products" has the meaning given that term in ORS 431A.175.

(2) Each city and local public health authority may:

(a) Enforce, pursuant to an ordinance adopted by the city or the governing body of the local public health authority, standards for regulating the retail sale of tobacco products and inhalant delivery systems for purposes related to public health and safety in addition to the standards described in paragraph (b) of this subsection, including qualifications for engaging in the retail sale of tobacco products or inhalant delivery systems that are in addition to the qualifications described in section 5 of this 2021 Act;

(b)(A) Administer and enforce standards established by state law or rule relating to the regulation of the retail sale of tobacco products and inhalant delivery systems for purposes related to public health and safety if the city or the local public health authority and the Oregon Health Authority enter into an agreement pursuant to ORS 190.110; or

(B) Perform the duties described in this section in accordance with ORS 431.413 (2) or (3); and

(c) Use outreach and educational services to provide businesses that engage in the retail sale of tobacco products or inhalant delivery systems with information pertaining to local ordinances and rules, state laws and rules and federal laws and regulations regulating the retail sale of tobacco products and inhalant delivery systems.

(3)(a) A city or local public health authority may impose on businesses that engage in the retail sale of tobacco products or inhalant delivery systems a fee for paying the expenses of activities described in subsection (2) of this section. Pursuant to an agreement entered into under section 14 of this 2021 Act, the Department of Revenue shall collect the fee moneys for, and transfer the fee moneys to, the city or local public health authority. Moneys transferred to a city or local public health authority under this subsection must be deposited in a fund of the city or local public health authority. Moneys deposited in a fund under this subsection may only be spent by the city or local public health authority for the purposes of subsection (2) of this section.

(b)(A) The governing body of a local public health authority may, pursuant to ORS 431.415, establish a schedule for the fees described in paragraph (a) of this subsection.

(B) A city may establish a schedule for the fees described in paragraph (a) of this subsection.

(4) A city or local public health authority may impose a civil penalty not to exceed $5,000 on a business that engages in the retail sale of tobacco products or inhalant delivery systems for violating a standard described in subsection (2) of this section. If a civil penalty is imposed under this section, a civil penalty may not be imposed for the commission of the same act under ORS 431A.178 or section 8 of this 2021 Act.

(5) The Oregon Health Authority shall:

(a) Ensure that state standards established by state law and rule regarding the regulation of the retail sale of tobacco products and inhalant delivery systems are administered and enforced consistently throughout this state;

(b) Establish a database or other mechanism for collecting information from cities and local public health authorities and the general

public regarding the regulation of the retail sale of tobacco products and inhalant delivery systems for purposes related to public health and safety, including any information related to complaints about a person that makes retail sales of tobacco products or inhalant delivery systems;

(c) Provide technical assistance to cities and local public health authorities regarding the regulation of the retail sale of tobacco products and inhalant delivery systems;

(d) Assess the effectiveness of state and local programs for regulating the retail sale of tobacco products and inhalant delivery systems; and

(e) Adopt any rules necessary to implement or administer the provisions of this section.

(6)(a) A city or local public health authority may not adopt an ordinance that prohibits a premises that makes retail sales of tobacco products or inhalant delivery systems from being located at the same address as a pharmacy, as defined in ORS 689.005.

(b) A city or local public health authority that, on or before the effective date of this 2021 Act, adopted an ordinance described in paragraph (a) of this subsection may continue to enforce the ordinance on and after the effective date of this 2021 Act.

REPEAL

SECTION 19. Repeal. ORS 431A.180 is repealed.

MISCELLANEOUS

SECTION 20. Continuity. A city, governing body of a local public health authority or local public health authority that, on or before the operative date specified in section 23 of this 2021 Act, enforces stan-

dards described in section 18 (2)(a) of this 2021 Act may continue to enforce the standards on and after the operative date specified in section 23 of this 2021 Act.

SECTION 21. Applicability. The amendments to ORS 431A.178 by section 16 of this 2021 Act apply to violations for conduct occurring on or after the operative date specified in section 23 of this 2021 Act.

CAPTIONS

SECTION 22. Unit and section captions. The unit and section captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

OPERATIVE AND EFFECTIVE DATES

SECTION 23. Operative date. (1) Sections 1 to 15 and 18 of this 2021 Act, the amendments to ORS 431A.178 and 431A.183 by sections 16 and 17 of this 2021 Act and the repeal of ORS 431A.180 by section 19 of this 2021 Act become operative on January 1, 2022.

(2) The Department of Revenue, the Oregon Health Authority, the Oregon Liquor Control Commission, local public health authorities and cities may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department, the Oregon Health Authority, the commission, local public health authorities and cities to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department, the Oregon Health Authority, the commission, local public health authorities and cities by sections 1 to 15 and 18 of this 2021 Act, the amendments to ORS 431A.178 and 431A.183 by sections 16 and 17 of this 2021 Act and the repeal of ORS

431A.180 by section 19 of this 2021 Act.

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

LC 391
2021 Regular Session
44300-003
7/14/20 (LHF/ps)

D R A F T

SUMMARY

Increases fees for licenses for home health agencies.

A BILL FOR AN ACT

Relating to home health agency licensing fees; amending ORS 443.035.

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

SECTION 1. ORS 443.035 is amended to read:

443.035. (1) The Oregon Health Authority may grant a license to a home health agency or caregiver registry for a calendar year, may annually renew a license and may allow for a change of ownership, upon payment of a fee as follows:

(a) [*$1,600*] **$4,000** for a new home health agency license.

(b) [*$850*] **$2,125** for a renewal of a home health agency license.

(c) [*$500*] **$1,250** for a change of ownership of a home health agency at a time other than the annual renewal date.

(d)(A) $1,500 for a new caregiver registry license; and

(B) $750 for each subunit of a newly licensed caregiver registry.

(e)(A) $750 for a renewal of a caregiver registry license; and

(B) $750 for each subunit of a caregiver registry described in subparagraph (A) of this paragraph.

(f)(A) $350 for a change of ownership of a caregiver registry at a time other than the annual renewal date; and

(B) $350 for each subunit of a caregiver registry described in subparagraph (A) of this paragraph.

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.

(2) Notwithstanding subsection (1)(c) or (f) of this section, the fee for a change in ownership shall be $100 if a change in ownership does not involve:

(a) The majority owner or partner; or

(b) The administrator operating the agency or registry.

(3) All fees received pursuant to subsection (1) of this section shall be paid over to the State Treasurer and credited to the Public Health Account. Such moneys are appropriated continuously to the Oregon Health Authority for the administration of ORS 443.014 to 443.105.

LC 393
2021 Regular Session
44300-005
8/31/20 (SCT/ps)

D R A F T

SUMMARY

Creates exemption to prohibition on person under 21 years of age entering establishment where tobacco products or inhalant delivery systems are sold for purposes of investigating violations.

Expands prohibition against uncertified performance of lead-based paint activities and renovation.

Specifies that moneys related to prescription monitoring program be deposited in Oregon Health Authority Fund.

Provides for Oregon Health Authority management of local public health when local public health authority responsibility is transferred to Oregon Health Authority.

Provides that local public health administrator serves as ex officio member on vector control district board of trustees.

Requires Oregon Health Authority to select up to 10 recipients for grants to provide school-based health services.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to public health; creating new provisions; amending ORS 167.760, 413.101, 431A.358, 431A.880, 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 and section 23, chapter 456, Oregon Laws 2019, and section 1, chapter 601, Oregon Laws 2019; repealing ORS 431A.885; and prescribing an effective date.

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

TOBACCO PRODUCTS AND INHALANT DELIVERY SYSTEMS

SECTION 1. Section 2 of this 2021 Act is added to and made a part

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.

of ORS 167.750 to 167.785.

SECTION 2. The prohibitions provided in ORS 471.430 (3) and 475B.316 (2) do not apply to a person who is under 21 years of age and who is acting under the direction of the Oregon Health Authority, the Oregon Liquor Control Commission, a local public health authority as defined in ORS 431.003, a city or a state or local law enforcement agency for the purpose of investigating possible violations of federal, state or local laws that prohibit the sale of tobacco products or inhalant delivery systems to persons under 21 years of age.

SECTION 3. ORS 167.760 is amended to read:

167.760. (1) Except as provided in subsection (2) of this section, a person under 21 years of age may not purchase or attempt to purchase tobacco products or an inhalant delivery system.

(2) A person under 21 years of age who is acting under the supervision of a person 21 years of age or older may [*purchase or attempt to purchase tobacco products or an inhalant delivery system*]**,** for the purpose of testing compliance with a federal [*law, state law,*]**, state or** local law or retailer policy limiting or regulating the distribution or sale of tobacco products or inhalant delivery systems to persons who are under the legal minimum purchase age[.]**:**

(a) Purchase or attempt to purchase tobacco products or an inhalant delivery system; and

(b) Enter or attempt to enter an establishment, or portion of an establishment, where tobacco products or inhalant delivery systems are sold and that is posted or otherwise identified as being prohibited to the entry of persons under 21 years of age.

SECTION 4. (1) Section 2 of this 2021 Act and the amendments to ORS 167.760 by section 3 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority, the Oregon Liquor Control Commission and a local public health authority may take any action before

the operative date specified in subsection (1) of this section that is necessary to enable the commission, the Oregon Health Authority and a local public health authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission, the Oregon Health Authority and a local public health authority by section 2 of this 2021 Act and the amendments to ORS 167.760 by section 3 of this 2021 Act.

LEAD-BASED PAINT

SECTION 5. ORS 431A.358 is amended to read:

431A.358. (1) An individual may not perform or offer to perform[*, for compensation,*] lead-based paint activities unless the individual is certified as provided under ORS 431A.355 [*or is performing lead-based paint activities under the supervision of a person certified under ORS 431A.355*].

(2) A firm may not perform[*,*] or offer to perform[*, lead-based paint activities or*] **a** renovation **for compensation** unless the firm is certified as provided under ORS 431A.355 [*or is performing lead-based paint activities or renovation under the supervision of a person certified under ORS 431A.355*].

(3) A firm may not perform or offer to perform lead-based paint activities unless the firm is certified as provided under ORS 431A.355.

SECTION 6. (1) The amendments to ORS 431A.358 by section 5 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that enables the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 431A.358 by section 5 of this 2021 Act.

PRESCRIPTION MONITORING PROGRAM

SECTION 7. ORS 431A.880 is amended to read:

431A.880. (1) As used in this section, "board" means:

(a) The Oregon Medical Board;

(b) The Oregon Board of Dentistry;

(c) The Oregon Board of Naturopathic Medicine;

(d) The Oregon State Board of Nursing;

(e) The Oregon Board of Optometry; and

(f) The State Board of Pharmacy.

(2)(a) At the time of issuing or renewing a license, a board shall provide the Oregon Health Authority with the licensing information of each person licensed by the board who is authorized to prescribe or dispense controlled substances. The authority shall use the licensing information to qualify the licensee to report information to, or receive information from, the prescription monitoring program established under ORS 431A.855.

(b) A board by rule may adopt exceptions to the requirement described in paragraph (a) of this subsection.

(3)(a) In addition to other licensing fees imposed by a board on licensees, a board shall adopt rules imposing a fee of $25 per year on each person licensed by the board who is authorized to prescribe or dispense controlled substances. A board shall collect the fee at the same time the board collects other licensing fees imposed on licensees.

(b) A board shall retain 10 percent of the fees collected under paragraph (a) of this subsection to cover the costs of administering this section.

(c) On the first day of each calendar quarter, a board shall transmit 90 percent of the fees collected under paragraph (a) of this subsection during the preceding calendar quarter to the [*Electronic Prescription Monitoring Fund established in ORS 431A.885*] **Oregon Health Authority Fund established in ORS 413.101**.

(4) A board may adopt rules necessary for the administration of this section.

SECTION 8. ORS 413.101 is amended to read:

413.101. The Oregon Health Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Authority Fund shall be credited to the fund.

(1) Except as provided in subsection (2) of this section, moneys in the fund are continuously appropriated to the Oregon Health Authority for carrying out the duties, functions and powers of the authority under ORS 413.032 and 431A.183.

(2)(a) Moneys deposited in the fund pursuant to ORS 431A.880 are continuously appropriated to the authority for the purpose of carrying out ORS 431A.855 to 431A.900.

(b) The authority may accept grants, donations, gifts or moneys from any source for the purposes of carrying out ORS 431A.855 to 431A.900. Moneys received under this paragraph shall be deposited into the fund and are continuously appropriated for the purposes of carrying out ORS 431A.855 to 431A.900.

(c) Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other moneys described in this subsection.

SECTION 9. ORS 431A.885 is repealed.

SECTION 10. (1) The amendments to ORS 413.101 and 431A.880 by sections 7 and 8 of this 2021 Act and the repeal of ORS 431A.885 by section 9 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 413.101 and 431A.880 by sections 7 and 8 of this 2021 Act and the repeal of ORS 431A.885 by section 9 of this 2021 Act.

LOCAL PUBLIC HEALTH REGULATION

SECTION 11. ORS 433.006 is amended to read:

433.006. **(1) Except as provided in subsection (2) of this section,** in response to each report of a reportable disease, the local public health administrator shall [*assure*] **ensure** that investigations and control measures, as prescribed by Oregon Health Authority rule, [*shall be*] **are** conducted.

(2) If there has been a transfer of responsibility from a local public health authority to the Oregon Health Authority under ORS 431.382, the Oregon Health Authority shall ensure that investigations and control measures are conducted, as funding allows, pursuant to rules adopted by the Oregon Health Authority.

SECTION 12. ORS 433.080 is amended to read:

433.080. When the Oregon Health Authority declares by rule that mandatory testing of source persons could help a defined class of workers from being infected or infecting others with the human immunodeficiency virus, the following apply:

(1) When a source person, after having been first requested to consent to testing by rules adopted under ORS 433.065, has refused or within a time period prescribed by rule of the authority has failed to submit to the requested test, except when the exposed person has knowledge that the exposed person has a history of a positive HIV test, the exposed person may seek mandatory testing of the source person by filing a petition with the circuit court for the county in which the exposure occurred. The form for the petition shall be as prescribed by the authority and shall be obtained from the local public health department **or the Oregon Health Authority if there has been a transfer of responsibility under ORS 431.382**.

(2) The petition shall name the source person as the respondent and shall include a short and plain statement of facts alleging:

(a) The petitioner is a worker subjected to an occupational exposure or a person who has been subjected to a substantial exposure by a worker administering health care and the respondent is the source person;

(b) The petitioner is in the class of workers defined by rule of the au-

thority under this section;

(c) All procedures for obtaining the respondent's consent to an HIV test by rules adopted under ORS 433.065 have been exhausted by the petitioner and the respondent has refused to consent to the test, or within the time period prescribed by rule of the authority has failed to submit to the test;

(d) The petitioner has no knowledge that the petitioner has a history of a positive HIV test and has since the exposure, within a time period prescribed by rule of the authority, submitted a specimen from the petitioner for an HIV test; and

(e) The injury that petitioner is suffering or will suffer if the source person is not ordered to submit to an HIV test.

(3) The petition shall be accompanied by the certificate of the local public health administrator **or State Health Officer if there has been a transfer of responsibility under ORS 431.382** declaring that, based upon information in the possession of the administrator, the facts stated in the allegations under subsection (2)(a), (b) and (c) of this section are true.

(4) Upon the filing of the petition, the court shall issue a citation to the respondent stating the nature of the proceedings, the statutes involved and the relief requested and, that if the respondent does not appear at the time and place for hearing stated in the citation, that the court will order the relief requested in the petition.

(5) The citation shall be served on the respondent together with a copy of the petition by the county sheriff or deputy. The person serving the citation and petition shall, immediately after service thereof, make a return showing the time, place and manner of such service and file it with the clerk of the court.

(6) The hearing shall be held within three days of the service of the citation upon the respondent. The court may for good cause allow an additional period of 48 hours if additional time is requested by the respondent.

(7) Both the petitioner and the local public health administrator **or State Health Officer if there has been a transfer of responsibility under ORS**

431.382 certifying to the matter alleged in the petition shall appear at the hearing. The hearing of the case shall be informal with the object of resolving the issue before the court promptly and economically between the parties. The parties shall be entitled to subpoena witnesses, to offer evidence and to cross-examine. The judge may examine witnesses to insure a full inquiry into the facts necessary for a determination of the matter before the court.

(8) After hearing all of the evidence, the court shall determine the truth of the allegations contained in the petition. The court shall order the respondent to submit to the requested test by a licensed health care provider without delay if, based upon clear and convincing evidence, the court finds that:

(a) The allegations in the petition are true;

(b) The injury the petitioner is suffering or will suffer is an injury that only the relief requested will adequately remedy; and

(c) The interest of the petitioner in obtaining the relief clearly outweighs the privacy interest of the respondent in withholding consent.

(9) If the court does not make the finding described in subsection (8) of this section, the court shall dismiss the petition.

(10) Failure to obey the order of the court shall be subject to contempt proceedings pursuant to law.

SECTION 13. ORS 452.010 is amended to read:

452.010. As used in this section and ORS 452.020 to 452.300, unless the context requires otherwise:

(1) "County court" includes board of county commissioners.

(2) "District" means a vector control district established for the prevention, control or eradication of public health vectors and predatory animals.

[*(3) "Health officer" means a local public health administrator as defined in ORS 431.003.*]

[*(4)*] **(3)** "Integrated pest management methods" means the processes de-

scribed in ORS 634.650 (1).

(4) "Local public health administrator" has the meaning given the term in ORS 431.003.

(5) "Pesticide use plan" means an annual plan created by a vector control district or a county court that describes anticipated pesticide use.

(6) "Predatory animals" has the meaning given that term in ORS 610.002.

(7) "Public health vectors" means arthropods and vertebrates of public health significance and those insects included within the family Chironomidae of the order Diptera. The term does not include any domesticated animal.

(8) "Vector habitat" means any area where public health vectors are found.

SECTION 14. ORS 452.080 is amended to read:

452.080. (1) After an order is entered forming a district, the county court of the county in which the district is situated shall [*forthwith*] appoint a governing board of five trustees**.** [*each of whom shall*] **Each trustee appointed under this subsection must** be a resident and elector of the district.

[*(2) The trustees shall hold office for four years and until their successors are appointed and qualified, except that for each new board of five trustees one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for a term of four years.*]

(2)(a) Except as provided in paragraph (b) of this subsection, the term of office of a trustee is four years, and a trustee shall serve in office until a successor is appointed.

(b) For each new board of trustees established, trustees shall be appointed as follows:

(A) One trustee for a one-year term;

(B) One trustee for a two-year term;

(C) One trustee for a three-year term; and

(D) Two trustees for a four-year term.

(3) Each trustee shall take an oath to faithfully perform the duties of office. The oath shall be filed with the county clerk.

(4) The board of trustees shall elect a president, a secretary and a treasurer at the first meeting of each calendar year. Officers shall serve for one calendar year.

(5) All [*health officers*] **local public health administrators** with offices in the district shall be ex officio members of the board **of trustees** without vote and shall be offered the opportunity to assist in the creation of district plans.

(6) The board of trustees may compensate a trustee in an amount not exceeding $100 per year for attendance at conferences that provide training and education to carry out trustee duties under ORS 452.110.

(7) The board of trustees may adopt a resolution to change the name of the district. The board shall file a copy of a resolution changing the name of the district with the Secretary of State and the county clerk within 10 days after adopting the resolution. Following a name change, the district name must contain the words:

(a) Vector control district;

(b) Mosquito and vector control district;

(c) Mosquito control district; or

(d) Vector and predatory animal control district.

SECTION 15. ORS 452.120 is amended to read:

452.120. The county court shall:

(1) Call special meetings of the board **of trustees** of the district for the purposes of investigation and supervision of [*its*] **the district's** affairs. At least one meeting shall be called annually for the purpose of reviewing the activities of the district.

(2) Hold hearings of complaints of other interested persons.

(3) Require the board to furnish by February 1 of each year a proposed annual work program which shall include an estimate of funds required for the next year and a description of the work contemplated and the methods

to be employed by the district.

(4) Approve, after consultation with the [*health officers*] **local public health administrators**, the annual work program of the district before any work contracts or operations are entered into by the board.

(5) Require the board to furnish by February 1 of each year an annual report covering moneys expended, methods employed and work accomplished during the past fiscal year.

SECTION 16. ORS 452.160 is amended to read:

452.160. (1)**(a)** In addition to or in lieu of the tax levy provided for by ORS 452.153, the board of trustees of any district may, at the times and in the manner provided by law for public corporations, furnish to the county court and county accountant an estimate and statement, made pursuant to the budget laws of the state, of the amount of money necessary for all purposes required under ORS 452.020 to 452.170 during the next ensuing fiscal year.

(b) Subject to paragraph (c) of this subsection, the county court may include the amount of the estimate [*so*] made **under paragraph (a) of this subsection**, or any portion [*thereof*] **of the estimate**, in the annual budget of the county.

(c) [*However, in no one year shall the amount be greater than enough to raise the amount*] **The amount described in paragraph (b) of this subsection may not, in any one year, be greater than enough to raise the amount** determined by the board of trustees **under paragraph (a) of this subsection,** and approved by the county court and the [*health officers*] **local public health administrators** on the board. The amount budgeted, when added to any taxes levied under ORS 452.153, shall not exceed two-tenths of one percent (0.002) of the real market value of all taxable property within the district, computed in accordance with ORS 308.207.

(2) The county court, thereafter at the time and in the manner of levying taxes for state and county purposes, may levy a tax on all the taxable property in the district sufficient to raise the amount of the estimate made by

the board of trustees of the district.

(3) All taxes levied under this section shall be computed and entered on the assessment and tax rolls of the county and collected at the same time and in the same manner as state and county taxes. When collected, the taxes shall be paid into the county treasury for the use of the district. Such funds may be withdrawn only upon warrants issued by the proper authorities of the district.

SECTION 17. (1) The amendments to ORS 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 by sections 11 to 16 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority and a local public health authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the Oregon Health Authority and the local public health authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Oregon Health Authority and the local public health authority by the amendments to ORS 433.006, 433.080, 452.010, 452.080, 452.120 and 452.160 by sections 11 to 16 of this 2021 Act.

SCHOOL-BASED HEALTH SERVICES

SECTION 18. Section 1, chapter 601, Oregon Laws 2019, is amended to read:

Sec. 1. (1) The Oregon Health Authority, in consultation with the Department of Education, shall select 10 school districts or education service districts to receive planning grants for district planning and technical assistance. Each district receiving a grant, beginning on or after July 1, 2019, and concluding before July 1, 2021, shall:

(a) Evaluate the need for school-based health services in their respective communities; and

(b) Develop a plan that addresses the need identified in paragraph (a) of this subsection by drafting a proposal for a school-based health center as defined in ORS 413.225 or by designing a pilot program as described in subsection (5)(b) of this section to test an alternative approach to providing school-based health services.

(2) Each grantee shall consult with a nonprofit organization with experience in organizing community projects, or a local organization that coordinates with a statewide nonprofit organization, to facilitate the planning process and to provide technical assistance.

(3) Each grantee shall solicit community participation in the planning process, including the participation of the local public health authority, any federally qualified health centers located in the district, a regional health equity coalition, if any, serving the district and every coordinated care organization with members residing in the district.

(4) The Oregon Health Authority may contract with a statewide nonprofit organization with experience in supporting school-based health centers to create tools and provide support to grantees during the community engagement and planning process.

(5) At the conclusion of the two-year planning process[*:*]

[*(a) The authority shall select at least six school-based health center medical sponsors to each receive operating funds based on a school-based health center funding formula, to*]**, the authority shall select up to 10 entities in respective grantee school districts or education service districts to receive operating funds to either:**

(a) Open a state-certified school-based health center [*in respective grantee school districts or education service districts.*]**, based on a school-based health center funding formula; or**

(b) [*Contingent upon available funds, the authority may select up to four school districts or education service districts to each receive operating funds, for a five-year period, to*] Pilot**, for a five-year period,** an approach to providing school-based health services as an alternative model to the school-

based health center model. The alternative approach pilot programs may be designed to focus services on a specific community need, such as a need for mental health services, school nursing services, dental services, primary care or trauma-informed services, and may:

(A) Involve a partnership with a coordinated care organization, a federally qualified health center, a local public health authority or another major medical sponsor; and

(B) Identify a process for billing insurance, medical assistance or another third-party payer, or identify other funding, for the cost of services.

(6) By the end of the fourth year of the five-year period described in subsection (5)(b) of this section:

(a) Each school district or education service district piloting an alternative approach to providing school-based health services either commits to establish a school-based health center or proposes an alternative model to the authority and the Legislative Assembly.

(b) The authority may use the data collected and the recommendations of the school districts to adopt rules establishing flexible, outcome-based criteria for certification of the alternative approaches developed and implemented by the [*four*] grantees **piloting alternative models under subsection (5)(b) of this section**.

(7) As used in this section, "regional health equity coalition" means a coalition that:

(a) Is independent of coordinated care organizations and government agencies, community-led, cross-sector and focused on addressing rural and urban health inequities for communities of color, Oregon's federally recognized Indian tribes, immigrants, refugees, migrant and seasonal farm workers, low-income populations, persons with disabilities and persons who are lesbian, gay, bisexual, transgender or questioning, with communities of color as the priority;

(b) May include as member organizations a federally recognized Indian tribe, a culturally specific organization, a social service provider, a health

care organization, a public health research organization, a behavioral health organization, a private foundation or a faith-based organization;

(c) Develops governance structures that include members of communities impacted by health inequities;

(d) Has a decision-making body on which more than half of the persons are self-identified persons of color and more than half of the persons experience health inequities;

(e) Prioritizes selection of organizational representatives who are self-identified persons of color or have a role related to health equity;

(f) Operates on a model that honors community wisdom by promoting solutions that build on community strengths and recognizes the impact of structural, institutional and interpersonal racism on the health and well-being of communities of color; and

(g) Focuses on:

(A) Meaningful community engagement;

(B) Coalition building, developing a governance structure for the coalition and creating operating systems for the daily and long term functioning of the coalition led by individuals with demonstrated leadership and expertise in promoting and improving health equity;

(C) Building capacity and leadership among coalition members, staff and decision-making bodies to address health equity and the social determinants of health; and

(D) Developing and advocating for policy, system and environmental changes to improve health equity in this state.

HEALTH LICENSING OFFICE

SECTION 19. Section 23, chapter 456, Oregon Laws 2019, is amended to read:

Sec. 23. The amendments to ORS [*676.150,*] 676.560, 676.565, 676.579, [*676.590, 676.595,*] 676.608, 676.612, 676.613 and 676.622 by sections [*13 to 22*

of this 2019 Act] **14 to 16 and 19 to 22, chapter 456, Oregon Laws 2019,** apply to complaints and reports received on or after [*the operative date specified in section 24 of this 2019 Act*] **January 1, 2020**.

CAPTIONS

SECTION 20. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EFFECTIVE DATE

SECTION 21. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

LC 394
2021 Regular Session
44300-006
7/16/20 (SCT/ps)

D R A F T

SUMMARY

Directs Oregon Health Authority to study public health. Requires report to interim committee of Legislative Assembly related to public health.

Sunsets January 2, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public health; and declaring an emergency.

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

SECTION 1. The Oregon Health Authority shall study public health in this state. The authority shall report its findings and recommendations to an interim committee of the Legislative Assembly related to public health no later than December 31, 2021.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2022.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

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.

LC 395
2021 Regular Session
44300-007
6/17/20 (SCT/ps)

D R A F T

SUMMARY

Increases prescription monitoring program fees from $25 to $35.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to prescription monitoring program fees; creating new provisions; amending ORS 431A.880; and prescribing an effective date.

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

SECTION 1. ORS 431A.880 is amended to read:

431A.880. (1) As used in this section, "board" means:

(a) The Oregon Medical Board;

(b) The Oregon Board of Dentistry;

(c) The Oregon Board of Naturopathic Medicine;

(d) The Oregon State Board of Nursing;

(e) The Oregon Board of Optometry; and

(f) The State Board of Pharmacy.

(2)(a) At the time of issuing or renewing a license, a board shall provide the Oregon Health Authority with the licensing information of each person licensed by the board who is authorized to prescribe or dispense controlled substances. The authority shall use the licensing information to qualify the licensee to report information to, or receive information from, the prescription monitoring program established under ORS 431A.855.

(b) A board by rule may adopt exceptions to the requirement described in paragraph (a) of this subsection.

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.

(3)(a) In addition to other licensing fees imposed by a board on licensees, a board shall adopt rules imposing a fee of [*$25*] **$35** per year on each person licensed by the board who is authorized to prescribe or dispense controlled substances. A board shall collect the fee at the same time the board collects other licensing fees imposed on licensees.

(b) A board shall retain 10 percent of the fees collected under paragraph (a) of this subsection to cover the costs of administering this section.

(c) On the first day of each calendar quarter, a board shall transmit 90 percent of the fees collected under paragraph (a) of this subsection during the preceding calendar quarter to the Electronic Prescription Monitoring Fund established in ORS 431A.885.

(4) A board may adopt rules necessary for the administration of this section.

SECTION 2. The amendments to ORS 431A.880 by section 1 of this 2021 Act apply to fees collected on or after the operative date specified in section 3 (1) of this 2021 Act.

SECTION 3. (1) The amendments to ORS 431A.880 by section 1 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority and the boards listed in ORS 431A.880 may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the boards to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority and the boards by the amendments to ORS 431A.880 by section 1 of this 2021 Act.

SECTION 4. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

LC 396
2021 Regular Session
44300-008
9/10/20 (SCT/vsr/ps)

D R A F T

SUMMARY

Establishes vendor license and annual fee for persons engaging in certain conduct regarding radiation devices and equipment, including X-ray machines and tanning devices. Modifies registration fee for certain radiation devices and equipment from per machine basis to per tube basis. Increases registration fee for tanning devices.

Becomes operative January 1, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to radiation; creating new provisions; amending ORS 453.001, 453.605, 453.729 and 453.757; and declaring an emergency.

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

SECTION 1. ORS 453.001 is amended to read:

453.001. As used in ORS 453.001 to 453.185 [*and 453.605 to 453.807*], unless the context requires otherwise:

(1) "Authority" means the Oregon Health Authority.

(2) "Director" means the Director of the Oregon Health Authority.

SECTION 2. ORS 453.605 is amended to read:

453.605. As used in ORS 453.605 to 453.800, unless the context requires otherwise:

[*(1) "Authority" means the Oregon Health Authority.*]

[*(2)*] **(1)** "By-product material" means radioactive material, other than special nuclear material, that is yielded or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

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.

[*(3) "Director" means the Director of the Oregon Health Authority.*]

[*(4)*] **(2)** "Electronic product" means any manufactured product or device or component part of such a product or device that has an electronic circuit which during operation can generate or emit a physical field of radiation, such as, but not limited to microwave ovens, laser systems or diathermy machines.

[*(5)*] **(3)** "Federal government" means the United States or any agency or instrumentality of the United States.

[*(6)*] **(4)** "General license" means a license, effective under rules of the [*authority*] **Oregon Health Authority** without the filing of an application, to acquire, own, possess, use or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

[*(7)*] **(5)** "Person" means any of the following other than the United States Atomic Energy Commission or any successor thereto:

(a) Individual, group, association, firm, partnership, corporation, trust, estate, agency or public or private institution;

(b) Political subdivision or agency of this state;

(c) State other than this state or any political subdivision or agency of a state other than this state; or

(d) The legal successor, representative, agent or agency of a person listed in paragraphs (a) to (c) of this subsection.

[*(8)*] **(6)** "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons and other atomic or nuclear particles or rays.

(b) Any electromagnetic radiation that can be generated during the operations of electronic products and that the [*authority*] **Oregon Health Authority** has determined to present a biological hazard to the occupational or public health and safety but does not mean electromagnetic radiation that can be generated during the operation of an electronic product that is li-

censed by the Federal Communications Commission.

(c) Any sonic, ultrasonic or infrasonic waves that are emitted from an electronic product as a result of the operation of an electronic circuit in such product and that the authority has determined to present a biological hazard to the occupational or public health and safety.

[*(9)*] **(7)** "Source material" means:

(a) Uranium, thorium or any other material that the [*authority*] **Oregon Health Authority** declares to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be source material; or

(b) Ore that contains such a concentration of one or more materials mentioned in paragraph (a) of this subsection that the authority declares the ore to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined such ore to be source material.

[*(10)*] **(8)** "Special nuclear material" means any of the following that is not source material:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or any other material that the [*authority*] **Oregon Health Authority** declares to be capable of releasing substantial quantities of atomic energy by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be special nuclear material.

(b) Material artificially enriched by any material mentioned in paragraph (a) of this subsection.

[*(11)*] **(9)** "Specific license" means a license, issued after application, to receive, acquire, own, possess, use, manufacture, produce or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material or special nuclear material or other radioactive material that occurs naturally or is

produced artificially.

(10) "Vendor" means a person who is licensed under section 6 of this 2021 Act.

[*(12)*] **(11)** "X-ray machine" means a device or equipment that produces radiation when in operation but does not utilize by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

[*(13)*] **(12)** "X-ray machine registration" means an authorization granted by the [*authority*] **Oregon Health Authority** allowing the operation of an X-ray machine.

SECTION 3. ORS 453.757 is amended to read:

453.757. [*(1) The Oregon Health Authority shall charge a biennial registration fee for a registration granted pursuant to ORS 453.752 in the following amounts:*]

[*(a) For a hospital, radiological, chiropractic, osteopathic or medical X-ray machine, $285.*]

[*(b) For a hospital X-ray machine when X-ray machine inspection is performed by an accredited radiology inspector, $145.*]

[*(c) For an industrial or podiatry X-ray machine, $190.*]

[*(d) For a dental, academic or veterinary X-ray machine, $140.*]

[*(e) For a microwave oven repair facility, $140.*]

(1) The Oregon Health Authority shall impose the following biennial registration fees for a registration issued under ORS 453.752:

(a) For a dental, academic or veterinary X-ray tube, $210.

(b) For an industrial or podiatry X-ray tube, $285.

(c) For a hospital, radiological, chiropractic, osteopathic or medical X-ray tube, $427.

(d) For a computed tomography X-ray tube, $600.

(e) For a mammography X-ray tube, $800.

(f) For a therapy or interventional X-ray tube, $1,000.

(g) For a microwave oven repair facility, $140.

(2) The authority shall [*charge*] **impose** an annual license fee for a specific license [*granted pursuant to*] **granted under** ORS 453.665 that may not exceed $5,000 as determined by the authority by rule and approved by the Oregon Department of Administrative Services.

(3) The fees described in subsections [*(1)(e)*] **(1)(g)** and (2) of this section are due and payable as prescribed by the authority by rule.

(4) The authority shall impose a $264 fee for:

(a) Initial accreditation as a radiology inspector; and

(b) Biennially renewing accreditation as a radiology inspector.

(5) All moneys received by the authority under subsections [*(1)(e)*] **(1)(g)** and (2) of this section shall be paid into the State Treasury, deposited in the General Fund to the credit of the Public Health Account, and used by the authority exclusively for the purposes of ORS 453.605 to 453.800.

SECTION 4. ORS 453.729 is amended to read:

453.729. (1) The Oregon Health Authority shall adopt by rule standards and a system of registration for tanning devices. Any entity doing business in this state as a tanning facility must register with the authority, in a manner prescribed by the authority by rule, each tanning device at the tanning facility that is accessible by an individual who is afforded the use of a tanning device as a condition or benefit or as part of a membership in exchange for a fee or other compensation.

(2) The registration shall include payment of an annual registration fee, not to exceed [*$150*] **$200** per tanning device, in an amount prescribed by the authority by rule that is sufficient to cover the costs of administering the regulatory program.

(3) The authority may conduct inspections of tanning facilities to ensure compliance with ORS 453.726 to 453.734.

SECTION 5. Section 6 of this 2021 Act is added to and made a part of ORS 453.605 to 453.800.

SECTION 6. (1) Each person shall obtain a vendor license from the Oregon Health Authority before engaging in the business of:

(a) Selling, leasing, transferring, lending, installing, marketing, servicing, inspecting, repairing or calibrating a radiation device or equipment, including an X-ray machine and tanning device; or

(b) Providing consulting services to an owner or operator of a radiation device or equipment, including an X-ray machine and tanning device.

(2) The authority shall require a person to pay an annual $500 fee to obtain or renew the vendor license under subsection (1) of this section.

(3) The authority may adopt rules to carry out this section.

SECTION 7. (1) Sections 6 of this 2021 Act and the amendments to ORS 453.001, 453.605, 453.729 and 453.757 by sections 1 to 4 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 6 of this 2021 Act and the amendments to ORS 453.001, 453.605, 453.729 and 453.757 by sections 1 to 4 of this 2021 Act.

SECTION 8. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

LC 397
2021 Regular Session
44300-009
11/6/20 (SCT/ps)

D R A F T

SUMMARY

Establishes Emergency Health Care Systems Program and Emergency Health Care System Advisory Board within Oregon Health Authority. Directs authority to designate emergency health care centers for provision of cardiac and pediatric emergency health care. Modifies terminology related to emergency medical services. Authorizes Governor to make available for use emergency medical services personnel and equipment. Creates offense of unlawful operation of unlicensed emergency medical services agency. Punishes by maximum of 364 days' imprisonment, $6,250 fine, or both. Becomes operative January 1, 2022.

Directs authority to designate emergency health care regions within state. Becomes operative January 1, 2023.

Directs authority to designate emergency health care centers for provision of stroke and trauma emergency health care. Directs program to establish emergency health care data systems for collection of information related to emergency health care in this state. Requires licensure for nontransport EMS service. Defines "nontransport EMS service." Becomes operative January 1, 2025.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to emergency medical services; creating new provisions; amending ORS 146.015, 181A.375, 353.450, 431A.055, 431A.100, 441.020, 442.507, 442.870, 445.030, 478.260, 682.017, 682.025, 682.031, 682.035, 682.041, 682.045, 682.047, 682.051, 682.056, 682.059, 682.062, 682.063, 682.066, 682.068, 682.075, 682.079, 682.085, 682.089, 682.105, 682.107, 682.204, 682.208, 682.216, 682.218, 682.220, 682.224 and 682.245; repealing ORS 431A.050, 431A.055, 431A.060, 431A.065, 431A.070, 431A.075, 431A.080, 431A.085, 431A.090, 431A.095, 431A.100, 431A.105, 431A.525, 431A.530, 682.027 and 682.039; and prescrib-

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.

ing an effective date.

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

OREGON EMERGENCY HEALTH CARE SYSTEM 2022

SECTION 1. Sections 2 to 10 of this 2021 Act are added to and made a part of ORS chapter 682.

SECTION 2. Sections 2 to 10 of this 2021 Act shall be known as the Oregon Emergency Health Care Systems Act.

SECTION 3. (1) The Emergency Health Care Systems Program is established within the Oregon Health Authority for the purpose of administering a comprehensive statewide emergency health care system developed by the authority in cooperation with representatives of emergency health care professions. The system must include:

(a) The regulation of emergency medical services agencies;

(b) The regulation, training and licensing of emergency medical services providers; and

(c) The development and maintenance of emergency health care data systems.

(2) The program shall be administered by a director who:

(a) Is responsible for conducting emergency health care system oversight and identifying and implementing best practices for patient safety.

(b) Shall apply funds allocated to the program in the following order of priority:

(A) Development of state and regional standards of care;

(B) Development of a statewide educational curriculum to teach the standards of care;

(C) Implementation of quality improvement programs; and

(D) Support for and enhancement of the state's emergency health care system.

(c) May adopt rules as necessary to carry out the director's duties and responsibilities described in this subsection.

(3) The program shall have a State EMS Medical Director who is responsible for:

(a) Providing specialized medical oversight in the development and administration of the program;

(b) Implementing emergency health care system quality improvement measures;

(c) Undertaking research and providing public education regarding emergency health care systems; and

(d) Serving as a liaison with emergency medical services agencies, emergency health care centers, hospitals, state and national emergency medical services professional organizations and state and federal partners.

(4) The authority shall publish, on a website operated by or on behalf of the program, a biennial report regarding the program's activities.

SECTION 4. (1) The Emergency Health Care System Advisory Board is established within the Oregon Health Authority. The authority shall provide staffing for the board. The board consists of 15 members appointed by the Director of the Oregon Health Authority. Of the members of the board:

(a) One must be a physician who specializes in the treatment of trauma patients;

(b) One must be a physician who specializes in the treatment of stroke patients;

(c) One must be a physician who specializes in the treatment of pediatric patients;

(d) One must by a physician who specializes in the treatment of cardiac patients;

(e) One must be a physician who specializes in the treatment of

medical emergencies;

(f) One must be a physician who is an EMS medical director;

(g) One must be a hospital administrator in a hospital that operates an emergency department;

(h) One must be a person who represents a private emergency medical services agency licensed under ORS 682.047 and who is an emergency medical services provider licensed under ORS 682.216;

(i) One must be a person who represents a public emergency medical services agency licensed under ORS 682.047 and who is an emergency medical services provider licensed under ORS 682.216;

(j) Two must be persons who are patient advocates, one of whom specializes in health equity and one of whom specializes in behavioral health;

(k) One must be a representative of a third-party payer of health care insurance;

(L) One must be an emergency medical services provider who works in an area of Oregon that borders another state; and

(m) Two must be nurses who manage staff in an emergency department of a hospital.

(2)(a) The physician members of the board must be physicians licensed under ORS chapter 677 who are in good standing.

(b) The nurse members of the board must be nurses licensed to practice under ORS 678.010 to 678.410 who are in good standing.

(c) The members of the board who represent emergency medical service agencies must hold valid licenses in good standing.

(3) Board membership must reflect the geographic, cultural, linguistic and economic diversity of this state.

(4) The term of office of each member of the board is four years, but a member serves at the pleasure of the Director of the Oregon Health Authority. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 1

next following. A member is eligible for reappointment for no more than two consecutive terms. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(5) The board shall choose a chairperson and shall meet at the call of the authority.

(6) A member of the board is entitled to compensation and expenses as provided under ORS 292.495.

(7) The board may adopt rules as necessary to carry out its duties under sections 2 to 10 of this 2021 Act.

SECTION 5. The Emergency Health Care System Advisory Board shall:

(1) Provide advice and recommendations to the Oregon Health Authority on the following:

(a) A definition of "patient" for purposes of emergency health care;

(b) Emergency health care workforce needs;

(c) Coordination of care between health care specialties; and

(d) Other matters as determined by the authority.

(2) Convene the following permanent advisory committees:

(a) Time-Sensitive Medical Emergencies Advisory Committee, as described in section 6 of this 2021 Act;

(b) Emergency Medical Services Advisory Committee, as described in section 8 of this 2021 Act; and

(c) Pediatric Emergency Medical Services Advisory Committee, as described in section 7 of this 2021 Act.

SECTION 6. (1) The Time-Sensitive Medical Emergencies Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the board and the authority regarding time-sensitive medical emergencies,

including cardiac, stroke and trauma emergencies, on the following objectives:

(a) The regionalization and improvement of care for time-sensitive medical emergencies; and

(b) The designation of emergency health care centers for the provision of care for time-sensitive medical emergencies.

(3) The committee shall:

(a) Advise the board and the authority with respect to the authority's duties related to cardiac, stroke and trauma care;

(b) Advise the board and the authority on the adoption of rules related to cardiac, stroke and trauma care;

(c) Analyze data related to cardiac, stroke and trauma emergencies; and

(d) Suggest improvements to the board and the authority to the Emergency Health Care Systems Program regarding cardiac, stroke and trauma care.

(4) The authority may adopt rules as necessary to carry out this section.

SECTION 7. (1) The Pediatric Emergency Medical Services Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the board and the authority regarding pediatric medical emergencies on the following objectives:

(a) The integration of pediatric emergency medical services into the Emergency Health Care Systems Program;

(b) The regionalization and improvement of care for pediatric medical emergencies; and

(c) The designation of emergency health care centers for the provision of care for pediatric medical emergencies.

(3) With the advice of the Pediatric Emergency Medical Services Advisory Committee, the authority shall:

(a) Employ or contract with professional, technical, research and clerical staff to implement this subsection.

(b) Provide technical assistance to the Emergency Medical Services Advisory Committee on the integration of an emergency medical services for children program into the Emergency Health Care Systems Program.

(c) Provide advice and technical assistance to the Time-Sensitive Medical Emergencies Advisory Committee on the regionalization of an emergency medical services for children program.

(d) Establish guidelines for:

(A) The designation of specialized regional pediatric critical care centers and pediatric trauma care centers.

(B) Referring children to appropriate emergency or critical care centers.

(C) Necessary prehospital and other pediatric emergency and critical care medical service equipment.

(D) Developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care or pediatric subspecialty care.

(E) An interfacility transfer system for critically ill or injured children.

(F) Continuing professional education programs for emergency medical services personnel, including training in the emergency care of infants and children.

(G) A public education program concerning the emergency medical services for children program, including information on emergency access telephone numbers.

(H) The collection and analysis of statewide pediatric emergency

and critical care medical services data from emergency and critical care medical service facilities for the purpose of quality improvement by those facilities, subject to relevant confidentiality requirements.

(I) The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency and critical care services.

(J) Coordination and cooperation between the emergency medical services for children program and other public and private organizations interested or involved in emergency and critical care for children.

(4) The authority may adopt rules as necessary to carry out this section.

SECTION 8. (1) The Emergency Medical Services Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the Emergency Health Care System Advisory Board and the authority regarding emergency medical services, including on the following objectives:

(a) The regionalization and improvement of emergency medical services, including the coordination and planning of emergency medical services efforts;

(b) The designation of emergency health care centers for the provision of care for medical emergencies; and

(c) The adoption of rules related to emergency medical services.

(3) The chairperson of the committee shall appoint an advisory subcommittee on the licensure and discipline of emergency medical service providers. The subcommittee shall advise the authority and the Oregon Medical Board on the adoption of rules under this subsection.

(4) The committee may:

(a) Assist the Time-Sensitive Medical Emergencies Advisory Committee and the Pediatric Emergency Medical Services Advisory Committee in coordination and planning efforts; and

(b) Provide other assistance to the Emergency Health Care System Advisory Board as the board requests.

(5) The authority may adopt rules as necessary to carry out this section.

SECTION 9. (1) The Oregon Health Authority shall designate emergency health care centers for the provision of cardiac and pediatric patient care.

(2) The authority shall develop standards for emergency health care centers designated under subsection (1) of this section that:

(a) Specify the type of care that the emergency health care center is designated to provide; and

(b) Provide for the monitoring and assurance of quality care to patients.

(3) All findings and conclusions, interviews, reports, studies, communications and statements procured by or provided to the authority or the Emergency Health Care System Advisory Board in connection with obtaining data necessary to perform patient care quality assurance functions are confidential pursuant to ORS 192.338, 192.345 and 192.355.

(4)(a) All data, including written reports, notes, records and recommendations, received or compiled by the Emergency Health Care System Advisory Board in conjunction with the authority's duties under subsection (2) of this section are confidential, privileged, nondiscoverable and inadmissible in any proceeding.

(b) A person serving on or communicating with the Emergency Health Care System Advisory Board may not be:

(A) Examined as to any communications with, or findings or rec-

ommendations of, the Emergency Health Care System Advisory Board; or

(B) Subject to an action for civil damages for actions taken or statements made in good faith.

(c) Nothing in this section affects the admissibility of evidence of a party's medical records dealing with the party's medical care that are not otherwise confidential or privileged.

(d) The confidentiality provisions of ORS 41.675 and 41.685 apply to the duties of the authority described in subsection (2) of this section, and any monitoring and quality assurance activities of the Emergency Health Care System Advisory Board.

(5) Notwithstanding subsection (4)(a) of this section, all final reports by the authority and the Emergency Health Care System Advisory Board must be available to the public. The final reports may not contain any personally identifiable information.

SECTION 10. (1) The Oregon Health Authority shall adopt rules to specify statewide emergency health care objectives and standards.

(2) The authority may adopt other rules as necessary to carry out sections 2 to 10 of this 2021 Act.

SECTION 11. (1) Notwithstanding the term of office specified in section 4 of this 2021 Act, of the members first appointed to the Emergency Health Care System Advisory Board:

(a) Three shall serve for a term ending December 31, 2022.

(b) Four shall serve for a term ending December 31, 2023.

(c) Four shall serve for a term ending December 31, 2024.

(d) Four shall serve for a term ending December 31, 2025.

(2) The Director of the Oregon Health Authority may appoint to the Emergency Health Care System Advisory Board members of the State Trauma Advisory Board established under ORS 431A.055, the Stroke Care Committee established under ORS 431A.525 and the State Emergency Medical Service Committee established under ORS 682.039 who

meet the membership requirements described in section 4 of this 2021 Act.

SECTION 12. ORS 431A.055 is amended to read:

431A.055. (1) The State Trauma Advisory Board is established within the Oregon Health Authority. The board must have at least 18 members. The Director of the Oregon Health Authority shall appoint at least 17 voting members as described in subsection (2) of this section. The chairperson of the [*State Emergency Medical Service Committee established under ORS 682.039*] **Emergency Medical Services Advisory Committee**, or the chairperson's designee, shall be a nonvoting **ex officio** member.

(2) The director shall, subject to subsection (3) of this section, appoint members to serve on the State Trauma Advisory Board, including:

(a) At least one member from each area trauma advisory board described in ORS 431A.070.

(b) At least two physicians who are trauma surgeons from each trauma center designated by the authority as a Level I trauma center.

(c) From trauma centers designated by the authority as Level I or Level II trauma centers, at least one physician who is a neurosurgeon or orthopedic surgeon.

(d) From trauma centers designated by the authority as Level I trauma centers:

(A) At least one physician who practices emergency medicine; and

(B) At least one nurse who is a trauma program manager.

(e) From trauma centers designated by the authority as Level II trauma centers:

(A) At least one physician who is a trauma surgeon; and

(B) At least one nurse who is a trauma coordinator.

(f) From trauma centers designated by the authority as Level III trauma centers:

(A) At least one physician who is a trauma surgeon or who practices emergency medicine; and

(B) At least one nurse who is a trauma coordinator.

(g) At least one nurse who is a trauma coordinator from a trauma center designated by the authority as a Level IV trauma center.

(h) From a predominately urban area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(i) From a predominately rural area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(j) At least two public members.

(k) At least one representative from a public safety answering point.

(3) In appointing members under subsection (2)(j) of this section, the director may not appoint a member who has an economic interest in the provision of emergency medical services or trauma care.

(4)(a) The State Trauma Advisory Board shall:

(A) Advise the authority with respect to the authority's duties and responsibilities under ORS 431A.050 to 431A.080, 431A.085, 431A.090, 431A.095[,] **and** 431A.100 [*and 431A.105*];

(B) Advise the authority with respect to the adoption of rules under ORS 431A.050 to 431A.080, 431A.085[,] **and** 431A.095 [*and 431A.105*];

(C) Analyze data related to the emergency medical services and trauma system developed pursuant to ORS 431A.050; and

(D) Suggest improvements to the emergency medical services and trauma system developed pursuant to ORS 431A.050.

(b) In fulfilling the duties, functions and powers described in this subsection, the board shall:

(A) Make evidence-based decisions that emphasize the standard of care attainable throughout this state and by individual communities located in this state; and

(B) Seek the advice and input of coordinated care organizations.

(5)(a) The State Trauma Advisory Board may establish a Quality Assur-

ance Subcommittee for the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding ORS 414.227, meetings of the subcommittee are not subject to ORS 192.610 to 192.690.

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to ORS 192.311 to 192.478.

(6) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(7) Official action taken by the board requires the approval of a majority of the voting members of the board.

(8) The board shall nominate and elect a chairperson from among its voting members.

(9) The board shall meet at the call of the chairperson or of a majority of the voting members of the board.

(10) The board may adopt rules necessary for the operation of the board.

