Enrolled
House Bill 2100

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

CHAPTER .....

AN ACT

Relating to functions of the Oregon Health Authority; creating new provisions; amending ORS 3.408, 30.262, 87.533, 93.268, 106.045, 106.330, 113.085, 113.145, 114.305, 115.125, 115.195, 116.093, 130.370, 130.425, 179.505, 179.560, 179.570, 181.735, 185.140, 238.082, 243.061, 243.145, 243.862, 243.878, 279A.050, 292.051, 343.243, 343.507, 343.961, 408.370, 409.010, 409.161, 409.162, 410.040, 410.075, 410.080, 410.160, 410.230, 410.240, 410.300, 410.720, 411.010, 411.060, 411.070, 411.072, 411.081, 411.083, 411.087, 411.103, 411.300, 411.320, 411.400, 411.402, 411.404, 411.406, 411.408, 411.431, 411.432, 411.435, 411.439, 411.443, 411.459, 411.463, 411.593, 411.610, 411.620, 411.630, 411.632, 411.635, 411.640, 411.660, 411.670, 411.675, 411.690, 411.694, 411.703, 411.708, 413.011, 413.032, 413.033, 413.064, 414.025, 414.033, 414.041, 414.065, 414.211, 414.221, 414.227, 414.231, 414.312, 414.332, 414.334, 414.538, 414.705, 414.707, 414.708, 414.710, 414.712, 414.725, 414.730, 414.735, 414.736, 416.340, 416.350, 416.610, 417.349, 418.517, 418.975, 418.985, 419C.529, 426.005, 426.129, 426.250, 426.275, 426.495, 427.005, 430.021, 430.205, 430.210, 430.397, 430.610, 430.630, 430.632, 430.640, 430.670, 430.672, 430.695, 431.195, 431.962, 431.964, 431.966, 431.970, 431.974, 431.976, 431.978, 432.500, 433.055, 433.060, 433.095, 433.407, 441.021, 441.096, 442.011, 442.700, 443.410, 443.450, 443.465, 443.860, 443.861, 443.864, 443.869, 448.465, 475.495, 480.225, 497.162, 616.555, 616.560, 616.570, 616.575, 616.580, 676.150, 676.306, 676.350, 682.218, 708A.430, 723.466, 743.730, 743.736, 743A.010 and 743A.062 and section 1, chapter 426, Oregon Laws 2009, section 20, chapter 595, Oregon Laws 2009, and section 29, chapter 856, Oregon Laws 2009; repealing ORS 409.310, 409.330, 410.110, 414.338, 414.350, 414.355, 414.360, 414.365, 414.370, 414.375, 414.380, 414.385, 414.390, 414.395, 414.400, 414.410, 414.415, 414.715, 414.720, 414.741, 430.170, 431.190, 442.575, 442.580, 442.581, 442.583, 442.584, 442.588, 442.589 and 735.711 and section 57, chapter 9, Oregon Laws 2011 (Enrolled Senate Bill 353), and section 4, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2600); appropriating money; and declaring an emergency.

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

PHARMACY AND THERAPEUTICS COMMITTEE

SECTION 1. As used in sections 1 to 12 of this 2011 Act:

(1) "Compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:

(a) The American Hospital Formulary Service drug information.

(b) The United States Pharmacopeia drug information.

(c) The American Medical Association drug evaluations.

(d) Peer-reviewed medical literature.

(e) Drug therapy information provided by manufacturers of drug products consistent with the federal Food and Drug Administration requirements.

(2) "Criteria" means the predetermined and explicitly accepted elements based on compendia that are used to measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary and not likely to result in adverse medical outcomes.

(3) "Drug-disease contraindication" means the potential for, or the occurrence of, an undesirable alteration of the therapeutic effect of a given prescription because of the presence, in the patient for whom it is prescribed, of a disease condition or the potential for, or the occurrence of, a clinically significant adverse effect of the drug on the patient's disease condition.

(4) "Drug-drug interaction" means the pharmacological or clinical response to the administration of at least two drugs different from that response anticipated from the known effects of the two drugs when given alone, which may manifest clinically as antagonism, synergism or idiosyncrasy. Such interactions have the potential to have an adverse effect on the individual or lead to a clinically significant adverse reaction, or both, that:

(a) Is characteristic of one or any of the drugs present; or

(b) Leads to interference with the absorption, distribution, metabolism, excretion or therapeutic efficacy of one or any of the drugs.

(5) "Drug use review" means the programs designed to measure and assess on a retrospective and a prospective basis, through an evaluation of claims data, the proper utilization, quantity, appropriateness as therapy and medical necessity of prescribed medication in the medical assistance program.

(6) "Intervention" means an action taken by the Oregon Health Authority with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

(7) "Overutilization" means the use of a drug in quantities or for durations that put the recipient at risk of an adverse medical result.

(8) "Pharmacist" means an individual who is licensed as a pharmacist under ORS chapter 689.

(9) "Prescriber" means any person authorized by law to prescribe drugs.

(10) "Prospective program" means the prospective drug use review program described in section 7 of this 2011 Act.

(11) "Retrospective program" means the retrospective drug use review program described in section 8 of this 2011 Act.

(12) "Standards" means the acceptable prescribing and dispensing methods determined by compendia, in accordance with local standards of medical practice for health care providers.

(13) "Therapeutic appropriateness" means drug prescribing based on scientifically based and clinically relevant drug therapy that is consistent with the criteria and standards developed under sections 1 to 12 of this 2011 Act.

(14) "Therapeutic duplication" means the prescribing and dispensing of two or more drugs from the same therapeutic class such that the combined daily dose puts the recipient at risk of an adverse medical result or incurs additional program costs without additional therapeutic benefits.

(15) "Underutilization" means that a drug is used by a recipient in insufficient quantity to achieve a desired therapeutic goal.

SECTION 2. (1) There is created an 11-member Pharmacy and Therapeutics Committee responsible for advising the Oregon Health Authority on the implementation of the retrospective and prospective programs and on the Practitioner-Managed Prescription Drug Plan.

(2) The Director of the Oregon Health Authority shall appoint the members of the committee, who shall serve at the pleasure of the director for a term of three years. An indi-

vidual appointed to the committee may be reappointed upon completion of the individual's term. The membership of the committee shall be composed of the following:

(a) Five persons licensed as physicians and actively engaged in the practice of medicine or osteopathic medicine in Oregon, who may be from among persons recommended by organizations representing physicians;

(b) Four persons licensed in and actively practicing pharmacy in Oregon who may be from among persons recommended by organizations representing pharmacists whether affiliated or unaffiliated with any association; and

(c) Two persons who are not physicians or pharmacists.

(3) If the committee determines that it lacks current clinical or treatment expertise with respect to a particular therapeutic class, or at the request of an interested outside party, the director shall appoint one or more medical experts otherwise qualified as described in subsection (2)(a) of this section who have such expertise. The medical experts shall have full voting rights with respect to recommendations made under section 4 (3) and (4) of this 2011 Act. The medical experts may participate but may not vote in any other activities of the committee.

(4) The director shall fill a vacancy on the committee by appointing a new member to serve the remainder of the unexpired term.

SECTION 3. Notwithstanding the term of office specified by section 2 of this 2011 Act, of the members first appointed to the Pharmacy and Therapeutics Committee:

(1) Three shall serve for a term ending December 31, 2012.

(2) Three shall serve for a term ending December 31, 2013.

(3) Five shall serve for a term ending December 31, 2014.

SECTION 4. (1) The Pharmacy and Therapeutics Committee shall advise the Oregon Health Authority on:

(a) Adoption of rules to implement sections 1 to 12 of this 2011 Act in accordance with ORS chapter 183.

(b) Implementation of the medical assistance program retrospective and prospective programs as described in sections 1 to 12 of this 2011 Act, including the type of software programs to be used by the pharmacist for prospective drug use review and the provisions of the contractual agreement between the state and any entity involved in the retrospective program.

(c) Development of and application of the criteria and standards to be used in retrospective and prospective drug use review in a manner that ensures that such criteria and standards are based on compendia, relevant guidelines obtained from professional groups through consensus-driven processes, the experience of practitioners with expertise in drug therapy, data and experience obtained from drug utilization review program operations. The committee shall have an open professional consensus process for establishing and revising criteria and standards. Criteria and standards shall be available to the public. In developing recommendations for criteria and standards, the committee shall establish an explicit ongoing process for soliciting and considering input from interested parties. The committee shall make timely revisions to the criteria and standards based upon this input in addition to revisions based upon scheduled review of the criteria and standards. Further, the drug utilization review standards shall reflect the local practices of prescribers in order to monitor:

(A) Therapeutic appropriateness.

(B) Overutilization or underutilization.

(C) Therapeutic duplication.

(D) Drug-disease contraindications.

(E) Drug-drug interactions.

(F) Incorrect drug dosage or drug treatment duration.

(G) Clinical abuse or misuse.

(H) Drug allergies.

(d) Development, selection and application of and assessment for interventions that are educational and not punitive in nature for medical assistance program prescribers, dispensers and patients.

(2) In reviewing retrospective and prospective drug use, the committee may consider only drugs that have received final approval from the federal Food and Drug Administration.

(3) The committee shall make recommendations to the authority, subject to approval by the Director of the Oregon Health Authority or the director's designee, for drugs to be included on any preferred drug list adopted by the authority and on the Practitioner-Managed Prescription Drug Plan. The committee shall also recommend all utilization controls, prior authorization requirements or other conditions for the inclusion of a drug on a preferred drug list.

(4) In making recommendations under subsection (3) of this section, the committee may use any information the committee deems appropriate. The recommendations must be based upon the following factors in order of priority:

(a) Safety and efficacy of the drug.

(b) The ability of Oregonians to access effective prescription drugs that are appropriate for their clinical conditions.

(c) Substantial differences in the costs of drugs within the same therapeutic class.

(5) The committee shall post a recommendation to the website of the authority no later than 30 days after the date the committee approves the recommendation. The director shall approve, disapprove or modify any recommendation of the committee as soon as practicable, shall publish the decision on the website and shall notify persons who have requested notification of the decision. A recommendation adopted by the director, in whole or in part, with respect to the inclusion of a drug on a preferred drug list or the Practitioner-Managed Prescription Drug Plan may not become effective less than 60 days after the date that the director's decision is published.

(6) The director shall reconsider any decision to adopt or modify a recommendation of the committee with respect to the inclusion of a particular drug on a preferred drug list or the Practitioner-Managed Prescription Drug Plan, upon the request of any interested person filed no later than 30 days after the director's decision is published on the website. The decision on reconsideration shall be sent to the requester and posted to the website without undue delay.

SECTION 5. In addition to the duties described in section 4 of this 2011 Act, the Pharmacy and Therapeutics Committee shall do the following subject to the approval of the Director of the Oregon Health Authority:

(1) Publish an annual report, as described in section 12 of this 2011 Act.

(2) Publish and disseminate educational information to prescribers and pharmacists regarding the committee and the drug use review programs, including information on the following:

(a) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or medically unnecessary care among prescribers, pharmacists and recipients.

(b) Potential or actual severe or adverse reactions to drugs.

(c) Therapeutic appropriateness.

(d) Overutilization or underutilization.

(e) Appropriate use of generic products.

(f) Therapeutic duplication.

(g) Drug-disease contraindications.

(h) Drug-drug interactions.

(i) Drug allergy interactions.

(j) Clinical abuse and misuse.

(3) Adopt and implement procedures designed to ensure the confidentiality of any information that identifies individual prescribers, pharmacists or recipients and that is collected,

stored, retrieved, assessed or analyzed by the committee, staff of the committee, the Oregon Health Authority or contractors to the committee or the authority.

SECTION 6. In appropriate instances, interventions developed under section 4 (1)(d) of this 2011 Act may include the following:

(1) Information disseminated to prescribers and pharmacists to ensure that they are aware of the duties and powers of the Pharmacy and Therapeutics Committee.

(2) Written, oral or electronic reminders of recipient-specific or drug-specific information that are designed to ensure recipient, prescriber and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care.

(3) Face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention.

(4) Intensified reviews or monitoring of selected prescribers or pharmacists.

(5) Educational outreach through the retrospective program focusing on improvement of prescribing and dispensing practices.

(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care.

(7) The review of case profiles before the conducting of an intervention.

SECTION 7. The prospective drug use review program must use guidelines established by the Oregon Health Authority that are based on the recommendations of the Pharmacy and Therapeutics Committee. The program must ensure that prior to the prescription being filled or delivered a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from the following:

(1) Therapeutic duplication.

(2) Drug-drug interactions, including serious interactions with nonprescription or over-the-counter drugs.

(3) Incorrect dosage and duration of treatment.

(4) Drug-allergy interactions.

(5) Clinical abuse and misuse.

(6) Drug-disease contraindications.

SECTION 8. The retrospective drug use review program must use:

(1) Guidelines established by the Oregon Health Authority that are based on the recommendations of the Pharmacy and Therapeutics Committee; and

(2) The mechanized drug claims processing and information retrieval system to analyze claims data on drug use against explicit predetermined standards that are based on compendia and other sources to monitor the following:

(a) Therapeutic appropriateness.

(b) Overutilization or underutilization.

(c) Fraud and abuse.

(d) Therapeutic duplication.

(e) Drug-disease contraindications.

(f) Drug-drug interactions.

(g) Incorrect drug dosage or duration of drug treatment.

(h) Clinical abuse and misuse.

SECTION 9. (1) Information collected under sections 1 to 12 of this 2011 Act that identifies an individual is confidential and may not be disclosed by the Pharmacy and Therapeutics Committee, the retrospective program or the Oregon Health Authority to any person other than a health care provider appearing on a recipient's medication profile.

(2) The staff of the committee may have access to identifying information for purposes of carrying out intervention activities. The identifying information may not be released to anyone other than a staff member of the committee, the retrospective program, the authority or a health care provider appearing on a recipient's medication profile or, for pur-

poses of investigating potential fraud in programs administered by the authority, the Department of Justice.

(3) The committee may release cumulative, nonidentifying information for the purposes of legitimate research and for educational purposes.

SECTION 10. (1) Notwithstanding ORS 192.610 to 192.690, the Pharmacy and Therapeutics Committee shall meet in an executive session for purposes of:

(a) Reviewing the prescribing or dispensing practices of individual physicians or pharmacists;

(b) Discussing drug use review data pertaining to individual physicians or pharmacists;

(c) Reviewing profiles of individual patients; or

(d) Reviewing confidential drug pricing information, including substantial cost differences between drugs within the same therapeutic class, that is necessary for the committee to make final recommendations under section 4 of this 2011 Act or to comply with section 9 of this 2011 Act.

(2) A meeting held in executive session is subject to the requirements of ORS 192.650 (2).

SECTION 11. (1) Except as provided in section 10 of this 2011 Act, the Pharmacy and Therapeutics Committee shall operate in accordance with ORS chapter 192. The committee shall annually elect a chairperson from the members of the committee.

(2) A committee member is not entitled to compensation but is entitled to reimbursement for actual and necessary travel expenses incurred in connection with the member's duties, pursuant to ORS 292.495.

(3) A quorum consists of six members of the committee.

(4) The committee may establish advisory committees to assist in carrying out the committee's duties under sections 1 to 12 of this 2011 Act, with the approval of the Director of the Oregon Health Authority.

(5) The Oregon Health Authority shall provide staff and support services to the committee.

(6) The committee shall meet no less than four times each year at a place, day and hour determined by the director. The committee also shall meet at other times and places specified by the call of the director or a majority of the members of the committee. No less than 30 days prior to a meeting the committee shall post to the authority website:

(a) The agenda for the meeting;

(b) A list of the drug classes to be considered at the meeting; and

(c) Background materials and supporting documentation provided to committee members with respect to drugs and drug classes that are before the committee for review.

(7) The committee shall provide appropriate opportunity for public testimony at each regularly scheduled committee meeting. Immediately prior to deliberating on any recommendations regarding a drug or a class of drugs, the committee shall accept testimony, in writing or in person, that is offered by a manufacturer of those drugs or another interested party.

(8) The committee may consider more than 20 classes of drugs at a meeting only if:

(a) There is no new clinical evidence for the additional class of drugs; and

(b) The committee is considering only substantial cost differences between drugs within the same therapeutic class.

SECTION 12. (1) The annual report required under section 5 (1) of this 2011 Act is subject to public comment prior to its submission to the Director of the Oregon Health Authority and must include the following:

(a) An overview of the activities of the Pharmacy and Therapeutics Committee and the prospective and retrospective programs;

(b) A summary of interventions made, including the number of cases brought before the committee and the number of interventions made;

SECTION 26a. **The Health Evidence Review Commission, in ranking health services or developing guidelines under section 24 of this 2011 Act or in assessing medical technologies under section 26 of this 2011 Act, and the Pharmacy and Therapeutics Committee, in considering a recommendation for a drug to be included on any preferred drug list or on the Practitioner-Managed Prescription Drug Plan, may not rely solely on the results of comparative effectiveness research.**

HEALTH RESOURCES COMMISSION AND HEALTH SERVICES COMMISSION ABOLISHED

SECTION 27. **(1) The Health Resources Commission and the Health Services Commission are abolished. On the operative date of this section, the tenure of office of the members of the Health Resources Commission and the Health Services Commission ceases.**

(2) All the duties, functions and powers of the Health Resources Commission and the Health Services Commission are imposed upon, transferred to and vested in the Health Evidence Review Commission.

SECTION 28. **(1) The Director of the Oregon Health Authority shall:**

(a) Deliver to the Health Evidence Review Commission all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 27 of this 2011 Act; and

(b) Transfer to the commission those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 27 of this 2011 Act.

(2) The commission 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 27 of this 2011 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The director shall resolve any dispute between the Health Resources Commission and the Health Services Commission and the Health Evidence Review Commission relating to transfers of records, property and employees under this section, and the director's decision is final.

SECTION 29. **(1) The unexpended balances of amounts authorized to be expended by the Health Resources Commission and the Health Services Commission for the biennium beginning July 1, 2011, 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 27 of this 2011 Act are transferred to and are available for expenditure by the Health Evidence Review Commission for the remainder of the biennium beginning July 1, 2011, for the purpose of administering and enforcing the duties, functions and powers transferred by section 27 of this 2011 Act.**

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Health Resources Commission and the Health Services Commission remain applicable to expenditures by the Health Evidence Review Commission under this section.

SECTION 30. **The transfer of duties, functions and powers to the Health Evidence Review Commission by section 27 of this 2011 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Health Evidence Review Commission is substituted for the Health Resources Commission or the Health Services Commission in the action, proceeding or prosecution.**

SECTION 31. **(1) Nothing in sections 22 to 30 of this 2011 Act or the repeal of ORS 414.715, 414.720, 414.741, 442.575, 442.580, 442.581, 442.583, 442.584, 442.588 and 442.589 by section 228 of this 2011 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 27 of this 2011 Act. The Health**

(2) Except as otherwise provided in this section, a person shall request medical assistance by filing an application as provided in ORS 411.081.

(3) The Department of Human Services shall determine eligibility for and fix the date on which medical assistance may begin, and shall obtain such other information required by the rules of the department **and the Oregon Health Authority under ORS 411.402**.

(4) If an applicant is unable to make application for medical assistance, an application may be made by someone acting responsibly for the applicant.

(5) The department may modify the application requirements in ORS 411.081 for a person whose basis of eligibility for medical assistance changes from one category of aid to another category of aid under ORS 414.025 (2).

SECTION 102. ORS 411.402, as amended by section 4, chapter 73, Oregon Laws 2010, is amended to read:

411.402. [*For each person applying for medical assistance, the Department of Human Services shall fully document:*]

(1) The Department of Human Services and the Oregon Health Authority shall adopt by rule the documentation required from each person applying for medical assistance, including documentation of:

(a) The identity of the person;

[*(1)*] **(b)** The category of aid [*as defined in ORS 414.025*] that makes the person eligible for medical assistance or the way in which the person qualifies as categorically needy [*as defined in ORS 414.025*];

[*(2)*] **(c)** The status of the person as a resident of this state; and

[*(3)*] **(d) Information concerning** the income and resources of the person**, which may include income tax return information and Social Security number,** as necessary to establish financial eligibility[.] **for medical assistance, premium tax credits and cost-sharing reductions.**

(2) Information obtained by the department or the authority under this section may be exchanged with other state or federal agencies for the purpose of:

(a) Verifying eligibility for medical assistance, participation in the Oregon Health Insurance 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 103. ORS 411.404 is amended to read:

411.404. (1) The Department of Human Services shall determine eligibility for medical assistance according to criteria prescribed by rule[*, taking into account*] **in consultation with the Oregon Health Authority that take into account**:

(a) The requirements and needs of the applicant and of the spouse and dependents of the applicant;

(b) The income, resources and maintenance available to the applicant; and

(c) The responsibility of the spouse of the applicant and, with respect to an applicant who is blind or is permanently and totally disabled or is under 21 years of age, the responsibility of the parents.

(2) Rules adopted by the department under subsection (1) of this section:

(a) Shall disregard resources for those who are eligible for medical assistance only by reason of ORS 414.025 (2)(s), except for the resources described in ORS 414.025 (2)(s).

(b) May disregard income and resources within the limits required or permitted by federal law, regulations or orders.

[*(3)*] **(c)** [*The department*] May not require any needy person over 65 years of age, as a condition of entering or remaining in a hospital, nursing home or other congregate care facility, to sell any real property normally used as [*such*] **the** person's home. [*Any rule of the department inconsistent with this section is to that extent invalid.*]

(3) Notwithstanding subsections (1) and (2) of this section, the authority may adopt rules necessary to implement the Health Care for All Oregon Children program established by ORS 414.231 or applicable provisions of federal law.

SECTION 104. ORS 411.406 is amended to read:

411.406. Upon the receipt of property or income or upon any other change in circumstances which directly affects the eligibility of the recipient to receive medical assistance or the amount of medical assistance available to the recipient, the recipient shall immediately notify the Department of Human Services **or the Oregon Health Authority, if required,** of the receipt or possession of such property or income, or other change in circumstances. Failure to give the notice shall entitle the department [*of Human Services*] **or the authority** to recover from the recipient the amount of assistance improperly disbursed by reason thereof.

SECTION 105. ORS 411.408 is amended to read:

411.408. [*Any individual whose claim for medical assistance is denied or is not acted upon with reasonable promptness may petition the Department of Human Services for a fair hearing.*] **If the Oregon Health Authority or the Department of Human Services denies a claim for medical assistance or fails to act with reasonable promptness on a claim for medical assistance, the person making the claim may request a contested case hearing.** The hearing shall be held at a time and place and shall be conducted in accordance with [*the*] rules [*of*] **adopted by the authority or** the department**, as appropriate**.

SECTION 106. ORS 411.431 is amended to read:

411.431. (1) The Department of Human Services shall adopt rules **in consultation with the Oregon Health Authority**:

(a) Requiring recipients of medical assistance who are not otherwise exempt to pay monthly premium payments while receiving medical assistance; and

(b) Granting recipients of medical assistance under ORS 414.706 (5) who are required to pay monthly premium payments a grace period of up to six months for payment of overdue premiums.

(2) [*The department may not disenroll*] A recipient **may continue enrollment in medical assistance** during the grace period described in subsection (1)(b) of this section.

(3) A recipient or former recipient of medical assistance under ORS 414.706 (5) who did not pay one or more monthly premium payments while receiving medical assistance is not eligible [*to reapply*] for medical assistance under ORS 414.706 (5) until the recipient or former recipient has paid the amount of overdue premiums in full.

SECTION 107. ORS 411.432 is amended to read:

411.432. (1) As used in this section, "federal poverty guidelines" means the most recent poverty guidelines as published annually in the Federal Register by the United States Department of Health and Human Services.

