

CHAPTER 318

AN ACT

HB 2419

Relating to health care; creating new provisions; amending ORS 162.135, 179.010, 179.321, 179.331, 179.505, 314.840, 413.260, 413.550, 413.552, 413.554, 413.556, 413.558, 414.689, 414.738, 414.739, 426.010, 426.330, 428.220, 428.230, 428.240, 428.260, 428.320, 431.045, 441.221, 441.222, 441.223, 442.120, 442.205, 442.210, 442.362, 442.420, 442.425, 442.430, 442.460, 442.463, 442.466, 442.468, 442.991, 442.993, 676.410, 731.036, 735.721, 735.723, 735.727, 743.831, 813.021, 813.023, 813.025, 813.200, 813.210, 813.240, 813.250, 813.260 and 813.270; and repealing ORS 414.229 and 414.316.

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

HEALTH CARE INTERPRETERS

SECTION 1. ORS 413.550 is amended to read: 413.550. As used in ORS 413.550 to 413.558:

(1) *“Health care interpreter” means a person who is readily able to communicate with a person with limited English proficiency and to accurately translate the written or oral statements of the person with limited English proficiency into English, and who is readily able to translate the written or oral statements of other persons into the language of the person with limited English proficiency.*

(2) *“Health care” means medical, surgical or hospital care or any other remedial care recognized by state law, including mental health care.*

(1) **“Certified health care interpreter” means an individual who has been approved and certified by the Oregon Health Authority.**

(2) **“Health care” means medical, surgical or hospital care or any other remedial care recognized by state law, including physical and behavioral health care.**

(3) **“Health care interpreter” means an individual who is readily able to:**

(a) **Communicate with a person with limited English proficiency;**

(b) **Accurately interpret the oral statements of a person with limited English proficiency, or the statements of a person who communicates in sign language, into English;**

(c) **Sight translate documents from a person with limited English proficiency;**

(d) **Interpret the oral statements of other persons into the language of the person with limited English proficiency or into sign language; and**

(e) **Sight translate documents in English into the language of the person with limited English proficiency.**

(3) (4) **“Person with limited English proficiency” means a person who, by reason of place of birth or culture, speaks a language other than**

English and does not speak English with adequate ability to communicate effectively with a health care provider.

(5) **“Qualified health care interpreter” means an individual who has received a valid letter of qualification from the authority.**

(6) **“Sight translate” means to translate a written document into spoken or sign language.**

SECTION 2. ORS 413.552 is amended to read:

413.552. (1) The Legislative Assembly finds that persons with limited English proficiency, **or who communicate in sign language**, are often unable to interact effectively with health care providers. Because of language differences, persons with limited English proficiency, **or who communicate in sign language**, are often excluded from health care services, experience delays or denials of health care services or receive health care services based on inaccurate or incomplete information.

(2) The Legislative Assembly further finds that the lack of competent health care interpreters among health care providers impedes the free flow of communication between the health care provider and patient, preventing clear and accurate communication and the development of empathy, confidence and mutual trust that is essential for an effective relationship between health care provider and patient.

(3) **It is the policy of the Legislative Assembly to require the use of certified health care interpreters or qualified health care interpreters whenever possible to ensure the accurate and adequate provision of health care to persons with limited English proficiency and to persons who communicate in sign language.**

(3) (4) It is the policy of the Legislative Assembly that health care for persons with limited English proficiency be provided according to the guidelines established under the policy statement issued August 30, 2000, by the U.S. Department of Health and Human Services, Office for Civil Rights, entitled, “Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency,” and the 1978 Patient’s Bill of Rights.

SECTION 3. ORS 413.554 is amended to read:

413.554. (1) The Oregon Council on Health Care Interpreters is created in the Oregon Health Authority. The council shall consist of [25 members appointed as follows:] **no more than 15 members, appointed by the Director of the Oregon Health Authority, representing:**

(a) **Persons with expertise and experience in the administration of or policymaking for programs or services related to interpreters;**

(b) **Employers or contractors of health care interpreters;**

(c) **Health care interpreter training programs;**

(d) **Language access service providers; and**

(e) Practicing certified and qualified health care interpreters.

[(a) The Governor shall appoint two members from each of the following groups:]

[(A) Consumers of medical services who are persons with limited English proficiency and who use health care interpreters;]

[(B) Educators who either teach interpreters or persons in related educational fields, or who train recent immigrants and persons with limited English proficiency;]

[(C) Persons with expertise and experience in administration or policymaking related to the development and operation of policies, programs or services related to interpreters, and who have familiarity with the rulings of the federal Office for Civil Rights concerning interpreter services for various institutions;]

[(D) Health care providers, consisting of one physician and one registered nurse, who utilize interpreter services regularly in their practice;]

[(E) Representatives of safety net clinics that predominantly serve persons with limited English proficiency; and]

[(F) Representatives of hospitals, health systems and health plans predominantly serving persons with limited English proficiency.]

[(b) The Governor shall appoint one representative from each of the following agencies and organizations after consideration of nominations by the executive authority of each:]

[(A) The Commission on Asian and Pacific Islander Affairs;]

[(B) The Commission on Black Affairs;]

[(C) The Commission on Hispanic Affairs;]

[(D) The Commission on Indian Services;]

[(E) The International Refugee Center of Oregon;]

[(F) The Oregon Judicial Department's Certified Court Interpreter program;]

[(G) The Commission for Women; and]

[(H) The Institute for Health Professionals of Portland Community College.]

[(c) The Director of the Oregon Health Authority shall appoint three members including:]

[(A) One member with responsibility for administering mental health programs;]

[(B) One member with responsibility for administering medical assistance programs; and]

[(C) One member with responsibility for administering public health programs.]

[(d) The Director of Human Services shall appoint:]

[(A) One member with responsibility for administering developmental disabilities programs; and]

[(B) One member with responsibility for administering programs for seniors and persons with disabilities.]

[(e)] (2) The membership of the council shall be appointed so as to be representative of the racial, ethnic, cultural, social and economic diversity of the people of this state.

[(2)] (3) The term of a member shall be three years. A member may be reappointed.

[(3)] (4) If there is a vacancy for any cause, the [appointing authority] director shall make an appointment to become immediately effective for the unexpired term. The [appointing authority] director may appoint a replacement for any member of the council who misses more than two consecutive meetings of the council. The newly appointed member shall represent the same group as the vacating member.

[(4)] (5) The council shall select one member as chairperson and one member as vice chairperson, for such terms and with duties and powers as the council determines necessary for the performance of the functions of such offices.

[(5)] (6) The council may establish such advisory and technical committees as it considers necessary to aid and advise the council in the performance of its functions. The committees may be continuing or temporary committees. The council shall determine the representation, membership, terms and organization of the committees and shall appoint committee members.

[(6)] (7) A majority of the members of the council shall constitute a quorum for the transaction of business.

[(7)] (8) Members of the council are not entitled to compensation, but at the discretion of the director [of the Oregon Health Authority] may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to ORS 292.495.

[(8)] (9) The council may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, for purposes consistent with the purposes of the council.

[(9)] (10) The Oregon Health Authority shall provide the council with such services and employees as the council requires to carry out its duties.

SECTION 4. ORS 413.556 is amended to read:

413.556. The Oregon Council on Health Care Interpreters shall work in cooperation with the Oregon Health Authority to:

(1) Develop testing, qualification and certification standards for health care interpreters for persons with limited English proficiency **and for persons who communicate in sign language.**

(2) Coordinate with other states, **the federal government or professional organizations** to develop and implement educational and testing programs for health care interpreters.

(3) Examine operational and funding issues, including but not limited to the feasibility of developing a central registry and annual subscription mechanism for health care interpreters.

(4) Do all other acts as shall be necessary or appropriate under the provisions of ORS 413.550 to 413.558.

SECTION 5. ORS 413.558 is amended to read:

413.558. (1) In consultation with the Oregon Council on Health Care Interpreters, the Oregon

Health Authority shall by rule establish procedures for testing, qualification and certification of health care interpreters for persons with limited English proficiency **or for persons who communicate in sign language**, including but not limited to:

(a) Minimum standards for qualification and certification as a health care interpreter, including:

(A) Oral and written language skills in English and in the language for which health care interpreter qualification or certification is granted; and

(B) Formal education or training in medical terminology, anatomy and physiology, *[and medical]* **medical interpreting ethics and interpreting skills**;

(b) Categories of expertise of health care interpreters based on the English and non-English skills, **or interpreting skills**, and the medical terminology skills of the person seeking qualification or certification;

(c) Procedures for receiving applications and for examining applicants for qualification or certification;

(d) The content and administration of required examinations;

(e) The requirements and procedures for reciprocity of qualification and certification for health care interpreters qualified or certified in another state or territory of the United States **or by another certifying body in the United States**; and

(f) Fees for application, examination, initial issuance, renewal and reciprocal acceptance of qualification or certification as a health care interpreter *[and for other fees]* **if** deemed necessary by the authority.

(2) Any person seeking qualification or certification as a health care interpreter must submit an application to the authority. If the applicant meets the requirements for qualification or certification established by the authority under this section, the authority shall issue *[an annual certificate]* **a letter** of qualification or a certification to the health care interpreter. *[The authority shall collect a fee for the issuance of the certificate of qualification or the certification and for any required examinations in the amount established pursuant to subsection (1) of this section.]*

(3) The authority shall work with other states, **the federal government or professional organizations** to develop educational and testing programs and procedures for the qualification and certification of health care interpreters.

(4) In addition to the requirements for qualification established under subsection (1) of this section, a person may be qualified as a health care interpreter only if the person:

(a) Is able to fluently interpret *[or translate]* the dialect, slang or specialized vocabulary of the non-English language for which qualification is sought; **and**

(b) Has had at least 60 hours of health care interpreter training that includes anatomy and physiology and concepts of medical interpretation; *and*].

[(c) Has had practical experience as an intern with a practicing health care interpreter.]

(5) A person may not use the title of “qualified health care interpreter” **in this state** unless the person has met the requirements for qualification established under subsections (1) and (4) of this section and has been issued a valid *[certificate]* **letter** of qualification by the authority.

(6) In addition to the requirements for certification established under subsection (1) of this section, a person may be certified as a health care interpreter only if:

(a) The person has met all the requirements established under subsection (4) of this section; and

(b) The person has passed written and oral examinations required by the authority in English, in *[the]* a non-English language *[the person wishes to translate]* **or sign language** and in medical terminology.

(7) A person may not use the title of “certified health care interpreter” **in this state** unless the person has met the requirements for certification established under subsections (1) and (6) of this section and has been issued a valid certification by the authority.