(11) The term of office of each voting member of the board is four years, but a voting member serves at the pleasure of the director. Before the expiration of the term of a voting member, the director shall appoint a successor whose term begins January 1 next following. A voting member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(12) Members of the board are not entitled to compensation, but may be reimbursed from funds available to the Oregon Health Authority, for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495.

SECTION 13. ORS 431A.100 is amended to read:

431A.100. (1) As used in this section, "individually identifiable information" means:

(a) Individually identifiable health information as that term is defined in ORS 179.505; and

(b) Information that could be used to identify a health care provider, nontransporting prehospital care provider, ambulance service medical transportation agency or health care facility.

(2) Notwithstanding ORS 431A.090, individually identifiable information may be released from the Oregon Trauma Registry:

(a) For use in executive session to conduct specific case reviews by:

(A) The State Trauma Advisory Board or any area trauma advisory board; **or**

[*(B) The State Emergency Medical Service Committee; or*]

[*(C)*] **(B)** [*The Emergency Medical Services for Children Advisory Committee*] **The Pediatric Emergency Medical Services Advisory Committee**.

(b) To the Oregon Health Authority for purposes related to the administration of public health programs, including:

(A) The establishment of a registry of information related to brain injury trauma as described in ORS 431A.085 (6); and

(B) The performance of epidemiological investigations of the causes of and risk factors associated with trauma injuries.

(c) To an emergency medical services provider or a designated trauma center for purposes related to quality of service assurance and improvement, if the information is related to the treatment of an individual by the provider or center.

(d) To the Department of Human Services for purposes related to enabling the department to plan for and provide services to individuals adversely affected by trauma injuries, if the department agrees to use the information only for the purposes described in this paragraph and to maintain the confidentiality of the information.

(e) To a person conducting research if:

(A) An institutional review board has approved the research in accord-

ance with 45 C.F.R. part 46; and

(B) The person agrees to maintain the confidentiality of the information.

(f) To the designated official of an ambulance service or to a nontransporting prehospital care provider pursuant to ORS 682.056.

(3) The Oregon Health Authority may release only the minimum amount of individually identifiable information necessary to carry out the purposes for which the information is released under this section.

SECTION 14. ORS 431A.105 is repealed.

SECTION 15. (1) Sections 2 to 10 of this 2021 Act, the amendments to ORS 431A.055 and 431A.100 by sections 12 and 13 of this 2021 Act and the repeal of ORS 431A.105 by section 14 of this 2021 Act become operative on January 1, 2022.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by sections 2 to 10 of this 2021 Act, the amendments to ORS 431A.055 and 431A.100 by sections 12 and 13 of this 2021 Act and the repeal of ORS 431A.105 by section 14 of this 2021 Act.

OREGON EMERGENCY HEALTH CARE SYSTEM 2023

SECTION 16. Section 17 of this 2021 Act is added to and made a part of ORS chapter 682.

SECTION 17. (1) The Oregon Health Authority shall, with the advice of the Emergency Health Care System Advisory Board, designate emergency health care regions that are consistent with local resources, geography and current patient referral patterns. The authority and the Emergency Health Care System Advisory Board shall establish a regional emergency health care advisory board for each

designated emergency health care region. The authority and the Emergency Health Care System Advisory Board may determine the membership of each regional emergency health care advisory board, and shall ensure that the membership reflects the geographic, cultural, linguistic and economic diversity of the emergency health care region.

(2) Each emergency health care region must include at least one hospital categorized according to the emergency health care region's emergency health care capabilities as determined by standards adopted by the authority by rule.

(3) The authority, with the advice of the Emergency Health Care System Advisory Board, shall appoint the members of the regional emergency health care advisory boards. Members serve at the pleasure of the authority. Each regional emergency health care advisory board is responsible for:

(a) The development and maintenance of a regional emergency health care system plan as described in subsection (4) of this section;

(b) Central medical direction for all field care and transportation consistent with geographic and current communications capability; and

(c) Patient triage protocols for time-sensitive emergencies.

(4) Each regional emergency health care system plan:

(a) Must include the following:

(A) A recommendation of hospitals in the emergency health care region to be designated by the authority as emergency health care centers under section 9 of this 2021 Act;

(B) A description of the patient triage protocols to be used in the emergency health care region;

(C) A description of the transportation of patients, including the transportation of patients who are members of health maintenance organizations, as defined in ORS 442.015;

(D) Information regarding how the emergency health care region will coordinate with state and regional disaster preparedness efforts; and

(E) Any other information required by the authority by rule.

(b) Must be approved by the authority prior to implementation.

(c) May be revised with the approval of the authority.

(5) The authority, with the advice of the Emergency Health Care System Advisory Board, may implement the regional emergency health care system plans and may make any changes to the regional emergency health care system plans.

SECTION 18. Section 4 of this 2021 Act is amended to read:

Sec. 4. (1) The Emergency Health Care System Advisory Board is established within the Oregon Health Authority. The authority shall provide staffing for the board. The board consists of 15 members appointed by the Director of the Oregon Health Authority. Of the members of the board:

(a) One must be a physician who specializes in the treatment of trauma patients;

(b) One must be a physician who specializes in the treatment of stroke patients;

(c) One must be a physician who specializes in the treatment of pediatric patients;

(d) One must by a physician who specializes in the treatment of cardiac patients;

(e) One must be a physician who specializes in the treatment of medical emergencies;

(f) One must be a physician who is an EMS medical director;

(g) One must be a hospital administrator in a hospital that operates an emergency department;

(h) One must be a person who represents a private emergency medical services agency licensed under ORS 682.047 and who is an emergency medical services provider licensed under ORS 682.216;

(i) One must be a person who represents a public emergency medical services agency licensed under ORS 682.047 and who is an emergency medical services provider licensed under ORS 682.216;

(j) Two must be persons who are patient advocates, one of whom specializes in health equity and one of whom specializes in behavioral health;

(k) One must be a representative of a third-party payer of health care insurance;

(L) One must be an emergency medical services provider who works in an area of Oregon that borders another state; and

(m) Two must be nurses who manage staff in an emergency department of a hospital.

(2)(a) The physician members of the board must be physicians licensed under ORS chapter 677 who are in good standing.

(b) The nurse members of the board must be nurses licensed to practice under ORS 678.010 to 678.410 who are in good standing.

(c) The members of the board who represent emergency medical services agencies must hold valid licenses in good standing.

(3) Board membership must reflect the geographic, cultural, linguistic and economic diversity of this state **and must include at least one representative from each emergency health care region designated under section 17 of this 2021 Act**.

(4) The term of office of each member of the board is four years, but a member serves at the pleasure of the Director of the Oregon Health Authority. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment for no more than two consecutive terms. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(5) The board shall choose a chairperson and shall meet at the call of the authority.

(6) A member of the board is entitled to compensation and expenses as

provided under ORS 292.495.

(7) The board may adopt rules as necessary to carry out its duties under sections 2 to 10 of this 2021 Act.

SECTION 19. Section 5 of this 2021 Act is amended to read:

Sec. 5. The Emergency Health Care System Advisory Board shall:

(1) Provide advice and recommendations to the Oregon Health Authority on the following:

(a) A definition of "patient" for purposes of emergency health care;

(b) Emergency health care workforce needs;

(c) Coordination of care between health care specialties; [*and*]

(d) Other matters as determined by the authority[.]**;**

(e) The appointment of the regional emergency health care advisory boards; and

(f) Approval of the regional emergency health care system plans described in section 17 of this 2021 Act.

(2) Convene the following permanent advisory committees:

(a) Time-Sensitive Medical Emergencies Advisory Committee, as described in section 6 of this 2021 Act;

(b) Emergency Medical Services Advisory Committee, as described in section 8 of this 2021 Act; and

(c) Pediatric Emergency Medical Services Advisory Committee, as described in section 7 of this 2021 Act.

SECTION 20. Section 8 of this 2021 Act is amended to read:

Sec. 8. (1) The Emergency Medical Services Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the Emergency Health Care System Advisory Board and the authority regarding emergency medical services, including on the following objectives:

(a) The regionalization and improvement of emergency medical services,

including the coordination and planning of emergency medical services efforts;

(b) The designation of emergency health care centers for the provision of care for medical emergencies; and

(c) The adoption of rules related to emergency medical services.

(3) The chairperson of the committee shall appoint an advisory subcommittee on the licensure and discipline of emergency medical service providers. The subcommittee shall advise the authority and the Oregon Medical Board on the adoption of rules under this subsection.

(4) The committee may:

(a) Assist the Time-Sensitive Medical Emergencies Advisory Committee and the Pediatric Emergency Medical Services Advisory Committee in coordination and planning efforts; [*and*]

(b) Provide other assistance to the Emergency Health Care System Advisory Board as the board requests[.]**; and**

(c) Assist the regional emergency health care advisory boards in identifying emergency medical service system needs and improvement initiatives.

(5) The authority may adopt rules as necessary to carry out this section.

SECTION 21. Section 9 of this 2021 Act is amended to read:

Sec. 9. (1) The Oregon Health Authority shall designate emergency health care centers for the provision of cardiac and pediatric patient care.

(2) The authority shall develop standards for emergency health care centers designated under subsection (1) of this section that:

(a) Specify the type of care that the emergency health care center is designated to provide; and

(b) Provide for the monitoring and assurance of quality care to patients.

(3) All findings and conclusions, interviews, reports, studies, communications and statements procured by or provided to the authority**,** [*or*] the Emergency Health Care System Advisory Board **or a regional emergency health care advisory board** in connection with obtaining data necessary to

perform patient care quality assurance functions are confidential pursuant to ORS 192.338, 192.345 and 192.355.

(4)(a) All data, including written reports, notes, records and recommendations, received or compiled by the Emergency Health Care System Advisory Board **or a regional emergency health care advisory board** in conjunction with the authority's duties under subsection (2) of this section are confidential, privileged, nondiscoverable and inadmissible in any proceeding.

(b) A person serving on or communicating with the Emergency Health Care System Advisory Board **or a regional emergency health care advisory board** may not be:

(A) Examined as to any communications with, or findings or recommendations of, the Emergency Health Care System Advisory Board **or regional emergency health care advisory boards**; or

(B) Subject to an action for civil damages for actions taken or statements made in good faith.

(c) Nothing in this section affects the admissibility of evidence of a party's medical records dealing with the party's medical care that are not otherwise confidential or privileged.

(d) The confidentiality provisions of ORS 41.675 and 41.685 apply to the duties of the authority described in subsection (2) of this section and any monitoring and quality assurance activities of the Emergency Health Care System Advisory Board **and the regional emergency health care advisory boards**.

(5) Notwithstanding subsection (4)(a) of this section, all final reports by the authority**,** [*and*] the Emergency Health Care System Advisory Board **and the regional emergency health care advisory boards** must be available to the public. The final reports may not contain any personally identifiable information.

SECTION 22. Section 10 of this 2021 Act is amended to read:

Sec. 10. (1) The Oregon Health Authority shall adopt rules to**:**

(a) Specify statewide emergency health care objectives and standards[.]**;**

(b) Establish hospital categorization criteria; and

(c) Establish procedures and criteria for designation of emergency health care centers under section 9 of this 2021 Act.

(2) The authority may adopt other rules as necessary to carry out sections 2 to 10 of this 2021 Act.

SECTION 23. The amendments to section 4 of this 2021 Act by section 18 of this 2021 Act apply to members of the Emergency Health Care System Advisory Board appointed on and after the operative date specified in section 24 of this 2021 Act.

SECTION 24. (1) Section 17 of this 2021 Act and the amendments to sections 4, 5, 8, 9 and 10 of this 2021 Act by sections 18 to 22 of this 2021 Act become operative on January 1, 2023.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 17 of this 2021 Act and the amendments to sections 4, 5, 8, 9 and 10 of this 2021 Act by sections 18 to 22 of this 2021 Act.

OREGON EMERGENCY HEALTH CARE SYSTEM 2025

SECTION 25. Sections 26 to 29 of this 2021 Act are added to and made a part of ORS chapter 682.

SECTION 26. (1) As used in this section, "individually identifiable information" means:

(a) Individually identifiable health information as that term is defined in ORS 179.505; and

(b) Information that could be used to identify a health care provider, emergency medical services agency or health care facility.

(2) The Emergency Health Care Systems Program shall establish and maintain emergency health care data systems for the collection of information relating to cardiac, pediatric, stroke, trauma and other medical emergencies in this state. The emergency health care data systems must:

(a) Have security measures in place to protect individually identifiable information;

(b) Allow submission of data from emergency health care centers designated under section 9 of this 2021 Act;

(c) Be used for quality assurance, quality improvement, epidemiological assessment and investigation, public health implementation, critical response planning, prevention activities and other purposes as the Oregon Health Authority determines necessary; and

(d) Meet other requirements established by the authority by rule.

(3) Individually identifiable information:

(a) Is confidential and not subject to disclosure under ORS 192.311 to 192.478;

(b) May be released only as permitted under subsections (4) and (5) of this section and in accordance with rules adopted by the authority;

(c) Is not subject to civil or administrative subpoena; and

(d) Is nondiscoverable and inadmissible in a judicial, administrative, arbitration or mediation proceeding.

(4) Individually identifiable information may be released from the emergency health care data systems:

(a) For use in executive session to conduct quality assurance and performance improvement by the Emergency Health Care System Advisory Board or a regional emergency health care advisory board;

(b) For quality assurance or quality improvement purposes to an emergency medical services provider or emergency health care center designated under section 9 of this 2021 Act if the individually identifiable information is related to the treatment of the individual by the

emergency medical services provider or emergency health care center; or

(c) To a person conducting research only if an institutional review board has approved the research in accordance with 45 C.F.R. part 46 and the person agrees to maintain the confidentiality of the individually identifiable information.

(5) The program may release only the minimum amount of individually identifiable information necessary to carry out the purposes for which the individually identifiable information is released under this section.

SECTION 27. (1) The Emergency Health Care Systems Program, with the advice of the Emergency Health Care System Advisory Board and the Time-Sensitive Medical Emergencies Advisory Committee, shall establish and maintain an emergency health care data system under section 26 of this 2021 Act for the collection of trauma care data. The Oregon Health Authority shall adopt rules for the data system described in this section to establish:

(a) The information that must be reported to the data system;

(b) The form and frequency of reporting information under this section; and

(c) The procedures and standards for the administration and maintenance of the data system.

(2)(a) Designated trauma centers and providers, physical rehabilitation centers, alcohol and drug rehabilitation centers and ambulances shall develop a monthly log of unsponsored, inadequately insured trauma patients determined by the hospital to have an injury severity score equal to or greater than 13, and submit monthly to the board the true costs and unpaid balance for the care of patients described in this subsection.

(b) Reimbursement for a patient described in this subsection may not occur until:

(A) All information required by the board is submitted to the data system described in subsection (1) of this section; and

(B) The board confirms that the injury severity score, as determined by the authority by rule, is equal to or greater than 13.

(c) The board shall cause providers to be reimbursed in the following decreasing order of priority:

(A) Designated trauma centers and providers;

(B) Physical rehabilitation centers;

(C) Alcohol and drug rehabilitation centers; and

(D) Ambulances.

(d) Subject to the availability of funds, the board shall cause the designated trauma centers and providers to be paid first in full. Subsequent providers shall be paid from the remaining balance in accordance with paragraph (c) of this subsection.

(e) Any matching funds, available pursuant to the Trauma Care Systems Planning and Development Act of 1990 (P.L. 101-590), that are available for purposes of the program and the committee may be used for related studies and projects and reimbursement for uncompensated care.

(3) The authority may adopt rules establishing, from information maintained in the data system described in subsection (1) of this section, a data system related to brain injury trauma.

SECTION 28. (1) A hospital certified as a Comprehensive Stroke Center or a Primary Stroke Center through the Joint Commission or an equivalent organization must report stroke care data to an emergency health care data system established and maintained under section 26 of this 2021 Act for the collection of stroke care data. Hospitals that are not certified as described in this paragraph may report to the data system described in this section.

(2) The program, with the advice of the Emergency Health Care System Advisory Board and the Time-Sensitive Medical Emergencies

Advisory Committee shall:

(a) Develop a data oversight process in accordance with recommendations made by the Time-Sensitive Medical Emergencies Advisory Committee.

(b) Coordinate with national health organizations involved in improving the quality of stroke care to avoid duplicative information and redundant processes.

(c) Use information reported under subsection (1) of this section and other information related to stroke care to support improvement in the quality of stroke care in accordance with guidelines that meet or exceed nationally recognized standards established by the American Stroke Association, or its successor organization.

(d) Encourage the sharing of information among health care providers on practices that improve the quality of stroke care.

(e) Facilitate communication about data trends and treatment developments among health care providers and coordinated care organizations that provide services related to stroke care.

(f) Provide stroke care data, and recommend improvements for stroke care, to coordinated care organizations.

(g) Not later than the beginning of each odd-numbered year regular session of the Legislative Assembly, prepare and submit to the Legislative Assembly a report in the manner provided in ORS 192.245 summarizing the program's activities under this section.

SECTION 29. (1) An emergency health care provider may not be held liable for acting in accordance with approved emergency health care system plans.

(2) A person who in good faith provides information to an emergency health care data system is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to provision of the information.

SECTION 30. Section 3 of this 2021 Act is amended to read:

Sec. 3. (1) The Emergency Health Care Systems Program is established within the Oregon Health Authority for the purpose of administering a comprehensive statewide emergency health care system developed by the authority in cooperation with representatives of emergency health care professions. The system must include:

(a) The regulation of emergency medical services agencies;

(b) The regulation, training and licensing of emergency medical services providers; and

(c) The development and maintenance of emergency health care data systems.

(2) The program shall be administered by a director who:

(a) Is responsible for conducting emergency health care system oversight and identifying and implementing best practices for patient safety.

(b) Shall apply funds allocated to the program in the following order of priority:

(A) Development of state and regional standards of care;

(B) Development of a statewide educational curriculum to teach the standards of care;

(C) Implementation of quality improvement programs; [*and*]

(D) Support for and enhancement of the state's emergency health care system**; and**

(E) Establishment and maintenance of the emergency health care data systems described in section 26 of this 2021 Act.

(c) May adopt rules as necessary to carry out the director's duties and responsibilities described in this subsection.

(3) The program shall have a State EMS Medical Director who is responsible for:

(a) Providing specialized medical oversight in the development and administration of the program;

(b) Implementing emergency health care system quality improvement measures;

(c) Undertaking research and providing public education regarding emergency health care systems; and

(d) Serving as a liaison with emergency medical services agencies, emergency health care centers, hospitals, state and national emergency medical services professional organizations and state and federal partners.

(4) The authority shall publish, on a website operated by or on behalf of the program, a biennial report regarding the program's activities.

SECTION 31. Section 5 of this 2021 Act, as amended by section 19 of this 2021 Act, is amended to read:

Sec. 5. The Emergency Health Care System Advisory Board shall:

(1) Provide advice and recommendations to the Oregon Health Authority on the following:

(a) A definition of "patient" for purposes of emergency health care;

(b) Emergency health care workforce needs;

(c) Coordination of care between health care specialties;

(d) Other matters as determined by the authority;

(e) The appointment of the regional emergency health care advisory boards; [*and*]

(f) Approval of the regional emergency health care system plans described in section 17 of this 2021 Act[.]**; and**

(g) The establishment and continued operation of the emergency health care data systems described in section 26 of this 2021 Act.

(2) Convene the following permanent advisory committees:

(a) Time-Sensitive Medical Emergencies Advisory Committee, as described in section 6 of this 2021 Act;

(b) Emergency Medical Services Advisory Committee, as described in section 8 of this 2021 Act; and

(c) Pediatric Emergency Medical Services Advisory Committee, as described in section 7 of this 2021 Act.

SECTION 32. Section 6 of this 2021 Act is amended to read:

Sec. 6. (1) The Time-Sensitive Medical Emergencies Advisory Committee

is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the board and the authority regarding time-sensitive medical emergencies, including cardiac, stroke and trauma emergencies, on the following objectives:

(a) The regionalization and improvement of care for time-sensitive medical emergencies; [*and*]

(b) The designation of emergency health care centers for the provision of care for time-sensitive medical emergencies[.]**; and**

(c) The inclusion and treatment of data regarding time-sensitive medical emergencies in the emergency health care data systems described in section 26 of this 2021 Act.

(3) The committee shall:

(a) Advise the board and the authority with respect to the authority's duties related to cardiac, stroke and trauma care;

(b) Advise the board and the authority on the adoption of rules related to cardiac, stroke and trauma care;

(c) Analyze data related to cardiac, stroke and trauma emergencies; and

(d) Suggest improvements to the board and the authority to the Emergency Health Care Systems Program regarding cardiac, stroke and trauma care.

(4) The authority may adopt rules as necessary to carry out this section.

SECTION 33. Section 7 of this 2021 Act is amended to read:

Sec. 7. (1) The Pediatric Emergency Medical Services Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the board and the authority regarding pediatric medical emergencies on the following objectives:

(a) The integration of pediatric emergency medical services into the Emergency Health Care Systems Program;

(b) The regionalization and improvement of care for pediatric medical emergencies; [*and*]

(c) The designation of emergency health care centers for the provision of care for pediatric medical emergencies[.]**; and**

(d) The inclusion and treatment of data regarding pediatric medical emergencies in the emergency health care data systems described in section 26 of this 2021 Act.

(3) With the advice of the Pediatric Emergency Medical Services Advisory Committee, the authority shall:

(a) Employ or contract with professional, technical, research and clerical staff to implement this subsection.

(b) Provide technical assistance to the Emergency Medical Services Advisory Committee on the integration of an emergency medical services for children program into the Emergency Health Care Systems Program.

(c) Provide advice and technical assistance to the Time-Sensitive Medical Emergencies Advisory Committee on the regionalization of an emergency medical services for children program.

(d) Establish guidelines for:

(A) The designation of specialized regional pediatric critical care centers and pediatric trauma care centers.

(B) Referring children to appropriate emergency or critical care centers.

(C) Necessary prehospital and other pediatric emergency and critical care medical service equipment.

(D) Developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care or pediatric subspecialty care.

(E) An interfacility transfer system for critically ill or injured children.

(F) Continuing professional education programs for emergency medical

services personnel, including training in the emergency care of infants and children.

(G) A public education program concerning the emergency medical services for children program, including information on emergency access telephone numbers.

(H) The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency and critical care medical service facilities for the purpose of quality improvement by those facilities, subject to relevant confidentiality requirements.

(I) The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency and critical care services.

(J) Coordination and cooperation between the emergency medical services for children program and other public and private organizations interested or involved in emergency and critical care for children.

(4) The authority may adopt rules as necessary to carry out this section.

SECTION 34. Section 8 of this 2021 Act, as amended by section 20 of this 2021 Act, is amended to read:

Sec. 8. (1) The Emergency Medical Services Advisory Committee is established in the Emergency Health Care System Advisory Board. The committee shall consist of members determined by the board and the Oregon Health Authority.

(2) The committee shall provide advice and recommendations to the Emergency Health Care System Advisory Board and the authority regarding emergency medical services, including on the following objectives:

(a) The regionalization and improvement of emergency medical services, including the coordination and planning of emergency medical services efforts;

(b) The designation of emergency health care centers for the provision of care for medical emergencies; [*and*]

(c) The adoption of rules related to emergency medical services[.]**; and**

(d) The inclusion and treatment of data regarding medical emergencies in the emergency health care data systems described in section 26 of this 2021 Act.

(3) The chairperson of the committee shall appoint an advisory subcommittee on the licensure and discipline of emergency medical service providers. The subcommittee shall advise the authority and the Oregon Medical Board on the adoption of rules under this subsection.

(4) The committee may:

(a) Assist the Time-Sensitive Medical Emergencies Advisory Committee and the Pediatric Emergency Medical Services Advisory Committee in coordination and planning efforts;

(b) Provide other assistance to the Emergency Health Care System Advisory Board as the board requests; and

(c) Assist the regional emergency health care advisory boards in identifying emergency medical service system needs and improvement initiatives.

(5) The authority may adopt rules as necessary to carry out this section.

SECTION 35. Section 9 of this 2021 Act, as amended by section 21 of this 2021 Act, is amended to read:

Sec. 9. (1) The Oregon Health Authority shall designate emergency health care centers for the provision of cardiac**,** [*and*] pediatric**, stroke and trauma** patient care.

(2) The authority shall develop standards for emergency health care centers designated under subsection (1) of this section that:

(a) Specify the type of care that the emergency health care center is designated to provide; and

(b) Provide for the monitoring and assurance of quality care to patients.

(3) All findings and conclusions, interviews, reports, studies, communications and statements procured by or provided to the authority, the Emergency Health Care System Advisory Board or a regional emergency health care advisory board in connection with obtaining data necessary to perform patient care quality assurance functions are confidential pursuant to ORS

192.338, 192.345 and 192.355.

(4)(a) All data, including written reports, notes, records and recommendations, received or compiled by the Emergency Health Care System Advisory Board or a regional emergency health care advisory board in conjunction with the authority's duties under subsection (2) of this section are confidential, privileged, nondiscoverable and inadmissible in any proceeding.

(b) A person serving on or communicating with the Emergency Health Care System Advisory Board or a regional emergency health care advisory board may not be:

(A) Examined as to any communications with, or findings or recommendations of, the Emergency Health Care System Advisory Board or regional emergency health care advisory boards; or

(B) Subject to an action for civil damages for actions taken or statements made in good faith.

(c) Nothing in this section affects the admissibility of evidence of a party's medical records dealing with the party's medical care that are not otherwise confidential or privileged.

(d) The confidentiality provisions of ORS 41.675 and 41.685 apply to the duties of the authority described in subsection (2) of this section and any monitoring and quality assurance activities of the Emergency Health Care System Advisory Board and the regional emergency health care advisory boards.

(5) Notwithstanding subsection (4)(a) of this section, all final reports by the authority, the Emergency Health Care System Advisory Board and the regional emergency health care advisory boards must be available to the public. The final reports may not contain any personally identifiable information.

SECTION 36. ORS 431A.050, 431A.055, 431A.060, 431A.065, 431A.070, 431A.075, 431A.080, 431A.085, 431A.090, 431A.095, 431A.100, 431A.525 and 431A.530 are repealed.

SECTION 37. (1) Sections 26 to 29 of this 2021 Act, the amendments to sections 3, 5, 6, 7, 8 and 9 of this 2021 Act by sections 30 to 35 of this 2021 Act and the repeal of ORS 431A.050, 431A.055, 431A.060, 431A.065, 431A.070, 431A.075, 431A.080, 431A.085, 431A.090, 431A.095, 431A.100, 431A.525 and 431A.530 by section 36 of this 2021 Act become operative on January 1, 2025.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by sections 26 to 29 of this 2021 Act, the amendments to sections 3, 5, 6, 7, 8 and 9 of this 2021 Act by sections 30 to 35 of this 2021 Act and the repeal of ORS 431A.050, 431A.055, 431A.060, 431A.065, 431A.070, 431A.075, 431A.080, 431A.085, 431A.090, 431A.095, 431A.100, 431A.525 and 431A.530 by section 36 of this 2021 Act.

EMERGENCY MEDICAL SERVICES MOBILIZATION ACT

SECTION 38. Sections 39 to 47 of this 2021 Act are added to and made a part of ORS chapter 682.

SECTION 39. Sections 39 to 47 of this 2021 Act shall be known as the Emergency Medical Services Mobilization Act.

SECTION 40. As used in sections 39 to 47 of this 2021 Act, "EMS forces and equipment" means any emergency medical services providers and equipment employed by, contracted for or otherwise associated with an emergency medical services agency in this state.

SECTION 41. (1)(a) In response to an emergency for which emergency medical services are necessary, or in conjunction with purposes described in ORS 476.520, the Governor may assign and make available for use in any county, city or district, under the direction and com-

mand of an officer designated by the Governor for purposes of this section, any EMS forces and equipment.

(b) An emergency medical services agency that possesses only one ambulance may not be assigned for use as described in subsection (1) of this section.

(2) If the Governor is unavailable to make timely exercise of the Governor's authority under sections 39 to 47 of this 2021 Act, the Director of the Oregon Health Authority may exercise the Governor's authority. If both the Governor and the director of the authority are unavailable, the Public Health Director may exercise the Governor's authority. Any orders, rules or regulations issued by the director of the authority or the Public Health Director under this subsection have the same force and effect as if issued by the Governor.

SECTION 42. (1) If so ordered by the Governor, the chief executive of a county, city or fire protection district or the head of a fire department of a political subdivision, including agencies of the state, shall assign and make available for use in a jurisdiction under the direction and command of the chief executive or head as designated by the Governor for the purpose, any EMS forces and equipment under the control of the chief executive or head.

(2) Notwithstanding subsection (1) of this section, any equipment made available by loan or otherwise to any jurisdiction in this state by the United States, or an agency of the United States, shall be subject to the order of the United States or the agency in accordance with the terms and conditions under which the equipment is made available.

SECTION 43. Whenever emergency medical services providers and personnel are providing aid under sections 39 to 47 of this 2021 Act, the emergency medical services providers and personnel have the same duties, immunities, powers, privileges and rights as though the emergency medical services providers and personnel were performing their

duties in the jurisdiction in which the emergency medical services providers and personnel are normally employed or contracted.

SECTION 44. (1)(a) As used in this section, "employee" means any emergency medical services personnel, whether paid, volunteer or on call.

(b) The state shall reimburse a political subdivision or agency that supplies employees to provide aid under sections 39 to 47 of this 2021 Act for the compensation paid to employees supplied during the time that the provision of aid prevented the employees from performing their duties in the political subdivision or agency in which they are employed or contracted. The state shall defray for employees described in this subsection the actual travel and maintenance expenses incurred while providing aid under sections 39 to 47 of this 2021 Act.

(2) The state shall draw warrants on the State Treasurer for the payment of all approved claims lawfully incurred under sections 39 to 47 of this 2021 Act.

SECTION 45. (1) The Governor may make, amend and rescind any orders, rules and regulations that are necessary or advisable to carry out sections 39 to 47 of this 2021 Act.

(2)(a) An order, rule or regulation under this section may be oral or written.

(b) If written, a copy of the order, rule or regulation must be filed in the office of the Secretary of State. Another copy of the order, rule or regulation must be dispatched to the chief executive of any county, city or fire protection district affected. The order, rule or regulation becomes effective immediately upon the filing and dispatch described in this subsection.

(c) The Governor may make an oral order, rule or regulation when, in the opinion of the Governor, the emergency is such that delay in issuing a written order, rule or regulation would be dangerous to the welfare of the people of the state. An oral order, rule or regulation is

effective at the time it is made. An written copy of an oral order, rule or regulation must be filed and dispatched as described in paragraph (b) of this subsection as soon as practicable after the order, rule or regulation is issued.

SECTION 46. (1) The state or a county, city, fire district or other political subdivision, or an emergency medical services provider acting as an agent of the state or a county, city, fire district or other political subdivision, is not liable for an injury to any person or property that results from the performance of any duty pursuant to sections 39 to 47 of this 2021 Act.

(2) A person described in subsection (1) of this section may not incur any civil liability in carrying out sections 39 to 47 of this 2021 Act or while acting within the scope of a duty imposed under sections 39 to 47 of this 2021 Act.

(3) A person described in subsection (1) of this section may be held liable for injury that results from the person's willful misconduct or gross negligence.

SECTION 47. The Oregon Health Authority shall prepare plans to carry out sections 39 to 47 of this 2021 Act and shall provide advice and counsel to the Governor for the most practical implementation of sections 39 to 47 of this 2021 Act.

SECTION 48. (1) Sections 39 to 47 of this 2021 Act become operative on January 1, 2022.

(2) The Governor and the Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the Governor and the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Governor and the authority by sections 39 to 47 of this 2021 Act.

REGULATION OF EMERGENCY MEDICAL SERVICES

SECTION 49. ORS 682.017 is amended to read:

682.017. The Oregon Health Authority shall adopt rules in accordance with ORS chapter 183 that include, but are not limited to:

(1) Requirements relating to the types and numbers of emergency vehicles, including supplies and equipment carried.

(2) Requirements for the operation and coordination of ambulances and other [*emergency care systems*] **patient care**.

(3) Criteria for the use of two-way communications.

(4) Procedures for summoning and dispatching aid.

(5) Requirements that [*ambulance services*] **emergency medical services agencies** report patient encounter data to an electronic emergency medical services data system managed by the authority. The requirements must specify the data that an [*ambulance service*] **emergency medical services agency** must report[,] **and** the form and frequency of the reporting [*and the procedures and standards for the administration of the data system*].

(6) Levels of licensure for emergency medical services providers. The lowest level of emergency medical services provider licensure must be an emergency medical responder license.

(7) Other rules as necessary to carry out the provisions of this chapter.

SECTION 50. ORS 682.017, as amended by section 49 of this 2021 Act, is amended to read:

682.017. The Oregon Health Authority shall adopt rules in accordance with ORS chapter 183 that include, but are not limited to:

(1) Requirements relating to the types and numbers of emergency vehicles, including supplies and equipment carried.

(2) Requirements for the operation and coordination of ambulances and other patient care.

(3) Criteria for the use of two-way communications.

(4) Procedures for summoning and dispatching aid.

(5) Requirements that emergency medical services agencies report patient encounter data to [*an electronic emergency medical services data system*

managed by the authority] **the emergency health care data systems described in section 26 of this 2021 Act**. The requirements must specify the data that an emergency medical services agency must report and the form and frequency of the reporting.

(6) Levels of licensure for emergency medical services providers. The lowest level of emergency medical services provider licensure must be an emergency medical responder license.

(7) Other rules as necessary to carry out the provisions of this chapter.

SECTION 51. ORS 682.025 is amended to read:

682.025. As used in this chapter[*, unless the context requires otherwise*]:

(1) "Ambulance" or "ambulance vehicle" means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of [*persons who are ill or injured or who have disabilities*] **emergency medical services patients**.

(2) "Ambulance service" means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing [*prehospital care or medical transportation*] **patient care** to [*persons who are ill or injured or who have disabilities*] **emergency medical services patients**.

[*(3) "Emergency care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications prescribed by a licensed physician or naturopathic physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. "Emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.*]

(3) "Emergency medical services agency" means an ambulance service that uses emergency medical services providers to respond to requests for emergency medical services, including 9-1-1 calls from emergency medical services patients.

(4) "Emergency medical services patient" means a person who is ill or injured, or who has a disability, and for whom patient care from an emergency medical services provider is requested.

[*(4)*] **(5)** "Emergency medical services provider" means a person who has received formal training in [*prehospital and emergency*] **patient** care, and is licensed to attend [*any person who is ill or injured or who has a disability*] **an emergency medical services patient**. Police officers, firefighters, funeral home employees and other persons serving in a dual capacity one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of this chapter.

(6) "EMS medical director" means a supervising physician licensed under ORS chapter 677 who is responsible for providing specialized medical oversight of emergency medical services agencies and for the direction of emergency and nonemergency care provided to emergency medical services patients.

[*(5)*] **(7)** "Fraud or deception" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

[*(6)*] **(8)** "Governmental unit" means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

[*(7)*] **(9)** "Highway" means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, used or intended for the use of the general public for vehicles.

[*(8) "Nonemergency care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677 or naturopathic physician licensed under ORS chapter 685, insofar as any of those acts are*

based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board or Oregon Board of Naturopathic Medicine in the course of providing prehospital care.]

[*(9)*] **(10)** "Owner" means the person having all the incidents of ownership in an [*ambulance service*] **emergency medical services agency** or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an [*ambulance service*] **emergency medical services agency** under a security agreement or a lease for a term of 10 or more successive days.

[*(10) "Patient" means a person who is ill or injured or who has a disability and who receives emergency or nonemergency care from an emergency medical services provider.*]

(11)(a) "Patient care" means:

(A) The performance of acts or procedures in the observation, care and counsel of emergency medical services patients, or in the administration of care or medication to emergency medical services patients as prescribed by an EMS medical director, when the care is based upon knowledge and application of the principles of biological, physical and social science required for licensure as an emergency medical services provider; and

(B) The operation of an ambulance and care rendered to an individual as an incident of other public or private safety duties, as permitted by the Oregon Health Authority and the Oregon Medical Board.

(b) "Patient care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

[*(11) "Prehospital care" means care rendered by emergency medical services providers as an incident of the operation of an ambulance and care rendered by emergency medical services providers as incidents of other public or private safety duties, and includes, but is not limited to, "emergency care."*]

(12) "Scope of practice" means the maximum level of [*emergency or nonemergency*] **patient** care that an emergency medical services provider may provide.

(13) "Standing orders" means the written protocols that an emergency medical services provider follows to [*treat patients*] **provide patient care** when direct contact with a physician is not maintained.

[*(14) "Supervising physician" means a physician licensed under ORS 677.100 to 677.228, actively registered and in good standing with the Oregon Medical Board, who provides direction of emergency or nonemergency care provided by emergency medical services providers.*]

[*(15) "Unprofessional conduct" means conduct unbecoming a person licensed to perform emergency care, or detrimental to the best interests of the public and includes:*]

[*(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which does or might impair an emergency medical services provider's ability safely and skillfully to practice emergency or nonemergency care;*]

[*(b) Willful performance of any medical treatment which is contrary to acceptable medical standards; and*]

[*(c) Willful and consistent utilization of medical service for treatment which is or may be considered inappropriate or unnecessary.*]

(14) "Unprofessional conduct" has the meaning given that term in ORS 676.150.

SECTION 52. ORS 682.025, as amended by section 51 of this 2021 Act, is amended to read:

682.025. As used in this chapter:

(1) "Ambulance" or "ambulance vehicle" means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of emergency medical

services patients.

(2) "Ambulance service" means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing patient care to emergency medical services patients.

(3) "Emergency medical services agency" means an ambulance service **or a nontransport EMS service** that uses emergency medical services providers to respond to requests for emergency medical services, including 9-1-1 calls from emergency medical services patients.

(4) "Emergency medical services patient" means a person who is ill or injured, or who has a disability, and for whom patient care from an emergency medical services provider is requested.

(5) "Emergency medical services provider" means a person who has received formal training in patient care, and is licensed to attend an emergency medical services patient. Police officers, firefighters, funeral home employees and other persons serving in a dual capacity one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of this chapter.

(6) "EMS medical director" means a supervising physician licensed under ORS chapter 677 who is responsible for providing specialized medical oversight of emergency medical services agencies and for the direction of emergency and nonemergency care provided to emergency medical services patients.

(7) "Fraud or deception" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

(8) "Governmental unit" means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

(9) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state,

used or intended for the use of the general public for vehicles.

(10) "Nontransport EMS service" means a person, governmental unit or other entity that uses emergency medical services providers to respond to public requests for emergency medical services but that is not licensed as an ambulance service.

[*(10)*] **(11)** "Owner" means the person having all the incidents of ownership in an emergency medical services agency or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an emergency medical services agency under a security agreement or a lease for a term of 10 or more successive days.

[*(11)(a)*] **(12)(a)** "Patient care" means:

(A) The performance of acts or procedures in the observation, care and counsel of emergency medical services patients, or in the administration of care or medication to emergency medical services patients as prescribed by an EMS medical director, when the care is based upon knowledge and application of the principles of biological, physical and social science required for licensure as an emergency medical services provider; and

(B) The operation of an ambulance and care rendered to an individual as an incident of other public or private safety duties, as permitted by the Oregon Health Authority and the Oregon Medical Board.

(b) "Patient care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

[*(12)*] **(13)** "Scope of practice" means the maximum level of patient care that an emergency medical services provider may provide.

[*(13)*] **(14)** "Standing orders" means the written protocols that an emergency medical services provider follows to provide patient care when direct contact with a physician is not maintained.

[*(14)*] **(15)** "Unprofessional conduct" has the meaning given that term in ORS 676.150.

SECTION 53. ORS 682.031 is amended to read:

682.031. (1) As used in this section, "political subdivision" includes counties, cities, districts, authorities and other public corporations and entities organized and existing under statute or charter.

(2) An ordinance of any political subdivision regulating [*ambulance services*] **emergency medical services agencies** or emergency medical services providers may not require less than is required under ORS 820.300 to 820.380, or this chapter or the rules adopted by the Oregon Health Authority under this chapter.

(3) When a political subdivision enacts an ordinance regulating [*ambulance services*] **emergency medical services agencies** or emergency medical services providers, the ordinance must comply with the county plan for ambulance services and ambulance service areas adopted under ORS 682.062 by the county in which the political subdivision is situated and with the rules of the Oregon Health Authority relating to [*such*] **ambulance** services and **ambulance** service areas. The county governing body shall [*make the determination of*] **determine** whether the ordinance is in compliance with the county plan.

SECTION 54. ORS 682.031, as amended by section 53 of this 2021 Act, is amended to read:

682.031. (1) As used in this section, "political subdivision" includes counties, cities, districts, authorities and other public corporations and entities organized and existing under statute or charter.

(2) An ordinance of any political subdivision regulating emergency medical services agencies or emergency medical services providers may not require less than is required under ORS 820.300 to 820.380, or this chapter or the rules adopted by the Oregon Health Authority under this chapter.

(3) When a political subdivision enacts an ordinance regulating emergency medical services agencies or emergency medical services providers, the ordinance must comply with the county plan for ambulance services**,** **nontransport EMS services** and ambulance service areas adopted under

ORS 682.062 by the county in which the political subdivision is situated and with the rules of the Oregon Health Authority relating to ambulance services**, nontransport EMS services** and ambulance service areas. The county governing body shall determine whether the ordinance is in compliance with the county plan.

SECTION 55. ORS 682.035 is amended to read:

682.035. ORS 820.330 to 820.380 and this chapter do not apply to:

(1) Ambulances owned by or operated, and emergency medical [*service*] **services** providers who operate, under the control of the United States Government.

(2) Vehicles being used to render temporary assistance in the case of a major catastrophe or emergency with which the [*ambulance services*] **emergency medical services agencies** of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident.

(3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any highway through the property or grounds is involved.

(4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.

(5) Any person who drives or attends [*a*] **an emergency medical services** patient, if the **emergency medical services** patient is transported in a vehicle described in subsections (2) to (4) of this section.

(6) Any person who otherwise by license is authorized to attend **emergency medical services** patients.

SECTION 56. ORS 682.041 is amended to read:

682.041. The Legislative Assembly declares that the regulation of [*ambulance services*] **emergency medical services agencies** and the establishment of ambulance service areas are important functions of counties, cities and rural fire protection districts in this state. It is the intent of the Legislative Assembly in ORS 478.260, [*682.027,*] 682.031, 682.041, 682.062, 682.063 and

682.066 to affirm the authority of counties, cities and rural fire protection districts to regulate **emergency medical services agencies and** ambulance [*services and*] **service** areas and to exempt [*such*] **the** regulation **of emergency medical services agencies and ambulance service areas** from liability under federal antitrust laws.

SECTION 57. ORS 682.045 is amended to read:

682.045. (1) [*A license for an ambulance service or the operation of ambulance vehicles shall be obtained from the Oregon Health Authority.*] **A person may not operate an emergency medical services agency or an ambulance unless the person holds a license issued by the Oregon Health Authority under ORS 682.047.**

(2) [*Applications for licenses shall*] **An application for a license must** be upon [*forms*] **a form** prescribed by the authority and [*shall*] **must** contain:

(a) The name and address of the person or governmental unit [*owning the ambulance service or vehicle*] **that owns the emergency medical services agency or ambulance**.

(b) If other than the applicant's true name, the name under which the applicant is doing business.

(c) In the case of an ambulance vehicle, a description of the ambulance, including the make, model, year of manufacture, registration number and the insignia name, monogram or other distinguishing characteristics to be used to designate the applicant's ambulance vehicles.

(d) The location and description of the principal place of business of the [*ambulance service*] **emergency medical services agency**, and the locations and descriptions of the place or places from which its ambulance is intended to operate.

(e) [*Such*] Other information [*as*] **that** the authority may reasonably require to determine compliance with ORS 820.350 to 820.380 and this chapter and the rules adopted [*thereunder*] **under ORS 820.350 to 820.380 and this chapter**.

(3) Except [*in the case of governmental units*] **when the applicant is a**

governmental unit, the application [*shall*] **must** be accompanied by future responsibility filing of the type described under ORS 806.270.

SECTION 58. ORS 682.047 is amended to read:

682.047. (1) [*When applications have been made as required under ORS 682.045,*] The Oregon Health Authority shall issue [*licenses to the owner*] **a license to the owner of an emergency medical services agency, or the owner of an ambulance, that applies for a license under ORS 682.045** if [*it is found*] **the authority finds** that the [*ambulance service and*] **emergency medical services agency or** ambulance [*comply*] **complies** with the requirements of ORS 820.350 to 820.380 and this chapter and the rules adopted [*thereunder*] **under ORS 820.350 to 820.380 and this chapter**.

(2) [*Each license unless sooner suspended or revoked shall expire on the next June 30 or on such date as may be specified by authority rule.*] **An emergency medical services agency license or ambulance license expires on the next June 30 after the license is issued or on another date specified by the authority by rule.**

(3) The authority may initially issue a license for less than a 12-month period or for more than a 12-month period not to exceed 15 months.

(4) [*Licenses shall be issued only to the owner of the ambulance service and only for the ambulance named in the application and shall not be*] **A license issued under this section is not** transferable to any other person, governmental unit, [*ambulance service*] **emergency medical services agency** or ambulance.

(5) Licenses [*shall*] **must** be displayed as prescribed by the rules of the authority.

(6) The authority shall provide for the replacement of any current license that becomes lost, damaged or destroyed. [*A replacement fee of $10 shall be charged for each replacement license.*]

(7) Nonrefundable fees in the following amounts [*shall*] **must** accompany each initial and each subsequent annual application to obtain a license to operate an [*ambulance service*] **emergency medical services agency** and

ambulance:

(a) [*$75*] **$190** for an [*ambulance service*] **emergency medical services agency** having a maximum of four full-time paid positions;

(b) [*$250*] **$625** for an [*ambulance service*] **emergency medical services agency** having five or more full-time paid positions;

(c) [*$45*] **$115** for each ambulance license if the ambulance is owned and operated by an ambulance service that has a maximum of four full-time paid positions; and

(d) [*$80*] **$200** for each ambulance license if the ambulance is owned and operated by an ambulance service having five or more full-time paid positions.

(8) The fees established under subsection (7) of this section do not apply to an ambulance or vehicle described under ORS 682.035.

SECTION 59. ORS 682.051 is amended to read:

682.051. (1) **A person or governmental unit commits the offense of unlawful operation of an unlicensed emergency medical services agency if the person or governmental unit advertises or routinely conducts patient care in this state and the person or governmental unit is not an emergency medical services agency licensed under ORS 682.047.**

(2) A person or governmental unit commits the offense of unlawful operation of an unlicensed ambulance [*or the offense of unlawful operation of an unlicensed ambulance service*] if the person or governmental unit advertises or operates in this state a motor vehicle, aircraft or watercraft ambulance that:

(a) Is not operated by an [*ambulance service*] **emergency medical services agency, or as an ambulance,** licensed under [*this chapter*] **ORS 682.047**; **or**

(b) Is not licensed under this chapter[*; and*]

[*(c) Does not meet the minimum requirements established under this chapter by the Oregon Health Authority in consultation with the State Emergency*

Medical Service Committee for that type of ambulance].

[*(2)*] **(3)** This section does not apply to any ambulance or any person if the ambulance or person is exempted by ORS 682.035 or 682.079 from regulation by the **Oregon Health** Authority.

[*(3) Authority of political subdivisions to regulate ambulance services or to regulate or allow the use of ambulances is limited under ORS 682.031.*]

(4) [*The offense described in this section,*] Unlawful operation of an unlicensed **emergency medical services agency or unlawful operation of an unlicensed** ambulance [*or ambulance service,*] is a Class A misdemeanor. Each day of continuing violation shall be considered a separate offense.

(5) In addition to the penalties prescribed by subsection (4) of this section, the authority may impose upon a licensed [*ambulance service*] **emergency medical services agency or ambulance** a civil penalty not to exceed $5,000 for each violation of this chapter and the rules adopted [*thereunder*] **under this chapter**. Each day of continuing violation shall be considered a separate violation for purposes of this subsection.

SECTION 60. ORS 682.056 is amended to read:

682.056. (1)(a) [*Ambulance services*] **Emergency medical services agencies** shall report patient encounter data to the electronic emergency medical services data system managed by the Oregon Health Authority for each patient care event in accordance with rules adopted by the authority**, with the advice of the Emergency Health Care System Advisory Board,** under ORS 682.017.

(b) The authority by rule shall specify the patient encounter data elements to be transferred from the electronic emergency medical services data system to the Oregon Trauma Registry and shall establish the procedures for the electronic transfer of the patient encounter data.

(2)(a) The patient outcome data described in subsection (3) of this section about [*a*] **an emergency medical services** patient who an ambulance service transported to a hospital, and that the hospital entered into the Oregon Trauma Registry, must be available to the designated official of the ambu-

lance service that transported the **emergency medical services** patient.

(b) The authority by rule shall specify the method by which the patient outcome data will be made available to the designated official of an ambulance service.

(3) Patient outcome data includes:

(a) The health outcomes of the **emergency medical services** patient who was the subject of the prehospital **patient** care event from the emergency department or other intake facility of the hospital, including but not limited to:

(A) Whether the **emergency medical services** patient was admitted to the hospital; and

(B) If the **emergency medical services** patient was admitted, to what unit the **emergency medical services** patient was assigned;

(b) The **emergency medical services** patient's chief complaint, the diagnosis the **emergency medical services** patient received in the emergency department or other intake facility and any procedures performed on the **emergency medical services** patient;

(c) The emergency department or hospital discharge disposition of the **emergency medical services** patient; and

(d) Demographic or standard health care information as required by the authority by rule.

(4) Data provided pursuant to this section shall be:

(a) Treated as a confidential medical record and not disclosed; and

(b) Considered privileged data under ORS 41.675 and 41.685.

(5) Data provided pursuant to this section may be used for quality assurance, quality improvement, epidemiological assessment and investigation, public health critical response planning, prevention activities and other purposes that the authority determines necessary.

(6)(a) A nontransporting prehospital care provider may report patient encounter data to the electronic emergency medical services data system.

(b) A nontransporting prehospital care provider that reports patient en-

counter data shall comply with the reporting requirements that apply to ambulance services.

(c) The patient outcome data described in subsection (3) of this section must be available to the designated official of the nontransporting prehospital care provider that provided care and reported patient encounter data about the **emergency medical services** patient.

(7) The authority**, with the advice of the board,** may adopt rules to carry out this section, including rules to:

(a) Establish software interoperability standards and guidance to assist in reporting the patient encounter data required by this section;

(b) Specify the method by which the patient outcome data will be made available to nontransporting prehospital care providers; and

(c) Define "nontransporting prehospital care provider."

SECTION 61. ORS 682.056, as amended by section 60 of this 2021 Act, is amended to read:

682.056. (1)[*(a)*] Emergency medical services agencies shall report patient encounter data to [*the electronic emergency medical services data system managed by the Oregon Health Authority for each patient care event in accordance with*] **one or more emergency health care data systems established and maintained under section 26 of this 2021 Act pursuant to** rules adopted by the **Oregon Health** Authority, with the advice of the Emergency Health Care System Advisory Board, under ORS 682.017.

[*(b) The authority by rule shall specify the patient encounter data elements to be transferred from the electronic emergency medical services data system to the Oregon Trauma Registry and shall establish the procedures for the electronic transfer of the patient encounter data.*]

(2)(a) The patient outcome data described in subsection (3) of this section about an emergency medical services patient who an ambulance service transported to a hospital, and that the hospital entered into [*the Oregon Trauma Registry*] **a data system described in subsection (1) of this section**, must be available to the designated official of the ambulance service

that transported the emergency medical services patient.