(2) Notwithstanding ORS [*414.065*] **411.431**, the Department of Human Services shall adopt rules **in collaboration with the Oregon Health Authority** exempting recipients of medical assistance under ORS 414.706 (5) whose family income is no more than 10 percent of the federal poverty guidelines from the requirement to pay monthly premium payments.

SECTION 108. ORS 411.435 is amended to read:

411.435. The Oregon Health Authority **and the Department of Human Services** shall endeavor to develop agreements with local governments to facilitate the enrollment of [*poverty level*] medical assistance program clients. Subject to the availability of funds therefor, the agreement shall be structured to allow flexibility by the state and local governments and may allow any of the following options for enrolling clients in [*poverty level*] medical assistance programs:

(1) Initial processing shall be done at the county health department by employees of the county, with eligibility determination completed at the local office of the [*authority*] **Department of Human Services**;

(2) Initial processing and eligibility determination shall be done at the county health department by employees of the local health department; or

(3) Application forms shall be made available at the county health department with initial processing and eligibility determination shall be done at the local office of the [*authority*] **Department of Human Services**.

SECTION 109. ORS 411.439 is amended to read:

411.439. (1) As used in this section:

(a) "Person with a serious mental illness" means a person who is diagnosed by a psychiatrist, a licensed clinical psychologist or a certified nonmedical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a disorder caused primarily by substance abuse.

(b) "Public institution" means:

(A) A state hospital as defined in ORS 162.135;

(B) A local correctional facility as defined in ORS 169.005;

(C) A Department of Corrections institution as defined in ORS 421.005; or

(D) A youth correction facility as defined in ORS 162.135.

(2) Except as provided in subsections (6) and (7) of this section, the Department of Human Services shall suspend the medical assistance of a person with a serious mental illness when:

(a) The person receives medical assistance because of a serious mental illness; and

(b) The person becomes an inmate residing in a public institution.

(3) The department shall continue to determine the eligibility of the person as categorically needy [*as defined in ORS 414.025*].

(4) Upon notification that a person described in subsection (2) of this section is no longer an inmate residing in a public institution, the department shall reinstate the person's medical assistance if the person is otherwise eligible for medical assistance.

(5) This section does not extend eligibility to an otherwise ineligible person or extend medical assistance to a person if matching federal funds are not available to pay for medical assistance.

(6) Subsection (2) of this section does not apply to a person with a serious mental illness residing in a state hospital as defined in ORS 162.135 who is under 22 years of age or who is 65 years of age or older.

(7) A person with a serious mental illness may apply for medical assistance between 90 and 120 days prior to the expected date of the person's release from a public institution. If the person is found to be eligible, the effective date of the person's medical assistance shall be the date of the person's release from the institution.

SECTION 110. ORS 411.443 is amended to read:

411.443. (1) When a woman who is enrolled in medical assistance as a pregnant woman becomes an inmate residing in a public institution, the Department of Human Services shall suspend medical assistance.

(2) The department shall continue to determine the eligibility of the pregnant woman as categorically needy [*as defined in ORS 414.025*].

(3) Upon notification that a pregnant woman described under subsection (1) of this section is no longer an inmate residing in a public institution, the department shall reinstate medical assistance if the woman is otherwise eligible for medical assistance.

SECTION 111. ORS 411.459 is amended to read:

411.459. The Oregon Health Authority **and the Department of Human Services** shall approve or deny prior authorization requests for dental services not later than 30 days after submission thereof by the provider, and shall make payments to providers of prior authorized dental services not later than 30 days after receipt of the invoice of the provider.

SECTION 112. ORS 411.463 is amended to read:

411.463. When giving information concerning medical assistance, the Oregon Health Authority **and the Department of Human Services** shall make available to applicants or recipients materials which include at least a listing of all the healing arts licensed in this state.

SECTION 113. ORS 411.593 is amended to read:

411.593. (1) In connection with any public assistance investigation or hearing**,** the Director of Human Services**, the Director of the Oregon Health Authority** or any examiner, referee or other officer duly appointed to conduct the investigation or hearing may by subpoena compel the attendance and testimony of witnesses and the production of books, accounts, documents and other papers, and may administer oaths, take depositions and fix the fees and mileage of witnesses.

(2) The Department of Human Services **and the Oregon Health Authority** shall provide for defraying the expenses of such investigations or hearings, which may be held in any part of the state.

SECTION 114. ORS 411.610 is amended to read:

411.610. Any check or warrant issued by the Department of Human Services **or the Oregon Health Authority** to a recipient of public assistance who subsequently dies may be indorsed in the name of the deceased by the surviving spouse or a next of kin in the order described in ORS 293.490 (3); and payment may be made and the proceeds used without any of the restrictions enumerated in ORS 293.495 (1).

SECTION 115. ORS 411.620 is amended to read:

411.620. (1) The Department of Human Services **or the Oregon Health Authority** may prosecute a civil suit or action against any person who has obtained, for personal benefit or for the benefit of any other person, any amount or type of general assistance or public assistance[*, as defined in ORS 411.010,*] or has aided any other person to obtain such general assistance or public assistance, in violation of any provision of ORS 411.630, or in violation of ORS 411.640. In such suit or action the department **or the authority** may recover the amount or value of such general assistance or public assistance so obtained in violation of ORS 411.630, or in violation of ORS 411.640, with interest thereon, together with costs and disbursements incurred therein.

(2) Excepting as to bona fide purchasers for value, the department, the [*Oregon Health*] authority, the conservator for the recipient or the personal representative of the estate of a deceased recipient may prosecute a civil suit or action to set aside the transfer, gift or other disposition of any money or property made in violation of any provisions of ORS 411.630, 411.708 and 416.350 and the department or the authority may recover out of such money or property, or otherwise, the amount or value of any general assistance or public assistance obtained as a result of such violation, with interest thereon, together with costs and disbursements incurred therein.

SECTION 116. ORS 411.630 is amended to read:

411.630. (1) [*No*] **A** person [*shall*] **may not** knowingly obtain or attempt to obtain, for the benefit of the person or of [*any other*] **another** person, any public assistance[*, as defined in ORS 411.010,*] to which the person or [*such*] other person is not entitled under state law by means of:

(a) Any false representation or fraudulent device, or

(b) Failure to immediately notify the Department of Human Services **or the Oregon Health Authority, if required,** of the receipt or possession of property or income, or of any other change of circumstances, which directly affects the eligibility for, or the amount of, [*such*] **the** assistance.

(2) [*No*] **A** person [*shall*] **may not** transfer, conceal or dispose of any money or property with the intent:

(a) To enable the person to meet or appear to meet any requirement of eligibility prescribed by state law or by rule [*or regulation promulgated by*] **of** the department [*for a grant or an increase in a grant of*] **or the authority for** any type of general assistance or public assistance[*, as defined in ORS 411.010*]; or

(b) Except as to a conveyance by [*such*] **the** person to create a tenancy by the entirety, to hinder or prevent the department **or the authority** from recovering any part of any claim [*which*] it may have against the person or the estate of the person.

(3) [*No*] **A** person [*shall*] **may not** knowingly aid or abet any person to violate any provision of this section.

(4) [*No*] **A** person [*shall*] **may not** receive, possess or conceal any money or property of an applicant for or recipient of any type of general assistance or public assistance[*, as defined in ORS 411.010,*] with the intent to enable [*such*] **the** applicant or recipient to meet or appear to meet any

requirement of eligibility referred to in subsection (2)(a) of this section or, except as to a conveyance by [*such*] **the** applicant or recipient to create a tenancy by the entirety, with the intent to hinder or prevent the department **or the authority** from recovering any part of any claim [*which*] it may have against [*such*] **the** applicant or recipient or the estate of the applicant or recipient.

SECTION 117. ORS 411.632 is amended to read:

411.632. If it reasonably appears that a [*customer who is a*] recipient of public assistance has assets in excess of those allowed to a recipient of such assistance under applicable federal and state statutes**, rules** and regulations, and it reasonably appears that such assets may be transferred, removed, secreted or otherwise disposed, then the Department of Human Services **or the Oregon Health Authority** may seek appropriate relief under ORCP 83 and 84[,] or any other provision of law**,** but only to the extent of the liability. The state shall not be required to post a bond in seeking the relief.

SECTION 118. ORS 411.635 is amended to read:

411.635. **(1)** Public assistance improperly disbursed as a result of recipient conduct that is not in violation of ORS 411.630 may be recouped pursuant to ORS 293.250 **by the Oregon Health Authority or the Department of Human Services.**

(2) [*or*] **The department may also recoup public assistance improperly disbursed** from earnings that the state disregards pursuant to ORS 411.083 and 412.009 as follows:

[*(1)*] **(a)** The department [*of Human Services*] shall notify the recipient that the recipient may elect to limit the recoupment monthly to an amount equal to one-half the amount of disregarded earnings by granting the department a confession of judgment for the amount of the overpayment.

[*(2)*] **(b)** If the recipient does not elect to grant the confession of judgment within 30 days the department may recoup the overpayment from the entire amount of disregarded earnings. The recipient may at any time thereafter elect to limit the monthly recoupment to one-half the disregarded earnings by [*granting the department*] **entering into** a confession of judgment.

(3) The department shall not execute on a confession of judgment until the recipient is no longer receiving public assistance and has either refused to agree to or has defaulted on a reasonable plan to satisfy the judgment.

(4) [*Nothing in this section limits the authority of the department by rule to exempt*] **This section does not prohibit the department from adopting rules to exempt** from recoupment any portion of disregarded earnings.

SECTION 119. ORS 411.640 is amended to read:

411.640. A person has received an overpayment of public assistance, for purposes of ORS 411.703, if the person has:

(1) Received, either for the benefit of the person or for the benefit of any other person, any amount or type of general assistance or public assistance[*, as defined in ORS 411.010,*] to which the person or [*such*] **the** other person is not entitled under state law;

(2) Spent lawfully received public assistance that was designated by the Department of Human Services **or the Oregon Health Authority** for a specific purpose on an expense not approved by the department **or the authority** and not considered a basic requirement under [*standards adopted by the department pursuant to*] ORS 411.070 **(2)(a)**;

(3) Misappropriated public assistance by cashing and retaining the proceeds of a check on which the person is not the payee and the check has not been lawfully [*endorsed*] **indorsed** or assigned to the person; or

(4) Failed to reimburse the department **or the authority**, when required by law, for public assistance furnished for a need for which the person is compensated by another source.

SECTION 119a. ORS 411.660 is amended to read:

411.660. (1) If any person is convicted of a violation of any provision of ORS 411.630, any grant of general assistance or public assistance made wholly or partially to meet the needs of such person shall be modified, canceled or suspended for such time and under such terms and conditions as may be prescribed by or pursuant to rules or regulations of the Department of Human Services **or the Oregon Health Authority**.

(2) Subsection (1) of this section does not prohibit a grant of general assistance or public assistance to meet the needs of a child under the age of 18 years.

SECTION 120. ORS 411.670 is amended to read:

411.670. As used in this section and ORS **411.640,** 411.675 and 411.690:

(1) "Claims for payment" includes bills, invoices, electronic transmissions and any other document requesting money in compensation for or reimbursement of needs which have been furnished to any public assistance recipient.

(2) "Need" means any type of care, service, commodity, shelter or living requirement.

(3) "Person" includes individuals, corporations, associations, firms, partnerships, governmental subdivisions and agencies and public and private organizations of any character.

SECTION 121. ORS 411.675 is amended to read:

411.675. [*No*] **A** person [*shall*] **may not** obtain or attempt to obtain**,** for personal benefit or the benefit of [*any other*] **another** person, [*any*] **a** payment for furnishing any need to or for the benefit of [*any*] **a** public assistance recipient by knowingly:

(1) Submitting or causing to be submitted to the Department of Human Services **or the Oregon Health Authority a** [*any*] false claim for payment;

(2) Submitting or causing to be submitted to the department **or the authority a** [*any*] claim for payment [*which*] **that already** has been submitted for payment [*already unless such*] **unless the** claim is clearly labeled as a duplicate;

(3) Submitting or causing to be submitted to the department **or the authority a** [*any*] claim for payment [*which*] **that** is a claim [*upon which payment has been made by the department or any other*] **that already has been paid by any** source unless clearly labeled as [*such*] **already paid**; or

(4) Accepting [*any*] **a** payment from the department [*for furnishing any need if the need upon which the payment is based has*] **or the authority for the costs of items or services that have** not been provided **to or for the benefit of a public assistance recipient**.

SECTION 122. ORS 411.690 is amended to read:

411.690. (1) [*Any*] **A** person who accepts from the Department of Human Services [*any payment made to such person*] **or the Oregon Health Authority a payment** for furnishing any need to or for the benefit of a public assistance recipient [*shall be*] **is** liable to refund or credit the amount of [*such*] **the** payment to the department **or the authority** if [*such*] **the** person has obtained or subsequently obtains from the recipient or from any source any additional payment [*received*] for furnishing the same need [*to or for the benefit of such recipient*]. However, the liability of [*such*] **the** person [*shall be*] **is** limited to the lesser of the following amounts:

(a) The amount of the payment [*so*] accepted from the department **or the authority**; or

(b) The amount by which the aggregate sum of all payments [*so*] accepted or received by [*such*] **the** person exceeds the maximum amount payable for [*such*] **the** need [*from public assistance funds*] under rules adopted by the department **or the authority**.

(2) Notwithstanding subsection (1) of this section, [*any*] **a** person who**,** after having been afforded an opportunity for a [*hearing pursuant to the portions of ORS chapter 183 relating to a contested case*] **contested case hearing pursuant to ORS chapter 183**, is found to [*violate*] **have violated** ORS 411.675 [*shall be*] **is** liable to the department **or the authority** for treble the amount of the payment received as a result of [*such*] **the** violation.

(3) The department **and the authority** may prosecute civil actions to recover moneys claimed due under this section and for costs and disbursements incurred in such actions.

SECTION 123. ORS 411.694 is amended to read:

411.694. (1) When an individual receives public assistance as defined in ORS 411.010 and the individual is the holder of record title to real property or the purchaser under a land sale contract, the Department of Human Services **or the Oregon Health Authority** may present to the county clerk for recordation in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property.

(2) A title insurance company or agent shall provide the [*department*] **state agency that filed the request** with a notice of transfer or encumbrance as required by ORS 93.268.

(3) If the department [*has caused*] **or the authority has filed** a request for notice of transfer or encumbrance [*to be recorded*] **for recording** in the deed and mortgage records, the department **or the authority** shall [*present to the county clerk for recordation*] **file with the county clerk** a termination of request for notice of transfer or encumbrance when[*, in the judgment of the department,*] it is no longer necessary or appropriate [*for the department*] to monitor transfers or encumbrances related to the real property.

(4) The department shall adopt by rule a form of the request for notice of transfer or encumbrance, the notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient, a [*departmental*] case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department **or the authority** to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recordation in ORS 205.232 and 205.234 for those forms intended to be recorded.

(5) The authority shall use the forms adopted by the department under subsection (4) of this section and may designate the department to receive, on behalf of the authority, a notice of transfer or encumbrance provided in accordance with subsection (2) of this section.

[*(5)*] **(6)** The department **or the authority** shall pay the recordation fee required by the county clerk under ORS 205.320.

[*(6)*] **(7)** The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of or other interest in the real property.

SECTION 124. ORS 411.703 is amended to read:

411.703. (1) If an overpayment of public assistance, including supplemental nutrition assistance **issued under ORS 411.806 to 411.845**, is not repaid within 30 days of the payment due date, after an individual has been afforded an opportunity for a contested case hearing under ORS chapter 183 relating to the overpayment**,** [*of public assistance, including supplemental nutrition assistance issued under ORS 411.806 to 411.845,*] the Department of Human Services **or the Oregon Health Authority** may:

(a) Issue a warrant that meets the requirements of ORS 205.125 for the overpayment; and

(b) Present a warrant issued under this section for recordation in the County Clerk Lien Record of the county clerk of any county in the state.

(2) The warrant must include the principal amount of the overpayment, interest accumulated pursuant to ORS 82.010 or other applicable law, costs associated with recording, indexing and serving the warrant and costs associated with an instrument evidencing satisfaction or release of the warrant.

(3) The department **or the authority** shall mail a copy of the warrant to the debtor at the last known address of the debtor.

(4) Upon receipt of the warrant for recordation, the county clerk shall record the warrant in the manner provided in ORS 205.125.

(5) Upon issuance of the warrant, the department **or the authority** may issue a notice of garnishment in accordance with ORS 18.854.

(6) Upon recording, the warrant:

(a) Has the effect described in ORS 205.125 and 205.126; and

(b) May be enforced as provided in ORS 18.854 and 205.126.

SECTION 124a. ORS 411.708 is amended to read:

411.708. (1) The amount of any assistance paid under ORS 411.706 is a claim against the property or interest in the property belonging to and a part of the estate of any deceased recipient. If the deceased recipient has no estate, the estate of the surviving spouse of the deceased recipient, if any,

shall be charged for assistance granted under ORS 411.706 to the deceased recipient or the surviving spouse. There shall be no adjustment or recovery of assistance correctly paid on behalf of any deceased recipient under ORS 411.706 except after the death of the surviving spouse of the deceased recipient, if any, and only at a time when the deceased recipient has no surviving child who is under 21 years of age or who is blind or has a disability. Transfers of real or personal property by recipients of assistance without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(2) Except when there is a surviving spouse, or a surviving child who is under 21 years of age or who is blind or has a disability, the amount of any assistance paid under ORS 411.706 is a claim against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

[*(3) A claim under this section shall exclude benefits paid to or on behalf of a beneficiary under a policy of qualified long term care insurance, as defined in ORS 414.025 (2)(t).*]

[*(4)*] **(3)** Nothing in this section authorizes the recovery of the amount of any assistance from the estate or surviving spouse of a recipient to the extent that the need for assistance resulted from a crime committed against the recipient.

SECTION 125. ORS 413.011 is amended to read:

413.011. (1) The duties of the Oregon Health Policy Board are to:

(a) Be the policy-making and oversight body for the Oregon Health Authority established in ORS 413.032 and all of the authority's departmental divisions, including the Oregon Health Insurance Exchange described in section 17, chapter 595, Oregon Laws 2009.

(b) Develop and submit a plan to the Legislative Assembly by December 31, 2010, to provide and fund access to affordable, quality health care for all Oregonians by 2015.

(c) Develop a program to provide health insurance premium assistance to all low and moderate income individuals who are legal residents of Oregon.

(d) Establish and continuously refine uniform, statewide health care quality standards for use by all purchasers of health care, third-party payers and health care providers as quality performance benchmarks.

(e) Establish evidence-based clinical standards and practice guidelines that may be used by providers.

(f) Approve and monitor community-centered health initiatives described in ORS 413.032 [*(1)(g)*] **(1)(i)** that are consistent with public health goals, strategies, programs and performance standards adopted by the Oregon Health Policy Board to improve the health of all Oregonians, and shall regularly report to the Legislative Assembly on the accomplishments and needed changes to the initiatives.

(g) Establish cost containment mechanisms to reduce health care costs.

(h) Ensure that Oregon's health care workforce is sufficient in numbers and training to meet the demand that will be created by the expansion in health coverage, health care system transformations, an increasingly diverse population and an aging workforce.

(i) Work with the Oregon congressional delegation to advance the adoption of changes in federal law or policy to promote Oregon's comprehensive health reform plan.

(j) Establish a health benefit package in accordance with ORS 413.064 to be used as the baseline for all health benefit plans offered through the Oregon Health Insurance Exchange.

(k) Develop and submit a plan to the Legislative Assembly by December 31, 2010, with recommended policies and procedures for the Oregon Health Insurance Exchange developed in accordance with section 17, chapter 595, Oregon Laws 2009.

(L) Develop and submit a plan to the Legislative Assembly by December 31, 2010, with recommendations for the development of a publicly owned health benefit plan that operates in the exchange under the same rules and regulations as all health insurance plans offered through the exchange, including fully allocated fixed and variable operating and capital costs.

(m) By December 31, 2010, investigate and report to the Legislative Assembly, and annually thereafter, on the feasibility and advisability of future changes to the health insurance market in Oregon, including but not limited to the following:

(A) A requirement for every resident to have health insurance coverage.

(B) A payroll tax as a means to encourage employers to continue providing health insurance to their employees.

(C) Expansion of the exchange to include a program of premium assistance and to advance reforms of the insurance market.

(D) The implementation of a system of interoperable electronic health records utilized by all health care providers in this state.

(n) Meet cost-containment goals by structuring reimbursement rates to reward comprehensive management of diseases, quality outcomes and the efficient use of resources by promoting 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.

(o) Oversee the expenditure of moneys from the Health Care Workforce Strategic Fund to support grants to primary care providers and rural health practitioners, to increase the number of primary care educators and to support efforts to create and develop career ladder opportunities.

(p) Work with the Public Health Benefit Purchasers Committee, administrators of the medical assistance program and the Department of Corrections to identify uniform contracting standards for health benefit plans that achieve maximum quality and cost outcomes and align the contracting standards for all state programs to the greatest extent practicable.

(2) The Oregon Health Policy Board is authorized to:

(a) Subject to the approval of the Governor, organize and reorganize the authority as the board considers necessary to properly conduct the work of the authority.

(b) Submit directly to the Legislative Counsel, no later than October 1 of each even-numbered year, requests for measures necessary to provide statutory authorization to carry out any of the board's duties or to implement any of the board's recommendations. The measures may be filed prior to the beginning of the legislative session in accordance with the rules of the House of Representatives and the Senate.

(3) If the board or the authority is unable to perform, in whole or in part, any of the duties described in ORS 413.006 to 413.064 without federal approval, the [*board*] **authority** is authorized to request**, in accordance with section 94 of this 2011 Act,** waivers or other approval necessary to perform those duties. The [*board*] **authority** shall implement any portions of those duties not requiring legislative authority or federal approval, to the extent practicable.

(4) 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 the board by ORS 413.006 to 413.064 and by other statutes.

(5) The board shall consult with the Department of Consumer and Business Services in completing the tasks set forth in subsection (1)(j), (k) and (m)(A) and (C) of this section.

SECTION 126. 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) Develop a plan for the Oregon Health Insurance Exchange in accordance with section 17, chapter 595, Oregon Laws 2009;

(c) Administer the Oregon Prescription Drug Program;

(d) Administer the Family Health Insurance Assistance Program;

(e) Develop the policies for and the provision of publicly funded medical care and medical assistance in this state;

(f) Develop the policies for and the provision of mental health treatment and treatment of addictions;

(g) Assess, promote and protect the health of the public as specified by state and federal law;

[*(e)*] **(h)** 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;

[*(f)*] **(i)** 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;

[*(g)*] **(j)** 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;

[*(h)*] **(k)** 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;

[*(i)*] **(L)** 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;

[*(j)*] **(m)** 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; and

[*(k)*] **(n)** Develop, in consultation with the Department of Consumer and Business Services and the Health Insurance Reform Advisory Committee, one or more products designed to provide more affordable options for the small group market.

(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; and

(D) A statewide drug formulary that may be used by publicly funded health benefit plans.

(c) Submit directly to the Legislative Counsel, no later than October 1 of each even-numbered year, requests for measures necessary to provide statutory authorization to carry out any of the authority's duties or to implement any of the board's recommendations. The measures may be filed prior to the beginning of the legislative session in accordance with the rules of the House of Representatives and the Senate.

(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 413.064 or by other statutes.

SECTION 126a. ORS 413.033 is amended to read:

413.033. (1) The Oregon Health Authority is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the authority.

(2) The Governor shall appoint the Director of the Oregon Health Authority, who holds office at the pleasure of the Governor. The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.

