

CHAPTER 356

AN ACT

SB 856

Relating to naturopathic physicians; creating new provisions; and amending ORS 30.267, 30.800, 30.802, 109.640, 109.650, 109.675, 109.680, 109.685, 124.105, 125.150, 125.305, 127.505, 127.663, 127.760, 136.220, 146.181, 146.184, 146.750, 147.403, 169.076, 169.077, 169.750, 179.390, 179.486, 192.547, 307.250, 307.260, 332.507, 339.870, 343.146, 410.530, 410.720, 414.550, 414.615, 414.618, 418.017, 418.300, 418.307, 418.325, 418.747, 419B.020, 419B.023, 419B.035, 419B.352, 421.467, 421.590, 426.005, 426.020, 427.005, 427.235, 427.255, 427.270, 427.275, 430.010, 430.401, 430.545, 430.560, 430.735, 431.180, 431A.680, 433.017, 433.040, 433.110, 433.290, 435.205, 435.305, 435.485, 435.496, 441.098, 443.065, 443.075, 443.445, 443.850, 453.307, 475.744, 475.950, 475.975, 475.976, 475.978, 616.750, 628.270, 659A.312, 659A.413, 676.340, 676.345, 678.725, 680.205, 680.545, 681.230, 682.025, 688.805, 688.807, 689.005, 742.420, 742.504, 743.683, 743B.222, 744.364, 744.367, 744.382, 746.230 and 759.720 and section 5, chapter 290, Oregon Laws 1987, and section 13, chapter 819, Oregon Laws 2015.

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

SECTION 1. ORS 30.267 is amended to read:

30.267. (1) For the purposes of ORS 30.260 to 30.300, all services constituting patient care, including, but not limited to, inpatient care, outpatient care and all forms of consultation, that are provided on the Oregon Health and Science University campus or in any Oregon Health and Science University clinic are within the scope of their state employment or duties when performed by:

(a) Salaried physicians, **naturopathic physicians** or dentists employed at any full-time equivalent by the Oregon Health and Science University;

(b) Nonsalaried or courtesy physicians, **naturopathic physicians** or dentists affiliated with the Oregon Health and Science University;

(c) Medical, dental or nursing students or trainees affiliated with the Oregon Health and Science University;

(d) Volunteer physicians, **naturopathic physicians** or dentists affiliated with the Oregon Health and Science University; or

(e) Any nurses, students, orderlies, volunteers, aides or employees of the Oregon Health and Science University.

(2) As used in this section:

(a) "Nonsalaried or courtesy physician, **naturopathic physician** or dentist" means a physician, **naturopathic physician** or dentist who receives a fee or other compensation for those services constituting patient care which are within the scope of state employment or duties under this section. The term does not include a physician, **naturopathic physician** or dentist described under subsection (1)(a) of this section.

(b) "Volunteer physician, **naturopathic physician** or dentist" means a physician, **naturopathic physician** or dentist who does not receive a salary, fee or other compensation for those services constituting patient care which are within the scope of state employment or duties under this section.

SECTION 2. ORS 30.800 is amended to read:

30.800. (1) As used in this section and ORS 30.805, "emergency medical assistance" means:

(a) Medical or dental care not provided in a place where emergency medical or dental care is regularly available, including but not limited to a hospital, industrial first-aid station or the office of a physician, **naturopathic physician**, physician assistant or dentist, given voluntarily and without the expectation of compensation to an injured person who is in need of immediate medical or dental care and under emergency circumstances that suggest that the giving of assistance is the only alternative to death or serious physical aftereffects; or

(b) Medical care provided voluntarily in good faith and without expectation of compensation by a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525 [or], a nurse practitioner licensed under ORS 678.375 to 678.390 or a **naturopathic physician licensed under ORS chapter 685** and in the person's professional capacity as a provider of health care for an athletic team at a public or private school or college athletic event or as a volunteer provider of health care at other athletic events.

(2) No person may maintain an action for damages for injury, death or loss that results from acts or omissions of a person while rendering emergency medical assistance unless it is alleged and proved by the complaining party that the person was grossly negligent in rendering the emergency medical assistance.

(3) The giving of emergency medical assistance by a person does not, of itself, establish a professional relationship between the person giving the assistance and the person receiving the assistance insofar as the relationship carries with it any duty to provide or arrange for further medical care for the injured person after the giving of emergency medical assistance.

SECTION 3. ORS 30.802 is amended to read:

30.802. (1) As used in this section:

(a) "Automated external defibrillator" means an automated external defibrillator approved for sale by the federal Food and Drug Administration.

(b) "Public setting" means a location that is:

(A) Accessible to members of the general public, employees, visitors and guests, but that is not a private residence;

(B) A public school facility as defined in ORS 327.365;

(C) A health club as defined in ORS 431A.450; or

(D) A place of public assembly as defined in ORS 431A.455.

(2) A person may not bring a cause of action against another person for damages for injury, death or loss that result from acts or omissions involving the use, attempted use or nonuse of an automated external defibrillator when the other person:

(a) Used or attempted to use an automated external defibrillator;

(b) Was present when an automated external defibrillator was used or should have been used;

(c) Provided training in the use of an automated external defibrillator;

(d) Is a physician, physician assistant licensed under ORS 677.505 to 677.525 [or], nurse practitioner licensed under ORS 678.375 to 678.390 **or a naturopathic physician licensed under ORS chapter 685** and provided services related to the placement or use of an automated external defibrillator; or

(e) Possesses or controls one or more automated external defibrillators placed in a public setting.