(b) The authority by rule shall specify the method by which the patient outcome data will be made available to the designated official of an ambulance service.

(3) Patient outcome data includes:

(a) The health outcomes of the emergency medical services patient who was the subject of the prehospital patient care event from the emergency department or other intake facility of the hospital, including but not limited to:

(A) Whether the emergency medical services patient was admitted to the hospital; and

(B) If the emergency medical services patient was admitted, to what unit the emergency medical services patient was assigned;

(b) The emergency medical services patient's chief complaint, the diagnosis the emergency medical services patient received in the emergency department or other intake facility and any procedures performed on the emergency medical services patient;

(c) The emergency department or hospital discharge disposition of the emergency medical services patient; and

(d) Demographic or standard health care information as required by the authority by rule.

(4) Data provided pursuant to this section shall be:

(a) Treated as a confidential medical record and not disclosed; and

(b) Considered privileged data under ORS 41.675 and 41.685.

(5) Data provided pursuant to this section may be used for quality assurance, quality improvement, epidemiological assessment and investigation, public health critical response planning, prevention activities and other purposes that the authority determines necessary.

(6)[*(a) A nontransporting prehospital care provider may report patient encounter data to the electronic emergency medical services data system.*]

[*(b) A nontransporting prehospital care provider that reports patient en-*

counter data shall comply with the reporting requirements that apply to ambulance services.]

[*(c)*] The patient outcome data described in subsection (3) of this section must be available to the designated official of [*the nontransporting prehospital care provider*] **a nontransport EMS service** that provided care and reported patient encounter data about the emergency medical services patient.

(7) The authority, with the advice of the board, may adopt rules to carry out this section, including rules to:

(a) Establish software interoperability standards and guidance to assist in reporting the patient encounter data required by this section; **and**

(b) Specify the method by which the patient outcome data will be made available to [*nontransporting prehospital care providers; and*] **the designated official of a nontransport EMS service.**

[*(c) Define "nontransporting prehospital care provider."*]

SECTION 62. ORS 682.059 is amended to read:

682.059. (1) The Oregon Health Authority shall make publicly available on a website operated by or on behalf of the authority an annual report of the data collected by the authority under ORS 682.056.

(2) The authority shall consult with the [*State Emergency Medical Service Committee*] **Emergency Medical Services Advisory Committee** to determine the data to include in the report required under this section.

(3) The report required under this section may not contain individually identifiable health information, as defined in ORS 192.556, or other information protected from public disclosure by state or federal law.

SECTION 63. ORS 682.059, as amended by section 62 of this 2021 Act, is amended to read:

682.059. (1) The Oregon Health Authority shall make publicly available on a website operated by or on behalf of the authority an annual report of the data [*collected by the authority*] **reported to the data system** under ORS 682.056.

(2) The authority shall consult with the Emergency Medical Services

Advisory Committee to determine the data to include in the report required under this section.

(3) The report required under this section may not contain individually identifiable [*health*] information, as defined in [*ORS 192.556*] **section 26 of this 2021 Act**, or other information protected from public disclosure by state or federal law.

SECTION 64. ORS 682.062 is amended to read:

682.062. (1) Each county shall develop a plan for the county or two or more contiguous counties may develop a plan relating to the need for and coordination of [*ambulance services*] **patient care services** and establish one or more ambulance service areas consistent with the plan for the efficient and effective provision of [*ambulance services*] **patient care services**.

(2) Each person, city or rural fire protection district within the county that provides or desires to provide [*ambulance services*] **patient care services** shall notify the county in writing if the person, city or district wants to be consulted prior to the adoption or amendment of a county plan for [*ambulance*] **the** services.

(3) Prior to adopting or amending a plan under subsection (1) of this section, a county shall notify each person, city or district that notified the county under subsection (2) of this section of its desire to be consulted. The county governing body shall consult with and seek advice from such persons, cities and districts with regard to the plan and to the boundaries of any ambulance service areas established under the plan. After such consultation, the county shall adopt or amend a plan in the same manner as the county enacts nonemergency ordinances.

(4) **A county shall submit** any plan developed and any service area established pursuant to subsection (1) of this section [*shall be submitted*] to the Oregon Health Authority.

(5) The authority[*, in consultation with the appropriate bodies specified in subsection (1) of this section,*] shall adopt rules pursuant to ORS chapter 183 that specify those subjects to be addressed and considered in any plan for

[*ambulance*] **patient care** services and **ambulance service** areas under subsection (1) of this section and those subjects to be addressed and considered in the adoption of [*any such*] **the** plan. The rules [*shall*] **must** be uniform, as far as practicable, but take into consideration unique circumstances of local districts.

(6) The authority shall review a plan submitted under subsection (4) of this section for compliance with the rules of the authority adopted under subsection (5) of this section. Not later than 60 days after receiving the plan, the authority shall approve the plan if it complies with the rules or disapprove the plan. The authority shall give written notice of [*such action*] **the approval or disapproval** to the county [*and, when a plan is not approved, the notice shall*]**. If the authority does not approve the plan, the notice described in this subsection must** indicate specifically how the plan does not comply with the rules of the authority. The county shall modify the plan to comply with the rules and shall submit the modified plan to the authority for review under this subsection.

(7) The rules adopted under subsection (5) of this section [*shall be*] **are** enforceable by the authority in a proceeding in circuit court for equitable relief.

(8) This section does not require a county to establish more than one ambulance service area within the county.

SECTION 65. ORS 682.063 is amended to read:

682.063. (1) In addition to the other requirements of ORS 682.031 and 682.062, when initially adopting a plan for [*ambulance services*] **patient care services** and ambulance service areas under ORS 682.062 or upon any subsequent review of the plan, a county shall:

(a) Consider [*any and*] all proposals for providing [*ambulance services*] **patient care services** that are submitted by a person or governmental unit or a combination thereof;

(b) Require persons and governmental units that desire to provide [*ambulance services*] **patient care services** under the plan to meet all the re-

quirements established by the plan; and

(c) Consider existing boundaries of cities and rural fire protection districts when establishing ambulance service areas under the plan.

(2) When determining the provider of [*ambulance services*] **patient care services** upon initial adoption or subsequent review of a plan under ORS 682.062, a county [*shall*] **may** not grant preference under the plan to any person or governmental unit solely because that person or governmental unit is providing [*ambulance services*] **patient care services** at the time of adoption or review of the plan.

SECTION 66. ORS 682.066 is amended to read:

682.066. When a county plan is not adopted for a county under ORS 682.062, a person or governmental unit may provide [*ambulance services*] **patient care services** within the county. A city or rural fire protection district may provide [*such*] **patient care** services within and outside the city or district boundaries in accordance with policies adopted by the governing body of the city or district, including operation in other districts or cities by intergovernmental agreement under ORS chapter 190.

SECTION 67. ORS 682.068 is amended to read:

682.068. (1) The Oregon Health Authority, in consultation with the [*State Emergency Medical Service Committee*] **Emergency Medical Services Advisory Committee**, shall adopt rules specifying minimum requirements for [*ambulance services*] **emergency medical services agencies**, and for staffing and medical and communications equipment requirements for all types of ambulances. The rules must define the requirements for advanced life support and basic life support units of emergency vehicles, including equipment and emergency medical services provider staffing of the passenger compartment when [*a*] **an emergency medical services** patient is being transported in emergency circumstances.

(2) The authority may waive any of the requirements imposed by this chapter in medically disadvantaged areas as determined by the Director of the Oregon Health Authority, or upon a showing that a severe hardship

would result from enforcing a particular requirement.

[*(3) The authority shall exempt from rules adopted under this section air ambulances that do not charge for the provision of ambulance services.*]

SECTION 68. ORS 682.075 is amended to read:

682.075. (1) Subject to any law or rule [*pursuant thereto*] relating to the construction or equipment of ambulances, the Oregon Health Authority shall, with the advice of the [*State Emergency Medical Service Committee appointed under ORS 682.039*] **Emergency Medical Services Advisory Committee** and in accordance with ORS chapter 183, adopt [*and when necessary amend or repeal*] rules relating to the construction, maintenance, capacity, sanitation, emergency medical supplies and equipment of ambulances.

(2) In order for an owner to secure and retain a license for an ambulance under this chapter, [*it shall*] **the owner must** meet the requirements [*imposed by rules of the authority*] **established by the authority by rule**. The requirements may relate to construction, maintenance, capacity, sanitation and emergency medical supplies and equipment on ambulances. [*Such requirements shall*] **The requirements established under this section must** include, but are not limited to, requirements relating to space in patient compartments, access to patient compartments, storage facilities, operating condition, cots, mattresses, stretchers, cot and stretcher fasteners, bedding, oxygen and resuscitation equipment, splints, tape, bandages, tourniquets, patient convenience accessories, cleanliness of vehicle and laundering of bedding.

SECTION 69. ORS 682.079 is amended to read:

682.079. (1)(a) The Oregon Health Authority may grant exemptions or variances from one or more of the requirements of ORS 820.330 to 820.380 or this chapter or the rules adopted under ORS 820.330 to 820.380 or this chapter to any class of vehicles if the authority finds that compliance with the requirement or requirements is inappropriate:

(A) Because special circumstances exist that would render compliance unreasonable, burdensome or impractical because of special conditions or

cause; or

(B) Because compliance would result in substantial curtailment of necessary ambulance service.

(b) Exemptions or variances granted under this subsection may be limited in time or may be conditioned as the authority considers necessary to protect the public welfare.

(2) In determining whether or not **to grant** a variance [*shall be granted*], the authority:

(a) May receive the advice of the [*State Emergency Medical Service Committee*] **Emergency Medical Services Advisory Committee**; and

(b) In all cases, shall weigh the equities involved and the advantages and disadvantages to the welfare of **emergency medical services** patients and the owners of vehicles.

(3) **The authority shall adopt** rules [*under this section shall be adopted, amended or repealed*] in accordance with ORS 183.330 **to carry out this section**.

SECTION 70. ORS 682.085 is amended to read:

682.085. (1) The Oregon Health Authority or its authorized representatives may at reasonable times inspect ambulances and [*ambulance services*] **emergency medical services agencies** licensed or subject to being licensed under this chapter.

(2) The authority may suspend or revoke a license if the [*ambulance service*] owner fails to take corrective action required pursuant to an inspection of an ambulance or [*ambulance service*] **emergency medical services agency** under this section.

SECTION 71. ORS 682.089 is amended to read:

682.089. (1) [*When*] A city, county or district **that** requires [*an ambulance service*] **a provider of patient care services** currently operating within the city, county or district to be replaced by another public or private [*ambulance service, the city, county or district*] **provider of patient care services** shall provide that:

(a) Emergency medical services provider staffing is maintained at least at the levels established in the local plan for [*ambulance services*] **patient care services** and ambulance service areas developed under ORS 682.062; and

(b) When hiring emergency medical services providers to fill vacant or new positions during the six-month period immediately following the date of replacement, the replacement [*ambulance service*] **provider of patient care services** shall give preference to qualified employees of the previous [*ambulance service*] **provider of patient care services** at comparable levels of licensure.

(2) As used in this section**,**[*:*]

[*(a) "Ambulance service" means any individual, partnership, corporation, association or agency that provides transport services and emergency medical services through use of licensed ambulances.*]

[*(b)*] "district" has the meaning given that term by ORS 198.010.

SECTION 72. ORS 682.105 is amended to read:

682.105. (1) In order to secure and retain a license under this chapter, the owner of an ambulance or ambulance service, other than a governmental unit, shall file and maintain with the Oregon Health Authority proof of ability to respond in damages for liability arising from the ownership, operation, use or maintenance of the ambulance, or arising from the delivery of [*prehospital*] **patient** care, in the amount of:

(a) $100,000 because of bodily injury to or death of one person in any one accident;

(b) Subject to that limit for one person, $300,000 because of bodily injury to or death of two or more persons in any one accident;

(c) $20,000 because of injury to or destruction of the property of others in any one accident; and

(d) $500,000 because of injury arising from the negligent provision of [*prehospital*] **patient** care to any individual.

(2) Proof of financial responsibility under subsection (1) of this section may be given by filing with the authority, for the benefit of the owner:

(a) A certificate of insurance issued by an insurance carrier licensed to transact insurance in this state showing that**:**

(A) The owner has procured and that there is in effect a motor vehicle liability policy for the limits of financial responsibility mentioned in subsection (1)(a) to (c) of this section designating by explicit description all motor vehicles [*with respect to*] **for** which coverage is granted [*thereby*] and insuring the named insured and all other persons using [*any such*] **a** motor vehicle **for which coverage is provided** with insured's consent against loss from the liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of [*any such*] **the** motor vehicle[*,*]**;** and

(B) [*that*] There is in effect a professional liability policy for the limit of financial responsibility described in subsection (1)(d) of this section insuring the named insured and all other persons engaged in the provision of [*prehospital*] **patient** care under the auspices of the licensed ambulance service against loss from the liabilities imposed by law for damages arising out of the provision of [*prehospital*] **patient** care;

(b) A bond conditioned for the paying in behalf of the principal, the limits of financial responsibility mentioned in subsection (1) of this section; or

(c) A certificate of the State Treasurer that [*such*] **the** owner has deposited with the State Treasurer the sum of $320,000 in cash, in the form of an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or in securities such as may legally be purchased by fiduciaries or for trust funds of a market value of $320,000.

SECTION 73. ORS 682.105, as amended by section 72 of this 2021 Act, is amended to read:

682.105. (1) In order to secure and retain a license under this chapter, the owner of an ambulance or ambulance service, other than a governmental unit, shall file and maintain with the Oregon Health Authority proof of ability to respond in damages for liability arising from the ownership, operation, use or maintenance of the ambulance, or arising from the delivery of patient care, in the amount of:

(a) $100,000 because of bodily injury to or death of one person in any one accident;

(b) Subject to that limit for one person, $300,000 because of bodily injury to or death of two or more persons in any one accident;

(c) $20,000 because of injury to or destruction of the property of others in any one accident; and

(d) $500,000 because of injury arising from the negligent provision of patient care to any individual.

(2) Proof of financial responsibility under subsection (1) of this section may be given by filing with the authority, for the benefit of the owner:

(a) A certificate of insurance issued by an insurance carrier licensed to transact insurance in this state showing that:

(A) The owner has procured and that there is in effect a motor vehicle liability policy for the limits of financial responsibility mentioned in subsection (1)(a) to (c) of this section designating by explicit description all motor vehicles for which coverage is granted and insuring the named insured and all other persons using a motor vehicle for which coverage is provided with insured's consent against loss from the liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of the motor vehicle; and

(B) There is in effect a professional liability policy for the limit of financial responsibility described in subsection (1)(d) of this section insuring the named insured and all other persons engaged in the provision of patient care under the auspices of the licensed ambulance service against loss from the liabilities imposed by law for damages arising out of the provision of patient care;

(b) A bond conditioned for the paying in behalf of the principal, the limits of financial responsibility mentioned in subsection (1) of this section; or

(c) A certificate of the State Treasurer that the owner has deposited with the State Treasurer the sum of $320,000 in cash, in the form of an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008

or in securities such as may legally be purchased by fiduciaries or for trust funds of a market value of $320,000.

(3) In order to secure and retain a license under ORS 682.047, the owner of a nontransport EMS service, other than a governmental unit, shall file and maintain with the authority proof of ability to respond in damages for liability arising from the delivery of patient care, in the amount of $500,000 because of injury arising from the negligent provision of patient care to any individual.

(4) Proof of financial responsibility under subsection (3) of this section may be given by filing with the authority, for the benefit of the owner:

(a) A certificate of insurance issued by an insurance carrier licensed to transact insurance in this state showing that there is in effect a professional liability policy for the limit of financial responsibility described in subsection (3) of this section insuring the named insured and all other persons engaged in the provision of patient care under the auspices of the licensed nontransport EMS service against loss from the liabilities imposed by law for damages arising out of the provision of patient care;

(b) A bond conditioned for the paying in behalf of the principal, the limits of financial responsibility mentioned in subsection (3) of this section; or

(c) A certificate of the State Treasurer that the owner has deposited with the State Treasurer the sum of $320,000 in cash, in the form of an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or in securities such as may legally be purchased by fiduciaries or for trust funds of a market value of $320,000.

SECTION 74. ORS 682.107 is amended to read:

682.107. (1) When insurance is the method chosen to prove financial responsibility, the certificate of insurance [*shall*] **must** be signed by an authorized company representative and [*shall*] **must** contain the following

information:

(a) The date on which the policy was issued.

(b) The name and address of the named insured.

(c) The policy number.

(d) The amount of coverage in terms of the liability limits stated in ORS 682.105.

(2) The policy of insurance for which the certificate is given [*shall*] **may** not be canceled or terminated except upon the giving of 10 days' prior written notice to the Oregon Health Authority. However, an insurance policy subsequently procured and certified to the authority shall, on the date the certificate is filed with the authority, terminate the insurance previously certified with respect to any owner or vehicle designated in both certificates.

(3) The vehicle policy need not insure any liability under any worker's compensation, nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment of the insured, or while engaged in the operation, maintenance or repair of a vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(4) The requirements for a vehicle liability policy and certificate of insurance may be fulfilled by the policies and certificates of one or more insurance carriers [*which*] **if the** policies and certificates together meet [*such*] **the** requirements **described in this section**.

SECTION 75. ORS 682.204 is amended to read:

682.204. (1) A person may not act as an emergency medical services provider unless the person is licensed under this chapter.

(2) A person or governmental unit [*which*] **that** operates an ambulance may not authorize a person to act for [*it*] **the person or governmental unit** as an emergency medical services provider unless the emergency medical services provider is licensed under this chapter.

(3) A person or governmental unit may not operate or allow to be operated in this state any ambulance unless [*it*] **the ambulance** is operated with

at least one emergency medical services provider who is licensed at a level higher than emergency medical responder.

[*(4) It is a defense to any charge under this section that there was a reasonable basis for believing that the performance of services contrary to this section was necessary to preserve human life, that diligent effort was made to obtain the services of a licensed emergency medical services provider and that the services of a licensed emergency medical services provider were not available or were not available in time as under the circumstances appeared necessary to preserve such human life.*]

[*(5) Subsections (1) to (3) of this section are not applicable to any individual, group of individuals, partnership, entity, association or other organization otherwise subject thereto providing a service to the public exclusively by volunteer unpaid workers, nor to any person who acts as an ambulance attendant therefor, provided that in the particular county in which the service is rendered, the county court or board of county commissioners has by order, after public hearing, granted exemption from such subsections to the individual, group, partnership, entity, association or organization. When exemption is granted under this section, any person who attends an individual who is ill or injured or who has a disability in an ambulance may not purport to be an emergency medical services provider.*]

SECTION 76. ORS 682.208 is amended to read:

682.208. (1) [*A person desiring to be licensed as an emergency medical services provider shall submit an application for licensure to the Oregon Health Authority.*] **In order to be licensed as an emergency medical services provider, an individual must submit an application for licensure to the Oregon Health Authority.** The application must be upon forms prescribed by the authority and must contain:

(a) The name and address of the applicant.

(b) The name and location of the training course successfully completed by the applicant and the date of completion.

(c) Evidence that the authority determines is satisfactory to prove that

the applicant's physical and mental health is such that it is safe for the applicant to act as an emergency medical services provider.

(d) Other information as the authority may reasonably require to determine compliance with applicable provisions of this chapter and the rules adopted under this chapter.

(2) The application must be accompanied by proof as prescribed by rule of the authority of the applicant's successful completion of a training course approved by the authority and, if an extended period of time has elapsed since the completion of the course, of a satisfactory amount of continuing education.

(3) The authority shall adopt a schedule of minimum educational requirements in [*emergency and nonemergency*] **patient** care for emergency medical services providers. A course approved by the authority must be designed to protect the welfare of [*out-of-hospital*] **emergency medical services** patients, to promote the health, well-being and saving of the lives of [*such*] **emergency medical services** patients and to reduce their pain and suffering.

SECTION 77. ORS 682.216 is amended to read:

682.216. (1) [*When application has been made as required under ORS 682.208, the Oregon Health Authority shall license the applicant as an emergency medical services provider if it finds*] **The Oregon Health Authority shall issue a license to an individual who applies under ORS 682.208 if the authority finds that**:

(a) The applicant has successfully completed a training course approved by the authority.

(b) The applicant meets the physical and mental qualifications required under ORS 682.208.

(c) No matter has been brought to the attention of the authority [*which*] **that** would disqualify the applicant.

(d) A nonrefundable fee has been paid to the authority pursuant to ORS 682.212.

(e) The applicant for an emergency medical services provider license:

(A) Is 18 years of age or older if the applicant is applying for a license at a level higher than emergency medical responder; or

(B) Is 16 years of age or older if the applicant is applying for a license at the emergency medical responder level.

(f) The applicant has successfully completed examination as prescribed by the authority.

(g) The applicant meets other requirements prescribed by rule of the authority.

(2) The authority may provide for the issuance of a provisional license for emergency medical services providers.

(3) The authority may issue an emergency medical services provider **reciprocity** license [*by indorsement*] without proof of completion of an approved training course to an emergency medical services provider who is licensed to practice [*emergency*] **patient** care in another state of the United States or a foreign country if, in the opinion of the authority, the applicant meets the requirements for licensure in this state and can demonstrate to the satisfaction of the authority competency to practice [*emergency*] **patient** care. The authority is the sole judge of credentials of any emergency medical services provider applying for licensure without proof of completion of an approved training course.

(4) [*A person*] **An emergency medical services provider** licensed under this section shall submit, at the time of application for renewal of the license to the authority, evidence of the [*applicant's*] **emergency medical services provider's** satisfactory completion of an authority approved program of continuing education and other requirements prescribed by rule by the authority.

(5) The authority shall prescribe criteria and approve programs of continuing education in [*emergency and nonemergency*] **patient** care to meet the requirements of this section.

(6) The authority shall include a fee [*pursuant to ORS 682.212*]**, estab-**

lished by the authority by rule, for late renewal and for issuance of any duplicate license. [*Each*] **A** license issued under this section, unless sooner suspended or revoked, expires and is renewable after a period of two years. [*Each*] **A** license must be renewed on or before June 30 of every second year or on or before [*such date as may be specified by authority rule*] **another date specified by the authority by rule**. The authority by rule shall establish a schedule of license renewals under this subsection and shall prorate the fees to reflect any shorter license period.

(7) Nothing in this chapter authorizes an emergency medical services provider to operate an ambulance without a driver license as required under the Oregon Vehicle Code.

SECTION 78. ORS 682.218 is amended to read:

682.218. The Oregon Health Authority shall adopt rules to allow an applicant for [*licensure by indorsement*] **a reciprocity license** as an emergency medical services provider to substitute experience and certification by a national registry of emergency medical services providers for education requirements imposed by the authority.

SECTION 79. ORS 682.220 is amended to read:

682.220. (1) The Oregon Health Authority may deny, suspend or revoke licenses for ambulances and [*ambulance services*] **emergency medical services agencies** in accordance with the provisions of ORS chapter 183 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted [*thereunder*] **under ORS 820.350 to 820.380 or this chapter**.

(2) The license of an emergency medical services provider may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for any of the following reasons:

(a) A failure to have completed successfully an authority approved course.

(b) In the case of a provisional license, failure to have completed successfully an authority approved course.

(c) Failure to meet or continue to meet the physical and mental quali-

fications required under ORS 682.208.

(d) The use of fraud or deception in [*receiving*] **obtaining** a license.

(e) Practicing skills beyond the scope of practice established by the Oregon Medical Board under ORS 682.245.

(f) Rendering [*emergency or nonemergency*] **patient** care under an assumed name.

(g) [*The impersonation of*] **Impersonating** another emergency medical services provider **or claiming a different level of licensure than that possessed by the emergency medical services provider**.

(h) Unprofessional conduct.

(i) Obtaining a fee by fraud or misrepresentation.

(j) Habitual or excessive use of intoxicants or drugs.

(k) The presence of a mental disorder that demonstrably affects an emergency medical services provider's performance, as certified by two psychiatrists retained by the authority.

(L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions about the ability of the emergency medical services provider to perform the duties of an emergency medical services provider in accordance with the standards established by this chapter. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of the conviction.

(m) Suspension or revocation of an emergency medical services provider license issued by another state:

(A) For a reason that would permit the authority to suspend or revoke a license issued under this chapter; and

(B) Evidenced by a certified copy of the order of suspension or revocation.

(n) Gross negligence or repeated negligence in rendering [*emergency medical assistance*] **patient care**.

(o) Rendering [*emergency or nonemergency*] **patient** care without being licensed, except as provided in ORS 30.800.

(p) Rendering [*emergency or nonemergency*] **patient** care as an emergency

medical services provider without written authorization and standing orders from [*a supervising physician who has been approved by the Oregon Medical Board*] **an EMS medical director** in accordance with ORS 682.245.

(q) Refusing an invitation for an interview with the authority as specified in this section.

(3) The authority may investigate any evidence that appears to show that an emergency medical services provider licensed by the authority is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an emergency medical services provider. The authority may investigate the off-duty conduct of an emergency medical services provider to the extent that [*such*] **the off-duty** conduct may reasonably raise questions about the ability of the emergency medical services provider to perform the duties of an emergency medical services provider in accordance with the standards established by this chapter. Upon receipt of a complaint about an emergency medical services provider or applicant, the authority shall conduct an investigation as described under ORS 676.165. The authority shall conduct the investigation in accordance with ORS 676.175.

(4)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any physician licensed under ORS 677.100 to 677.228, any owner of an ambulance licensed under this chapter or any emergency medical services provider licensed under this chapter shall report to the authority any information the person may have that appears to show that an emergency medical services provider is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an emergency medical services provider.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an emergency medical services provider licensed under this chapter who has reasonable cause to

believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(5) If, in the opinion of the authority, it appears that the information provided to [*it*] **the authority** under [*provisions of*] this section is or may be true, the authority may request an interview with the emergency medical services provider. At the time the authority requests an interview, the authority shall provide the emergency medical services provider with a general statement of the issue or issues of concern to the authority. The request must include a statement of the procedural safeguards available to the emergency medical services provider, including the right to end the interview on request, the right to have counsel present and the following statement: "Any action proposed by the Oregon Health Authority shall provide for a contested case hearing."

(6) Information regarding an [*ambulance service*] **emergency medical services agency** provided to the authority pursuant to this section is confidential and is not subject to public disclosure or admissible as evidence in any judicial proceeding. Information that the authority obtains as part of an investigation into the conduct of an emergency medical services provider or applicant or as part of a contested case proceeding, consent order or stipulated agreement involving the conduct of an emergency medical services provider or applicant is confidential as provided under ORS 676.175. Information regarding an [*ambulance service*] **emergency medical services agency** does not become confidential due to its use in a disciplinary proceeding against an emergency medical services provider.

(7) A person who reports or provides information to the authority under this section and who provides information in good faith is not subject to an action for civil damage as a result thereof.

(8) In conducting an investigation under subsection (3) of this section, the authority may:

(a) Take evidence;

(b) Take depositions of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(9) The authority may issue subpoenas to compel compliance with the provisions of subsection (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a court may compel obedience as provided in ORS 183.440.

SECTION 80. ORS 682.224 is amended to read:

682.224. (1) The Oregon Health Authority may discipline, as provided in this section, an [*ambulance service*] **emergency medical services agency** or an emergency medical services provider [*who*] **that** has:

(a) Admitted the facts of a complaint that alleges facts that establish that the emergency medical services provider is guilty of one or more of the grounds for suspension or revocation of a license as set forth in ORS 682.220 or that an [*ambulance service*] **emergency medical services agency** has violated the provisions of this chapter or the rules adopted [*thereunder*] **under this chapter**.

(b) Been found guilty in accordance with ORS chapter 183 of one or more of the grounds for suspension or revocation of a license as set forth in ORS 682.220 or that an [*ambulance service*] **emergency medical services agency** has violated the provisions of this chapter or the rules adopted [*thereunder*] **under this chapter**.

(2) The purpose of disciplining an emergency medical services provider under this section is to ensure that the emergency medical services provider will provide services that are consistent with the obligations of this chapter. Prior to taking final disciplinary action, the authority shall determine if the

emergency medical services provider has been disciplined for the questioned conduct by the emergency medical services provider's employer or [*supervising physician*] **EMS medical director**. The authority shall consider any such discipline or any other corrective action in deciding whether additional discipline or corrective action by the authority is appropriate.

(3) In disciplining an emergency medical services provider or [*ambulance service*] **emergency medical services agency** as authorized by subsection (1) of this section, the authority may use any or all of the following methods:

(a) Suspend judgment.

(b) Issue a letter of reprimand.

(c) Issue a letter of instruction.

(d) Place the emergency medical services provider or [*ambulance service*] **emergency medical services agency** on probation.

(e) Suspend the license of the emergency medical services provider or [*ambulance service*] **emergency medical services agency**.

(f) Revoke the license of the emergency medical services provider or [*ambulance service*] **emergency medical services agency**.

(g) Place limitations on the license of the emergency medical services provider or [*ambulance service*] **emergency medical services agency**.

(h) Take [*such*] other disciplinary action as the authority in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed $5,000, or both.

(4) In addition to the action authorized by subsection (3) of this section, the authority may temporarily suspend a license without a hearing, simultaneously with the commencement of proceedings under ORS chapter 183 if the authority finds that evidence in its possession indicates that a continuation in practice of the emergency medical services provider or operation of the [*ambulance service*] **emergency medical services agency** constitutes an immediate danger to the public.

(5) If the authority places any emergency medical services provider or

[*ambulance service*] **emergency medical services agency** on probation [*as set forth in*] **pursuant to** subsection (3)(d) of this section, the authority may determine, and may at any time modify, the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the emergency medical services provider or [*ambulance service*] **emergency medical services agency**, or both. Upon expiration of the term of probation, further proceedings shall be abated if the emergency medical services provider or [*ambulance service*] **emergency medical services agency** has complied with the terms of the probation.

(6)(a) If an emergency medical services provider's license is suspended, the emergency medical services provider may not practice during the term of suspension.

(b) If an [*ambulance service*] **emergency medical services agency** licensed in this state is suspended, the [*ambulance service*] **emergency medical services agency** may not operate in this state during the term of the suspension, provided that the authority shall condition [*such*] **the** suspension upon [*such*] **any** arrangements as may be necessary to ensure the continued availability of ambulance service in the area served by that [*ambulance service*] **emergency medical services agency**.

(c) Upon expiration of the term of suspension, the **authority shall reinstate the** license [*shall be reinstated by the authority*] if the conditions for which the license was suspended no longer exist.

(7) Whenever an emergency medical services provider or [*ambulance service*] **emergency medical services agency** license is denied or revoked for any cause, the authority may, in its discretion, after the lapse of two years from the date of the denial or revocation, upon written application by the person formerly licensed and after a hearing, issue or restore the emergency medical services provider or [*ambulance service*] **emergency medical services agency** license.

(8) Civil penalties under this section shall be imposed as provided in ORS

183.745.

SECTION 81. ORS 682.245 is amended to read:

682.245. (1) The Oregon Medical Board shall adopt by rule a scope of practice for each level of emergency medical services provider established by the Oregon Health Authority pursuant to ORS 682.017.

(2) The board shall adopt by rule standards for the qualifications and responsibilities of [*supervising physicians*] **EMS medical directors**.

(3) The standing orders for emergency medical services providers may not exceed the scope of practice defined by the board.

(4) An emergency medical services provider may not provide patient care or treatment without written authorization and standing orders from [*a supervising physician who has been approved*] **an EMS medical director who meets the standards established** by the board.

(5) The policies and procedures for applying and enforcing this section may be delegated in whole or in part to the authority.

SECTION 82. ORS 682.027 and 682.039 are repealed.

SECTION 83. (1) The amendments to ORS 682.017, 682.025, 682.031, 682.035, 682.041, 682.045, 682.047, 682.051, 682.056, 682.059, 682.062, 682.063, 682.066, 682.068, 682.075, 682.079, 682.085, 682.089, 682.105, 682.107, 682.204, 682.208, 682.216, 682.218, 682.220, 682.224 and 682.245 by sections 49, 51, 53, 55 to 60, 62, 64 to 72 and 74 to 81 of this 2021 Act and the repeal of ORS 682.027 and 682.039 by section 82 of this 2021 Act become operative on January 1, 2022.

(2) The amendments to ORS 682.017, 682.025, 682.031, 682.056, 682.059 and 682.105 by sections 50, 52, 54, 61, 63 and 73 of this 2021 Act become operative on January 1, 2025.

(3) The Oregon Health Authority and the Oregon Medical Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers

conferred on the authority and the board by the amendments to ORS 682.017, 682.025, 682.031, 682.035, 682.041, 682.045, 682.047, 682.051, 682.056, 682.059, 682.062, 682.063, 682.066, 682.068, 682.075, 682.079, 682.085, 682.089, 682.105, 682.107, 682.204, 682.208, 682.216, 682.218, 682.220, 682.224 and 682.245 by sections 49, 51, 53, 55 to 60, 62, 64 to 72 and 74 to 81 of this 2021 Act and the repeal of ORS 682.027 and 682.039 by section 82 of this 2021 Act.

CONFORMING AMENDMENTS

SECTION 84. ORS 146.015 is amended to read:

146.015. (1) There is hereby established the State Medical Examiner Advisory Board.

(2) The board shall make policies for the administration of ORS 146.003 to 146.189 and the Department of State Police shall adopt rules to effectuate the policies.

(3) The board shall recommend the name or names of pathologists to the Superintendent of State Police from which the superintendent shall appoint the Chief Medical Examiner.

(4) The board consists of 11 members appointed by the Governor who are:

(a) The Chair of the Department of Pathology of the Oregon Health and Science University, who is the chairperson of the board;

(b) The State Health Officer;

(c) A sheriff;

(d) A trauma physician recommended by the [*State Trauma Advisory Board*] **Emergency Health Care System Advisory Board**;

(e) A pathologist;

(f) A district attorney;

(g) A funeral service practitioner and embalmer licensed by the State Mortuary and Cemetery Board;

(h) A chief of police;

(i) A member of the defense bar;

(j) A member of the public at large; and

(k) A member of one of the federally recognized Oregon Indian tribes.

(5) The members described in subsection (4)(a) and (b) of this section may serve as long as they hold their respective positions. The term of office of each member described in subsection (4)(c), (f) and (h) of this section is for four years, except that the position becomes vacant if the member ceases to be a sheriff, district attorney or chief of police, respectively. The terms of office of the other members of the State Medical Examiner Advisory Board are for four years.

(6) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

(7) The board shall meet annually at a time and place determined by the chairperson. The chairperson or any four members of the board may call a special meeting upon not less than one week's notice to the members of the board.

(8) Six members of the board constitute a quorum.

SECTION 85. ORS 181A.375 is amended to read:

181A.375. (1) The Board on Public Safety Standards and Training shall establish the following policy committees:

(a) Corrections Policy Committee;

(b) Fire Policy Committee;

(c) Police Policy Committee;

(d) Telecommunications Policy Committee; and

(e) Private Security Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice chairperson. The vice chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

(a) All of the board members who represent the corrections discipline;

(b) The chief administrative officer of the training division of the Department of Corrections;

(c) A security manager from the Department of Corrections recommended by the Director of the Department of Corrections; and

(d) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon State Sheriffs' Association;

(B) Two persons recommended by and representing the Oregon Sheriff's Jail Command Council;

(C) One person recommended by and representing a statewide association of community corrections directors;

(D) One nonmanagement corrections officer employed by the Department of Corrections;

(E) One corrections officer who is employed by the Department of Corrections at a women's correctional facility and who is a member of a bargaining unit;

(F) Two nonmanagement corrections officers; and

(G) One person representing the public who:

(i) Has never been employed or utilized as a corrections officer or as a parole and probation officer; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a corrections officer or parole and probation officer.

(4) The Fire Policy Committee consists of:

(a) All of the board members who represent the fire service discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing a statewide association of fire instructors;

(B) One person recommended by and representing a statewide association of fire marshals;

(C) One person recommended by and representing community college fire programs;

(D) One nonmanagement firefighter recommended by a statewide organization of firefighters;

(E) One person representing the forest protection agencies and recommended by the State Forestry Department; and

(F) One person representing the public who:

(i) Has never been employed or utilized as a fire service professional; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a fire service professional.

(5) The Police Policy Committee consists of:

(a) All of the board members who represent the law enforcement discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon Association Chiefs of Police;

(B) Two persons recommended by and representing the Oregon State Sheriffs' Association;

(C) One command officer recommended by and representing the Oregon State Police;

(D) Three nonmanagement law enforcement officers; and

(E) One person representing the public who:

(i) Has never been employed or utilized as a police officer, certified reserve officer, reserve officer or regulatory specialist; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a police officer, certified reserve officer, reserve officer or regulatory specialist.

(6) The Telecommunications Policy Committee consists of:

(a) All of the board members who represent the telecommunications discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) Two persons recommended by and representing a statewide association of public safety communications officers;

(B) One person recommended by and representing the Oregon Association Chiefs of Police;

(C) One person recommended by and representing the Oregon State Police;

(D) Two persons representing telecommunicators;

(E) One person recommended by and representing the Oregon State Sheriffs' Association;

(F) One person recommended by and representing the Oregon Fire Chiefs Association;

(G) One person recommended by and representing the [*Emergency Medical Services and Trauma Systems Program*] **Emergency Health Care Systems Program** of the Oregon Health Authority;

(H) One person representing emergency medical services providers and recommended by a statewide association dealing with fire medical issues; and

(I) One person representing the public who:

(i) Has never been employed or utilized as a telecommunicator or an emergency medical dispatcher; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a telecommunicator or an emergency medical dispatcher.

(7) The Private Security Policy Committee consists of:

(a) All of the board members who represent the private security industry; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person representing unarmed private security professionals;

(B) One person representing armed private security professionals;

(C) One person representing the health care industry;

(D) One person representing the manufacturing industry;

(E) One person representing the retail industry;

(F) One person representing the hospitality industry;

(G) One person representing private business or a governmental entity that utilizes private security services;

(H) One person representing persons who monitor alarm systems;

(I) Two persons who are investigators licensed under ORS 703.430, one of whom is recommended by the Oregon State Bar and one of whom is in private practice; and

(J) One person representing the public who:

(i) Has never been employed or utilized as a private security provider, as defined in ORS 181A.840, or an investigator, as defined in ORS 703.401; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a private security provider, as defined in ORS 181A.840, or an investigator, as defined in ORS 703.401.

(8) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population. An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective. The chairperson of the board may remove an appointed member for just cause. An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment. The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment. The term of an appointed member is two years. An appointed member may be appointed to a second term.

(9) A policy committee may meet at such times and places as determined by the policy committee in consultation with the Department of Public Safety Standards and Training. A majority of a policy committee constitutes

a quorum to conduct business. A policy committee may create subcommittees if needed.

(10)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific discipline. A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration. When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:

(A) Approve the policy, requirement, standard or rule;

(B) Disapprove the policy, requirement, standard or rule; or

(C) Defer a decision and return the matter to the policy committee for revision or reconsideration.

(b) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.

(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.

(11) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration.

SECTION 86. ORS 353.450 is amended to read:

353.450. (1) It is the finding of the Legislative Assembly that there is need to provide programs that will assist a rural community to recruit and retain physicians, physician assistants and nurse practitioners. For that purpose:

(a) The Legislative Assembly supports the development at the Oregon Health and Science University of an Area Health Education Center program as provided for under the United States Public Health Service Act, Section

781.

(b) The university shall provide continuing education opportunities for persons licensed to practice medicine under ORS chapter 677 who practice in rural areas of this state in cooperation with the respective professional organizations, including the Oregon Medical Association and the Oregon Society of Physician Assistants.

(c) The university shall seek funding through grants and other means to implement and operate a fellowship program for physicians, physician assistants and nurse practitioners intending to practice in rural areas.

(2) With the moneys transferred to the Area Health Education Center program by ORS 442.870, the program shall:

(a) Establish educational opportunities for emergency medical services providers in rural counties;

(b) Contract with educational facilities qualified to conduct emergency medical training programs using a curriculum approved by the [*Emergency Medical Services and Trauma Systems Program*] **Emergency Health Care Systems Program**; and

(c) Review requests for training funds with input from the [*State Emergency Medical Service Committee*] **Emergency Medical Services Advisory Committee** and other individuals with expertise in emergency medical services.

SECTION 87. ORS 442.507 is amended to read:

442.507. (1) With the moneys transferred to the Office of Rural Health by ORS 442.870, the office shall establish a dedicated grant program for the purpose of providing assistance to rural communities to enhance emergency medical service systems.

(2) Communities, as well as nonprofit or governmental agencies serving those communities, may apply to the office for grants on forms developed by the office.

(3) The office shall make the final decision concerning which entities receive grants, but the office may seek advice from the Rural Health Coordi-

nating Council, the [*State Emergency Medical Service Committee*] **Emergency Medical Services Advisory Committee** and other appropriate individuals experienced with emergency medical services.

(4) The office may make grants to entities for the purchase of equipment, the establishment of new rural emergency medical service systems or the improvement of existing rural emergency medical service systems.

(5) With the exception of printing and mailing expenses associated with the grant program, the Office of Rural Health shall pay for administrative costs of the program with funds other than those transferred under ORS 442.870.

SECTION 88. ORS 442.870 is amended to read:

442.870. (1) The Emergency Medical Services Enhancement Account is established separate and distinct from the General Fund. Interest earned on moneys in the account shall accrue to the account. All moneys deposited in the account are continuously appropriated to the Department of Revenue for the purposes of this section.

(2) The Department of Revenue shall distribute moneys in the Emergency Medical Services Enhancement Account in the following manner:

(a) 35 percent of the moneys in the account shall be transferred to the Office of Rural Health established under ORS 442.475 for the purpose of enhancing emergency medical services in rural areas as specified in ORS 442.507.

(b) 25 percent of the moneys in the account shall be transferred to the [*Emergency Medical Services and Trauma Systems Program established under ORS 431A.085*] **Emergency Health Care Systems Program established under section 3 of this 2021 Act**.

(c) 35 percent of the moneys in the account shall be transferred to the Area Health Education Center program established under ORS 353.450.

(d) 5 percent of the moneys in the account shall be transferred to the Oregon Poison Center referred to in ORS 431A.313.

SECTION 89. ORS 445.030 is amended to read:

445.030. (1) There is created a fund to be known as the Motor Vehicle Accident Fund, to be held and deposited by the State Treasurer in such banks as are authorized to receive deposits of the General Fund.

(2) All moneys received by the Oregon Health Authority under this chapter shall forthwith be paid to the State Treasurer, and shall become a part of the fund.

(3) The following shall be paid from the fund:

(a) All claims and benefits allowed by the authority or finally adjudged affirmatively by a court on appeal in the amounts allowed or adjudged and within the limitations of ORS 445.060 and 445.070.

(b) All expenses of litigation incurred by the authority on any appeal.

(c) All court costs and disbursements assessed against the authority.

(d) All salaries, clerk hire, advances and reimbursement of travel costs and expenses incurred by the authority in the administration of this chapter.

(e) Expenses incurred by the authority in the administration of the [*Emergency Medical Services and Trauma Systems Program created pursuant to ORS 431A.085*] **Emergency Health Care Systems Program established under section 3 of this 2021 Act**. The total amount of all payments from the fund for purposes of this paragraph shall be equal to $891,450 each biennium.

(4) Liability for payment of claims or judgments thereon, or both, and expenses authorized by this chapter shall be limited to the fund and all additions thereto made under this chapter.

SECTION 90. ORS 478.260 is amended to read:

478.260. (1) The district board shall select a fire chief qualified by actual experience as a firefighter and fire precautionist, or otherwise, and assistants, volunteer or otherwise, and fix their compensation. The fire chief shall be responsible for the equipment and properties of the district. Under the direction of the board, the fire chief shall be responsible for the conduct of the fire department.

(2) The board, with advice and counsel of the fire chief, shall select the

location of the fire house or houses or headquarters of the fire department of the district. Such sites shall be chosen with a view to the best service to the residents and properties of the whole district and may be acquired by purchase or exercise of the powers of eminent domain in the manner provided by ORS chapter 35. The board may purchase apparatus and equipment as needed by the district, and provide a water system, ponds or reservoirs for the storage of water for fire-fighting purposes. Or the board may contract with water companies or districts, or both, for water service and facilities at a rate of compensation mutually agreed upon. The board also may divide the district into zones or subdivisions and provide an adequate system or code of fire alarms or signals by telephone, bell, whistle, siren or other means of communication.

(3) A district may operate or acquire and operate, or contract for the operation of, emergency medical service equipment and vehicles both within and without the boundaries of the district. A district may conduct ambulance operations only in conformance with a county plan adopted under ORS 682.062 for [*ambulance services*] **patient care services** and ambulance service areas and with rules of the Oregon Health Authority relating to [*such services*] **patient care services** and **ambulance** service areas. Service authorized under a county plan includes authorization for a district to provide [*ambulance services*] **patient care services** by intergovernmental agreement with any other unit of local government designated by the plan to provide [*ambulance services*] **patient care services**.

(4) As used in this section, [*"ambulance services"*] **"patient care"** has the meaning given that term in ORS [*682.027*] **682.025**.

SECTION 91. ORS 441.020 is amended to read:

441.020. (1) Licenses for health care facilities, except long term care facilities as defined in ORS 442.015, must be obtained from the Oregon Health Authority.

(2) Licenses for long term care facilities must be obtained from the Department of Human Services.

(3) Applications shall be upon such forms and shall contain such information as the authority or the department may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

(4)(a) Each application submitted to the Oregon Health Authority must be accompanied by the license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the Oregon Health Authority Fund for the purpose of carrying out the functions of the Oregon Health Authority under ORS 441.015 to 441.087; or

(b) Each application submitted to the Department of Human Services must be accompanied by the application fee or the annual renewal fee, as applicable. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the Department of Human Services Account for the purpose of carrying out the functions of the Department of Human Services under ORS [*431A.050 to 431A.080 and*] 441.015 to 441.087.

(5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

(a) Fewer than 26 beds, the annual license fee shall be $1,250.

(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be $1,850.

(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be $3,800.

(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be $6,525.

(e) Two hundred or more beds, but fewer than 500 beds, the annual license fee shall be $8,500.

(f) Five hundred or more beds, the annual license fee shall be $12,070.

(6) A hospital shall pay an annual fee of $750 for each hospital satellite indorsed under its license.

(7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority determines that charging the standard fee constitutes a significant financial burden to the facility.

(8) For long term care facilities with:

(a) One to 15 beds, the application fee shall be $2,000 and the annual renewal fee shall be $1,000.

(b) Sixteen to 49 beds, the application fee shall be $3,000 and the annual renewal fee shall be $1,500.

(c) Fifty to 99 beds, the application fee shall be $4,000 and the annual renewal fee shall be $2,000.

(d) One hundred to 150 beds, the application fee shall be $5,000 and the annual renewal fee shall be $2,500.

(e) More than 150 beds, the application fee shall be $6,000 and the annual renewal fee shall be $3,000.

(9) For ambulatory surgical centers, the annual license fee shall be:

(a) $1,750 for certified and high complexity noncertified ambulatory surgical centers with more than two procedure rooms.

(b) $1,250 for certified and high complexity noncertified ambulatory surgical centers with no more than two procedure rooms.

(c) $1,000 for moderate complexity noncertified ambulatory surgical centers.

(10) For birthing centers, the annual license fee shall be $750.

(11) For outpatient renal dialysis facilities, the annual license fee shall be $2,000.

(12) The authority shall prescribe by rule the fee for licensing an extended stay center, not to exceed:

(a) An application fee of $25,000; and

(b) An annual renewal fee of $5,000.

(13) During the time the licenses remain in force, holders are not required to pay inspection fees to any county, city or other municipality.

(14) Any health care facility license may be indorsed to permit operation

at more than one location. If so, the applicable license fee shall be the sum of the license fees that would be applicable if each location were separately licensed. The authority may include hospital satellites on a hospital's license in accordance with rules adopted by the authority.

(15) Licenses for health maintenance organizations shall be obtained from the Director of the Department of Consumer and Business Services pursuant to ORS 731.072.

(16) Notwithstanding subsection (4) of this section, all moneys received for approved applications pursuant to subsection (8) of this section shall be deposited in the Quality Care Fund established in ORS 443.001.

(17) As used in this section:

(a) "Hospital satellite" has the meaning prescribed by the authority by rule.

(b) "Procedure room" means a room where surgery or invasive procedures are performed.

SECTION 92. (1) The amendments to ORS 146.015, 181A.375, 353.450, 442.507, 442.870, 445.030 and 478.260 by sections 84 to 90 of this 2021 Act become operative on January 1, 2022.

(2) The amendments to ORS 441.020 by section 91 of this 2021 Act become operative on January 1, 2025.

(3) The Board on Public Safety Standards and Training, the Department of Human Services, the Department of Revenue, the Governor, the Office of Rural Health, Oregon Health and Science University, the State Medical Examiner Advisory Board and the Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the boards, the departments, the Governor, the office, the university, the center and the authority to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the boards, the departments, the Governor, the office, the university, the center and the authority by the amendments to

ORS 146.015, 181A.375, 353.450, 442.507, 442.870, 445.030 and 478.260 by sections 84 to 90 of this 2021 Act.

CAPTIONS

SECTION 93. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EFFECTIVE DATE

SECTION 94. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

LC 398
2021 Regular Session
44300-010
8/20/20 (SCT/ps)

D R A F T

SUMMARY

Requires person to identify to Oregon Health Authority third party that performs lead-based paint activities or renovation. Allows authority to order risk assessment and hazard control or abatement of lead-based paint activities and renovation when authority has reason to believe violation occurred. Allows authority to impose civil penalty for violation of order. Allows authority to impose costs related to risk assessment and hazard control or abatement and impose lien for costs.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to lead-based paint; creating new provisions; amending ORS 431A.355 and 431A.363; and prescribing an effective date.

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

SECTION 1. ORS 431A.355 is amended to read:

431A.355. (1) The Oregon Health Authority shall:

(a) Certify firms and individuals to perform lead-based paint activities;

(b) Certify firms to perform renovation;

(c) Accredit training providers to provide lead-based paint activities and renovation training;

(d) Develop and approve training programs for lead-based paint activities and renovation;

(e) Establish standards based on best practices for the conduct of lead-based paint inspections, risk assessment and **hazard control or** abatement services, renovation activities that disturb lead-based paint and the disposal of lead-based paint that are in addition to, not inconsistent with and not in

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.

lieu of any other workplace standards required by law;

(f) Develop and conduct programs to screen blood lead levels, identify hazards and educate the public, including but not limited to parents, residential dwelling owners, pediatric medical providers and child care facility operators, about the dangers of lead-based paint and about appropriate precautions that may reduce the probability of childhood lead poisoning;

(g) Adopt rules necessary to implement the provisions of this section and ORS 431A.358 and 431A.363; and

(h) Establish fees sufficient to recover the costs of implementing the provisions of this section and ORS 431A.358 and 431A.363, including but not limited to fees for:

(A) Certification and recertification to perform lead-based paint activities and renovation; and

(B) Accreditation and reaccreditation of lead-based paint training providers.

(2) The authority may contract with a third party to obtain a lead-based paint risk assessment or to abate or control lead-based paint hazards that are identified by a risk assessment.

[*(2)*] **(3)** The [*Oregon Health*] authority may:

(a) Enter private or public property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests or take specimens or samples for testing, as necessary to determine compliance with **this section and** ORS 431A.358;

(b) Issue subpoenas to determine compliance with **this section and** ORS 431A.358;

(c) Suspend, revoke or modify a certification to perform lead-based paint activities or renovation if the holder of the certification fails to comply with state or federal statutes or regulations related to lead-based paint; and

(d) Suspend, revoke or modify a certified renovator's certification if the renovator fails to comply with state or federal statutes or regulations related to lead-based paint.