(3)**(a) In addition to the procurement authority granted by ORS 179.040 and 279A.050,** the director shall have [*the power to:*] **all powers necessary to effectively and expeditiously carry out the duties, functions and powers vested in the authority by ORS 413.032 and section 19, chapter 595, Oregon Laws 2009, and the duties, functions and powers that are shared by or delegated to the authority with respect to the following agencies:**

(A) The Oregon Department of Administrative Services;

(B) The Department of Consumer and Business Services; and

(C) The Department of Human Services.

[*(a) Contract for and procure, on a fee or part-time basis, or both, such actuarial, technical or other professional services as may be required for the discharge of duties.*]

(b) With respect to procurements and contracts that the authority is authorized to conduct or manage, the director may make procurements on behalf of, and supervise the procurement, establishment and administration of contracts entered into by, the departments described in paragraph (a) of this subsection.

(c) Notwithstanding ORS 279B.085, the director may approve a special procurement under paragraph (b) of this subsection that:

(A) Describes the proposed contracting procedure and the goods or services, or the class of goods or services, to be acquired through the special procurement;

(B) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and

(C) Is reasonably expected to result in substantial cost savings to the authority or to the public.

(d) The director shall give public notice of the approval of a proposed special procurement as provided by the authority by rule. The requirements applicable to the Director of the Oregon Department of Administrative Services under ORS 279B.400 apply to the Director of the Oregon Health Authority with respect to special procurements under this subsection.

(e) Notwithstanding ORS 279C.335, the director may exempt a public improvement contract or a class of public improvement contracts that the authority is authorized to conduct or manage from the competitive bidding requirements of ORS 279C.335 (1) if the director makes the findings described in ORS 279C.335 (2). The provisions in ORS 279C.335 (3) to (8) with respect to the Director of the Oregon Department of Administrative Services apply to the Director of the Oregon Health Authority for exemptions granted by the director under this subsection.

[*(b)*] **(4) The director shall have the power to** obtain such other services as the director considers necessary or desirable, including participation in organizations of state insurance supervisory officials and appointment of advisory committees. A member of an advisory committee so appointed shall receive no compensation for services as a member, but, subject to any other applicable law regulating travel and other expenses of state officers, shall receive actual and necessary travel and other expenses incurred in the performance of official duties.

[*(4)*] **(5)** The director may apply for, receive and accept grants, gifts or other payments, including property or services from any governmental or other public or private person and may make arrangement for the use of the receipts, including the undertaking of special studies and other projects relating to the costs of health care, access to health care, public health and health care reform.

SECTION 127. ORS 413.064 is amended to read:

413.064. The Oregon Health Authority, in developing and offering the health benefit package required by ORS 413.011 (1)(j), may not establish policies or procedures that discourage insurers from offering more comprehensive health benefit plans that provide greater consumer choice at a higher cost. The health benefit package approved by the Oregon Health Policy Board shall:

(1) Promote the provision of services through an integrated health home model that reduces unnecessary hospitalizations and emergency department visits.

(2) Require little or no cost sharing for evidence-based preventive care and services, such as care and services that have been shown to prevent acute exacerbations of disease symptoms in individuals with chronic illnesses.

(3) Create incentives for individuals to actively participate in their own health care and to maintain or improve their health status.

(4) Require a greater contribution by an enrollee to the cost of elective or discretionary health services.

(5) Include a defined set of health care services that are affordable, financially sustainable and based upon the prioritized list of health services developed and updated by the Health [*Services*] **Evidence Review** Commission under [*ORS 414.720*] **section 24 of this 2011 Act**.

SECTION 128. ORS 414.025, as amended by section 1, chapter 73, Oregon Laws 2010, is amended to read:

414.025. As used in **ORS chapter 411 and** this chapter, unless the context or a specially applicable statutory definition requires otherwise:

(1) "Category of aid" means assistance provided by the Oregon Supplemental Income Program, aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income payments.

(2) "Categorically needy" means, insofar as funds are available for the category, a person who is a resident of this state and who:

(a) Is receiving a category of aid.

(b) Would be eligible for a category of aid but is not receiving a category of aid.

(c) Is in a medical facility and, if the person left such facility, would be eligible for a category of aid.

(d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except for age and regular attendance in school or in a course of professional or technical training.

(e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a dependent child except for age and regular attendance in school or in a course of professional or technical training; or

(B) Is the spouse of the caretaker relative.

(f) Is under the age of 21 years and:

(A) Is in a foster family home or licensed child-caring agency or institution and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part; or

(B) Is 18 years of age or older, is one for whom federal financial participation is available under Title XIX or XXI of the federal Social Security Act and who met the criteria in subparagraph (A) of this paragraph immediately prior to the person's 18th birthday.

(g) Is a spouse of an individual receiving a category of aid and who is living with the recipient of a category of aid, whose needs and income are taken into account in determining the cash needs of the recipient of a category of aid, and who is determined by the Department of Human Services to be essential to the well-being of the recipient of a category of aid.

(h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

(i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part.

(j) Is under the age of 21 years and is in an intermediate care facility which includes institutions for persons with [*mental retardation*] **developmental disabilities**.

(k) Is under the age of 22 years and is in a psychiatric hospital.

(L) Is under the age of 21 years and is in an independent living situation with all or part of the maintenance cost paid by the Department of Human Services.

(m) Is a member of a family that received aid in the preceding month under ORS 412.006 or 412.014 and became ineligible for aid due to increased hours of or increased income from employment. As long as the member of the family is employed, such families will continue to be eligible for medical assistance for a period of at least six calendar months beginning with the month in which

such family became ineligible for assistance due to increased hours of employment or increased earnings.

(n) Is an adopted person under 21 years of age for whom a public agency is assuming financial responsibility in whole or in part.

(o) Is an individual or is a member of a group who is required by federal law to be included in the state's medical assistance program in order for that program to qualify for federal funds.

(p) Is an individual or member of a group who, subject to the rules of the department **or the Oregon Health Authority**, may optionally be included in the state's medical assistance program under federal law and regulations concerning the availability of federal funds for the expenses of that individual or group.

(q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and 418.647, whether or not the woman is eligible for cash assistance.

(r) Except as otherwise provided in this section, is a pregnant woman or child for whom federal financial participation is available under Title XIX or XXI of the federal Social Security Act.

(s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the federal Social Security Act or is not a full-time student in a post-secondary education program as defined by the department [*of Human Services*] **or the authority** by rule, but whose family income is less than the federal poverty level and whose family investments and savings equal less than the investments and savings limit established by the department **or the authority** by rule.

(t) Would be eligible for a category of aid but for the receipt of qualified long term care insurance benefits under a policy or certificate issued on or after January 1, 2008. As used in this paragraph, "qualified long term care insurance" means a policy or certificate of insurance as defined in ORS 743.652 (6).

(u) Is eligible for the Health Care for All Oregon Children program established in ORS 414.231.

(3) "Income" has the meaning given that term in ORS 411.704.

(4) "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 [*of Human Services*] **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.

(5) "Medical assistance" means so much of the following medical and remedial care and services as may be prescribed by the [*Oregon Health*] authority according to the standards established pursuant to ORS [*413.032*] **414.065**, including payments made for services provided under an insurance or other contractual arrangement and money paid directly to the recipient for the purchase of medical care:

(a) Inpatient hospital services, other than services in an institution for mental diseases;

(b) Outpatient hospital services;

(c) Other laboratory and X-ray services;

(d) Skilled nursing facility services, other than services in an institution for mental diseases;

(e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere;

(f) Medical care, or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(g) Home health care services;

(h) Private duty nursing services;

(i) Clinic services;

(j) Dental services;

(k) Physical therapy and related services;

(L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter 689;

(m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(n) Other diagnostic, screening, preventive and rehabilitative services;

(o) Inpatient hospital services, skilled nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;

(p) Any other medical care, and any other type of remedial care recognized under state law;

(q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their physical or mental impairments, and such health care, treatment and other measures to correct or ameliorate impairments and chronic conditions discovered thereby;

(r) Inpatient hospital services for individuals under 22 years of age in an institution for mental diseases; and

(s) Hospice services.

(6) "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. "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assistance" does not include care or services for an inmate in a nonmedical public institution.

[*(7) "Medically needy" means a person who is a resident of this state and who is considered eligible under federal law for medically needy assistance.*]

[*(8)*] **(7)** "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.

SECTION 129. ORS 414.033 is amended to read:

414.033. The Oregon Health Authority may:

(1) Subject to the allotment system provided for in ORS 291.234 to 291.260, expend such sums as are required to be expended in this state to provide medical assistance. Expenditures for medical assistance include, but are not limited to, expenditures for deductions, cost sharing, enrollment fees, premiums or similar charges imposed with respect to hospital insurance benefits or supplementary health insurance benefits, as established by federal law.

(2) Enter into agreements with, join with or accept grants from, the federal government for cooperative research and demonstration projects for public welfare purposes, including, but not limited to, any project which determines the cost of providing medical assistance [*to the medically needy*] and evaluates service delivery systems.

SECTION 130. ORS 414.041 is amended to read:

414.041. (1) The [*Department of Human Services*] **Oregon Health Authority**, under the direction of the Oregon Health Policy Board and in collaboration with the [*Oregon Health Authority*] **Department of Human Services**, shall implement a streamlined and simple application process for the medical assistance and premium assistance programs administered by the Oregon Health Authority and the Office of Private Health Partnerships. The process shall include, but not be limited to:

(a) An online application that may be submitted via the Internet;

(b) Application forms that are readable at a sixth grade level and that request the minimum amount of information necessary to begin processing the application; and

(c) Application assistance from qualified staff to aid individuals who have language, cognitive, physical or geographic barriers to applying for medical assistance or premium assistance.

(2) In developing the simplified application forms, the department shall consult with persons not employed by the department who have experience in serving vulnerable and hard-to-reach populations.

(3) The Oregon Health Authority shall facilitate outreach and enrollment efforts to connect eligible individuals with all available publicly funded health programs, including but not limited to the Family Health Insurance Assistance Program.

SECTION 131. ORS 414.065 is amended to read:

414.065. (1)(a) With respect to medical and remedial care and services to be provided in medical assistance during any period, and within the limits of funds available therefor, the Oregon Health Authority shall determine, subject to such revisions as it may make from time to time and with respect to the "health services" defined in ORS 414.705, subject to legislative funding in response to

the report of the Health [*Services*] **Evidence Review** Commission and paragraph (b) of this subsection:

(A) The types and extent of medical and remedial care and services to be provided to each eligible group of recipients of medical assistance.

(B) Standards to be observed in the provision of medical and remedial care and services.

(C) The number of days of medical and remedial care and services toward the cost of which public assistance funds will be expended in the care of any person.

(D) Reasonable fees, charges and daily rates to which public assistance funds will be applied toward meeting the costs of providing medical and remedial care and services to an applicant or recipient.

(E) Reasonable fees for professional medical and dental services which may be based on usual and customary fees in the locality for similar services.

(F) The amount and application of any copayment or other similar cost-sharing payment that the authority may require a recipient to pay toward the cost of medical and remedial care or services.

(b) [*Notwithstanding ORS 414.720 (8),*] The authority shall adopt rules establishing timelines for payment of health services under paragraph (a) of this subsection.

(2) The types and extent of medical and remedial care and services and the amounts to be paid in meeting the costs thereof, as determined and fixed by the authority and within the limits of funds available therefor, shall be the total available for medical assistance and payments for such medical assistance shall be the total amounts from public assistance funds available to providers of medical and remedial care and services in meeting the costs thereof.

(3) Except for payments under a cost-sharing plan, payments made by the authority for medical assistance shall constitute payment in full for all medical and remedial care and services for which such payments of medical assistance were made.

[*(4) Medical benefits, standards and limits established pursuant to subsection (1)(a)(A), (B) and (C) of this section for the eligible medically needy, except for persons receiving assistance under ORS 411.706, may be less than but may not exceed medical benefits, standards and limits established for the eligible categorically needy, except that, in the case of a research and demonstration project entered into under ORS 411.135, medical benefits, standards and limits for the eligible medically needy may exceed those established for specific eligible groups of the categorically needy.*]

SECTION 132. ORS 414.211 is amended to read:

414.211. (1) There is established a Medicaid Advisory Committee consisting of not more than 15 members appointed by the Governor.

(2) The committee shall be composed of:

(a) A physician licensed under ORS chapter 677;

(b) Two members of health care consumer groups that include Medicaid recipients;

(c) Two Medicaid recipients, one of whom shall be a person with a disability;

(d) The Director of the Oregon Health Authority or designee;

(e) The Director of Human Services or designee;

[*(e)*] **(f)** Health care providers;

[*(f)*] **(g)** Persons associated with health care organizations, including but not limited to managed care plans under contract to the Medicaid program; and

[*(g)*] **(h)** Members of the general public.

(3) In making appointments, the Governor shall consult with appropriate professional and other interested organizations. All members appointed to the committee shall be familiar with the medical needs of low income persons.

(4) The term of office for each member shall be two years, but each member shall serve at the pleasure of the Governor.

(5) Members of the committee shall receive no compensation for their services but, subject to any applicable state law, shall be allowed actual and necessary travel expenses incurred in the performance of their duties from the Oregon Health Authority Fund.

SECTION 133. ORS 414.221 is amended to read:

414.221. The Medicaid Advisory Committee shall advise [*the Administrator of the Office for Oregon Health Policy and Research and*] the Director of the Oregon Health Authority **and the Director of Human Services** on:

(1) Medical care, including mental health and alcohol and drug treatment and remedial care to be provided under ORS chapter 414; and

(2) The operation and administration of programs provided under ORS chapter 414.

SECTION 134. ORS 414.227 is amended to read:

414.227. (1) ORS 192.610 to 192.690 apply to any meeting of an advisory committee with the authority to make decisions for, conduct policy research for or make recommendations to the Oregon Health Authority**,** [*or*] the Oregon Health Policy Board **or the Department of Human Services** on administration or policy related to the medical assistance program operated under this chapter.

(2) Subsection (1) of this section applies only to advisory committee meetings attended by two or more advisory committee members who are not employed by a public body.

SECTION 135. ORS 414.231 is amended to read:

414.231. (1) As used in this section:

(a) "Child" means a person under 19 years of age.

(b) "Health benefit plan" has the meaning given that term in ORS 414.841.

(2) The Health Care for All Oregon Children program is established to make affordable, accessible health care available to all of Oregon's children. The program is composed of:

(a) Medical assistance funded in whole or in part by Title XIX of the Social Security Act, by the State Children's Health Insurance Program under Title XXI of the Social Security Act and by moneys appropriated or allocated for that purpose by the Legislative Assembly; and

(b) A private health option administered by the Office of Private Health Partnerships under ORS 414.826.

(3) A child is eligible for the program if the child is lawfully present in this state and the income of the child's family is at or below 300 percent of the federal poverty guidelines. There is no asset limit to qualify for the program.

(4)(a) A child receiving medical assistance under the program is continuously eligible for a minimum period of 12 months.

(b) The Department of Human Services shall reenroll a child for successive 12-month periods of enrollment as long as the child is eligible for medical assistance on the date of reenrollment.

(c) The department may not require a new application as a condition of reenrollment under paragraph (b) of this subsection and must determine the person's eligibility for medical assistance using information and sources available to the department or documentation readily available to the person.

(5) Except for medical assistance funded by Title XIX of the Social Security Act, the department **or the Oregon Health Authority** may prescribe by rule a period of uninsurance prior to enrollment in the program.

SECTION 136. 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 executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Oregon Prescription Drug Program, 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 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.

(2) The Oregon Prescription Drug Program is 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.

(3) The Director of the Oregon Health Authority shall appoint an administrator of the Oregon Prescription Drug Program. The administrator may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers or group purchasing organizations;

(b) Purchase prescription drugs on behalf of individuals and entities that participate in the program;

(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;

(f) Develop a system for allocating and distributing the operational costs of the program and any rebates obtained to participants of the program; 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:

(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 state agency that receives federal Medicaid funds and is responsible for implementing the state's medical assistance program may not participate in the program.

(6) The administrator may establish different program prices for pharmacies in rural areas to maintain statewide access to the program.

(7) The administrator may establish the terms and conditions for a pharmacy to enroll in the program. A licensed pharmacy that is willing to accept the terms and conditions established by the administrator may apply to enroll in the program.

(8) Except as provided in subsection [*(10)*] **(9)** of this section, 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.

(9) The administrator shall contract with one or more entities to perform any of the functions of the program, 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.

(b) Negotiating with prescription drug manufacturers on behalf of the administrator.

(10) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(11) The program 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 137. ORS 414.332 is amended to read:

414.332. It is the policy of the State of Oregon that a Practitioner-Managed Prescription Drug Plan will ensure that:

(1) Oregonians have access to the most effective prescription drugs appropriate for their clinical conditions;

(2) Decisions concerning the clinical effectiveness of prescription drugs are made by licensed health practitioners, are informed by the latest peer-reviewed research and consider the health condition of a patient or characteristics of a patient, including the patient's gender, race or ethnicity; and

(3) The cost of prescription drugs in the medical assistance program is managed through market competition among pharmaceutical manufacturers by [*publicly*] considering, first, the effectiveness **and safety** of a given drug and, second, [*its relative cost*] **any substantial cost differences between drugs within the same therapeutic class**.

SECTION 138. ORS 414.334 is amended to read:

414.334. (1) The Oregon Health Authority shall adopt a Practitioner-Managed Prescription Drug Plan for the medical assistance program. The purpose of the plan is to ensure that enrollees [*of*] **in** the medical assistance program receive the most effective prescription drug available at the best possible price.

[*(2) Before adopting the plan, the authority shall conduct public meetings and consult with the Health Resources Commission.*]

(2) In adopting the plan, the authority shall consider recommendations of the Pharmacy and Therapeutics Committee.

(3) 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) An enrollee may appeal to the authority a decision of a practitioner or the authority to not provide a prescription drug requested by the enrollee.

(5) 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.

SECTION 139. ORS 414.334, as amended by section 10, chapter 827, Oregon Laws 2009, is amended to read:

414.334. (1) The Oregon Health Authority shall adopt a Practitioner-Managed Prescription Drug Plan for the medical assistance program. The purpose of the plan is to ensure that enrollees [*of*] **in** the medical assistance program receive the most effective prescription drug available at the best possible price.

[*(2) Before adopting the plan, the authority shall conduct public meetings and consult with the Health Resources Commission.*]

(2) In adopting the plan, the authority shall consider recommendations of the Pharmacy and Therapeutics Committee.

(3) 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) 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) An enrollee may appeal to the authority a decision of a practitioner or the authority to not provide a prescription drug requested by the enrollee.

(6) 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.

NOTE: Section 140 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 141. ORS 414.538 is amended to read:

414.538. (1) The Department of Human Services **and the Oregon Health Authority** may not impose income or resource limitations or a prior period of uninsurance on a woman who otherwise qualifies for medical assistance under ORS 414.534 or 414.536.

(2) [*In determining eligibility for*] **In establishing eligibility requirements for** medical assistance under ORS 414.534 [*or 414.536*], the department **and the authority** shall give priority to low-income women.

SECTION 142. ORS 414.705 is amended to read:

414.705. (1) As used in ORS 414.705 to 414.750, "health services" means at least so much of each of the following as are approved and funded by the Legislative Assembly:

(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 certified under ORS 678.375 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 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.

(2) Health services approved and funded under subsection (1) of this section are subject to the prioritized list of health services required in [*ORS 414.720*] **in section 24 of this 2011 Act**.

SECTION 143. ORS 414.707 is amended to read:

414.707. (1) Persons described in ORS 414.706 (1), (2)[,] **and** (3) [*and (5)*] are eligible to receive all the health services approved and funded by the Legislative Assembly.

(2) Persons described in ORS 414.706 (5) are eligible to receive all the health services approved and funded by the Legislative Assembly distinct from the services approved and funded for persons described in ORS 414.706 (1), (2) and (3).

[*(2)*] **(3)** Persons described in ORS 414.708 are eligible to receive the health services described in ORS 414.705 (1)(c), (f) and (g).

SECTION 144. ORS 414.708 is amended to read:

414.708. (1) A person is eligible to receive the health services described in ORS 414.707 [*(2)*] **(3)** when the person is a resident of this state who:

(a) Is 65 years of age or older, or is blind or has a disability as those terms are defined in ORS 411.704;

(b) Has a gross annual income that does not exceed the standard established by the Oregon Health [*Policy Board*] **Authority or the Department of Human Services**; and

(c) Is not covered under any public or private prescription drug benefit program.

(2) A person receiving prescription drug services under ORS 414.707 [*(2)*] **(3)** shall pay up to a percentage of the Medicaid price of the prescription drug established by the authority by rule and the dispensing fee.

SECTION 145. ORS 414.710 is amended to read:

414.710. The following services are not subject to [*ORS 414.720*] **section 24 of this 2011 Act**:

(1) Nursing facilities, institutional and home- and community-based waivered services funded through the Department of Human Services; and

(2) Services to children who are wards of the Department of Human Services by order of the juvenile court and services to children and families for health care or mental health care through the department.

SECTION 146. ORS 414.712 is amended to read:

414.712. The Oregon Health Authority shall provide [*medical assistance*] **health services** under ORS 414.705 to 414.750 to eligible persons who are determined eligible for medical assistance [*by the Department of Human Services according to ORS 411.706*] **as defined in ORS 414.025**. The Oregon Health Authority shall also provide the following:

(1) Ombudsman services for eligible persons who receive assistance under ORS 411.706. With the concurrence of the Governor and the Oregon Health Policy Board, the Director of the Oregon Health Authority shall appoint ombudsmen and may terminate an ombudsman. Ombudsmen are under the supervision and control of the director. An ombudsman shall serve as a patient's advocate whenever the patient or a physician or other medical personnel serving the patient is reasonably concerned about access to, quality of or limitations on the care being provided by a health care provider. Patients shall be informed of the availability of an ombudsman. Ombudsmen shall report to the Governor and the Oregon Health Policy Board in writing at least once each quarter. A report shall include a summary of the services that the ombudsman provided during the quarter and the ombudsman's recommendations for improving ombudsman services and access to or quality of care provided to eligible persons by health care providers.

(2) Case management services in each health care provider organization for those eligible persons who receive assistance under ORS 411.706. Case managers shall be trained in and shall exhibit skills in communication with and sensitivity to the unique health care needs of people who receive assistance under ORS 411.706. Case managers shall be reasonably available to assist patients served by the organization with the coordination of the patient's health care services at the reasonable request of the patient or a physician or other medical personnel serving the patient. Patients shall be informed of the availability of case managers.

(3) A mechanism, established by rule, for soliciting consumer opinions and concerns regarding accessibility to and quality of the services of each health care provider.

(4) A choice of available medical plans and, within those plans, choice of a primary care provider.

(5) Due process procedures for any individual whose request for medical assistance coverage for any treatment or service is denied or is not acted upon with reasonable promptness. These procedures shall include an expedited process for cases in which a patient's medical needs require swift resolution of a dispute.

SECTION 147. ORS 414.725 is amended to read:

414.725. (1)(a) Pursuant to rules adopted by the Oregon Health Authority, the authority shall execute prepaid managed care health services contracts for health services funded by the Legislative Assembly. The contract must require that all services are provided to the extent and scope of the Health [*Services*] **Evidence Review** Commission's report for each service provided under the contract. The contracts are not subject to ORS chapters 279A and 279B, except ORS 279A.250 to 279A.290 and 279B.235. [*Notwithstanding ORS 414.720 (8),*] The rules adopted by the authority shall establish timelines for executing the contracts described in this paragraph.

(b) It is the intent of ORS 414.705 to 414.750 that the state use, to the greatest extent possible, prepaid managed care health services organizations to provide physical health, dental, mental health and chemical dependency services under ORS 414.705 to 414.750.

(c) The authority shall solicit qualified providers or plans to be reimbursed for providing the covered services. The contracts may be with hospitals and medical organizations, health maintenance organizations, managed health care plans and any other qualified public or private prepaid managed care health services organization. The authority may not discriminate against any contractors that offer services within their providers' lawful scopes of practice.