(3) The immunity provided by this section does not apply if:

(a) The person against whom the action is brought acted with gross negligence or with reckless, wanton or intentional misconduct; or

(b) The use, attempted use or nonuse of an automated external defibrillator occurred at a location where emergency medical care is regularly available.

(4) Nothing in this section affects the liability of a manufacturer, designer, developer, distributor or supplier of an automated external defibrillator, or an accessory for an automated external defibrillator, under the provisions of ORS 30.900 to 30.920 or any other applicable state or federal law.

SECTION 4. ORS 109.640 is amended to read:

109.640. (1) [Any] A physician, physician assistant licensed under ORS 677.505 to 677.525 [or], nurse practitioner licensed under ORS 678.375 to 678.390 **or naturopathic physician licensed under ORS chapter 685** may provide birth control information and services to any person without regard to the age of the person.

(2) A minor 15 years of age or older may give consent, without the consent of a parent or guardian of the minor, to:

(a) Hospital care, medical or surgical diagnosis or treatment by a physician licensed by the Oregon Medical Board **or a naturopathic physician licensed under ORS chapter 685**, and dental or surgical diagnosis or treatment by a dentist licensed by the Oregon Board of Dentistry, except as provided by ORS 109.660.

(b) Diagnosis or treatment by a physician assistant who is licensed under ORS 677.505 to 677.525 and who is acting pursuant to a practice agreement as defined in ORS 677.495.

(c) Diagnosis and treatment by a nurse practitioner who is licensed by the Oregon State Board of Nursing under ORS 678.375 and who is acting within the scope of practice for a nurse practitioner.

(d) Except when the minor is obtaining contact lenses for the first time, diagnosis and treatment by an optometrist who is licensed by the Oregon Board

of Optometry under ORS 683.010 to 683.340 and who is acting within the scope of practice for an optometrist.

SECTION 5. ORS 109.650 is amended to read:

109.650. A hospital or [any] a physician, physician assistant, nurse practitioner, **naturopathic physician**, dentist or optometrist described in ORS 109.640 may advise a parent or legal guardian of a minor of the care, diagnosis or treatment of the minor or the need for any treatment of the minor, without the consent of the minor, and is not liable for advising the parent or legal guardian without the consent of the minor.

SECTION 6. ORS 109.675 is amended to read:

109.675. (1) A minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, excluding methadone maintenance, by a physician or physician assistant licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist Examiners, a nurse practitioner registered by the Oregon State Board of Nursing, a clinical social worker licensed by the State Board of Licensed Social Workers, a professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, **a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine** or a community mental health program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.

(2) However, the person providing treatment shall have the parents of the minor involved before the end of treatment unless the parents refuse or unless there are clear clinical indications to the contrary, which shall be documented in the treatment record. The provisions of this subsection do not apply to:

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

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

SECTION 7. ORS 109.680 is amended to read:

109.680. A physician, physician assistant, psychologist, nurse practitioner, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, **naturopathic physician licensed under ORS chapter 685** or community mental health program described in ORS 109.675 may advise the parent or parents or legal guardian of [any] a minor described in ORS 109.675 of the diagnosis or treatment whenever the disclosure is clinically appropriate.

ate and will serve the best interests of the minor's treatment because the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or the minor's condition requires detoxification in a residential or acute care facility. If such disclosure is made, the physician, physician assistant, psychologist, nurse practitioner, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, **naturopathic physician licensed under ORS chapter 685** or community mental health program shall not be subject to any civil liability for advising the parent, parents or legal guardian without the consent of the minor.

SECTION 8. ORS 109.685 is amended to read:

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

SECTION 9. ORS 124.105 is amended to read:

124.105. (1) An action may be brought under ORS 124.100 for physical abuse if the defendant engaged in conduct against a vulnerable person that would constitute any of the following:

(a) Assault, under the provisions of ORS 163.160, 163.165, 163.175 and 163.185.

(b) Menacing, under the provisions of ORS 163.190.

(c) Recklessly endangering another person, under the provisions of ORS 163.195.

(d) Criminal mistreatment, under the provisions of ORS 163.200 and 163.205.

(e) Rape, under the provisions of ORS 163.355, 163.365 and 163.375.

(f) Sodomy, under the provisions of ORS 163.385, 163.395 and 163.405.

(g) Unlawful sexual penetration, under the provisions of ORS 163.408 and 163.411.

(h) Sexual abuse, under the provisions of ORS 163.415, 163.425 and 163.427.

(i) Strangulation, under ORS 163.187.

(2) An action may be brought under ORS 124.100 for physical abuse if the defendant used any unreasonable physical constraint on the vulnerable person or subjected the vulnerable person to prolonged or continued deprivation of food or water.

(3) An action may be brought under ORS 124.100 for physical abuse if the defendant used a physical or chemical restraint, or psychotropic medication on the vulnerable person without an order from a phy-

sician **or naturopathic physician** licensed in the State of Oregon or under any of the following conditions:

(a) For the purpose of punishing the vulnerable person.

(b) For any purpose not consistent with the purposes authorized by a physician **or naturopathic physician**.

(c) For a period significantly beyond that for which the restraint or medication was authorized by a physician **or naturopathic physician**.

SECTION 10. ORS 125.150 is amended to read:

125.150. (1)(a) The court shall appoint a visitor upon the filing of a petition in a protective proceeding that seeks the appointment of:

(A) A guardian for an adult respondent;

(B) A guardian for a minor respondent who is more than 16 years of age, in cases where the court determines there is the likelihood that a petition seeking appointment of a guardian for the respondent as an adult will be filed before the date that the respondent attains majority, in accordance with ORS 125.055 (6), or as an adult; or

(C) A temporary fiduciary who will exercise the powers of a guardian for an adult respondent.