HEALTH CARE DATA REPORTING

SECTION 6. ORS 442.120 is amended to read:

442.120. In order to provide data essential for health planning programs:

(1) The *[Office for Oregon Health Policy and Research]* **Oregon Health Authority** may request, by July 1 of each year, each general hospital to file with the *[office]* **authority** ambulatory surgery and inpatient discharge abstract records covering all patients discharged during the preceding calendar year. The ambulatory surgery and inpatient discharge abstract record for each patient must include the following information, and may include other information deemed necessary by the *[office]* **authority** for developing or evaluating statewide health policy:

(a) Date of birth;

(b) Sex;

(c) **Race and ethnicity;**

(d) **Primary language;**

(e) **Disability;**

[(c)] (f) Zip code;

[(d)] (g) Inpatient admission date or outpatient service date;

[(e)] (h) Inpatient discharge date;

[(f)] (i) Type of discharge;

[(g)] (j) Diagnostic related group or diagnosis;

[(h)] (k) Type of procedure performed;

[(i)] (l) Expected source of payment, if available;

[(j)] (m) Hospital identification number; and

[(k)] (n) Total hospital charges.

(2) By July 1 of each year, the *[office]* **authority** may request from ambulatory surgical centers licensed under ORS 441.015 ambulatory surgery discharge abstract records covering all patients

admitted during the preceding year. Ambulatory surgery discharge abstract records must include information similar to that requested from general hospitals under subsection (1) of this section.

(3) In lieu of abstracting and compiling the records itself, the [office] **authority** may solicit the voluntary submission of such data from Oregon hospitals or other sources to enable it to carry out its responsibilities under this section. If such data are not available to the [office] **authority** on an annual and timely basis, the [office] **authority** may establish by rule a fee to be charged to each hospital.

(4) Subject to prior approval of the Oregon Health Policy Board and a report to the Emergency Board, if the Legislative Assembly is not in session, prior to adopting the fee, and within the budget authorized by the Legislative Assembly as the budget may be modified by the Emergency Board, the fee established under subsection (3) of this section may not exceed the cost of abstracting and compiling the records.

(5) The [office] **authority** may specify by rule the form in which the records are to be submitted. If the form adopted by rule requires conversion from the form regularly used by a hospital, reasonable costs of such conversion shall be paid by the [office] **authority**.

(6) Abstract records must include a patient identifier that allows for the statistical matching of records over time to permit public studies of issues related to clinical practices, health service utilization and health outcomes. Provision of such a patient identifier must not allow for identification of the individual patient.

(7) In addition to the records required in subsection (1) of this section, the [office] **authority** may obtain abstract records for each patient that identify specific services, classified by International Classification of Disease Code, for special studies on the incidence of specific health problems or diagnostic practices. However, nothing in this subsection shall authorize the publication of specific data in a form that allows identification of individual patients or licensed health care professionals.

(8) The [office] **authority** may provide by rule for the submission of records for enrollees in a health maintenance organization from a hospital associated with such an organization in a form the [office] **authority** determines appropriate to the [office's] **authority's** needs for such data and the organization's record keeping and reporting systems for charges and services.

QUALIFICATIONS FOR PUBLIC HEALTH OFFICER

SECTION 7. ORS 431.045 is amended to read:

431.045. (1) The Director of the Oregon Health Authority shall appoint a [physician licensed by the Oregon Medical Board and certified by the American Board of Preventive Medicine who shall serve as the] Public Health Officer [and] **who shall** be re-

sponsible for the medical and paramedical aspects of the health programs within the Oregon Health Authority. **The Public Health Officer must be a physician licensed by the Oregon Medical Board who:**

(a) **Is certified by the American Board of Preventive Medicine or the board of a primary care clinical specialty such as internal medicine, family medicine or pediatrics; and**

(b) **Has at least two years of experience working for a local, state or federal public health authority.**

(2) The Public Health Officer is responsible for the duties imposed by 42 U.S.C. 300ff-133(g) and 300ff-136. The officer may adopt rules to carry out the officer's responsibilities under this subsection.

REFERENCES TO BLUE MOUNTAIN RECOVERY CENTER

SECTION 8. ORS 162.135 is amended to read:

162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

(1)(a) "Contraband" means:

(A) Controlled substances as defined in ORS 475.005;

(B) Drug paraphernalia as defined in ORS 475.525;

(C) Except as otherwise provided in paragraph (b) of this subsection, currency possessed by or in the control of an inmate confined in a correctional facility; or

(D) Any article or thing which a person confined in a correctional facility, youth correction facility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and whose use would endanger the safety or security of such institution or any person therein.

(b) "Contraband" does not include authorized currency possessed by an inmate in a work release facility.

(2) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order and includes but is not limited to a youth correction facility. "Correctional facility" applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.370.

(3) "Currency" means paper money and coins that are within the correctional institution.

(4) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, youth correction facility or a state hospital.

(5) "Escape" means the unlawful departure of a person from custody or a correctional facility. "Escape" includes the unauthorized departure or absence from this state or failure to return to this

state by a person who is under the jurisdiction of the Psychiatric Security Review Board or under the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351. "Escape" does not include failure to comply with provisions of a conditional release in ORS 135.245.

(6) "Youth correction facility" means:

(a) A youth correction facility as defined in ORS 420.005; and

(b) A detention facility as defined in ORS 419A.004.

(7) "State hospital" means the Oregon State Hospital, *Blue Mountain Recovery Center* and any other hospital established by law for similar purposes.

(8) "Unauthorized departure" means the unauthorized departure of a person confined by court order in a youth correction facility or a state hospital that, because of the nature of the court order, is not a correctional facility as defined in this section, or the failure to return to custody after any form of temporary release or transitional leave from a correctional facility.

SECTION 9. ORS 179.010 is amended to read:

179.010. As used in this chapter, unless the context requires otherwise:

(1) "Institution" means the institutions designated in ORS 179.321.

(2) "Agency" means:

(a) The Department of Corrections when the institution is a Department of Corrections institution, as defined in ORS 421.005;

(b) The Department of Human Services when the institution is the facility formerly used as the Eastern Oregon Training Center; or

(c) The Oregon Health Authority when the institution is [*the Blue Mountain Recovery Center or*] an Oregon State Hospital campus.

SECTION 10. ORS 179.321 is amended to read:

179.321. (1) The Oregon Health Authority shall operate, control, manage and supervise the [*Blue Mountain Recovery Center and the*] Oregon State Hospital campuses.

(2) The Department of Corrections shall operate, control, manage and supervise those institutions defined as Department of Corrections institutions in ORS 421.005.

SECTION 11. ORS 179.331 is amended to read:

179.331. (1) The superintendents shall be appointed and, whenever the public service requires such action, may be removed, suspended or discharged, as follows:

(a) The [*superintendents of the Blue Mountain Recovery Center and*] **superintendent** of the Oregon State Hospital, by the Director of the Oregon Health Authority.

(b) The superintendents of Department of Corrections institutions as defined in ORS 421.005, by the Director of the Department of Corrections.

(2) For purposes of the State Personnel Relations Law, the superintendents are assigned to the unclassified service.

SECTION 12. ORS 179.505 is amended to read:

179.505. (1) As used in this section:

(a) "Disclosure" means the release of, transfer of, provision of access to or divulgence in any other manner of information outside the health care services provider holding the information.

(b) "Health care services provider" means:

(A) Medical personnel or other staff employed by or under contract with a public provider to provide health care or maintain written accounts of health care provided to individuals; or

(B) Units, programs or services designated, operated or maintained by a public provider to provide health care or maintain written accounts of health care provided to individuals.

(c) "Individually identifiable health information" means any health information that is:

(A) Created or received by a health care services provider; and

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

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

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

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

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

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

(B) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions; and

(C) A person appointed as a personal representative under ORS chapter 113.

(e) "Psychotherapy notes" means notes recorded in any medium:

(A) By a mental health professional, in the performance of the official duties of the mental health professional;

(B) Documenting or analyzing the contents of conversation during a counseling session; and

(C) That are maintained separately from the rest of the individual's record.

(f) "Psychotherapy notes" does not mean notes documenting:

(A) Medication prescription and monitoring;

(B) Counseling session start and stop times;

(C) Modalities and frequencies of treatment furnished;

(D) Results of clinical tests; or

(E) Any summary of the following items:

- (i) Diagnosis;
- (ii) Functional status;
- (iii) Treatment plan;
- (iv) Symptoms;
- (v) Prognosis; or
- (vi) Progress to date.
- (g) "Public provider" means:
 - (A) [*The Blue Mountain Recovery Center and* The Oregon State Hospital campuses;
 - (B) Department of Corrections institutions as defined in ORS 421.005;
 - (C) A contractor of the Department of Corrections or the Oregon Health Authority that provides health care to individuals residing in a state institution operated by the agencies;
 - (D) A community mental health program or community developmental disabilities program as described in ORS 430.610 to 430.695 and the public and private entities with which it contracts to provide mental health or developmental disabilities programs or services;
 - (E) A program or service provided under ORS 431.250, 431.375 to 431.385 or 431.416;
 - (F) A program or service established or maintained under ORS 430.630 or 430.664;
 - (G) A program or facility providing an organized full-day or part-day program of treatment that is licensed, approved, established, maintained or operated by or contracted with the Oregon Health Authority for alcoholism, drug addiction or mental or emotional disturbance;
 - (H) A program or service providing treatment by appointment that is licensed, approved, established, maintained or operated by or contracted with the authority for alcoholism, drug addiction or mental or emotional disturbance; or
 - (I) The impaired health professional program established under ORS 676.190.
- (h) "Written account" means records containing only individually identifiable health information.
 - (2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16) and (17) of this section or unless otherwise permitted or required by state or federal law or by order of the court, written accounts of the individuals served by any health care services provider maintained in or by the health care services provider by the officers or employees thereof who are authorized to maintain written accounts within the official scope of their duties are not subject to access and may not be disclosed. This subsection applies to written accounts maintained in or by facilities of the Department of Corrections only to the extent that the written accounts concern the medical, dental or psychiatric treatment as patients of those under the jurisdiction of the Department of Corrections.
 - (3) If the individual or a personal representative of the individual provides an authorization, the content of any written account referred to in subsection (2) of this section must be disclosed accordingly, if the authorization is in writing and is signed and dated by the individual or the personal represen-

tative of the individual and sets forth with specificity the following:

- (a) Name of the health care services provider authorized to make the disclosure, except when the authorization is provided by recipients of or applicants for public assistance or medical assistance, as defined in ORS 414.025, to a governmental entity for purposes of determining eligibility for benefits or investigating for fraud;
- (b) Name or title of the persons or organizations to which the information is to be disclosed or that information may be disclosed to the public;
- (c) Name of the individual;
- (d) Extent or nature of the information to be disclosed; and
- (e) Statement that the authorization is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and a specification of the date, event or condition upon which it expires without express revocation. However, a revocation of an authorization is not valid with respect to inspection or records necessary to validate expenditures by or on behalf of governmental entities.
- (4) The content of any written account referred to in subsection (2) of this section may be disclosed without an authorization:
 - (a) To any person to the extent necessary to meet a medical emergency.
 - (b) At the discretion of the responsible officer of the health care services provider, which in the case of any Oregon Health Authority facility or community mental health program is the Director of the Oregon Health Authority, to persons engaged in scientific research, program evaluation, peer review and fiscal audits. However, individual identities may not be disclosed to such persons, except when the disclosure is essential to the research, evaluation, review or audit and is consistent with state and federal law.
 - (c) To governmental agencies when necessary to secure compensation for services rendered in the treatment of the individual.
 - (5) When an individual's identity is disclosed under subsection (4) of this section, a health care services provider shall prepare, and include in the permanent records of the health care services provider, a written statement indicating the reasons for the disclosure, the written accounts disclosed and the recipients of the disclosure.
 - (6) The content of any written account referred to in subsection (2) of this section and held by a health care services provider currently engaged in the treatment of an individual may be disclosed to officers or employees of that provider, its agents or cooperating health care services providers who are currently acting within the official scope of their duties to evaluate treatment programs, to diagnose or treat or to assist in diagnosing or treating an individual when the written account is to be used in the course of diagnosing or treating the individual. Nothing in this subsection prevents the transfer of written accounts referred to in subsection (2) of this

section among health care services providers, the Department of Corrections, the Oregon Health Authority or a local correctional facility when the transfer is necessary or beneficial to the treatment of an individual.