(d) The authority shall establish annual financial reporting requirements for prepaid managed care health services organizations. The authority shall prescribe a reporting procedure that elicits sufficiently detailed information for the authority to assess the financial condition of each prepaid managed care health services organization and that includes information on the three highest executive salary and benefit packages of each prepaid managed care health services organization.

(e) The authority shall require compliance with the provisions of paragraph (d) of this subsection as a condition of entering into a contract with a prepaid managed care health services organization.

(f)(A) The authority shall adopt rules and procedures to ensure that a rural health clinic that provides a health service to an enrollee of a prepaid managed care health services organization receives total aggregate payments from the organization, other payers on the claim and the authority that are no less than the amount the rural health clinic would receive in the authority's fee-for-service payment system. The authority shall issue a payment to the rural health clinic in accordance with this subsection within 45 days of receipt by the authority of a completed billing form.

(B) "Rural health clinic," as used in this paragraph, shall be defined by the authority by rule and shall conform, as far as practicable or applicable in this state, to the definition of that term in 42 U.S.C. 1395x(aa)(2).

(2) The authority may institute a fee-for-service case management system or a fee-for-service payment system for the same physical health, dental, mental health or chemical dependency services provided under the health services contracts for persons eligible for health services under ORS 414.705 to 414.750 in designated areas of the state in which a prepaid managed care health services organization is not able to assign an enrollee to a person or entity that is primarily responsible for coordinating the physical health, dental, mental health or chemical dependency services provided to the enrollee. In addition, the authority may make other special arrangements as necessary to increase the interest of providers in participation in the state's managed care system, including but not limited to the provision of stop-loss insurance for providers wishing to limit the amount of risk they wish to underwrite.

(3) As provided in subsections (1) and (2) of this section, the aggregate expenditures by the authority for health services provided pursuant to ORS 414.705 to 414.750 may not exceed the total dollars appropriated for health services under ORS 414.705 to 414.750.

(4) Actions taken by providers, potential providers, contractors and bidders in specific accordance with ORS 414.705 to 414.750 in forming consortiums or in otherwise entering into contracts to provide health care services shall be performed pursuant to state supervision and shall be considered to be conducted at the direction of this state, shall be considered to be lawful trade practices and may not be considered to be the transaction of insurance for purposes of the Insurance Code.

(5) Health care providers contracting to provide services under ORS 414.705 to 414.750 shall advise a patient of any service, treatment or test that is medically necessary but not covered under the contract if an ordinarily careful practitioner in the same or similar community would do so under the same or similar circumstances.

(6) A prepaid managed care health services organization shall provide information on contacting available providers to an enrollee in writing within 30 days of assignment to the health services organization.

(7) Each prepaid managed care health services organization shall provide upon the request of an enrollee or prospective enrollee annual summaries of the organization's aggregate data regarding:

(a) Grievances and appeals; and

(b) Availability and accessibility of services provided to enrollees.

(8) A prepaid managed care health services organization may not limit enrollment in a designated area based on the zip code of an enrollee or prospective enrollee.

SECTION 148. ORS 414.730 is amended to read:

414.730. The Health [*Services*] **Evidence Review** Commission shall [*establish a Subcommittee on Mental Health Care and Chemical Dependency to assist the commission*] **consult with an advisory committee** in determining priorities for mental health care and chemical dependency. The [*subcommittee*] **advisory committee** shall include mental health and chemical dependency professionals who provide inpatient and outpatient mental health and chemical dependency care.

SECTION 149. ORS 414.735 is amended to read:

414.735. (1) If insufficient resources are available during a contract period:

(a) The population of eligible persons determined by law [*shall*] **may** not be reduced.

(b) The reimbursement rate for providers and plans established under the contractual agreement [*shall*] **may** not be reduced.

(2) In the circumstances described in subsection (1) of this section, reimbursement shall be adjusted by reducing the health services for the eligible population by eliminating services in the order of priority recommended by the Health [*Services*] **Evidence Review** Commission, starting with the least important and progressing toward the most important.

(3) The Oregon Health [*Policy Board*] **Authority** shall obtain the approval of the Legislative Assembly, or the Emergency Board if the Legislative Assembly is not in session, before instituting the reductions. In addition, providers contracting to provide health services under ORS 414.705 to 414.750 must be notified at least two weeks prior to any legislative consideration of such reductions. Any reductions made under this section shall take effect no sooner than 60 days following final legislative action approving the reductions.

(4) This section does not apply to reductions made by the Legislative Assembly in a legislatively adopted or approved budget.

SECTION 150. ORS 414.736 is amended to read:

414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740, [*414.741,*] 414.742 and 414.743 and section 9, chapter 867, Oregon Laws 2009:

(1) "Designated area" means a geographic area of the state defined by the Oregon Health Authority by rule that is served by a prepaid managed care health services organization.

(2) "Fully capitated health plan" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services provided under the contract are reasonably accessible to enrollees.

(3) "Physician care organization" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j) are reasonably accessible to enrollees. A physician care organization may also contract with the authority or the board on a prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k) and (L).

(4) "Prepaid managed care health services organization" means a managed physical health, dental, mental health or chemical dependency organization that contracts with the authority or the board on a prepaid capitated basis under ORS 414.725. A prepaid managed care health services organization may be a dental care organization, fully capitated health plan, physician care organization, mental health organization or chemical dependency organization.

SECTION 151. ORS 414.736, as amended by section 6, chapter 886, Oregon Laws 2009, is amended to read:

414.736. As used in this section and ORS 414.725, 414.737, 414.738, 414.739, 414.740[*, 414.741*] and 414.742 and section 9, chapter 867, Oregon Laws 2009:

(1) "Designated area" means a geographic area of the state defined by the Oregon Health Authority by rule that is served by a prepaid managed care health services organization.

(2) "Fully capitated health plan" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to

provide an adequate network of providers to ensure that the health services provided under the contract are reasonably accessible to enrollees.

(3) "Physician care organization" means an organization that contracts with the Oregon Health Authority or the Oregon Health Policy Board on a prepaid capitated basis under ORS 414.725 to provide an adequate network of providers to ensure that the health services described in ORS 414.705 (1)(b), (c), (d), (e), (g) and (j) are reasonably accessible to enrollees. A physician care organization may also contract with the authority or the board on a prepaid capitated basis to provide the health services described in ORS 414.705 (1)(k) and (L).

(4) "Prepaid managed care health services organization" means a managed physical health, dental, mental health or chemical dependency organization that contracts with the authority or the board on a prepaid capitated basis under ORS 414.725. A prepaid managed care health services organization may be a dental care organization, fully capitated health plan, physician care organization, mental health organization or chemical dependency organization.

SECTION 152. Sections 22 to 24 of this 2011 Act are added to and made a part of ORS 414.705 to 414.750.

SECTION 153. ORS 416.340 is amended to read:

416.340. (1) With respect to any claim [*which the Department of Human Services may have*] against the estate of a deceased person, the Department of Human Services **and the Oregon Health Authority** may[*, subject to such terms as it may prescribe in any such case*]:

(a) Secure payment of [*such*] **the** claim in whole or in part by the acceptance of assignments, conveyances, notes, mortgages and other transfers of property or interests therein.

(b) Waive [*such*] **the** claim to the extent that the department [*of Human Services*] **or the authority** finds that [*the*] enforcement [*thereof*] would tend to defeat the purpose of the public assistance laws.

(2) To the extent that the need for aid resulted from a crime committed against the recipient, a claim for recovery of the amount of such aid defeats the purpose of the public assistance laws.

SECTION 154. ORS 416.350 is amended to read:

416.350. (1) **The Department of Human Services or** the Oregon Health Authority may recover from any person the amounts of medical assistance **the department or the authority** incorrectly paid **to or** on behalf of [*such*] **the** person.

(2) Medical assistance pursuant to [*this chapter*] **ORS chapter 414** paid **to or** on behalf of an individual who was 55 years of age or older when the individual received [*such*] **the** assistance, or paid **to or** on behalf of a person of any age who was a permanently institutionalized inpatient in a nursing facility, intermediate care facility for persons with mental retardation or other medical institution, may be recovered from the estate of the individual or from any recipient of property or other assets held by the individual at the time of death including the estate of the surviving spouse. Claim for such medical assistance correctly paid to **or on behalf of** the individual may be established against the estate, but [*there shall be no adjustment or recovery thereof*] **the claim may not be adjusted or recovered** until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) In any action or proceeding under this section to recover medical assistance paid, it [*shall be*] **is** the legal burden of the person who receives the property or other assets from a [*Medicaid*] **medical assistance** recipient to establish the extent and value of the [*Medicaid*] recipient's legal title or interest in the property or assets in accordance with rules established by the authority.

(5) Amounts recovered under this section do not include the value of benefits paid to or on behalf of a beneficiary under a qualified long term care insurance policy or certificate,

described in ORS 414.025 (2)(t), that were disregarded in determining eligibility for or the amount of medical assistance provided to the beneficiary.

[*(5)*] **(6)** As used in this section, "estate" includes all real and personal property and other assets in which the deceased individual had any legal title or interest at the time of death including assets conveyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other similar arrangement.

SECTION 155. ORS 416.610 is amended to read:

416.610. **The Department of Human Services,** the Oregon Health Authority or the recipient's prepaid managed care health services organization, if the recipient is receiving services from the organization, shall have a cause of action against any recipient who fails to give the notification required by ORS 416.530 for amounts received by the recipient pursuant to a judgment, settlement or compromise to the extent that the department**,** [*or*] the authority or the prepaid managed care health services organization could have had a lien against such amounts had such notice been given.

SECTION 156. ORS 417.349 is amended to read:

417.349. In accordance with ORS 417.342 and 417.344, the Department of Human Services shall provide family support services throughout the department. Notwithstanding ORS 430.640 **and section 174 of this 2011 Act**, the department may contract directly with community organizations for the provision of family support services.

SECTION 157. ORS 418.517 is amended to read:

418.517. **(1) As used in this section:**

(a) "Medically accepted indication" means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee created by section 2 of this 2011 Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

(A) American Hospital Formulary Service drug information;

(B) United States Pharmacopoeia drug information or any successor publication;

(C) The DRUGDEX Information System; or

(D) Peer-reviewed medical literature.

(b) "Psychotropic medication" means medication the prescribed intent of which is to affect or alter thought processes, mood or behavior, including but not limited to antipsychotic, antidepressant and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated intended effect when prescribed, because it may have many different effects.

[*(1)*] **(2)** The Department of Human Services shall develop by rule procedures for the use of psychotropic medications for children placed in foster care by the department.

[*(2)*] **(3)** The procedures shall include but not be limited to:

(a) Required assessment by a qualified mental health professional or licensed medical professional, with expertise in children's mental health, as defined by rule of the department prior to issuance of a new prescription for more than one psychotropic medication or any antipsychotic medication, except in case of urgent medical need as defined by rule.

(b) Required notice by the foster parent to the department within one working day after receiving a new prescription of the psychotropic medication.

(c) Required timely notice by the department to the child's parent and the parent's legal representative, if any, and the child's legal representative or the court appointed special advocate containing the following information:

(A) The prescribed psychotropic medication;

(B) The amount of the dosage;

(C) The dosage recommended pursuant to a medically accepted indication;

(D) The reason for the medication;

(E) The efficacy of the medication; and

(F) The side effects of the medication.

(d) Specified follow-up and monitoring by the department of a child taking psychotropic medication including, but not limited to, an annual review of medications by a licensed medical professional, or qualified mental health professional with authority to prescribe drugs, other than the prescriber, if the child has more than two prescriptions for psychotropic medications or if the child is under the age of six years.

[*(3)*] **(4)** A psychotropic medication may not be prescribed for a child under this section unless it is used for a medically accepted indication that is age appropriate.

[*(4)*] **(5)** Any parent, legal representative of the parent, legal representative of the child or court appointed special advocate may petition the juvenile court for a hearing if the parent, the representative of the parent, if any, the legal representative of the child or the advocate objects to the use of or the prescribed dosage of the psychotropic medication. The court may order an independent evaluation of the need for or the prescribed dosage of the medication. The court may order that administration of the medication be discontinued or the prescribed dosage be modified upon a showing that either the prescribed medication or the dosage, or both, are inappropriate.

[*(5) As used in this section:*]

[*(a) "Medically accepted indication" means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Drug Use Review Board, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:*]

[*(A) American Hospital Formulary Services drug information;*]

[*(B) United States Pharmacopoeia drug information or any successor publication;*]

[*(C) The DRUGDEX Information System; or*]

[*(D) The peer-reviewed medical literature.*]

[*(b) "Psychotropic medication" means medication the prescribed intent of which is to affect or alter thought processes, mood or behavior, including but not limited to antipsychotic, antidepressant and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.*]

SECTION 158. ORS 418.975 is amended to read:

418.975. As used in ORS 418.975 to 418.985:

(1) "Cultural competence" means accepting and respecting diversity and differences in a continuous process of self-assessment and reflection on one's personal and organizational perceptions of the dynamics of culture.

(2) "Family" includes, with respect to a youth:

(a) A biological or legal parent;

(b) A sibling;

(c) An individual related by blood, marriage or adoption;

(d) A foster parent;

(e) A legal guardian;

(f) A caregiver;

(g) An individual with a significant social relationship with the youth; and

(h) Any person who provides natural, formal or informal support to the youth that the youth identifies as important.

(3) "Family-run organization" means a private nonprofit entity organized for the purpose of serving families with a youth who has a serious emotional disorder [*that*]**. The entity must**:

(a) [*Has*] **Have** a governing board in which a majority of the members are family members of a youth with a serious emotional disorder; and

(b) [*Gives*] **Give** a preference to family members in hiring decisions for the entity.

(4) "Identified population" means youth who have or are at risk of developing emotional, behavioral or substance use related needs, and who are involved with two or more systems of care.

(5) "Partner agency" includes the Department of Education, Oregon Youth Authority, Department of Human Services, State Commission on Children and Families**, Oregon Health Authority** and other appropriate agencies involved in the system of care.

(6) "Services and supports" means public, private and community resources that assist youth in the achievement of positive outcomes.

(7) "System of care" means a coordinated network of services including education, child welfare, public health, primary care, pediatric care, juvenile justice, mental health treatment, substance use treatment, developmental disability services and any other services and supports to the identified population that integrates care planning and management across multiple levels, that is culturally and linguistically competent, that is designed to build meaningful partnerships with families and youth in the delivery and management of services and the development of policy and that has a supportive policy and management infrastructure.

(8) "Wraparound" means a definable, team-based planning process involving a youth and the youth's family that results in a unique set of community services and services and supports individualized for that youth and family to achieve a set of positive outcomes.

(9) "Youth" means an individual 18 years of age or younger.

SECTION 159. ORS 418.985 is amended to read:

418.985. (1) There is established the Children's Wraparound Initiative Advisory Committee consisting of members representing:

(a) Partner agencies;

(b) Local service providers;

(c) Youth and the family of youth who have current or past involvement with at least two partner agencies; and

(d) Organizations that advocate for youth.

(2) The majority of members of the committee shall be representatives of youth or the family of youth and advocacy organizations.

(3) The committee shall advise and assist in the implementation of the wraparound initiative described in ORS 418.977.

(4) The Department of Human Services **and the Oregon Health Authority**, in consultation with the committee, shall report biennially to the Governor and the Legislative Assembly on the progress toward and projected costs of full implementation of the wraparound initiative.

SECTION 159a. ORS 419C.529, as amended by section 10, chapter 89, Oregon Laws 2010, is amended to read:

419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds by a preponderance of the evidence that the young person, at the time of disposition, has a serious mental condition or has a mental disease or defect other than a serious mental condition and presents a substantial danger to others, requiring conditional release or commitment to a hospital or facility designated on an individual case basis by the Department of Human Services or the Oregon Health Authority as provided in subsection (6) of this section, the court shall order the young person placed under the jurisdiction of the Psychiatric Security Review Board.

(2) The court shall determine whether the young person should be committed to a hospital or facility designated on an individual case basis by the department or the authority, as provided in subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel of the Psychiatric Security Review Board as follows:

(a) If the court finds that the young person is not a proper subject for conditional release, the court shall order the young person committed to a secure hospital or a secure intensive community inpatient facility designated on an individual case basis by the department or the authority, as provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542 and shall order the young person placed under the jurisdiction of the board.

(b) If the court finds that the young person can be adequately controlled with supervision and treatment services if conditionally released and that necessary supervision and treatment services are available, the court may order the young person conditionally released, subject to those supervisory orders of the court that are in the best interests of justice and the young person. The court shall designate a qualified mental health or developmental disabilities treatment provider or state,

county or local agency to supervise the young person on release, subject to those conditions as the court directs in the order for conditional release. Prior to the designation, the court shall notify the qualified mental health or developmental disabilities treatment provider or agency to whom conditional release is contemplated and provide the qualified mental health or developmental disabilities treatment provider or agency an opportunity to be heard before the court. After receiving an order entered under this paragraph, the qualified mental health or developmental disabilities treatment provider or agency designated shall assume supervision of the young person subject to the direction of the juvenile panel. The qualified mental health or developmental disabilities treatment provider or agency designated as supervisor shall report in writing no less than once per month to the juvenile panel concerning the supervised young person's compliance with the conditions of release.

(c) For purposes of determining whether to order commitment to a hospital or facility or conditional release, the primary concern of the court is the protection of society.

(3) In determining whether a young person should be conditionally released, the court may order examinations or evaluations deemed necessary.

(4) Upon placing a young person on conditional release and ordering the young person placed under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's conditional release order, the supervisor designated and all other conditions of release pending a hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542.

(5) When making an order under this section, the court shall:

(a) Determine whether the parent or guardian of the young person is able and willing to assist the young person in obtaining necessary mental health or developmental disabilities services and is willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or guardian:

(A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrevocable consent form in which the parent agrees to any placement decision made by the juvenile panel.

(B) Is unable or unwilling to do so, the court shall order that the young person be placed in the legal custody of the Department of Human Services for the purpose of obtaining necessary developmental disabilities services or [*the Oregon Health Authority for the purpose of obtaining necessary*] mental health services.

(b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to be notified of any board hearings and orders concerning the young person and of any conditional release, discharge or escape of the young person.

(c) Include in the order a list of the persons who wish to be notified of any board hearing concerning the young person.

(d) Determine on the record the act committed by the young person for which the young person was found responsible except for insanity.

(e) State on the record the mental disease or defect on which the young person relied for the responsible except for insanity defense.

(6) When the department designates a facility for the commitment of a developmentally disabled young person under this section, or the authority designates a hospital or facility for commitment of a mentally ill young person under this section, the department and the authority shall take into account the care and treatment needs of the young person, the resources available to the department or the authority and the safety of the public.

SECTION 160. 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) "Authority" means the Oregon Health Authority.

(b) "Community mental health program director" means the director of an entity that provides the services described in ORS 430.630 (3)[*, (4) and (6)*] **to (5)**.

(c) "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.

(d) "Facility" means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other facility as the authority determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for committed mentally ill persons.

(e) "Mentally ill person" 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 and is not receiving such care as is necessary for health or safety.

(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.

(f) "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.

(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 161. ORS 426.129 is amended to read:

426.129. [*On or before January 1, 2010, the Department of Human Services shall establish a position to act*] **The Oregon Health Authority shall employ at least one individual to serve** as a liaison between the [*department*] **authority** and communities in which the [*department*] **authority** plans to establish housing for persons conditionally released by the Psychiatric Security Review Board or for persons with mental illness.

SECTION 162. ORS 426.250 is amended to read:

426.250. The following is a nonexclusive list of responsibilities for payment of various costs related to commitment proceedings under this chapter [*and ORS 430.397 to 430.401*] as described:

(1) Any physician or qualified person recommended by the Oregon Health Authority who is employed under ORS 426.110 to make an examination as to the mental condition of a person alleged to be mentally ill shall be allowed a fee as the court in its discretion determines reasonable for the examination.

(2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases, and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the witness is responsible for payment of the cost of the subpoena and payment for the attendance of the witness at a hearing. When the witness has been subpoenaed on behalf of an allegedly mentally ill person who is represented by appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. If the costs of witnesses subpoenaed by the allegedly mentally ill

person are paid as provided under this subsection, the procedure for subpoenaing witnesses shall comply with ORS 136.570.

(3) If a person with a right to a counsel under ORS 426.100 is determined to be financially eligible for appointed counsel at state expense, the public defense services executive director shall determine and pay, as provided in ORS 135.055, the reasonable expenses related to the representation of the person and compensation for legal counsel. The expenses and compensation so allowed shall be paid by the public defense services executive director from funds available for the purpose.

(4) The authority shall pay the costs of expenses incurred under ORS 426.100 by the Attorney General's office. Any costs for district attorneys or other counsel appointed to assume responsibility for presenting the state's case shall be paid by the county where the commitment hearing is held, subject to reimbursement under ORS 426.310.

(5) All costs incurred in connection with a proceeding under ORS 426.200, including the costs of transportation, commitment and delivery of the person, shall be paid by the county of which the person is a resident; or, if the person is not a resident of this state, then by the county from which the emergency admission was made.

(6) All costs incurred in connection with a proceeding under ORS 426.180 for the commitment of a person from a reservation for land-based tribes of Native Americans, including the cost of transportation, commitment and delivery of the person, shall be paid by the ruling body of the reservation of which the person is a resident.

SECTION 163. ORS 426.275 is amended to read:

426.275. The following are applicable to placements of mentally ill persons that are made as conditional release under ORS 426.125, outpatient commitments under ORS 426.127 or trial visits under ORS 426.273 as described:

(1) If the person responsible under this subsection determines that the mentally ill person is failing to adhere to the terms and conditions of the placement, the responsible person shall notify the court having jurisdiction that the mentally ill person is not adhering to the terms and conditions of the placement. If the placement is an outpatient commitment under ORS 426.127 or a trial visit under ORS 426.273, the notifications shall include a copy of the conditions for the placement. The person responsible for notifying the court under this subsection is as follows:

(a) For conditional releases under ORS 426.125, the guardian, relative or friend in whose care the mentally ill person is conditionally released.

(b) For outpatient commitments under ORS 426.127, the community mental health program director, or designee of the director, of the county in which the person on outpatient commitment lives.

(c) For trial visits under ORS 426.273, the community mental health program director, or designee of the director, of the county in which the person on trial visit is to receive outpatient treatment.

(2) On its own motion, the court with jurisdiction of a mentally ill person on such placement may cause the person to be brought before it for a hearing to determine whether the person is or is not adhering to the terms and conditions of the placement. The person shall have the same rights with respect to notice, detention stay, hearing and counsel as for a hearing held under ORS 426.095. The court shall hold the hearing within five judicial days of the date the mentally ill person receives notice under this section. The court may allow postponement and detention during postponement as provided under ORS 426.095.

(3) Pursuant to the determination of the court upon hearing under this section, a person on placement shall either continue the placement on the same or modified conditions or shall be returned to the Oregon Health Authority for involuntary care and treatment on an inpatient basis subject to discharge at the end of the commitment period or as otherwise provided under this chapter [*and ORS 430.397 to 430.401*].

(4) If the person on placement is living in a county other than the county of the court that established the current period of commitment under ORS 426.130 during which the trial visit, conditional release or outpatient commitment takes place, the court establishing the current period of

commitment shall transfer jurisdiction to the appropriate court of the county in which the person is living while on the placement and the court receiving the transfer shall accept jurisdiction.

(5) The court may proceed as provided in ORS 426.307 or this section when the court:

(a) Receives notice under ORS 426.070 or 426.228 to 426.235; and

(b) Determines that the person is a mentally ill person on conditional release under ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under ORS 426.273.