(4) A person for whom a third party performs lead-based paint activities or renovation, or who compensates a third party to perform lead-based paint activities or renovation, shall identify the third party to the authority upon request.

SECTION 2. ORS 431A.363 is amended to read:

431A.363. [*(1) Any person who violates any provision of, or any rule adopted under, ORS 431A.355 or 431A.358 shall forfeit and pay to the Public Health Account established under ORS 431.210 a civil penalty of not more than $5,000 for each violation. Moneys paid to the Public Health Account under this section may be used only for the purposes of lead poisoning prevention, including consumer and industry outreach, public education, blood lead screening and other activities.*]

[*(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.*]

[*(3) A civil penalty imposed under this section is in addition to and not in lieu of any other penalty or sanction provided by law.*]

[*(4) The Oregon Health Authority shall report all civil penalties or sanctions imposed under this section or a rule adopted under ORS 431A.355 to each of the following state agencies:*]

[*(a) The Construction Contractors Board;*]

[*(b) The Occupational Safety and Health Division of the Department of Consumer and Business Services; and*]

[*(c) The Department of Environmental Quality.*]

(1) The Oregon Health Authority may impose a civil penalty of not more than $5,000 per violation per day on any person who violates:

(a) ORS 431A.358;

(b) A rule adopted under ORS 431A.355; or

(c) An order issued by the authority pursuant to this section or ORS 431A.355 or 431A.358.

(2)(a) If the authority has reason to believe that a person is engaging in an act or practice that violates ORS 431A.358 or a rule adopted

under ORS 431A.355, the authority may order that all lead-based paint activities or renovation to which the person is connected stop immediately.

(b) A request for a hearing on the propriety of the order must be submitted to the authority in writing within 10 days of the date on which the order was served. The authority shall grant a hearing as soon as practicable after receipt of the hearing request, and shall conduct the hearing as provided for contested cases under ORS chapter 183.

(3)(a) The authority may issue an order to require the actions described in paragraph (b) of this subsection to:

(A) A person who has violated ORS 431A.358 or a rule adopted under ORS 431A.355; or

(B) A property owner, or agent of the property owner, who knowingly contracted with a person who was not certified under ORS 431A.355 to perform lead-based paint activities or renovation when certification was required under ORS 431A.385.

(b) An order issued under this subsection may require the recipient of the order to, as soon as reasonably practical:

(A) Obtain a risk assessment in accordance with ORS 431A.355 or 431A.358 and rules adopted under ORS 431A.355 or 431A.358; and

(B) Abate or control any lead-based paint hazards identified by the risk assessment. All lead-based paint abatement and hazard control services must be performed in accordance with ORS 431A.355 and 431A.358 and rules adopted under ORS 431A.355 and 431A.358.

(c) A request for a hearing on the propriety of the order must be submitted to the authority in writing within 10 days of the date on which the order was served. The authority shall grant a hearing as soon as practicable after receipt of the hearing request, and shall conduct the hearing as provided for contested cases under ORS chapter 183.

(4) If a person described in subsection (3) of this section fails to timely comply with an order issued under subsection (3) of this section, the authority may take any necessary action to obtain a risk assessment or abate or control any lead-based paint hazards identified by a risk assessment.

(5) In addition to the civil penalty described in subsection (1) of this section, the authority may impose on a person who fails to timely comply with an order issued pursuant to subsection (3) of this section costs in an amount sufficient to cover any expenses incurred by the authority in obtaining a risk assessment and abating or controlling any hazards, as described in subsection (3) of this section. Costs imposed under this section must be imposed in compliance with section 3 of this 2021 Act.

(6) A person who fails to identify a third party as described in ORS 431A.355 is liable jointly and severally for any violation by the third party of ORS 431A.358 or a rule adopted under ORS 431A.355.

(7) All moneys collected by the authority under this section and section 3 of this 2021 Act shall be deposited into the Public Health Account established under ORS 431.210. Moneys deposited under this section shall be used for the purposes of lead poisoning prevention, including consumer and industry outreach, public education, blood lead screening, lead-based paint risk assessments, lead-based paint hazard abatement and control activities and other similar activities.

(8) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(9) A civil penalty imposed under this section is in addition to, and not in lieu of, any other penalty or sanction provided by law.

(10) The authority shall report all civil penalties and sanctions imposed under this section or a rule adopted under ORS 431A.355 to each of the following state agencies:

(a) The Construction Contractors Board;

(b) The Occupational Safety and Health Division of the Department of Consumer and Business Services; and

(c) The Department of Environmental Quality.

SECTION 3. (1) Costs imposed by the Oregon Health Authority pursuant to ORS 431A.363 are due and payable 10 days after the order imposing the costs becomes final. A person against whom costs are imposed must be served with a notice in the manner provided in ORS 183.415.

(2)(a) The person served under subsection (1) of this section may, within 20 days of the date of the notice, make a written request for a hearing.

(b) The authority may by rule provide for a longer period of time in which a hearing may be requested.

(c) If a hearing is not timely requested, the authority may issue a final order imposing costs.

(3) A person who makes a timely request for a hearing under subsection (2) of this section is entitled to a hearing. The hearing must be conducted as a contested case hearing pursuant to ORS chapter 183.

(4) Judicial review of an order made after a hearing described in subsection (3) of this section shall comply with the requirements for judicial review of a contested case under ORS chapter 183.

(5) When an order imposing costs under this section becomes final, and the amount of costs is not paid within 10 days after the date on which the order becomes final, the order may be recorded with the county clerk in any county in this state. The clerk shall record the name of the person incurring the costs and the amount of costs in the County Clerk Lien Record. In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record has the effect provided for in ORS 205.125 and 205.126 and the order may be enforced as provided for in ORS 205.125 and 205.126.

(6) The notice described in this section may be made part of any

other notice served by the authority pursuant to ORS 183.415.

(7)(a) Costs in an amount sufficient to cover expenses incurred by the authority under ORS 431A.363 shall constitute a lien upon any real and personal property owned by a person who fails to timely comply with an order issued under this section.

(b) At any time after a person fails to comply with an order issued under this section, the authority may file a claim of lien on real property to be charged with a lien under this subsection with the recording officer of each county in which the real property is located, and a claim of lien on personal property to be charged with a lien under this section with the Secretary of State.

(c) A lien filed under this section shall attach and become enforceable on the date of the filing. The lien claim must contain:

(A) A statement of the demand;

(B) The name of the person against whose property the lien attaches;

(C) A description of the property charged with the lien sufficient for identification; and

(D) A statement of the failure of the person to perform the risk assessment, hazard abatement or hazard control as required.

(d) A lien created by this section may be foreclosed by a suit on real and personal property in the circuit court in the manner provided by law for the foreclosure of other liens. In an action to foreclose on a lien under this section in which the authority prevails, the court, at trial and on appeal, shall allow and fix a reasonable amount for attorney fees for prosecution of the action, if the court finds that a written demand for payment of the claim was made on the defendant not less than 20 days before the commencement of the action.

(8) This section does not affect the ability of the authority to bring other actions to recover costs described in ORS 431A.363, or as otherwise authorized by law.

SECTION 4. **Section 3 of this 2021 Act and the amendments to ORS 431A.355 and 431A.363 by sections 1 and 2 of this 2021 Act apply to actions occurring on and after the operative date specified in section 5 of this 2021 Act.**

SECTION 5. **(1) Section 3 of this 2021 Act and the amendments to ORS 431A.355 and 431A.363 by sections 1 and 2 of this 2021 Act become operative on January 1, 2022.**

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 3 of this 2021 Act and the amendments to ORS 431A.355 and 431A.363 by sections 1 and 2 of this 2021 Act.

SECTION 6. **This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

LC 403
2021 Regular Session
44300-018
9/11/20 (LHF/ps)

D R A F T

SUMMARY

Transfers duties, functions and powers related to COFA Premium Assistance Program and health insurance exchange from Department of Consumer and Business Services to Oregon Health Authority on June 30, 2021.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health insurance; creating new provisions; amending ORS 243.142, 411.400, 411.402, 411.406, 413.032, 414.025, 735.601, 735.608, 735.617, 741.002, 741.003, 741.004, 741.008, 741.102, 741.105, 741.107, 741.220, 741.222, 741.300, 741.310, 741.390, 741.400, 741.500, 741.510, 741.520, 741.540, 741.802, 741.900, 743.018 and 743B.130; repealing ORS 735.611; and declaring an emergency.

Whereas the Department of Consumer and Business Services and the Oregon Health Authority mutually encourage and support the transfer of the COFA Premium Assistance Program and the health insurance exchange from the department to the authority; now, therefore,

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

TRANSFER OF DUTIES FROM DEPARTMENT OF CONSUMER AND BUSINESS SERVICES TO OREGON HEALTH AUTHORITY

SECTION 1. The duties, functions and powers of the Department of Consumer and Business Services relating to the COFA Premium Assistance Program and the health insurance exchange are imposed

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.

upon, transferred to and vested in the Oregon Health Authority.

TRANSFER OF RECORDS, PROPERTY, EMPLOYEES

SECTION 2. (1) The Director of the Department of Consumer and Business Services shall:

(a) Deliver to the Oregon Health Authority all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 1 of this 2021 Act; and

(b) Transfer to the authority those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 1 of this 2021 Act.

(2) The Director of the Oregon Health Authority shall take possession of the records and property and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 1 of this 2021 Act, in the same capacities, positions, classifications and steps in which they were employed by the department.

(3) The Governor shall resolve any dispute between the department and the authority relating to transfers of records, property and employees under this section, and the Governor's decision is final.

UNEXPENDED REVENUES

SECTION 3. (1) The unexpended balances of amounts authorized to be expended by the Department of Consumer and Business Services for the biennium beginning July 1, 2019, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 1 of this 2021 Act are transferred to and are available for expenditure by the Oregon Health Authority for the

biennium beginning July 1, 2021, for the purpose of administering and enforcing the duties, functions and powers transferred by section 1 of this 2021 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the department remain applicable to expenditures by the authority under this section.

ACTION, PROCEEDING, PROSECUTION

SECTION 4. (1) The transfer of duties, functions and powers to the Oregon Health Authority by section 1 of this 2021 Act does not affect any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before and pending at the time of the transfer, except that the Oregon Health Authority is substituted for the Department of Consumer and Business Services in the action, proceeding or prosecution.

(2) Any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before and pending at the time of the transfer is subject to the limitations, defenses and immunities of the Oregon Health Authority arising under ORS 30.260 to 30.300, the Eleventh Amendment to the United States Constitution and other state and federal laws.

LIABILITY, DUTY, OBLIGATION

SECTION 5. (1) Nothing in sections 1 to 8 of this 2021 Act and the amendments to statutes by sections 9 to 38 of this 2021 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 1 of this 2021 Act. The Oregon Health Authority may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Department of Consumer and Business Services legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 1 of this 2021 Act accruing under or with respect to the duties, functions and powers transferred by section 1 of this 2021 Act are transferred to the Oregon Health Authority. For the purpose of succession to these rights and obligations, the authority is a continuation of the department and not a new authority.

(3) The rights and obligations described in this section shall be amended or reformed by the authority as necessary:

(a) To comply with the Public Contracting Code; and

(b) For the authority to be named the grantee for federal grants.

RULES

SECTION 6. Notwithstanding the transfer of duties, functions and powers by section 1 of this 2021 Act, the rules of the Department of Consumer and Business Services with respect to such duties, functions or powers that are in effect on the operative date of section 1 of this 2021 Act continue in effect until superseded or repealed by rules of the Oregon Health Authority. References in the rules of the department to the department or an officer or employee of the department are considered to be references to the authority or an officer or employee of the authority.

SECTION 7. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 1 of this 2021 Act, reference is made to the Department of Consumer and Business Services, or an officer or employee of the department, whose duties, functions or powers are transferred by section 1 of this 2021 Act, the reference

is considered to be a reference to the Oregon Health Authority or an officer or employee of the authority who by this 2021 Act is charged with carrying out the duties, functions and powers.

ANNUAL REPORT TO LEGISLATIVE ASSEMBLY

SECTION 8. No later than September 15, 2022, and annually thereafter, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to health, in the form provided in ORS 192.245, on the progress of integrating into the authority the duties, functions and powers transferred from the Department of Consumer and Business Services by section 1 of this 2021 Act.

COFA PREMIUM ASSISTANCE PROGRAM

SECTION 9. ORS 735.601 is amended to read:

735.601. ORS 735.601 to 735.617 establish the COFA Premium Assistance Program to be administered by the [*Department of Consumer and Business Services*] **Oregon Health Authority**. The purpose of the program is to provide financial assistance to enable low-income citizens of the island nations in the Compact of Free Association who are residing in Oregon to purchase qualified health plan coverage through the health insurance exchange and to pay out-of-pocket costs associated with the coverage.

SECTION 10. ORS 735.608 is amended to read:

735.608. (1) An individual is eligible for the COFA Premium Assistance Program if the individual:

(a) Is a resident;

(b) Is a COFA citizen;

(c) Enrolls in a qualified health plan;

(d) Has income that is less than 138 percent of the federal poverty guidelines; and

(e) Qualifies for an advance premium tax credit toward the cost of the individual's qualified health plan.

(2) Within the limits of moneys in the COFA Premium Assistance Program Fund, the [*Department of Consumer and Business Services*] **Oregon Health Authority** shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who meets the criteria in subsection (1) of this section.

(3) The [*department*] **authority** may disenroll a participant from the program if the participant:

(a) No longer meets the eligibility criteria specified in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the [*department*] **authority** in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the [*department*] **authority** of a change of address in a timely manner;

(d) Withdraws the participant's application or requests termination of coverage; or

(e) Performs an act, practice or omission that constitutes fraud and, as a result, an insurer rescinds the participant's policy for the qualified health plan.

(4) The [*department*] **authority** shall establish:

(a) Application, enrollment and renewal processes for the COFA Premium Assistance Program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the [*department*] **authority** to administer the program;

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health insurance exchange; and

(e) A comprehensive community education and outreach campaign, working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the program.

SECTION 11. ORS 735.617 is amended to read:

735.617. The COFA Premium Assistance Program Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the COFA Premium Assistance Program Fund are continuously appropriated to the [*Department of Consumer and Business Services*] **Oregon Health Authority** for the payment of premium costs and out-of-pocket costs through the COFA Premium Assistance Program and the costs of the [*department*] **authority** in administering the program. Interest earned by the fund shall be credited to the fund.

SECTION 12. ORS 414.025 is amended to read:

414.025. As used in this chapter and ORS chapters 411 and 413, unless the context or a specially applicable statutory definition requires otherwise:

(1)(a) "Alternative payment methodology" means a payment other than a fee-for-services payment, used by coordinated care organizations as compensation for the provision of integrated and coordinated health care and services.

(b) "Alternative payment methodology" includes, but is not limited to:

(A) Shared savings arrangements;

(B) Bundled payments; and

(C) Payments based on episodes.

(2) "Behavioral health assessment" means an evaluation by a behavioral health clinician, in person or using telemedicine, to determine a patient's need for immediate crisis stabilization.

(3) "Behavioral health clinician" means:

(a) A licensed psychiatrist;

(b) A licensed psychologist;

(c) A licensed nurse practitioner with a specialty in psychiatric mental health;

(d) A licensed clinical social worker;

(e) A licensed professional counselor or licensed marriage and family therapist;

(f) A certified clinical social work associate;

(g) An intern or resident who is working under a board-approved supervisory contract in a clinical mental health field; or

(h) Any other clinician whose authorized scope of practice includes mental health diagnosis and treatment.

(4) "Behavioral health crisis" means a disruption in an individual's mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the individual's mental or physical health.

(5) "Behavioral health home" means a mental health disorder or substance use disorder treatment organization, as defined by the Oregon Health Authority by rule, that provides integrated health care to individuals whose primary diagnoses are mental health disorders or substance use disorders.

(6) "Category of aid" means assistance provided by the Oregon Supplemental Income Program, aid granted under ORS 411.877 to 411.896 and 412.001 to 412.069 or federal Supplemental Security Income payments.

(7) "Community health worker" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community, either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community where the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Provides health education and information that is culturally appropriate to the individuals being served;

(f) Assists community residents in receiving the care they need;

(g) May give peer counseling and guidance on health behaviors; and

(h) May provide direct services such as first aid or blood pressure screening.

(8) "Coordinated care organization" means an organization meeting criteria adopted by the Oregon Health Authority under ORS 414.572.

(9) "Dually eligible for Medicare and Medicaid" means, with respect to eligibility for enrollment in a coordinated care organization, that an individual is eligible for health services funded by Title XIX of the Social Security Act and is:

(a) Eligible for or enrolled in Part A of Title XVIII of the Social Security Act; or

(b) Enrolled in Part B of Title XVIII of the Social Security Act.

(10)(a) "Family support specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides supportive services to and has experience parenting a child who:

(A) Is a current or former consumer of mental health or addiction treatment; or

(B) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A "family support specialist" may be a peer wellness specialist or a peer support specialist.

(11) "Global budget" means a total amount established prospectively by the Oregon Health Authority to be paid to a coordinated care organization for the delivery of, management of, access to and quality of the health care delivered to members of the coordinated care organization.

(12) "Health insurance exchange" or "exchange" means an American Health Benefit Exchange described in 42 U.S.C. 18031, 18032, 18033 and 18041.

(13) "Health services" means at least so much of each of the following

as are funded by the Legislative Assembly based upon the prioritized list of health services compiled by the Health Evidence Review Commission under ORS 414.690:

(a) Services required by federal law to be included in the state's medical assistance program in order for the program to qualify for federal funds;

(b) Services provided by a physician as defined in ORS 677.010, a nurse practitioner licensed under ORS 678.375, a behavioral health clinician or other licensed practitioner within the scope of the practitioner's practice as defined by state law, and ambulance services;

(c) Prescription drugs;

(d) Laboratory and X-ray services;

(e) Medical equipment and supplies;

(f) Mental health services;

(g) Chemical dependency services;

(h) Emergency dental services;

(i) Nonemergency dental services;

(j) Provider services, other than services described in paragraphs (a) to (i), (k), (L) and (m) of this subsection, defined by federal law that may be included in the state's medical assistance program;

(k) Emergency hospital services;

(L) Outpatient hospital services; and

(m) Inpatient hospital services.

(14) "Income" has the meaning given that term in ORS 411.704.

(15)(a) "Integrated health care" means care provided to individuals and their families in a patient centered primary care home or behavioral health home by licensed primary care clinicians, behavioral health clinicians and other care team members, working together to address one or more of the following:

(A) Mental illness.

(B) Substance use disorders.

(C) Health behaviors that contribute to chronic illness.

(D) Life stressors and crises.

(E) Developmental risks and conditions.

(F) Stress-related physical symptoms.

(G) Preventive care.

(H) Ineffective patterns of health care utilization.

(b) As used in this subsection, "other care team members" includes but is not limited to:

(A) Qualified mental health professionals or qualified mental health associates meeting requirements adopted by the Oregon Health Authority by rule;

(B) Peer wellness specialists;

(C) Peer support specialists;

(D) Community health workers who have completed a state-certified training program;

(E) Personal health navigators; or

(F) Other qualified individuals approved by the Oregon Health Authority.

(16) "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable instruments as defined in ORS 73.0104 and such similar investments or savings as the department or the authority may establish by rule that are available to the applicant or recipient to contribute toward meeting the needs of the applicant or recipient.

(17) "Medical assistance" means so much of the medical, mental health, preventive, supportive, palliative and remedial care and services as may be prescribed by the authority according to the standards established pursuant to ORS 414.065, including premium assistance [*and*] **under ORS 414.115, 414.117 and 735.601 to 735.617,** payments made for services provided under an insurance or other contractual arrangement and money paid directly to the recipient for the purchase of health services and for services described in ORS 414.710.

(18) "Medical assistance" includes any care or services for any individual who is a patient in a medical institution or any care or services for any in-

dividual who has attained 65 years of age or is under 22 years of age, and who is a patient in a private or public institution for mental diseases. Except as provided in ORS 411.439 and 411.447, "medical assistance" does not include care or services for a resident of a nonmedical public institution.

(19) "Patient centered primary care home" means a health care team or clinic that is organized in accordance with the standards established by the Oregon Health Authority under ORS 414.655 and that incorporates the following core attributes:

(a) Access to care;

(b) Accountability to consumers and to the community;

(c) Comprehensive whole person care;

(d) Continuity of care;

(e) Coordination and integration of care; and

(f) Person and family centered care.

(20) "Peer support specialist" means any of the following individuals who meet qualification criteria adopted by the authority under ORS 414.665 and who provide supportive services to a current or former consumer of mental health or addiction treatment:

(a) An individual who is a current or former consumer of mental health treatment; or

(b) An individual who is in recovery, as defined by the Oregon Health Authority by rule, from an addiction disorder.

(21) "Peer wellness specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who is responsible for assessing mental health and substance use disorder service and support needs of a member of a coordinated care organization through community outreach, assisting members with access to available services and resources, addressing barriers to services and providing education and information about available resources for individuals with mental health or substance use disorders in order to reduce stigma and discrimination toward consumers of mental health and substance use disorder services and to assist

the member in creating and maintaining recovery, health and wellness.

(22) "Person centered care" means care that:

(a) Reflects the individual patient's strengths and preferences;

(b) Reflects the clinical needs of the patient as identified through an individualized assessment; and

(c) Is based upon the patient's goals and will assist the patient in achieving the goals.

(23) "Personal health navigator" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions and desired outcomes.

(24) "Prepaid managed care health services organization" means a managed dental care, mental health or chemical dependency organization that contracts with the authority under ORS 414.654 or with a coordinated care organization on a prepaid capitated basis to provide health services to medical assistance recipients.

(25) "Quality measure" means the health outcome and quality measures and benchmarks identified by the Health Plan Quality Metrics Committee and the metrics and scoring subcommittee in accordance with ORS 413.017 (4) and 414.638.

(26) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes, "resources" does not include charitable contributions raised by a community to assist with medical expenses.

(27)(a) "Youth support specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who, based on a similar life experience, provides supportive services to an individual who:

(A) Is not older than 30 years of age; and

(B)(i) Is a current or former consumer of mental health or addiction

treatment; or

(ii) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A "youth support specialist" may be a peer wellness specialist or a peer support specialist.

HEALTH INSURANCE EXCHANGE

SECTION 13. ORS 243.142 is amended to read:

243.142. The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall apply for a waiver of federal law or any formal permission from the appropriate federal agency or agencies that is necessary to allow districts and eligible employees of districts to obtain health benefit plans through the health insurance exchange in accordance with ORS 243.886.

SECTION 14. ORS 411.400 is amended to read:

411.400. (1) An application for any category of aid shall also constitute an application for medical assistance.

(2) [*Except as provided in subsection (6) of this section,*] The Department of Human Services and the Oregon Health Authority shall accept an application for medical assistance and any required verification of eligibility from the applicant, an adult who is in the applicant's household or family, an authorized representative of the applicant or, if the applicant is a minor or incapacitated, someone acting on behalf of the applicant:

(a) Over the Internet;

(b) By telephone;

(c) By mail;

(d) In person; and

(e) Through other commonly available electronic means.

(3) The department and the authority may require an applicant or person acting on behalf of an applicant to provide only the information necessary

for the purpose of making an eligibility determination or for a purpose directly connected to the administration of medical assistance or the health insurance exchange.

(4) The department and the authority shall provide application and recertification assistance to individuals with disabilities, individuals with limited English proficiency, individuals facing physical or geographic barriers and individuals seeking help with the application for medical assistance or recertification of eligibility for medical assistance:

(a) Over the Internet;

(b) By telephone; and

(c) In person.

(5)(a) The department [*of Human Services and the authority*] shall promptly transfer information received under this section to the [*Department of Consumer and Business Services, the United States Department of Health and Human Services or the Internal Revenue Service*] **authority** as necessary for the determination of eligibility for the health insurance exchange, premium tax credits or cost-sharing reductions.

(b) The department [*of Human Services*] shall promptly transfer information received under this section to the authority for individuals who are eligible for medical assistance because they qualify for public assistance.

[*(6) The Department of Human Services and the authority shall accept from the Department of Consumer and Business Services an application and any verification that was submitted to the Department of Consumer and Business Services by an applicant or on behalf of an applicant in order for the Department of Human Services or the authority to determine the applicant's eligibility for medical assistance.*]

SECTION 15. ORS 411.402 is amended to read:

411.402. (1) The Department of Human Services and the Oregon Health Authority shall adopt by rule, consistent with federal requirements, the procedures for verifying eligibility for medical assistance, including but not limited to all of the following:

(a) The department and the authority shall access all relevant state and federal electronic databases for any eligibility information available through the databases.

(b) The department and the authority shall verify the following factors through self-attestation:

(A) Pregnancy;

(B) Date of birth;

(C) Household composition; and

(D) Residency.

(c) The department and the authority may not use self-attestation to verify citizenship and immigration status.

(d) The department and the authority may require the applicant to provide verification in addition to the verification specified in this subsection only if the department and the authority are unable to obtain the information electronically or if the information obtained electronically is not reasonably compatible with information provided by or on behalf of the applicant.

(e) The department and the authority shall use methods of administration that are in the best interests of applicants and recipients and that are necessary for the proper and efficient operation of the medical assistance program.

(2) Information obtained by the department [*or the authority*] under this section may be [*exchanged*] **shared** with the [*health insurance exchange*] **authority** and with other state or federal agencies for the purpose of:

(a) Verifying eligibility for medical assistance, participation in the exchange or other health benefit programs;

(b) Establishing the amount of any tax credit due to the person, cost-sharing reduction or premium assistance;

(c) Improving the provision of services; and

(d) Administering health benefit programs.

SECTION 16. ORS 411.406 is amended to read:

411.406. (1) A medical assistance recipient shall immediately notify the Department of Human Services or the Oregon Health Authority, if required, of the receipt or possession of property or income or other change in circumstances that directly affects the eligibility of the recipient to receive medical assistance, or that directly affects the amount of medical assistance for which the recipient is eligible. Failure to give the notice shall entitle the department or the authority to recover from the recipient the amount of assistance improperly disbursed by reason thereof.

(2)(a) The department or the authority shall redetermine the eligibility of a medical assistance recipient at intervals specified by federal law.

(b) The department and the authority shall redetermine eligibility under this subsection on the basis of information available to the department and the authority and may not require the recipient to provide information if the department or the authority is able to determine eligibility based on information in the recipient's record or through other information that is available to the department or the authority.

(3) Notwithstanding subsection (2) of this section, if the department or the authority receives information about a change in a medical assistance recipient's circumstances that may affect eligibility for medical assistance, the department or the authority shall promptly redetermine eligibility.

(4) If the department or the authority determines that a medical assistance recipient no longer qualifies for the medical assistance program in which the recipient is enrolled, the department or the authority must determine eligibility for other medical assistance programs, potential eligibility for the health insurance exchange, premium tax credits and cost-sharing reductions before terminating the recipient's medical assistance.

(5) If [*the*] **a** recipient **of medical assistance administered by the department** appears to qualify for the exchange, premium tax credits or cost-sharing reductions, the department [*or the authority*] shall promptly transfer the recipient's record to the [*exchange*] **authority** to process those benefits.

SECTION 17. ORS 413.032 is amended to read:

413.032. (1) The Oregon Health Authority is established. The authority shall:

(a) Carry out policies adopted by the Oregon Health Policy Board;

(b) Administer the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.570;

(c) Administer the Oregon Prescription Drug Program;

(d) Develop the policies for and the provision of publicly funded medical care and medical assistance in this state;

(e) Develop the policies for and the provision of mental health treatment and treatment of addictions;

(f) Assess, promote and protect the health of the public as specified by state and federal law;

(g) Provide regular reports to the board with respect to the performance of health services contractors serving recipients of medical assistance, including reports of trends in health services and enrollee satisfaction;

(h) Guide and support, with the authorization of the board, community-centered health initiatives designed to address critical risk factors, especially those that contribute to chronic disease;

(i) Be the state Medicaid agency for the administration of funds from Titles XIX and XXI of the Social Security Act and administer medical assistance under ORS chapter 414;

(j) In consultation with the Director of the Department of Consumer and Business Services, periodically review and recommend standards and methodologies to the Legislative Assembly for:

(A) Review of administrative expenses of health insurers;

(B) Approval of rates; and

(C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;

(k) Structure reimbursement rates for providers that serve recipients of medical assistance to reward comprehensive management of diseases, quality outcomes and the efficient use of resources and to promote cost-effective

procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations;

(L) Guide and support community three-share agreements in which an employer, state or local government and an individual all contribute a portion of a premium for a community-centered health initiative or for insurance coverage;

(m) Develop, in consultation with the Department of Consumer and Business Services, one or more products designed to provide more affordable options for the small group market;

(n) Implement policies and programs to expand the skilled, diverse workforce as described in ORS 414.018 (4); and

(o) Implement a process for collecting the health outcome and quality measure data identified by the Health Plan Quality Metrics Committee and report the data to the Oregon Health Policy Board.

(2) The Oregon Health Authority is authorized to:

(a) Create an all-claims, all-payer database to collect health care data and monitor and evaluate health care reform in Oregon and to provide comparative cost and quality information to consumers, providers and purchasers of health care about Oregon's health care systems and health plan networks in order to provide comparative information to consumers.

(b) Develop uniform contracting standards for the purchase of health care, including the following:

(A) Uniform quality standards and performance measures;

(B) Evidence-based guidelines for major chronic disease management and health care services with unexplained variations in frequency or cost;

(C) Evidence-based effectiveness guidelines for select new technologies and medical equipment;

(D) A statewide drug formulary that may be used by publicly funded health benefit plans; and

(E) Standards that accept and consider tribal-based practices for mental

health and substance abuse prevention, counseling and treatment for persons who are Native American or Alaska Native as equivalent to evidence-based practices.

(3) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Authority by ORS 413.006 to 413.042, 415.012 to 415.430 and [*741.340*] **735.601 to 735.617, 741.001 to 741.540, 741.802 and 741.900** or by other statutes.

SECTION 18. ORS 741.002 is amended to read:

741.002. (1) The duties of the [*Department of Consumer and Business Services*] **Oregon Health Authority** include:

(a) Administering a health insurance exchange in accordance with federal law to make qualified health plans available to individuals and groups throughout this state.

(b) Providing information in writing, through an Internet-based clearinghouse and through a toll-free telephone line, that will assist individuals and small businesses in making informed health insurance decisions and that may include:

(A) The rating assigned to each health plan and the rating criteria that were used;

(B) Quality and enrollee satisfaction survey results; and

(C) The comparative costs, benefits, provider networks of health plans and other useful information.

(c) Establishing and maintaining an electronic calculator that allows individuals and employers to determine the cost of coverage after deducting any applicable tax credits or cost-sharing reduction.

(d) Operating a call center [*for answers to*] **dedicated to answering** questions from individuals seeking enrollment in a qualified health plan [*or in the state medical assistance program*].

[*(e) Providing information about the eligibility requirements and the application processes for the state medical assistance program.*]

(2) The [*department*] **authority** shall:

(a) Screen, certify and recertify health plans as qualified health plans according to the requirements, standards and criteria adopted by the [*department*] **authority** under ORS 741.310 and ensure that qualified health plans provide choices of coverage.

(b) Decertify or suspend, in accordance with ORS chapter 183, the certification of a health plan that fails to meet federal and state standards in order to exclude the health plan from participation in the exchange.

(c) Promote fair competition of carriers participating in the exchange by certifying multiple health plans as qualified under ORS 741.310.

(d) Assign ratings to health plans in accordance with criteria established by the United States Secretary of Health and Human Services and by the [*department*] **authority**.

(e) Establish open and special enrollment periods for all enrollees, and monthly enrollment periods for Native Americans [*in accordance*] **that are consistent** with federal law.

(f) Assist individuals and groups to enroll in qualified health plans, including defined contribution plans as defined in section 414 of the Internal Revenue Code and, if appropriate, collect and remit premiums for such individuals or groups.

(g) Facilitate community-based assistance with enrollment in qualified health plans by awarding grants to entities that are certified as navigators as described in 42 U.S.C. 18031(i).

(h) Provide employers with the names of employees who end coverage under a qualified health plan during a plan year.

(i) Certify the eligibility of an individual for an exemption from the individual responsibility requirement of section 5000A of the Internal Revenue Code.

(j) Provide information to the federal government necessary for individuals who are enrolled in qualified health plans through the exchange to receive tax credits and reduced cost-sharing.

(k) Provide to the federal government any information necessary to comply with federal requirements including:

(A) Information regarding individuals determined to be exempt from the individual responsibility requirement of section 5000A of the Internal Revenue Code;

(B) Information regarding employees who have reported a change in employer; and

(C) Information regarding individuals who have ended coverage during a plan year.

(L) Take any other actions necessary and appropriate to comply with the federal requirements for a health insurance exchange.

(m) Work in coordination with the [*Oregon Health Authority and the*] Oregon Health Policy Board in carrying out its duties.

(3) The [*department*] **authority** may adopt rules necessary to carry out its duties and functions under ORS 741.001 to 741.540.

(4) The [*department*] **authority** may contract or enter into an intergovernmental agreement with the federal government to perform any of the duties and functions described in ORS 741.001 to 741.540.

[*(5) The department may assign contracts to the Oregon Health Authority if necessary for the authority to administer the state medical assistance program.*]

SECTION 19. ORS 741.003 is amended to read:

741.003. (1) The health insurance exchange is under the supervision of the Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority**.

(2) The director has such powers as are necessary to carry out ORS 741.001 to 741.540.

(3) The director may employ, supervise and terminate the employment of such staff as the director deems necessary. The director shall prescribe their duties and fix their compensation. [*An employee of the department, other than the director, who has management responsibilities or decision-making authority*

with respect to the administration of the health insurance exchange may not also have management responsibilities or decision-making authority with respect to reviewing rates, assessing provider network adequacy, approving forms, determining financial solvency or enforcing other legal requirements applicable to insurers offering health insurance, as defined in ORS 731.162, in this state.] Employees administering the exchange may not be individuals who are:

(a) Employed by, consultants to or members of a board of directors of:

(A) An insurer or third party administrator;

(B) An insurance producer; or

(C) A health care provider, health care facility or health clinic;

(b) Members, board members or employees of a trade association of:

(A) Insurers or third party administrators; or

(B) Health care providers, health care facilities or health clinics; or

(c) Health care providers, unless they receive no compensation for rendering services as health care providers and do not have ownership interests in professional health care practices.

SECTION 20. ORS 741.004 is amended to read:

741.004. (1) The Health Insurance Exchange Advisory Committee is created to advise the [*Director of the Department of Consumer and Business Services*] **Oregon Health Policy Board** in the development and implementation of the policies and operational procedures governing the administration of a health insurance exchange in this state including, but not limited to, all of the following:

(a) The amount of the assessment imposed on insurers under ORS 741.105.

(b) The implementation of a Small Business Health Options Program in accordance with 42 U.S.C. 18031.

(c) The processes and procedures to enable each insurance producer to be authorized to act for all of the insurers offering **qualified** health [*benefit*] plans through the health insurance exchange.

(d) The affordability of **qualified** health [*benefit*] plans offered by em-

ployers under section 5000A(e)(1) of the Internal Revenue Code.

(e) Outreach strategies for reaching minority and low-income communities.

(f) Solicitation of customer feedback.

(g) The affordability of health [*benefit*] plans offered through the exchange.

(2) The committee consists of 15 members. [*Thirteen*] **Fourteen** members shall be appointed by the Governor and are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The appointed members serve at the pleasure of the Governor. The [*Director of the Department of Consumer and Business Services and the*] Director of the Oregon Health Authority **or the director's designee** shall serve as **an** ex officio [*members*] **member** of the committee.

(3) The [*13*] **14** members appointed by the Governor must represent the interests of:

(a) Insurers;

(b) Insurance producers;

(c) Navigators, in-person assisters, application counselors and other individuals with experience in facilitating enrollment in qualified health plans;

(d) Health care providers;

(e) The business community, including small businesses and self-employed individuals;

(f) Consumer advocacy groups, including advocates for enrolling hard-to-reach populations;

(g) Enrollees in **qualified** health [*benefit*] plans; and

(h) State agencies that administer the medical assistance program under ORS chapter 414.

(4) The **Oregon Health Policy Board or the** Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** may solicit recommendations from the committee and the committee may initiate recommendations on its own.

(5) The committee [*shall*] **may** provide annual reports to the Legislative Assembly, in the manner provided in ORS 192.245, of the findings and recommendations the committee considers appropriate, including **but not limited to** a report on the:

(a) Adequacy of assessments for reserve programs and administrative costs;

(b) Implementation of the Small Business Health Options Program;

(c) Number of qualified health plans offered through the exchange;

(d) Number and demographics of individuals enrolled in qualified health plans;

(e) Advance premium tax credits provided to enrollees in qualified health plans; and

(f) Feedback from the community about satisfaction with the operation of the exchange and qualified health plans offered through the exchange.

(6) The members of the committee shall be appointed for a term [*of*] **fixed by the Governor, not to exceed** two years**,** and shall serve without compensation, but shall be entitled to travel expenses in accordance with ORS 292.495. The committee may hire, subject to the approval of the director [*of the Department of Consumer and Business Services*], such experts as the committee may require to discharge its duties. All expenses of the committee shall be paid out of the Health Insurance Exchange Fund established in ORS 741.102.

(7) The employees of the [*Department of Consumer and Business Services*] **Oregon Health Authority responsible for administering the health insurance exchange** are directed to assist the committee in the performance of its duties under subsection (1) of this section and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the committee consider necessary to perform their duties under subsection (1) of this section.

SECTION 21. ORS 741.008 is amended to read:

741.008. The [*Department of Consumer and Business Services*] **Oregon**

Health Authority shall conduct a state or nationwide criminal records check under ORS 181A.195 on, and for that purpose may require the fingerprints of, a person who:

(1) Is employed by or applying for employment with the [*department*] **authority** in a position related to the administration of the health insurance exchange; or

(2) Is, or will be, providing services to the [*department*] **authority** in a position related to the administration of the health insurance exchange:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information that is confidential or for which state or federal laws, rules or regulations prohibit disclosure;

(c) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the [*department*] **authority**;

(d) That has mailroom duties as a primary duty or job function;

(e) In which the person has responsibility for auditing the [*department*] **authority**;

(f) That has personnel or human resources functions as a primary responsibility;

(g) In which the person has access to Social Security numbers, dates of birth or criminal background information; or

(h) In which the person has access to tax or financial information about individuals or business entities.

SECTION 22. ORS 741.102 is amended to read:

741.102. The Health Insurance Exchange Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by

the Health Insurance Exchange Fund shall be credited to the fund. The Health Insurance Exchange Fund consists of moneys received by the [*Department of Consumer and Business Services*] **Oregon Health Authority** under ORS 741.001 to 741.540. Moneys in the fund are continuously appropriated to the [*department*] **authority** for carrying out the purposes of ORS 741.001 to 741.540.

SECTION 23. ORS 741.105 is amended to read:

741.105. (1) The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall establish, by rule, an administrative charge. The [*department*] **authority** shall impose and collect the charge from all insurers **participating in the health insurance exchange or offering a health plan certified by the authority** and state programs participating in the health insurance exchange. The Health Insurance Exchange Advisory Committee shall advise the [*department*] **authority** in establishing the administrative charge. The charge must be in an amount sufficient to cover the costs of grants to navigators, in-person assisters and application counselors certified under ORS 741.002 and to pay the administrative and operational expenses of the [*department*] **authority** in carrying out ORS 741.001 to 741.540. The charge shall be paid in a manner and at intervals prescribed by the [*department*] **authority**.

(2)**(a)** Each insurer's charge shall be based on the number of individuals, excluding individuals enrolled in state programs, who are enrolled in health plans**:**

(A) Offered by the insurer through the exchange**; and**

(B) Certified by the authority.

(b) The [*assessment on*] **charge to** each state program shall be based on the number of individuals enrolled in state programs offered through the exchange.

(3) The charge **imposed under this section** may not exceed:

(a) Five percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is at or

below 175,000;

(b) Four percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 175,000 and at or below 300,000; and

(c) Three percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 300,000.

[*(3)(a)*] **(4)(a)** If charges collected under subsection (1) of this section exceed the amounts needed for the administrative and operational expenses of the [*department*] **authority** in administering the health insurance exchange, the excess moneys collected may be held and used by the [*department*] **authority** to offset future net losses.

(b) The maximum amount of excess moneys that may be held under this subsection is the total [*administrative and operational expenses of administering the health insurance exchange*] **costs and expenses described in subsection (1) of this section** anticipated by the [*department*] **authority** for a six-month period. Any moneys received that exceed the maximum shall be applied by the [*department*] **authority** to reduce the charges imposed by this section.

[*(4)*] **(5)** Charges shall be based on annual statements and other reports submitted by insurers and state programs as prescribed by the [*department*] **authority**.

[*(5)*] **(6)** In addition to charges imposed under subsection (1) of this section, to the extent permitted by federal law the [*department*] **authority** may impose a fee on insurers and state programs participating in the exchange to cover the cost of commissions of insurance producers that are certified by the [*department*] **authority** or by the United States Department of Health and Human Services to facilitate the participation of individuals and employers in the exchange.

[*(6)(a)*] **(7)(a)** The [*Department of Consumer and Business Services*] **authority** shall establish and amend the charges and fees under this section

in accordance with ORS 183.310 to 183.410.

(b) If the [*department*] **authority** intends to increase an administrative charge or fee, the notice of intended action required by ORS 183.335 shall be sent, if the Legislative Assembly is not in session, to the interim committees of the Legislative Assembly related to health, to the Joint Interim Committee on Ways and Means and to each member of the Legislative Assembly. The Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** shall appear at the next meetings of the interim committees of the Legislative Assembly related to health and the next meetings of the Joint Interim Committee on Ways and Means that occur after the notice of intended action is sent and fully explain the basis and rationale for the proposed increase in the administrative charges or fees.

(c) If the Legislative Assembly is in session, the [*department*] **authority** shall give the notice of intended action to the committees of the Legislative Assembly related to health and to the Joint Committee on Ways and Means and shall appear before the committees to fully explain the basis and rationale for the proposed increase in administrative charges or fees.

[*(7)*] **(8)** All charges and fees collected under this section shall be deposited in the Health Insurance Exchange Fund.

SECTION 24. ORS 741.107 is amended to read:

741.107. (1) As used in this section, "Small Business Health Options Program" has the meaning given that term in ORS 741.300.

(2) If the [*Department of Consumer and Business Services*] **Oregon Health Authority** submits a request to the Oregon Department of Administrative Services to procure an information technology product or service for creating an Internet portal for the Small Business Health Options Program and the anticipated cost exceeds $1 million:

(a) The [*department*] **authority** shall, if the Legislative Assembly is not in session, notify the interim committees of the Legislative Assembly related to health, the Joint Interim Committee on Ways and Means and each member of the Legislative Assembly. The Director of the [*Department of Consumer*

and Business Services] **Oregon Health Authority** shall appear at the next meetings of the interim committees of the Legislative Assembly related to health and the next meetings of the Joint Interim Committee on Ways and Means to fully explain the need for the product or service.

(b) If the Legislative Assembly is in session, the [*department*] **authority** shall notify the committees of the Legislative Assembly related to health and the Joint Committee on Ways and Means and the director shall appear before the committees to fully explain the need for the product or service.

SECTION 25. ORS 741.220 is amended to read:

741.220. (1) The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall keep an accurate accounting of the operation and all activities, receipts and expenditures of the [*department*] **authority** with respect to the health insurance exchange.

(2) The Secretary of State shall conduct an annual financial audit of the [*department's*] **authority's** revenues and expenditures in carrying out ORS 741.001 to 741.540. The audit shall include but is not limited to:

(a) A review of the sources and uses of the moneys in the Health Insurance Exchange Fund;

(b) A review of charges and fees imposed and collected pursuant to ORS 741.105; and

(c) A review of premiums collected and remitted.

(3) Every two years, the Secretary of State shall conduct a performance audit of the exchange.

(4) The Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** and employees of the [*department*] **authority responsible for administering the health insurance exchange** shall cooperate with the Secretary of State in the audits and reviews conducted under subsections (2) and (3) of this section.

(5) The audits shall be conducted using generally accepted accounting principles and any financial integrity requirements of federal authorities.

(6) The cost of the audits required by subsections (2) and (3) of this sec-

tion shall be paid by the [*department*] **authority**.

(7) The Secretary of State shall issue a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Oregon Health Authority, the Oregon Health Policy Board and appropriate federal authorities on the results of each audit conducted pursuant to this section, including any recommendations for corrective actions. The report shall be available for public inspection, in accordance with the Secretary of State's established rules and procedures governing public disclosure of audit documents.

(8) To the extent the audit requirements under this section are similar to any audit requirements imposed on the [*department*] **authority** by federal authorities, the Secretary of State and the [*department*] **authority** shall make reasonable efforts to coordinate with the federal authorities to promote efficiency and the best use of resources in the timing and provision of information.

(9) Not later than the 90th day after the Secretary of State completes and delivers an audit report issued under subsection (7) of this section, the director shall notify the Secretary of State in writing of the corrective actions taken or to be taken, if any, in response to any recommendations in the report. The Secretary of State may extend the 90-day period for good cause.

SECTION 26. ORS 741.222 is amended to read:

741.222. (1) The Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** shall report to the Legislative Assembly each year on:

(a) The financial condition of the health insurance exchange, including actual and projected revenues and expenses of the administrative operations of the exchange and commissions paid to insurance producers out of fees collected under ORS 741.105 [*(5)*] **(6)**;

(b) The implementation of the Small Business Health Options Program;

(c) The development of the information technology system for the exchange; and

(d) Any other information requested by the leadership of the Legislative Assembly.

(2) The director shall provide to the Legislative Assembly, the Governor[*, the Oregon Health Authority*] and the Oregon Health Policy Board, not later than April 15 of each year:

(a) A report covering the activities and operations of the [*Department of Consumer and Business Services*] **authority** in administering the health insurance exchange during the previous year of operations;

(b) A statement of the financial condition, as of December 31 of the previous year, of the Health Insurance Exchange Fund; **and**

[*(c) A description of the role of insurance producers in the exchange; and*]

[*(d)*] **(c)** Recommendations, if any, for additional groups to be eligible to purchase qualified health plans through the exchange under ORS 741.310.

SECTION 27. ORS 741.300 is amended to read:

741.300. As used in ORS 741.001 to 741.540:

(1) "Coordinated care organization" has the meaning given that term in ORS 414.025.

(2) "Essential health benefits" has the meaning given that term in ORS 731.097.

(3) "Health benefit plan" has the meaning given that term in ORS 743B.005.

(4) "Health care service contractor" has the meaning given that term in ORS 750.005.

(5) "Health insurance" has the meaning given that term in ORS 731.162, excluding disability income insurance.

(6) "Health insurance exchange" or "exchange" means **the division of the Oregon Health Authority that operates** an American Health Benefit Exchange as described in 42 U.S.C. 18031, 18032, 18033 and 18041.

(7) "Health plan" means [*health insurance,*] a health benefit plan or [*health care coverage*] **dental only benefit plan** offered by an insurer.

(8) "Insurer" means an insurer as defined in ORS 731.106 that offers

health insurance, a health care service contractor, a prepaid managed care health services organization or a coordinated care organization.

(9) "Insurance producer" has the meaning given that term in ORS 731.104.

(10) "Prepaid managed care health services organization" has the meaning given that term in ORS 414.025.

(11) "State program" means a program providing medical assistance, as defined in ORS 414.025, and any self-insured health benefit plan or health plan offered to employees by the Public Employees' Benefit Board or the Oregon Educators Benefit Board.

(12) "Qualified health plan" means a health benefit plan [*available for purchase through the health insurance exchange*] **certified by the authority in accordance with the requirements, standards and criteria adopted by the authority under ORS 741.310**.

(13) "Small Business Health Options Program" or "SHOP" means a health insurance exchange for small employers as described in 42 U.S.C. 18031.

SECTION 28. ORS 741.310 is amended to read:

741.310. (1)(a) Individuals and families may purchase qualified health plans through the health insurance exchange.

(b) The following groups may purchase qualified health plans through the Small Business Health Options Program:

(A) [*Employers with no more than 100 employees*] **Small employers as defined in ORS 743B.005**; and

(B) Districts and eligible employees of districts that are subject to ORS 243.886, unless their participation is precluded by federal law.

(2)(a) Only individuals who purchase **qualified** health plans through the exchange may be eligible to receive premium tax credits under section 36B of the Internal Revenue Code and reduced cost-sharing under 42 U.S.C. 18071.

(b) Only employers that purchase health plans through the SHOP may be eligible to receive small employer health insurance credits under section 45R of the Internal Revenue Code.

(3) Only an insurer that has a certificate of authority to transact insur-

ance in this state and that meets applicable **state and** federal requirements for participating in the exchange may offer a qualified health plan through the exchange. Any qualified health plan must be certified under ORS 741.002. Coordinated care organizations that do not have a certificate of authority to transact insurance may serve only medical assistance recipients through the exchange and may not offer qualified health plans.

(4)(a) The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall adopt by rule uniform requirements, standards and criteria for the certification of qualified health plans, including requirements that a qualified health plan provide, at a minimum, essential health benefits and have acceptable consumer and provider satisfaction ratings.

(b) The [*department*] **authority** may limit the number of qualified health plans that may be offered through the exchange as long as the same limit applies to all insurers.

(5) The [*department*] **authority** shall certify as qualified a dental only health plan as permitted by federal law.

(6) The [*department*] **authority**, in collaboration with the [*Oregon Health Authority and the*] Department of Human Services, shall coordinate the application and enrollment processes for the exchange and the state medical assistance program.

(7) The [*Department of Consumer and Business Services*] **authority** may establish risk mediation programs within the exchange.

(8) The [*department*] **authority** shall establish by rule a process for certifying insurance producers to facilitate the transaction of insurance through the exchange, in accordance with federal standards and policies.

[*(9) The department shall ensure that an insurer charges the same premiums for plans sold through the exchange as for identical plans sold outside of the exchange.*]

[*(10)*] **(9)** The [*department*] **authority** is authorized to enter into contracts for the performance of the [*department's*] **authority's** duties, functions or operations with respect to the exchange, including but not limited to con-

tracting with:

(a) Insurers that meet the requirements of subsections (3) and (4) of this section, to offer qualified health plans through the exchange; and

(b) Navigators, in-person assisters and application counselors certified by the [*department*] **authority** under ORS 741.002.

[*(11)(a)*] **(10)(a)** The [*department*] **authority** shall consult with stakeholders, including but not limited to representatives of school administrators, school board members, school employees and the Oregon Educators Benefit Board, regarding the plans that may be offered through the exchange to districts and eligible employees of districts under subsection (1)(b)(B) of this section and the insurers that may offer the plans.

(b) The board and the [*department*] **authority** shall each adopt rules to ensure that:

(A) Any plan offered under subsection (1)(b)(B) of this section is underwritten by an insurer using a single risk pool composed of all eligible employees who are enrolled or who will be enrolled in the plan both through the exchange and by the board; and

(B) In every plan offered under subsection (1)(b)(B) of this section, the coverage is comparable to plans offered by the board.

[*(12)*] **(11)** The [*department*] **authority** is authorized to apply for and accept federal grants, other federal funds and grants from nongovernmental organizations for purposes of developing, implementing and administering the exchange. Moneys received under this subsection shall be deposited in the Health Insurance Exchange Fund.

SECTION 29. ORS 741.390 is amended to read:

741.390. A person may not file or cause to be filed with the [*Department of Consumer and Business Services*] **Oregon Health Authority** any article, certificate, report, statement, application or any other information related to the health insurance exchange required or permitted by the [*department*] **authority** to be filed, that is known by the person to be false or misleading in any material respect.