(7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or an institution operated by the department, nothing in this section prohibits the disclosure of any written account referred to in subsection (2) of this section to the Department of Justice, Oregon Department of Administrative Services, or their agents, upon request, or the subsequent disclosure to a court, administrative hearings officer, arbitrator or other administrative decision maker.

(8)(a) When an action, suit, claim, arbitration or proceeding involves the Oregon Health Authority or an institution operated by the authority, nothing in this section prohibits the disclosure of any written account referred to in subsection (2) of this section to the Department of Justice, Oregon Department of Administrative Services, or their agents.

(b) Disclosure of information in an action, suit, claim, nonlabor arbitration or proceeding is limited by the relevancy restrictions of ORS 40.010 to 40.585, 183.710 to 183.725, 183.745 and 183.750 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed under this paragraph.

(c) Disclosure of information as part of a labor arbitration or proceeding to support a personnel action taken against staff is limited to written accounts directly relating to alleged action or inaction by staff for which the personnel action was imposed.

(9)(a) The copy of any written account referred to in subsection (2) of this section, upon written request of the individual or a personal representative of the individual, shall be disclosed to the individual or the personal representative of the individual within a reasonable time not to exceed five working days. The individual or the personal representative of the individual shall have the right to timely access to any written accounts.

(b) If the disclosure of psychiatric or psychological information contained in the written account would constitute an immediate and grave detriment to the treatment of the individual, disclosure may be denied, if medically contraindicated by the treating physician or a licensed health care professional in the written account of the individual.

(c) The Department of Corrections may withhold psychiatric or psychological information if:

(A) The information relates to an individual other than the individual seeking it.

(B) Disclosure of the information would constitute a danger to another individual.

(C) Disclosure of the information would compromise the privacy of a confidential source.

(d) However, a written statement of the denial under paragraph (c) of this subsection and the reasons therefor must be entered in the written account.

(10) A health care services provider may require a person requesting disclosure of the contents of a written account under this section to reimburse the provider for the reasonable costs incurred in searching files, abstracting if requested and copying if requested. However, an individual or a personal representative of the individual may not be denied access to written accounts concerning the individual because of inability to pay.

(11) A written account referred to in subsection (2) of this section may not be used to initiate or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by federal, state or local authorities against the individual or to conduct any investigations of the individual. If the individual, as a party to an action, suit or other judicial proceeding, voluntarily produces evidence regarding an issue to which a written account referred to in subsection (2) of this section would be relevant, the contents of that written account may be disclosed for use in the proceeding.

(12) Information obtained in the course of diagnosis, evaluation or treatment of an individual that, in the professional judgment of the health care services provider, indicates a clear and immediate danger to others or to society may be reported to the appropriate authority. A decision not to disclose information under this subsection does not subject the provider to any civil liability. Nothing in this subsection may be construed to alter the provisions of ORS 146.750, 146.760, 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040 and 419B.045.

(13) The prohibitions of this section apply to written accounts concerning any individual who has been treated by any health care services provider irrespective of whether or when the individual ceases to receive treatment.

(14) Persons other than the individual or the personal representative of the individual who are granted access under this section to the contents of a written account referred to in subsection (2) of this section may not disclose the contents of the written account to any other person except in accordance with the provisions of this section.

(15) Nothing in this section prevents the Department of Human Services or the Oregon Health Authority from disclosing the contents of written accounts in its possession to individuals or agencies with whom children in its custody are placed.

(16) The system described in ORS 192.517 (1) shall have access to records, as defined in ORS 192.515, as provided in ORS 192.517.

(17)(a) Except as provided in paragraph (b) of this subsection, a health care services provider must obtain an authorization from an individual or a personal representative of the individual to disclose psychotherapy notes.

(b) A health care services provider may use or disclose psychotherapy notes without obtaining an

authorization from the individual or a personal representative of the individual to carry out the following treatment, payment and health care operations:

(A) Use by the originator of the psychotherapy notes for treatment;

(B) Disclosure by the health care services provider for its own training program in which students, trainees or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or

(C) Disclosure by the health care services provider to defend itself in a legal action or other proceeding brought by the individual or a personal representative of the individual.

(c) An authorization for the disclosure of psychotherapy notes may not be combined with an authorization for a disclosure of any other individually identifiable health information, but may be combined with another authorization for a disclosure of psychotherapy notes.

SECTION 13. ORS 314.840 is amended to read:

314.840. (1) The Department of Revenue may:

(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, representative or designee, with a copy of the taxpayer's income tax return filed with the department for any year, or with a copy of any report filed by the taxpayer in connection with the return, or with any other information the department considers necessary.

(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

(d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxpayer identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report, return or claim required in the administration of ORS 310.630 to 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net income.

(2) The department also may disclose and give access to information described in ORS 314.835 to:

(a) The Governor of the State of Oregon or the authorized representative of the Governor with respect to an individual who is designated as being under consideration for appointment or reappointment to an office or for employment in the office of the Governor. The information disclosed shall be confined to whether the individual:

(A) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more than the three immediately preceding years for which the individual was required to file an Oregon individual income tax return.

(B) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or otherwise respond to a deficiency notice within 30 days of its mailing.

(C) Has been assessed any penalty under the Oregon personal income tax laws and the nature of the penalty.

(D) Has been or is under investigation for possible criminal offenses under the Oregon personal income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose of making the appointment, reappointment or decision to employ or not to employ the individual in the office of the Governor.

(b) An officer or employee of the Oregon Department of Administrative Services duly authorized or employed to prepare revenue estimates, or a person contracting with the Oregon Department of Administrative Services to prepare revenue estimates, in the preparation of revenue estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for submission to the Emergency Board or the Joint Interim Committee on Ways and Means, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes of this paragraph only if:

(A) The request for information is made in writing, specifies the purposes for which the request is made and is signed by an authorized representative of the Oregon Department of Administrative Services. The form for request for information shall be prescribed by the Oregon Department of Administrative Services and approved by the Director of the Department of Revenue.

(B) The officer, employee or person receiving the information does not remove from the premises of the Department of Revenue any materials that would reveal the identity of a personal or corporate taxpayer.

(c) The Commissioner of Internal Revenue or authorized representative, for tax administration and compliance purposes only.

(d) For tax administration and compliance purposes, the proper officer or authorized representative of any of the following entities that has or is governed by a provision of law that meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

(A) A state;

(B) A city, county or other political subdivision of a state;

(C) The District of Columbia; or

(D) An association established exclusively to provide services to federal, state or local taxing authorities.

(e) The Multistate Tax Commission or its authorized representatives, for tax administration and compliance purposes only. The Multistate Tax Commission may make the information available to the

Commissioner of Internal Revenue or the proper officer or authorized representative of any governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

(f) The Attorney General, assistants and employees in the Department of Justice, or other legal representative of the State of Oregon, to the extent the department deems disclosure or access necessary for the performance of the duties of advising or representing the department pursuant to ORS 180.010 to 180.240 and the tax laws of this state.

(g) Employees of the State of Oregon, other than of the Department of Revenue or Department of Justice, to the extent the department deems disclosure or access necessary for such employees to perform their duties under contracts or agreements between the department and any other department, agency or subdivision of the State of Oregon, in the department's administration of the tax laws.

(h) Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the department deems disclosure or access necessary for the performance of such others' duties under contracts or agreements between the department and such legal entities, in the department's administration of the tax laws.

(i) The Legislative Revenue Officer or authorized representatives upon compliance with ORS 173.850. Such officer or representative shall not remove from the premises of the department any materials that would reveal the identity of any taxpayer or any other person.

(j) The Department of Consumer and Business Services, to the extent the department requires such information to determine whether it is appropriate to adjust those workers' compensation benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or earned income received by an individual.

(k) Any agency of the State of Oregon, or any person, or any officer or employee of such agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State as Auditor of Public Accounts under section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district attorney regarding cases for which they are providing support enforcement services under ORS 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy, pursuant to ORS 673.415.

(L) The Director of the Department of Consumer and Business Services to determine that a person complies with ORS chapter 656 and the Director of the Employment Department to determine that a person complies with ORS chapter 657, the following employer information:

- (A) Identification numbers.
- (B) Names and addresses.
- (C) Inception date as employer.

(D) Nature of business.

(E) Entity changes.

(F) Date of last payroll.

(m) The Director of the Oregon Health Authority to determine that a person has the ability to pay for care that includes services provided by [*the Blue Mountain Recovery Center or*] the Oregon State Hospital, or the Oregon Health Authority to collect any unpaid cost of care as provided by ORS chapter 179.

(n) Employees of the Employment Department to the extent the Department of Revenue deems disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary to performance of their duties in administering the tax imposed by ORS chapter 657.

(o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and standard industrial classification, if available.

(p) Employees of the Department of State Lands for the purposes of identifying, locating and publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the refund amount.

(q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement agencies to assist in the investigation or prosecution of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(r) The United States Postal Inspection Service or a federal law enforcement agency, including but not limited to the United States Department of Justice, to assist in the investigation of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the

amount of the check, the date printed on the check and the altered name and address.

(s) The United States Financial Management Service, for purposes of facilitating the offsets described in ORS 305.612.

(t) A municipal corporation of this state for purposes of assisting the municipal corporation in the administration of a tax of the municipal corporation that is imposed on or measured by income, wages or net earnings from self-employment. Any disclosure under this paragraph may be made only pursuant to a written agreement between the Department of Revenue and the municipal corporation that ensures the confidentiality of the information disclosed.