(b) The court may appoint a visitor in any other protective proceeding or in a proceeding under ORS 109.329.

(2) A visitor may be an officer, employee or special appointee of the court. The person appointed may not have any personal interest in the proceedings. The person appointed must have training or expertise adequate to allow the person to appropriately evaluate the functional capacity and needs of a respondent or protected person, or each petitioner and the person to be adopted under ORS 109.329. The court shall provide a copy of the petition and other filings in the proceedings that may be of assistance to the visitor.

(3) A visitor appointed by the court under this section shall interview a person nominated or appointed as fiduciary and the respondent or protected person, or each petitioner and the person to be adopted under ORS 109.329, personally at the place where the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, is located.

(4) Subject to any law relating to confidentiality, the visitor may interview any physician, **naturopathic physician** or psychologist who has examined the respondent or protected person, or each petitioner under ORS 109.329, the person or officer of the institution having the care, custody or control of the respondent or protected person, or each petitioner under ORS 109.329, and any other person who may have relevant information.

(5) If requested by a visitor under subsection (4) of this section, a physician, **naturopathic physician** or psychologist who has examined the respondent or protected person, or each petitioner under ORS 109.329, may, with patient authorization or, in the case of a minor respondent, with the authorization

of the minor's parent or the person having custody of the minor, or in response to a court order in accordance with ORCP 44 or a subpoena under ORCP 55, provide any relevant information the physician, **naturopathic physician** or psychologist has regarding the respondent or protected person, or each petitioner under ORS 109.329.

(6) A visitor shall determine whether it appears that the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, is able to attend the hearing and, if able to attend, whether the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, is willing to attend the hearing.

(7) If a petition is filed seeking the appointment of a guardian for an adult respondent, a visitor shall investigate the following matters:

(a) The inability of the respondent to provide for the needs of the respondent with respect to physical health, food, clothing and shelter;

(b) The location of the respondent's residence and the ability of the respondent to live in the residence while under guardianship;

(c) Alternatives to guardianship considered by the petitioner and reasons why those alternatives are not available;

(d) Health or social services provided to the respondent during the year preceding the filing of the petition, when the petitioner has information as to those services;

(e) The inability of the respondent to resist fraud or undue influence; and

(f) Whether the respondent's inability to provide for the needs of the respondent is an isolated incident of negligence or improvidence, or whether a pattern exists.

(8) If a petition is filed seeking the appointment of a fiduciary, a visitor shall determine whether the respondent objects to:

(a) The appointment of a fiduciary; and

(b) The nominated fiduciary or prefers another person to act as fiduciary.

(9) If a petition is filed seeking the appointment of a conservator in addition to the appointment of a guardian, a visitor shall investigate whether the respondent is financially incapable. The visitor shall interview the person nominated to act as conservator and shall interview the respondent personally at the place where the respondent is located.

(10) A visitor shall determine whether the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, wishes to be represented by counsel and, if so, whether the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, has retained counsel and, if not, the name of an attorney the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, wishes to retain.

(11) If the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, has not retained counsel, a visitor shall determine whether the respondent or protected per-

son, or each petitioner or the person to be adopted under ORS 109.329, desires the court to appoint counsel.

(12) If the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329, does not plan to retain counsel and has not requested the appointment of counsel by the court, a visitor shall determine whether the appointment of counsel would help to resolve the matter and whether appointment of counsel is necessary to protect the interests of the respondent or protected person, or each petitioner or the person to be adopted under ORS 109.329.

SECTION 11. ORS 125.305 is amended to read:

125.305. (1) After determining that conditions for the appointment of a guardian have been established, the court may appoint a guardian as requested if the court determines by clear and convincing evidence that:

(a) The respondent is a minor in need of a guardian or the respondent is incapacitated;

(b) The appointment is necessary as a means of providing continuing care and supervision of the respondent; and

(c) The nominated person is both qualified and suitable, and is willing to serve.

(2) The court shall make a guardianship order that is no more restrictive upon the liberty of the protected person than is reasonably necessary to protect the person. In making the order the court shall consider the information in the petition, the report of the visitor, the report of any physician, **naturopathic physician** or psychologist who has examined the respondent, if there was an examination and the evidence presented at any hearing.

(3) The court may require that a guardian post bond.

(4) The Department of Human Services may be appointed guardian of a minor if the minor has no living parents and if no willing, qualified and suitable relative or other person has petitioned the court for appointment as a guardian.

SECTION 12. ORS 127.505 is amended to read:

127.505. As used in ORS 127.505 to 127.660 and 127.995:

(1) "Adult" means an individual who is 18 years of age or older, who has been adjudicated an emancipated minor or who is married.

(2) "Advance directive" means a document that contains a health care instruction or a power of attorney for health care.

(3) "Appointment" means a power of attorney for health care, letters of guardianship or a court order appointing a health care representative.

(4) "Artificially administered nutrition and hydration" means a medical intervention to provide food and water by tube, mechanical device or other medically assisted method. "Artificially administered nutrition and hydration" does not include the usual and typical provision of nutrition and hydration, such as the provision of nutrition and hy-

dration by cup, hand, bottle, drinking straw or eating utensil.

(5) "Attending physician" means the physician who has primary responsibility for the care and treatment of the principal.

(6) "Attorney-in-fact" means an adult appointed to make health care decisions for a principal under a power of attorney for health care, and includes an alternative attorney-in-fact.