SECTION 164. ORS 426.495 is amended to read:

426.495. (1) As used in ORS 426.490 to 426.500, unless the context requires otherwise:

(a) "Case manager" means a person who works on a continuing basis with a person with a chronic mental illness and is responsible for assuring the continuity of the various services called for in the discharge plan of the person with a chronic mental illness including services for basic personal maintenance, mental and personal treatment, and appropriate education and employment.

(b) "Discharge plan" means a written plan prepared jointly with the person with a chronic mental illness, mental health staff and case manager prior to discharge, prescribing for the basic and special needs of the person upon release from the hospital.

(c) "Person with a chronic mental illness" means an individual who is:

(A) Eighteen years of age or older; and

(B) Diagnosed by a psychiatrist, a licensed clinical psychologist or a nonmedical examiner certified by the Oregon Health Authority **or the Department of Human Services** as having chronic schizophrenia, a chronic major affective disorder, a chronic paranoid disorder or another chronic psychotic mental disorder other than those caused by substance abuse.

(2) For purposes of providing services in the community, the authority may adopt rules consistent with accepted professional practices in the fields of psychology and psychiatry to specify other criteria for determining who is a person with a chronic mental illness.

SECTION 165. ORS 427.005 is amended to read:

427.005. As used in this chapter:

(1) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group.

(2) "Care" means:

(a) Supportive services, including, but not limited to, provision of room and board;

(b) Supervision;

(c) Protection; and

(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

(3) "Community developmental disabilities program director" means the director of an entity that provides services described in [*ORS 430.630*] **section 174 of this 2011 Act** to persons with [*mental retardation or other*] developmental disabilities.

(4) "Developmental disability" means an intellectual disability, autism, cerebral palsy, epilepsy or other neurological condition diagnosed by a qualified professional that:

(a) Originates before an individual is 22 years of age, or 18 years of age for an intellectual disability;

(b) Originates in and directly affects the brain and is expected to continue indefinitely;

(c) Results in a significant impairment in adaptive behavior as measured by a qualified professional;

(d) Is not attributed primarily to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability or attention deficit hyperactivity disorder; and

(e) Requires training and support similar to that required by an individual with an intellectual disability.

[*(4)*] **(5)** "Developmental period" means the period of time between birth and the 18th birthday.

[*(5)*] **(6)** "Director of the facility" means the superintendent of a state training center, or the person in charge of care, treatment and training programs at other facilities.

[*(6)*] **(7)** "Facility" means a state training center, community hospital, group home, activity center, intermediate care facility, community mental health clinic, or such other facility or program as the Department of Human Services approves to provide necessary services to persons with mental retardation.

[*(7)*] **(8)** "Incapacitated" means a person is unable, without assistance, to properly manage or take care of personal affairs or is incapable, without assistance, of self-care.

[*(8)*] **(9)** "Independence" means the extent to which persons with mental retardation or developmental disabilities exert control and choice over their own lives.

[*(9)*] **(10)** "Integration" means:

(a) Use by persons with mental retardation or developmental disabilities of the same community resources that are used by and available to other persons;

(b) Participation by persons with mental retardation or developmental disabilities in the same community activities in which persons without disabilities participate, together with regular contact with persons without disabilities; and

(c) Residence by persons with developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with persons without disabilities in their community.

(11) "Intellectual disability" means significantly subaverage general intellectual functioning, defined as intelligence quotients under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior, that is manifested before the individual is 18 years of age. An individual with intelligence quotients of 70 through 75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and measured by a qualified professional. The impairment in adaptive behavior must be directly related to the intellectual disability. Intellectual disability is synonymous with mental retardation.

[*(10)*] **(12)** "Intellectual functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

[*(11) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the "Manual on Terminology and Classification in Mental Retardation" of the American Association on Mental Deficiency. Mental retardation is synonymous with mental deficiency.*]

(13) "Mental retardation" is synonymous with intellectual disability.

[*(12)*] **(14)** "Minor" means an unmarried person under 18 years of age.

[*(13)*] **(15)** "Physician" means a person licensed by the Oregon Medical Board to practice medicine and surgery.

[*(14)*] **(16)** "Productivity" means engagement in income-producing work by a person with mental retardation or a developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or a developmental disability in work contributing to a household or community.

[*(15)*] **(17)** "Resident" means a person admitted to a state training center either voluntarily or after commitment to the department.

[*(16)*] **(18)** "Significantly subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

[*(17) "State training center" means Eastern Oregon Training Center and any other facility operated by the department for the care, treatment and training of persons with mental retardation.*]

(19) "State training center" means any facility that is an intermediate care facility for the mentally retarded as defined in 42 U.S.C. 1396d(d).

[*(18)*] **(20)** "Training" means:

(a) The systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or

(b) The planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each resident's specified needs in the areas of physical, emotional, intellectual and social growth.

[*(19)*] **(21)** "Treatment" means the provision of specific physical, mental, social interventions and therapies which halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions.

SECTION 166. ORS 430.021 is amended to read:

430.021. Subject to ORS 417.300 and 417.305:

(1) The Department of Human Services shall:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with [*mental retardation or*] 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:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with mental or emotional disturbances, alcoholism or drug dependence.

(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 community 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 167. ORS 430.205 is amended to read:

430.205. As used in this section and ORS 430.210:

(1) "Facility" means any of the following that are licensed or certified by the Department of Human Services or the Oregon Health Authority or that contract with the department or authority for the provision of services:

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

(b) A domiciliary care facility as defined in ORS 443.205;

(c) A residential facility as defined in ORS 443.400; or

(d) An adult foster home as defined in ORS 443.705.

(2) "Person" means an individual who has a mental illness or developmental disability and receives services from a program or facility.

(3) "Program" means a community mental health program or a community developmental disabilities program as described in ORS 430.610 to 430.695 and agencies with which the program contracts to provide services.

(4) "Services" means mental health services or developmental disabilities services provided under ORS 430.630 **or section 174 of this 2011 Act**.

SECTION 168. ORS 430.210 is amended to read:

430.210. (1) While receiving services, every person shall have the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence.

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs.

(c) Ongoing participation in planning of services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations.

(d) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(e) Not participate in experimentation without informed voluntary written consent.

(f) Receive medication only for the person's individual clinical needs.

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors, except that such access may be limited when it would create significant risk of harm to the person or others.

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation.

(j) Religious freedom.

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(L) Visit with family members, friends, advocates and legal and medical professionals.

(m) Exercise all rights set forth in ORS 427.031 if the individual is committed to the Department of Human Services.

(n) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Oregon Health Authority.

(o) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedures for reporting abuse, and to have these rights and procedures, including the name, address and telephone number of the system described in ORS 192.517 (1), prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person.

(p) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(q) Have access to and communicate privately with any public or private rights protection program or rights advocate.

(r) Exercise all rights described in this section without any form of reprisal or punishment.

(2) An individual who is receiving developmental disability services under [*ORS 430.630*] **section 174 of this 2011 Act** has the right to be informed and have the individual's guardian and any representative designated by the individual be informed that a family member has contacted the Department of Human Services to determine the location of the individual, and to be informed of the name and contact information, if known, of the family member.

(3) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(4) The rights described in this section may be asserted and exercised by the person, the person's guardian and any representative designated by the person.

(5) Nothing in this section may be construed to alter any legal rights and responsibilities between parent and child.

SECTION 169. ORS 430.397 is amended to read:

430.397. Any person may voluntarily apply for admission to any treatment facility[*, as defined in ORS 430.306,*] operated pursuant to rules of the Oregon Health Authority. The director of the treatment facility shall determine whether the person shall be admitted as a patient, or referred to another appropriate treatment facility or denied referral or admission. If the person is under 18 years of age or an incompetent, the director of the treatment facility shall notify the person's parents or guardian of the admission or referral.

SECTION 170. ORS 430.610 is amended to read:

430.610. It is declared to be the policy and intent of the Legislative Assembly that:

(1) Subject to the availability of funds, services should be available to all persons with mental or emotional disturbances, [*mental retardation,*] developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, regardless of age, county of residence or ability to pay;

(2) The Department of Human Services, the Oregon Health Authority and other state agencies shall conduct their activities in the least costly and most efficient manner so that delivery of services to persons with mental or emotional disturbances, [*mental retardation,*] developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, shall be effective and coordinated;

(3) To the greatest extent possible, mental health and developmental disabilities services shall be delivered in the community where the person lives in order to achieve maximum coordination of services and minimum disruption in the life of the person; and

(4) The State of Oregon shall encourage, aid and financially assist its county governments in the establishment and development of community mental health programs or community developmental disabilities programs, including but not limited to, treatment and rehabilitation services for persons with mental or emotional disturbances, [*mental retardation,*] developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, and prevention of these problems through county administered community mental health programs or community developmental disabilities programs.

SECTION 171. 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 [*and community developmental disabilities program*], subject to the availability of funds, shall provide the following basic services to persons with [*mental retardation, developmental disabilities,*] alcoholism or drug dependence, and persons who are alcohol or drug abusers:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals [*and training centers*];

(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 [*mental retardation, developmental disabilities,*] alcohol abuse, alcoholism, drug abuse and drug dependence; and

(e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health [*or community developmental disabilities*] program to ensure that, subject to the availability of funds, the following services for persons with [*mental retardation, developmental disabilities,*] alcoholism or drug dependence, and persons who are alcohol or drug abusers, 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 [*preschool*] **after-school** programs;

(c) Residential care and treatment in facilities such as halfway houses, detoxification 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 Department of Human Services or*] 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 Department of Human Services, a developmental disabilities program may initiate additional services after the services defined in this section are provided.*]

[*(6)*] **(5)** Subject to the review and approval of the Oregon Health Authority, a mental health program may initiate additional services after the services defined in this section are provided.

[*(7)*] **(6)** Each community mental health program [*and community developmental disabilities 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.

[*(8)*] **(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.

[*(9)*] **(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.

[*(10)*] **(9)** Each community mental health program shall cooperate fully with the Alcohol and Drug Policy Commission in the performance of its duties.

[*(11)(a)*] **(10)(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 [*comprised of*] **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 local mental health authority shall review and revise the local plan biennially. 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.

(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 hospitals 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 support 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 [*(8)*] **(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 biennial revisions adopted under paragraph (b) of this subsection at time intervals established by the authority.

(i) Each local commission on children and families shall reference the local plan for the delivery of mental health services in the local coordinated comprehensive plan created pursuant to ORS 417.775.

SECTION 172. ORS 430.630, as amended by section 23, chapter 856, Oregon Laws 2009, 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 [*and community developmental disabilities program*], subject to the availability of funds, shall provide the following basic services to persons with [*mental retardation, developmental disabilities,*] alcoholism or drug dependence, and persons who are alcohol or drug abusers:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals [*and training centers*];

(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 [*mental retardation, developmental disabilities,*] alcohol abuse, alcoholism, drug abuse and drug dependence; and

(e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health [*or community developmental disabilities*] program to ensure that, subject to the availability of funds, the following services for persons with [*mental retardation, developmental disabilities,*] alcoholism or drug dependence, and persons who are alcohol or drug abusers, 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 [*preschool*] **after-school** programs;

(c) Residential care and treatment in facilities such as halfway houses, detoxification 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 Department of Human Services or*] 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 Department of Human Services, a developmental disabilities program may initiate additional services after the services defined in this section are provided.*]

[*(6)*] **(5)** Subject to the review and approval of the Oregon Health Authority, a mental health program may initiate additional services after the services defined in this section are provided.

[*(7)*] **(6)** Each community mental health program [*and community developmental disabilities 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.

[*(8)*] **(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.

[*(9)*] **(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.

[*(10)(a)*] **(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 [*comprised of*] **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 local mental health authority shall review and revise the local plan biennially. 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.

(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 hospitals 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 support 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 [*(8)*] **(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 biennial revisions adopted under paragraph (b) of this subsection at time intervals established by the authority.

(i) Each local commission on children and families shall reference the local plan for the delivery of mental health services in the local coordinated comprehensive plan created pursuant to ORS 417.775.

SECTION 173. Section 174 of this 2011 Act is added to and made a part of ORS 430.610 to 430.695.

SECTION 174. (1) In addition to any other requirements that may be established by rule by the Department of Human Services, each community developmental disabilities program may contract with the department to provide or arrange for the provision of the following basic services to persons with developmental disabilities:

(a) Eligibility determination for developmental disability services.

(b) Access to developmental disability services in homes, work sites or other locations that promote independence, productivity and integration into the community.

(c) Case management services.

(d) Abuse investigation and protective services.

(e) Planning and coordination of activities with other agencies or organizations to ensure the effective and efficient service delivery and use of resources.

(f) Establishing and implementing a process to respond to complaints and grievances.

(g) Other alternative services as prescribed by the department by rule.

(2) Each community developmental disabilities program shall have a written management plan that governs the program's operating structure, goals and activities.

(3) Each community developmental disabilities program shall have a developmental disability advisory committee.

(4) Subject to the review and approval of the department, a community developmental disabilities program may initiate additional services after the services described in this section are provided.

SECTION 175. ORS 430.632 is amended to read:

430.632. A local mental health authority shall submit to the Oregon Health Authority by October 1 of each even-numbered year a report on the implementation of the comprehensive local plan adopted under ORS 430.630 [*(11)*] **(10)**.

SECTION 176. ORS 430.632, as amended by section 24, chapter 856, Oregon Laws 2009, is amended to read:

430.632. A local mental health authority shall submit to the Oregon Health Authority by October 1 of each even-numbered year a report on the implementation of the comprehensive local plan adopted under ORS 430.630 [*(10)*] **(9)**.

SECTION 177. ORS 430.640 is amended to read:

430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community mental health programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community mental health program is operating within a county or when a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis.

(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community mental health program in the same manner in which the authority contracts with a county court or board of county commissioners.

(e) If a county agrees, contract with a public agency or private corporation for all services within one or more of the following program areas:

(A) Mental or emotional disturbances.

(B) Drug abuse.

(C) Alcohol abuse and alcoholism.

(f) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community mental health program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 may not be placed in effect without prior approval of the authority. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with mental or emotional disturbances or within the portion for persons with alcohol or drug dependence may be made without authority approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community mental health programs, including adopting rules defining the range and nature of the services which shall or may be provided under ORS 430.630.

(h) Collect data and evaluate services in the state hospitals in accordance with the same methods prescribed for community mental health programs under ORS 430.665.

(i) Develop guidelines that include, for the development of comprehensive local plans in consultation with local mental health authorities:

(A) The use of integrated services;

(B) The outcomes expected from services and programs provided;

(C) Incentives to reduce the use of state hospitals;

(D) Mechanisms for local sharing of risk for state hospitalization;

(E) The provision of clinically appropriate levels of care based on an assessment of the mental health needs of consumers;

(F) The transition of consumers between levels of care; and

(G) The development, maintenance and continuation of older adult mental health programs with mental health professionals trained in geriatrics.

(j) Work with local mental health authorities to provide incentives for community-based care whenever appropriate while simultaneously ensuring adequate statewide capacity.

(k) Provide technical assistance and information regarding state and federal requirements to local mental health authorities throughout the local planning process required under ORS 430.630 [*(11)*] **(10)**.

(L) Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

(m) Develop or adopt nationally recognized system-level performance measures, linked to the Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children, adults and older adults, including but not limited to quality and appropriateness of services, outcomes from services, structure and management of local plans, prevention of mental health disorders and integration of mental health services with other needed supports.

(n) Develop standardized criteria for each level of care described in ORS 430.630 [*(11)*] **(10)**, including protocols for implementation of local plans, strength-based mental health assessment and case planning.

(o) Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children, adults and older adults that is derived from the needs identified in local plans, is consistent with the vision, values and guiding principles in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the need for and the role of state hospitals.

(p) Report biennially to the Governor and the Legislative Assembly on the progress of the local planning process and the implementation of the local plans adopted under ORS 430.630 [*(11)(b)*] **(10)(b)** and the state planning process described in paragraph (o) of this subsection, and on the performance measures and performance data available under paragraph (m) of this subsection.

(q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate prevalence and demand for mental health services using the most current nationally recognized models and data.

(r) Encourage the development of regional local mental health authorities comprised of two or more boards of county commissioners that establish or operate a community mental health program.

(2) The Oregon Health Authority may provide technical assistance and other incentives to assist in the planning, development and implementation of regional local mental health authorities whenever the Oregon Health Authority determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 [*(11)*] **(10)**.

[*(3) The Department of Human Services in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:*]

[*(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community developmental disabilities programs operated or contracted for by one or more counties.*]

[*(b) If a county declines to operate or contract for a community developmental disabilities program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.*]

[*(c) In an emergency situation when no community developmental disabilities program is operating within a county, operate the program or service on a temporary basis.*]

[*(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community developmental disabilities program in the same manner in which the department contracts with a county court or board of county commissioners.*]

[*(e) If a county agrees, contract with a public agency or private corporation for all developmental disabilities services.*]

[*(f) Operate a program or contract with another entity to operate a program to provide mental retardation and other developmental disabilities services required by ORS 430.630 if a local mental health authority, as defined in ORS 430.630, declines to provide or contract for the provision of mental retardation and other developmental disabilities services.*]

[*(g) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community developmental disabilities program. Subsequent amendments to or mod-*

ifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 may not be placed in effect without prior approval of the department. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with developmental disabilities may be made without department approval.]

[*(h) Make all necessary and proper rules to govern the establishment and operation of community developmental disabilities programs.*]

[*(4)*] **(3)** The enumeration of duties and functions in subsections (1) and (2) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in [*the department or*] the authority by other provisions of law.

SECTION 178. ORS 430.640, as amended by section 25, chapter 856, Oregon Laws 2009, is amended to read:

430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community mental health programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community mental health program is operating within a county or when a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis.

(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community mental health program in the same manner in which the authority contracts with a county court or board of county commissioners.

(e) If a county agrees, contract with a public agency or private corporation for all services within one or more of the following program areas:

(A) Mental or emotional disturbances.

(B) Drug abuse.

(C) Alcohol abuse and alcoholism.

(f) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community mental health program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 may not be placed in effect without prior approval of the authority. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with mental or emotional disturbances or within the portion for persons with alcohol or drug dependence may be made without authority approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community mental health programs, including adopting rules defining the range and nature of the services which shall or may be provided under ORS 430.630.

(h) Collect data and evaluate services in the state hospitals in accordance with the same methods prescribed for community mental health programs under ORS 430.665.

(i) Develop guidelines that include, for the development of comprehensive local plans in consultation with local mental health authorities:

(A) The use of integrated services;

(B) The outcomes expected from services and programs provided;

(C) Incentives to reduce the use of state hospitals;

(D) Mechanisms for local sharing of risk for state hospitalization;

(E) The provision of clinically appropriate levels of care based on an assessment of the mental health needs of consumers;

(F) The transition of consumers between levels of care; and

(G) The development, maintenance and continuation of older adult mental health programs with mental health professionals trained in geriatrics.

(j) Work with local mental health authorities to provide incentives for community-based care whenever appropriate while simultaneously ensuring adequate statewide capacity.

(k) Provide technical assistance and information regarding state and federal requirements to local mental health authorities throughout the local planning process required under ORS 430.630 [*(10)*] **(9)**.

(L) Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

(m) Develop or adopt nationally recognized system-level performance measures, linked to the Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children, adults and older adults, including but not limited to quality and appropriateness of services, outcomes from services, structure and management of local plans, prevention of mental health disorders and integration of mental health services with other needed supports.

(n) Develop standardized criteria for each level of care described in ORS 430.630 [*(10)*] **(9)**, including protocols for implementation of local plans, strength-based mental health assessment and case planning.

(o) Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children, adults and older adults that is derived from the needs identified in local plans, is consistent with the vision, values and guiding principles in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the need for and the role of state hospitals.

(p) Report biennially to the Governor and the Legislative Assembly on the progress of the local planning process and the implementation of the local plans adopted under ORS 430.630 [*(10)(b)*] **(9)(b)** and the state planning process described in paragraph (o) of this subsection, and on the performance measures and performance data available under paragraph (m) of this subsection.

(q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate prevalence and demand for mental health services using the most current nationally recognized models and data.

(r) Encourage the development of regional local mental health authorities comprised of two or more boards of county commissioners that establish or operate a community mental health program.

(2) The Oregon Health Authority may provide technical assistance and other incentives to assist in the planning, development and implementation of regional local mental health authorities whenever the Oregon Health Authority determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 [*(10)*] **(9)**.

[*(3) The Department of Human Services in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:*]

[*(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community developmental disabilities programs operated or contracted for by one or more counties.*]

[*(b) If a county declines to operate or contract for a community developmental disabilities program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.*]

[*(c) In an emergency situation when no community developmental disabilities program is operating within a county, operate the program or service on a temporary basis.*]

[*(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community developmental disabilities program in the same manner in which the department contracts with a county court or board of county commissioners.*]

[*(e) If a county agrees, contract with a public agency or private corporation for all developmental disabilities services.*]

[*(f) Operate a program or contract with another entity to operate a program to provide mental retardation and other developmental disabilities services required by ORS 430.630 if a local mental health authority, as defined in ORS 430.630, declines to provide or contract for the provision of mental retardation and other developmental disabilities services.*]

[*(g) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community developmental disabilities program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 may not be placed in effect without prior approval of the department. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with developmental disabilities may be made without department approval.*]

[*(h) Make all necessary and proper rules to govern the establishment and operation of community developmental disabilities programs.*]

[*(4)*] **(3)** The enumeration of duties and functions in subsections (1) and (2) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in [*the department or*] the authority by other provisions of law.

SECTION 179. (1) The Department of Human Services, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community developmental disabilities programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community developmental disabilities program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community developmental disabilities program is operating within a county, operate the program or service on a temporary basis.

(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community developmental disabilities program in the same manner in which the department contracts with a county court or board of county commissioners.

(e) If a county agrees, contract with a public agency or private corporation for all developmental disabilities services.

(f) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community developmental disabilities program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under section 174 of this 2011 Act may not be placed in effect without prior approval of the department. However, an amendment or modification affecting 10 percent or less of state funds for services under section 174 of this 2011 Act within the portion of the program for persons with developmental disabilities may be made without department approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community developmental disabilities programs.

(2) The enumeration of duties and functions in subsection (1) of this section may not be deemed exclusive or construed as a limitation on the powers and authority vested in the department by other provisions of law.

SECTION 180. ORS 430.670 is amended to read:

430.670. (1) A community developmental disabilities program may provide services by contracting with a public agency, private corporation or individual. All elements of service provided for in the contract shall be considered as a part of a community developmental disabilities program for all purposes of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules adopted by the Department of Human Services.

(2) A community mental health program may provide services by contracting with a public agency, private corporation or individual. All elements of service provided for in the contract shall be considered as a part of a community mental health program for all purposes of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules adopted by the Oregon Health Authority.

(3) A private corporation that contracts with a county, the Department of Human Services or the Oregon Health Authority to operate a community mental health program or community developmental disabilities program shall provide an opportunity for competition among private care providers when awarding subcontracts for provision of services described in ORS 430.630 (1) to (3) **and section 174 of this 2011 Act**.

(4) In keeping with the principles of family support expressed in ORS 417.342 and notwithstanding subsection (3) of this section or ORS 291.047 (3), an entity operating a community mental health program or community developmental disabilities program may purchase services for an individual from a service provider without first providing an opportunity for competition among other service providers if the service provider is selected by the individual, the individual's family or the individual's guardian, as long as the service provider has been approved by the department or the authority to provide such service.

SECTION 181. ORS 430.672 is amended to read:

430.672. (1) Except for community mental health programs or community developmental disabilities programs operated by the county, a county may impose only standards, requirements and conditions for mental health or developmental disabilities programs that are substantially similar to the standards, requirements and conditions established for such programs by the Department of Human Services or the Oregon Health Authority.