SECTION 30. ORS 741.400 is amended to read:

741.400. (1) The [*Department of Consumer and Business Services*] **Oregon Health Authority** may serve by regular mail or, if requested by the recipient, by electronic mail a notice described in ORS 183.415 of the [*department's*] **authority's** determination of:

(a) A person's eligibility to purchase or to continue to purchase a qualified health plan through the health insurance exchange;

(b) A person's eligibility for a premium tax credit for purchasing a qualified health plan or the amount of the person's premium tax credit; or

(c) A person's eligibility for cost-sharing reductions for qualified health plans and the amount of the person's cost-sharing reduction.

(2) The legal presumption described in ORS 40.135 (1)(q) does not apply to a notice that is served by regular or electronic mail in accordance with subsection (1) of this section.

(3) Except as provided in subsection (4) of this section, a contested case notice served in accordance with subsection (1) of this section that complies with ORS 183.415 but for service by regular or electronic mail becomes a final order against a party and is not subject to ORS 183.470 (2), upon the earlier of the following:

(a) If the party fails to request a hearing, the day after the date prescribed in the notice as the deadline for requesting a hearing.

(b) The date the [*department*] **authority** or the Office of Administrative Hearings mails an order dismissing a hearing request because:

(A) The party withdraws the request for hearing; or

(B) Neither the party nor the party's representative appears on the date and at the time set for hearing.

(4) The [*department*] **authority** shall prescribe by rule a period of not less than 60 days after a notice becomes a final order under subsection (3) of this section within which a party may request a hearing under this subsection. If a party requests a hearing within the period prescribed under this subsection, the [*department*] **authority** shall do one of the following:

(a) If the [*department*] **authority** finds that the party did not receive the written notice and did not have actual knowledge of the notice, refer the request for hearing to the Office of Administrative Hearings for a contested case proceeding on the merits of the [*department's*] **authority's** intended action described in the notice.

(b) Refer the request for hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the party received the written notice or had actual knowledge of the notice. The [*department*] **authority** must show that the party had actual knowledge of the notice or that the [*department*] **authority** mailed the notice to the party's correct address or sent an electronic notice to the party's correct electronic mail address.

(5) If a party informs the [*department*] **authority** that the party did not receive a notice served by regular or electronic mail in accordance with subsection (1) of this section, the [*department*] **authority** shall advise the party of the right to request a hearing under subsection (4) of this section.

SECTION 31. ORS 741.500 is amended to read:

741.500. (1)(a) The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall adopt by rule the information that must be documented in order for a person to qualify for:

(A) **Qualified** health plan coverage through the health insurance exchange;

(B) Premium tax credits; and

(C) Cost-sharing reductions.

(b) The documentation specified by the [*department*] **authority** under this subsection shall include but is not limited to documentation of:

(A) The identity of the person;

(B) The status of the person as a United States citizen, or lawfully admitted noncitizen, and a resident of this state;

(C) Information concerning the income and resources of the person as necessary to establish the person's financial eligibility for coverage, for premium tax credits and for cost-sharing reductions, which may include in-

come tax return information and a Social Security number; and

(D) Employer identification information and employer-sponsored health insurance coverage information applicable to the person.

(2) The [*department*] **authority** shall adopt by rule the information that must be documented in order to determine whether the person is exempt from a requirement to purchase or be enrolled in a health plan under section 5000A of the Internal Revenue Code or other federal law.

(3) The [*department*] **authority** shall implement systems that provide electronic access to, and use, disclosure and validation of data needed to administer the exchange, to comply with federal data access and data exchange requirements and to streamline and simplify exchange processes.

(4) Information and data that the [*department*] **authority** obtains under this section may be exchanged with other state or federal health insurance exchanges, with state or federal agencies and, subject to ORS 741.510, for the purpose of carrying out exchange responsibilities, including but not limited to:

(a) Establishing and verifying eligibility for:

(A) A state medical assistance program;

(B) The purchase of **qualified** health plans through the exchange; and

(C) Any other programs that are offered through the exchange;

(b) Establishing and verifying the amount of a person's federal tax credit, cost-sharing reduction or premium assistance;

(c) Establishing and verifying eligibility for exemption from the requirement to purchase or be enrolled in a health plan under section 5000A of the Internal Revenue Code or other federal law;

(d) Complying with other federal requirements; or

(e) Improving the operations of the exchange and for program analysis.

SECTION 32. ORS 741.510 is amended to read:

741.510. (1) Except as provided in subsection (3) of this section, documents, materials or other information that is in the possession or control of the [*Department of Consumer and Business Services*] **Oregon Health Au-**

thority for the purpose of carrying out ORS 741.002, 741.310 and 741.500 or complying with federal health insurance exchange requirements, and that is protected from disclosure by state or federal law, remains confidential and is not subject to disclosure under ORS 192.311 to 192.478 or subject to subpoena or discovery or admissible into evidence in any private civil action in which the [*department*] **authority** is not a named party. The [*department*] **authority** may use confidential documents, materials or other information without further disclosure in order to carry out the duties described in ORS 741.002, 741.310 and 741.500 or to take any legal or regulatory action authorized by law.

(2) Documents, materials and other information to which subsection (1) of this section applies is subject to the public officer privilege described in ORS 40.270.

(3) The Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** may:

(a) Authorize the sharing of confidential documents, materials or other information that is subject to subsection (1) of this section within the [*department*] **authority** and subject to any conditions on further disclosure, for the purpose of carrying out the duties and functions of the [*department*] **authority** under ORS 741.002, 741.310 and 741.500 or complying with federal health insurance exchange requirements.

(b) Authorize the sharing of confidential documents, materials or other information that is subject to subsection (1) of this section or that is otherwise confidential under ORS 192.345 or 192.355 with other state or federal health insurance exchanges or regulatory authorities, the [*Oregon Health Authority,*] **Department of Consumer and Business Services,** the Department of Revenue, law enforcement agencies and federal authorities, if required or authorized by state or federal law and if the recipient agrees to maintain the confidentiality of the documents, materials or other information.

(c) Receive documents, materials or other information, including docu-

ments, materials or other information that is otherwise confidential, from other state or federal health insurance exchanges or regulatory authorities, the [*Oregon Health Authority*] **Department of Consumer and Business Services**, the Department of Revenue, law enforcement agencies or federal authorities. The [*Department of Consumer and Business Services*] **authority** shall maintain the confidentiality requested by the sender of the documents, materials or other information received under this section as necessary to comply with the laws of the jurisdiction from which the documents, materials or other information was received and originated.

(4) The disclosure of documents, materials or other information to the [*Department of Consumer and Business Services*] **authority** under this section, or the sharing of documents, materials or other information as authorized in subsection (3) of this section, does not waive any applicable privileges or claims of confidentiality in the documents, materials or other information.

(5) This section does not prohibit the [*department*] **authority** from releasing to a database or other clearinghouse service maintained by federal authorities a final, adjudicated order, including a certification, recertification, suspension or decertification of a qualified health plan under ORS 741.002, if the order is otherwise subject to public disclosure.

SECTION 33. ORS 741.520 is amended to read:

741.520. (1) The Director of the [*Department of Consumer and Business Services*] **Oregon Health Authority** may enter into agreements governing the sharing and use of information consistent with this section and ORS 741.510 with other state or federal health insurance exchanges or regulatory authorities, the [*Oregon Health Authority*] **Department of Consumer and Business Services**, the Department of Revenue, law enforcement agencies or federal authorities.

(2) An agreement under this section must specify the duration of the agreement, the purpose of the agreement, the methods that may be employed for terminating the agreement and any other necessary and proper matters.

(3) An agreement under this section does not relieve the director of any

obligation or responsibility imposed by law.

(4) The director may expend funds and may supply services for the purpose of carrying out an agreement under this section.

SECTION 34. ORS 741.540 is amended to read:

741.540. (1) A complaint made to the **Oregon Health Authority or the** Department of Consumer and Business Services with respect to any prospective or certified qualified health plan, and the record thereof, shall be confidential and may not be disclosed except as provided in ORS 741.510 and 741.520. No such complaint, or the record thereof, shall be used by the **authority or the** department in any action, suit or proceeding except in the investigation or prosecution of apparent violations of ORS 741.310 or other law.

(2) Data gathered pursuant to an investigation of a complaint by the **authority or the** department shall be confidential, may not be disclosed except as provided in ORS 741.510 and 741.520 and may not be used in any action, suit or proceeding except in the investigation or prosecution of apparent violations of ORS 741.310 or other law.

(3) Notwithstanding subsections (1) and (2) of this section, the **authority and the** department shall establish a method for making available to the public an annual statistical report containing the number, percentage, type and disposition of complaints received by the **authority and the** department against each health plan that is certified or that has been certified as a qualified health plan by the [*department*] **authority**.

SECTION 35. ORS 741.802 is amended to read:

741.802. The [*Department of Consumer and Business Services*] **Oregon Health Authority** shall produce written materials containing information for consumers about the requirements for paying the premiums for qualified health plans. The [*department*] **authority** shall distribute the materials to health care providers upon request.

SECTION 36. ORS 741.900 is amended to read:

741.900. (1) The Director of the [*Department of Consumer and Business*

Services] **Oregon Health Authority**, in accordance with ORS 183.745, may impose a civil penalty for a violation of ORS 741.390 of no more than $10,000.

(2) All penalties recovered under this section shall be deposited in the Health Insurance Exchange Fund.

SECTION 37. ORS 743.018 is amended to read:

743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015, every insurer shall file with the Director of the Department of Consumer and Business Services all schedules and tables of premium rates for life and health insurance to be used on risks in this state, and shall file any amendments to or corrections of such schedules and tables. Premium rates are subject to approval, disapproval or withdrawal of approval by the director as provided in ORS 742.003, 742.005, 742.007 and, for health benefit plans as defined in ORS 743B.005, ORS 743.019.

(2) Except as provided in ORS 743B.013 and subsection (3) of this section, a rate filing by a carrier for any of the following health benefit plans subject to ORS 743.004, 743.022, 743.535 and 743B.003 to 743B.127 shall be available for public inspection immediately upon submission of the filing to the director:

(a) Health benefit plans for small employers.

(b) Individual health benefit plans.

(3) The director may by rule:

(a) Specify all information a carrier must submit as part of a rate filing under this section; and

(b) Identify the information submitted that will be exempt from disclosure under this section because the information constitutes a trade secret and would, if disclosed, harm competition.

(4) The director, after conducting an actuarial review of the rate filing, may approve a proposed premium rate for a health benefit plan for small employers or for an individual health benefit plan if, in the director's discretion, the proposed rates are:

(a) Actuarially sound;

(b) Reasonable and not excessive, inadequate or unfairly discriminatory; and

(c) Based upon reasonable administrative expenses.

(5) In order to determine whether the proposed premium rates for a health benefit plan for small employers or for an individual health benefit plan are reasonable and not excessive, inadequate or unfairly discriminatory, the director may consider:

(a) The insurer's financial position, including but not limited to profitability, surplus, reserves and investment savings.

(b) Historical and projected administrative costs and medical and hospital expenses, including expenses for drugs reported under ORS 743.025.

(c) Historical and projected loss ratio between the amounts spent on medical services and earned premiums.

(d) Any anticipated change in the number of enrollees if the proposed premium rate is approved.

(e) Changes to covered benefits or health benefit plan design.

(f) Changes in the insurer's health care cost containment and quality improvement efforts since the insurer's last rate filing for the same category of health benefit plan.

(g) Whether the proposed change in the premium rate is necessary to maintain the insurer's solvency or to maintain rate stability and prevent excessive rate increases in the future.

(h) Any public comments received under ORS 743.019 pertaining to the standards set forth in subsection (4) of this section and this subsection.

(6) The director shall require insurers to charge the same premium for a plan sold through the health insurance exchange as the insurer charges for the identical plan sold outside of the exchange.

[*(6)*] **(7)** The requirements of this section do not supersede other provisions of law that require insurers, health care service contractors or multiple employer welfare arrangements providing health insurance to file schedules or tables of premium rates or proposed premium rates with the

director or to seek the director's approval of rates or changes to rates.

SECTION 38. ORS 743B.130 is amended to read:

743B.130. (1) In each individual or small group market, in which a carrier offers a health benefit plan through or outside of the health insurance exchange described in ORS 741.310, the carrier must offer to residents of this state bronze and silver plans [*certified by the Department of Consumer and Business Services as qualified health plans and*] meeting the requirements of subsection (2) of this section **and, if offered through the health insurance exchange, certified by the Oregon Health Authority as qualified health plans**.

(2) The department shall prescribe by rule, in accordance with federal requirements, the form, level of coverage and benefit design for the bronze and silver plans that must be offered under subsection (1) of this section.

(3) As used in this section, "health benefit plan" has the meaning given that term in ORS 743B.005.

OPERATIVE DATE

SECTION 39. (1) Sections 1 to 8 of this 2021 Act and the amendments to ORS 243.142, 411.400, 411.402, 411.406, 413.032, 414.025, 735.601, 735.608, 735.617, 741.002, 741.003, 741.004, 741.008, 741.102, 741.105, 741.107, 741.220, 741.222, 741.300, 741.310, 741.390, 741.400, 741.500, 741.510, 741.520, 741.540, 741.802, 741.900, 743.018 and 743B.130 by sections 9 to 38 of this 2021 Act become operative on June 30, 2021.

(2) The Director of the Department of Consumer and Business Services and the Director of the Oregon Health Authority shall take all steps necessary prior to the operative date specified in subsection (1) of this section, to implement on and after the operative date specified in subsection (1) of this section, sections 1 to 8 of this 2021 Act and the amendments to ORS 243.142, 411.400, 411.402, 411.406, 413.032, 414.025, 735.601, 735.608, 735.617, 741.002, 741.003, 741.004, 741.008, 741.102, 741.105,

741.107, 741.220, 741.222, 741.300, 741.310, 741.390, 741.400, 741.500, 741.510, 741.520, 741.540, 741.802, 741.900, 743.018 and 743B.130 by sections 9 to 38 of this 2021 Act.

REPEAL

SECTION 40. Section 8 of this 2021 Act is repealed on January 2, 2026.

SECTION 41. ORS 735.611 is repealed on June 30, 2021.

UNIT CAPTIONS

SECTION 42. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

SECTION 43. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

LC 404
2021 Regular Session
44300-019
8/18/20 (LHF/ps)

D R A F T

SUMMARY

Repeals electronic credentialing information program.

Removes requirement for Pain Management Commission to review pain management curricula of educational institutions. Modifies pain management education requirements for health professionals.

Removes requirement for Oregon Health Authority to annually report to Legislative Assembly on Oregon Health Information Technology program.

Aligns with federal law requirements about eligibility of temporary public employees to qualify for health benefit coverage.

A BILL FOR AN ACT

Relating to health; creating new provisions; amending ORS 243.105, 413.310, 413.572, 413.590, 441.223, 459A.200, 675.110, 677.228, 677.510, 678.101, 684.092, 685.102, 685.106 and 689.285; and repealing ORS 441.224, 441.226, 441.228, 441.229, 441.232 and 441.233.

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

ELECTRONIC CREDENTIALING INFORMATION PROGRAM REPEALED

SECTION 1. ORS 441.224, 441.226, 441.228, 441.229, 441.232 and 441.233 are repealed.

PAIN MANAGEMENT EDUCATION

SECTION 2. ORS 413.572 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.

413.572. (1) The Pain Management Commission shall:

(a) Develop a pain management education program curriculum **for a one-hour training** and update it biennially.

(b) Provide health professional regulatory boards and other health boards, committees or task forces with the curriculum.

(c) Work with health professional regulatory boards and other health boards, committees or task forces to develop approved pain management education programs as required.

[*(d) Review the pain management curricula of educational institutions in this state that provide post-secondary education or training for persons required by ORS 413.590 to complete a pain management education program. The commission shall make recommendations about legislation needed to ensure that adequate information about pain management is included in the curricula reviewed and shall report its findings to the Legislative Assembly in the manner required by ORS 192.245 by January 1 of each odd-numbered year.*]

[*(2) As used in this section, "educational institution" has the meaning given that term in ORS 348.105.*]

(2) The curriculum must take into account the needs of people of color, minority populations and other groups who have been disproportionately affected by adverse social determinants of health, such as racism, trauma, adverse childhood experiences and other factors that influence how an individual experiences chronic pain.

SECTION 3. ORS 413.590 is amended to read:

413.590. (1) [*An approved*] **The following practitioners must complete a** pain management education program described in ORS 413.572 (1)(c) or an equivalent pain management education program as described in ORS 675.110, 677.228, 677.510, 678.101, 684.092, 685.102 or 689.285 [*must be completed by*] **at initial licensure and at the earlier of the date the license is renewed or every 36 months thereafter**:

(a) A physician assistant licensed under ORS chapter 677;

(b) A nurse licensed under ORS chapter 678;

(c) A psychologist licensed under ORS 675.010 to 675.150;

(d) A chiropractic physician licensed under ORS chapter 684;

(e) A naturopath licensed under ORS chapter 685;

(f) An acupuncturist licensed under ORS 677.759;

(g) A pharmacist licensed under ORS chapter 689;

(h) A dentist licensed under ORS chapter 679;

(i) An occupational therapist licensed under ORS 675.210 to 675.340;

(j) A physical therapist licensed under ORS 688.010 to 688.201; and

(k) An optometrist licensed under ORS chapter 683.

(2) The Oregon Medical Board, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete [*one*] **a** pain management education program [*established under*] **described in** ORS 413.572. The board may identify by rule circumstances under which a requirement under this section may be waived.

SECTION 4. ORS 675.110 is amended to read:

675.110. In addition to the powers otherwise granted under ORS 675.010 to 675.150, the Oregon Board of Psychology has all powers necessary or proper to:

(1) Determine qualifications of applicants to practice psychology in this state, prepare, conduct and grade examinations and license qualified applicants who comply with the provisions of ORS 675.010 to 675.150 and the rules of the board.

(2) Grant or deny renewal of licenses and renew licenses that have lapsed for nonpayment of the renewal fee, subject to the provisions of ORS 675.010 to 675.150.

(3) Suspend or revoke licenses, subject to ORS 675.010 to 675.150.

(4) Issue letters of reprimand and impose probationary periods with the authority to restrict the scope of practice of a licensed psychologist or to require practice under supervision.

(5) Impose civil penalties as provided in ORS 675.070.

(6) Restore licenses that have been suspended or revoked or voided by nonpayment of the renewal fee.

(7) Collect fees for application, examination and licensing of applicants, for renewal of licenses and for issuance of limited permits and use the fees to defray the expenses of the board as provided in ORS 675.140.

(8) Collect a delinquent renewal fee for licenses renewed after the deadline for renewal but before the grace period for renewal has expired.

(9) Investigate alleged violations of ORS 675.010 to 675.150.

(10) Issue subpoenas for the attendance of witnesses, take testimony, administer oaths or affirmations to witnesses, conduct hearings and require the production of relevant documents in all proceedings pertaining to the duties and powers of the board.

(11) Enforce ORS 675.010 to 675.150 and exercise general supervision over the practice of psychology in this state.

(12) Adopt a common seal.

(13) Formulate a code of professional conduct for the practice of psychology giving particular consideration to the Ethical Standards of Psychologists promulgated by the American Psychological Association.

(14) Establish standards of service and training and educational qualifications for rendering ethical psychological services in this state, including the formulation of standards for the issuance of licenses for areas of special competence.

(15) Formulate and enforce continuing education requirements for duly licensed psychologists to ensure the highest quality of professional services to the public.

(16) Deny renewal of a license, or renewal of a license that has lapsed for nonpayment of the renewal fee, unless the applicant completes, or provides documentation of [*previous*] completion **within the previous 36 months** of:

(a) A **one-hour** pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(b) An equivalent pain management education program, as determined by the board.

(17) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, require the fingerprints of a person who is:

(a) Applying for a license that is issued by the board;

(b) Applying for renewal of a license that is issued by the board; or

(c) Under investigation by the board.

(18) Prescribe, in consultation with the Oregon Board of Licensed Professional Counselors and Therapists, the duties of the Director of the Mental Health Regulatory Agency.

(19) Subject to the applicable provisions of ORS chapter 183, adopt reasonable rules to carry out the provisions of ORS 675.010 to 675.150.

SECTION 5. ORS 677.228 is amended to read:

677.228. (1) A person's license to practice under this chapter automatically lapses if the licensee fails to:

(a) Pay the registration fee as required by rule of the Oregon Medical Board.

(b) Notify the board of a change of location not later than the 30th day after such change.

(c) Complete prior to payment of the registration fee described in paragraph (a) of this subsection, or provide documentation of previous completion of, if required by rule of the board:

(A) A **one-hour** pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(B) An equivalent pain management education program, as determined by the board.

(2) If a license issued automatically lapses under this section, the holder of the license shall not practice until the conditions for which the license automatically lapsed no longer exist.

(3) A person whose license has automatically lapsed under subsection

(1)(a) of this section is reinstated automatically when the licensee pays the registration fee plus all late fees then due.

(4) A person whose license has automatically lapsed under subsection (1)(b) of this section is reinstated automatically if the board receives notification of the current and correct address of the licensee not later than the 10th day after such automatic lapse takes effect. Otherwise the lapse continues until terminated by the board.

(5) A person whose license has automatically lapsed under subsection (1)(c) of this section is reinstated automatically when the board receives documentation of the person's completion of a pain management education program if required by subsection (1)(c) of this section.

SECTION 6. ORS 677.510 is amended to read:

677.510. (1) A person licensed to practice medicine under this chapter may not use the services of a physician assistant without the prior approval of the Oregon Medical Board.

(2) A supervising physician or a supervising physician organization may apply to the board to use the services of a physician assistant. The application must:

(a) If the applicant is not a supervising physician organization, state the name and contact information of the supervising physician;

(b) If the applicant is a supervising physician organization:

(A) State the names and contact information of all supervising physicians; and

(B) State the name of the primary supervising physician required by subsection (5) of this section;

(c) Generally describe the medical services provided by each supervising physician;

(d) Contain a statement acknowledging that each supervising physician has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician; and

(e) Provide such other information in such a form as the board may re-

quire.

(3) The board shall approve or reject an application within seven working days after the board receives the application, unless the board is conducting an investigation of the supervising physician or of any of the supervising physicians in a supervising physician organization applying to use the services of a physician assistant.

(4) A supervising physician organization shall provide the board with a list of the supervising physicians in the supervising physician organization. The supervising physician organization shall continually update the list and notify the board of any changes.

(5) A supervising physician organization shall designate a primary supervising physician and notify the board in the manner prescribed by the board.

(6)(a) A physician assistant may not practice medicine until the physician assistant enters into a practice agreement with a supervising physician or supervising physician organization whose application has been approved under subsection (3) of this section. The practice agreement must:

(A) Include the name, contact information and license number of the physician assistant and each supervising physician.

(B) Describe the degree and methods of supervision that the supervising physician or supervising physician organization will use. The degree of supervision, whether general, direct or personal, must be based on the level of competency of the physician assistant as judged by the supervising physician.

(C) Generally describe the medical duties delegated to the physician assistant.

(D) Describe the services or procedures common to the practice or specialty that the physician assistant is not permitted to perform.

(E) Describe the prescriptive and medication administration privileges that the physician assistant will exercise.

(F) Provide the list of settings and licensed facilities in which the physician assistant will provide services.

(G) State that the physician assistant and each supervising physician is in full compliance with the laws and regulations governing the practice of medicine by physician assistants, supervising physicians and supervising physician organizations and acknowledge that violation of laws or regulations governing the practice of medicine may subject the physician assistant and supervising physician or supervising physician organization to discipline.

(H) Be signed by the supervising physician or the primary supervising physician of the supervising physician organization and by the physician assistant.

(I) Be updated at least every two years.

(b) The supervising physician or supervising physician organization shall provide the board with a copy of the practice agreement within 10 days after the physician assistant begins practice with the supervising physician or supervising physician organization. The supervising physician or supervising physician organization shall keep a copy of the practice agreement at the practice location and make a copy of the practice agreement available to the board on request. The practice agreement is not subject to board approval, but the board may request a meeting with a supervising physician or supervising physician organization and a physician assistant to discuss a practice agreement.

(7) A physician assistant's supervising physician shall ensure that the physician assistant is competent to perform all duties delegated to the physician assistant. The supervising physician or supervising physician organization and the physician assistant are responsible for ensuring the competent practice of the physician assistant.

(8) A supervising physician or the agent of a supervising physician must be competent to perform the duties delegated to the physician assistant by the supervising physician or by a supervising physician organization.

(9) The board may not require that a supervising physician be physically present at all times when the physician assistant is providing services, but

may require that:

(a) The physician assistant have access to personal or telephone communication with a supervising physician when the physician assistant is providing services; and

(b) The proximity of a supervising physician and the methods and means of supervision be appropriate to the practice setting and the patient conditions treated in the practice setting.

(10)(a) A supervising physician organization may supervise any number of physician assistants. The board may not adopt rules limiting the number of physician assistants that a supervising physician organization may supervise.

(b) A physician assistant who is supervised by a supervising physician organization may be supervised by any of the supervising physicians in the supervising physician organization.

(11) If a physician assistant is not supervised by a supervising physician organization, the physician assistant may be supervised by no more than four supervising physicians, unless the board approves a request from the physician assistant, or from a supervising physician, for the physician assistant to be supervised by more than four supervising physicians.

(12) A supervising physician who is not acting as part of a supervising physician organization may supervise four physician assistants, unless the board approves a request from the supervising physician or from a physician assistant for the supervising physician to supervise more than four physician assistants.

(13) A supervising physician who is not acting as part of a supervising physician organization may designate a physician to serve as the agent of the supervising physician for a predetermined period of time.

(14) A physician assistant may render services in any setting included in the practice agreement.

(15) A physician assistant for whom an application under this section has been approved by the board on or after January 2, 2006, shall submit to the

board, within 24 months after the approval **and every 36 months thereafter**, documentation of completion of:

(a) A **one-hour** pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(b) An equivalent pain management education program, as determined by the board.

SECTION 7. ORS 678.101 is amended to read:

678.101. (1) Every person licensed to practice nursing shall apply for renewal of the license other than a limited license in every second year before 12:01 a.m. on the anniversary of the birthdate of the person in the odd-numbered year for persons whose birth occurred in an odd-numbered year and in the even-numbered year for persons whose birth occurred in an even-numbered year. Persons whose birthdate anniversary falls on February 29 shall be treated as if the anniversary were March 1.

(2) Each application must be accompanied by a nonrefundable renewal fee payable to the Oregon State Board of Nursing.

(3) The board may not renew the license of a person licensed to practice nursing unless:

(a) The requirements of subsections (1) and (2) of this section are met; and

(b) Prior to payment of the renewal fee described in subsection (2) of this section the person completes, or provides documentation of [*previous*] completion **within the previous 36 months,** of:

(A) A **one-hour** pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(B) An equivalent pain management education program, as determined by the board.

(4) The license of any person not renewed for failure to comply with subsections (1) to (3) of this section is expired and the person shall be considered delinquent and is subject to any delinquent fee established under

ORS 678.410.

(5) A registered nurse who has been issued a license as a nurse practitioner, clinical nurse specialist or certified registered nurse anesthetist shall apply as specified by the board by rule for renewal of the license and for renewal of the prescriptive [*privileges*] **authority** in every second year before 12:01 a.m. on the anniversary of the birthdate, as determined for the person's license to practice nursing.

SECTION 8. ORS 684.092 is amended to read:

684.092. (1) Except as provided in subsection (3) of this section, a chiropractic physician submitting a fee under ORS 684.090 shall, at the same time, verify with satisfactory evidence the successful completion of approved continuing chiropractic education during the preceding 12-month period as provided in subsection (2) of this section and completion, or documentation of [*previous*] completion **within the previous 36 months**, of:

(a) A **one-hour** pain management education program approved by the State Board of Chiropractic Examiners and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(b) An equivalent pain management education program, as determined by the board.

(2) A chiropractic physician submitting a fee under ORS 684.090 shall verify completion during the previous 12-month period of:

(a) At least 20 hours of approved continuing chiropractic education, for a person actively practicing chiropractic.

(b) At least six hours of approved continuing chiropractic education, for an active senior.

(3) The State Board of Chiropractic Examiners may exempt a chiropractic physician from the requirements of subsection (1) of this section upon an application by the chiropractic physician showing by evidence satisfactory to the board that the chiropractic physician is unable to comply with the requirements because of unusual or extenuating circumstances or because

no program has been approved by the board.

SECTION 9. ORS 685.102 is amended to read:

685.102. (1) Except as provided in subsections (2) and (5) of this section, each person holding a license under this chapter shall submit annually by December 31, evidence satisfactory to the Oregon Board of Naturopathic Medicine of successful completion of an approved program of continuing education of at least 25 hours in naturopathic medicine, completed in the calendar year preceding the date on which the evidence is submitted, and completion during the renewal period, or documentation of [*previous*] completion **within the previous 36 months**, of:

(a) A pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of** the Pain Management Commission [*established under ORS 413.570*]; or

(b) An equivalent pain management education program, as determined by the board.

(2) The board may exempt any person holding a license under this chapter from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board of inability to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. However, a person may not be exempted from the requirements of subsection (1) of this section more than once in any five-year period.

(3) Notwithstanding subsection (2) of this section, a person holding a license under this chapter may be exempted from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board that the applicant is or will be in the next calendar year at least 70 years of age and is retired or will retire in the next calendar year from the practice of naturopathic medicine.

(4) The board shall require licensees to obtain continuing education for the use of pharmacological substances for diagnostic, preventive and therapeutic purposes in order to maintain current licensure.

(5) A person whose license is in inactive status must submit by December 31 of each year evidence satisfactory to the board of completion of 10 hours of approved continuing education in the calendar year preceding the date on which the evidence is submitted.

(6) Notwithstanding subsections (1), (2) and (5) of this section, in the case of an applicant under ORS 685.100 (6)(b) for reactivation of an inactive license, the continuing education requirement for reactivation shall be set by rule of the board.

SECTION 10. ORS 685.106 is amended to read:

685.106. (1) The Oregon Board of Naturopathic Medicine may offer a program of continuing education in naturopathic medicine to meet the requirements of ORS 685.102. The board may also approve a program to be presented by persons reasonably qualified to do so.

(2) Any person seeking approval of a program of continuing education in naturopathic medicine, to be offered to assist persons holding licenses under this chapter to comply with the requirements of ORS 685.102 (1), shall submit to the board, at such time as the board may require, [*copies of courses of study*] **a copy of the program** to be offered and proof of such other qualifications as the board may require. Approval granted to any program of continuing education shall be reviewed periodically and approval may be withdrawn from any program that fails to meet the requirements of the board.

(3) Any program of continuing education in naturopathic medicine offered or approved under this section shall consist of study covering new, review, experimental, research and specialty subjects in the field of naturopathic medicine.

SECTION 11. ORS 689.285 is amended to read:

689.285. (1) The Legislative Assembly finds and declares that:

(a) The continuous introduction of new medical agents and the changing concepts of the delivery of health care services in the practice of pharmacy make it essential that a pharmacist undertake a continuing education pro-

gram in order to maintain professional competency and improve professional skills;

(b) The state has a basic obligation to regulate and control the profession of pharmacy in order to protect the public health and welfare of its citizens; and

(c) It is the purpose of this chapter to protect the health and welfare of Oregon citizens and to ensure uniform qualifications and continued competency of licensed pharmacists by requiring participation in a continuing pharmacy education program as a condition for renewal of licenses to practice pharmacy.

(2) All pharmacists licensed in the State of Oregon on and after October 3, 1979, shall satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the State Board of Pharmacy in subjects relating to the practice of the profession of pharmacy in order to be eligible for renewal of licenses.

(3) In accordance with applicable provisions of ORS chapter 183, the board shall adopt reasonable rules:

(a) Prescribing the procedure and criteria for approval of continuing pharmacy education programs, including the number of hours of courses of study necessary to constitute a continuing pharmacy education unit and the number of continuing pharmacy education units required annually for renewal of a pharmacist license.

(b) Prescribing the scope of the examinations given by the board including grading procedures.

(c) Prescribing the content of the form to be submitted to the board certifying completion of an approved continuing pharmacy education program.

(d) Necessary to carry out the provisions of this chapter.

(e) Prescribing the completion**, at initial licensure and at the earlier of the date the license is renewed or every 36 months thereafter,** of:

(A) A **one-hour** pain management education program approved by the board and developed [*in conjunction with*] **based on recommendations of**

the Pain Management Commission [*established under ORS 413.570*]; or

(B) An equivalent pain management education program, as determined by the board.

(4) In adopting rules pursuant to subsection (3) of this section, the board shall consider:

(a) The need for formal regularly scheduled pharmacy education programs.

(b) Alternate methods of study including home-study courses, seminars or other such programs for those persons who, upon written application to the board and for good cause shown, demonstrate their inability to attend regularly scheduled formal classroom programs.

(c) The necessity for examinations or other evaluation methods used to ensure satisfactory completion of the continuing pharmacy education program.

(5) The board may contract for the providing of educational programs to fulfill the requirements of this chapter. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance shall the board require a greater number of hours of study than it provides or approves in the State of Oregon and which are available on the same basis to all licensed pharmacists.

(6) The board may levy an additional fee, established by the board by rule, for each license renewal to carry out the provisions of this chapter.

OREGON HEALTH INFORMATION TECHNOLOGY PROGRAM

SECTION 12. ORS 413.310 is amended to read:

413.310. (1) The Oregon Health Authority shall establish and maintain the Oregon Health Information Technology program to:

(a) Support the Oregon Integrated and Coordinated Health Care Delivery System established by ORS 414.570;

(b) Facilitate the exchange and sharing of electronic health-related information;

(c) Support improved health outcomes in this state;

(d) Promote accountability and transparency; and

(e) Support new payment models for coordinated care organizations and health systems.

(2) The authority may engage in activities necessary to become accredited or certified as a provider of health information technology and take actions associated with providing health information technology.

(3) Subject to ORS 279A.050 (7), the authority may enter into agreements with other entities that provide health information technology to carry out the objectives of the Oregon Health Information Technology program.

(4) The authority may establish and enforce standards for connecting to and using the Oregon Health Information Technology program, including standards for interoperability, privacy and security.

(5) The authority may conduct or participate in activities to enable and promote the secure transmission of electronic health information between users of different health information technology systems, including activities in other states. The activities may include, but are not limited to, participating in organizations or associations that manage and enforce agreements to abide by a common set of standards, policies and practices applicable to health information technology systems.

(6) The authority may, by rule, impose fees on entities or individuals that use the program's services in order to pay the cost of administering the Oregon Health Information Technology program.

(7) The authority may initiate one or more partnerships or participate in new or existing collaboratives to establish and carry out the Oregon Health Information Technology program's objectives. The authority's participation may include, but is not limited to:

(a) Participating as a voting member in the governing body of a partnership or collaborative that provides health information technology services;

(b) Paying dues or providing funding to partnerships or collaboratives;

(c) Entering into agreements, subject to ORS 279A.050 (7), with partnerships or collaboratives with respect to participation and funding in order to establish the role of the authority and protect the interests of this state when the partnerships or collaboratives provide health information technology services; or

(d) Transferring the implementation or management of one or more services offered by the Oregon Health Information Technology program to a partnership or collaborative.

[*(8) At least once each calendar year the authority shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on the status of the Oregon Health Information Technology program.*]

PUBLIC EMPLOYEE HEALTH BENEFIT PLAN ELIGIBILITY

SECTION 13. ORS 243.105 is amended to read:

243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

(1) "Benefit plan" includes, but is not limited to:

(a) Contracts for insurance or other benefits, including medical, dental, vision, life, disability and other health care recognized by state law, and related services and supplies;

(b) Comparable benefits for employees who rely on spiritual means of healing; and

(c) Self-insurance programs managed by the Public Employees' Benefit Board.

(2) "Board" means the Public Employees' Benefit Board.

(3) "Carrier" means an insurance company or health care service con-

tractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation, or a board-approved guarantor of benefit plan coverage and compensation.

(4)(a) "Eligible employee" means an officer or employee of a state agency or local government who elects to participate in one of the group benefit plans described in ORS 243.135. The term includes, but is not limited to, state officers and employees in the exempt, unclassified and classified service, and state officers and employees, whether or not retired, who:

(A) Are receiving a service retirement allowance, a disability retirement allowance or a pension under the Public Employees Retirement System or are receiving a service retirement allowance, a disability retirement allowance or a pension under any other retirement or disability benefit plan or system offered by the State of Oregon for its officers and employees;

(B) Are eligible to receive a service retirement allowance under the Public Employees Retirement System and have reached earliest retirement age under ORS chapter 238;

(C) Are eligible to receive a pension under ORS 238A.100 to 238A.250, and have reached earliest retirement age as described in ORS 238A.165; or

(D) Are eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by the State of Oregon and have attained earliest retirement age under the plan or system.

(b) "Eligible employee" does not include individuals:

(A) Engaged as independent contractors;

(B) Whose periods of employment in emergency work are on an intermittent or irregular basis;

(C) Who are employed on less than half-time basis unless the individuals are employed in positions classified as job-sharing positions, unless the individuals are defined as eligible under rules of the board;

(D) Appointed under ORS 240.309**, except as required by 26 U.S.C.**

4980H;

(E) Provided sheltered employment or make-work by the state in an employment or industries program maintained for the benefit of such individuals;

(F) Provided student health care services in conjunction with their enrollment as students at a public university listed in ORS 352.002; or

(G) Who are members of a collective bargaining unit that represents police officers or firefighters.

(5) "Family member" means an eligible employee's spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

(6) "Local government" means any city, county or special district in this state or any intergovernmental entity created under ORS chapter 190.

(7) "Payroll disbursing officer" means the officer or official authorized to disburse moneys in payment of salaries and wages of employees of a state agency or local government.

(8) "Premium" means the monthly or other periodic charge for a benefit plan.

(9) "Primary care" means family medicine, general internal medicine, naturopathic medicine, obstetrics and gynecology, pediatrics or general psychiatry.

(10) "State agency" means every state officer, board, commission, department or other activity of state government.

(11) "Total medical expenditures" means payments to reimburse the cost of physical and mental health care provided to eligible employees or their family members, excluding prescription drugs, vision care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type of payment mechanism.

CONFORMING AMENDMENTS

SECTION 14. ORS 441.223 is amended to read:

441.223. (1) Upon receiving the recommendations of the Advisory Committee on Physician Credentialing Information, the Oregon Health Authority shall:

(a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures Act, for the purpose of effectuating the provisions of ORS 441.221 to 441.223; **and**

[*(b) Consult with the advisory group convened under ORS 441.232 to review the recommendations and obtain advice on the rules; and*]

[*(c)*] **(b)** Ensure that the rules adopted by the Oregon Health Authority are identical and are consistent with the recommendations developed pursuant to ORS 441.222 for affected credentialing organizations.

(2) The uniform credentialing information required pursuant to the administrative rules of the Oregon Health Authority represents the minimum uniform credentialing information required by the affected credentialing organizations. Except as provided in subsection (3) of this section, a credentialing organization may request additional credentialing information from a health care practitioner for the purpose of completing credentialing procedures used by the credentialing organization to credential health care practitioners.

(3) In credentialing a telemedicine provider, a hospital is subject to the requirements prescribed by rule by the authority under ORS 441.056.

SECTION 15. ORS 459A.200 is amended to read:

459A.200. As used in ORS 459A.200 to 459A.266:

(1) "Analogous product" means:

(a) With regard to a virus, a product prepared from or with a virus or agent that is actually or potentially infectious, regardless of the degree of virulence or toxigenicity of the specific virus strain used.

(b) With regard to a therapeutic serum, a product composed of whole blood or plasma, or that contains some organic constituent or product that is not a hormone or amino acid derived from whole blood, plasma or serum.

(c) With regard to an antitoxin or toxin, a product, regardless of its origin source, that is intended to be applicable to the prevention, treatment or cure of a disease or human injury through a specific immune process.

(2) "Antitoxin" means a product containing the soluble substance in serum or other bodily fluid of an immunized animal that specifically neutralizes the toxin to which the animal is immune.

(3) "Authorized collector" means a person that enters into an agreement with a program operator for the purpose of collecting covered drugs under a drug take-back program.

(4) "Biologics" means a virus, therapeutic serum, toxin, antitoxin or analogous product applicable to the prevention, treatment or cure of human diseases or injuries.

(5)(a) "Covered drug" means a drug that a covered entity has discarded or abandoned or that a covered entity intends to discard or abandon.

(b) "Covered drug" includes:

(A) Prescription drugs, as defined in ORS 689.005;

(B) Nonprescription drugs, as defined in ORS 689.005;

(C) Drugs marketed under a brand name, as defined in ORS 689.515;

(D) Drugs marketed under a generic name, as defined in ORS 689.515; and

(E) Combination products.

(c) "Covered drug" does not include:

(A) Vitamins or supplements;

(B) Herbal-based remedies or homeopathic drugs, products or remedies;

(C) Products that are regulated as both cosmetics and nonprescription drugs by the federal Food and Drug Administration;

(D) Drugs and biological products for which a covered manufacturer administers a drug take-back program as part of a risk evaluation and mitigation strategy under the oversight of the federal Food and Drug Administration;

(E) Drugs administered in a clinical setting;

(F) Drugs that are used for animal medicines, including but not limited

to parasiticide drugs for animals;

(G) Exposed sharps, as defined in ORS 459.386, or other used drug products that are medical waste;

(H) Emptied injector products or medical devices and their components;

(I) Dialysis concentrates and solutions used for kidney dialysis in a patient's home; or

(J) Biologics.

(6)(a) "Covered entity" means:

(A) A resident of this state;

(B) A nonbusiness entity located in this state; or

(C) An ultimate user as defined by 21 U.S.C. 802(27).

(b) "Covered entity" does not include a law enforcement agency or an entity that generates pharmaceutical waste, such as a hospital, health care clinic, office of a health care provider, veterinary clinic or pharmacy.

(7)(a) "Covered manufacturer" means a person that manufactures covered drugs that are sold within this state, including, but not limited to, a person that manufactures covered drugs for another manufacturer pursuant to an agreement.

(b) "Covered manufacturer" does not include:

(A) A person that:

(i)(I) Packages covered drugs that are sold within this state or that labels the containers of covered drugs that are sold within this state; or

(II) Repackages covered drugs that are sold within this state or that relabels the containers of covered drugs that are sold within this state, if the person informs the Department of Environmental Quality of the name of the original manufacturer of the covered drug; and

(ii) Does not produce, prepare, propagate, compound, convert or process drugs that are sold within this state; or

(B) A prepaid group practice [*described in ORS 441.229*] **that serves at least 200,000 members in this state and that has been issued a certificate of authority by the Department of Consumer and Business Ser-**

vices.

(8) "Drop-off site" means the location where an authorized collector operates a secure repository for collecting covered drugs.

(9) "Drug" has the meaning given that term in ORS 689.005.

(10) "Drug take-back organization" means an organization designated by a covered manufacturer or a group of covered manufacturers to act as an agent of the covered manufacturer or group of covered manufacturers for the purpose of participating in a drug take-back program.

(11) "Drug take-back program" means a program developed and implemented by a program operator for the collection, transportation and disposal of covered drugs for which a plan has been approved under ORS 459A.209.

(12) "Mail-back service" means a method of collecting covered drugs from a covered entity by using prepaid, preaddressed mailing envelopes.

(13) "Manufacture" has the meaning given that term in ORS 689.005.

(14) "Pharmacy" has the meaning given that term in ORS 689.005.

(15) "Potential authorized collector" means:

(a) A person that:

(A) Is registered with the Drug Enforcement Administration of the United States Department of Justice; and

(B) Qualifies under federal law to collect and dispose of controlled substances, or qualifies under federal law to have the person's registration modified in such a way that authorizes the person to collect and dispose of controlled substances.

(b) A law enforcement agency.

(16) "Program operator" means a covered manufacturer, group of covered manufacturers or drug take-back organization that develops and implements, or plans to develop and implement, a drug take-back program approved by the Department of Environmental Quality.

(17)(a) "Retail drug outlet" means a retail drug outlet, as defined in ORS 689.005, that is open to and accessible by the public.

(b) "Retail drug outlet" does not include a hospital that does not have

an on-site pharmacy or a health care clinic that does not have an on-site pharmacy.

(18) "Therapeutic serum" means a product obtained from blood by removing the clot or clot components and the blood cells.

(19) "Toxin" means a product that contains a soluble substance poisonous to animals or humans in a dose of one milliliter or less, and that, after administration by injection of a nonlethal dose into an animal, causes to be produced within the animal another soluble substance that specifically neutralizes the poisonous substance, demonstrable in the serum of the immunized animal.

(20) "Virus" means a product containing the minute living cause of an infectious disease and that includes but is not limited to filterable viruses, bacteria, rickettsia, fungi and protozoa.

UNIT CAPTIONS

SECTION 16. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

LC 407
2021 Regular Session
44300-022
8/27/20 (LHF/ps)

D R A F T

SUMMARY

Requires health care entities to obtain approval from Oregon Health Authority before any mergers, acquisitions or affiliations of entities that had $25 million or more in net patient revenue in prior fiscal year or before mergers, acquisitions or affiliations that will result in one entity having increase in net patient revenue of $10 million or more. Specifies procedures.

Requires Oregon Health Policy Board to establish criteria for approval of mergers, acquisitions and affiliations based on specified factors.

A BILL FOR AN ACT

Relating to health care providers; creating new provisions; and amending ORS 413.032, 413.037, 413.101, 413.181, 415.013, 415.019 and 415.103.

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

SECTION 1. As used in sections 2 and 3 of this 2021 Act:

(1) "Health care entity" includes:

(a) An individual health professional licensed or certified in this state;

(b) A hospital, as defined in ORS 442.015, or hospital system, as defined by the Oregon Health Authority by rule;

(c) A carrier, as defined in ORS 743B.005;

(d) A Medicare Advantage plan;

(e) A coordinated care organization or a prepaid managed care health services organization, as both are defined in ORS 414.025; and

(f) Any other group or organization that has as a primary function the provision of health care items or services.

(2) "Health equity" means that all individuals are able to reach

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.

their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, gender, gender identity, sexual orientation, social class, intersections among these communities or identities or other socially determined circumstances.

(3)(a) "Material change transaction" means:

(A) Any of the following, occurring during a single transaction or in a series of related transactions within a consecutive 12-month period, that results in one health care entity having an increase in net patient revenue of $10 million or more:

(i) A merger of health care entities;

(ii) An acquisition of one or more health care entities by another health care entity;

(iii) An affiliation or contract formed between two or more health care entities; or

(iv) The formation of a partnership, joint venture, accountable care organization, parent organization or management services organization for the purpose of administering contracts with carriers, third party administrators, pharmacy benefit managers or providers as prescribed by the authority by rule.

(B) Any of the transactions described in subparagraph (A) of this paragraph in which two or more of the health care entities involved in the transaction had net patient revenue of $25 million or more in the preceding fiscal year.

(b) "Material change transaction" does not include a clinical affiliation of health care entities formed for the purpose of collaborating on clinical trials or graduate medical education programs.

SECTION 2. (1) The purpose of this section is to promote the public interest and to advance the goals set forth in ORS 414.018 and the goals of the Oregon Integrated and Coordinated Health Care Delivery System described in ORS 414.570.

(2) In accordance with subsection (1) of this section, the Oregon

Health Authority shall adopt by rule criteria approved by the Oregon Health Policy Board for the consideration of requests by health care entities to engage in a material change transaction. The criteria must take into account:

(a) The anticipated impact of the material change transaction on the health of the residents of this state;

(b) The predicted effect of the material change transaction on meeting the health care cost growth benchmark established under ORS 442.386; and

(c) Health equity, access to care, health care quality and the cost of health care in this state.

(3) A health care entity may not engage in a material change transaction without obtaining the authority's prior approval of the material change transaction. To obtain the authority's approval of a material change transaction, a health care entity shall submit a notice and supporting documentation, no less than 60 days before the date of the material change transaction, in the form and manner prescribed by the authority and pay a fee prescribed in section 4 of this 2021 Act. The authority is responsible for coordinating with the Department of Consumer and Business Services the review of any transaction that is subject to review and approval under this section and also subject to review by the department under ORS 732.517 to 732.546 or 732.576.

(4) The authority may suspend a proposed material change transaction if necessary to conduct an examination and complete an analysis of whether the transaction is consistent with the criteria adopted by rule under subsection (2) of this section.

(5) The authority may request additional information from a health care entity that is a party to the material change transaction and the entity shall promptly reply using the form of communication requested by the authority and verified by an officer of the entity, if required by the authority.

(6) A health care entity may not refuse to provide documents or other information requested by the authority under subsection (3) or (5) of this section on the grounds that the information is privileged or confidential. However, the authority may not further disclose any information that the authority determines to be a trade secret, as defined in ORS 192.345, or that is protected from disclosure by state or federal law.

(7) The authority may retain actuaries, accountants or other professionals independent of the authority as necessary to conduct the analysis of a proposed material change transaction. The authority shall designate the party or parties to the transaction that shall bear the cost of retaining the professionals.

(8) The authority shall hold a public hearing in the service area or areas of the health care entities that are parties to the material change transaction, seek public input and otherwise engage the public as the authority determines necessary before making a determination on the proposed material change transaction.

(9) The authority shall issue a final order, based on the criteria adopted by rule under subsection (2) of this section, approving or disapproving the proposed material change transaction or approving the proposed material change transaction subject to conditions. If the authority disapproves the material change transaction or approves the material change transaction subject to conditions, the authority shall notify the Attorney General of the authority's findings and analysis so that the Attorney General may, if appropriate, conduct an investigation into whether the health care entities have engaged in unfair competition or anticompetitive behavior in violation of ORS 646.725 or 646.730 and, if necessary, take steps to protect consumers in the health care market.

(10) The authority may require a health care entity that is a party to a material change transaction to notify the authority upon the

completion of the transaction in the form and manner prescribed by the authority. After the transaction is completed, the authority shall analyze:

(a) The cost trends and cost growth trends of the parties to the material change transaction; and

(b) The impact of the material change transaction on the health care cost growth benchmark established under ORS 442.386.

(11) The authority shall publish the authority's analyses and conclusions under subsection (10) of this section and shall incorporate the authority's analyses and conclusions under subsection (10) of this section in the report described in ORS 442.386 (6).

(12) Whenever it appears to the Director of the Oregon Health Authority that any person has committed or is about to commit a violation of this section or any rule or order issued by the authority under this section, the director may apply to the Circuit Court for Marion County for an order enjoining the person, and any director, officer, employee or agent of the person, from the violation, and for such other equitable relief as the nature of the case and the interest of the public may require.

(13) The authority shall adopt rules necessary to carry out the provisions of this section.

SECTION 3. (1) An officer or employee of the Oregon Health Authority who is delegated responsibilities in the enforcement of section 2 of this 2021 Act or rules adopted pursuant to section 2 of this 2021 Act may not:

(a) Be a director, officer or employee of or be financially interested in a health care entity that is a party to a proposed material change transaction except as an enrollee or patient of a health care entity or by reason of rights vested in compensation or benefits related to services performed prior to affiliation with the authority; or

(b) Be engaged in any other business or occupation interfering with

or inconsistent with the duties of the authority.

(2) This section does not permit any conduct, affiliation or interest that is otherwise prohibited by public policy.

SECTION 4. (1) The Oregon Health Authority shall prescribe by rule a fee to be paid under section 2 (3) of this 2021 Act, sufficient to reimburse the costs of administering section 2 of this 2021 Act.

(2) Moneys received by the authority under this section shall be deposited to the Oregon Health Authority Fund established in ORS 413.101 to be used for carrying out section 2 of this 2021 Act.

SECTION 5. (1) In addition to any other penalty imposed by law, the Director of the Oregon Health Authority may impose a civil penalty, as determined by the director, for a violation of ORS 413.037 or section 2 of this 2021 Act. The amount of the civil penalty may not exceed $10,000 for each offense. The civil penalty imposed on an individual health professional may not exceed $1,000 for each offense.