(7) "Dementia" means a degenerative condition that causes progressive deterioration of intellectual functioning and other cognitive skills, including but not limited to aphasia, apraxia, memory, agnosia and executive functioning, that leads to a significant impairment in social or occupational function and that represents a significant decline from a previous level of functioning. Diagnosis is by history and physical examination.

(8) "Health care" means diagnosis, treatment or care of disease, injury and congenital or degenerative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining procedures and the use, maintenance, withdrawal or withholding of artificially administered nutrition and hydration.

(9) "Health care decision" means consent, refusal of consent or withholding or withdrawal of consent to health care, and includes decisions relating to admission to or discharge from a health care facility.

(10) "Health care facility" means a health care facility as defined in ORS 442.015, a domiciliary care facility as defined in ORS 443.205, a residential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or a hospice program as defined in ORS 443.850.

(11) "Health care instruction" or "instruction" means a document executed by a principal to indicate the principal's instructions regarding health care decisions.

(12) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or practice of a profession, and includes a health care facility.

(13) "Health care representative" means:

(a) An attorney-in-fact;

(b) A person who has authority to make health care decisions for a principal under the provisions of ORS 127.635 (2) or (3); or

(c) A guardian or other person, appointed by a court to make health care decisions for a principal.

(14) "Incapable" means that in the opinion of the court in a proceeding to appoint or confirm authority of a health care representative, or in the opinion of the principal's attending physician, a principal lacks the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the principal's manner of communicating if those persons are available. "Capable" means not incapable.

(15) "Instrument" means an advance directive, acceptance, disqualification, withdrawal, court order,

court appointment or other document governing health care decisions.

(16) "Life support" means life-sustaining procedures.

(17) "Life-sustaining procedure" means any medical procedure, pharmaceutical, medical device or medical intervention that maintains life by sustaining, restoring or supplanting a vital function. "Life-sustaining procedure" does not include routine care necessary to sustain patient cleanliness and comfort.

(18) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a second physician who has examined the patient and who has clinical privileges or expertise with respect to the condition to be confirmed.

(19) "Permanently unconscious" means completely lacking an awareness of self and external environment, with no reasonable possibility of a return to a conscious state, and that condition has been medically confirmed by a neurological specialist who is an expert in the examination of unresponsive individuals.

(20) "Physician" means an individual licensed to practice medicine by the Oregon Medical Board **or a naturopathic physician licensed to practice naturopathic medicine by the Oregon Board of Naturopathic Medicine.**

(21) "Power of attorney for health care" means a power of attorney document that authorizes an attorney-in-fact to make health care decisions for the principal when the principal is incapable.

(22) "Principal" means:

(a) An adult who has executed an advance directive;

(b) A person of any age who has a health care representative;

(c) A person for whom a health care representative is sought; or

(d) A person being evaluated for capability who will have a health care representative if the person is determined to be incapable.

(23) "Terminal condition" means a health condition in which death is imminent irrespective of treatment, and where the application of life-sustaining procedures or the artificial administration of nutrition and hydration serves only to postpone the moment of death of the principal.

(24) "Tube feeding" means artificially administered nutrition and hydration.

SECTION 13. ORS 127.663 is amended to read: 127.663. As used in ORS 127.663 to 127.684:

(1) "Authorized user" means a person authorized by the Oregon Health Authority to provide information to or receive information from the POLST registry.

(2) "Life-sustaining treatment" means any medical procedure, pharmaceutical, medical device or medical intervention that maintains life by sustaining, restoring or supplanting a vital function. "Life-sustaining treatment" does not include routine care necessary to sustain patient cleanliness and comfort.

(3) “Naturopathic physician” has the meaning given the term in ORS 685.010.

[(3)] (4) “Nurse practitioner” has the meaning given that term in ORS 678.010.

[(4)] (5) “Physician” has the meaning given that term in ORS 677.010.

[(5)] (6) “Physician assistant” has the meaning given that term in ORS 677.495.

[(6)] (7) “POLST” means a physician order for life-sustaining treatment signed by a physician, **naturopathic physician**, nurse practitioner or physician assistant.

[(7)] (8) “POLST registry” means the registry established in ORS 127.666.

SECTION 14. ORS 127.760 is amended to read: 127.760. (1) As used in this section:

(a) “Health care instruction” means a document executed by a patient to indicate the patient’s instructions regarding health care decisions, including an advance directive or power of attorney for health care executed under ORS 127.505 to 127.660.

(b) “Health care provider” means a person licensed, certified or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(c) “Hospital” has the meaning given that term in ORS 442.015.

(d) “Mental health treatment” means convulsive treatment, treatment of mental illness with psychoactive medication, psychosurgery, admission to and retention in a health care facility for care or treatment of mental illness, and related outpatient services.

(2)(a)(A) A hospital may appoint a health care provider who has received training in health care ethics, including identification and management of conflicts of interest and acting in the best interest of the patient, to give informed consent to medically necessary health care services on behalf of a patient admitted to the hospital in accordance with subsection (3) of this section.

(B) If a person appointed under subparagraph (A) of this paragraph is the patient’s attending physician **or naturopathic physician licensed under ORS chapter 685**, the hospital must also appoint another health care provider who meets the requirements of subparagraph (A) of this paragraph to participate in making decisions about giving informed consent to health care services on behalf of the patient.

(b) A hospital may appoint a multidisciplinary committee with ethics as a core component of the duties of the committee, or a hospital ethics committee, to participate in making decisions about giving informed consent to medically necessary health care services on behalf of a patient admitted to the hospital in accordance with subsection (3) of this section.