(2) When a county contracts with a public agency or private corporation for a community mental health program or community developmental disabilities program, the county shall include in the contract only terms that are substantially similar to model contract terms developed by [*the department under ORS 430.640 (3)(h) or*] the authority under ORS 430.640 [*(1)(g)*] **or the department under section 179 of this 2011 Act**. The county may not add contractual requirements, including qualifications for contractor selection, that are nonessential to the services provided under ORS 430.630 **or section 174 of this 2011 Act**. The county may add contract requirements that the county considers necessary to ensure the siting and maintenance of facilities of the community mental health program or community developmental disabilities program.

(3) The provisions of subsections (1) and (2) of this section apply only insofar as funds are provided by the department to the county for community developmental disabilities programs or by the authority to the county for community mental health programs.

SECTION 182. ORS 430.695 is amended to read:

430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any source, except client resources applied toward the cost of care in group homes for persons with [*mental retardation*] **developmental disabilities** or mental illness and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health program **or a community developmental disabilities program** are not an offset to the costs of the services and may not be applied to reduce the program's eligibility for state funds, providing the funds are expended for mental health **or developmental disabilities** services approved by the Oregon Health Authority **or the Department of Human Services**.

(2) Within the limits of available funds, the authority **and the department** may contract for specialized, statewide and regional services including but not limited to group homes for persons with [*mental retardation*] **developmental disabilities** or mental or emotional disturbances, day and residential treatment programs for children and adolescents with mental or emotional disturbances and community services for clients of the Psychiatric Security Review Board.

(3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the Social Security Act by the Department of Human Services or the Oregon Health Authority, for mental health services or developmental disabilities services and interest earned on those fees and

reimbursements shall be retained by the community mental health program or community developmental disabilities program and expended for any service that meets the standards of ORS 430.630 **or section 174 of this 2011 Act**.

SECTION 183. ORS 431.195 is amended to read:

431.195. (1) There is established the Oregon Public Health Advisory Board to serve as an advisory body to the Oregon Health [*Policy Board*] **Authority**.

(2) The members of the [*Oregon Public Health Advisory*] board shall be residents of this state and shall be appointed by the Governor. The [*Oregon Public Health Advisory*] board shall consist of 15 members at least one-half of whom shall be public members broadly representing the state as a whole and the others to include representatives of local government and public and private health providers.

(3) The [*Oregon Public Health Advisory*] board shall:

(a) Advise the [*Oregon Health Policy Board*] **authority** on policy matters related to [*the operation of the Oregon Health Authority*] **public health programs**.

(b) Provide a review of statewide public health issues and make recommendations to the [*Oregon Health Policy Board*] **authority**.

(c) Participate in public health policy development.

(4) Members shall be appointed for four-year terms. No person shall serve more than two consecutive terms.

(5) The [*Oregon Public Health Advisory*] board shall meet at least quarterly.

(6) Members of the [*Oregon Public Health Advisory*] board shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) Vacancies on the [*Oregon Public Health Advisory*] board shall be filled by appointments of the Governor for the unexpired term.

SECTION 184. ORS 431.962 is amended to read:

431.962. (1)(a) The [*Department of Human Services*] **Oregon Health Authority**, in consultation with the Prescription Monitoring Program Advisory Commission, shall establish and maintain a prescription monitoring program for monitoring and reporting prescription drugs dispensed by pharmacies in Oregon that are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.

(b)(A) To fulfill the requirements of this subsection, the [*department*] **authority** shall establish, maintain and operate an electronic system to monitor and report drugs described in paragraph (a) of this subsection that are dispensed by prescription.

(B) The system must operate and be accessible by practitioners and pharmacies 24 hours a day, seven days a week.

(C) The [*department*] **authority** may contract with a state agency or private entity to ensure the effective operation of the electronic system.

(2) In consultation with the commission, the [*department*] **authority** shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including but not limited to standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.518 to 192.529;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability to provide electronic reports; and

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the system.

(3) The [*department*] **authority** shall submit an annual report to the commission regarding the prescription monitoring program established under this section.

SECTION 185. ORS 431.964 is amended to read:

431.964. (1) Not later than one week after dispensing a prescription drug subject to the prescription monitoring program established under ORS 431.962, a pharmacy shall electronically report to the [*Department of Human Services*] **Oregon Health Authority** the:

(a) Name, address and date of birth of the patient;

(b) Identification of the pharmacy dispensing the prescription drug;

(c) Identification of the practitioner who prescribed the drug;

(d) Identification of the prescription drug by a national drug code number;

(e) Date of origin of the prescription;

(f) Date the drug was dispensed; and

(g) Quantity of drug dispensed.

(2) Notwithstanding subsection (1) of this section, the [*department*] **authority** may not:

(a) Require the reporting of prescription drugs administered directly to a patient or dispensed pursuant to ORS 127.800 to 127.897; or

(b) Collect or use Social Security numbers in the prescription monitoring program.

(3) Upon receipt of the data reported pursuant to subsection (1) of this section, the [*department*] **authority** shall record the data in the electronic system operated pursuant to the prescription monitoring program.

(4)(a) The [*department*] **authority** may grant a pharmacy a waiver of the electronic submission requirement of subsection (1) of this section for good cause as determined by the [*department*] **authority**. The waiver shall state the format, method and frequency of the alternate nonelectronic submissions from the pharmacy and the duration of the waiver.

(b) As used in this subsection, "good cause" includes financial hardship.

(5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.

SECTION 186. ORS 431.966 is amended to read:

431.966. (1)(a) Except as provided under subsection (2) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program established in ORS 431.962:

(A) Is protected health information under ORS 192.518 to 192.529.

(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

(b) Except as provided under subsection (2)(a)(D) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) If a disclosure of prescription monitoring information complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.518 to 192.529, the [*Department of Human Services*] **Oregon Health Authority** shall disclose the information:

(A) To a practitioner or pharmacist who certifies that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To designated representatives of the [*department*] **authority** or any vendor or contractor with whom the [*department*] **authority** has contracted to establish or maintain the electronic system of the prescription monitoring program.

(C) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(D) To a health professional regulatory board that certifies in writing that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains.

(E) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the [*department*] **authority** to be equivalent to those of the [*department*] **authority**.

(b) The [*department*] **authority** may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes; and

(B) To officials of the [*department*] **authority** who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

(c) The [*department*] **authority** shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program established under ORS 431.962 to that patient at no cost to the patient within 10 business days after the [*department*] **authority** receives a request from the patient for the information.

(d)(A) A patient may request the [*department*] **authority** to correct any information about the patient that is erroneous. The [*department*] **authority** shall grant or deny a request to correct information within 10 business days after the [*department*] **authority** receives the request.

(B) If the [*department*] **authority** denies a patient's request to correct information under this paragraph, or fails to grant a patient's request to correct information under this paragraph within 10 business days after the [*department*] **authority** receives the request, the patient may appeal the denial or failure to grant the request. Upon receipt of an appeal under this subparagraph, the [*department*] **authority** shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case hearing, the [*department*] **authority** has the burden of establishing that the information included in the prescription monitoring program is correct.

(e) The information in the prescription monitoring program may not be used for any commercial purpose.

(f) In accordance with ORS 192.518 to 192.529 and federal privacy regulations, any person authorized to prescribe or dispense a prescription drug and who is entitled to access a patient's prescription monitoring information may discuss or release the information to other health care providers involved with the patient's care, in order to provide safe and appropriate care coordination.

(3)(a) The [*department*] **authority** shall maintain records of the information disclosed through the prescription monitoring program including, but not limited to:

(A) The identity of each person who requests or receives information from the program and the organization, if any, the person represents;

(B) The information released to each person or organization; and

(C) The date and time the information was requested and the date and time the information was provided.

(b) Records maintained as required by this subsection may be reviewed by the Prescription Monitoring Program Advisory Commission.

(4) Information in the prescription monitoring program that identifies an individual patient must be removed no later than three years from the date the information is entered into the program.

(5) The [*department*] **authority** shall notify the Attorney General and each affected individual of an improper disclosure of information from the prescription monitoring program.

(6)(a) If the [*department*] **authority** or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates **this**

section or ORS 431.964[*, 431.966*] or 431.968, a person injured by the violation may bring a civil action against the [*department*] **authority**, person or entity and may recover damages in the amount of $1,000 or actual damages, whichever is greater.

(b) Notwithstanding paragraph (a) of this subsection, the [*department*] **authority** and a person or entity required to report or authorized to receive or release controlled substance prescription information under this section are immune from civil liability for violations of **this section or** ORS 431.964[*, 431.966*] or 431.968 unless the [*department*] **authority**, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful intent.

(7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program.

SECTION 187. ORS 431.970 is amended to read:

431.970. [*The Department of Human Services shall report*] **If** a practitioner or pharmacist authorized to obtain controlled substance prescription information from the prescription monitoring system established under ORS 431.962 [*who*] discloses or uses information obtained from the system in violation of ORS 431.966**, the Oregon Health Authority shall report the individual** to the **appropriate** health professional regulatory board [*responsible for the practitioner or pharmacist*].

SECTION 188. ORS 431.974 is amended to read:

431.974. (1) The Electronic Prescription Monitoring Fund is established in the State Treasury, separate and distinct from the General Fund. The Electronic Prescription Monitoring Fund consists of moneys transmitted to the fund under ORS 431.972 and any other moneys deposited in accordance with law. Interest earned by the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the [*Department of Human Services*] **Oregon Health Authority** for the purpose of carrying out the provisions of ORS 431.962 to 431.978 and 431.992.

(2) The [*Department of Human Services*] **authority** may accept grants, donations, gifts or moneys from any source for deposit into the fund established by this section.

SECTION 189. ORS 431.976 is amended to read:

431.976. (1) The Prescription Monitoring Program Advisory Commission is created for the purposes of:

(a) Studying issues related to the prescription monitoring program established under ORS 431.962;

(b) Reviewing the program's annual report and making recommendations to the [*Department of Human Services*] **Oregon Health Authority** regarding the operation of the program; and

(c) Developing criteria [*that should be*] used to evaluate program data.

(2) The commission shall consist of 11 members appointed by the [*department*] **authority** as follows:

(a) A person nominated by the Pain Management Commission;

(b) A person who dispenses controlled substances nominated by an association representing pharmacists;

(c) A practicing dentist nominated by an association representing dentists;

(d) A practicing physician nominated by an association representing physicians;

(e) A practicing doctor of osteopathy nominated by an association representing osteopathic physicians and surgeons;

(f) A nurse authorized to prescribe controlled substances nominated by an association representing nurses;

(g) A practicing naturopathic physician nominated by an association representing naturopathic physicians;

(h) A practicing optometrist, nominated by an association representing optometrists;

(i) [*A person nominated by the department from a division of the department responsible for*] **A representative of the authority with expertise in** administering addiction services; and

(j) Two members of the public [*nominated by the department*], one of whom must be an expert in information technology.

SECTION 190. ORS 431.978 is amended to read:

431.978. (1) The term of office of each member of the Prescription Monitoring Program Advisory Commission is four years, but a member serves at the pleasure of the [*Department of Human Services*] **Oregon Health Authority**. Before the expiration of the term of a member, the [*department*] **authority** shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the [*department*] **authority** shall make an appointment to become immediately effective.

(2) The commission shall elect one of its members to serve as chairperson.

(3) The commission shall meet at least once annually at a time and place specified by the chairperson of the commission. The commission may meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(4) The commission may adopt rules necessary for the operation of the commission.

(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 [*department*] **authority** shall provide staff support to the commission.

(8) Members of the commission are not entitled to compensation, but may be reimbursed 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. Claims for expenses incurred in performing functions of the commission shall be paid out of funds appropriated to the [*department*] **authority** for that purpose.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the commission in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the commission consider necessary to perform their duties.

SECTION 191. ORS 432.500 is amended to read:

432.500. As used in ORS 432.510 to 432.550 and 432.900:

(1) "Clinical laboratory" means a facility where microbiological, serological, chemical, hematological, immunohematological, immunological, toxicological, cytogenetical, exfoliative cytological, histological, pathological or other examinations are performed on material derived from the human body, for the purpose of diagnosis, prevention of disease or treatment of patients by physicians, dentists and other persons who are authorized by license to diagnose or treat humans.

[*(2) "Department" means the Department of Human Services or its authorized representative.*]

[*(3)*] **(2)** "Health care facility" means a hospital, as defined in ORS 442.015, or an ambulatory surgical center, as defined in ORS 442.015.

[*(4)*] **(3)** "Practitioner" means any person whose professional license allows the person to diagnose or treat cancer in patients.

SECTION 192. ORS 433.055 is amended to read:

433.055. (1) The Oregon Health Authority shall conduct studies of the prevalence of the HIV infection in this state. Its findings shall be reported to the **Oregon** Public Health Advisory Board, the Conference of Local Health Officials, the Emergency Board and other interested bodies at regular intervals, commencing in January 1988. The authority may cause the prevalence study of persons sentenced to the Department of Corrections of this state, as defined in ORS 421.005, to be made.

(2) The authority shall contract with an appropriate education agency to prepare a curriculum regarding HIV infection, acquired immune deficiency syndrome (AIDS) and prevention of the spread of AIDS for all school districts and offer workshops to prepare teachers and parents to implement

the curriculum. The authority shall award incentive grants from funds available therefor to school districts to encourage use of the curriculum in the schools.

(3) Prior informed consent to HIV antibody testing need not be obtained from an individual if the test is for the purpose of research as authorized by the authority and if the testing is performed in a manner by which the identity of the test subject is not known, and may not be retrieved by the researcher.

SECTION 193. ORS 433.060 is amended to read:

433.060. As used in ORS 433.060 to 433.085 unless the context requires otherwise:

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

(2) "Health care facility" means a facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 [*and 430.397 to 430.401*] or [*ORS chapter*] 430.

(3) "Hepatitis test" means a test of an individual for the presence of hepatitis B or C or for any other substance specifically indicating the presence of hepatitis B or C.

(4) "HIV test" means a test of an individual for the presence of human immunodeficiency virus (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV.

(5) "Licensed health care provider" or "health care provider" means a person licensed or certified to provide health care under ORS chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, or under comparable statutes of any other state.

(6) "Local public health administrator" means the public health administrator of the county or district health department for the jurisdiction in which the reported substantial exposure occurred.

(7) "Local public health officer" means the health officer, as described in ORS 431.418, of the county or district health department for the jurisdiction in which the substantial exposure occurred.

(8) "Occupational exposure" means a substantial exposure of a worker in the course of the worker's occupation.

(9) "Source person" means a person who is the source of the blood or body fluid in the instance of a substantial exposure of another person.

(10) "Substantial exposure" means an exposure to blood or certain body fluids as defined by rule of the authority to have a potential for transmitting the human immunodeficiency virus based upon current scientific information.

(11) "Worker" means a person who is licensed or certified to provide health care under ORS chapters 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory, as defined in ORS 438.010, a firefighter, a law enforcement officer, as defined in ORS 414.805, a corrections officer or a parole and probation officer.

SECTION 194. ORS 433.095 is amended to read:

433.095. The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules requiring pharmacists to report information about the administration of vaccines to the immunization registry created under ORS 433.094.

SECTION 195. ORS 433.407 is amended to read:

433.407. As used in ORS 433.407 to 433.423 unless the context requires otherwise:

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

(2) "Health care facility" means a facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 [*and 430.397 to 430.401 or ORS chapter*] **or** 430.

(3) "Worker" means a person who is licensed or certified to provide health care under ORS chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory as defined in ORS 438.010, a firefighter, a law enforcement officer as defined in ORS 414.805, a corrections officer or a parole and probation officer.

SECTION 195a. ORS 441.021 is amended to read:

441.021. (1) In addition to an annual fee, the Oregon Health Authority may charge a hospital a fee for:

(a) Complaint investigation, in an amount not to exceed $850.

(b) Full compliance survey, in an amount not to exceed $7,520.

(c) On-site follow-up survey to verify compliance with a plan of correction, in an amount not to exceed $225.

(d) Off-site follow-up survey to verify compliance with a plan of correction, in an amount not to exceed $85.

(2) During one calendar year, the authority may charge to all hospitals a total amount not to exceed:

(a) $91,000 for complaint investigations.

(b) $15,000 for full compliance surveys.

(c) $6,700 for follow-up surveys.

(3)(a) The authority shall apportion the total amount charged under subsection (2) of this section among hospitals at the end of each calendar year based on the number of complaint investigations, full compliance surveys and follow-up surveys performed at each hospital during the calendar year.

(b) The authority may not include investigations of employee complaints in a hospital's total number of complaint investigations.

[*(c) A hospital that was licensed in 2008 may not be charged fees under this subsection for more complaint investigations than the number of complaint investigations that occurred at the hospital in 2008.*]

[*(d) A hospital that was not licensed in 2008 may be charged fees under this subsection for an unlimited number of complaint investigations.*]

(c) A hospital may not be charged fees in any calendar year under subsection (2) of this section for more complaint investigations than the greater of:

(A) The rolling average for the hospital for the previous three years; or

(B) Two complaint investigations for a small hospital and five complaint investigations for a large hospital.

(d) Notwithstanding paragraph (c) of this subsection, the authority may not charge a hospital for a number of complaint investigations that exceeds the number of complaint investigations actually conducted at the hospital during the calendar year.

(4) As used in this section, "full compliance survey" means a survey conducted by the authority following a complaint investigation to determine a hospital's compliance with the Centers for Medicare and Medicaid Services Conditions of Participation.

SECTION 196. ORS 441.096 is amended to read:

441.096. (1) A health care practitioner working at a health care facility and providing direct care to a patient shall wear an identification badge indicating the practitioner's name and professional title.

(2) A health care facility shall develop policies that specify the size and content of the identification badge required by subsection (1) of this section.

(3) As used in this section, "health care facility" means a health care facility as defined in ORS 442.015 or a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under [*ORS 430.397 to 430.401 or*] ORS chapter 426 or 430.

SECTION 197. ORS 442.011 is amended to read:

442.011. [*(1)*] There is created in the Oregon Health Authority the Office for Oregon Health Policy and Research. The Administrator of the Office for Oregon Health Policy and Research shall be appointed by the [*Governor and the appointment shall be subject to Senate confirmation in the manner prescribed in ORS 171.562 and 171.565*] **Director of the Oregon Health Authority**. The administrator shall be an individual with demonstrated proficiency in planning and managing programs with complex public policy and fiscal aspects such as those involved in the medical assistance program. [*Before making the appointment, the Governor must advise the President of the Senate and*

the Speaker of the House of Representatives of the names of at least three finalists and shall consider their recommendation in appointing the administrator.]

[*(2) In carrying out the responsibilities and duties of the administrator, the administrator shall consult with and be advised by the Oregon Health Policy Board.*]

SECTION 198. ORS 442.700 is amended to read:

442.700. As used in ORS 442.700 to 442.760:

(1) "Board of governors" means the governors of a cooperative program as described in ORS 442.720.

(2) "Cooperative program" means a program among two or more health care providers for the purpose of providing heart and kidney transplant services including, but not limited to, the sharing, allocation and referral of physicians, patients, personnel, instructional programs, support services, facilities, medical, diagnostic, laboratory or therapeutic services, equipment, devices or supplies, and other services traditionally offered by health care providers.

[*(3) "Director" means the Director of Human Services.*]

[*(4)*] **(3)** "Health care provider" means a hospital, physician or entity, a significant part of whose activities consist of providing hospital or physician services in this state. For purposes of the immunities provided by ORS 442.700 to 442.760 and 646.740, "health care provider" includes any officer, director, trustee, employee, or agent of, or any entity under common ownership and control with, a health care provider.

[*(5)*] **(4)** "Hospital" means a hospital, a long term care facility or an ambulatory surgical center, as those terms are defined in ORS 442.015, that is licensed under ORS 441.015 to 441.089. "Hospital" includes community health programs established under ORS 430.610 to 430.695.

[*(6)*] **(5)** "Order" means a decision issued by the Director **of the Oregon Health Authority** under ORS 442.710 either approving or denying an application for a cooperative program and includes modifications of an original order under ORS 442.730 (3)(b) and ORS 442.740 (1) and (4).

[*(7)*] **(6)** "Party to a cooperative program agreement" or "party" means an entity that enters into the principal agreement to establish a cooperative program and applies for approval under ORS 442.700 to 442.760 and 646.740 and any other entity that, with the approval of the director, becomes a member of a cooperative program.

[*(8)*] **(7)** "Physician" means a physician defined in ORS 677.010 (13) and licensed under ORS chapter 677.

SECTION 198a. ORS 443.410 is amended to read:

443.410. (1) A license issued by the Department of Human Services is required in order to operate or maintain a residential care facility, residential training facility or residential training home. [*In the case of a combination of residents, the category of licensure shall be determined by the Director of Human Services.*]

(2) A license issued by the Oregon Health Authority is required in order to operate or maintain a residential treatment facility or residential treatment home.

(3) A facility may not be subject to licensing by both the department and the authority under this section. If a facility could be licensed under either subsection (1) or (2) of this section, the Director of Human Services and the Director of the Oregon Health Authority shall determine the category of licensure that applies to the facility.

SECTION 199. ORS 443.450 is amended to read:

443.450. (1) For a residential care facility, residential training facility or residential training home, the Director of Human Services shall adopt rules governing:

(a) The physical properties of the facility or home;

(b) Storage, preparation and serving of food;

(c) Care or training to be provided;

(d) The number, experience and training of the staff; and

(e) Any other factors affecting the care or training provided.

(2) For a residential treatment facility or residential treatment home, the Director of the Oregon Health Authority shall adopt rules governing:

(a) The physical properties of the facility or home;

(b) Storage, preparation and serving of food;

(c) Treatment to be provided;

(d) The number, experience and training of the staff; and

(e) Any other factors affecting the treatment provided.

(3) Distinct rules shall be adopted for homes of five or fewer residents, for facilities of six or more but fewer than 16 residents, and for facilities for 16 or more residents. The rules shall differentiate among categories of residents.

(4) For purposes of this section, "categories" refers to different populations of residents, differentiated by, but not limited to, age and need, as defined by the Department of Human Services or the **Oregon Health** Authority by rule.

SECTION 200. ORS 443.465 is amended to read:

443.465. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules applicable to secure residential treatment homes and facilities as defined in ORS 443.400 that house persons who, as a condition of release under ORS 161.315 to 161.351, are required to live in a secure home or facility. The rules must:

(a) Provide minimum security, health and safety standards;

(b) Require the home or facility to have an emergency preparedness plan;

(c) Set minimum training standards for the staff of the home or facility; and

(d) Ensure compliance with any orders of the court or the **Psychiatric Security Review** Board.

(2) As used in this section, a residential treatment home or facility is "secure" if a resident exit from the home, facility or grounds of the home or facility is restricted through the use of locking devices on resident exit doors, gates or other closures.

SECTION 201. ORS 443.860 is amended to read:

443.860. (1) A person may not establish, conduct or maintain a hospice program providing hospice services, or hold itself out to the public as a hospice program, without obtaining a license from the [*Department of Human Services*] **Oregon Health Authority**.

(2) The [*department*] **authority**:

(a) Shall adopt rules to carry out the provisions of ORS 443.850 to 443.869, including but not limited to rules for licensure that require an on-site inspection of each licensed hospice program at least once every three years.

(b) May accept certification by a federal agency or accreditation by an accrediting organization approved by the [*department*] **authority** as evidence of compliance with the requirements for licensure adopted under paragraph (a) of this subsection if:

(A) The certification or accreditation meets standards and conditions established for hospice programs by the Centers for Medicare and Medicaid Services;

(B) The hospice program invites the [*department*] **authority** to participate in any exit interview conducted by the agency or organization; and

(C) The hospice program provides the [*department*] **authority** with copies of all documentation requested by the [*department*] **authority** concerning the certification or accreditation.