(u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS 314.843.

(v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the purposes of ORS 237.635 (3) and 237.637 (2).

(3)(a) Each officer or employee of the department and each person described or referred to in subsection (2)(a), (b), (f) to (L) or (n) to (q) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the violation of ORS 314.835, and shall as a condition of employment or performance of duties execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of ORS 314.835.

(b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a written agreement has been entered into between the Department of Revenue and the person described in subsection (2)(r) of this section to whom disclosure or access to the tax information is given, providing that:

(A) Any information described in ORS 314.835 that is received by the person pursuant to subsection (2)(r) of this section is confidential information that may not be disclosed, except to the extent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of this section;

(B) The information shall be protected as confidential under applicable federal and state laws; and

(C) The United States Postal Inspection Service or the federal law enforcement agency shall give notice to the Department of Revenue of any request received under the federal Freedom of Information Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

(4) The Department of Revenue may recover the costs of furnishing the information described in subsection (2)(L), (m) and (o) to (q) of this section from the respective agencies.

SECTION 14. ORS 426.010 is amended to read:

426.010. Except as otherwise ordered by the Oregon Health Authority pursuant to ORS 179.325, the Oregon State Hospital campuses in Salem, Marion County, and in Junction City, Lane County, [and the *Blue Mountain Recovery Center in Pendleton, Umatilla County,*] shall be used as state hospitals for the care and treatment of persons with mental illness who are assigned to the care of [such] **the** institutions by the authority or who have previously been committed to [such] **the** institutions.

SECTION 15. ORS 426.330 is amended to read:

426.330. (1) The special funds authorized for the use of the [superintendents] **superintendent** of the Oregon State Hospital [and the *Blue Mountain Recovery Center*] to better enable [them] **the superintendent** promptly to meet the advances and expenses necessary in the matter of transferring patients to the [state hospitals] **Oregon State Hospital** are continued in existence. The [superintendents] **superintendent** shall present [their] **the superintendent's** claims monthly, with vouchers that show the expenditures from the special funds during the preceding month, to the Oregon Health Authority for the transfer of patients to the Oregon State Hospital [or the *Blue Mountain Recovery Center*].

(2) Against the funds appropriated to cover the cost of transporting patients, the State Treasurer shall pay the claims of the [superintendents of the *Oregon State Hospital and the Blue Mountain Recovery Center*] **superintendent** that have been approved by the Oregon Health Authority.

SECTION 16. ORS 428.220 is amended to read:

428.220. (1) In determining whether or not any person committed by a court of competent jurisdiction to a state hospital, foreign hospital or facility is a resident of this state:

(a) The time spent in a state hospital or foreign hospital or on parole from a state hospital or foreign hospital, or in a facility shall not be counted in determining the residence of such person in this or any other state.

(b) The residence of such person at the time of commitment shall remain the residence of the person for the duration of the commitment of the person.

(2) The Department of Human Services may give written authorization for the admission to a facility whenever:

(a) The residence of any person cannot be established after reasonable and diligent investigation and effort.

(b) The peculiar circumstances of a case, in the judgment of the department, provide a sufficient reason for the suspension of the residence requirement provided by ORS 428.210 (8).

(3) The Oregon Health Authority may give written authorization for the admission to the [*Blue Mountain Recovery Center or the*] Oregon State Hospital whenever:

(a) The residence of any person cannot be established after reasonable and diligent investigation and effort.

(b) The peculiar circumstances of a case, in the judgment of the authority, provide a sufficient reason for the suspension of the residence requirement provided by ORS 428.210 (8).

SECTION 17. ORS 428.230 is amended to read:

428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the Department of Human Services and the Oregon Health Authority shall return nonresident patients to any other state in which they may have legal residence.

(2) The department may give written authorization for the return to a facility of a resident of Oregon who has been committed by a court of competent jurisdiction to a foreign hospital.

(3) The facility shall admit and care for any person eligible for admission pursuant to subsection (2) of this section or ORS 428.220 (2) upon receipt of a certified copy of the commitment papers and the written authorization of the department.

(4) The authority may give written authorization for the return to the [*Blue Mountain Recovery Center or the*] Oregon State Hospital of a resident of Oregon who has been committed by a court of competent jurisdiction to a foreign hospital.

(5) The superintendent of the [*Blue Mountain Recovery Center or the*] Oregon State Hospital shall admit and care for any person eligible for admission pursuant to subsection (4) of this section or ORS 428.220 (3) upon receipt of a certified copy of the commitment papers and the written authorization of the authority.

SECTION 18. ORS 428.240 is amended to read:

428.240. (1) For the purpose of facilitating the return of nonresident patients, the Department of Human Services may enter into a reciprocal agreement with any other state for the mutual exchange of persons committed by a court of competent jurisdiction to a facility pursuant to ORS 427.235 to 427.290 or to a foreign hospital, whose legal residence is in the other's jurisdiction.

(2) For the purpose of facilitating the return of nonresident patients, the Oregon Health Authority may enter into a reciprocal agreement with any other state for the mutual exchange of persons committed by a court of competent jurisdiction to the [*Blue Mountain Recovery Center, the*] Oregon State Hospital or a foreign hospital, whose legal residence is in the other's jurisdiction.

(3) In such agreements, the department or authority may:

(a) Only for purposes of mutual exchange with the other state, vary the period of residence required by ORS 428.210 (8).

(b) Provide for the arbitration of disputes arising out of the mutual exchange of such persons between this state and any other state.

SECTION 19. ORS 428.260 is amended to read:

428.260. (1) For the purpose of carrying out the provisions of ORS 428.210 to 428.270, the Department of Human Services or the Oregon Health Authority may employ all help necessary in arranging for and transporting nonresident patients.

(2) The cost and expense of providing such assistance and all expenses incurred in effecting the transportation of such patients shall be paid from funds appropriated for that purpose upon vouchers approved by the department, the authority or the superintendent of the [*Blue Mountain Recovery Center or the*] Oregon State Hospital.

SECTION 20. ORS 428.320 is amended to read:

428.320. (1) When the person who is the subject of the Interstate Compact on Mental Health is being transported to or from a facility, the Department of Human Services shall carry out the duties of compact administrator, may adopt rules to carry out more effectively the terms of the compact, and may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. The power of termination of the compact formerly vested in the Board of Control under ORS 428.310 is vested in the department.

(2) When the person who is the subject of the compact is being transported to or from the [*Blue Mountain Recovery Center or the*] Oregon State Hospital, the Oregon Health Authority shall carry out the duties of compact administrator, may adopt rules to carry out more effectively the terms of the compact, and may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. The power of termination of the compact formerly vested in the Board of Control under ORS 428.310 is vested in the authority.

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SECTION 21. ORS 413.260 is amended to read:

413.260. (1) The Oregon Health Authority, in collaboration with health insurers and purchasers of health plans including the Public Employees' Benefit Board, the Oregon Educators Benefit Board and other members of the patient centered primary care home learning collaborative and the patient centered primary care home program advisory committee, shall:

(a) Develop, test and evaluate strategies that reward enrollees in publicly funded health plans for:

(A) Receiving care through patient centered primary care homes that meet the core attributes established in ORS 442.210;

(B) Seeking preventative and wellness services;

(C) Practicing healthy behaviors; and

(D) Effectively managing chronic diseases.

(b) Develop, test and evaluate community-based strategies that utilize community health workers to enhance the culturally competent and linguistically

appropriate health services provided by patient centered primary care homes in underserved communities.

(2) The authority shall focus on patients with chronic health conditions in developing strategies under this section.

(3) The authority, in collaboration with the Public Employees' Benefit Board and the Oregon Educators Benefit Board, shall establish uniform standards for contracts with health benefit plans providing coverage to public employees to promote the provision of patient centered primary care homes, especially for enrollees with chronic medical conditions, that are consistent with the uniform quality measures established [by the Office for Oregon Health Policy and Research] under ORS 442.210 (1)(c).

(4) The standards established under subsection (3) of this section may direct health benefit plans to provide incentives to primary care providers who serve vulnerable populations to partner with health-focused community-based organizations to provide culturally specific health promotion and disease management services.

SECTION 22. ORS 414.689 is amended to read:

414.689. (1) The Health Evidence Review Commission shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers the commission determines necessary for the performance of the functions of the offices.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least four times per year at a place, day and hour determined by the chairperson. The commission also shall 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 use advisory committees or subcommittees whose members are appointed by the chairperson of the commission subject to approval by a majority of the members of the commission. The advisory committees or subcommittees may contain experts appointed by the chairperson and a majority of the members of the commission. The conditions of service of the experts will be determined by the chairperson and a majority of the members of the commission.

(5) The [Office for Oregon Health Policy and Research] **Oregon Health Authority** shall provide staff and support services to the commission.

SECTION 23. ORS 414.738 is amended to read:

414.738. (1) If the Oregon Health Authority has not been able to contract with the fully capitated health plan or plans in a designated area, the authority may contract with a physician care organization in the designated area.

(2) The [Office for Oregon Health Policy and Research] **authority** shall develop criteria [that the authority shall consider when determining the cir-

cumstances under which the authority may] **for determining whether to** contract with a physician care organization. The criteria developed by the [office] **authority** shall include but not be limited to the following:

(a) The physician care organization must be able to assign an enrollee to a person or entity that is primarily responsible for coordinating the physical health services provided to the enrollee;

(b) The contract with a physician care organization does not threaten the financial viability of other fully capitated health plans in the designated area; and

(c) The contract with a physician care organization must be consistent with the legislative intent of using prepaid managed care health services organizations to provide services under [ORS 414.631, 414.651 and 414.688 to 414.745] **this chapter.**

SECTION 24. ORS 414.739 is amended to read:

414.739. (1) A fully capitated health plan may apply to the Oregon Health Authority to contract with the authority as a physician care organization rather than as a fully capitated health plan to provide services under [ORS 414.631, 414.651 and 414.688 to 414.745] **this chapter.**

(2) [The Office for Oregon Health Policy and Research shall develop the criteria that the authority must use to determine the circumstances under which the authority may accept an application by a fully capitated health plan to contract] **The authority shall adopt by rule the criteria for contracting with a fully capitated health plan** as a physician care organization. The criteria [developed by the office] shall include but not be limited to the following:

(a) The fully capitated health plan must show documented losses due to hospital risk and must show due diligence in managing those risks; and

(b) Contracting as a physician care organization is financially viable for the fully capitated health plan.