(2) Civil penalties shall be imposed and enforced in accordance with ORS 183.745.

(3) Moneys received by the Oregon Health Authority under this section shall be paid to the State Treasury and credited to the General Fund.

SECTION 6. ORS 413.101 is amended to read:

413.101. The Oregon Health Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Authority Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for carrying out the duties, functions and powers of the authority under ORS 413.032 and 431A.183 **and section 2 of this 2021 Act**.

SECTION 7. ORS 413.032 is amended to read:

413.032. (1) The Oregon Health Authority is established. The authority shall:

(a) Carry out policies adopted by the Oregon Health Policy Board;

(b) Administer the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.570;

(c) Administer the Oregon Prescription Drug Program;

(d) Develop the policies for and the provision of publicly funded medical care and medical assistance in this state;

(e) Develop the policies for and the provision of mental health treatment and treatment of addictions;

(f) Assess, promote and protect the health of the public as specified by state and federal law;

(g) Provide regular reports to the board with respect to the performance of health services contractors serving recipients of medical assistance, including reports of trends in health services and enrollee satisfaction;

(h) Guide and support, with the authorization of the board, community-centered health initiatives designed to address critical risk factors, especially those that contribute to chronic disease;

(i) Be the state Medicaid agency for the administration of funds from Titles XIX and XXI of the Social Security Act and administer medical assistance under ORS chapter 414;

(j) In consultation with the Director of the Department of Consumer and Business Services, periodically review and recommend standards and methodologies to the Legislative Assembly for:

(A) Review of administrative expenses of health insurers;

(B) Approval of rates; and

(C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;

(k) Structure reimbursement rates for providers that serve recipients of medical assistance to reward comprehensive management of diseases, quality outcomes and the efficient use of resources and to promote cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations;

(L) Guide and support community three-share agreements in which an employer, state or local government and an individual all contribute a portion of a premium for a community-centered health initiative or for insurance coverage;

(m) Develop, in consultation with the Department of Consumer and Business Services, one or more products designed to provide more affordable options for the small group market;

(n) Implement policies and programs to expand the skilled, diverse workforce as described in ORS 414.018 (4); and

(o) Implement a process for collecting the health outcome and quality measure data identified by the Health Plan Quality Metrics Committee and report the data to the Oregon Health Policy Board.

(2) The Oregon Health Authority is authorized to:

(a) Create an all-claims, all-payer database to collect health care data and monitor and evaluate health care reform in Oregon and to provide comparative cost and quality information to consumers, providers and purchasers of health care about Oregon's health care systems and health plan networks in order to provide comparative information to consumers.

(b) Develop uniform contracting standards for the purchase of health care, including the following:

(A) Uniform quality standards and performance measures;

(B) Evidence-based guidelines for major chronic disease management and health care services with unexplained variations in frequency or cost;

(C) Evidence-based effectiveness guidelines for select new technologies and medical equipment;

(D) A statewide drug formulary that may be used by publicly funded health benefit plans; and

(E) Standards that accept and consider tribal-based practices for mental health and substance abuse prevention, counseling and treatment for persons who are Native American or Alaska Native as equivalent to evidence-based practices.

(3) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Authority by ORS 413.006 to 413.042, 415.012 to 415.430 and 741.340 **and section 2 of this 2021 Act** or by other statutes.

SECTION 8. ORS 413.037 is amended to read:

413.037. (1) The Director of the Oregon Health Authority, each deputy director and authorized representatives of the director may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of ORS 413.006 to 413.042, 415.012 to 415.430 and 741.340 **and section 2 of this 2021 Act**.

(2) If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the director, deputy director or authorized representative may follow the procedure set out in ORS 183.440 to compel obedience.

SECTION 9. ORS 413.181 is amended to read:

413.181. (1) The Department of Consumer and Business Services and the Oregon Health Authority may enter into agreements governing the disclosure of information reported to the department by insurers with certificates of authority to transact insurance in this state and the disclosure of information reported to the Oregon Health Authority by coordinated care organizations.

(2) The authority may use information disclosed under subsection (1) of this section for the purpose of carrying out ORS 413.032, 414.572, 414.591, 414.605, 414.609, 414.638 and 415.012 to 415.430 **and section 2 of this 2021 Act**.

SECTION 10. ORS 415.013 is amended to read:

415.013. (1) The Oregon Health Authority shall enforce the provisions of ORS 415.012 to 415.430 **and section 2 of this 2021 Act** and rules adopted pursuant to ORS 415.011 **and 415.012 to 415.430 and section 2 of this 2021**

Act for the public good.

(2) The authority has the powers and authority expressly conferred by or reasonably implied from the provisions of ORS 415.012 to 415.430 **and section 2 of this 2021 Act** and rules adopted pursuant to ORS 415.011 **and 415.012 to 415.430 and section 2 of this 2021 Act**.

(3) The authority may conduct examinations and investigations [*of matters concerning the regulation of coordinated care organizations as the authority considers proper to determine whether any person has violated any provision of ORS 415.012 to 415.430 or rules adopted pursuant to ORS 415.011 or to secure information useful in the lawful administration of any of ORS 415.011 the provisions*] **and require the production of books, records, accounts, papers, documents and computer and other recordings the authority considers necessary to administer and enforce ORS 415.012 to 415.430 or section 2 of this 2021 Act and any rules adopted pursuant to ORS 415.011 or 415.012 to 415.430 or section 2 of this 2021 Act**.

SECTION 11. ORS 415.019 is amended to read:

415.019. (1) The Oregon Health Authority shall hold a contested case hearing upon written request for a hearing by a person aggrieved by any act, threatened act or failure of the authority to act under ORS 415.012 to 415.430 **or section 2 of this 2021 Act** or rules adopted pursuant to ORS 415.011 **or 415.012 to 415.430 or section 2 of this 2021 Act**.

(2) The provisions of ORS chapter 183 govern the hearing procedures and any judicial review of a final order issued in a contested case hearing.

SECTION 12. ORS 415.103 is amended to read:

415.103. A person may not file or cause to be filed with the Oregon Health Authority any article, certificate, report, statement, application or other information required or permitted to be filed under ORS 415.012 to 415.430 **or section 2 of this 2021 Act** or rules adopted pursuant to ORS 415.011 **or 415.012 to 415.430 or section 2 of this 2021 Act** that is known by the person to be false or misleading in any material respect.

LC 408
2021 Regular Session
44300-023
8/17/20 (LHF/ps)

D R A F T

SUMMARY

Establishes Office of Pharmaceutical Purchasing in Oregon Health Authority and specifies duties. Requires office to administer multistate prescription drug purchasing consortium.

Authorizes Oregon Health Authority to require prior authorization for drugs under specified conditions.

A BILL FOR AN ACT

Relating to pharmaceuticals; creating new provisions; and amending ORS 413.032, 414.312, 414.314, 414.318, 414.320, 414.325, 414.326, 414.334, 414.337 and 689.185.

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

OFFICE OF PHARMACEUTICAL PURCHASING

SECTION 1. (1) The Office of Pharmaceutical Purchasing is established in the Oregon Health Authority to support multiagency and multistate collaborative purchasing of pharmaceuticals and drive down the cost of prescription drugs for residents of this state.

(2) The purpose of the office is to:

(a) Purchase prescription drugs, replenish prescription drugs dispensed or reimburse pharmacies for prescription drugs in order to receive discounted prices and negotiate and obtain all types of rebates;

(b) Make prescription drugs available at the lowest possible cost to participants in the program and the consortium as a means to promote

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.

health;

(c) Maintain a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices; and

(d) Promote health through the purchase and provision of discount prescription drugs and coordination of comprehensive prescription benefit services for eligible entities and members.

(3) The office shall:

(a) Coordinate statewide agreements for the purchase of prescription drugs;

(b) Administer the Oregon Prescription Drug Program;

(c) Establish and administer a multistate prescription drug purchasing consortium; and

(d) Administer all intergovernmental and interagency agreements necessary to achieve the office's purpose described in subsection (2) of this section.

(4) The Director of the Oregon Health Authority shall appoint an administrator for the office and all subordinate officers and employees of the office.

SECTION 2. ORS 413.032 is amended to read:

413.032. (1) The Oregon Health Authority is established. The authority shall:

(a) Carry out policies adopted by the Oregon Health Policy Board;

(b) Administer the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.570;

(c) Administer the Oregon Prescription Drug Program **and a multistate prescription drug purchasing consortium through the Office of Pharmaceutical Purchasing established in section 1 of this 2021 Act**;

(d) Develop the policies for and the provision of publicly funded medical care and medical assistance in this state;

(e) Develop the policies for and the provision of mental health treatment and treatment of addictions;

(f) Assess, promote and protect the health of the public as specified by state and federal law;

(g) Provide regular reports to the board with respect to the performance of health services contractors serving recipients of medical assistance, including reports of trends in health services and enrollee satisfaction;

(h) Guide and support, with the authorization of the board, community-centered health initiatives designed to address critical risk factors, especially those that contribute to chronic disease;

(i) Be the state Medicaid agency for the administration of funds from Titles XIX and XXI of the Social Security Act and administer medical assistance under ORS chapter 414;

(j) In consultation with the Director of the Department of Consumer and Business Services, periodically review and recommend standards and methodologies to the Legislative Assembly for:

(A) Review of administrative expenses of health insurers;

(B) Approval of rates; and

(C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;

(k) Structure reimbursement rates for providers that serve recipients of medical assistance to reward comprehensive management of diseases, quality outcomes and the efficient use of resources and to promote cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations;

(L) Guide and support community three-share agreements in which an employer, state or local government and an individual all contribute a portion of a premium for a community-centered health initiative or for insurance coverage;

(m) Develop, in consultation with the Department of Consumer and Business Services, one or more products designed to provide more affordable options for the small group market;

(n) Implement policies and programs to expand the skilled, diverse workforce as described in ORS 414.018 (4); and

(o) Implement a process for collecting the health outcome and quality measure data identified by the Health Plan Quality Metrics Committee and report the data to the Oregon Health Policy Board.

(2) The Oregon Health Authority is authorized to:

(a) Create an all-claims, all-payer database to collect health care data and monitor and evaluate health care reform in Oregon and to provide comparative cost and quality information to consumers, providers and purchasers of health care about Oregon's health care systems and health plan networks in order to provide comparative information to consumers.

(b) Develop uniform contracting standards for the purchase of health care, including the following:

(A) Uniform quality standards and performance measures;

(B) Evidence-based guidelines for major chronic disease management and health care services with unexplained variations in frequency or cost;

(C) Evidence-based effectiveness guidelines for select new technologies and medical equipment;

(D) A statewide drug formulary that may be used by publicly funded health benefit plans; and

(E) Standards that accept and consider tribal-based practices for mental health and substance abuse prevention, counseling and treatment for persons who are Native American or Alaska Native as equivalent to evidence-based practices.

(3) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Authority by ORS 413.006 to 413.042, 415.012 to 415.430 and 741.340 or by other statutes.

SECTION 3. ORS 414.312 is amended to read:

414.312. (1) As used in ORS 414.312 to 414.318:

(a) "Pharmacy benefit manager" means an entity that negotiates and ex-

ecutes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Oregon Prescription Drug Program, **a multistate prescription drug purchasing consortium,** prescription drug manufacturers and pharmacies.

(b) "Prescription drug claims processor" means an entity that processes and pays prescription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data between pharmacies and the Oregon Prescription Drug Program **or the multistate prescription drug purchasing consortium** and processes related payments to pharmacies.

(c) "Program price" means the reimbursement rates and prescription drug prices established by the administrator of the [*Oregon Prescription Drug Program*] **Office of Pharmaceutical Purchasing**.

(2) The Oregon Prescription Drug Program [*is*] **and a multistate prescription drug purchasing consortium are** established in the Oregon Health Authority[. *The purpose of the program is to:*]

[*(a) Purchase prescription drugs, replenish prescription drugs dispensed or reimburse pharmacies for prescription drugs in order to receive discounted prices and rebates;*]

[*(b) Make prescription drugs available at the lowest possible cost to participants in the program as a means to promote health;*]

[*(c) Maintain a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices; and*]

[*(d) Promote health through the purchase and provision of discount prescription drugs and coordination of comprehensive prescription benefit services for eligible entities and members*] **to be administered by the Office of Pharmaceutical Purchasing**.

(3) [*The Director of the Oregon Health Authority shall appoint an administrator of the Oregon Prescription Drug Program.*] The administrator **of the office, appointed under section 1 of this 2021 Act,** may:

(a) Negotiate price discounts and rebates on prescription drugs with pre-

scription drug manufacturers or group purchasing organizations;

(b) Purchase prescription drugs on behalf of individuals and entities that participate in the program **or consortium**;

(c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine program prices and reimburse or replenish pharmacies for prescription drugs dispensed or transferred;

(e) Adopt and implement a preferred drug list for the program **and consortium**;

(f) Develop a system for allocating and distributing the operational costs of the program **and consortium** and any rebates obtained to participants of the program **or consortium**; and

(g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

(4) The following individuals or entities may participate in the program **or consortium**:

(a) Public Employees' Benefit Board, Oregon Educators Benefit Board and Public Employees Retirement System;

(b) Local governments as defined in ORS 174.116 and special government bodies as defined in ORS 174.117 that directly or indirectly purchase prescription drugs;

(c) Oregon Health and Science University established under ORS 353.020;

(d) State agencies that directly or indirectly purchase prescription drugs, including agencies that dispense prescription drugs directly to persons in state-operated facilities;

(e) Residents of this state who lack or are underinsured for prescription drug coverage;

(f) Private entities; and

(g) Labor organizations.

(5) The administrator may establish different program prices for pharmacies in rural areas to maintain statewide access to the program **or consor-**

tium.

(6) The administrator may establish the terms and conditions for a pharmacy to enroll in the program **or consortium**. A licensed pharmacy that is willing to accept the terms and conditions established by the administrator may apply to enroll in the program **or consortium**.

(7) Except as provided in subsection (8) of this section**or as necessary to achieve a purpose described in section 1 of this 2021 Act**, the administrator may not:

(a) Contract with a pharmacy benefit manager;

(b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

(c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dispensed through the program **or consortium**.

(8) The administrator shall contract with one or more entities to perform any of the functions of the program **or consortium**, including but not limited to:

(a) Contracting with a pharmacy benefit manager and directly or indirectly with such pharmacy networks as the administrator considers necessary to maintain statewide access to the program **or consortium**.

(b) Negotiating with prescription drug manufacturers on behalf of the administrator.

(9) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program **or consortium**.

(10) The [*program*] **office** may contract with vendors as necessary to utilize discount purchasing programs, including but not limited to group purchasing organizations established to meet the criteria of the Nonprofit Institutions Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act, 15 U.S.C. 13.

SECTION 4. ORS 414.314 is amended to read:

414.314. (1) [*An individual or entity described in ORS 414.312 (4) may apply*

to participate in the Oregon Prescription Drug Program. Participants shall apply on an application provided by the Oregon Health Authority] **The Office of Pharmaceutical Purchasing shall make available an application form for individuals and entities that wish to participate in the:**

(a) Oregon Prescription Drug Program; or

(b) Multistate prescription drug purchasing consortium.

(2) The [*authority*] **office** may charge participants a nominal fee to participate in the program **or consortium**. The [*authority*] **office** shall issue a prescription drug identification card to participants of the program **or consortium**.

[*(2)*] **(3)** The [*authority*] **office** shall provide a mechanism to calculate and transmit the program prices for prescription drugs to a pharmacy. The pharmacy shall charge the participant the program price for a prescription drug.

[*(3)*] **(4)** A pharmacy may charge the participant the professional dispensing fee set by the [*authority*] **office**.

[*(4)*] **(5)** [*Prescription drug*] Identification cards issued under this section must contain the information necessary for proper claims adjudication or transmission of price data.

SECTION 5. ORS 414.318 is amended to read:

414.318. The Prescription Drug Purchasing Fund is established separate and distinct from the General Fund. The Prescription Drug Purchasing Fund shall consist of moneys appropriated to the fund by the Legislative Assembly and moneys received by the Oregon Health Authority for the purposes established in this section in the form of gifts, grants, bequests, endowments or donations. The moneys in the Prescription Drug Purchasing Fund are continuously appropriated to the authority **and available to the Office of Pharmaceutical Purchasing** and shall be used to purchase prescription drugs, reimburse pharmacies for prescription drugs and reimburse the [*authority*] **office** for the costs of administering the Oregon Prescription Drug Program **and a multistate prescription drug purchasing consortium**,

including contracted services costs, computer costs, professional dispensing fees paid to retail pharmacies and other reasonable [*program*] costs. Interest earned on the fund shall be credited to the fund.

SECTION 6. ORS 414.320 is amended to read:

414.320. The [*Oregon Health Authority*] **Office of Pharmaceutical Purchasing** shall adopt rules to implement and administer ORS 414.312 to 414.318 **and section 1 of this 2021 Act**. The rules shall include but are not limited to establishing procedures for:

(1) Issuing prescription drug identification cards to individuals and entities that participate in the Oregon Prescription Drug Program **or the multistate prescription drug purchasing consortium**; and

(2) Enrolling pharmacies in the program **or the consortium**.

SECTION 7. ORS 414.326 is amended to read:

414.326. (1) The [*Oregon Health Authority*] **Office of Pharmaceutical Purchasing** shall negotiate and enter into agreements with pharmaceutical manufacturers for supplemental rebates that are in addition to the discount required under federal law to participate in the medical assistance program.

[*(2) The authority may participate in a multistate prescription drug purchasing pool for the purpose of negotiating supplemental rebates.*]

[*(3)*] **(2)** ORS 414.325 and 414.334 apply to prescription drugs purchased for the medical assistance program under this section.

PRACTITIONER-MANAGED PRESCRIPTION DRUG PLAN

SECTION 8. ORS 414.325 is amended to read:

414.325. (1) As used in this section:

(a) "Legend drug" means any drug requiring a prescription by a practitioner, as defined in ORS 689.005.

(b) "Urgent medical condition" means a medical condition that arises suddenly, is not life-threatening and requires prompt treatment to avoid the

development of more serious medical problems.

(2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in the exercise of professional judgment considers appropriate for the diagnosis or treatment of the patient in the practitioner's care and within the scope of practice.

(3) Notwithstanding subsection (2) of this section:

(a) Prescriptions shall be dispensed in the generic form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority unless the practitioner prescribes otherwise and [*an exception*] **prior authorization** is granted by the authority.

[*(3) Except as provided in subsections (4) and (5) of this section, the authority shall place no limit on the type of legend drug that may be prescribed by a practitioner, but the authority shall pay only for drugs in the generic form unless an exception has been granted by the authority.*]

[*(4)*] **(b)** [*Notwithstanding subsection (3) of this section, an exception*] **Prior authorization** must be applied for and granted before the authority is required to pay for**:**

(A) Minor tranquilizers and amphetamines and amphetamine derivatives, as defined by rule of the authority.

(B) Drugs for which prior authorization is required under rules adopted or amended by the authority pursuant to ORS 414.337.

[*(5)(a)*] **(c)** [*Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph (b) of this subsection,*] The authority is authorized to:

(A) Withhold payment for a legend drug when federal financial participation is not available; [*and*]

(B) Require prior authorization of payment for drugs that the authority has determined should be limited to those conditions generally recognized as appropriate by the medical profession**; and**

(C) Withhold payment for a legend drug that is prescribed to treat a health condition that is not a funded health condition on the prior-

itized list of health services developed and maintained by the Health Evidence Review Commission under ORS 414.690.

[*(b) The authority may not require prior authorization for therapeutic classes of nonsedating antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an allergist for treatment of any of the following conditions, as described by the Health Evidence Review Commission on the funded portion of its prioritized list of services:*]

[*(A) Asthma;*]

[*(B) Sinusitis;*]

[*(C) Rhinitis; or*]

[*(D) Allergies.*]

(4)(a) For a drug that is not on a preferred drug list, the authority shall approve a practitioner's request for prior authorization of the drug for a specific patient if the authority determines that evidence submitted by the practitioner establishes that the requested drug is clinically superior to or more medically appropriate than a drug that is on the preferred drug list for the patient's treatment regimen.

(b) The authority shall respond by telephone or other telecommunication device within 24 hours of a practitioner's request for prior authorization.

[*(6)*] **(5)** The authority shall pay a rural health clinic for a legend drug prescribed and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:

(a) There is not a pharmacy within 15 miles of the clinic;

(b) The prescription is dispensed for a patient outside of the normal business hours of any pharmacy within 15 miles of the clinic; or

(c) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

[*(7)*] **(6)** [*Notwithstanding ORS 414.334,*] **This section does not prohibit** the authority [*may conduct*] **from conducting** prospective drug utilization review in accordance with ORS 414.351 to 414.414.

[*(8)*] **(7)** Notwithstanding subsection (3)**(a)** of this section, the authority may pay a pharmacy for a particular brand name drug rather than the generic version of the drug after notifying the pharmacy that the cost of the particular brand name drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

[*(9)(a) Within 180 days after the United States patent expires on an immunosuppressant drug used in connection with an organ transplant, the authority shall determine whether the drug is a narrow therapeutic index drug.*]

[*(b) As used in this subsection, "narrow therapeutic index drug" means a drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring.*]

SECTION 9. ORS 414.334 is amended to read:

414.334. (1) The Oregon Health Authority shall adopt **and maintain** a Practitioner-Managed Prescription Drug Plan [*for*] **consisting of:**

(a) A preferred drug list for drugs prescribed in the medical assistance program **for which the costs are reimbursed on a fee-for-service basis; and**

(b) A partially aligned preferred drug list for coordinated care organizations that consists of portions of the Practitioner-Managed Prescription Drug Plan preferred drug list that apply to certain drugs or therapeutic classes of prescription drugs paid for from a coordinated care organization's global budget.

(2) The purpose of the plan is to [*ensure that enrollees in the medical assistance program receive the most effective prescription drug available at the best possible price*]**:**

(a) Improve the health of medical assistance recipients;

(b) Simplify the administrative burden on practitioners;

(c) Reduce costs to the state medical assistance program; and

(d) Minimize disruptions to recipients' treatment regimens.

[*(2)*] **(3)** In adopting the plan, the authority shall consider recommendations of the Pharmacy and Therapeutics Committee.

[*(3)*] **(4)** The authority shall consult with representatives of the regulatory boards and associations representing practitioners who are prescribers under the medical assistance program and ensure that practitioners receive educational materials and have access to training on the Practitioner-Managed Prescription Drug Plan.

[*(4)*] **(5)** Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the authority, a practitioner may prescribe any drug that the practitioner indicates is medically necessary for an enrollee as being the most effective available.

[*(5)*] **(6)** [*An enrollee*] **A recipient** may appeal to the authority a decision of a practitioner**, a coordinated care organization** or the authority to [*not provide*] **deny coverage of** a prescription drug requested by the [*enrollee*] **recipient**.

[*(6)*] **(7)** This section does not limit the decision of a practitioner as to the scope and duration of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

(8) The authority shall update the partially aligned preferred drug list regularly through a collaborative process engaging all of the coordinated care organizations.

SECTION 10. ORS 414.337 is amended to read:

414.337. The Oregon Health Authority may [*not*] adopt or amend [*any*] **a** rule that requires a prescribing practitioner to contact the authority to request [*an exception*] **prior authorization** for a [*medically appropriate or medically necessary*] **prescription** drug that is not listed on the Practitioner-Managed Prescription Drug Plan drug list **adopted under ORS 414.334 (1)(a)** for that class of drugs [*adopted under ORS 414.334, unless otherwise authorized by enabling legislation setting forth the requirement for prior authorization*].

CONFORMING AMENDMENT

SECTION 11. ORS 689.185 is amended to read:

689.185. (1) The State Board of Pharmacy shall meet at least once every three months to transact its business. One such meeting held during each fiscal year of the state shall be designated by rule as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the president of the board or by majority of members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable rules.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by ORS 167.203, [*414.325,*] 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and this chapter, or by any rule of the board, all actions of the board shall be by a majority of a quorum.

(5) All board meetings and hearings shall be open to the public. The board may, in its discretion and according to law, conduct any portion of its meeting in executive session closed to the public.

UNIT CAPTIONS

SECTION 12. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

1 _____

LC 409
2021 Regular Session
44300-024
8/25/20 (LHF/ps)

D R A F T

SUMMARY

Modifies Health Care Cost Growth Target Program and Health Care Cost Growth Target Implementation Committee.

A BILL FOR AN ACT

Relating to health care costs; amending ORS 442.385 and 442.386 and sections 3, 4 and 5, chapter 560, Oregon Laws 2019.

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

SECTION 1. ORS 442.385 is amended to read:

442.385. As used in this section and ORS 442.386:

(1) "Health care" means items, services and supplies intended to improve or maintain human function or treat or ameliorate pain, disease, condition or injury, including but not limited to the following types of services:

(a) Medical;

(b) Behavioral;

(c) Substance use disorder;

(d) Mental health;

(e) Surgical;

(f) Optometric;

(g) Dental;

(h) Podiatric;

(i) Chiropractic;

(j) Psychiatric;

(k) Pharmaceutical;

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.

(L) Therapeutic;

(m) Preventive;

(n) Rehabilitative;

(o) Supportive; or

(p) Geriatric.

(2) "Health care cost growth" means the annual percentage change in total health expenditures in this state.

[*(3) "Health care cost growth benchmark" means the target percentage for health care cost growth.*]

[*(4)*] **(3)** "Health care entity" means a payer or a provider.

[*(5)*] **(4)** "Health insurance" has the meaning given that term in ORS 731.162.

[*(6)*] **(5)** "Net cost of private health insurance" means the difference between health insurance premiums received by a payer and the claims for the cost of health care paid by the payer under a policy or certificate of health insurance.

[*(7)*] **(6)** "Payer" means:

(a) An insurer offering a policy or certificate of health insurance or a health benefit plan as defined in ORS 743B.005;

(b) A publicly funded health care program, including but not limited to Medicaid, Medicare and the State Children's Health Insurance Program;

(c) A third party administrator; and

(d) Any other public or private entity, other than an individual, that pays or reimburses the cost for the provision of health care.

[*(8)*] **(7)** "Provider" means an individual, organization or business entity that provides health care.

[*(9)*] **(8)(a)** "Total health expenditures" means all health care expenditures [*in*] **on behalf of residents of** this state by public and private sources, including:

[*(a)*] **(A)** All payments on providers' claims for reimbursement of the cost of health care provided;

[*(b)*] **(B)** All payments to providers other than payments described in [*paragraph (a)*] **subparagraph (A)** of this [*subsection*] **paragraph**;

[*(c)*] **(C)** All cost-sharing paid by residents of this state, including but not limited to copayments, deductibles and coinsurance; and

[*(d)*] **(D)** The net cost of private health insurance.

(b) "Total health expenditures" may include expenditures for care provided to out-of-state residents by in-state providers to the extent practicable.

SECTION 2. ORS 442.386 is amended to read:

442.386. (1) The Legislative Assembly intends to establish a health care cost growth [*benchmark,*] **target,** for all providers and payers, to:

(a) Support accountability for the total cost of health care across all providers and payers, both public and private;

(b) Build on the state's existing efforts around health care payment reform and containment of health care costs; and

(c) Ensure the long-term affordability and financial sustainability of the health care system in this state.

(2) The Health Care Cost Growth [*Benchmark*] **Target** program is established. The program shall be administered by the Oregon Health Authority in collaboration with the Department of Consumer and Business Services, subject to the oversight of the Oregon Health Policy Board. The program shall establish a health care cost growth [*benchmark*] **target** for increases in total health expenditures and shall review and modify the [*benchmark*] **target** on a periodic basis.

(3) The health care cost growth [*benchmark*] **target** must:

(a) Promote a predictable and sustainable rate of growth for total health expenditures as measured by an economic indicator adopted by the board, such as the rate of increase in this state's economy or of the personal income of residents of this state;

(b) Apply to all providers and payers in the health care system in this state;

(c) Use established economic indicators; and

(d) Be measurable on a per capita basis, statewide basis and health care entity basis.

(4) The program shall establish a methodology for calculating health care cost growth:

(a) Statewide;

(b) For each provider and payer, taking into account the health status of the patients of the provider or the beneficiary of the payer; and

(c) Per capita.

(5) The program shall establish requirements for providers and payers to report data and other information necessary to calculate health care cost growth under subsection (4) of this section.

(6) Annually, the program shall:

(a) Hold public hearings on the growth in total health expenditures in relation to the health care cost growth in the previous calendar year;

(b) Publish a report on health care costs and spending trends that includes:

(A) Factors impacting costs and spending; and

(B) Recommendations for strategies to improve the efficiency of the health care system; and

(c) For providers and payers for which health care cost growth in the previous calendar year exceeded the health care cost growth [*benchmark*] **target**:

(A) Analyze the cause for exceeding the health care cost growth [*benchmark*] **target**; and

(B) If appropriate, require the provider or payer to undertake a performance improvement action plan.

SECTION 3. Section 3, chapter 560, Oregon Laws 2019, is amended to read:

Sec. 3. (1) The Health Care Cost Growth [*Benchmark*] **Target** Implementation Committee is established under the direction of the Oregon Health

Policy Board.

(2) The membership of the committee consists of the following:

(a) The Director of the Oregon Health Authority or the director's designee;

(b) The Director of the Department of Consumer and Business Services or the director's designee;

(c) An expert in health care financing and administration appointed by the Director of the Oregon Health Authority;

(d) An expert in health economics appointed by the Director of the Oregon Health Authority;

(e) At least one insurance broker appointed by the Director of the Department of Consumer and Business Services; and

(f) No more than 13 members appointed by the Governor to represent:

(A) The Health Insurance Exchange Advisory Committee created under ORS 741.004;

(B) The division of the Oregon Department of Administrative Services that serves as the department's office of economic analysis;

(C) The Oregon Health Leadership Council;

(D) Health care systems or urban hospitals;

(E) Rural hospitals;

(F) Consumers;

(G) Members of the business community that purchase health insurance for their employees;

(H) Licensed and certified health care professionals; and

(I) The insurance industry.

(3) The committee shall design an implementation plan[*, in accordance with section 4 of this 2019 Act*] for the Health Care Cost Growth [*Benchmark*] **Target** program established in [*section 2 of this 2019 Act*] **ORS 442.386**.

(4) A majority of the members of the committee constitutes a quorum for the transaction of business.

(5) Official action by the committee requires the approval of a majority of the members of the committee.

(6) The Governor shall select one member to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.

(9) The committee may adopt rules necessary for the operation of the committee.

(10) The Oregon Health Authority shall provide staff support to the committee.

(11)(a) Members of the committee, other than members representing consumers, are not entitled to compensation or reimbursement for expenses and serve as volunteers on the committee.

(b) Members representing consumers are not entitled to compensation but may be reimbursed from funds available to the authority for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of the duties of the committee and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties.

SECTION 4. Section 4, chapter 560, Oregon Laws 2019, is amended to read:

Sec. 4. (1) As used in this section:

(a) "Health care" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(b) "Health care cost growth" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(c) "Health care cost growth [*benchmark*] **target**" [*has the meaning given that term in section 1 of this 2019 Act*] **means the health care cost growth target established under ORS 442.386**.

(d) "Health care entity" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(e) "Health insurance" has the meaning given that term in ORS 731.162.

(f) "Payer" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(g) "Provider" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(h) "Total health expenditures" has the meaning given that term in [*section 1 of this 2019 Act*] **ORS 442.385**.

(2) The Health Care Cost Growth [*Benchmark*] **Target** Implementation Committee, in designing the implementation plan for the Health Care Cost Growth [*Benchmark*] **Target** program, shall:

(a) Recommend the governance structure for the program.

(b) Recommend a methodology to establish the health care cost growth [*benchmark*] **target** and the economic indicators to be used in establishing the [*benchmark*] **target**.

(c) Establish the initial [*benchmark*] **target** and specify the frequency and manner in which the [*benchmark*] **target** should be reevaluated and updated.

(d) Identify the data that providers and payers shall report for the program to be able to:

(A) Measure the [*benchmark*] **target**;

(B) Validate the [*benchmark*] **target**; and

(C) Identify the health care cost growth of an institutional provider or provider group and of providers that are part of the institutional provider or provider group.

(e)(A) Determine the technical assistance and support necessary to support providers and payers working to remain at or below the health care cost growth [*benchmark*] **target**; and

(B) Identify opportunities to leverage existing public and private financial resources, or alternative funding, to provide the technical assistance and support.

(f) Recommend approaches for measuring the quality of care that account for patient health status.

(g) Seek to align the approaches for measuring the quality of care under paragraph (f) of this subsection with the outcome and quality measures adopted by the Health Plan Quality Metrics Committee.

(h) Identify opportunities for lowering costs, improving the quality of care and improving the efficiency of the health care system by using innovative payment models for all payers, including payment models that do not use a per-claim basis for payments.

(i) Recommend a system for identifying:

(A) Unjustified variations in prices or in health care cost growth; and

(B) The factors that contribute to the unjustified variations.

(j) Identify providers and payers that are required to report.

(k) Recommend accountability and enforcement processes, which may be phased in over time, including:

(A) Measures to ensure compliance with reporting requirements;

(B) Procedures for imposing a performance improvement action plan or other escalating enforcement actions when a provider or payer fails to remain at or below the [*benchmark*] **target**; and

(C) Measures to enforce compliance with the health care cost growth [*benchmark*] **target** in programs administered by the Oregon Health Authority and the Department of Consumer and Business Services, including but not limited to:

(i) The medical assistance program;

(ii) Medical, dental, vision and other health care benefit plans offered by the Public Employees' Benefit Board;

(iii) Medical, dental, vision and other health care benefit plans offered by the Oregon Educators Benefit Board;

(iv) Insurance offered through the health insurance exchange; and

(v) The review of health insurance premium rates by the department.

(L) Make recommendations regarding the reporting of data collected by the Health Care Cost Growth [*Benchmark*] **Target** program, including recommendations for:

(A) Publication of an annual health care cost trends report and analyses on the statewide health care cost growth [*benchmark*] **target**, total health expenditures and spending by each type of health care entity;

(B) Elements to be included in the annual health care cost trends report, such as:

(i) Services provided, sorted by provider organization;

(ii) Services paid for, sorted by the type of payer;

(iii) Variations in cost trends, sorted by category of service; and

(iv) Affordability of health care, based on prices, insurance premiums and types of payment;

(C) Frequency and format of public hearings conducted in accordance with [*section 2 (6)(a) of this 2019 Act*] **ORS 442.386 (6)(a)**;

(D) Publication of recommendations for policies and strategies for achieving the health care cost growth [*benchmark*] **target**;

(E) Publication of performance improvement action plans and other enforcement actions; and

(F) Reporting to the Legislative Assembly.

(m) Establish an implementation timeline and the phases of implementation that may include the establishment of the initial health care cost growth [*benchmark*] **target** under paragraph (c) of this subsection in 2021, with reporting, enforcement and penalties beginning in 2022.

SECTION 5. Section 5, chapter 560, Oregon Laws 2019, is amended to read:

Sec. 5. (1) No later than September 15, 2020, the Health Care Cost Growth [*Benchmark*] **Target** Implementation Committee shall report to the Oregon Health Policy Board for approval, and to the interim committees of

the Legislative Assembly related to health, the committee's recommendations under section 4**,** [*of this 2019 Act*] **chapter 560, Oregon Laws 2019**. The report shall include a legislative concept for carrying out the provisions of section 4 (2)(k)(B)**,** [*of this 2019 Act*] **chapter 560, Oregon Laws 2019,** regarding the imposition of performance improvement action plans or other escalating enforcement actions when a provider or payer fails to remain at or below the health care cost growth [*benchmark*] **target**.

(2) **Upon approval by the board,** the Oregon Health Authority and the Department of Consumer and Business Services shall implement the recommendations of the committee, except for the provisions in the legislative concept described in subsection (1) of this section, [*upon approval by the board*] **beginning in 2024 for a provider or payer's failure to remain at or below the health care cost growth target in 2023 and thereafter**.

LC 410
2021 Regular Session
44300-025
8/18/20 (LHF/ps)

D R A F T

SUMMARY

Creates Value-Based Payments Advisory Subcommittee of Oregon Health Policy Board to develop recommendation for road map for statewide implementation of value-based payments to health care providers in state medical assistance program, health insurance exchange plans and health plans offered on commercial insurance market and to public employees.

Sunsets January 2, 2032.

A BILL FOR AN ACT

Relating to reimbursement of health care providers.

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

SECTION 1. (1) The Oregon Health Policy Board shall convene a Value-Based Payments Advisory Subcommittee with broad, statewide stakeholder representation of health plans, health care providers, health care payment experts and consumers. The board may establish additional criteria for membership on the subcommittee.

(2) The subcommittee shall develop and recommend to the board, in accordance with timelines established by the board, an Oregon Value-Based Payments Road Map to:

(a) Move this state from a predominantly fee-for-service payment system to a predominantly value-based payment system; and

(b) Ensure meaningful adoption and alignment of value-based payments across all markets.

(3) The road map must include:

(a) Statewide targets for the adoption of value-based payments.

(b) Specific models for the statewide adoption of value-based pay-

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.

ments for the alignment of value-based payments for all providers of health care.

(c) Infrastructure needed to support successful adoption and alignment of value-based payments and recommendations for funding the infrastructure.

(d) Statewide, data-driven technical assistance for those paying for health care and for providers of health care.

(e) A process to evaluate the implementation of statewide adoption and alignment of value-based payments including, specifically, the impact on health equity as a distinct component of the road map.

(4) The subcommittee shall consult with the primary care payment reform collaborative convened in accordance with section 2, chapter 575, Oregon Laws 2015, and representatives of populations and communities that have historically suffered disproportionately negative health outcomes. The board may also establish any advisory and technical subcommittees the board considers necessary to assist the Value-Based Payments Advisory Subcommittee in the subcommittee's work.

(5) Consistent with state and federal laws, the board may adopt by rule value-based payment strategies recommended in the road map and requirements for health care providers to be reimbursed using the strategies by:

(a) The state medical assistance program;

(b) Qualified health plans offered through the health insurance exchange;

(c) Insurers with certificates to transact insurance in this state in health benefit plans, as defined in ORS 743B.005;

(d) The Public Employees' Benefit Board in health benefit plans offered under ORS 243.135; and

(e) The Oregon Educators Benefit Board in health benefit plans offered under ORS 243.866.

(6) Members of the subcommittee are not entitled to compensation or reimbursement for expenses and serve as volunteers on the subcommittee.

SECTION 2. Section 3 of this 2021 Act is added to and made a part of the Insurance Code.

SECTION 3. An insurer offering a health benefit plan, as defined in ORS 743B.005, in this state shall comply with the value-based payment requirements adopted by rule by the Oregon Health Policy Board under section 1 (5) of this 2021 Act.

SECTION 4. Sections 1 and 3 of this 2021 Act are repealed on January 2, 2032.

LC 411
2021 Regular Session
44300-026
8/19/20 (MNJ/ps)

D R A F T

SUMMARY

Directs Public Employees' Benefit Board and Oregon Educators Benefit Board to study ways to transform delivery systems to contain costs and report to appropriate committee or interim committee of Legislative Assembly no later than September 15, 2022.

A BILL FOR AN ACT

Relating to benefit plans for public employees.

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

SECTION 1. The Public Employees' Benefit Board and the Oregon short Educators Benefit Board shall cooperate in studying ways to transform delivery systems to contain costs. The boards shall report to an appropriate committee or interim committee of the Legislative Assembly on the results of the study no later than September 15, 2022.

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.

LC 413
2021 Regular Session
44300-028
7/24/20 (LHF/ps)

D R A F T

SUMMARY

Requires Oregon Health Authority to report to interim committees of Legislative Assembly related to health on impacts of federal changes arising from executive or legislative branches of federal government on access to health care in this state and to recommend legislation, if any, that is needed to ensure no diminution of access to quality, affordable health care by residents of this state.

A BILL FOR AN ACT

Relating to health care.

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

SECTION 1. No later than September 15, 2022, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to health, in the manner provided by ORS 192.245, on changes to federal laws arising from legislative or administrative changes by Congress or the United States Department of Health and Human Services and rulings of the federal courts that impact the delivery of health care and access to health insurance coverage in this state. The report shall include recommendations for legislation, if any, that is needed to ensure that residents of this state experience no diminution of their access to quality, affordable health care as a result of the changes.

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.

LC 416
2021 Regular Session
44300-031
8/27/20 (LAS/ps)

D R A F T

SUMMARY

Directs medical examiner to report suspected suicides involving decedents 24 years of age or younger to local mental health authority.

Directs Oregon Health Authority to develop statewide suicide post-intervention protocol.

A BILL FOR AN ACT

Relating to youth suicide response; amending ORS 146.100 and 418.735.

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

SECTION 1. ORS 146.100 is amended to read:

146.100. (1) Death investigations shall be under the direction of the district medical examiner and the district attorney for the county where the death occurs.

(2) For purposes of ORS 146.003 to 146.189, if the county where death occurs is unknown, the death shall be deemed to have occurred in the county where the body is found, except that if in an emergency the body is moved by conveyance to another county and is dead on arrival, the death shall be deemed to have occurred in the county from which the body was originally removed.

(3) The district medical examiner or an assistant district medical examiner for the county where death occurs shall be immediately notified of:

(a) All deaths requiring investigation; and

(b) All deaths of persons admitted to a hospital or institution for less than 24 hours, although the medical examiner need not investigate nor certify such deaths.

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.

(4) No person having knowledge of a death requiring investigation shall intentionally or knowingly fail to make notification thereof as required by subsection (3) of this section.

(5) The district medical examiner or medical-legal death investigator shall immediately notify the district attorney for the county where death occurs of all deaths requiring investigation except for those specified by ORS 146.090 (1)(d) to (g).

(6) All peace officers, health care providers as defined in ORS 192.556, supervisors of penal institutions and supervisors of hospitals or institutions caring for the ill or helpless shall cooperate with the medical examiner by providing a decedent's medical records and tissue samples and any other material necessary to conduct the death investigation of the decedent and shall make notification of deaths as required by subsection (3) of this section. A person who cooperates with the medical examiner in accordance with this subsection does not:

(a) Waive any claim of privilege applicable to, or the confidentiality of, the materials and records provided.

(b) Waive any claim that the materials and records are subject to an exemption from disclosure under ORS 192.311 to 192.478.

(7) Records or materials described in subsection (6) of this section may be released by the medical examiner only pursuant to a valid court order.

(8)(a) No later than 24 hours after notification of a death requiring investigation, the district medical examiner or medical-legal death investigator shall notify the local mental health authority for the county where the death occurs if the decedent was 24 years of age or younger and the cause of death is suspected to be suicide.

(b) The notification under this subsection must include the name, date of birth and date of death of the decedent and any other information that the district medical examiner or medical-legal death investigator determines is necessary to preserve the public health and that is not otherwise protected from public disclosure by state or fed-

eral law.

(c) As used in this subsection, "local mental health authority" has the meaning given that term in ORS 430.630.

SECTION 2. ORS 418.735 is amended to read:

418.735. (1) As used in this section, "local mental health authority" has the meaning given that term in ORS 430.630.

(2)**(a)** The Oregon Health Authority shall develop a plan for communication among local mental health authorities and local systems to improve notifications and information-sharing when a death that is suspected to be a suicide involves an individual who is 24 years of age or younger. The plan must address community suicide response and post-intervention efforts to address loss and the potential of contagion risk. The Oregon Health Authority shall collaborate with the following entities in developing and implementing the plan:

[*(a)*] **(A)** Public school districts;

[*(b)*] **(B)** Public universities listed in ORS 352.002, if the death involves an individual who is 24 years of age or younger;

[*(c)*] **(C)** Private post-secondary institutions of education, if the death involves an individual who is 24 years of age or younger; and

[*(d)*] **(D)** Any facility that provides services or resources to runaway or homeless youth.

(b) The Oregon Health Authority shall develop a statewide post-intervention protocol to enable local mental health authorities to deploy uniform and effective post-intervention efforts. In developing the post-intervention protocol, the authority shall take into consideration the Youth Suicide Intervention and Prevention Plan developed by the Youth Suicide Intervention and Prevention Coordinator under ORS 418.731 and 418.733 and may consult with local mental health authorities, youth-serving entities, individuals with lived experience in suicide ideation, attempts and loss, tribes, medical examiners, colleges and universities and national experts in suicide post-intervention.

(3) [*Within seven days after*] **No later than seven days after receiving notice under ORS 146.100 of** a death that is suspected to be a suicide of an individual 24 years of age or younger, the local mental health authority in the area where the suicide occurred and any public school district, public university listed in ORS 352.002 or private post-secondary institution of education the individual was attending at the time of the individual's death shall inform the Oregon Health Authority, in a manner and in a format to be determined by the authority, of activities implemented to support local entities and individuals affected by the suicide and to prevent the risk of contagion. The authority shall serve as a resource to the local mental health authority and any public school district, public university listed in ORS 352.002 or private post-secondary institution of education the individual was attending at the time of the individual's death as needed by the community.

(4)(a) If a local mental health authority receives a third-party notification of a death that is suspected to be a suicide of an individual 24 years of age or younger, the local mental health authority shall provide notice of the death to the following local systems that had contact with the deceased individual:

(A) The principal or superintendent of relevant area public schools, the principal of relevant area private schools or any public university listed in ORS 352.002 or private post-secondary institution of education the individual was attending at the time of the individual's death;

(B) The juvenile department;

(C) Community developmental disabilities programs;

(D) Local child welfare agencies;

(E) Local substance use disorder programs; or

(F) Any other organization or person identified by the local mental health authority as necessary to receive notice to preserve the public health.

(b) The notification in paragraph (a) of this subsection must contain the following information regarding the deceased individual to enable the local systems to deploy effective post-intervention efforts:

(A) The name of the deceased individual;

(B) The birth date of the deceased individual;

(C) The date of death of the deceased individual; and

(D) Any other information that the local mental health authority determines is necessary to preserve the public health and that is not otherwise protected from public disclosure by state or federal law.

(c) As used in this subsection, "third-party notification" means notification from a source other than a patient in a program administered by the local mental health authority during the patient's treatment.

LC 417
2021 Regular Session
44300-032
7/24/20 (LHF/ps)

D R A F T

SUMMARY

Requires Oregon Health Authority, in collaboration with specified stakeholder groups, to identify, assess and prepare report on regulatory and policy barriers to effective and timely behavioral health treatment for individuals with co-occurring disorders. Requires authority to submit report and recommendations for legislation to address barriers to interim committees and subcommittees of Legislative Assembly related to health and mental health.

Sunsets January 2, 2023.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to treatment for co-occurring disorders; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Behavioral health treatment" or "treatment" means inpatient, outpatient or residential services, management of the symptoms of withdrawal from drugs or alcohol or any other services and supports necessary to treat substance use disorders, problem gambling or other mental health issues.

(b) "Co-occurring disorders" means a diagnosis of a mental health disorder along with a diagnosis of a substance use disorder, problem gambling or an intellectual or developmental disability.

(2) The Oregon Health Authority, in collaboration with individuals representing appropriate state agencies and licensing boards, behav-

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.

ioral health treatment providers, institutions of higher education, coordinated care organizations, community mental health programs and consumers of mental health treatment, shall identify, assess and prepare a report on the regulatory and policy barriers that limit access to effective and timely treatment of co-occurring disorders. The report must include, but is not limited to:

(a) Recommendations for the development of individual and facility licensing and credentialing to treat co-occurring disorders;

(b) Recommended strategies and cost estimates for increasing the reimbursement paid for behavioral health treatment of individuals with co-occurring disorders in recognition of the increased complexity of such treatment;

(c) The paperwork requirements and other administrative barriers identified by the authority and stakeholders that limit access to appropriate behavioral health treatment for individuals with co-occurring disorders; and

(d) Recommendations for improving the registration of and access to peer support specialists and peer wellness specialists, as defined in ORS 414.025.

(3) No later than September 15, 2021, the authority shall submit to the interim committees and subcommittees of the Legislative Assembly related to health and mental health:

(a) The report described in subsection (2) of this section;

(b) A description of the steps the authority has taken to reduce barriers to access that are identified in the report; and

(c) Recommendations for comprehensive legislation, for the 2022 regular session of the Legislative Assembly, necessary to ensure that individuals with co-occurring disorders have access to timely and effective treatment.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2023.

SECTION 3. This 2021 Act being necessary for the immediate pres-

ervation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

LC 419
2021 Regular Session
44300-034
9/24/20 (LHF/ps)

D R A F T

SUMMARY

Appropriates moneys to Oregon Health Authority to undertake specified steps to address needs of individuals with behavioral health disorders for services, treatment and housing.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to individuals with behavioral health disorders; creating new provisions; amending ORS 458.380 and 458.385; and declaring an emergency.

Whereas the Legislative Assembly declares that health equity must be advanced within the state's behavioral health system regardless of race, ethnicity, location or housing status; and

Whereas mental health and substance use disorders must be detected early and treated effectively; and

Whereas youth and adults with serious mental illness need timely access to the full continuum of behavioral health care; and

Whereas youth and adults with serious mental illness need to receive treatment that is responsive to their individual needs and leads to meaningful improvements in their lives; and

Whereas people with serious mental illness need access to affordable housing that offers independence and is close to providers, community resources and public transportation; and

Whereas the supply, distribution and diversity of the behavioral health workforce needs to provide appropriate levels of care and access to care in the community; now, therefore,

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.

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

PROGRAMS AND SERVICES

SECTION 1. The Oregon Health Authority shall design a statewide crisis system, in coordination with local crisis systems, to:

(1) Consolidate, enhance and expand existing crisis lines to streamline access to crisis services for all Oregonians;

(2) Offer no-barrier, brief emotional support, regardless of language spoken or insurance status, for a limited time;

(3) Offer a centralized search engine for locating providers; and

(4) Provide a registry of available residential treatment placements.

SECTION 2. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of $_____, which may be expended for:

(1) Programs that are directly responsive to and driven by people of color, tribal communities and people of lived experience that are peer and community driven and that provide culturally specific services, including:

(a) Medical assistance reimbursement of tribal-based practices.

(b) A pilot project to operate three nonclinical peer-run respite centers to provide culturally responsive services to people of color seeking services, including one program designed specifically to provide culturally appropriate services and supports to individuals who are people of color.

(c) Expansion of the Early Assessment and Support Alliance program from a two-year program to a three-year program based on a step-down framework to provide to approximately 250 youth annually:

(A) Support for those experiencing symptoms of psychosis for the first time;

(B) Continuing transition services to adolescents and young adults aged 14 to 25;

(C) Access to a strengthened peer support component; and

(D) Enhanced life and self-care elements.

(d) Doubling the program size of Young Adult Hubs, which are modeled after a Transition to Independence Process to provide mental health services, case management and support for an additional 1,100 disconnected youth annually.

(2) Funding the nine existing Certified Community Behavioral Health Clinic demonstration sites and working with existing Certified Community Behavioral Health Clinics, advocates and coordinated care organizations to develop a sustainable payment model and further develop a service array, culturally responsive service delivery and outcome measurement to reinforce comprehensive outpatient services that are simple, meaningful and responsive.

(3) Increasing funding to reintegrate into the community criminal defendants who have been found unfit to proceed in a criminal proceeding due to a mental incapacity under ORS 161.370, by means including:

(a) Establishing a reimbursement rate for case consultation and community reintegration necessary to serve at least 400 individuals; and

(b) Constructing and operating a secure residential treatment facility to serve up to 39 individuals per year.

SECTION 3. No later than February 1, 2022, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to behavioral and mental health, in the manner provided in ORS 192.245, the authority's progress in developing a sustainable payment model for Certified Community Behavioral Health Clinics and developing a service array, culturally responsive service delivery and outcome measurement to reinforce comprehensive out-

patient services that are simple, meaningful and responsive.