(3) The fee to obtain or renew a hospice program license is $750.

(4) The [*department*] **authority** shall prescribe by rule the form and manner for application for or renewal of a license. The [*department*] **authority** shall issue a license to an applicant that has the necessary qualifications, meets all requirements established by the [*department*] **authority** by rule and has paid the fee.

(5) A license issued under this section is valid for one year and is not transferable. A license may be renewed by payment of the fee and demonstration of compliance with requirements for renewal established by the [*department*] **authority** by rule.

SECTION 202. ORS 443.861 is amended to read:

443.861. All moneys received by the [*Department of Human Services*] **Oregon Health Authority** under ORS 443.860 shall be paid into the State Treasury and deposited to the credit of the Public

Health Account established in ORS 431.210. The moneys shall be used by the [*department*] **authority** in carrying out its duties under ORS 443.850 to 443.869.

SECTION 203. ORS 443.864 is amended to read:

443.864. The [*Department of Human Services*] **Oregon Health Authority** may suspend, revoke or refuse to renew the license of a hospice program for failure to comply with ORS 443.860 or with rules adopted pursuant to ORS 443.860.

SECTION 204. ORS 443.869 is amended to read:

443.869. In addition to any other liability or penalty provided by law, the Director of [*Human Services*] **the Oregon Health Authority** may impose a civil penalty of $1,000 per day, up to $10,000 in any 30-day period, for any of the following:

(1) Violation of any of the terms or conditions of a license issued under ORS 443.860 to a hospice program.

(2) Violation of any rule or general order of the [*Department of Human Services*] **Oregon Health Authority** that pertains to a hospice program.

(3) Violation of any final order of the director that pertains specifically to a hospice program owned or operated by the person incurring the penalty.

(4) Violation of ORS 443.860 or of rules adopted under ORS 443.860.

(5) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(6) All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

SECTION 205. ORS 448.465 is amended to read:

448.465. Any fees collected pursuant to the schedule adopted under ORS 448.450 shall be deposited in the General Fund of the State Treasury to the credit of the Oregon Health Authority. Such fees are continuously appropriated to the [*Department of Environmental Quality*] **authority** to pay the cost of administering the provisions of ORS 448.450 to 448.465, 448.992 and 448.994.

SECTION 205a. ORS 475.495 is amended to read:

475.495. (1) The Illegal Drug Cleanup Fund is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys shall be deposited into the State Treasury and credited to the Illegal Drug Cleanup Fund:

(a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

(b) Moneys received from a state agency, local government unit or any agency of a local government unit for cleanup of illegal drug manufacturing sites, including moneys received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365;

(c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites; and

(d) Any penalty, fine or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

(3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the manner provided by law. Interest earned by the fund shall be credited to the fund.

(4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Department of Environmental Quality to be used as provided for in subsection (5) of this section.

(5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

(a) Payment of the state's cleanup costs; and

(b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

(6) In addition to the purposes provided for in subsection (5) of this section, moneys in the Illegal Drug Cleanup Fund received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365 may be transferred to the [*Department of Human Services*] **Oregon Health Authority** to support the administration of the illegal drug manufacturing cleanup program provided for in ORS 453.855 to 453.912.

(7) The department may not expend more than $250,000 in each biennium of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions of ORS 131A.360. If at the end of a biennium more than $250,000 has been paid into the Illegal Drug

Cleanup Fund under the provisions of ORS 131A.360, the department shall refund to each political subdivision that made payments into the fund a pro rata share of the excess amount, based on the amount of forfeiture proceeds paid into the fund by the political subdivision.

SECTION 206. ORS 480.225 is amended to read:

480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

(a) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A person who has been so convicted is eligible under this subsection following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(b) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of, and is not under indictment for, any felony.

(c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this subsection.

(d) The person has not been determined to be mentally ill under ORS 426.130 [*and 430.397 to 430.401*] or mentally retarded under ORS 427.290. A person who previously has been so determined is eligible under this subsection if, at the time of application for such a certificate, the person produces a certified copy of a full discharge from the proper state hospital. The Oregon Health Authority shall provide the State Fire Marshal with direct electronic access to the authority's database of information identifying persons meeting the criteria of this section who were committed or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall enter into an agreement describing the access to information under this subsection.

(e) The person is at least 21 years of age.

(f) The person does not use a fictitious name or make a material misrepresentation in application for such a certificate.

(g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense involving a controlled substance as defined in ORS 475.005, other than the offense of driving under the influence of intoxicants.

(B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible under this section following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.

(h) The person has been discharged from the jurisdiction of the juvenile court for more than four years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470.

(i) The person is not the subject of a restraining order that alleges the person's possession of explosives presents a credible threat to another person.

(j) The person has passed an examination administered by the State Fire Marshal that assesses the person's knowledge of safety in the transportation and storage of explosives as required under federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall examine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire Marshal may by rule establish and collect an examination fee in an amount necessary to cover the cost of administering the examination.

(k) The person certifies on the application for a certificate of possession that all explosives in the person's possession will be used, stored and transported in accordance with federal, state and local requirements.

(L) The person certifies that all explosives will be possessed, used, stored and transported in accordance with federal, state and local requirements.

(2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has been expunged from a person's record under the laws of this state or equivalent laws of another jurisdiction.

SECTION 207. ORS 497.162 is amended to read:

497.162. (1) Upon application of the Oregon Youth Authority, the Oregon Health Authority or the Department of Human Services, the State Fish and Wildlife Commission shall issue, without fee, a license to angle for the temporary use of any person in a state institution as described in ORS 179.610, any student in a youth correction facility or related camps or programs operated by the Oregon Youth Authority, any child placed by the department and under the care of a foster home or a private nonprofit child-caring agency certified by the department, [*or*] any person in an alternative to state hospitalization program as described in ORS 430.630 (2)(b) or (c)**, or any person receiving services under section 174 of this 2011 Act**. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling, shall be used as the agency applying for the license directs.

(2) Upon application of the Department of Human Services, the commission shall issue, without fee, a license to take shellfish for the temporary use of any child placed by the department and under the care of a foster home or a private nonprofit child-caring agency certified by the department. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to taking shellfish, shall be used as the department directs.

(3) Upon application of the director of any veteran's administration hospital or domiciliary within this state, the commission shall issue, without fee, to each hospital or domiciliary 30 licenses to angle or to take shellfish for the temporary use of any person who is a patient or resident in the hospital or domiciliary. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling and to taking shellfish, shall be used as the director of the hospital or domiciliary provides.

SECTION 208. ORS 616.555 is amended to read:

616.555. As used in ORS 616.555 to 616.585:

(1) "Alcoholic beverage" has the meaning given that term in ORS 471.001.

(2)(a) "Chain restaurant" means a restaurant located in Oregon that:

(A) Is part of an affiliation of 15 or more restaurants within the United States;

(B) Sells standardized menu items that constitute 80 percent or more of the menu items served in the restaurant and at least 14 of the other affiliated restaurants; and

(C) Operates under a trade name or service mark, both as defined in ORS 647.005, that is identical or substantially similar to the trade names or service marks of the affiliated restaurants.

(b) "Chain restaurant" does not mean:

(A) A restaurant located inside a facility that is subject to State Department of Agriculture inspection under an interagency agreement described in ORS 624.530, unless the trade name or service mark for the restaurant differs from the trade name or service mark of the facility containing the restaurant;

(B) A cafeteria of a public or private educational institution;

(C) A health care facility as defined in ORS 442.015; or

(D) A motion picture theater.

(3) "Food product" means a discrete unit serving of a ready-to-eat food or beverage.

(4)(a) "Food tag" means an informational label placed near a menu item that is identified or indicated by the label.

(b) "Food tag" does not mean a menu or menu board.

(5) "Menu" means a pictorial or written description of menu items that does not have a fixed location and is not intended for joint viewing by multiple patrons.

(6)(a) "Menu board" means a pictorial display or written description of menu items that:

(A) Is located where the customer places an order for a menu item; and

(B) Is not a menu or a food tag.

(b) "Menu board" does not mean a pictorial display used solely for the purpose of marketing.

(7)(a) "Menu item" means a prepared food product or a group or combination of prepared food products that is offered on a menu, menu board or food tag as a distinct article for sale.

(b) "Menu item" does not mean the following:

(A) Condiments that are made available on tables or counters for general use without charge.

(B) Food products that are offered for sale less than 90 days during a calendar year.

(C) Alcoholic beverages, except as provided by rule by the [*Department of Human Services*] **Oregon Health Authority** as described in ORS 616.575.

(D) Food products in sealed manufacturer packaging.

(8) "Restaurant" has the meaning given that term in ORS 624.010.

SECTION 209. ORS 616.560 is amended to read:

616.560. (1) A chain restaurant shall determine typical values of the following for each menu item offered by the restaurant:

(a) Total calories.

(b) Total grams of saturated fat.

(c) Total grams of trans fat.

(d) Total grams of carbohydrates.

(e) Total milligrams of sodium.

(2) The typical values described in subsection (1) of this section must be based on calorie and nutrient databases, verifiable reference values, government standards, laboratory testing or other methods for determining nutritional values recognized by the [*Department of Human Services*] **Oregon Health Authority** by rule.

(3) The chain restaurant shall maintain a written list of the typical values described in subsection (1) of this section for all of the menu items of the restaurant and make copies of the list available for distribution to customers. The chain restaurant shall provide a copy of the list to a customer who is present in the restaurant and requests nutritional information regarding any menu item.

(4) A chain restaurant may not make available to customers any typical values determined under this section that are substantially inaccurate or that the restaurant knows or should know to be false or misleading.

SECTION 210. ORS 616.570 is amended to read:

616.570. (1) If a chain restaurant serves a menu item that is not a self-service item, the chain restaurant shall have a menu, menu board or food tag that:

(a) Discloses nutritional information for the menu item as required by this section; and

(b) Is readily visible for customer use at the location where the customer places the order for the menu item.

(2)(a) If a chain restaurant offers a menu item for self-service, the chain restaurant shall have a menu board or food tag, for each area of the restaurant in which the item is displayed, that:

(A) Discloses nutritional information for the menu item as required by this section; and

(B) Is readily visible in the area where the menu item is displayed.

(b) If a chain restaurant offers a menu item for self-service that the restaurant also offers on a basis that is not self-service, the restaurant shall ensure that the area where the item is offered on a basis that is not self-service complies with subsection (1) of this section.

(3) If a chain restaurant uses a menu or menu board, the menu or menu board must include the following:

(a) A statement of the total calories for each of the menu items listed on that menu or menu board. The total calorie statement must be in a conspicuous place near the other menu or menu board information for that menu item. If the menu or menu board lists prices, the total calorie statement must be of a size and typeface no less prominent than the size and typeface used to display the price of the menu item. If the menu or menu board does not list prices, the total calorie statement must be of a size and typeface no less prominent than the size and typeface used to display the least prominent of any other information stated on the menu or menu board.

(b) In a conspicuous place, a statement listing the daily intake amounts of calories, saturated fat and sodium recommended by the [*Department of Human Services*] **Oregon Health Authority**.

(c) In a conspicuous place, a statement that additional nutritional information is available upon request.

(4) If a chain restaurant uses food tags, the restaurant shall display the following:

(a) A statement of the total calories for the menu item in a conspicuous place on the tag. If the food tag states the price of the menu item, the total calorie statement must be of a size and typeface no less prominent than the size and typeface used to display the price of the menu item. If the food tag does not state the price, the total calorie statement must be of a size and typeface no less prominent than the size and typeface used to display the least prominent of any other information stated on the tag.

(b) In a conspicuous place, a statement listing the daily intake amounts of calories, saturated fat and sodium recommended by the [*Department of Human Services*] **authority**.

(c) In a conspicuous place, a statement that additional nutritional information is available upon request.

(5) A chain restaurant may post disclaimers stating that the actual nutritional value of menu items may vary from the stated total calories or other nutritional information due to variations in preparation, size or ingredients or for custom orders.

(6) A chain restaurant may supplement the nutritional information disclosures required by this section and ORS 616.560 and 616.565 with additional consumer information.

SECTION 211. ORS 616.575 is amended to read:

616.575. (1) The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules the [*department*] **authority** considers reasonable for the administration and enforcement of ORS 616.555 to 616.580. The rules adopted by the [*department*] **authority** must include, but need not be limited to, rules for the rounding of stated values and the establishment of specifications for total calorie statements and other required statements. In adopting rules under this section, the [*department*] **authority** shall:

(a) To the extent the [*department*] **authority** considers practicable, follow any relevant United States Food and Drug Administration practices, standards and rules for nutritional labeling; and

(b) Seek input from representatives of chain restaurants.

(2) The [*department*] **authority** shall adopt rules establishing conditions under which a menu board serving the drive-through area of a chain restaurant may qualify for a full or partial exception from ORS 616.565 and 616.570. The rules shall make an exception available only if compliance with ORS 616.565 or 616.570 would require the violation of local land use laws or sign ordinances, or is impracticable due to site-specific conditions. As used in this subsection, "drive-through area" means an area where customers place orders for and receive menu items while occupying motor vehicles.

(3)(a) Notwithstanding subsection (1) of this section, the following are the typical values for alcoholic beverages:

(A) For wine, 122 calories, 4 grams of carbohydrate and 7 milligrams of sodium for a five-ounce serving;

(B) For beer other than light beer, 153 calories, 13 grams of carbohydrate and 14 milligrams of sodium for a 12-ounce serving;

(C) For light beer, 103 calories, 6 grams of carbohydrate and 14 milligrams of sodium for a 12-ounce serving; and

(D) For distilled spirits, 96 calories for a 1.5-ounce serving.

(b) A chain restaurant shall use the typical values described in paragraph (a) of this subsection when calculating the total calories for a menu item that includes one or more alcoholic beverages.

(c) The [*department*] **authority**:

(A) May adopt rules to require total calorie disclosures for an alcoholic beverage or a menu item that contains an alcoholic beverage, only if the alcoholic beverage or menu item is offered by a chain restaurant for 90 or more days during a calendar year; and

(B) May adopt rules that exempt containers or dispensers of alcoholic beverages from the use of food tags to state standard calorie values.

SECTION 212. ORS 616.580 is amended to read:

616.580. (1) The [*Department of Human Services*] **Oregon Health Authority** may inspect chain restaurants for compliance with ORS 616.560, 616.565 and 616.570 and [*department*] **authority** rules

adopted under ORS 616.575. The person operating the chain restaurant shall, upon request of the [*department*] **authority**, permit access to all parts of the restaurant and any records in the possession of the restaurant regarding nutritional values or menu items and provide menu item samples for nutritional value testing by the [*department*] **authority**.

(2) If a chain restaurant violates a provision of ORS 616.560, 616.565 or 616.570 or a rule adopted under ORS 616.575, the [*department*] **authority** shall provide the restaurant with written notice informing the restaurant of the violation and stating that the restaurant may avoid a civil penalty for the violation by curing the violation within 60 days. If the chain restaurant fails to cure the violation within 60 days, the [*department*] **authority** may impose a civil penalty of not less than $250 and not more than $1,000 for the violation. For a continuing violation, each 30-day period that the violation continues after the preceding imposition of a civil penalty is a separate offense subject to a separate civil penalty. The [*department*] **authority** is not required to provide the chain restaurant with an opportunity to cure the continuing violation before imposing a civil penalty for the continuing violation.

SECTION 213. ORS 676.150 is amended to read:

676.150. (1) As used in this section:

(a) "Board" means the:

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

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

(F) Board of Examiners of Licensed Dietitians;

(G) State Board of Massage Therapists;

(H) Oregon Board of Naturopathic Medicine;

(I) Oregon State Board of Nursing;

(J) Nursing Home Administrators Board;

(K) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(M) Oregon Medical Board;

(N) Occupational Therapy Licensing Board;

(O) Physical Therapist Licensing Board;

(P) State Board of Psychologist Examiners;

(Q) Board of [*Radiologic Technology*] **Medical Imaging**;

(R) State Board of Direct Entry Midwifery;

(S) State Board of Denture Technology;

(T) Respiratory Therapist Licensing Board;

(U) [*Department of Human Services*] **Oregon Health Authority**, to the extent that the [*department*] **authority** certifies emergency medical technicians;

(V) Oregon State Veterinary Medical Examining Board; or

(W) State Mortuary and Cemetery Board.

(b) "Licensee" means a health professional licensed or certified by or registered with a board.

(c) "Prohibited conduct" means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the

conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

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

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

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

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

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

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

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

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

SECTION 214. ORS 676.306 is amended to read:

676.306. (1) As used in this section, "health professional regulatory board" means a health professional regulatory board described in ORS 676.160 other than the [*Department of Human Services*] **Oregon Health Authority** with regard to the certification of emergency medical technicians.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review.

SECTION 215. ORS 676.350 is amended to read:

676.350. (1) As used in this section:

(a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs for the treatment of a sexually transmitted disease to the partner of a patient without first examining the partner of the patient.

(b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted disease identifies as a sexual partner of the patient.

(c) "Practitioner" has the meaning given that term in ORS 475.005.

(2) A health professional regulatory board, as defined in ORS 676.160, may adopt rules permitting practitioners to practice expedited partner therapy. If a board adopts rules permitting practitioners to practice expedited partner therapy, the board shall consult with the [*Department of Human Services*] **Oregon Health Authority** to determine which sexually transmitted diseases are appropriately addressed with expedited partner therapy.

(3) A prescription issued in the practice of expedited partner therapy authorized by the rules of a board is valid even if the name of the patient for whom the prescription is intended is not on the prescription.

(4) The [*department*] **authority** shall make available informational material about expedited partner therapy that a practitioner may distribute to patients.

SECTION 216. ORS 682.218 is amended to read:

682.218. The [*Department of Human Services*] **Oregon Health Authority** shall adopt rules to allow an applicant for certification by indorsement as an emergency medical technician, as defined in ORS 682.025, to substitute experience and certification by a national registry of emergency medical technicians for education requirements imposed by the [*department*] **authority**.

SECTION 217. ORS 708A.430 is amended to read:

708A.430. (1) On the death of a depositor of a financial institution, if the deposit is $25,000 or less, the financial institution may, upon receipt of an affidavit from the person claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit to the credit of the deceased depositor:

(a) To the surviving spouse on demand of the surviving spouse at any time after the death of the depositor;

(b) If there is no surviving spouse, to the Oregon Health Authority **or the Department of Human Services**, on demand of the authority **or the department** no less than 46 days and no more than 75 days from the death of the depositor when there is a preferred claim arising under ORS **411.708, 411.795 or** 416.350;

[*(c) If there is no surviving spouse or authority claim, to the Department of Human Services, on demand of the department no less than 46 days and no more than 75 days from the death of the depositor when there is a preferred claim arising under ORS 411.708 or 411.795;*]

[*(d)*] **(c)** If there is no surviving spouse and no authority or department claim, to the depositor's surviving children 18 years of age or older;

[*(e)*] **(d)** If there is no surviving spouse, authority claim, department claim or surviving child 18 years of age or older, to the depositor's surviving parents; or

[*(f)*] **(e)** If there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older or surviving parent, to the depositor's surviving brothers and sisters 18 years of age or older.

(2) The affidavit shall:

(a) State where and when the depositor died;

(b) State that the total deposits of the deceased depositor in all financial institutions in Oregon do not exceed $25,000;

(c) Show the relationship of the affiant to the deceased depositor; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased depositor out of the deposit to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who are entitled to those moneys by law.

(3) In the event the depositor died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the moneys as escheat property.

(4) The financial institution shall determine the relationship of the affiant to the deceased depositor. However, payment of the moneys in good faith to the affiant discharges and releases the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the deceased depositor.

(5) A probate proceeding is not necessary to establish the right of the surviving spouse, authority, department, surviving child, surviving parent, surviving brothers and sisters or an estate administrator of the Department of State Lands to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

(6) When a financial institution transfers moneys under subsection (1) of this section, the transferor may require the transferee to furnish the transferor a written indemnity agreement, indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

(7) This section is subject to the rights of other parties in the account under ORS 708A.455 to 708A.515.

SECTION 218. ORS 723.466 is amended to read:

723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the deceased member is $25,000 or less, the credit union may, upon receipt of an affidavit from the person claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit:

(a) To the surviving spouse on demand of the surviving spouse at any time after the death of the member;

(b) If there is no surviving spouse, to the Oregon Health Authority **or the Department of Human Services**, on demand of the authority **or the department** no less than 46 days and no more than 75 days from the death of the member when there is a preferred claim arising under ORS **411.708, 411.795 or** 416.350;

[*(c) If there is no surviving spouse or authority claim, to the Department of Human Services, on demand of the department no less than 46 days and no more than 75 days from the death of the member when there is a preferred claim arising under ORS 411.708 or 411.795;*]

[*(d)*] **(c)** If there is no surviving spouse and no authority or department claim, to the member's surviving children 18 years of age or older;

[*(e)*] **(d)** If there is no surviving spouse, authority claim, department claim or surviving child 18 years of age or older, to the member's surviving parents; or

[*(f)*] **(e)** If there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older or surviving parent, to the member's surviving brothers and sisters 18 years of age or older.

(2) The affidavit shall:

(a) State where and when the member died;

(b) State that the total deposits of the deceased member in all financial institutions in this state do not exceed $25,000;

(c) Show the relationship of the affiant to the deceased member; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased member out of the deposit, to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who are entitled to those moneys by law.

(3) In the event the member died intestate without known heirs, an estate administrator of the Department of State Lands appointed under ORS 113.235 shall be the affiant and shall receive the moneys as escheat property.

(4) The credit union shall determine the relationship of the affiant to the deceased member. However, payment of the moneys in good faith to the affiant discharges and releases the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the deceased member.

(5) A probate proceeding is not necessary to establish the right of the surviving spouse, authority, Department of Human Services, surviving children, surviving parents, surviving brothers and sisters or an estate administrator of the Department of State Lands to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

(6) When a credit union transfers moneys under subsection (1) of this section, the transferor may require the transferee to furnish the transferor with a written indemnity agreement, indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

(7) This section is subject to the rights of other parties to the account under ORS 723.474 to 723.498.

SECTION 219. ORS 743.730 is amended to read:

743.730. For purposes of ORS 743.730 to 743.773:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Director of the Department of Consumer and Business Services that a carrier is in compliance with the provisions of ORS 743.736, 743.760 or 743.761, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the carrier in establishing premium rates for small employer and portability health benefit plans.

(2) "Affiliate" of, or person "affiliated" with, a specified person means any carrier who, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a specified person. For purposes of this definition, "control" has the meaning given that term in ORS 732.548.

(3) "Affiliation period" means, under the terms of a group health benefit plan issued by a health care service contractor, a period:

(a) That is applied uniformly and without regard to any health status related factors to an enrollee or late enrollee in lieu of a preexisting conditions provision;

(b) That must expire before any coverage becomes effective under the plan for the enrollee or late enrollee;

(c) During which no premium shall be charged to the enrollee or late enrollee; and

(d) That begins on the enrollee's or late enrollee's first date of eligibility for coverage and runs concurrently with any eligibility waiting period under the plan.

(4) "Basic health benefit plan" means a health benefit plan for small employers that is required to be offered by all small employer carriers and approved by the Director of the Department of Consumer and Business Services in accordance with ORS 743.736.

(5) "Bona fide association" means an association that meets the requirements of 42 U.S.C. 300gg-11 as amended and in effect on July 1, 1997.

(6) "Carrier" means any person who provides health benefit plans in this state, including a licensed insurance company, a health care service contractor, a health maintenance organization, an association or group of employers that provides benefits by means of a multiple employer welfare arrangement or any other person or corporation responsible for the payment of benefits or provision of services.

(7) "Committee" means the Health Insurance Reform Advisory Committee created under ORS 743.745.