SECTION 25. ORS 441.221 is amended to read:

441.221. (1) The Advisory Committee on Physician Credentialing Information is established within the [Office for Oregon Health Policy and Research] **Oregon Health Authority.** The committee consists of nine members appointed by the [Administrator of the Office for Oregon Health Policy and Research] **Director of the Oregon Health Authority** as follows:

(a) Three members who are [physicians] **health care practitioners** licensed by the Oregon Medical Board or representatives of [physician] **health care practitioners'** organizations doing business within the State of Oregon;

(b) Three representatives of hospitals licensed by the Oregon Health Authority; and

(c) Three representatives of health care service contractors that have been issued a certificate of authority to transact health insurance in this state by the Department of Consumer and Business Services.

(2) All members appointed pursuant to subsection (1) of this section shall be knowledgeable about national standards relating to *[physician]* **the credentialing of health care practitioners.**

(3) The term of appointment for each member of the committee is three years. If, during a member's term of appointment, the member no longer qualifies to serve as designated by the criteria of subsection (1) of this section, the member must resign. If there is a vacancy for any cause, the *[administrator]* **director** shall make an appointment to become immediately effective for the unexpired term.

(4) Members of the committee are not entitled to compensation or reimbursement of expenses.

SECTION 26. ORS 441.222 is amended to read:

441.222. (1) The Advisory Committee on Physician Credentialing Information shall develop and submit recommendations to the *[Administrator of the Office for Oregon Health Policy and Research]* **Director of the Oregon Health Authority** for the collection of uniform information necessary for *[hospitals and health plans]* **credentialing organizations** to credential *[physicians seeking membership on a hospital medical staff or designation as a participating provider for a health plan.]* **health care practitioners seeking designation as a participating provider or member of a credentialing organization.** The recommendations must specify:

(a) The content and format of a credentialing application form; and

(b) The content and format of a recredentialing application form.

(2) The committee shall meet at least once every calendar year to review the uniform credentialing information and to assure the *[administrator]* **director** that the information complies with credentialing standards developed by national accreditation organizations and applicable regulations of the federal government.

(3) The *[Office for Oregon Health Policy and Research]* **Oregon Health Authority** shall provide the support staff necessary for the committee to accomplish its duties.

SECTION 27. ORS 441.223 is amended to read:

441.223. *[(1) Within 30 days of receiving the recommendations of the Advisory Committee on Physician Credentialing Information, the Administrator of the Office for Oregon Health Policy and Research shall forward the recommendations to the Director of the Oregon Health Authority. The administrator shall request that the Oregon Health Authority adopt rules to carry out the efficient implementation and enforcement of the recommendations of the committee.]*

[(2)] (1) **Upon receiving the recommendations of the Advisory Committee on Physician Credentialing Information,** the Oregon Health Authority shall:

(a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures Act, for the purpose of effectuating the provisions of ORS 441.221 to 441.223; *[and]*

(b) Consult with *[each other and with the administrator to]* **the advisory group convened under section 7, chapter 603, Oregon Laws 2013, to review the recommendations and obtain advice on the rules; and**

(c) Ensure that the rules adopted by the Oregon Health Authority are identical and are consistent with the recommendations developed pursuant to ORS 441.222 for affected *[hospitals and health care service contractors.]* **credentialing organizations.**

[(3)] (2) The uniform credentialing information required pursuant to the administrative rules of the Oregon Health Authority *[represent]* **represents** the minimum uniform credentialing information required by the affected *[hospitals and health care service contractors]* **credentialing organizations.** Except as provided in subsection *[(4)]* (3) of this section, a *[hospital or health care service contractor]* **credentialing organization** may request additional credentialing information from a *[licensed physician]* **health care practitioner** for the purpose of completing *[physician]* credentialing procedures used by the *[affected hospital or health care service contractor]* **credentialing organization to credential health care practitioners.**

[(4)] (3) In credentialing a telemedicine provider, a hospital is subject to the requirements prescribed by rule by the authority under ORS 441.056.

SECTION 28. ORS 442.205 is amended to read:

442.205. (1) The *[Administrator of the Office for Oregon Health Policy and Research]* **Oregon Health Authority** shall by rule adopt a cost-based community benefit reporting system for hospitals operating in Oregon that is consistent with established national standards for hospital reporting of community benefits.

(2) Within 90 days of filing a Medicare cost report, a hospital must submit a community benefit report to the *[Office for Oregon Health Policy and Research]* **authority** of the community benefits provided by the hospital, on a form prescribed by the *[administrator]* **authority.**

(3) The *[administrator]* **authority** shall produce an annual report of the information provided under subsections (1) and (2) of this section. The report shall be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives. The report shall be presented to the Legislative Assembly during each odd-numbered year regular session and shall be made available to the public.

(4) The *[administrator]* **authority** may adopt all rules necessary to carry out the provisions of this section.

SECTION 29. ORS 442.210 is amended to read:

442.210. (1) There is established in the *[Office for Oregon Health Policy and Research]* **Oregon Health Authority** the patient centered primary care home program. Through this program, the *[office]* **authority** shall:

(a) Define core attributes of the patient centered primary care home to promote a reasonable level of consistency of services provided by patient centered primary care homes in this state. In defining core attributes related to ensuring that care is coordinated, the [office] **authority** shall focus on determining whether these patient centered primary care homes offer comprehensive primary care, including prevention and disease management services;

(b) Establish a simple and uniform process to identify patient centered primary care homes that meet the core attributes defined by the [office] **authority** under paragraph (a) of this subsection;

(c) Develop uniform quality measures that build from nationally accepted measures and allow for standard measurement of patient centered primary care home performance;

(d) Develop uniform quality measures for acute care hospital and ambulatory services that align with the patient centered primary care home quality measures developed under paragraph (c) of this subsection; and

(e) Develop policies that encourage the retention of, and the growth in the numbers of, primary care providers.

(2)(a) The Director of the Oregon Health Authority shall appoint an advisory committee to advise the [office] **authority** in carrying out subsection (1) of this section.

(b) The director shall appoint to the advisory committee 15 individuals who represent a diverse constituency and are knowledgeable about patient centered primary care home delivery systems and health care quality.

(c) Members of the advisory committee 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 shall be paid out of funds appropriated to the [office] **authority** for the purposes of the advisory committee.

(d) The advisory committee shall use public input to guide policy development.

(3) The [office] **authority** will also establish, as part of the patient centered primary care home program, a learning collaborative in which state agencies, private health insurance carriers, third party administrators and patient centered primary care homes can:

(a) Share information about quality improvement;

(b) Share best practices that increase access to culturally competent and linguistically appropriate care;

(c) Share best practices that increase the adoption and use of the latest techniques in effective and cost-effective patient centered care;

(d) Coordinate efforts to develop and test methods to align financial incentives to support patient centered primary care homes;

(e) Share best practices for maximizing the utilization of patient centered primary care homes by

individuals enrolled in medical assistance programs, including culturally specific and targeted outreach and direct assistance with applications to adults and children of racial, ethnic and language minority communities and other underserved populations;

(f) Coordinate efforts to conduct research on patient centered primary care homes and evaluate strategies to implement the patient centered primary care home to improve health status and quality and reduce overall health care costs; and

(g) Share best practices for maximizing integration to ensure that patients have access to comprehensive primary care, including preventative and disease management services.

(4) The Legislative Assembly declares that collaboration among public payers, private health carriers, third party purchasers and providers to identify appropriate reimbursement methods to align incentives in support of patient centered primary care homes is in the best interest of the public. The Legislative Assembly therefore declares its intent to exempt from state antitrust laws, and to provide immunity from federal antitrust laws, the collaborative and associated payment reforms designed and implemented under subsection (3) of this section that might otherwise be constrained by such laws. The Legislative Assembly does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state or federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the prices of specific levels of reimbursement for health care services.

(5) The [office] **authority** may contract with a public or private entity to facilitate the work of the learning collaborative described in subsection (3) of this section and may apply for, receive and accept grants, gifts, payments and other funds and advances, appropriations, properties and services from the United States, the State of Oregon or any governmental body or agency or from any other public or private corporation or person for the purpose of establishing and maintaining the collaborative.

SECTION 30. ORS 442.362 is amended to read: 442.362. The [Office for Oregon Health Policy and Research] **Oregon Health Authority** may adopt rules requiring reporting entities within the state to publicly report proposed capital projects. Rules adopted under this section must:

(1) Require a reporting entity to establish on the home page of its website a prominently labeled link to information about proposed or pending capital projects. The information posted must include but is not limited to a report of the community benefit for the project, its estimated cost and a means for interested persons to submit comments. When a reporting entity posts the information required under this subsection, the reporting entity must notify the [Office for Oregon Health Policy and Research] **authority** of the posting in the manner prescribed by the [office] **authority**.

(2) If a reporting entity does not have a website, require the reporting entity to publish notice of the proposed capital project in a major newspaper or online equivalent serving the region in which the proposed capital project will be located. The notice must include but is not limited to a report of the community benefit for the project, its estimated cost and a means for interested persons to submit comments. When a reporting entity publishes the information required under this subsection, the reporting entity must notify the [Office for Oregon Health Policy and Research] **authority** of the publication in the manner prescribed by the [office] **authority**.

(3) Establish a publicly available resource for information collected under this section.

SECTION 31. ORS 442.420 is amended to read:

442.420. (1) The [Office for Oregon Health Policy and Research] **Oregon Health Authority** may apply for, receive and accept grants, gifts, payments and other funds and advances, appropriations, properties and services from the United States, the State of Oregon or any governmental body, agency or agencies or from any other public or private corporation or person, and enter into agreements with respect thereto, including the undertaking of studies, plans, demonstrations or projects.

(2) The [Administrator of the Office for Oregon Health Policy and Research] **authority** shall conduct or cause to have conducted such analyses and studies relating to costs of health care facilities as considered desirable, including but not limited to methods of reducing such costs, utilization review of services of health care facilities, peer review, quality control, financial status of any facility subject to ORS 442.400 to 442.463 and sources of public and private financing of financial requirements of such facilities.

(3) The [administrator] **authority** may also:

(a) Hold public hearings, conduct investigations and require the filing of information relating to any matter affecting the costs of and charges for services in all health care facilities;

(b) Subpoena witnesses, papers, records and documents the [administrator] **authority** considers material or relevant in connection with functions of the [office] **authority** subject to the provisions of ORS chapter 183;

(c) Exercise, subject to the limitations and restrictions imposed by ORS 442.400 to 442.463, all other powers which are reasonably necessary or essential to carry out the express objectives and purposes of ORS 442.400 to 442.463; and

(d) Adopt rules in accordance with ORS chapter 183 [necessary in the administrator's judgment] for carrying out the functions of the [office] **authority**.