(3) A person appointed by a hospital under subsection (2) of this section may give informed consent to medically necessary health care services on behalf of and in the best interest of a patient admitted to the hospital if:

(a) In the medical opinion of the attending physician **or naturopathic physician**, the patient lacks the ability to make and communicate health care decisions to health care providers;

(b) The hospital has performed a reasonable search, in accordance with the hospital’s policy for locating relatives and friends of a patient, for a health care representative appointed under ORS 127.505 to 127.660 or an adult relative or adult friend of the patient who is capable of making health care decisions for the patient, including contacting social service agencies of the Oregon Health Authority or the Department of Human Services if the hospital has reason to believe that the patient has a case manager with the authority or the department, and has been unable to locate any person who is capable of making health care decisions for the patient; and

(c) The hospital has performed a reasonable search for and is unable to locate any health care instruction executed by the patient.

(4) Notwithstanding subsection (3) of this section, if a patient’s wishes regarding health care services were made known during a period when the patient was capable of making and communicating health care decisions, the hospital and the person appointed under subsection (2) of this section shall comply with those wishes.

(5) A person appointed under subsection (2) of this section may not consent on a patient’s behalf to:

(a) Mental health treatment;

(b) Sterilization;

(c) Abortion;

(d) Except as provided in ORS 127.635 (3), the withholding or withdrawal of life-sustaining procedures as defined in ORS 127.505; or

(e) Except as provided in ORS 127.580 (2), the withholding or withdrawal of artificially administered nutrition and hydration, as defined in ORS 127.505, other than hyperalimentation, necessary to sustain life.

(6) If the person appointed under subsection (2) of this section knows the patient’s religious preference, the person shall make reasonable efforts to confer with a member of the clergy of the patient’s religious tradition before giving informed consent to health care services on behalf of the patient.

(7) A person appointed under subsection (2) of this section is not a health care representative as defined in ORS 127.505.

SECTION 15. ORS 136.220 is amended to read:

136.220. A challenge for implied bias shall be allowed for any of the following causes and for no other:

(1) Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged in the accusatory instrument, to the complainant or to the defendant.

(2) Standing in the relation of guardian and ward, attorney and client, physician and patient, **naturopathic physician and patient**, physician assistant and patient, nurse practitioner and patient,

master and servant, debtor and creditor, principal and agent or landlord and tenant with the:

- (a) Defendant;
 - (b) Person alleged to be injured by the offense charged in the accusatory instrument; or
 - (c) Complainant.
- (3) Being a member of the family, a partner in business with or in the employment of any person referred to in subsection (2)(a), (b) or (c) of this section or a surety in the action or otherwise for the defendant.
- (4) Having served on the grand jury which found the indictment or on a jury of inquest which inquired into the death of a person whose death is the subject of the indictment or information.
- (5) Having been one of a jury formerly sworn in the same action, and whose verdict was set aside or which was discharged without a verdict after the cause was submitted to it.
- (6) Having served as a juror in a civil action, suit or proceeding brought against the defendant for substantially the same act charged as an offense.
- (7) Having served as a juror in a criminal action upon substantially the same facts, transaction or criminal episode.

SECTION 16. ORS 146.181 is amended to read:

146.181. (1) When a person is reported as missing to any city, county or state police agency, the agency, within 12 hours thereafter, shall enter into state and federal records maintained for that purpose, a report of the missing person in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

(2) The law enforcement agency to which the report is made:

(a) May request from the person making the report information or material likely to be useful in identifying the missing person or the human remains of the missing person, including, but not limited to:

- (A) The name of the missing person and any alternative names the person uses;
- (B) The date of birth of the missing person;
- (C) A physical description of the missing person, including the height, weight, gender, race, eye color, current hair color and natural hair color of the missing person, any identifying marks on the missing person, any prosthetics used by, or surgical implants in, the missing person and any physical anomalies of the missing person;
- (D) The blood type of the missing person;
- (E) The driver license number of the missing person;
- (F) The Social Security number of the missing person;
- (G) A recent photograph of the missing person;
- (H) A description of the clothing the missing person is believed to have been wearing at the time the person disappeared;

(I) A description of items that the missing person is believed to have had with the person at the time the person disappeared;

(J) Telephone numbers and electronic mail addresses of the missing person;

(K) The name and address of any school the missing person attends;

(L) The name and address of any employer of the missing person;

(M) The name and address of the physician, physician assistant, **naturopathic physician**, nurse practitioner or dentist who provides health care services to the missing person;

(N) A description of any vehicle that the missing person might have been driving or riding in when the person disappeared;

(O) The reasons why the person making the missing person report believes the person is missing;

(P) Any circumstances that indicate that the missing person may be at risk of injury or death;

(Q) Any circumstances that may indicate that the disappearance is not voluntary;

(R) Information about a known or possible abductor or a person who was last seen with the missing person; and

(S) The date of the last contact with the missing person.

(b) May request in writing from any dentist, denturist, physician, physician assistant, **naturopathic physician**, nurse practitioner, optometrist or other medical practitioner possessing it such medical, dental or other physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.

(3) The law enforcement agency, upon obtaining information pursuant to subsection (2) of this section, shall make a supplementary entry of that information into the state and federal records described in subsection (1) of this section. The supplementary report shall be in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

SECTION 17. ORS 146.184 is amended to read:

146.184. (1) A dentist, denturist, physician, **naturopathic physician**, optometrist or other medical practitioner, upon receipt of a written request from a law enforcement agency for identifying information pursuant to ORS 146.181, shall [*furnish*] **provide** to the agency [*such*] **any** information known to the practitioner upon the request forms provided by the agency.