WORKFORCE

SECTION 4. The Oregon Health Authority shall:

(1) Continually evaluate and revise administrative rules governing behavioral health programs and services to reduce the administrative burden of documentation, particularly around assessment and treatment planning, the Measures and Outcomes Tracking System or successor systems and other reporting required for providers seeking certificates of approval and to ensure that the rules are consistent with the medical assistance program administrative rules that apply to behavioral health care staff operating in primary care and other settings.

(2) Create a behavioral health incentive fund for recruitment and retention in the behavioral health care workforce to increase the number of people of color, tribal members and rurally based workers.

(3) Increase access to services for rural and underserved communities by:

(a) Providing retention bonuses to providers with bachelor's and master's degrees in behavioral health fields to provide culturally specific services to communities facing workforce shortages including, but not limited to, tribal members, people of color, lesbian, gay, bisexual and transgender youth, veterans, individuals with limited English proficiency and people working in correctional facilities.

(b) Expanding funding to provide incentives to culturally specific peers, traditional health workers, licensed or certified providers and licensed prescribers.

(c) Providing incentives to all providers of behavioral health services such as:

(A) Loan forgiveness;

(B) Housing assistance;

(C) Sign-on bonuses;

(D) Part-time and flex time opportunities;

(E) Retention bonuses;

(F) Professional development;

(G) Tax subsidies;

(H) Child care;

(I) Subsidized dual certification with a specific focus on rural and vulnerable populations and pay equity; and

(J) Tuition assistance.

(4) Implement and sustain culturally based practices, including promising and nontraditional practices, by:

(a) Reimbursing the practices equitably with other behavioral health services;

(b) Expanding behavioral health interventions to include culturally based practices, including promising and nontraditional practices; and

(c) Expanding the approved evidence-based practices list to include promising or culturally based practices for reimbursement by the medical assistance program.

(5) Develop curricula for the behavioral health workforce in the following areas:

(a) Trauma-informed care;

(b) Culturally specific and responsive practices;

(c) Anti-racism;

(d) Equity-based care;

(e) Interdisciplinary care, including working with peers; and

(f) Co-occurring mental health and substance use disorders.

(6) Develop an outcomes-based system to demonstrate anti-racism and equity training.

SECTION 5. No later than February 1, 2022, the Oregon Health Authority shall report to the interim committees of the Legislative

Assembly related to behavioral and mental health, in the manner provided in ORS 192.245, recommendations on achieving a living wage for behavioral health care workers, including peers and family support specialists. The report must also consider pay inequities between physical health care workers and behavioral health care workers and how to provide more equitable wages.

HOUSING

SECTION 6. ORS 458.380 is amended to read:

458.380. (1) The Housing for Mental Health Fund is established in the State Treasury, separate and distinct from the General Fund. The Housing for Mental Health Fund consists of moneys deposited in the fund under section 8, chapter 812, Oregon Laws 2015, and may include moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys in the fund.

(2) Moneys in the fund are continuously appropriated to the [*Housing and Community Services Department*] **Oregon Health Authority** for disbursement for the purposes set forth in ORS 458.385.

SECTION 7. ORS 458.385 is amended to read:

458.385. (1) The [*Housing and Community Services Department, in collaboration with the*] Oregon Health Authority, shall disburse moneys in the Housing for Mental Health Fund to provide funding for:

(a) The development of community-based housing, including licensed residential treatment facilities, for individuals with mental illness and individuals with substance use disorders; and

(b) Crisis intervention services, rental subsidies and other housing-related services to help keep individuals with mental illness and individuals with substance use disorders safe and healthy in their communities.

(2) The [*department*] **authority** shall provide funding for:

(a) A portion of the costs to purchase land and to construct housing de-

scribed in subsection (1)(a) of this section; and

(b) Up to 50 percent of the start-up costs for providing housing described in subsection (1)(a) of this section, including but not limited to fixtures, furnishings and training of staff.

(3)(a) The [*department*] **authority** shall prescribe the financing mechanisms to be used to provide funding under subsection (2)(a) of this section of up to 35 percent of the total project development costs.

(b) The [*department*] **authority** may waive the 35 percent limit on total project development costs under paragraph (a) of this subsection for a low-cost project or to meet a critical need in a rural area.

(4) The [*department*] **authority** shall convene an advisory group to make recommendations to the [*department*] **authority** for:

(a) The allocation of moneys between different types of housing;

(b) The financing of housing described in subsection (1)(a) of this section;

(c) The provision of services described in subsection (1)(b) of this section;

(d) Soliciting funding proposals; and

(e) Processing applications for funding.

(5) The advisory group convened under subsection (4) of this section must include:

(a) One representative of a private provider of mental health treatment;

(b) One representative of a private provider of substance abuse treatment;

(c) Two representatives of groups that advocate on behalf of consumers of mental health or substance abuse treatment;

(d) One staff person from the Department **of Human Services**;

(e) One staff person from the division of the [*Oregon Health*] authority that regulates mental health and substance abuse treatment programs;

(f) Two consumers of mental health or substance abuse treatment;

(g) One representative of a community mental health program;

(h) One person with expertise in developing and financing community housing projects in rural communities; and

(i) One representative of community corrections.

SECTION 8. **The Oregon Health Authority shall adopt by rule requirements for coordinated care organizations to provide housing navigation services and address the social determinants of health through care coordination.**

SECTION 9. **In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of $_____, to be deposited in the Housing for Mental Health Fund for the purpose of providing incentive funding for the development of new housing including long term care, short term respite care and independent and integrated housing.**

SECTION 10. **(1) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of $_____, to:**

(a) Increase funding for rental assistance to address barriers to housing and provide wraparound housing support, utilizing existing programs, to people with serious and persistent mental illness to access permanent housing in the community and to contract with more providers and community organizations to provide:

(A) Tenant-based rental assistance with maximum flexibility to be used in a variety of scenarios and placements ranging from traditional scattered site supported housing to less traditional low barrier housing models;

(B) Wraparound services that pair with rental assistance to provide crisis stabilization, housing and benefit stabilization and connections to more intensive services when necessary, and which follow clients, even when their tenancy status changes; and

(C) Robust funding to address a variety of financial concerns that might compromise housing stability, such as:

(i) Providing landlord repair insurance funds to ensure private

landlords are given incentives to rent to tenants who might be considered higher risk;

(ii) Paying move-in costs and past bills and paying for documentation required for low-income tenants to obtain and maintain housing; and

(iii) Removing barriers generally associated with individuals who have been involved in the criminal justice system such as by the expungement of criminal records.

(b) Create a flexible residential fund to provide funding to organizations to fill gaps in the residential continuum, including recovery housing, for people of color, tribal communities, immigrant and refugee communities, lesbian, gay, bisexual and transgender individuals, people with disabilities, veterans, individuals with a history of involvement in the criminal justice system and non-English speaking communities to:

(A) Provide an opportunity for individuals to achieve short term stability to continue in an episode of care.

(B) Provide an opportunity for individuals to achieve long term stability in housing.

(C) Aid transitions from inpatient care or correctional facilities to the community by means including providing residential support for those who do not meet the criteria for assertive community treatment, so that they may:

(i) Avoid extended stays in emergency rooms or hospitals because of a lack of community placement.

(ii) Avoid discharges to homelessness.

(iii) Reduce their contacts with the criminal justice system.

(c) Expand the Young Adult in Transition Residential System with four additional five-bed Residential Treatment Homes and a ten-bed Secure Residential Treatment Facility specializing in serving young adults aged 17 1/2 to 25.

(d) Fund three secure residential treatment facilities to increase the number of facilities to serve individuals who have been found unfit to proceed in a criminal proceeding due to a mental incapacity under ORS 161.370.

(2) Funding under subsection (1)(b) of this section:

(a) Must be offered through a competitive bidding process. Proposals must address community or regional need and include:

(A) Peer support from youth and culturally and linguistically appropriate peers.

(B) Coordination with other systems of care.

(C) Connections to voluntary social and other supports to remove barriers to long term housing such as expungement of criminal records, credit repair, financial literacy, life skills, self-advocacy with respect to evictions and other training.

(b) May include a specific tribal allocation based on data and outcomes.

CAPTIONS

SECTION 11. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

REPEALS

SECTION 12. Sections 1 to 5 and 8 to 10 of this 2021 Act are repealed on June 30, 2023.

EMERGENCY CLAUSE

SECTION 13. **This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.**

LC 420
2021 Regular Session
44300-035
7/21/20 (LAS/ps)

D R A F T

SUMMARY

Directs System of Care Advisory Council to study and make recommendations to resolve barriers and challenges to implementation of systems of care. Requires council to submit report to interim committee of Legislative Assembly by September 15, 2022.

A BILL FOR AN ACT

Relating to systems of care.

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

SECTION 1. The System of Care Advisory Council shall study and make recommendations to resolve barriers and challenges to implementation of systems of care. The council shall submit a report on its findings to an appropriate interim committee of the Legislative Assembly no later than September 15, 2022.

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.

LC 421
2021 Regular Session
44300-036
9/21/20 (LHF/ps)

D R A F T

SUMMARY

Expands range of housing for individuals with substance use disorders that is authorized to receive development funding from Oregon Health Authority.

Updates references to alcoholism, drug dependency and detoxification.

A BILL FOR AN ACT

Relating to services for individuals with substance use disorders; creating new provisions; amending ORS 90.243, 90.440, 109.680, 137.227, 137.228, 421.633, 426.005, 430.021, 430.165, 430.197, 430.254, 430.265, 430.306, 430.315, 430.335, 430.338, 430.342, 430.345, 430.359, 430.364, 430.395, 430.402, 430.415, 430.450, 430.455, 430.460, 430.475, 430.485, 430.535, 430.540, 430.545, 430.560, 430.570, 430.630, 430.850, 430.905, 442.015, 678.150, 689.045 and 689.185; and repealing ORS 430.405.

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

EXPANDED OPTIONS FOR PUBLICLY FINANCED HOUSING FOR INDIVIDUALS WITH SUBSTANCE USE DISORDERS

SECTION 1. ORS 430.335 is amended to read:

430.335. In accordance with the policies, priorities and standards established by the Alcohol and Drug Policy Commission under ORS 430.223, and subject to the availability of funds therefor, the Oregon Health Authority may:

(1) Provide directly through publicly operated treatment facilities, which

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.

shall not be considered to be state institutions, or by contract with publicly or privately operated profit or nonprofit treatment facilities, for the care of [*alcoholics or drug-dependent persons*] **individuals with substance use disorders**.

(2) Sponsor and encourage research of [*alcoholism and drug dependence*] **substance use disorders**.

(3) Seek to coordinate public and private programs relating to [*alcoholism and drug dependence*] **substance use disorders**.

(4) Apply for federally granted funds available for study or prevention and treatment of [*alcoholism and drug dependence*] **substance use disorders**.

(5) Directly or by contract with public or private entities, administer financial assistance, loan and other programs to assist the development of [*drug and alcohol free*] housing **for individuals with substance use disorders**.

UPDATED TERMINOLOGY

SECTION 2. ORS 90.243 is amended to read:

90.243. (1) A dwelling unit qualifies as drug and alcohol free housing if:

(a)(A) For premises consisting of more than eight dwelling units, the dwelling unit is one of at least eight contiguous dwelling units on the premises that are designated by the landlord as drug and alcohol free housing dwelling units and that are each occupied or held for occupancy by at least one tenant who is [*a recovering alcoholic or drug addict*] **in recovery from a substance use disorder** and is participating in a program of recovery; or

(B) For premises consisting of eight or fewer dwelling units, the dwelling unit is one of at least four contiguous dwelling units on the premises that are designated by the landlord as drug and alcohol free housing dwelling units and that are each occupied or held for occupancy by at least one tenant who is [*a recovering alcoholic or drug addict*] **in recovery from a substance**

use disorder and is participating in a program of recovery;

(b) The landlord is a nonprofit corporation incorporated pursuant to ORS chapter 65 or a housing authority created pursuant to ORS 456.055 to 456.235;

(c) The landlord provides for the designated drug and alcohol free housing dwelling units:

(A) A drug and alcohol free environment, covering all tenants, employees, staff, agents of the landlord and guests;

(B) Monitoring of the tenants for compliance with the requirements described in paragraph (d) of this subsection;

(C) Individual and group support for recovery; and

(D) Access to a specified program of recovery; and

(d) The rental agreement for the designated drug and alcohol free housing dwelling unit is in writing and includes the following provisions:

(A) That the dwelling unit is designated by the landlord as a drug and alcohol free housing dwelling unit;

(B) That the tenant may not use, possess or share alcohol, marijuana items as defined in ORS 475B.015, illegal drugs, controlled substances or prescription drugs without a medical prescription, either on or off the premises;

(C) That the tenant may not allow the tenant's guests to use, possess or share alcohol, marijuana items as defined in ORS 475B.015, illegal drugs, controlled substances or prescription drugs without a medical prescription, on the premises;

(D) That the tenant shall participate in a program of recovery, which specific program is described in the rental agreement;

(E) That on at least a quarterly basis the tenant shall provide written verification from the tenant's program of recovery that the tenant is participating in the program of recovery and that the tenant has not used:

(i) Alcohol;

(ii) Marijuana items as defined in ORS 475B.015; or

(iii) Illegal drugs;

(F) That the landlord has the right to require the tenant to take a test for drug or alcohol usage promptly and at the landlord's discretion and expense; and

(G) That the landlord has the right to terminate the tenant's tenancy in the drug and alcohol free housing under ORS 90.392, 90.398 or 90.630 for noncompliance with the requirements described in this paragraph.

(2) A dwelling unit qualifies as drug and alcohol free housing despite the premises not having the minimum number of qualified dwelling units required by subsection (1)(a) of this section if:

(a) The premises are occupied but have not previously qualified as drug and alcohol free housing;

(b) The landlord designates certain dwelling units on the premises as drug and alcohol free dwelling units;

(c) The number of designated drug and alcohol free housing dwelling units meets the requirement of subsection (1)(a) of this section;

(d) When each designated dwelling unit becomes vacant, the landlord rents that dwelling unit to, or holds that dwelling unit for occupancy by, at least one tenant who is [*a recovering alcoholic or drug addict*] **in recovery from a substance use disorder** and is participating in a program of recovery and the landlord meets the other requirements of subsection (1) of this section; and

(e) The dwelling unit is one of the designated drug and alcohol free housing dwelling units.

(3) The failure by a tenant to take a test for drug or alcohol usage as requested by the landlord pursuant to subsection (1)(d)(F) of this section may be considered evidence of drug or alcohol use.

(4) As used in this section, "program of recovery" means a verifiable program of counseling and rehabilitation treatment services, including a written plan, to assist [*recovering alcoholics or drug addicts*] **individuals in recovery from a substance use disorder** to recover from their addiction to alcohol, cannabis or illegal drugs while living in drug and alcohol free

housing. A "program of recovery" includes Alcoholics Anonymous, Narcotics Anonymous and similar programs.

SECTION 3. ORS 90.440 is amended to read:

90.440. (1) As used in this section:

(a) "Group recovery home" means a place that provides occupants with shared living facilities and that meets the description of a group home under 42 U.S.C. 300x-25.

(b) "Illegal drugs" includes controlled substances or prescription drugs:

(A) For which the tenant does not have a valid prescription; or

(B) That are used by the tenant in a manner contrary to the prescribed regimen.

(c) "Marijuana item" has the meaning given that term in ORS 475B.015.

(d) "Peace officer" means:

(A) A sheriff, constable, marshal or deputy;

(B) A member of a state or city police force;

(C) A police officer commissioned by a university under ORS 352.121 or 353.125; or

(D) An authorized tribal police officer as defined in ORS 181A.680.

(2)(a) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy and peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has used or possessed alcohol, a marijuana item or illegal drugs within the preceding seven days.

(b) For purposes of this subsection, the following are sufficient proof that a tenant has used or possessed alcohol, a marijuana item or illegal drugs:

(A) The tenant fails a test for alcohol, cannabis or illegal drug use;

(B) The tenant refuses a request made in good faith by the group recovery home that the tenant take a test for alcohol, cannabis or illegal drug use; or

(C) Any person has personally observed the tenant using or possessing alcohol, a marijuana item or illegal drugs.

(3) A group recovery home that undertakes the removal of a tenant under

this section shall personally deliver to the tenant a written notice that:

(a) Describes why the tenant is being removed;

(b) Describes the proof that the tenant has used or possessed alcohol, a marijuana item or illegal drugs within the seven days preceding delivery of the notice;

(c) Specifies the date and time by which the tenant must move out of the group recovery home;

(d) Explains that if the removal was wrongful or in bad faith the tenant may seek injunctive relief to recover possession under ORS 105.121 and may bring an action to recover monetary damages; and

(e) Gives contact information for the local legal services office and for the Oregon State Bar's Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal services.

(4) A written notice in substantially the following form meets the requirements of subsection (3) of this section:

This notice is to inform you that you must move out of _____ (insert address of group recovery home) by _____ (insert date and time that is not less than 24 hours after delivery of notice).

The reason for this notice is _____ (specify use or possession of alcohol, marijuana or illegal drugs, as applicable, and dates of occurrence).

The proof of your use or possession is _____ (specify facts).

If you did not use or possess alcohol, marijuana or illegal drugs within the seven days before delivery of this notice, if this notice was given in bad faith or if your group recovery home has not substantially complied with ORS 90.440, you may be able to get a court to order the group recovery home to let you move back in. You may also be able to recover monetary damages.

You may be eligible for free legal services at your local legal services office _____ (insert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.

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(5) Within the notice period, a group recovery home shall allow a tenant removed under this section to follow any emergency departure plan that was prepared by the tenant and approved by the group recovery home at the time the tenancy began. If the removed tenant does not have an emergency departure plan, a representative of the group recovery home shall offer to take the removed tenant to a public shelter, [*detoxification*] **withdrawal management** center or similar location if existing in the community.

(6) The date and time for moving out specified in a notice under subsection (3) of this section must be at least 24 hours after the date and time the notice is delivered to the tenant. If the tenant remains on the group recovery home premises after the date and time for moving out specified in the notice, the tenant is a person remaining unlawfully in a dwelling as described in ORS 164.255 and not a person described in ORS 105.115. Only a peace officer may forcibly remove a tenant who remains on the group recovery home premises after the date and time specified for moving out.

(7) A group recovery home that removes a tenant under this section shall send a copy of the notice described in subsection (3) of this section to the Oregon Health Authority no later than 72 hours after delivering the notice to the tenant.

(8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief to recover possession and may recover an amount equal to the greater of actual damages or three times the tenant's monthly rent if:

(a) The group recovery home removed the tenant in bad faith or without substantially complying with this section; or

(b) If removal is under subsection (2)(b)(C) of this section, the removal was wrongful because the tenant did not use or possess alcohol, a marijuana item or illegal drugs.

(9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive relief to recover possession under ORS 105.121 must commence the action to seek relief not more than 90 days after the date specified in the notice for the tenant to move out.

(10) In any court action regarding the removal of a tenant under this section, a group recovery home may present evidence that the tenant used or possessed alcohol, a marijuana item or illegal drugs within seven days preceding the removal, whether or not the evidence was described in the notice required by subsection (3) of this section.

(11) This section does not prevent a group recovery home from terminating a tenancy as provided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to 105.168.

SECTION 4. ORS 137.227 is amended to read:

137.227. (1) After a defendant has been convicted of a crime, the court may cause the defendant to be evaluated to determine if the defendant [*is an alcoholic or a drug-dependent person, as those terms are*] **has a substance use disorder, as** defined in ORS 430.306. The evaluation shall be conducted by an agency or organization designated under subsection (2) of this section.

(2) The court shall designate agencies or organizations to perform the evaluations required under subsection (1) of this section. The designated agencies or organizations must meet the standards set by the Oregon Health Authority to perform the evaluations [*for drug dependency*] and must be approved by the authority. Wherever possible, a court shall designate agencies or organizations to perform the evaluations that are separate from those that may be designated to carry out a program of treatment for alcohol or drug dependency.

SECTION 5. ORS 137.228 is amended to read:

137.228. (1) When a defendant is sentenced for a crime, the court may enter a finding that the defendant [*is an alcoholic or a drug-dependent person, as those terms are*] **has a substance use disorder, as** defined in ORS 430.306. The finding may be based upon any evidence before the court, including, but not limited to, the facts of the case, stipulations of the parties and the results of any evaluation conducted under ORS 137.227.

(2) When the court finds that the defendant [*is an alcoholic or a drug-dependent person*] **has a substance use disorder**, the court, when it sen-

tences the defendant to a term of imprisonment, shall direct the Department of Corrections to place the defendant in an appropriate alcohol or drug treatment program, to the extent that resources are available. The alcohol or drug treatment program shall meet the standards promulgated by the Oregon Health Authority pursuant to ORS 430.357.

SECTION 6. ORS 109.680 is amended to read:

109.680. A physician, physician assistant, psychologist, nurse practitioner, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed under ORS chapter 685 or community mental health program described in ORS 109.675 may advise the parent or parents or legal guardian of a minor described in ORS 109.675 of the diagnosis or treatment whenever the disclosure is clinically appropriate and will serve the best interests of the minor's treatment because the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or the minor's condition requires [*detoxification*] **withdrawal management** in a residential or acute care facility. If such disclosure is made, the physician, physician assistant, psychologist, nurse practitioner, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed under ORS chapter 685 or community mental health program **described in ORS 109.675** shall not be subject to any civil liability for advising the parent, parents or legal guardian without the consent of the minor.

SECTION 7. ORS 421.633 is amended to read:

421.633. (1) Notwithstanding ORS 421.611 to 421.630 or any actions taken under ORS 421.611 to 421.630, the Department of Corrections may lease all or part of the real property and any improvements to the real property known as the Milliron Road Site south of Junction City, Lane County, to the Oregon Health Authority for a period of years agreed upon by the depart-

ment and the authority.

(2) The authority may build, own and operate, on the real property leased from the department under subsection (1) of this section, a hospital to provide diagnosis and evaluation, medical care, [*detoxification*] **withdrawal management**, social services, rehabilitation or other services for individuals committed to the authority under ORS 426.130 and individuals committed to a state hospital under ORS 161.327 or 161.370.

(3) The department and the authority are authorized to negotiate and enter into a written agreement transferring ownership of the hospital described in subsection (2) of this section from the authority to the department, under terms and conditions acceptable to the agencies.

SECTION 8. ORS 426.005 is amended to read:

426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

(a) "Community mental health program director" means the director of an entity that provides the services described in ORS 430.630 (3) to (5).

(b) "Director of the facility" means a superintendent of a state mental hospital, the chief of psychiatric services in a community hospital or the person in charge of treatment and rehabilitation programs at other treatment facilities.

(c) "Facility" means a state mental hospital, community hospital, residential facility, [*detoxification*] **withdrawal management** center, day treatment facility or such other facility as the authority determines suitable that provides diagnosis and evaluation, medical care, [*detoxification*] **withdrawal management**, social services or rehabilitation to persons who are in custody during a prehearing period of detention or who have been committed to the Oregon Health Authority under ORS 426.130.

(d) "Licensed independent practitioner" means:

(A) A physician, as defined in ORS 677.010;

(B) A nurse practitioner licensed under ORS 678.375 and authorized to write prescriptions under ORS 678.390; or

(C) A naturopathic physician licensed under ORS chapter 685.

(e) "Nonhospital facility" means any facility, other than a hospital, that is approved by the authority to provide adequate security, psychiatric, nursing and other services to persons under ORS 426.232 or 426.233.

(f) "Person with mental illness" means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm.

(C) A person:

(i) With a chronic mental illness, as defined in ORS 426.495;

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;

(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and

(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.

(g) "Prehearing period of detention" means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person's behalf in the exercise of duties.

SECTION 9. ORS 430.021 is amended to read:

430.021. Subject to ORS 417.300 and 417.305:

(1) The Department of Human Services shall directly or through contracts with private entities, counties under ORS 430.620 or other public entities:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with developmental disabilities.

(b) Promote, correlate and coordinate the developmental disabilities activities of all governmental organizations throughout the state in which there is any direct contact with developmental disabilities programs.

(c) Establish, coordinate, assist and direct a community developmental disabilities program in cooperation with local government units and integrate such a program with the state developmental disabilities program.

(d) Promote public education in this state concerning developmental disabilities and act as the liaison center for work with all interested public and private groups and agencies in the field of developmental disabilities services.

(2) The Oregon Health Authority shall directly or by contract with private or public entities:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with mental or emotional disturbances[*, alcoholism or drug dependence*] **or substance use disorders**.

(b) Promote, correlate and coordinate the mental health activities of all governmental organizations throughout the state in which there is any direct contact with mental health programs.

(c) Establish, coordinate, assist and direct a community mental health program in cooperation with local government units and integrate such a program with the state mental health program.

(d) Promote public education in this state concerning mental health and act as the liaison center for work with all interested public and private groups and agencies in the field of mental health services.

(3) The department and the authority shall develop cooperative programs with interested private groups throughout the state to effect better commu-

nity awareness and action in the fields of mental health and developmental disabilities, and encourage and assist in all necessary ways community general hospitals to establish psychiatric services.

(4) To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for mental or emotional disturbances shall develop criteria consistent with this policy. In reviewing applications for certificates of need, the Director of the Oregon Health Authority shall take this policy into account.

(5) The department and the authority shall accept the custody of persons committed to its care by the courts of this state.

(6) The authority shall adopt rules to require a facility and a nonhospital facility as those terms are defined in ORS 426.005, and a provider that employs a person described in ORS 426.415, if subject to authority rules regarding the use of restraint or seclusion during the course of mental health treatment of a child or adult, to report to the authority each calendar quarter the number of incidents involving the use of restraint or seclusion. The aggregate data shall be made available to the public.

SECTION 10. ORS 430.254 is amended to read:

430.254. The Oregon Health Authority shall develop treatment programs, meeting minimum standards adopted pursuant to ORS 430.357, to assist [*drug-dependent persons*] **individuals with drug dependency** to become [*persons who are*] able to live healthy and productive lives without the use of any natural or synthetic opiates.

SECTION 11. ORS 430.265 is amended to read:

430.265. The Oregon Health Authority is authorized to contract with the federal government for services to [*alcohol and drug-dependent persons*] **individuals with substance use disorders** who are either residents or nonresidents of the State of Oregon.

SECTION 12. ORS 430.306 is amended to read:

430.306. As used in ORS 430.262, 430.315, 430.335, 430.342, 430.397, 430.399, 430.401, 430.402, **430.415,** 430.420 and 430.630, unless the context requires otherwise:

(1) [*"Alcoholic"*] **"Alcoholism"** means [*any person who*] **an illness in which an individual** has lost the ability to control the use of alcoholic beverages, or [*who*] uses alcoholic beverages to the extent that the health of the [*person*] **individual** or that of others is substantially impaired or endangered or the social or economic function of the [*person*] **individual** is substantially disrupted. [*An alcoholic*] **An individual with alcoholism** may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages.

[*(2) "Detoxification center" means a publicly or privately operated profit or nonprofit facility approved by the Oregon Health Authority that provides emergency care or treatment for alcoholics or drug-dependent persons.*]

[*(3)*] **(2)** "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at a treatment facility.

[*(4)*] **(3)** [*"Drug-dependent person"*] **"Drug dependency"** means [*one who*] **an illness in which an individual** has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or [*who*] uses such substances or controlled substances to the extent that the health of the [*person*] **individual** or that of others is substantially impaired or endangered or the social or economic function of the [*person*] **individual** is substantially disrupted. [*A drug-dependent person*] **An individual with drug dependency** may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

[*(5)*] **(4)** "Halfway house" means a publicly or privately operated profit

or nonprofit, residential facility approved by the authority that provides rehabilitative care and treatment for [*alcoholics or drug-dependent persons*] **individuals with substance use disorders**.

[*(6)*] **(5)** "Local planning committee" means a local planning committee for alcohol and drug **abuse** prevention and treatment services appointed or designated by the county governing body under ORS 430.342.

[*(7)*] **(6)** "Police officer" means a member of a law enforcement unit who is employed on a part-time or full-time basis as a peace officer, commissioned by a city, a county or the Department of State Police and responsible for enforcing the criminal laws of this state and any person formally deputized by the law enforcement unit to take custody of a person who is intoxicated or under the influence of controlled substances.

[*(8)*] **(7)** "Sobering facility" means a facility that meets all of the following criteria:

(a) The facility operates for the purpose of providing to individuals who are acutely intoxicated a safe, clean and supervised environment until the individuals are no longer acutely intoxicated.

(b) The facility contracts with or is affiliated with a treatment program or a provider approved by the authority to provide addiction treatment, and the contract or affiliation agreement includes, but is not limited to, case consultation, training and advice and a plan for making referrals to addiction treatment.

(c) The facility, in consultation with the addiction treatment program or provider, has adopted comprehensive written policies and procedures incorporating best practices for the safety of intoxicated individuals, employees of the facility and volunteers at the facility.

(d) The facility is registered with the Oregon Health Authority under ORS 430.262.

(8) "Substance use disorder" means alcoholism or drug dependency.

(9) "Treatment facility" includes outpatient facilities, inpatient facilities and other facilities the authority determines suitable and that provide ser-

vices that meet minimum standards established under ORS 430.357, any of which may provide diagnosis and evaluation, medical care, [*detoxification*] **withdrawal management**, social services or rehabilitation for [*alcoholics or drug-dependent persons*] **individuals with substance use disorders** and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the authority.

(10) "Withdrawal management center" means a publicly or privately operated profit or nonprofit facility approved by the Oregon Health Authority that provides emergency care or treatment for individuals with substance use disorders.

SECTION 13. ORS 430.315 is amended to read:

430.315. The Legislative Assembly finds alcoholism or drug [*dependence*] **dependency** is an illness. [*The alcoholic or drug-dependent person*] **An individual with alcoholism or drug dependency** is ill and should be afforded treatment for that illness. To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for alcoholism or drug [*dependence*] **dependency** shall develop criteria consistent with this policy in consultation with the Oregon Health Authority. In reviewing applications for certificate of need, the Director of the Oregon Health Authority shall take this policy into account.

SECTION 14. ORS 430.338 is amended to read:

430.338. The purposes of ORS 430.338 to 430.380 are:

(1) To encourage local units of government to provide treatment and rehabilitation services to [*persons suffering from*] **individuals with** alcoholism;

(2) To foster sound local planning to address the problem of alcoholism and its social consequences;

(3) To promote a variety of treatment and rehabilitation services for [*alcoholics*] **individuals with alcoholism** designed to meet the therapeutic needs of diverse segments of a community's population, recognizing that no

single approach to alcoholism treatment and rehabilitation is suitable to every individual;

(4) To increase the independence and ability of individuals recovering from alcoholism to lead satisfying and productive lives, thereby reducing continued reliance upon therapeutic support;

(5) To ensure sufficient emphasis upon the unique treatment and rehabilitation needs of minorities; and

(6) To stimulate adequate evaluation of alcoholism treatment and rehabilitation programs.

SECTION 15. ORS 430.342 is amended to read:

430.342. (1) The governing body of each county or combination of counties in a mental health administrative area, as designated by the Alcohol and Drug Policy Commission, shall:

(a) Appoint a local planning committee for alcohol and drug **abuse** prevention and treatment services; or

(b) Designate an already existing body to act as the local planning committee for alcohol and drug **abuse** prevention and treatment services.

(2) The committee shall identify needs and establish priorities for alcohol and drug **abuse** prevention and treatment services that best suit the needs and values of the community and shall report its findings to the Oregon Health Authority, the governing bodies of the counties served by the committee and the budget advisory committee of the commission.

(3) Members of the local planning committee shall be representative of the geographic area and shall be persons with interest or experience in developing alcohol and drug **abuse** prevention and treatment services. The membership of the committee shall include a number of minority members which reasonably reflects the proportion of the need for prevention, treatment and rehabilitation services of minorities in the community.

SECTION 16. ORS 430.345 is amended to read:

430.345. Upon application therefor, the Oregon Health Authority may make grants from funds specifically appropriated for the purposes of carrying

out ORS 430.338 to 430.380 to any applicant for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services. When necessary, a portion of the appropriated funds may be designated by the authority for training and technical assistance, or additional funds may be appropriated for this purpose. Alcohol and drug abuse prevention, early intervention and treatment services shall be approved if the applicant establishes to the satisfaction of the authority:

(1)(a) The adequacy of the services to accomplish the goals of the applicant and the needs and priorities established under ORS 430.338 to 430.380; or

(b) The community need for the services as determined by the local planning committee for alcohol and drug **abuse** prevention and treatment services under ORS 430.342;

(2) That an appropriate operating agreement exists, or will exist with other community facilities able to assist in providing alcohol and drug abuse prevention, early intervention and treatment services, including nearby [*detoxification*] **withdrawal management** centers and halfway houses; and

(3) That the services comply with the rules adopted by the authority pursuant to ORS 430.357.

SECTION 17. ORS 430.359 is amended to read:

430.359. (1) Upon approval of an application, the Oregon Health Authority shall enter into a matching fund relationship with the applicant. In all cases the amount granted by the authority under the matching formula shall not exceed 50 percent of the total estimated costs, as approved by the authority, of the alcohol and drug abuse prevention, early intervention and treatment services.

(2) The authority shall distribute funds to applicants consistent with the budget priority policies adopted by the Alcohol and Drug Policy Commission, the community needs as determined by local planning committees for alcohol and drug **abuse** prevention and treatment services under ORS 430.342 and the particular needs of minority groups with a significant population of af-

fected persons. The funds granted shall be distributed monthly.

(3) Federal funds at the disposal of an applicant for use in providing alcohol and drug abuse prevention, early intervention and treatment services may be counted toward the percentage contribution of an applicant.

(4) An applicant that is, at the time of a grant made under this section, expending funds appropriated by its governing body for the alcohol and drug abuse prevention, early intervention and treatment services shall, as a condition to the receipt of funds under this section, maintain its financial contribution to these programs at an amount not less than the preceding year. However, the financial contribution requirement may be waived in its entirety or in part in any year by the authority because of:

(a) The severe financial hardship that would be imposed to maintain the contribution in full or in part;

(b) The application of any special funds for the alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available in the current year;

(c) The application of federal funds, including but not limited to general revenue sharing, distributions from the Oregon and California land grant fund and block grant funds to the alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available for such application in the current year; or

(d) The application of fund balances resulting from fees, donations or underexpenditures in a given year of the funds appropriated to counties pursuant to ORS 430.380 to the alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available for such application in the current year.

(5) Any moneys received by an applicant from fees, contributions or other sources for alcohol and drug abuse prevention, early intervention and treatment services for service purposes, including federal funds, shall be considered a portion of an applicant's contribution for the purpose of determining the matching fund formula relationship. All moneys so received shall only

be used for the purposes of carrying out ORS 430.345 to 430.380.

(6) Grants made pursuant to ORS 430.345 to 430.380 shall be paid from funds specifically appropriated therefor and shall be paid in the same manner as other claims against the state are paid.

SECTION 18. ORS 430.364 is amended to read:

430.364. Within the limits of available funds, in giving priority consideration under ORS 430.359 (2), the Oregon Health Authority shall:

(1) Identify all applications containing funding proposals for minority programs and assess the extent to which such funding proposals address the needs of minorities as stated in ORS 430.362, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding for such programs, and award such funds to those applicants for the purposes stated in the application; and

(2) After making a determination of the appropriate level of funding minority programs under subsection (1) of this section, assess the remaining portions of all applications containing minority program funding proposals together with applications which do not contain funding proposals for minority programs on the basis of the remaining community need determined by the local planning committee for alcohol and drug **abuse** prevention and treatment services under ORS 430.342, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding such programs, and award such funds to those applicants.

SECTION 19. ORS 430.395 is amended to read:

430.395. (1) In accordance with ORS 430.357, and consistent with the budget priority policies adopted by the Alcohol and Drug Policy Commission, the Oregon Health Authority may fund regional centers for the treatment of adolescents with [*drug and alcohol dependencies*] **substance use disorders**.

(2) The authority shall define by rule a minimum number of inpatient beds

and outpatient slots necessary for effective treatment and economic operation of any regional center funded by state funds.

(3) The areas to be served by any treatment facility shall be determined by the following:

(a) Areas that demonstrate the most need;

(b) Areas with no treatment program or an inadequate program; and

(c) Areas where there is strong, organized community support for youth treatment programs.

(4) The area need is determined by the local planning committee for alcohol and drug **abuse** prevention and treatment services under ORS 430.342 using the following information:

(a) Current area youth admissions to treatment programs;

(b) Per capita consumption of alcohol in the area;

(c) Percentage of area population between 10 and 18 years of age;

(d) Whether the area has effective, specialized outpatient and early intervention services in place;

(e) Whether the area suffers high unemployment and economic depression; and

(f) Other evidence of need.

(5) As used in this section, "regional center" means a community residential treatment facility including intensive residential and outpatient care for adolescents with [*drug and alcohol dependencies*] **substance use disorders**.

SECTION 20. ORS 430.402 is amended to read:

430.402. (1) A political subdivision in this state shall not adopt or enforce any local law or regulation that makes any of the following an offense, a violation or the subject of criminal or civil penalties or sanctions of any kind:

(a) Public intoxication.

(b) Public drinking, except as to places where any consumption of alcoholic beverages is generally prohibited.

(c) Drunk and disorderly conduct.

(d) Vagrancy or other behavior that includes as one of its elements either drinking alcoholic beverages or using cannabis or controlled substances in public, being [*an alcoholic or a drug-dependent person,*] **an individual with a substance use disorder** or being found in specified places under the influence of alcohol, cannabis or controlled substances.

(e) Using or being under the influence of cannabis or controlled substances.

(2) Nothing in subsection (1) of this section shall affect any local law or regulation of any political subdivision in this state against driving while under the influence of intoxicants, as defined in ORS 813.010, or other similar offenses that involve the operation of motor vehicles.

SECTION 21. ORS 430.415 is amended to read:

430.415. The Legislative Assembly finds drug [*dependence*] **dependency** is an illness. [*The drug-dependent person*] **An individual with drug dependency** is ill and shall be afforded treatment for [*the illness of the drug-dependent person*] **drug dependency**.

SECTION 22. ORS 430.450 is amended to read:

430.450. As used in ORS 430.450 to 430.555, unless the context requires otherwise:

(1) "Authority" means the Oregon Health Authority.

(2) "Community diversion plan" means a system of services approved and monitored by the Oregon Health Authority in accordance with approved county mental health plans, which may include but need not be limited to, medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public.

(3) "Crimes of violence against the person" means criminal homicide, assault and related offenses as defined in ORS 163.165 to 163.208, rape and sexual abuse, incest, or any other crime involving the use of a deadly weapon or which results in physical harm or death to a victim.

(4) "Diversion" means the referral or transfer from the criminal justice system into a program of treatment or rehabilitation of a defendant diagnosed [*as drug dependent*] **with drug dependency** and in need of treatment at authority approved sites, on the condition that the defendant successfully fulfills the specified obligations of a program designed for rehabilitation.

(5) "Diversion coordinator" means a person designated by a county mental health program director to work with the criminal justice system and health care delivery system to**:**

(a) Screen defendants who may be suitable for diversion; [*to*]

(b) Coordinate the formulation of individual diversion plans for such defendants; and [*to*]

(c) Report to the court the performance of those defendants being treated under an individual diversion plan.

(6) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility.

(7) "Drug abuse" means repetitive, excessive use of a drug or controlled substance short of dependence, without medical supervision, which may have a detrimental effect on the individual or society.

(8) [*"Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.*] **"Drug dependency" has the meaning given that term in ORS 430.306.**

(9) "Evaluation" means any diagnostic procedures used in the determination of drug dependency, and may include but are not limited to chemical

testing, medical examinations and interviews.

(10) "Individual diversion plan" means a system of services tailored to the individual's unique needs as identified in the evaluation, which may include but need not be limited to medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public. The plan shall include appropriate methods for monitoring the individual's progress toward achievement of the defined treatment objectives and shall also include periodic review by the court.

(11) "Treatment facility" means [*detoxification*] **withdrawal management** centers, outpatient clinics, residential care facilities, hospitals and such other facilities determined to be suitable by the authority as meeting minimum standards under ORS 430.357, any of which may provide diagnosis and evaluation, medical care, [*detoxification*] **withdrawal management**, social services or rehabilitation.

SECTION 23. ORS 430.455 is amended to read:

430.455. When a person is arrested for violation of the criminal statutes of this state which do not involve crimes of violence against another person, and the officer or person making the arrest has reasonable grounds for believing the arrested individual [*is a drug-dependent person*] **has drug dependency**, the officer or person making the arrest may:

(1) Fully inform the arrested person of the right of the arrested person to evaluation and the possible consequences of such evaluation;

(2) Inform the arrested person of the right of the arrested person to counsel before consenting to evaluation; and

(3) Fully explain the voluntary nature of the evaluation and the limitations upon the confidentiality of the information obtained during the evaluation.

SECTION 24. ORS 430.460 is amended to read:

430.460. Upon obtaining the written consent of the arrested person, the officer or person making the arrest shall request an approved site to conduct

an evaluation to determine whether the arrested person [*is drug dependent*] **has drug dependency**. Refusal of the arrested person to consent to the evaluation is not admissible in evidence upon the trial of the arrested person.

SECTION 25. ORS 430.475 is amended to read:

430.475. (1) The results of the evaluation of an arrested person suspected of [*being drug dependent*] **having drug dependency** shall be made available to the prosecuting and defense attorneys and the presiding judge for the judicial district, but shall not be entered into evidence in any subsequent trial of the accused except upon written consent of the accused or upon a finding by the court that the relevance of the results outweighs their prejudicial effect.

(2) Except as provided in subsection (1) of this section, results of evaluation or information voluntarily provided to evaluation or treatment personnel by a person under ORS 430.450 to 430.555 shall be confidential and shall not be admitted as evidence in criminal proceedings. Reports submitted to the court or the prosecutor by the diversion coordinator shall consist solely of matters required to be reported by the terms of the diversion plan, together with an assessment of the person's progress toward achieving the goals set forth in the plan. Communications between the person participating in the plan and the diversion coordinator shall be privileged unless they relate directly to the elements required to be reported under the diversion plan.

SECTION 26. ORS 430.485 is amended to read:

430.485. When the results of the evaluation obtained under ORS 430.460 or 430.465 indicate that the defendant [*is a drug-dependent person*] **has drug dependency** within the meaning of ORS 430.450 to 430.555, and the results of the evaluation indicate that such person may benefit in a substantial manner from treatment for drug dependence, the prosecutor, with the concurrence of the court, may direct the defendant to receive treatment as a contingent alternative to prosecution. If defendant refuses treatment, criminal proceedings shall be resumed.

SECTION 27. ORS 430.535 is amended to read:

430.535. (1) The Oregon Health Authority shall, subject to the availability of funds, develop bilingual forms to assist non-English-speaking persons in understanding their rights under ORS 430.450 to 430.555.

(2) The authority shall assist county mental health programs in the development of comprehensive and coordinated identification, evaluation, treatment, education and rehabilitation services for [*the drug-dependent person*] **individuals with drug dependency**. The State Plan for Drug Problems shall be consistent with such system.

SECTION 28. ORS 430.540 is amended to read:

430.540. (1) The county mental health program director shall designate sites for evaluation in the county plan of individuals who may be or are known to [*be drug dependent*] **have drug dependency**. The Oregon Health Authority shall establish standards for such sites, consistent with ORS 430.357, and periodically publish a list of approved sites.

(2) The costs of evaluation shall be borne by the county of appropriate jurisdiction.

SECTION 29. ORS 430.545 is amended to read:

430.545. (1) Evaluation sites provided for under ORS 430.450 to 430.555 shall conduct such procedures as may be necessary to determine if an individual [*is a drug-dependent person*] **has drug dependency**. A person shall be evaluated only with that person's written consent. Subject to approval of the Oregon Health Authority, the director of a treatment facility or the director of an evaluation site may designate personnel to provide treatment or evaluation as appropriate under the lawful limitations of their certification, licensure or professional practice.

(2) Antagonist drugs may be administered for diagnosis of addiction by a registered nurse at an approved site when the nurse has completed required training and a physician or naturopathic physician is available on call. Antagonist drugs shall not be administered without informed written consent of the person.

SECTION 30. ORS 430.560 is amended to read:

430.560. (1) The Oregon Health Authority shall adopt rules to establish requirements, in accordance with ORS 430.357, for drug treatment programs that contract with the authority and that involve:

(a) [*Detoxification*] **Withdrawal management**;

(b) [*Detoxification*] **Withdrawal management** with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when [*detoxification*] **withdrawal management** or [*detoxification*] **withdrawal management** with acupuncture and counseling has proven ineffective or upon a written request of a physician licensed by the Oregon Medical Board or a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine showing medical need for synthetic opiates. A copy of the request must be included in the client's permanent treatment and releasing authority records.

(2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a pregnant woman with her informed consent without prior resort to the treatment programs described in subsection (1)(a) and (b) of this section.

SECTION 31. ORS 430.570 is amended to read:

430.570. The Oregon Health Authority shall cause information concerning the usefulness and feasibility of opiate inhibitors to be made available to persons involved in administering diversion programs, corrections programs and other programs for [*drug dependent persons*] **individuals with drug dependency**.

SECTION 32. ORS 430.630 is amended to read:

430.630. (1) In addition to any other requirements that may be established by rule by the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide the following basic services to persons with [*alcoholism or drug dependence, and persons*

who are alcohol or drug abusers] **substance use disorders**:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals;

(c) Training, case and program consultation and education for community agencies, related professions and the public;

(d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing alcohol abuse, alcoholism, drug abuse and drug [*dependence*] **dependency**; and

(e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health program to ensure that, subject to the availability of funds, the following services for persons with [*alcoholism or drug dependence, and persons who are alcohol or drug abusers*] **substance use disorders**, are available when needed and approved by the Oregon Health Authority:

(a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention and prehospital screening examination;

(b) Care and treatment for a portion of the day or night, which may include day treatment centers, work activity centers and after-school programs;

(c) Residential care and treatment in facilities such as halfway houses, [*detoxification*] **withdrawal management** centers and other community living facilities;

(d) Continuity of care, such as that provided by service coordinators, community case development specialists and core staff of federally assisted community mental health centers;

(e) Inpatient treatment in community hospitals; and

(f) Other alternative services to state hospitalization as defined by the Oregon Health Authority.

(3) In addition to any other requirements that may be established by rule of the Oregon Health Authority, each community mental health program,

subject to the availability of funds, shall provide or ensure the provision of the following services to persons with mental or emotional disturbances:

(a) Screening and evaluation to determine the client's service needs;

(b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the authority for persons involved in involuntary commitment procedures;

(c) Vocational and social services that are appropriate for the client's age, designed to improve the client's vocational, social, educational and recreational functioning;

(d) Continuity of care to link the client to housing and appropriate and available health and social service needs;

(e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4) of this section;

(f) Residential services;

(g) Medication monitoring;

(h) Individual, family and group counseling and therapy;

(i) Public education and information;

(j) Prevention of mental or emotional disturbances and promotion of mental health;

(k) Consultation with other community agencies;

(L) Preventive mental health services for children and adolescents, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral and cognitive disorders in children. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for children at risk of later development of emotional disturbances means programs and activities for children and their families that promote conditions, opportunities and experiences that

encourage and develop emotional stability, self-sufficiency and increased personal competence; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop; and

(m) Preventive mental health services for older adults, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for older adults at risk of development of emotional disturbances means programs and activities for older adults and their families that promote conditions, opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.

(4) A community mental health program shall assume responsibility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) of this section, in the following circumstances:

(a) The person receiving care is a resident of the county served by the program. For purposes of this paragraph, "resident" means the resident of a county in which the person maintains a current mailing address or, if the person does not maintain a current mailing address within the state, the county in which the person is found, or the county in which a court-committed person with a mental illness has been conditionally released.

(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or 426.220, except for persons confined to the Secure

Child and Adolescent Treatment Unit at Oregon State Hospital, or has been hospitalized as the result of a revocation of conditional release.

(c) Payment is made for the first 60 consecutive days of hospitalization.

(d) The hospital has collected all available patient payments and third-party reimbursements.

(e) In the case of a community hospital, the authority has approved the hospital for the care of persons with mental or emotional disturbances, the community mental health program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves voluntary or involuntary admissions to the hospital prior to admission.

(5) Subject to the review and approval of the Oregon Health Authority, a community mental health program may initiate additional services after the services defined in this section are provided.

(6) Each community mental health program and the state hospital serving the program's geographic area shall enter into a written agreement concerning the policies and procedures to be followed by the program and the hospital when a patient is admitted to, and discharged from, the hospital and during the period of hospitalization.

(7) Each community mental health program shall have a mental health advisory committee, appointed by the board of county commissioners or the county court or, if two or more counties have combined to provide mental health services, the boards or courts of the participating counties or, in the case of a Native American reservation, the tribal council.

(8) A community mental health program may request and the authority may grant a waiver regarding provision of one or more of the services described in subsection (3) of this section upon a showing by the county and a determination by the authority that persons with mental or emotional disturbances in that county would be better served and unnecessary institutionalization avoided.

(9)(a) As used in this subsection, "local mental health authority" means one of the following entities:

(A) The board of county commissioners of one or more counties that establishes or operates a community mental health program;

(B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(C) A regional local mental health authority comprising two or more boards of county commissioners.

(b) Each local mental health authority that provides mental health services shall determine the need for local mental health services and adopt a comprehensive local plan for the delivery of mental health services for children, families, adults and older adults that describes the methods by which the local mental health authority shall provide those services. The purpose of the local plan is to create a blueprint to provide mental health services that are directed by and responsive to the mental health needs of individuals in the community served by the local plan. A local mental health authority shall coordinate its local planning with the development of the community health improvement plan under ORS 414.575 by the coordinated care organization serving the area. The Oregon Health Authority may require a local mental health authority to review and revise the local plan periodically.

(c) The local plan shall identify ways to:

(A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this subsection;

(B) Maximize resources for consumers and minimize administrative expenses;

(C) Provide supported employment and other vocational opportunities for consumers;

(D) Determine the most appropriate service provider among a range of qualified providers;

(E) Ensure that appropriate mental health referrals are made;

(F) Address local housing needs for persons with mental health disorders;

(G) Develop a process for discharge from state and local psychiatric hos-

pitals and transition planning between levels of care or components of the system of care;

(H) Provide peer support services, including but not limited to drop-in centers and paid peer support;

(I) Provide transportation supports; and

(J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile corrections systems and local mental health programs to ensure that persons with mental illness who come into contact with the justice and corrections systems receive needed care and to ensure continuity of services for adults and juveniles leaving the corrections system.

(d) When developing a local plan, a local mental health authority shall:

(A) Coordinate with the budgetary cycles of state and local governments that provide the local mental health authority with funding for mental health services;

(B) Involve consumers, advocates, families, service providers, schools and other interested parties in the planning process;

(C) Coordinate with the local public safety coordinating council to address the services described in paragraph (c)(J) of this subsection;

(D) Conduct a population based needs assessment to determine the types of services needed locally;

(E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by the local plan;

(F) Describe the anticipated outcomes of services and the actions to be achieved in the local plan;

(G) Ensure that the local plan coordinates planning, funding and services with:

(i) The educational needs of children, adults and older adults;

(ii) Providers of social supports, including but not limited to housing, employment, transportation and education; and

(iii) Providers of physical health and medical services;

(H) Describe how funds, other than state resources, may be used to sup-

port and implement the local plan;

(I) Demonstrate ways to integrate local services and administrative functions in order to support integrated service delivery in the local plan; and

(J) Involve the local mental health advisory committees described in subsection (7) of this section.