SECTION 32. ORS 442.425 is amended to read:

442.425. (1) The [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** by rule may specify one or more uniform systems of financial reporting necessary to meet the requirements of ORS 442.400 to 442.463. Such sys-

tems shall include such cost allocation methods as may be prescribed and such records and reports of revenues, expenses, other income and other outlays, assets and liabilities, and units of service as may be prescribed. Each facility under the [administrator's] **authority's** jurisdiction shall adopt such systems for its fiscal period starting on or after the effective date of such system and shall make the required reports on such forms as may be required by the [administrator] **authority**. The [administrator] **authority** may extend the period by which compliance is required upon timely application and for good cause. Filings of such records and reports shall be made at such times as may be reasonably required by the [administrator] **authority**.

(2) Existing systems of reporting used by health care facilities shall be given due consideration by the [administrator] **authority** in carrying out the duty of specifying the systems of reporting required by ORS 442.400 to 442.463. The [administrator] **authority** insofar as reasonably possible shall adopt reporting systems and requirements that will not unreasonably increase the administrative costs of the facility.

(3) The [administrator] **authority** may allow and provide for modifications in the reporting systems in order to correctly reflect differences in the scope or type of services and financial structure between the various categories, sizes or types of health care facilities and in a manner consistent with the purposes of ORS 442.400 to 442.463.

(4) The [administrator] **authority** may establish specific annual reporting provisions for facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. Notwithstanding any other provisions of ORS 442.400 to 442.463, such facilities shall be authorized to utilize established accounting systems and to report costs and revenues in a manner consistent with the operating principles of such plans and with generally accepted accounting principles. When such facilities are operated as units of a coordinated group of health facilities under common ownership, the facilities shall be authorized to report as a group rather than as individual institutions, and as a group shall submit a consolidated balance sheet, income and expense statement and statement of source and application of funds for such group of health facilities.

SECTION 33. ORS 442.430 is amended to read:

442.430. (1) Whenever a further investigation is considered necessary or desirable by the [Office for Oregon Health Policy and Research] **Oregon Health Authority** to verify the accuracy of the information in the reports made by health care facilities, the [office] **authority** may make any necessary further examination of the facility's records and accounts. Such further examinations include, but are not limited to, requiring a full or partial audit of all such records and accounts.

(2) In carrying out the duties prescribed by ORS 442.400 to 442.463, the [office] **authority** may utilize

its own staff or may contract with any appropriate, independent, qualified third party. No such contractor shall release or publish or otherwise use any information made available to it under its contractual responsibility unless such permission is specifically granted by the [office] **authority**.

SECTION 34. ORS 442.460 is amended to read:

442.460. In order to obtain regional or statewide data about the utilization and cost of health care services, the [Office for Oregon Health Policy and Research] **Oregon Health Authority** may accept information relating to the utilization and cost of health care services identified by the [Administrator of the Office for Oregon Health Policy and Research] **authority** from physicians, insurers or other third-party payers or employers or other purchasers of health care.

SECTION 35. ORS 442.463 is amended to read:

442.463. (1) Each licensed health facility shall file with the [Office for Oregon Health Policy and Research] **Oregon Health Authority** an annual report containing such information related to the facility's utilization as may be required by the [Administrator of the Office for Oregon Health Policy and Research] **authority**, in such form as the [administrator] **authority** prescribes by rule.

(2) The annual report shall contain such information as may be required by rule of the [administrator] **authority** and must be approved by the [administrator] **authority**.

SECTION 36. ORS 442.466 is amended to read:

442.466. (1) The [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** shall establish and maintain a program that requires reporting entities to report health care data for the following purposes:

(a) Determining the maximum capacity and distribution of existing resources allocated to health care.

(b) Identifying the demands for health care.

(c) Allowing health care policymakers to make informed choices.

(d) Evaluating the effectiveness of intervention programs in improving health outcomes.

(e) Comparing the costs and effectiveness of various treatment settings and approaches.

(f) Providing information to consumers and purchasers of health care.

(g) Improving the quality and affordability of health care and health care coverage.

(h) Assisting the [administrator] **authority** in furthering the health policies expressed by the Legislative Assembly in ORS 442.025.

(i) Evaluating health disparities, including but not limited to disparities related to race and ethnicity.

(2) The [Administrator of the Office for Oregon Health Policy and Research] **authority** shall prescribe by rule standards that are consistent with standards adopted by the Accredited Standards

Committee X12 of the American National Standards Institute, the Centers for Medicare and Medicaid Services and the National Council for Prescription Drug Programs that:

(a) Establish the time, place, form and manner of reporting data under this section, including but not limited to:

(A) Requiring the use of unique patient and provider identifiers;

(B) Specifying a uniform coding system that reflects all health care utilization and costs for health care services provided to Oregon residents in other states; and

(C) Establishing enrollment thresholds below which reporting will not be required.

(b) Establish the types of data to be reported under this section, including but not limited to:

(A) Health care claims and enrollment data used by reporting entities and paid health care claims data;

(B) Reports, schedules, statistics or other data relating to health care costs, prices, quality, utilization or resources determined by the [administrator] **authority** to be necessary to carry out the purposes of this section; and

(C) Data related to race, ethnicity and primary language collected in a manner consistent with established national standards.

(3) Any third party administrator that is not required to obtain a license under ORS 744.702 and that is legally responsible for payment of a claim for a health care item or service provided to an Oregon resident may report to the [Administrator of the Office for Oregon Health Policy and Research] **authority** the health care data described in subsection (2) of this section.

(4) The [Administrator of the Office for Oregon Health Policy and Research] **authority** shall adopt rules establishing requirements for reporting entities to train providers on protocols for collecting race, ethnicity and primary language data in a culturally competent manner.

(5) The [Administrator of the Office for Oregon Health Policy and Research] **authority** shall use data collected under this section to provide information to consumers of health care to empower the consumers to make economically sound and medically appropriate decisions. The information must include, but not be limited to, the prices and quality of health care services.

(6) The [Administrator of the Office for Oregon Health Policy and Research] **authority** may contract with a third party to collect and process the health care data reported under this section. The contract must prohibit the collection of Social Security numbers and must prohibit the disclosure or use of the data for any purpose other than those specifically authorized by the contract. The contract must require the third party to transmit all data collected and processed under the contract to the [Office for Oregon Health Policy and Research] **authority**.

(7) The [Administrator of the Office for Oregon Health Policy and Research] **authority** shall facili-

tate a collaboration between the Department of Human Services, [the Oregon Health Authority,] the Department of Consumer and Business Services and interested stakeholders to develop a comprehensive health care information system using the data reported under this section and collected by the [office] authority under ORS 442.120 and 442.400 to 442.463. The [administrator] authority, in consultation with interested stakeholders, shall:

(a) Formulate the data sets that will be included in the system;

(b) Establish the criteria and procedures for the development of limited use data sets;

(c) Establish the criteria and procedures to ensure that limited use data sets are accessible and compliant with federal and state privacy laws; and

(d) Establish a time frame for the creation of the comprehensive health care information system.

(8) Information disclosed through the comprehensive health care information system described in subsection (7) of this section:

(a) Shall be available, when disclosed in a form and manner that ensures the privacy and security of personal health information as required by state and federal laws, as a resource to insurers, employers, providers, purchasers of health care and state agencies to allow for continuous review of health care utilization, expenditures and performance in this state;

(b) Shall be available to Oregon programs for quality in health care for use in improving health care in Oregon, subject to rules prescribed by the [Administrator of the Office for Oregon Health Policy and Research] authority conforming to state and federal privacy laws or limiting access to limited use data sets;

(c) Shall be presented to allow for comparisons of geographic, demographic and economic factors and institutional size; and

(d) May not disclose trade secrets of reporting entities.

(9) The collection, storage and release of health care data and other information under this section is subject to the requirements of the federal Health Insurance Portability and Accountability Act.

SECTION 37. ORS 442.468 is amended to read:

442.468. (1) Using data collected from all health care professional licensing boards, including but not limited to boards that license or certify chemical dependency and mental health treatment providers and other sources, the [Office for Oregon Health Policy and Research] Oregon Health Authority shall create and maintain a healthcare workforce database that will provide information upon request to state agencies and to the Legislative Assembly about Oregon's healthcare workforce, including:

(a) Demographics, including race and ethnicity.

(b) Practice status.

(c) Education and training background.

(d) Population growth.

(e) Economic indicators.

(f) Incentives to attract qualified individuals, especially those from underrepresented minority groups, to healthcare education.

(2) The [Administrator for the Office for Oregon Health Policy and Research] authority may contract with a private or public entity to establish and maintain the database and to analyze the data. The [office] authority is not subject to the requirements of ORS chapters 279A, 279B and 279C with respect to the contract.

SECTION 37a. If Senate Bill 230 becomes law, section 37 of this 2015 Act (amending ORS 442.468) is repealed.

SECTION 38. ORS 442.991 is amended to read:

442.991. (1) Any reporting entity that fails to report as required by rules of the [Office for Oregon Health Policy and Research] Oregon Health Authority adopted pursuant to ORS 442.362 may be subject to a civil penalty.

(2) The [Administrator of the Office for Oregon Health Policy and Research] authority shall adopt a schedule of penalties, not to exceed \$500 per day of violation, that are based on the severity of the violation.

(3) Civil penalties imposed under this section shall be imposed as provided in ORS 183.745.

(4) Civil penalties imposed under this section may be remitted or mitigated upon such terms and conditions as the [administrator] authority considers proper and consistent with the public health and safety.

(5) Civil penalties incurred under any law of this state are not allowable as costs for the purpose of rate determination or for reimbursement by a third-party payer.

SECTION 39. ORS 442.993 is amended to read:

442.993. (1) Any reporting entity that fails to report as required in ORS 442.466 or rules of the [Office for Oregon Health Policy and Research] Oregon Health Authority adopted pursuant to ORS 442.466 may be subject to a civil penalty.

(2) The [Administrator of the Office for Oregon Health Policy and Research] authority shall adopt a schedule of penalties not to exceed \$500 per day of violation, determined by the severity of the violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) Civil penalties imposed under this section may be remitted or mitigated upon such terms and conditions as the [administrator] authority considers proper and consistent with the public health and safety.

(5) Civil penalties incurred under any law of this state are not allowable as costs for the purpose of rate determination or for reimbursement by a third-party payer.

SECTION 40. ORS 676.410 is amended to read:

676.410. (1) As used in this section, "healthcare workforce regulatory board" means the:

- (a) Occupational Therapy Licensing Board;
- (b) Oregon Medical Board;
- (c) Oregon State Board of Nursing;
- (d) Oregon Board of Dentistry;
- (e) Physical Therapist Licensing Board;
- (f) State Board of Pharmacy; and
- (g) Health Licensing Office for dietitians licensed under ORS 691.435.

(2)(a) An applicant for a license from a healthcare workforce regulatory board or renewal of a license by a healthcare workforce regulatory board shall provide the information prescribed by the [Office for Oregon Health Policy and Research] **Oregon Health Authority** pursuant to subsection (3) of this section.