(2) Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.

(3) Compliance with a written request for information under this section by a dentist, denturist, physician, **naturopathic physician**, optometrist or other medical practitioner does not constitute a breach of confidentiality.

SECTION 18. ORS 146.750 is amended to read:

146.750. (1) Except as required in subsection (3) of this section, a physician, including an intern and resident, a physician assistant licensed under ORS 677.505 to 677.525, a **naturopathic physician licensed under ORS chapter 685** or a registered nurse licensed under ORS chapter 678, who has reasonable cause to suspect that a person brought to the physician, physician assistant, **naturopathic physician** or registered nurse or coming before the physician, physician assistant, **naturopathic physician** or registered nurse for examination, care or treatment has had injury[, *as defined in ORS 146.710,*] inflicted upon the person other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report must be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to an appropriate law enforcement agency.

(3) When an injury [*as defined in ORS 146.710*], or abuse as defined in ORS 419B.005, occurs to an unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 apply.

SECTION 19. ORS 147.403 is amended to read:

147.403. (1) Each hospital, emergency medical service provider, intermediate care facility, skilled nursing facility, long term care facility and residential care facility in this state shall adopt policies for the treatment or referral of acute sexual assault patients, if such policies are not otherwise provided for by statute or administrative rule.

(2)(a) Each hospital, emergency medical service provider, intermediate care facility, skilled nursing facility, long term care facility and residential care facility in this state that performs forensic medical examinations of sexual assault patients shall:

(A) Adopt, in addition to the facility's own guidelines, if any, the State of Oregon Medical Guideline for Sexual Assault Evaluation of Adolescent and Adult Patients developed and published by the Attorney General's Sexual Assault Task Force.

(B) Except as provided in paragraph (b) of this subsection, employ or contract with at least one sexual assault forensic examiner who has completed didactic training sufficient to satisfy the training requirement for certification by the Oregon SAE/SANE Certification Commission established by the Attorney General.

(b) Paragraph (a)(B) of this subsection does not apply to a hospital that performs forensic medical examinations only of sexual assault patients who are minors. [*Such*] A hospital **described in this paragraph** may use physicians, physician assistants licensed under ORS 677.505 to 677.525, **naturopathic physicians licensed under ORS chapter 685** and nurses to conduct the examinations in consultation with a social worker trained in assisting sexual assault victims who are minors.

SECTION 20. ORS 169.076 is amended to read: 169.076. Each local correctional facility shall:

(1) Provide sufficient staff to perform all audio and visual functions involving security, control, custody and supervision of all confined detainees and prisoners, with personal inspection at least once each hour. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.

(2) Have a comprehensive written policy with respect to:

- (a) Legal confinement authority.
- (b) Denial of admission.
- (c) Telephone calls.
- (d) Admission and release medical procedures.
- (e) Medication and prescriptions.
- (f) Personal property accountability which complies with ORS 133.455.
- (g) Vermin and communicable disease control.
- (h) Release process to include authority, identification and return of personal property.

(i) Rules of the facility governing correspondence and visitations.

(3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies; and regulations for the operation of the facility.

(4) Not administer any physical punishment to any prisoner at any time.

(5) Provide for emergency medical and dental health, having written policies providing for:

(a) Review of the facility's medical and dental plans by a licensed physician, physician assistant, **naturopathic physician** or nurse practitioner.

(b) The security of medication and medical supplies.

(c) A medical and dental record system to include request for medical and dental attention, treatment prescribed, prescriptions, special diets and other services provided.

(d) First aid supplies and staff first aid training.

(6) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.

(7) Ensure that confined detainees and prisoners:

(a) Will be fed daily at least three meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other purposes.

(b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered dietitian or the Oregon Health Authority.

(c) Be provided special diets as prescribed by the facility's designated physician, physician assistant, **naturopathic physician** or nurse practitioner.

(d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions, as defined by the authority under ORS 624.041.

(8) Ensure that the facility be clean, and provide each confined detainee or prisoner:

- (a) Materials to maintain personal hygiene.
- (b) Clean clothing twice weekly.

(c) Mattresses and blankets that are clean and fire-retardant.

(9) Require each prisoner to shower at least twice weekly.

(10) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.

(11) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

(12) Have and provide each prisoner with written rules for inmate conduct and disciplinary procedures. If a prisoner cannot read or is unable to understand the written rules, the information shall be conveyed to the prisoner orally.

(13) Not restrict the free exercise of religion unless failure to impose the restriction will cause a threat to facility or order.

(14) Safeguard and ensure that the prisoner's legal rights to access to legal materials are protected.

SECTION 21. ORS 169.077 is amended to read: 169.077. Each lockup facility shall:

(1) Maintain 24-hour supervision when persons are confined. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.

(2) Make a personal inspection of each person confined at least once each hour.

(3) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.

(4) Ensure that confined detainees and prisoners will be fed daily at least three nutritionally adequate meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other such purposes.

(5) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.

(6) Provide rules of the facility governing correspondence and visitations.

(7) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

(8) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies; and policies and regulations for the operation of the facility.

(9) Ensure that the facility be clean, provide mattresses and blankets that are clean and fire-retardant, and furnish materials to maintain personal hygiene.

(10) Provide for emergency medical and dental health, having written policies providing for review of the facility's medical and dental plans by a li-

censed physician, physician assistant, **naturopathic physician** or nurse practitioner.