(8) "Creditable coverage" means prior health care coverage as defined in 42 U.S.C. 300gg as amended and in effect on July 1, 1997, and includes coverage remaining in force at the time the enrollee obtains new coverage.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefit plan covering the employee.

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12) "Eligible employee" means an employee of a small employer who works on a regularly scheduled basis, with a normal work week of 17.5 or more hours. The employer may determine hours worked for eligibility between 17.5 and 40 hours per week subject to rules of the carrier. "Eligible employee" does not include employees who work on a temporary, seasonal or substitute basis. Employees who have been employed by the small employer for fewer than 90 days are not eligible employees unless the small employer so allows.

(13) "Employee" means any individual employed by an employer.

(14) "Enrollee" means an employee, dependent of the employee or an individual otherwise eligible for a group, individual or portability health benefit plan who has enrolled for coverage under the terms of the plan.

(15) "Exclusion period" means a period during which specified treatments or services are excluded from coverage.

(16) "Financially impaired" means a member that is not insolvent and is:

(a) Considered by the Director of the Department of Consumer and Business Services to be potentially unable to fulfill its contractual obligations; or

(b) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(17)(a) "Geographic average rate" means the arithmetical average of the lowest premium and the corresponding highest premium to be charged by a carrier in a geographic area established by the director for the carrier's:

(A) Small employer group health benefit plans;

(B) Individual health benefit plans; or

(C) Portability health benefit plans.

(b) "Geographic average rate" does not include premium differences that are due to differences in benefit design or family composition.

(18) "Group eligibility waiting period" means, with respect to a group health benefit plan, the period of employment or membership with the group that a prospective enrollee must complete before plan coverage begins.

(19)(a) "Health benefit plan" means any hospital expense, medical expense or hospital or medical expense policy or certificate, health care service contractor or health maintenance organization subscriber contract, any plan provided by a multiple employer welfare arrangement or by another benefit arrangement defined in the federal Employee Retirement Income Security Act of 1974, as amended.

(b) "Health benefit plan" does not include coverage for accident only, specific disease or condition only, credit, disability income, coverage of Medicare services pursuant to contracts with the federal government, Medicare supplement insurance policies, coverage of CHAMPUS services pursuant to contracts with the federal government, benefits delivered through a flexible spending arrangement established pursuant to section 125 of the Internal Revenue Code of 1986, as amended, when the benefits are provided in addition to a group health benefit plan, long term care insurance, hospital indemnity only, short term health insurance policies (the duration of which does not exceed six months including renewals), student accident and health insurance policies, dental only, vision only, a policy of stop-loss coverage that meets the requirements of ORS 742.065, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(c) Nothing in this subsection shall be construed to regulate any employee welfare benefit plan that is exempt from state regulation because of the federal Employee Retirement Income Security Act of 1974, as amended.

(20) "Health statement" means any information that is intended to inform the carrier or insurance producer of the health status of an enrollee or prospective enrollee in a health benefit plan. "Health statement" includes the standard health statement developed by the Health Insurance Reform Advisory Committee.

(21) "Implementation of chapter 836, Oregon Laws 1989" means that the [*Health Services Commission*] **Health Evidence Review Commission or its predecessor** has prepared a priority list, the Legislative Assembly has enacted funding of the list and all necessary federal approval, including waivers, has been obtained.

(22) "Individual coverage waiting period" means a period in an individual health benefit plan during which no premiums may be collected and health benefit plan coverage issued is not effective.

(23) "Initial enrollment period" means a period of at least 30 days following commencement of the first eligibility period for an individual.

(24) "Late enrollee" means an individual who enrolls in a group health benefit plan subsequent to the initial enrollment period during which the individual was eligible for coverage but declined to enroll. However, an eligible individual shall not be considered a late enrollee if:

(a) The individual qualifies for a special enrollment period in accordance with 42 U.S.C. 300gg as amended and in effect on July 1, 1997;

(b) The individual applies for coverage during an open enrollment period;

(c) A court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order;

(d) The individual is employed by an employer who offers multiple health benefit plans and the individual elects a different health benefit plan during an open enrollment period; or

(e) The individual's coverage under Medicaid, Medicare, CHAMPUS, Indian Health Service or a publicly sponsored or subsidized health plan, including but not limited to the medical assistance program under ORS chapter 414, has been involuntarily terminated within 63 days of applying for coverage in a group health benefit plan.

(25) "Multiple employer welfare arrangement" means a multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1002, that is subject to ORS 750.301 to 750.341.

(26) "Oregon Medical Insurance Pool" means the pool created under ORS 735.610.

(27) "Preexisting conditions provision" means a health benefit plan provision applicable to an enrollee or late enrollee that excludes coverage for services, charges or expenses incurred during a specified period immediately following enrollment for a condition for which medical advice, diagnosis, care or treatment was recommended or received during a specified period immediately preceding enrollment. For purposes of ORS 743.730 to 743.773:

(a) Pregnancy does not constitute a preexisting condition except as provided in ORS 743.766;

(b) Genetic information does not constitute a preexisting condition in the absence of a diagnosis of the condition related to such information; and

(c) A preexisting conditions provision shall not be applied to a newborn child or adopted child who obtains coverage in accordance with ORS 743A.090.

(28) "Premium" includes insurance premiums or other fees charged for a health benefit plan, including the costs of benefits paid or reimbursements made to or on behalf of enrollees covered by the plan.

(29) "Rating period" means the 12-month calendar period for which premium rates established by a carrier are in effect, as determined by the carrier.

(30)(a) "Small employer" means an employer that employed an average of at least two but not more than 50 employees on business days during the preceding calendar year, the majority of whom are employed within this state, and that employs at least two eligible employees on the date on which coverage takes effect under a health benefit plan issued by a small employer carrier.

(b) Any person that is treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as one employer for purposes of this subsection.

(c) The determination of whether an employer that was not in existence throughout the preceding calendar year is a small employer shall be based on the average number of employees that it is reasonably expected the employer will employ on business days in the current calendar year.

(31) "Small employer carrier" means any carrier that offers health benefit plans covering eligible employees of one or more small employers. A fully insured multiple employer welfare arrangement otherwise exempt under ORS 750.303 (4) may elect to be a small employer carrier governed by the provisions of ORS 743.733 to 743.737.

SECTION 220. ORS 743.736 is amended to read:

743.736. (1) In order to improve the availability and affordability of health benefit coverage for small employers, the Health Insurance Reform Advisory Committee created under ORS 743.745 shall submit to the Director of the Department of Consumer and Business Services two basic health benefit plans pursuant to ORS 743.745. One plan shall be in the form of insurance and the second plan shall be consistent with the requirements of the federal Health Maintenance Organization Act, 42 U.S.C. 300e et seq.

(2)(a) The director shall approve the basic health benefit plans following a determination that the plans provide for maximum accessibility and affordability of needed health care services and following a determination that the basic health benefit plans substantially meet the social values that underlie the ranking of benefits by the [*Health Services Commission*] **Health Evidence Review Commission or its predecessor** and that the basic health benefit plans are substantially similar to the Medicaid reform program under chapter 836, Oregon Laws 1989, funded by the Legislative Assembly.

(b) The basic health benefit plans shall include benefits mandated under ORS 743A.168 [*until mental health, alcohol and chemical dependency services are fully integrated into the Health Services Commission's priority list, and as funded by the Legislative Assembly, and chapter 836, Oregon Laws 1989, is implemented*].

(c) The commission shall aid the director by reviewing the basic health benefit plans and commenting on the extent to which the plans meet these criteria.

(3) After the director's approval of the basic health benefit plans submitted by the committee pursuant to subsection (1) of this section, each small employer carrier shall submit to the director the policy form or forms containing its basic health benefit plan. Each policy form must be submitted as prescribed by the director and is subject to review and approval pursuant to ORS 742.003.

(4)(a) As a condition of transacting business in the small employer health insurance market in this state, every small employer carrier shall offer small employers an approved basic health benefit plan and any other plans that have been submitted by the small employer carrier for use in the small employer market and approved by the director.

(b) Nothing in this subsection shall require a small employer carrier to resubmit small employer health benefit plans that were approved by the director prior to October 1, 1996, nor shall small employer carriers be required to reinitiate new plan selection procedures for currently enrolled small employers prior to the small employer's next health benefit plan coverage anniversary date.

(c) A carrier that offers a health benefit plan in the small employer market only through one or more bona fide associations is not required to offer that health benefit plan to small employers that are not members of the bona fide association.

(5) A small employer carrier shall issue to a small employer any small employer health benefit plan offered by the carrier if the small employer applies for the plan and agrees to make the required premium payments and to satisfy the other provisions of the health benefit plan.

(6) A multiple employer welfare arrangement, professional or trade association or other similar arrangement established or maintained to provide benefits to a particular trade, business, profession or industry or their subsidiaries shall not issue coverage to a group or individual that is not in the same trade, business, profession or industry as that covered by the arrangement. The arrangement

shall accept all groups and individuals in the same trade, business, profession or industry or their subsidiaries that apply for coverage under the arrangement and that meet the requirements for membership in the arrangement. For purposes of this subsection, the requirements for membership in an arrangement shall not include any requirements that relate to the actual or expected health status of the prospective enrollee.

(7) A small employer carrier shall, pursuant to subsections (4) and (5) of this section, offer coverage to or accept applications from a group covered under an existing small employer health benefit plan whether or not a prospective enrollee is excluded from coverage under the existing plan because of late enrollment. When a small employer carrier accepts an application for such a group, the carrier may continue to exclude the prospective enrollee excluded from coverage by the replaced plan until the prospective enrollee would have become eligible for coverage under that replaced plan.

(8) No small employer carrier shall be required to offer coverage or accept applications pursuant to subsections (4) and (5) of this section if the director finds that acceptance of an application or applications would endanger the carrier's ability to fulfill its contractual obligations or result in financial impairment of the carrier.

(9) Every small employer carrier shall market fairly all small employer health benefit plans offered by the carrier to small employers in the geographical areas in which the carrier makes coverage available or provides benefits.

(10)(a) No small employer carrier shall be required to offer coverage or accept applications pursuant to subsections (4) and (5) of this section in the case of any of the following:

(A) To a small employer if the small employer is not physically located in the carrier's approved service area;

(B) To an employee if the employee does not work or reside within the carrier's approved service areas; or

(C) Within an area where the carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity in its network of providers to deliver services adequately to the enrollees of those groups because of its obligations to existing group contract holders and enrollees.

(b) A carrier that does not offer coverage pursuant to paragraph (a)(C) of this subsection shall not offer coverage in the applicable service area to new employer groups other than small employers until the carrier resumes enrolling groups of new small employers in the applicable area.

(11) For purposes of ORS 743.733 to 743.737, except as provided in this subsection, carriers that are affiliated carriers or that are eligible to file a consolidated tax return pursuant to ORS 317.715 shall be treated as one carrier and any restrictions or limitations imposed by ORS 743.733 to 743.737 apply as if all health benefit plans delivered or issued for delivery to small employers in this state by the affiliated carriers were issued by one carrier. However, any insurance company or health maintenance organization that is an affiliate of a health care service contractor located in this state, or any health maintenance organization located in this state that is an affiliate of an insurance company or health care service contractor, may treat the health maintenance organization as a separate carrier and each health maintenance organization that operates only one health maintenance organization in a service area in this state may be considered a separate carrier.

(12) A small employer carrier that, after September 29, 1991, elects to discontinue offering all of its small employer health benefit plans under ORS 743.737 (5)(e), elects to discontinue renewing all such plans or elects to discontinue offering and renewing all such plans is prohibited from offering health benefit plans in the small employer market in this state for a period of five years from one of the following dates:

(a) The date of notice to the director pursuant to ORS 743.737 (5)(e); or

(b) If notice is not provided under paragraph (a) of this subsection, from the date on which the director provides notice to the carrier that the director has determined that the carrier has effectively discontinued offering small employer health benefit plans in this state.

SECTION 221. ORS 743A.010 is amended to read:

743A.010. No policy of health insurance shall exclude from payment or reimbursement losses incurred by an insured for any covered service because the service was rendered at any hospital owned or operated by the State of Oregon or any state approved community mental health [*and*] **program or community** developmental disabilities program.

SECTION 222. ORS 743A.062 is amended to read:

743A.062. (1) No insurance policy or contract providing coverage for a prescription drug to a resident of this state shall exclude coverage of that drug for a particular indication solely on the grounds that the indication has not been approved by the United States Food and Drug Administration if the Health [*Resources Commission*] **Evidence Review Commission established under section 22 of this 2011 Act or the Pharmacy and Therapeutics Committee established under section 2 of this 2011 Act** determines that the drug is recognized as effective for the treatment of that indication:

(a) In publications that the commission **or the committee** determines to be equivalent to:

(A) The American Hospital Formulary [*Services*] **Service** drug information;

(B) "Drug Facts and Comparisons" (Lippincott-Raven Publishers);

(C) The United States Pharmacopoeia drug information; or

(D) Other publications that have been identified by the United States Secretary of Health and Human Services as authoritative;

(b) In the majority of relevant peer-reviewed medical literature; or

(c) By the United States Secretary of Health and Human Services.

(2) Required coverage of a prescription drug under this section shall include coverage for medically necessary services associated with the administration of that drug.

(3) Nothing in this section requires coverage for any prescription drug if the United States Food and Drug Administration has determined use of the drug to be contraindicated.

(4) Nothing in this section requires coverage for experimental drugs not approved for any indication by the United States Food and Drug Administration.

(5) This section is exempt from ORS 743A.001.

SECTION 223. Section 1, chapter 426, Oregon Laws 2009, is amended to read:

Sec. 1. (1) The [*Department of Human Services*] **Oregon Health Authority** shall develop and implement a plan to increase, in underserved regions of the state, the availability of supervision and treatment for persons conditionally released under ORS 161.315 to 161.351 or 419C.529 to 419C.544.

(2) No later than January 15 of each odd-numbered year, the [*department*] **authority** shall submit, to an appropriate committee of the Legislative Assembly designated by the Speaker of the House of Representatives and the President of the Senate, a report that includes but need not be limited to:

(a) The contents of the plan described in subsection (1) of this section;

(b) An assessment of the [*department's*] **authority's** progress in meeting the goals of the plan; and

(c) A description of any financial or legal impediments to the implementation of the plan.

(3) The Psychiatric Security Review Board shall provide the [*department*] **authority** with information necessary for the [*department*] **authority** to develop and implement the plan described in subsection (1) of this section.

(4) As used in this section:

(a) "Region" means an area, determined by the [*department*] **authority**, that contains one or more counties.

(b) "Underserved" means that the number of persons on conditional release who are provided treatment and supervision in the region is fewer than the number of persons on conditional release statewide who were found guilty except for insanity or responsible except for insanity in the region.

SECTION 224. Section 20, chapter 595, Oregon Laws 2009, is amended to read:

Sec. 20. On or before January 2, [*2012*] **2014**, the Department of Human Services and the Oregon Health Authority may delegate to each other any duties, functions or powers transferred by section

19**, chapter 595, Oregon Laws 2009,** [*of this 2009 Act*] that the department or the authority [*deem*] **deems** necessary for the efficient and effective operation of their respective functions.

SECTION 225. Section 29, chapter 856, Oregon Laws 2009, is amended to read:

Sec. 29. Notwithstanding any other law appropriating moneys or limiting expenditures, in carrying out sections 1 to 3 [*of this 2009 Act the Department of Human Services*]**, chapter 856, Oregon Laws 2009, the Oregon Health Authority** may use only funds provided by the United States Bureau of Justice Assistance through the American Recovery and Reinvestment Act of 2009 Edward Byrne Memorial Justice Assistance Grant Program.

MISCELLANEOUS PROVISIONS

SECTION 226. 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 for by a county under ORS 426.241;

(3) Emergency care, custody or treatment provided to a person admitted to or detained in a state mental hospital 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, 430.850 to 430.880, 813.500 and 813.510.

SECTION 227. Notwithstanding any other provision of law, ORS 411.459 shall not be considered to have been added to or made a part of ORS chapter 411 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.

SECTION 228. ORS 409.310, 409.330, 410.110, 414.338, 414.350, 414.355, 414.360, 414.365, 414.370, 414.375, 414.380, 414.385, 414.390, 414.395, 414.400, 414.410, 414.415, 414.715, 414.720, 414.741, 430.170, 431.190, 442.575, 442.580, 442.581, 442.583, 442.584, 442.588, 442.589 and 735.711 are repealed.

SECTION 229. The unit captions used in this 2011 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 2011 Act.

CONFLICT AMENDMENTS

SECTION 230. If House Bill 2281 becomes law, section 75 of this 2011 Act (amending ORS 343.243) is repealed.

SECTION 231. If House Bill 2281 becomes law, section 77 of this 2011 Act (amending ORS 343.961) is repealed and ORS 343.961, as amended by section 1, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2281), is amended to read:

343.961. (1) As used in this section:

(a) "Eligible residential treatment program" means a residential treatment program with which the Oregon Health Authority**, the Department of Human Services** or the Oregon Youth Authority contracts for long-term care or treatment. "Eligible residential treatment program" does not include psychiatric day treatment programs or programs that provide care or treatment to juveniles who are in detention facilities.

(b) "Residential treatment program" means a public or private residential program that provides treatment of children with a mental illness, an emotional disturbance or another mental health issue.

(c) "Student" means a child who is placed in an eligible residential treatment program by a public or private entity or by the child's parent.

(2) The Department of Education shall be responsible for payment of the costs of education of students in eligible residential treatment programs by contracting with the school district in which the eligible [*resident*] **residential** treatment program is located. The costs of education do not include transportation, care, treatment or medical expenses.

(3)(a) The school district in which an eligible residential treatment program is located is responsible for providing the education of a student, including the identification, location and evaluation of the student for the purpose of determining the student's eligibility to receive special education and related services under ORS 343.035.

(b) A school district that is responsible for providing an education under this subsection may provide the education:

(A) Directly or through another school district or an education service district; and

(B) In the facilities of an eligible residential treatment program, a school district or an education service district.

(c) When a student is no longer in an eligible residential treatment program, the responsibilities imposed by this subsection terminate and become the responsibilities of the school district where the student is a resident, as determined under ORS 339.133 and 339.134.

(4) A school district may request the Department of Education to combine several eligible residential treatment programs into one contract with another school district or an education service district.

(5) The Oregon Health Authority**, the Department of Human Services** or the Oregon Youth Authority shall give the school district providing the education at an eligible residential treatment program 14 days' notice**, to the extent practicable,** before a student is dismissed from the program.

(6) The Department of Education may make advances to school districts responsible for providing an education to students under this section from funds appropriated for that purpose based on the estimated agreed cost of educating the students per school year. Advances equal to 25 percent of the estimated cost may be made on September 1, December 1 and March 1 of the current year. The balance may be paid whenever the full determination of cost is made.

(7) School districts that provide the education described in this section on a year-round plan may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is made.

(8) In addition to the payment methods described in this section, the Department of Education may:

(a) Negotiate interagency agreements to pay for the cost of education in residential treatment programs operated under the auspices of the State Board of Higher Education; and

(b) Negotiate intergovernmental agreements to pay for the cost of education in residential treatment programs operated under the auspices of the Oregon Health and Science University Board of Directors.

SECTION 232. Section 57, chapter 9, Oregon Laws 2011 (Enrolled Senate Bill 353) (amending ORS 414.355), is repealed.

SECTION 233. Notwithstanding section 48, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 10) (amending ORS 414.720), if Senate Bill 10 becomes law, ORS 414.720 is repealed by section 228 of this 2011 Act.

SECTION 234. If House Bill 2600 becomes law, section 4, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2600) (amending ORS 427.005), is repealed and ORS 427.005, as amended by section 165 of this 2011 Act, is amended to read:

427.005. As used in this chapter:

(1) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group.

(2) "Care" means:

(a) Supportive services, including, but not limited to, provision of room and board;

(b) Supervision;

(c) Protection; and

(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

(3) "Community developmental disabilities program director" means the director of an entity that provides services described in section 174 of this 2011 Act to persons with **intellectual disabilities or other** developmental disabilities.

(4) "Developmental disability" means an intellectual disability, autism, cerebral palsy, epilepsy or other neurological condition diagnosed by a qualified professional that:

(a) Originates before an individual is 22 years of age, or 18 years of age for an intellectual disability;

(b) Originates in and directly affects the brain and is expected to continue indefinitely;

(c) Results in a significant impairment in adaptive behavior as measured by a qualified professional;

(d) Is not attributed primarily to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability or attention deficit hyperactivity disorder; and

(e) Requires training and support similar to that required by an individual with an intellectual disability.

[*(5) "Developmental period" means the period of time between birth and the 18th birthday.*]

[*(6)*] **(5)** "Director of the facility" means the superintendent of a state training center, or the person in charge of care, treatment and training programs at other facilities.

[*(7)*] **(6)** "Facility" means a state training center, community hospital, group home, activity center, intermediate care facility, community mental health clinic, or such other facility or program as the Department of Human Services approves to provide necessary services to persons with [*mental retardation*] **intellectual disabilities or other developmental disabilities**.

[*(8)*] **(7)** "Incapacitated" means a person is unable, without assistance, to properly manage or take care of personal affairs or is incapable, without assistance, of self-care.

[*(9)*] **(8)** "Independence" means the extent to which persons with [*mental retardation or*] **intellectual disabilities or other** developmental disabilities exert control and choice over their own lives.

[*(10)*] **(9)** "Integration" means:

(a) Use by persons with [*mental retardation or*] **intellectual disabilities or other** developmental disabilities of the same community resources that are used by and available to other persons;

(b) Participation by persons with [*mental retardation or*] **intellectual disabilities or other** developmental disabilities in the same community activities in which persons without disabilities participate, together with regular contact with persons without disabilities; and

(c) Residence by persons with **intellectual disabilities or other** developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with persons without disabilities in their community.

[*(11)*] **(10)(a)** "Intellectual disability" means significantly subaverage general intellectual functioning, defined as intelligence quotients under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior, that is manifested before the individual is 18 years of age.

(b) An individual with intelligence quotients of 70 through 75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and measured by a qualified professional.

(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

(d) Intellectual disability is synonymous with mental retardation.

[*(12)*] **(11)** "Intellectual functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

[*(13) "Mental retardation" is synonymous with intellectual disability.*]

[*(14)*] **(12)** "Minor" means an unmarried person under 18 years of age.

[*(15)*] **(13)** "Physician" means a person licensed by the Oregon Medical Board to practice medicine and surgery.

[*(16)*] **(14)** "Productivity" means engagement in income-producing work by a person with [*mental retardation*] **an intellectual disability** or [*a*] **another** developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with [*mental retardation*] **an intellectual disability** or [*a*] **another** developmental disability in work contributing to a household or community.

[*(17)*] **(15)** "Resident" means a person admitted to a state training center either voluntarily or after commitment to the department.

[*(18)*] **(16)** "Significantly subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

[*(19)*] **(17)** "State training center" means any facility that is an intermediate care facility for the mentally retarded as defined in 42 U.S.C. 1396d(d).

[*(20)*] **(18)** "Training" means:

(a) The systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or

(b) The planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each resident's specified needs in the areas of physical, emotional, intellectual and social growth.

[*(21)*] **(19)** "Treatment" means the provision of specific physical, mental, social interventions and therapies which halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions.

SECTION 235. The amendments to ORS 427.005 by section 234 of this 2011 Act become operative January 1, 2012.

SECTION 236. If Senate Bill 89 becomes law, section 219 of this 2011 Act (amending ORS 743.730) is repealed.

SECTION 237. If Senate Bill 89 becomes law, section 220 of this 2011 Act (amending ORS 743.736) is repealed.

EMERGENCY CLAUSE

SECTION 238. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House June 16, 2011

Repassed by House June 27, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 24, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State