(b) Except as provided in subsection (4) of this section, a healthcare workforce regulatory board may not approve a subsequent application for a license or renewal of a license until the applicant provides the information.

(3) The [Administrator for the Office for Oregon Health Policy and Research] **authority** shall collaborate with the healthcare workforce regulatory boards to adopt rules for the manner, form and content for reporting, and the information that must be provided to a healthcare workforce regulatory board under subsection (2) of this section, which may include:

- (a) Demographics, including race and ethnicity.
- (b) Education information.
- (c) License information.
- (d) Employment information.
- (e) Primary and secondary practice information.
- (f) Anticipated changes in the practice.
- (g) Languages spoken.

(4)(a) A healthcare workforce regulatory board shall report healthcare workforce information collected under subsection (2) of this section to the [Office for Oregon Health Policy and Research] **authority**.

(b) A healthcare workforce regulatory board shall keep confidential and not release personally identifiable data collected under this section for a person licensed, registered or certified by a board. This paragraph does not apply to the release of information to a law enforcement agency for investigative purposes or to the release to the [Office for Oregon Health Policy and Research] **authority** for state health planning purposes.

(5) The requirements of subsection (2) of this section apply to an applicant for issuance or renewal of a license who is or who is applying to become:

- (a) An occupational therapist or certified occupational therapy assistant as defined in ORS 675.210;
- (b) A physician as defined in ORS 677.010;
- (c) A physician assistant as defined in ORS 677.495;
- (d) A nurse or nursing assistant licensed or certified under ORS 678.010 to 678.410;
- (e) A dentist or dental hygienist as defined in ORS 679.010;

(f) A physical therapist or physical therapist assistant as defined in ORS 688.010;

(g) A pharmacist or pharmacy technician as defined in ORS 689.005; or

(h) A licensed dietitian, as defined in ORS 691.405.

(6) A healthcare workforce regulatory board may adopt rules as necessary to perform the board's duties under this section.

(7) In addition to licensing fees that may be imposed by a healthcare workforce regulatory board, the Oregon Health Policy Board shall establish fees to be paid by applicants for issuance or renewal of licenses reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

SECTION 41. ORS 731.036 is amended to read:

731.036. Except as provided in ORS 743.061 or as specifically provided by law, the Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, if the organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and

retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743 and 743A;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743 and 743A;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

- (i) Known claims, paid and outstanding;
- (ii) A history of incurred but not reported claims;
- (iii) Claims handling expenses;
- (iv) Unearned contributions; and
- (v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The individual or jointly self-insured program shall be subject to assessment in accordance with section 2, chapter 698, Oregon Laws 2013;

(h) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a

financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(i) Each public body in a joint insurance program is liable only to its own employees and no others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, that represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) “Affordable housing entity” means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

(11) A community-based health care initiative approved by the [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** under ORS 735.723 operating a community-based health care improvement program approved by the [administrator] **authority**.

(12) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

SECTION 42. ORS 731.036, as amended by section 37, chapter 698, Oregon Laws 2013, is amended to read:

731.036. Except as provided in ORS 743.061 or as specifically provided by law, the Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, if the organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-

insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743 and 743A;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee’s coverage;

(B) The program’s grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743 and 743A;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(h) Each public body in a joint insurance program is liable only to its own employees and no others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, that represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) "Affordable housing entity" means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

(11) A community-based health care initiative approved by the [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** under ORS 735.723 operating a community-based health care improvement program approved by the [administrator] **authority**.

(12) Except as provided in ORS 735.500 and 735.510, a person certified by the Department of Consumer and Business Services to operate a retainer medical practice.

SECTION 43. ORS 735.721 is amended to read: 735.721. As used in ORS 735.721 to 735.727:

(1) "Community" means the area of geographically contiguous political subdivisions as deter-

mined by the [Office for Oregon Health Policy and Research] **Oregon Health Authority** in collaboration with the board of directors of a community-based health care initiative.

(2) "Qualified employee" means an individual who:

- (a) Is employed by a qualified employer;
- (b) Resides or works within a community;
- (c) Does not have health insurance; and
- (d) Does not qualify for publicly funded health care.

(3) "Qualified employer" means an employer that:

(a) Employs 1 to 50 full-time equivalent employees;

(b) Pays a median wage to its employees that is equal to or below an amount that is 300 percent of the federal poverty guidelines;

(c) For two months prior to enrollment in a community-based health care improvement program, or for the duration of the employer's operation if the employer has been in operation less than two months, has not provided to employees employer-based health insurance coverage for which the employer contributes at least 50 percent of the cost of premiums;

(d) Offers community-based health care services through a community-based health care improvement program to all qualified employees and their dependents regardless of health status;

(e) Agrees to participate in a community-based health care improvement program for at least 12 months; and

(f) Agrees to provide information that is deemed necessary by the community-based health care initiative to determine eligibility, assess dues and pay claims.

SECTION 44. ORS 735.723 is amended to read:

735.723. (1) The [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** shall adopt rules for the approval of one community-based health care initiative per community that meets the requirements under subsection (2) of this section and of a community-based health care improvement program that meets the requirements under subsection (3) of this section. The [office] **authority** may not approve community-based health care initiatives for more than three communities during the period beginning with June 23, 2009, and ending June 30, 2013.

(2) An approved community-based health care initiative shall:

(a) Be a nonprofit corporation governed by a board of directors that includes, but is not limited to, representatives of participating health care providers and qualified employers. At least 80 percent of the board members must be residents of the community.

(b) Contract with health care providers that offer health care services in the community to provide services to enrollees in the program.

(c) Recruit qualified employers to enroll in the program.

(d) Establish an operational structure for:

(A) Assisting employees of qualified employers or their dependents to enroll in state medical assistance programs if appropriate;

(B) Enrolling qualified employees and their dependents in the community-based health care improvement program;

(C) Billing and collecting dues from qualified employers and qualified employees; and

(D) Reimbursing participating health care providers for services to enrollees.

(e) Establish a set of health care services that are covered in the community-based health care improvement program, cost-sharing requirements and incentives to encourage the utilization of primary care, wellness and chronic disease management services.

(f) Maintain a liquid reserve account in an amount sufficient to pay all claims that have been incurred but not yet charged for a period of at least two months.

(g) Provide to each qualified employee enrolled in the program a clear and concise written statement that describes the community-based health care improvement program and that includes:

(A) The health care services that are covered;

(B) Any exclusions or limitations on coverage of health care services, including any requirements for prior authorization;

(C) Copayments, coinsurance, deductibles and any other cost-sharing requirements;

(D) A list of participating health care providers;

(E) The complaint process described in subsection (3)(b) of this section; and

(F) The conditions under which the program or coverage through the program may be terminated.

(h) Comply with the requirements of ORS 735.725 and 735.727.

(3) An approved community-based health care improvement program shall:

(a) Reimburse the cost of the set of health care services established by the initiative and provided in the community to qualified employers, qualified employees and their dependents.

(b) Include an enrollee complaint process that ensures the resolution of complaints within 45 days.

(4) An individual who is a qualified employee and whose employment with a qualified employer terminates may elect to continue enrollment of the individual and the individual's dependents in an approved community-based health care improvement program for no more than 18 months by paying the required dues. The dues may not be greater than the amount that would be charged if the individual remained a qualified employee. An approved community-based health care initiative must notify an employee of the opportunity to continue coverage upon the individual's termination of coverage under the qualified employer's program.

SECTION 45. ORS 735.727 is amended to read:

735.727. A community-based health care initiative approved by the [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** must report to the Legislative Assembly no later than October 1 of each year. The report must contain at a minimum the following information:

- (1) The financial status of the community-based health care improvement program, including the dues, the costs per enrollee per month, the total amount of claims paid, the total amount of dues collected and the administrative expenses;
- (2) A description of the set of health care services covered by the program and an analysis of service utilization;
- (3) The number of qualified employers, qualified employees and dependents enrolled;
- (4) The number and scope of practice of participating health care providers;
- (5) Recommendations for improving the program and establishing programs in other geographical regions of the state; and
- (6) Any other information requested by the [administrator] **authority** or the Legislative Assembly.

SECTION 46. ORS 743.831 is amended to read:
743.831. (1) The [Administrator of the Office for Oregon Health Policy and Research] **Oregon Health Authority** shall establish a consortium of interested parties that shall:

- (a) Develop, on a voluntary basis, standardized, quantitative performance measurements of managed health insurance organizations for use by health care consumers, purchasers and providers to continuously assess the quality of clinical and service-related aspects of health care arranged for or provided by managed health insurance organizations;
- (b) Encourage managed health insurance organizations to collect, on a voluntary basis, the performance measurements specified in paragraph (a) of this subsection and share that information with the consortium;
- (c) Develop, test, refine and produce one or more managed health care performance scorecards to provide consumers and purchasers with accurate, reliable and timely comparisons of managed health insurance organizations with respect to:
 - (A) Organizational characteristics;
 - (B) Clinical quality measurements;
 - (C) Service-related quality measurements; and
 - (D) Member and patient satisfaction; and
- (d) Carry out the activities specified in this subsection with the objective of:
 - (A) Utilizing, to the greatest extent feasible and desirable, nationally developed quality assessment tools; and
 - (B) Minimizing duplicative quality assessment activities and associated administrative costs.
- (2) The consortium established pursuant to subsection (1) of this section shall be comprised of representatives of:
 - (a) Health care consumers;

- (b) Private-sector and public-sector health care purchasers;
- (c) Managed health insurance organizations;
- (d) Health care providers, including but not limited to physicians, nurses and hospitals;
- (e) State agencies, including but not limited to the Department of Consumer and Business Services [and the Oregon Health Authority];
- (f) Oregon institutions of higher education with relevant professional expertise; and
- (g) Other groups or organizations as determined to be appropriate by the [administrator] **authority** to ensure broad representation of interests and expertise.
- (3) The [Office for Oregon Health Policy and Research] **authority** shall:
 - (a) Provide staffing for the consortium; and
 - (b) Seek public and private funds to assist in the work of the consortium.

**DRIVING WHILE UNDER
THE INFLUENCE OF INTOXICANTS
SCREENING INTERVIEWS AND
TREATMENT PROGRAMS**

SECTION 47. ORS 813.021 is amended to read:
813.021. (1) When a court, in accordance with ORS 813.020, requires a person to complete a screening interview and a treatment program, the court shall require the person to do all of the following:

- (a) Complete a screening interview for the purpose of determining appropriate placement of the person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.
- (b) Pay directly to the agency or organization conducting the screening interview a fee of \$150.
- (c) Complete the treatment program to which the person is referred.
- (d) Pay for the treatment program to which the person is referred.
- (2) The screening interview required by this section shall be conducted by an agency or organization designated by the court. The designated agency or organization must meet the standards set by the Director of the Oregon Health Authority to conduct the screening interviews. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a treatment program.
- (3) An agency or organization doing a screening interview under this section may not refer a person to a treatment program that has not been approved by the Director of the Oregon Health Authority.
- (4) The agency or organization conducting a screening interview under this section shall monitor the progress of the person referred to the agency or organization. The agency or organization shall make a report to the referring court stating the person's successful completion or failure to complete all or any part of the screening interview or of the treat-

ment program to which the person was referred by the agency or organization **performing the screening interview**. The report shall be in a form determined by agreement between the court and the agency or organization **providing the screening interview**.