SECTION 22. ORS 169.750 is amended to read: 169.750. A juvenile detention facility may not:

(1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation, or detention under conditions that violate the provisions of subsections (2) to (8) of this section or ORS 169.076 (7) to (11), (13) or (14) or 169.740;

(2) Use any physical force, other means of physical control or isolation upon a detained juvenile except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that the danger exists. A use of force or other physical means of control may not employ:

(a) The use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours; or

(b) Isolation for a period in excess of six hours;

(3) Use roomlock except for the discipline and punishment of a detained juvenile for violation of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct that constitutes a crime under the laws of this state or that would justify physical force, control or isolation under subsection (2) of this section;

(4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a physician licensed under ORS chapter 677, **naturopathic physician licensed under ORS chapter 685**, physician assistant licensed under ORS 677.505 to 677.525 or nurse licensed under ORS chapter 678;

(5)(a) Administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility. However, prescription medication may not be administered except upon a written prescription or written order by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685** or dentist licensed under ORS chapter 679, and administered by a person authorized under ORS chapter 677, 678 or 679 to

administer medication. Facility staff not otherwise authorized by law to administer medications may administer noninjectable medications in accordance with rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 (8);

(b) Nonmedical personnel shall receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician, physician assistant, **naturopathic physician** or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician, physician assistant, **naturopathic physician** or nurse practitioner; and

(c) Notwithstanding any other provision of law, medication may not be administered unless a physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse licensed under ORS chapter 678 is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;

(6) Administer to any detained juvenile any medication or medical procedure for purposes of experimentation;

(7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

(a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

(b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;

(c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;

(d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and

(e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or constituted a crime under the laws of this state; and

(8) Detain juveniles with emotional disturbances, mental retardation or physical disabilities on the same charges and circumstances for which other juveniles would have been released or provided with another alternative.

SECTION 23. ORS 179.390 is amended to read:

179.390. (1) The superintendent of an institution within the jurisdiction of the Department of Corrections shall, subject to the approval of the Director of the Department of Corrections, appoint in the manner provided by law all assistants, officers and other employees at the institution under the jurisdiction of the superintendent. The superintendent

may suspend or remove an assistant, officer or other employee in the manner provided by law, reporting all acts of suspension or removal to the Director of the Department of Corrections for approval or disapproval.

(2) The Director of the Department of Corrections and the Director of the Oregon Health Authority shall:

(a) Fix the salaries of assistants, officers and employees where their salary is not fixed by law.

(b) Suspend or discharge any subordinate of a superintendent when public service requires such action, except when suspending or discharging the subordinate violates the State Personnel Relations Law.

(3) The Director of the Oregon Health Authority or a designee at a facility under jurisdiction of the Oregon Health Authority shall, as provided by law, appoint, suspend or discharge an employee of the authority. The director may designate up to three employees at each facility to act in the name of the director in accordance with ORS 240.400.

(4) In addition to or in lieu of employing physicians, the Director of the Department of Corrections or the designee [thereof] **of the director** may contract for the personal services of physicians licensed to practice medicine by the Oregon Medical Board **or naturopathic physicians licensed under ORS chapter 685** to serve as medical advisors for the Oregon Health Authority. Advisors under [such] contracts **entered into under this subsection** shall be directly responsible for administration of medical treatment programs at penal and correctional institutions, as defined in ORS 421.005.

SECTION 24. ORS 179.486 is amended to read:

179.486. (1) The institution from which a transfer or conveyance is made shall pay from its appropriation the cost of such of the following items as may be incurred in a particular case:

(a) Transportation and other expenses incidental to the transfer or conveyance, including the expenses of attendants where an attendant is directed to accompany the inmate.

(b) Hospital expenses incurred at the Oregon Health and Science University.

(c) Examination, treatment and hospital expenses incurred in favor of a physician, **naturopathic physician**, clinic or hospital, other than the Oregon Health and Science University.

(2) An inmate transferred or conveyed to the Oregon Health and Science University shall be accompanied by a report made by the physician **or naturopathic physician** in charge of the institution from which the transfer or conveyance is made, or by another physician **or naturopathic physician** designated by the physician **or naturopathic physician** in charge. The report shall contain the history of the case and the information required by blanks prepared by the School of Medicine or School of Dentistry, as the case may be.

SECTION 25. ORS 192.547 is amended to read:

192.547. (1)(a) The Oregon Health Authority shall adopt rules for conducting research using DNA samples, genetic testing and genetic information. Rules establishing minimum research standards shall conform to the Federal Policy for the Protection of Human Subjects, 45 C.F.R. 46, that is current at the time the rules are adopted. The rules may be changed from time to time as may be necessary.

(b) The rules adopted by the Oregon Health Authority shall address the operation and appointment of institutional review boards. The rules shall conform to the compositional and operational standards for such boards contained in the Federal Policy for the Protection of Human Subjects that is current at the time the rules are adopted. The rules must require that research conducted under paragraph (a) of this subsection be conducted with the approval of the institutional review board.

(c) Persons proposing to conduct anonymous research, coded research or genetic research that is otherwise thought to be exempt from review must obtain from an institutional review board prior to conducting such research a determination that the proposed research is exempt from review.

(2) A person proposing to conduct research under subsection (1) of this section, including anonymous research or coded research, must disclose to the institutional review board the proposed use of DNA samples, genetic testing or genetic information.

(3) The Oregon Health Authority shall adopt rules requiring that all institutional review boards operating under subsection (1)(b) of this section register with the department. The Advisory Committee on Genetic Privacy and Research shall use the registry to educate institutional review boards about the purposes and requirements of the genetic privacy statutes and administrative rules relating to genetic research.