(e) The local plan must describe how the local mental health authority will ensure the delivery of and be accountable for clinically appropriate services in a continuum of care based on consumer needs. The local plan shall include, but not be limited to, services providing the following levels of care:

(A) Twenty-four-hour crisis services;

(B) Secure and nonsecure extended psychiatric care;

(C) Secure and nonsecure acute psychiatric care;

(D) Twenty-four-hour supervised structured treatment;

(E) Psychiatric day treatment;

(F) Treatments that maximize client independence;

(G) Family and peer support and self-help services;

(H) Support services;

(I) Prevention and early intervention services;

(J) Transition assistance between levels of care;

(K) Dual diagnosis services;

(L) Access to placement in state-funded psychiatric hospital beds;

(M) Precommitment and civil commitment in accordance with ORS chapter 426; and

(N) Outreach to older adults at locations appropriate for making contact with older adults, including senior centers, long term care facilities and personal residences.

(f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the local mental health authority shall collaborate with the local public safety coordinating council to address the following:

(A) Training for all law enforcement officers on ways to recognize and

interact with persons with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

(B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative to custodial arrests;

(C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and the identity of persons of concern and offering mental health services to those in custody;

(D) Developing a voluntary diversion program to provide an alternative for persons with mental illness in the criminal and juvenile justice systems; and

(E) Developing mental health services, including housing, for persons with mental illness prior to and upon release from custody.

(g) Services described in the local plan shall:

(A) Address the vision, values and guiding principles described in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001;

(B) Be provided to children, older adults and families as close to their homes as possible;

(C) Be culturally appropriate and competent;

(D) Be, for children, older adults and adults with mental health needs, from providers appropriate to deliver those services;

(E) Be delivered in an integrated service delivery system with integrated service sites or processes, and with the use of integrated service teams;

(F) Ensure consumer choice among a range of qualified providers in the community;

(G) Be distributed geographically;

(H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

(I) Maximize early identification and early intervention;

(J) Ensure appropriate transition planning between providers and service delivery systems, with an emphasis on transition between children and adult

mental health services;

(K) Be based on the ability of a client to pay;

(L) Be delivered collaboratively;

(M) Use age-appropriate, research-based quality indicators;

(N) Use best-practice innovations; and

(O) Be delivered using a community-based, multisystem approach.

(h) A local mental health authority shall submit to the Oregon Health Authority a copy of the local plan and revisions adopted under paragraph (b) of this subsection at time intervals established by the Oregon Health Authority.

SECTION 33. ORS 430.850 is amended to read:

430.850. (1) Subject to the availability of funds therefor, the Oregon Health Authority may establish and administer a treatment program with courts, with the consent of the judge thereof, for any person convicted of driving under the influence of alcohol, or of any crime committed while the defendant was intoxicated when the judge has probable cause to believe the person [*is an alcoholic or problem drinker*] **has alcoholism** and would benefit from treatment, who is eligible under subsection (2) of this section to participate in such program. The program must meet minimum standards established by the authority under ORS 430.357.

(2) A person eligible to participate in the program is a person who:

(a)(A) Has been convicted of driving under the influence of alcohol if such conviction has not been appealed, or if such conviction has been appealed, whose conviction has been sustained upon appeal; or

(B) Has been convicted of any crime committed while the defendant was intoxicated if such conviction has not been reversed on appeal, and when the judge has probable cause to believe the person [*is an alcoholic or problem drinker*] **has alcoholism** and would benefit from treatment; and

(b)(A) Has been referred by the participating court to the authority for participation in the treatment program;

(B) Prior to sentencing, has been medically evaluated by the authority

and accepted by the authority as a participant in the program;

(C) Has consented as a condition to probation to participate in the program; and

(D) Has been sentenced to probation by the court, a condition of which probation is participation in the program according to the rules adopted by the authority under ORS 430.870.

SECTION 34. ORS 430.905 is amended to read:

430.905. The Legislative Assembly declares:

(1) Because the growing numbers of pregnant substance users and drug- and alcohol-affected infants place a heavy financial burden on Oregon's taxpayers and those who pay for health care, it is the policy of this state to take effective action that will minimize these costs.

(2) Special attention must be focused on preventive programs and services directed at women at risk of becoming pregnant substance users as well as on pregnant women who use substances or who are at risk of substance use or abuse.

(3) It is the policy of this state to achieve desired results such as alcohol- and drug-free pregnant women and healthy infants through a holistic approach covering the following categories of needs:

(a) Biological-physical need, including but not limited to [*detoxification*] **withdrawal management**, dietary and obstetrical.

(b) Psychological need, including but not limited to support, treatment for anxiety, depression and low self-esteem.

(c) Instrumental need, including but not limited to child care, transportation to facilitate the receipt of services and housing.

(d) Informational and educational needs, including but not limited to prenatal and postpartum health, substance use and parenting.

SECTION 35. ORS 442.015 is amended to read:

442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

(1) "Acquire" or "acquisition" means obtaining equipment, supplies, com-

ponents or facilities by any means, including purchase, capital or operating lease, rental or donation, for the purpose of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

(2) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

(3)(a) "Ambulatory surgical center" means a facility or portion of a facility that operates exclusively for the purpose of providing surgical services to patients who do not require hospitalization and for whom the expected duration of services does not exceed 24 hours following admission.

(b) "Ambulatory surgical center" does not mean:

(A) Individual or group practice offices of private physicians or dentists that do not contain a distinct area used for outpatient surgical treatment on a regular and organized basis, or that only provide surgery routinely provided in a physician's or dentist's office using local anesthesia or conscious sedation; or

(B) A portion of a licensed hospital designated for outpatient surgical treatment.

(4) "Delegated credentialing agreement" means a written agreement between an originating-site hospital and a distant-site hospital that provides that the medical staff of the originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site hospital in making recommendations to the governing body of the originating-site hospital as to whether to credential a telemedicine provider, practicing at the distant-site hospital either as an employee or under contract, to provide telemedicine services to patients in the originating-site hospital.

(5) "Develop" means to undertake those activities that on their completion will result in the offer of a new institutional health service or the

incurring of a financial obligation, as defined under applicable state law, in relation to the offering of such a health service.

(6) "Distant-site hospital" means the hospital where a telemedicine provider, at the time the telemedicine provider is providing telemedicine services, is practicing as an employee or under contract.

(7) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a donation or grant in lieu of an expenditure but not including any interest thereon.

(8) "Extended stay center" means a facility licensed in accordance with ORS 441.026.

(9) "Freestanding birthing center" means a facility licensed for the primary purpose of performing low risk deliveries.

(10) "Governmental unit" means the state, or any county, municipality or other political subdivision, or any related department, division, board or other agency.

(11) "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges and other operating revenue. "Gross revenue" does not include contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

(12)(a) "Health care facility" means:

(A) A hospital;

(B) A long term care facility;

(C) An ambulatory surgical center;

(D) A freestanding birthing center;

(E) An outpatient renal dialysis facility; or

(F) An extended stay center.

(b) "Health care facility" does not mean:

(A) A residential facility licensed by the Department of Human Services or the Oregon Health Authority under ORS 443.415;

(B) An establishment furnishing primarily domiciliary care as described

in ORS 443.205;

(C) A residential facility licensed or approved under the rules of the Department of Corrections;

(D) Facilities established by ORS 430.335 for treatment of substance [*abuse*] **use** disorders; or

(E) Community mental health programs or community developmental disabilities programs established under ORS 430.620.

(13) "Health maintenance organization" or "HMO" means a public organization or a private organization organized under the laws of any state that:

(a) Is a qualified HMO under section 1310(d) of the U.S. Public Health Services Act; or

(b)(A) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services:

(i) Usual physician services;

(ii) Hospitalization;

(iii) Laboratory;

(iv) X-ray;

(v) Emergency and preventive services; and

(vi) Out-of-area coverage;

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

(C) Provides physicians' services primarily directly through physicians who are either employees or partners of such organization, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(14) "Health services" means clinically related diagnostic, treatment or rehabilitative services, and includes [*alcohol, drug or controlled substance abuse*] **substance use disorder** and mental health services that may be

provided either directly or indirectly on an inpatient or ambulatory patient basis.

(15) "Hospital" means:

(a) A facility with an organized medical staff and a permanent building that is capable of providing 24-hour inpatient care to two or more individuals who have an illness or injury and that provides at least the following health services:

(A) Medical;

(B) Nursing;

(C) Laboratory;

(D) Pharmacy; and

(E) Dietary; or

(b) A special inpatient care facility as that term is defined by the authority by rule.

(16) "Institutional health services" means health services provided in or through health care facilities and the entities in or through which such services are provided.

(17) "Intermediate care facility" means a facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services above the level of room and board that can be made available to them only through institutional facilities.

(18)(a) "Long term care facility" means a permanent facility with inpatient beds, providing:

(A) Medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services; and

(B) Treatment for two or more unrelated patients.

(b) "Long term care facility" includes skilled nursing facilities and intermediate care facilities but does not include facilities licensed and oper-

ated pursuant to ORS 443.400 to 443.455.

(19) "New hospital" means:

(a) A facility that did not offer hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services; or

(b) Any replacement of an existing hospital that involves a substantial increase or change in the services offered.

(20) "New skilled nursing or intermediate care service or facility" means a service or facility that did not offer long term care services on a regular basis by or through the facility within the prior 12-month period and is initiating or proposing to initiate such services. "New skilled nursing or intermediate care service or facility" also includes the rebuilding of a long term care facility, the relocation of buildings that are a part of a long term care facility, the relocation of long term care beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

(21) "Offer" means that the health care facility holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(22) "Originating-site hospital" means a hospital in which a patient is located while receiving telemedicine services.

(23) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services directly to outpatients.

(24) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.

(25) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation

of individuals who are injured or sick or who have disabilities.

(26) "Telemedicine" means the provision of health services to patients by physicians and health care practitioners from a distance using electronic communications.

SECTION 36. ORS 678.150 is amended to read:

678.150. (1) The Oregon State Board of Nursing shall elect annually from its number a president, a president-elect and a secretary, each of whom shall serve until a successor is elected and qualified. The board shall meet on the call of the president or as the board may require. Special meetings of the board may be called by the secretary upon the request of any three members. Five members constitute a quorum.

(2) The board shall adopt a seal which shall be in the care of the executive director.

(3) The board shall keep a record of all its proceedings and of all persons licensed and schools or programs approved under ORS 678.010 to 678.448. The records must at all reasonable times be open to public scrutiny.

(4) The executive director of the board may hire and define the duties of employees as necessary to carry out the provisions of ORS 678.010 to 678.448. The executive director, with approval of the board, may employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

(5) The board shall determine the qualifications of applicants for a license to practice nursing in this state and establish educational and professional standards for such applicants subject to laws of this state.

(6) The board shall:

(a) Exercise general supervision over the practice of nursing in this state.

(b) Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.448.

(c) Provide for surveys of nursing education programs as may be necessary.

(d) Approve nursing education programs that meet the requirements of

ORS 678.010 to 678.448 and of the board.

(e) Deny or withdraw approval from nursing education programs for failure to meet prescribed standards.

(f) Examine, license and renew the licenses of duly qualified applicants.

(g) Issue subpoenas for any records relevant to a board investigation, including patient and other medical records, personnel records applicable to nurses and nursing assistants, records of schools of nursing and nursing assistant training records and any other relevant records; issue subpoenas to persons for personal interviews relating to board investigations; compel the attendance of witnesses; and administer oaths or affirmations to persons giving testimony during an investigation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS 40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the subpoena or for refusing to produce the material that is subject to the subpoena.

(h) Enforce the provisions of ORS 678.010 to 678.448, and incur necessary expenses for the enforcement.

(i) Prescribe standards for the delegation of tasks of patient care to nursing assistants and for the supervision of nursing assistants. The standards must include rules governing the delegation of administration of noninjectable medication by nursing assistants and must include rules prescribing the types of noninjectable medication that can be administered by nursing assistants, and the circumstances, if any, and level of supervision under which nursing assistants can administer noninjectable medication. In formulating the rules governing the administration of noninjectable medication by nursing assistants, the board shall consult with nurses and other stakeholders appropriate to the context of patient care. Notwithstanding any other provision of this paragraph, however, the registered nurse issuing the order shall determine the appropriateness of the delegation of a task of patient care.

(j) Notify licensees at least annually of changes in legislative or board rules that affect the licensees. Notice may be by newsletter or other appropriate means.

(7) The board shall determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

(8) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS 169.005, for youth correction facilities as defined in ORS 420.005, for facilities operated by a public agency for [*detoxification of*] **withdrawal management for** persons who use alcohol excessively, for homes or facilities licensed under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the provision of nursing care, and to the various tasks relating to the administration of noninjectable medication including administration of controlled substances. The rules must provide for delegation of nursing care and tasks relating to the administration of medication to other than licensed nursing personnel by a physician licensed by the Oregon Medical Board or by a registered nurse, designated by the facility. The delegation must occur under the procedural guidance, initial direction and periodic inspection and evaluation of the physician or registered nurse. However, the provision of nursing care may be delegated only by a registered nurse.

(9) The Oregon State Board of Nursing may require applicants, licensees and certificate holders under ORS 678.010 to 678.448 to provide to the board data concerning the individual's nursing employment and education.

(10) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the board may require the fingerprints of a person who is:

(a) Applying for a license or certificate that is issued by the board;

(b) Applying for renewal of a license or certificate that is issued by the board; or

(c) Under investigation by the board.

(11) Pursuant to ORS chapter 183, the board shall adopt rules necessary to carry out the provisions of ORS 678.010 to 678.448.

REPEAL OF OUTDATED DEFINITION

SECTION 37. ORS 430.405 is repealed.

CONFORMING AMENDMENTS

SECTION 38. ORS 430.165 is amended to read:

430.165. The Oregon Health Authority may prescribe fee schedules for any of the programs that it establishes and operates under ORS 430.265, 430.306 to 430.375, [*430.405,*] 430.415 and 430.850 to 430.880. The fees shall be charged and collected by the authority in the same manner as charges are collected under ORS 179.610 to 179.770. When the authority acts under this section, "person in a state institution" or "person at a state institution" or any similar phrase, as defined in ORS 179.610, includes a person who receives services from a program for which fee schedules are established under this section.

SECTION 39. ORS 430.197 is amended to read:

430.197. The Mental Health Services Fund is established in the State Treasury, separate and distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or received by the Oregon Health Authority, the Department of Human Services and the Department of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously appropriated to the Oregon Health Authority, the Department of Human Services and the Department of Corrections for the purposes of paying the costs of:

(1) Services provided to a person in a state institution, as defined in ORS 179.610;

(2) Emergency psychiatric care, custody and treatment paid under ORS 426.241;

(3) Emergency care, custody or treatment provided to a person admitted to or detained in a state mental hospital or nonhospital facility under ORS 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233; and

(4) Programs operating under ORS 430.265, 430.306 to 430.375, [*430.405,*] 430.415 and 430.850 to 430.880.

SECTION 40. ORS 689.045 is amended to read:

689.045. If any provision of ORS 167.203, 414.325, [*430.405,*] 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and ORS chapter 689 is declared unconstitutional or illegal, or the applicability of ORS 167.203, 414.325, [*430.405,*] 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and ORS chapter 689 to any person or circumstances is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of ORS 167.203, 414.325, [*430.405,*] 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and ORS chapter 689 and the application of ORS 167.203, 414.325, [*430.405,*] 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and ORS chapter 689 to other persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application.

SECTION 41. ORS 689.185 is amended to read:

689.185. (1) The State Board of Pharmacy shall meet at least once every three months to transact its business. One such meeting held during each fiscal year of the state shall be designated by rule as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the president of the board or by majority of members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given

without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable rules.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by ORS 167.203, 414.325, [*430.405,*] 435.010, 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and this chapter, or by any rule of the board, all actions of the board shall be by a majority of a quorum.

(5) All board meetings and hearings shall be open to the public. The board may, in its discretion and according to law, conduct any portion of its meeting in executive session closed to the public.

CAPTIONS

SECTION 42. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

LC 422
2021 Regular Session
44300-037
8/14/20 (LHF/ps)

D R A F T

SUMMARY

Requires Oregon Health Authority to adopt rules to ensure that health care providers use health care interpreters, reimbursed by state, when interacting with medical assistance recipients who have limited English proficiency or who communicate in sign language.

A BILL FOR AN ACT

Relating to health care interpreters; creating new provisions; and amending ORS 413.550 and 413.552.

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

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 414.

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

(a) "Certified health care interpreter" has the meaning given that term in ORS 413.550.

(b) "Qualified health care interpreter" has the meaning given that term in ORS 413.550.

(2) The Oregon Health Authority shall adopt rules to ensure that a coordinated care organization, and any other health care provider that is reimbursed for the cost of health care by the state medical assistance program:

(a) Uses a certified health care interpreter or a qualified health care interpreter when interacting with a recipient of medical assistance, or a caregiver of a recipient of medical assistance, who has limited English proficiency or who communicates in sign language; and

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.

(b) Is reimbursed for the cost of the certified health care interpreter or qualified health care interpreter.

SECTION 3. ORS 413.550 is amended to read:

413.550. As used in ORS 413.550 to 413.558:

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

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

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

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

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

(c) Sight translate documents from a person with limited English proficiency;

(d) Interpret the oral statements of other persons into the language of the person with limited English proficiency or into sign language; and

(e) Sight translate documents in English into the language of the person with limited English proficiency.

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

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

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

SECTION 4. ORS 413.552 is amended to read:

413.552. (1) The Legislative Assembly finds that persons with limited

English proficiency, or who communicate in sign language, are often unable to interact effectively with health care providers. Because of language differences, persons with limited English proficiency, or who communicate in sign language, are often excluded from health care services, experience delays or denials of health care services or receive health care services based on inaccurate or incomplete information.

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

(3) It is the policy of the Legislative Assembly to require the use of certified health care interpreters or qualified health care interpreters [*whenever possible*] to ensure the accurate and adequate provision of health care to persons with limited English proficiency and to persons who communicate in sign language.

(4) It is the policy of the Legislative Assembly that health care for persons with limited English proficiency be provided according to the guidelines established under the policy statement issued August 30, 2000, by the U.S. Department of Health and Human Services, Office for Civil Rights, entitled, "Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency," and the 1978 Patient's Bill of Rights.

LC 423
2021 Regular Session
44300-038
9/18/20 (LHF/ps)

D R A F T

SUMMARY

Defines "regional health equity coalition" and "regional health equity coalition model." Requires Oregon Health Authority to work with regional health equity coalitions and groups utilizing regional health equity coalition model throughout state. Appropriates moneys to fund additional grants for organizations seeking to build regional health equity coalitions and to provide additional staff support.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to disparities in health outcomes for communities impacted by discrimination; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Communities of color" means members of the following racial or ethnic communities:

(A) American Indians;

(B) Alaska Natives;

(C) Individuals of Hispanic or Latino descent;

(D) Individuals of Asian descent;

(E) Native Hawaiians or Pacific Islanders;

(F) African Americans;

(G) Individuals of Middle Eastern descent; or

(H) Other racial or ethnic minorities.

(b) "Community-led" means based on a set of core principles that, at a minimum, engages the people living in a geographic community

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.

to establish goals and priorities, using local residents as leaders, building on strengths rather than focusing on problems and involving cross-sector collaboration that is intentional and adaptable and works to achieve systemic change.

(c) "Cross-sector" means involving individuals, public and private institutions and communities working together.

(d) "Culturally specific" means led by individuals from the community served, using language, structures and settings familiar to the members of the community.

(e) "Regional health equity coalition" means an autonomous, community-led, cross-sector group that:

(A) Is focused on addressing, at the policy, system and environmental levels, health inequities experienced by priority populations, with the leading priority being communities of color;

(B) Is completely independent of coordinated care organizations and public bodies as defined in ORS 174.109;

(C) Is supported by a federally recognized Indian tribe in Oregon or one of the following community-based nonprofit entities:

(i) A culturally specific organization;

(ii) A social service provider;

(iii) An organization that provides health care;

(iv) An organization that conducts public health research;

(v) An organization that provides behavioral health treatment;

(vi) A private foundation; or

(vii) A faith-based organization; and

(D) Has a decision-making body that:

(i) Is composed 51 percent or more of individuals who identify as members of communities of color who have experienced health inequities; and

(ii) Prioritizes the recruitment of members who identify as members of communities of color or who work in roles that address health

inequities and institutional racism.

(f) "Regional health equity coalition model" means an approach that:

(A) Recognizes the impact of structural, institutional and interpersonal racism on the health and well-being of communities of color and other priority populations;

(B) Meaningfully engages priority populations to lead efforts to address health inequities;

(C) Supports and strengthens leadership development for priority populations; and

(D) Honors the wisdom of members of priority populations by ensuring that policy solutions and system changes build upon the strengths of the priority populations.

(g) "Priority populations" means:

(A) Communities of color;

(B) Oregon's nine federally recognized Indian tribes, including descendants of the members of Oregon's nine federally recognized Indian tribes;

(C) Immigrants and refugees;

(D) Migrant and seasonal farmworkers;

(E) Low-income individuals and families;

(F) Persons with disabilities; and

(G) Individuals who identify as lesbian, gay, bisexual, transgender or queer or who question their sexual or gender identity.

(2) The Oregon Health Authority shall work with regional health equity coalitions and groups using a regional health equity coalition model, to ensure service to priority populations throughout this state.

(3) The authority shall ensure that it has adequate staffing to support grantees through ongoing technical assistance, contract administration, program planning and daily operational support.

SECTION 2. In addition to and not in lieu of any other appropri-

ation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of $_____, which may be expended for:

(1) Restoring funding to grants provided to existing regional health equity coalitions, as defined in section 1 of this 2021 Act;

(2) Providing grants to four organizations seeking to build capacity to become regional health equity coalitions; and

(3) Providing sufficient staff support to regional health equity coalitions in the form of technical assistance, contract administration, daily operational support and long-term planning.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

LC 425
2021 Regular Session
44300-040
7/6/20 (JLM/ps)

D R A F T

SUMMARY

Directs Oregon Health Authority to study issues related to fitness to proceed and to provide results of study to Legislative Assembly no later than December 31, 2021.

Sunsets January 2, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to fitness to proceed; and prescribing an effective date.

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

SECTION 1. (1) The Oregon Health Authority shall study ways to reduce the number of persons committed to the custody of a superintendent of a state mental hospital after being determined to lack fitness to proceed.

(2) The authority shall provide the results of the authority's study in a report to the appropriate interim committees of the Legislative Assembly in the manner provided under ORS 192.245 no later than December 31, 2021.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2022.

SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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.

LC 427
2021 Regular Session
44300-042
9/29/20 (JLM/ps)

D R A F T

SUMMARY

Modifies circumstances in which physician or provider may disregard principal's wishes regarding mental health treatment to include when principal is extremely dangerous person committed to Oregon Health Authority.

Provides that cost-of-care rate for person in Oregon State Hospital include costs of outpatient services.

A BILL FOR AN ACT

Relating to mental health; amending ORS 127.720 and 179.701.

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

SECTION 1. ORS 127.720 is amended to read:

127.720. (1) The physician or provider may subject the principal to mental health treatment in a manner contrary to the principal's wishes as expressed in a declaration for mental health treatment only:

(a) If the principal is committed **pursuant to ORS 426.005 to 426.390 or 426.701** to the Oregon Health Authority [*pursuant to ORS 426.005 to 426.390*] and treatment is authorized in compliance with ORS 426.385 (3) and administrative rule.

(b) If treatment is authorized in compliance with administrative rule and:

(A) The principal is committed to a state hospital or secure intensive community inpatient facility:

(i) As a result of being found guilty except for insanity under ORS 161.295 or responsible except for insanity under ORS 419C.411;

(ii) Under ORS 161.365; or

(iii) Under ORS 161.370; or

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.

(B) The principal is transferred to a state hospital or other facility under ORS 179.473 or 419C.530.

(c) In cases of emergency endangering life or health.

(2) A declaration does not limit any authority provided in ORS 426.005 to 426.390 either to take a person into custody, or to admit, retain or treat a person in a health care facility.

SECTION 2. ORS 179.701 is amended to read:

179.701. (1)**(a)** The cost-of-care rates for a person who is or was in a state institution described in ORS 179.321 shall be determined by the Department of Corrections or the Oregon Health Authority, as appropriate. The rates established shall be reasonably related to current costs of the institutions as described in ORS 179.321.

(b) Current costs **for a person who is or was in a Department of Corrections institution** shall exclude costs of outpatient services as defined in ORS 430.010 and any other costs not directly related to the care for a person at a state institution.

(c) Current costs for a person who is or was in the Oregon State Hospital shall include costs of outpatient services as defined in ORS 430.010 and exclude any other costs not directly related to the care for a person at a state institution.

(2) The cost-of-care rates for a person who was a resident of the Eastern Oregon Training Center shall be determined by the Department of Human Services. The rates established shall be reasonably related to the costs to operate, control, manage and supervise the state training center at the time of the person's residency. The department must exclude costs of outpatient services as defined in ORS 430.010 and any other costs not directly related to the care of the person at the state training center.

LC 430
2021 Regular Session
44300-045
11/3/20 (JLM/ps)

D R A F T

SUMMARY

Directs Oregon Health Authority and Department of State Police to perform study identifying existing barriers to access by authority to criminal justice data and to provide results of study to Legislative Assembly no later than December 31, 2021.

Sunsets January 2, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to criminal justice data; and prescribing an effective date.

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

SECTION 1. (1) The Oregon Health Authority and the Department of State Police shall cooperatively perform a study to identify existing barriers to access by the authority to criminal justice data for the purpose of identifying and analyzing outcomes for individuals receiving behavioral health services.

(2) The authority and the department shall provide the results of the study, including any recommendations for legislation, in a report to the appropriate interim committees of the Legislative Assembly in the manner provided under ORS 192.245 no later than December 31, 2021.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2022.

SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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.

LC 449
2021 Regular Session
44300-046
7/27/20 (LHF/ps)

D R A F T

SUMMARY

Requires Oregon Health Authority to adopt by rule qualification criteria for tribal traditional health workers as additional category of traditional health workers.

A BILL FOR AN ACT

Relating to tribal health care providers; amending ORS 413.600, 414.025 and 414.665.

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

SECTION 1. ORS 413.600 is amended to read:

413.600. (1) There is established within the Oregon Health Authority the Traditional Health Workers Commission.

(2) The Director of the Oregon Health Authority shall appoint the following [*23*] **24** members to serve on the commission:

(a) [*Thirteen*] **Fourteen** members, of which a majority [*or at least seven*] must be appointed from nominees selected by the Oregon Community Health Workers Association, who represent traditional health workers, including at least one member to represent each of the following:

(A) Community health workers, as defined in ORS 414.025;

(B) Personal health navigators, as defined in ORS 414.025;

(C) Peer wellness specialists, as defined in ORS 414.025;

(D) Peer support specialists, as defined in ORS 414.025;

(E) Doulas;

(F) Family support specialists, as defined in ORS 414.025; [*and*]

(G) Youth support specialists, as defined in ORS 414.025; **and**

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.

(H) Tribal traditional health workers, as defined in ORS 414.025;

(b) One member who represents the Office of Community Colleges and Workforce Development;

(c) One member who is a nurse who represents the Oregon Nurses Association;

(d) One member who is a physician licensed in this state;

(e) One member selected from nominees provided by the Home Care Commission;

(f) One member who represents coordinated care organizations;

(g) One member who represents a labor organization;

(h) One member who supervises traditional health workers at a community-based organization, local health department, as defined in ORS 433.235, or agency, as defined in ORS 183.310;

(i) One member who represents community-based organizations or agencies, as defined in ORS 183.310, that provide for the training of traditional health workers;

(j) One member who represents a consumer of services provided by health workers who are not licensed by this state; and

(k) One member who represents providers of Indian health services that work with traditional health workers qualified under ORS 414.665, a federally recognized tribe or a tribal organization.

(3) In appointing members under subsection (2) of this section, the director shall consider whether the composition of the Traditional Health Workers Commission represents the geographic, ethnic, gender, racial, disability status, gender identity, sexual orientation and economic diversity of traditional health workers.

(4) The term of office of each member of the commission is three years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment

to become immediately effective for the unexpired term.

(5) A majority of the members of the commission constitutes a quorum for the transaction of business.

(6) Official action by the commission requires the approval of a majority of the members of the commission.

(7) The commission shall elect one of its members to serve as chairperson.

(8) The commission shall meet at times and places specified by the call of the chairperson or of a majority of the members of the commission.

(9) The commission may adopt rules necessary for the operation of the commission.

(10) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 2. ORS 414.025 is amended to read:

414.025. As used in this chapter and ORS chapters 411 and 413, unless the context or a specially applicable statutory definition requires otherwise:

(1)(a) "Alternative payment methodology" means a payment other than a fee-for-services payment, used by coordinated care organizations as compensation for the provision of integrated and coordinated health care and services.

(b) "Alternative payment methodology" includes, but is not limited to:

(A) Shared savings arrangements;

(B) Bundled payments; and

(C) Payments based on episodes.

(2) "Behavioral health assessment" means an evaluation by a behavioral health clinician, in person or using telemedicine, to determine a patient's need for immediate crisis stabilization.

(3) "Behavioral health clinician" means:

(a) A licensed psychiatrist;

(b) A licensed psychologist;

(c) A licensed nurse practitioner with a specialty in psychiatric mental health;

(d) A licensed clinical social worker;

(e) A licensed professional counselor or licensed marriage and family therapist;

(f) A certified clinical social work associate;

(g) An intern or resident who is working under a board-approved supervisory contract in a clinical mental health field; or

(h) Any other clinician whose authorized scope of practice includes mental health diagnosis and treatment.

(4) "Behavioral health crisis" means a disruption in an individual's mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the individual's mental or physical health.

(5) "Behavioral health home" means a mental health disorder or substance use disorder treatment organization, as defined by the Oregon Health Authority by rule, that provides integrated health care to individuals whose primary diagnoses are mental health disorders or substance use disorders.

(6) "Category of aid" means assistance provided by the Oregon Supplemental Income Program, aid granted under ORS 411.877 to 411.896 and 412.001 to 412.069 or federal Supplemental Security Income payments.

(7) "Community health worker" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community, either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community [*where*] the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Provides health education and information that is culturally appropriate to the individuals being served;

(f) Assists community residents in receiving the care they need;

(g) May give peer counseling and guidance on health behaviors; and

(h) May provide direct services such as first aid or blood pressure screening.

(8) "Coordinated care organization" means an organization meeting criteria adopted by the Oregon Health Authority under ORS 414.572.

(9) "Dually eligible for Medicare and Medicaid" means, with respect to eligibility for enrollment in a coordinated care organization, that an individual is eligible for health services funded by Title XIX of the Social Security Act and is:

(a) Eligible for or enrolled in Part A of Title XVIII of the Social Security Act; or

(b) Enrolled in Part B of Title XVIII of the Social Security Act.

(10)(a) "Family support specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides supportive services to and has experience parenting a child who:

(A) Is a current or former consumer of mental health or addiction treatment; or

(B) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A "family support specialist" may be a peer wellness specialist or a peer support specialist.

(11) "Global budget" means a total amount established prospectively by the Oregon Health Authority to be paid to a coordinated care organization for the delivery of, management of, access to and quality of the health care delivered to members of the coordinated care organization.

(12) "Health insurance exchange" or "exchange" means an American Health Benefit Exchange described in 42 U.S.C. 18031, 18032, 18033 and 18041.

(13) "Health services" means at least so much of each of the following

as are funded by the Legislative Assembly based upon the prioritized list of health services compiled by the Health Evidence Review Commission under ORS 414.690:

(a) Services required by federal law to be included in the state's medical assistance program in order for the program to qualify for federal funds;

(b) Services provided by a physician as defined in ORS 677.010, a nurse practitioner licensed under ORS 678.375, a behavioral health clinician or other licensed practitioner within the scope of the practitioner's practice as defined by state law, and ambulance services;

(c) Prescription drugs;

(d) Laboratory and X-ray services;

(e) Medical equipment and supplies;

(f) Mental health services;

(g) Chemical dependency services;

(h) Emergency dental services;

(i) Nonemergency dental services;

(j) Provider services, other than services described in paragraphs (a) to (i), (k), (L) and (m) of this subsection, defined by federal law that may be included in the state's medical assistance program;

(k) Emergency hospital services;

(L) Outpatient hospital services; and

(m) Inpatient hospital services.

(14) "Income" has the meaning given that term in ORS 411.704.

(15)(a) "Integrated health care" means care provided to individuals and their families in a patient centered primary care home or behavioral health home by licensed primary care clinicians, behavioral health clinicians and other care team members, working together to address one or more of the following:

(A) Mental illness.

(B) Substance use disorders.

(C) Health behaviors that contribute to chronic illness.

(D) Life stressors and crises.

(E) Developmental risks and conditions.

(F) Stress-related physical symptoms.

(G) Preventive care.

(H) Ineffective patterns of health care utilization.

(b) As used in this subsection, "other care team members" includes but is not limited to:

(A) Qualified mental health professionals or qualified mental health associates meeting requirements adopted by the Oregon Health Authority by rule;

(B) Peer wellness specialists;

(C) Peer support specialists;

(D) Community health workers who have completed a state-certified training program;

(E) Personal health navigators; or

(F) Other qualified individuals approved by the Oregon Health Authority.

(16) "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable instruments as defined in ORS 73.0104 and such similar investments or savings as the department or the authority may establish by rule that are available to the applicant or recipient to contribute toward meeting the needs of the applicant or recipient.

(17) "Medical assistance" means so much of the medical, mental health, preventive, supportive, palliative and remedial care and services as may be prescribed by the authority according to the standards established pursuant to ORS 414.065, including premium assistance and payments made for services provided under an insurance or other contractual arrangement and money paid directly to the recipient for the purchase of health services and for services described in ORS 414.710.

(18) "Medical assistance" includes any care or services for any individual who is a patient in a medical institution or any care or services for any individual who has attained 65 years of age or is under 22 years of age, and

who is a patient in a private or public institution for mental diseases. Except as provided in ORS 411.439 and 411.447, "medical assistance" does not include care or services for a resident of a nonmedical public institution.

(19) "Patient centered primary care home" means a health care team or clinic that is organized in accordance with the standards established by the Oregon Health Authority under ORS 414.655 and that incorporates the following core attributes:

(a) Access to care;

(b) Accountability to consumers and to the community;

(c) Comprehensive whole person care;

(d) Continuity of care;

(e) Coordination and integration of care; and

(f) Person and family centered care.

(20) "Peer support specialist" means any of the following individuals who meet qualification criteria adopted by the authority under ORS 414.665 and who provide supportive services to a current or former consumer of mental health or addiction treatment:

(a) An individual who is a current or former consumer of mental health treatment; or

(b) An individual who is in recovery, as defined by the Oregon Health Authority by rule, from an addiction disorder.

(21) "Peer wellness specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who is responsible for assessing mental health and substance use disorder service and support needs of a member of a coordinated care organization through community outreach, assisting members with access to available services and resources, addressing barriers to services and providing education and information about available resources for individuals with mental health or substance use disorders in order to reduce stigma and discrimination toward consumers of mental health and substance use disorder services and to assist the member in creating and maintaining recovery, health and wellness.

(22) "Person centered care" means care that:

(a) Reflects the individual patient's strengths and preferences;

(b) Reflects the clinical needs of the patient as identified through an individualized assessment; and

(c) Is based upon the patient's goals and will assist the patient in achieving the goals.

(23) "Personal health navigator" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions and desired outcomes.

(24) "Prepaid managed care health services organization" means a managed dental care, mental health or chemical dependency organization that contracts with the authority under ORS 414.654 or with a coordinated care organization on a prepaid capitated basis to provide health services to medical assistance recipients.

(25) "Quality measure" means the health outcome and quality measures and benchmarks identified by the Health Plan Quality Metrics Committee and the metrics and scoring subcommittee in accordance with ORS 413.017 (4) and 414.638.

(26) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes, "resources" does not include charitable contributions raised by a community to assist with medical expenses.

(27) "Tribal traditional health worker" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who:

(a) Has expertise or experience in public health;

(b) Works in a tribal community or an urban Indian community, either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community the worker serves;

(d) Assists members of the community to improve their health, including physical, behavioral and oral health, and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Provides health education and information that is culturally appropriate to the individuals being served;

(f) Assists community residents in receiving the care they need;

(g) May give peer counseling and guidance on health behaviors; and

(h) May provide direct services, such as tribal-based practices.

[*(27)(a)*] **(28)(a)** "Youth support specialist" means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who, based on a similar life experience, provides supportive services to an individual who:

(A) Is not older than 30 years of age; and

(B)(i) Is a current or former consumer of mental health or addiction treatment; or

(ii) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A "youth support specialist" may be a peer wellness specialist or a peer support specialist.

SECTION 3. ORS 414.665 is amended to read:

414.665. (1) As used in this section, "traditional health worker" includes any of the following:

(a) A community health worker.

(b) A personal health navigator.

(c) A peer wellness specialist.

(d) A peer support specialist.

(e) A doula.

(f) A tribal traditional health worker.

(2) In consultation with the Traditional Health Workers Commission established under ORS 413.600, the Oregon Health Authority, for purposes related to the regulation of traditional health workers, shall adopt by rule:

(a) The qualification criteria, including education and training requirements, for the traditional health workers utilized by coordinated care organizations;

(b) Appropriate professional designations for supervisors of the traditional health workers; and

(c) Processes by which other occupational classifications may be approved to supervise the traditional health workers.

(3) The criteria and requirements established under subsection (2) of this section:

(a) Must be broad enough to encompass the potential unique needs of any coordinated care organization;

(b) Must meet requirements of the Centers for Medicare and Medicaid Services to qualify for federal financial participation; and

(c) May not require certification by the Home Care Commission.

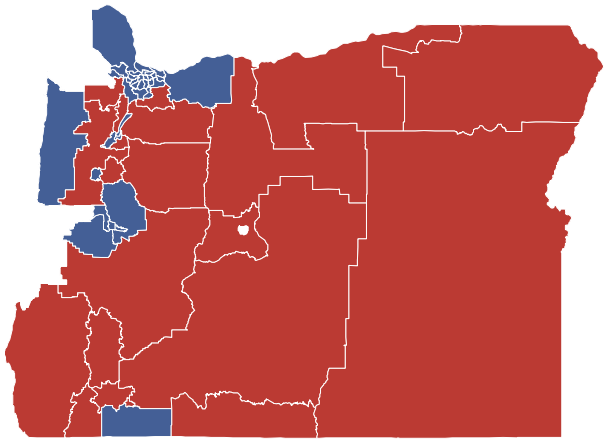
★ 2020 GENERAL ELECTION ★

Oregon Legislature

House

SUPERMAJORITY (36)
MAJORITY

Republicans	23
Democrats	37
Independents	0
Undecided	0



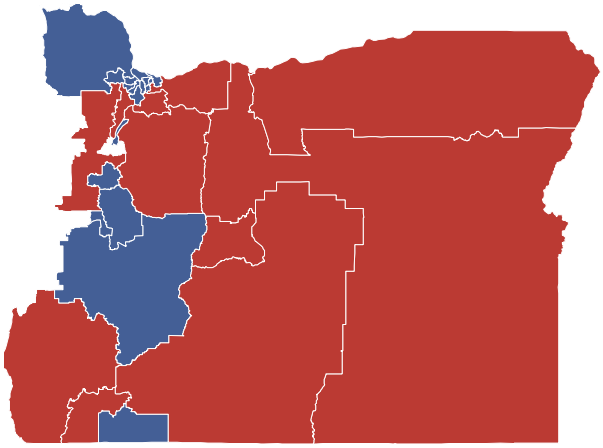
Lead Win Flip

Leader	District	
✔ David Brock Smith **R** 68.8%	1	Calla Felicity **D** 31.0%
✔ Gary Leif **R** 71.6%	2	Charles F Lee **D** 28.1%
✔ Lily Morgan **R** 66.8%	3	Jerry Morgan **D** 32.7%
✔ Duane A Stark **R** 68.9%	4	Mary Middleton **D** 30.9%
✔ Pam Marsh **D** 66.4%	5	Sandra A Abercrombie **R** 33.5%
✔ Kim Wallan **R** 54.6%	6	Alberto Enriquez **D** 43.0%
✔ Cedric Hayden **R** 67.7%	7	Jerry M Samaniego **D** 32.1%
✔ Paul R Holvey **D** 67.7%	8	Timothy W Aldal **R** 29.1%
✔ Boomer Wright **R** 57.5%	9	Cal Mukumoto **D** 42.4%
✔ David Gomberg **D** 52.4%	10	Max Sherman **R** 47.4%

Senate

SUPERMAJORITY (18)
MAJORITY

Republicans	12
Democrats	18
Independents	0
Undecided	0



Lead Win Flip

Leader	District	
✔ Dallas Heard **R** 68.6%	1	Kat Stone **D** 31.2%
✔ Art Robinson **R** 64.0%	2	Jerry Allen **D** 33.5%
No election	3	
No election	4	
✔ Dick Anderson **R** 49.3%	5	Melissa T Cribbins **D** 46.6%
No election	6	
No election	7	
No election	8	
✔ Fred Frank Girod **R** 67.0%	9	Jim Hinsvark **D** 30.1%
✔ Deb Patterson **D** 48.5%	10	Denyc Boles **R** 47.8%
No election	11	
✔ Brian J Boquist **R** 58.3%	12	Bernadette Hansen **D** 41.6%
No election	13	

✔ Marty Wilde **D** 52.2%	**11**	Katie Boshart Glaser **R** 47.6%
✔ John Lively **D** 56.6%	**12**	Ruth E Linoz **R** 43.1%
✔ Nancy Nathanson **D** 70.6%	**13**	David J Smith **R** 29.2%
✔ Julie Fahey **D** 59.1%	**14**	Rich Cunningham **R** 40.6%
✔ Shelly Boshart Davis **R** 59.8%	**15**	Miriam G Cummins **D** 40.0%
✔ Dan Rayfield **D** 75.9%	**16**	Jason Hughes **R** 23.9%
✔ Jami Cate **R** 69.3%	**17**	Paige Hook **D** 28.8%
✔ Rick Lewis **R** 70.2%	**18**	Jamie Morrison **D** 29.6%
✔ Raquel Moore-Green **R** 54.4%	**19**	Jacqueline M Leung **D** 45.3%
✔ Paul Evans **D** 51.8%	**20**	Selma Pierce **R** 47.9%
✔ Brian Clem **D** 60.6%	**21**	Jack L Esp **R** 39.1%
✔ Teresa Alonso Leon **D** 56.7%	**22**	Anna Kasachev **R** 43.1%
✔ Mike Nearman **R** 58.3%	**23**	Sean K Scorvo **D** 35.0%
✔ Ron Noble **R** 57.7%	**24**	Lynnette Shaw **D** 42.1%
✔ Bill Post **R** 56.7%	**25**	Ramiro Navarro Jr **D** 43.2%
✔ Courtney Neron **D** 54.1%	**26**	Peggy Stevens **R** 43.6%
✔ Sheri Schouten **D** 69.3%	**27**	Sandra Nelson **R** 30.6%
✔ WInsvey E Campos **D** 65.1%	**28**	Daniel R Martin **R** 34.7%
✔ Susan McLain **D** 57.7%	**29**	Dale Fishback **R** 42.1%
✔ Janeen Sollman **D**	**30**	Unopposed
✔ Brad Witt **D** 50.6%	**31**	Brian G Stout **R** 49.3%
✔ Suzanne Weber **R** 54.1%	**32**	Debbie Boothe-Schmidt **D** 45.7%
✔ Maxine E Dexter **D** 75.6%	**33**	Dick Courter **R** 24.3%
✔ Ken Helm **D**	**34**	Unopposed
✔ Dacia Grayber **D** 67.1%	**35**	Bob Niemeyer **R** 32.7%
✔ Lisa Reynolds **D** 83.0%	**36**	James A Ball **R** 16.8%
✔ Rachel Prusak **D** 57.1%	**37**	Kelly Sloop **R** 42.8%
✔ Andrea Salinas **D** 72.4%	**38**	Patrick Castles **R** 27.5%
✔ Christine Drazan **R** 62.2%	**39**	Tessah L Danel **D** 35.6%
✔ Mark W Meek **D** 54.7%	**40**	Josh Howard **R** 45.2%
✔ Karin Power **D** 73.8%	**41**	Michael Newgard **R** 26.0%
✔ Rob Nosse **D**	**42**	Unopposed

✔ Kate Lieber **D** 69.0%	**14**	Harmony K Mulkey **R** 30.8%
No election	**15**	
No election	**16**	
No election	**17**	
✔ Ginny Burdick **D**	**18**	Unopposed
No election	**19**	
No election	**20**	
✔ Kathleen Taylor **D**	**21**	Unopposed
✔ Lew Frederick **D**	**22**	Unopposed
✔ Michael Dembrow **D**	**23**	Unopposed
No election	**24**	
✔ Chris Gorsek **D** 51.9%	**25**	Justin Hwang **R** 47.9%
No election	**26**	
✔ Tim Knopp **R** 50.7%	**27**	Eileen Kiely **D** 49.1%
✔ Dennis Linthicum **R** 72.8%	**28**	Hugh Palcic **D** 27.1%
✔ Bill Hansell **R** 76.0%	**29**	Mildred A O'Callaghan **D** 23.8%
✔ Lynn P Findley **R** 67.0%	**30**	Carina M Miller **D** 32.8%

✔ Tawna Sanchez **D**	**43**	Unopposed
✔ Tina Kotek **D** 87.1%	**44**	Margo Logan **R** 12.4%
✔ Barbara Smith Warner **D**	**45**	Unopposed
✔ Khanh Pham **D**	**46**	Unopposed
✔ Diego Hernandez **D** 49.4%	**47**	Ryan Gardner **R** 31.4%
✔ Jeff Reardon **D** 75.7%	**48**	Edward Marihart **L** 22.2%
✔ Zach Hudson **D** 57.2%	**49**	Greg Johnson **R** 42.4%
✔ Ricki Ruiz **D** 53.5%	**50**	Amelia Salvador **R** 46.3%
✔ Janelle S Bynum **D** 52.8%	**51**	Jane J Hays **R** 43.1%
✔ Anna Williams **D** 48.8%	**52**	Jeff Helfrich **R** 48.4%
✔ Jack Zika **R** 57.1%	**53**	Emerson Levy **D** 42.8%
✔ Jason Kropf **D** 60.1%	**54**	Cheri Helt **R** 38.9%
✔ Vikki Breese-Iverson **R** 73.6%	**55**	Barbara Fontaine **D** 26.2%
✔ E Werner Reschke **R** 72.6%	**56**	Faith N Leith **D** 27.2%
✔ Greg Smith **R** 76.8%	**57**	Roland Ruhe **D** 23.0%
✔ Bobby Levy **R** 72.8%	**58**	Nolan E Bylenga **D** 27.0%
✔ Daniel G Bonham **R** 60.0%	**59**	Arlene C Burns **D** 39.9%
✔ Mark Owens **R** 77.5%	**60**	Beth E Spell **D** 22.3%

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Ad Choices

★ 2020 GENERAL ELECTION ★

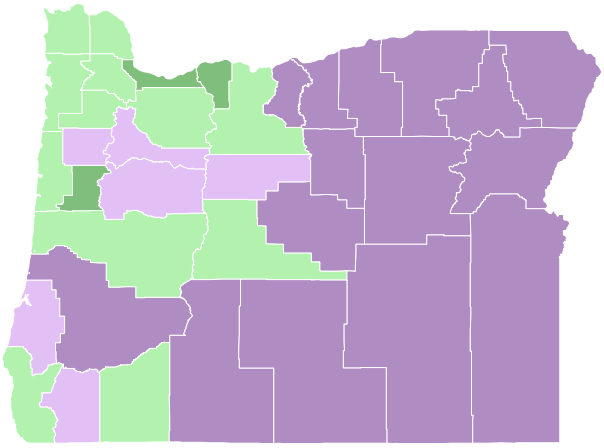
Ballot measures

Vote share | Size of lead

Measure 109

Permits licensed service providers to administer psilocybin-producing mushroom and fungi products to individuals 21 years of age or older.

Yes: 1,269,881 55.7% **No: 1,007,966 44.3%**

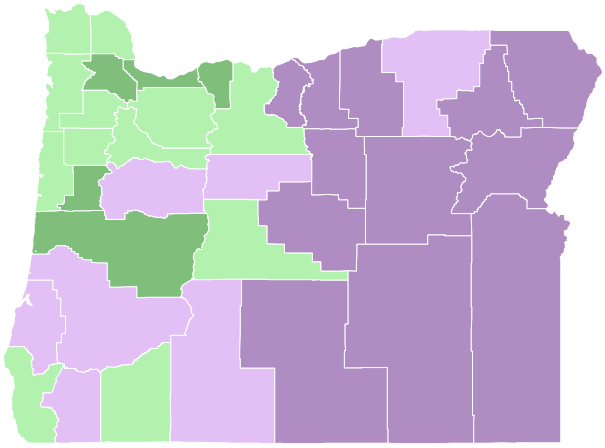


40% 50% 60% Yes		40% 50% 60% No
316,831	**Multnomah**	127,959
179,189	**Washington**	124,053
126,743	**Clackamas**	115,176
126,954	**Lane**	85,120
77,651	**Marion**	79,662
61,625	**Jackson**	59,035
61,835	**Deschutes**	55,776
30,657	**Linn**	38,212
24,177	**Douglas**	36,752
27,613	**Yamhill**	27,494
32,228	**Benton**	18,614
22,474	**Josephine**	26,065
22,655	**Polk**	23,986
13,859	**Klamath**	21,096
15,741	**Coos**	19,031
11,154	**Umatilla**	19,893
15,426	**Columbia**	15,035
16,898	**Lincoln**	12,433
12,461	**Clatsop**	10,229

Measure 110

Reclassifies drug possession offenses to lesser violations resulting in a $100 fine or a completed health assessment.

Yes: 1,333,051 58.5% **No: 947,111 41.5%**



40% 50% 60% Yes		40% 50% 60% No
331,345	**Multnomah**	113,823
193,384	**Washington**	109,966
130,297	**Clackamas**	112,019
129,125	**Lane**	83,570
85,538	**Marion**	71,949
62,643	**Jackson**	58,122
65,331	**Deschutes**	51,689
32,333	**Linn**	36,637
25,560	**Douglas**	35,249
28,896	**Yamhill**	26,398
33,128	**Benton**	17,434
22,890	**Josephine**	25,858
24,116	**Polk**	22,607
14,514	**Klamath**	20,465
15,752	**Coos**	19,013
13,657	**Umatilla**	17,367
15,369	**Columbia**	15,144
17,572	**Lincoln**	11,747
13,266	**Clatsop**	9,441

8,339	**Tillamook**	7,869
5,178	**Crook**	9,492
5,414	**Union**	8,889
7,185	**Curry**	7,095
6,751	**Wasco**	6,645
7,874	**Hood River**	4,585
4,528	**Jefferson**	6,712
3,414	**Malheur**	7,809
3,451	**Baker**	6,049
1,665	**Morrow**	3,238
1,683	**Wallowa**	3,194
1,484	**Grant**	2,969
1,283	**Harney**	3,007
1,200	**Lake**	2,941
395	**Sherman**	757
408	**Gilliam**	739
322	**Wheeler**	603

8,693	**Tillamook**	7,522
5,315	**Crook**	9,308
5,665	**Union**	8,620
7,484	**Curry**	6,787
7,249	**Wasco**	6,163
8,124	**Hood River**	4,321
4,410	**Malheur**	6,865
4,992	**Jefferson**	6,275
3,565	**Baker**	5,930
1,966	**Morrow**	2,950
1,916	**Wallowa**	2,913
1,624	**Grant**	2,810
1,375	**Harney**	2,932
1,250	**Lake**	2,904
434	**Sherman**	714
455	**Gilliam**	686
352	**Wheeler**	566

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