SECTION 48. ORS 813.023 is amended to read:

813.023. A person required to pay for a screening interview[,] or treatment program [or *diagnostic assessment*] under ORS 813.021, 813.200, 813.210 or 813.240 who is eligible for the state medical assistance program or is enrolled in a health benefit plan, as defined in ORS 743.730, may utilize the state medical assistance program or health benefit plan as a third party payer for the costs of medically necessary chemical dependency services that are covered under the state medical assistance program or health benefit plan. The person remains responsible for the costs of the screening interview[,] or treatment program [or *diagnostic assessment*], regardless of the amount of coverage or the failure of the third party payer to reimburse all of the costs.

SECTION 49. ORS 813.025 is amended to read:

813.025. A court may designate a single agency or organization to perform the screening interviews and treatment programs described in ORS 813.021[, or the *diagnostic assessment and treatment described in ORS*] and 813.260 (1) when the Director of the Oregon Health Authority certifies that:

(1) An agency or organization may accept such designations due to the lack of alternative agencies or organizations in the service area; or

(2) An agency or organization has applied to and been authorized by the Oregon Health Authority to operate a demonstration project that combines screening interviews and treatment programs [or *diagnostic assessment and treatment*]. The authority shall by rule set forth the conditions under which a demonstration project may be authorized.

SECTION 50. ORS 813.200 is amended to read:

813.200. (1) The court shall inform at arraignment a defendant charged with the offense of driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance conforming thereto that a diversion agreement may be available if the defendant meets the criteria set out in ORS 813.215 and files with the court a petition for a driving while under the influence of intoxicants diversion agreement.

(2) The petition forms for a driving while under the influence of intoxicants diversion agreement shall be available to a defendant at the court.

(3) The form of the petition for a driving while under the influence of intoxicants diversion agreement and the information and blanks contained therein shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements adopted by the Supreme Court.

(4) In addition to any other information required by the Supreme Court to be contained in a petition for a driving while under the influence of intoxicants diversion agreement, the petition shall include:

(a) A plea of guilty or no contest to the charge of driving while under the influence of intoxicants signed by the defendant;

(b) An agreement by the defendant to complete at an agency or organization designated by the city or state court a [*diagnostic assessment*] **screening interview** to determine the possible existence and degree of an alcohol or drug abuse problem;

(c) An agreement by the defendant to complete, at defendant's own expense based on defendant's ability to pay, the program of treatment indicated as necessary by the [*diagnostic assessment*] **screening interview**;

(d) Except as provided in subsection (5) of this section, an agreement by the defendant to not use intoxicants during the diversion period and to comply fully with the laws of this state designed to discourage the use of intoxicants;

(e) A notice to the defendant that the diversion agreement will be considered to be violated if the court receives notice that the defendant at any time during the diversion period committed the offense of driving while under the influence of intoxicants or committed a violation of ORS 811.170;

(f) An agreement by the defendant to keep the court advised of the defendant's current mailing address at all times during the diversion period;

(g) A waiver by the defendant of any former jeopardy rights under the federal and state Constitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other offenses based upon the same criminal episode;

(h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defendant meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the influence of intoxicants diversion agreement;

(i) An agreement by the defendant to pay court-appointed attorney fees as determined by the court; and

(j) An agreement by the defendant to pay restitution if ordered by the court under ORS 137.108.

(5) A person may use intoxicants during the diversion period if:

(a) The person consumes sacramental wine given or provided as part of a religious rite or service;

(b) The person has a valid prescription for a substance and the person takes the substance as directed; or

(c) The person is using a nonprescription drug, as defined in ORS 689.005, in accordance with the directions for use that are printed on the label for that nonprescription drug.

SECTION 51. ORS 813.210 is amended to read:

813.210. (1) After an accusatory instrument has been filed charging the defendant with the offense

of driving while under the influence of intoxicants, a defendant may file with the court a petition for a driving while under the influence of intoxicants diversion agreement described in ORS 813.200. The petition:

(a) Must be filed within 30 days after the date of the defendant's first appearance on the summons, unless a later filing date is allowed by the court upon a showing of good cause. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion for an omnibus hearing does not constitute good cause.

(b) Notwithstanding paragraph (a) of this subsection, may not be filed after entry of a guilty plea or a no contest plea or after commencement of any trial on the charge whether or not a new trial or retrial is ordered for any reason.

(2) The defendant shall pay to the court, at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement, a filing fee established under ORS 813.240. The court may make provision for payment of the filing fee by the defendant on an installment basis. The court may waive all or part of the filing fee in cases involving indigent defendants. The filing fee paid to the court under this subsection shall be retained by the court if the petition is allowed. The filing fee shall be distributed as provided by ORS 813.240.

(3) The defendant shall pay to the agency or organization providing the *[diagnostic assessment] screening interview*, at the time the petition is allowed, the fee required by ORS 813.240 (3).

(4)(a) Unless otherwise provided under paragraph (b) of this subsection, the defendant shall pay to the court any court-appointed attorney fees agreed to under ORS 813.200 (4)(i). Payments shall be made prior to the end of the diversion period on a schedule determined by the court.

(b) The court may waive all or part of the court-appointed attorney fees agreed to under ORS 813.200 (4)(i).

(5) The defendant shall begin paying to the court any restitution ordered under ORS 137.108. Payments shall be made during the diversion period on a schedule determined by the court.

(6) The defendant shall cause a copy of the petition for a driving while under the influence of intoxicants diversion agreement to be served upon the district attorney or city attorney. The district attorney or city attorney may file with the court, within 15 days after the date of service, a written objection to the petition and a request for a hearing.

SECTION 52. ORS 813.240 is amended to read:

813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement as provided in ORS 813.210 is \$490. A fee collected under this subsection in the circuit court shall be deposited by the clerk of the court in the Criminal Fine Account. If the fee is collected in a municipal or justice court, \$290 of the fee shall be forwarded by the court to the Department of Revenue for de-

posit in the Criminal Fine Account, and the remainder of the fee shall be paid to the city or county treasurer.

(2) If less than the full filing fee is collected under subsection (1) of this section in a municipal or justice court, the money received shall be allocated first to the Department of Revenue for deposit in the Criminal Fine Account.

(3) In addition to the filing fee under subsection (1) of this section, the court shall order the defendant to pay \$150 directly to the agency or organization providing the *[diagnostic assessment] screening interview*.

SECTION 53. ORS 813.250 is amended to read:

813.250. (1) At any time after the conclusion of the period of a driving while under the influence of intoxicants diversion agreement described in ORS 813.230, a defendant who has fully complied with and performed the conditions of the diversion agreement may apply by motion to the court wherein the diversion agreement was entered for an order dismissing the charge with prejudice.

(2) The defendant shall cause to be served on the district attorney or city attorney a copy of the motion for entry of an order dismissing with prejudice the charge of driving while under the influence of intoxicants. The motion shall be served on the district attorney or city attorney at the time it is filed with the court. The district attorney or city attorney may contest the motion.

(3) If the defendant does not appear as provided by subsection (1) of this section within six months after the conclusion of the diversion period, and if the court finds that the defendant fully complied with and performed the conditions of the diversion agreement, and if it gives notice of that finding to the district attorney or city attorney the court may on its own motion enter an order dismissing the charge of driving while under the influence of intoxicants with prejudice.

(4) No statement made by the defendant about the offense with which the defendant is charged shall be offered or received in evidence in any criminal or civil action or proceeding arising out of the same conduct which is the basis of the charge of driving while under the influence of intoxicants, if the statement was made during the course of the *[diagnostic assessment or the rehabilitation] screening interview or treatment* program and to a person employed by the program.

SECTION 54. ORS 813.260 is amended to read:

813.260. (1) Courts having jurisdiction over driving while under the influence of intoxicants offenses shall designate agencies or organizations to perform the *[diagnostic assessment] screening interview* and treatment required under driving while under the influence of intoxicants diversion agreements described in ORS 813.200. The designated agencies or organizations must meet minimum standards established pursuant to ORS 430.357 to perform the *[diagnostic assessment] screening interview* and

treatment of problem drinking, alcoholism and drug dependency and must be certified by the Director of the Oregon Health Authority. Wherever possible a court shall designate agencies or organizations to perform the *[diagnostic assessment]* **screening interview** that are separate from those that may be designated to carry out a program of treatment.

(2) Monitoring of a defendant's progress under a diversion agreement shall be the responsibility of the *[diagnostic assessment]* agency or organization **performing the screening interview**. *[It]* **The agency or organization** shall make a report to the court stating the defendant's successful completion or failure to complete all or any part of the treatment program specified by the *[diagnostic assessment]* **screening interview**. The form of the report shall be determined by agreement between the court and the *[diagnostic assessment]* agency or organization **performing the screening interview**. The court shall make the report of the *[diagnostic assessment]* agency or organization **performing the screening interview** that is required by this subsection a part of the record of the case.

SECTION 55. ORS 813.270 is amended to read:

813.270. The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund under ORS 813.030 and 813.240 or as otherwise provided by law and of gifts and grants made to the fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the following purposes:

(1) To pay for providing treatment for individuals who enter diversion agreements under ORS 813.200 and who are found to be indigent. Payment for treatment under this subsection may include treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided by the Director of the Oregon Health Authority by rule to agencies or organizations providing treatment.

(2) To pay for evaluation as provided by law of programs used for diversion agreements.

(3) To pay the cost of administration of the fund by the Oregon Health Authority.

(4) To pay for materials, resources and training supplied by the authority to those persons, organizations or agencies performing the *[diagnostic assessments]* **screening interviews** or providing education or treatment to persons under diversion agreements.

(5) To pay for providing treatment programs required under ORS 813.020 and treatment or information programs required under ORS 471.432 for individuals who are found to be indigent.

(6) To pay for special services required to enable a person with a disability, or a person whose proficiency in the use of English is limited because of the person's national origin, to participate in treatment programs that are used for diversion agreements under ORS 813.200 or are required under ORS 813.020. This subsection applies:

(a) Whether or not the person is indigent; and

(b) Only to special services required solely because of the person's disability or limited proficiency in the use of English.

REPEALS

SECTION 56. ORS 414.229 and 414.316 are repealed.

CAPTIONS

SECTION 57. The unit captions used in this 2015 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 2015 Act.

Approved by the Governor June 10, 2015

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