(4) The Oregon Health Authority shall consult with the Advisory Committee on Genetic Privacy and Research before adopting the rules required under subsections (1) and (3) of this section, including rules identifying those parts of the Federal Policy for the Protection of Human Subjects that are applicable to this section.

(5) Genetic research in which the DNA sample or genetic information is coded shall satisfy the following requirements:

(a)(A) The subject has granted informed consent for the specific research project;

(B) The subject has consented to genetic research generally; or

(C) The DNA sample or genetic information is derived from a biological specimen or from clinical individually identifiable health information that was obtained or retained in compliance with ORS 192.537 (2).

(b) The research has been approved by an institutional review board after disclosure by the investigator to the board of risks associated with the coding.

(c) The code is:

(A) Not derived from individual identifiers;

(B) Kept securely and separately from the DNA samples and genetic information; and

(C) Not accessible to the investigator unless specifically approved by the institutional review board.

(d) Data is stored securely in password protected electronic files or by other means with access limited to necessary personnel.

(e) The data is limited to elements required for analysis and meets the criteria in 45 C.F.R. 164.514(e) for a limited data set.

(f) The investigator is a party to the data use agreement as provided by 45 C.F.R. 164.514(e) for limited data set recipients.

(6) Research conducted in accordance with this section is rebuttably presumed to comply with ORS 192.535 and 192.539.

(7)(a) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information obtained, with blanket informed consent, before June 25, 2001, for genetic research.

(b) Notwithstanding ORS 192.535, a person may use a DNA sample or genetic information obtained without specific informed consent and derived from a biological specimen or clinical individually identifiable health information for anonymous research or coded research if an institutional review board operating under subsection (1)(b) of this section:

(A) Waives or alters the consent requirements pursuant to the Federal Policy for the Protection of Human Subjects; and

(B) Waives authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164.

(c) Except as provided in subsection (5)(a) of this section or paragraph (b) of this subsection, a person must have specific informed consent from an individual to use a DNA sample or genetic information of the individual obtained on or after June 25, 2001, for genetic research.

(8) Except as otherwise allowed by rule of the Oregon Health Authority, if DNA samples or genetic information obtained for either clinical or research purposes is used in research, a person may not recontact the individual or the physician, physician assistant, **naturopathic physician** or nurse practitioner of the individual by using research information that is identifiable or coded. The Oregon Health Authority shall adopt by rule criteria for recontacting an individual or the physician, physician assistant, **naturopathic physician** or nurse practitioner of an individual. In adopting the criteria, the department shall consider the recommendations of national organizations such as those created by executive order by the President of the United States and the recommendations of the Advisory Committee on Genetic Privacy and Research.

(9) The requirements for consent to, or notification of, obtaining a DNA sample or genetic information for genetic research are governed by the provisions of ORS 192.531 to 192.549 and the administrative rules that were in effect on the effective

date of the institutional review board's most recent approval of the study.

SECTION 26. ORS 307.250 is amended to read:

307.250. (1) As used in this section and ORS 307.260, 307.262 and 307.270, "veteran" has the meaning given that term in ORS 408.225.

(2) Upon compliance with ORS 307.260, there shall be exempt from taxation not to exceed \$15,000 of the assessed value of the homestead or personal property of any of the following residents of this state other than those described in subsection (3) of this section:

(a) Any veteran who is officially certified by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States as having disabilities of 40 percent or more.

(b) Any veteran having served with the United States Armed Forces who, as certified by one duly licensed physician **or naturopathic physician**, is rated as having disabilities of 40 percent or more. However, a veteran shall be entitled to the exemption granted under this paragraph only if the veteran during the calendar year immediately preceding the assessment year for which the exemption is claimed had total gross income, including pensions, disability compensation or retirement pay, or any combination of such payments from the United States Government on account of such service, of not more than 185 percent of federal poverty guidelines.

(c) The surviving spouse remaining unmarried of a veteran, but the exemption shall apply only to the period preceding the date of the first remarriage of the surviving spouse.

(3) Upon compliance with ORS 307.260, there shall be exempt from taxation not to exceed \$18,000 of the assessed value of the homestead or personal property of any of the following residents of this state:

(a) Any veteran who is officially certified by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States as having service-connected disabilities of 40 percent or more.

(b) The surviving spouse remaining unmarried of a veteran, if the veteran died as a result of service-connected injury or illness or if the veteran received at least one year of the maximum exemption from taxation allowed under paragraph (a) of this subsection after 1981 for a veteran certified as having service-connected disabilities of 40 percent or more.

(4) The amount of the exemption allowed under subsection (2) or (3) of this section shall equal 103 percent of the amount of the exemption for the prior tax year.

SECTION 27. ORS 307.260 is amended to read:

307.260. (1)(a) Each veteran or surviving spouse qualifying for the exemption under ORS 307.250 shall file with the county assessor, on forms supplied by the assessor, a claim therefor in writing on or before April 1 of the assessment year for which the ex-

emption is claimed, except that when the property designated is acquired after March 1 but prior to July 1 the claim shall be filed within 30 days after the date of acquisition.

(b) A claim need not be filed under this section in order to be allowed the exemption described in ORS 307.250 if:

(A) The homestead or personal property of the veteran or surviving spouse was allowed the exemption under ORS 307.250 for the preceding tax year;

(B) The individual claiming the exemption is a veteran described in ORS 307.250 (2)(a) or (3)(a) or a surviving spouse who meets the requirements of ORS 307.250 (2)(c) or (3)(b); and

(C) As of the filing date for the current tax year, the ownership and use of the homestead or personal property and all other qualifying conditions for the homestead or personal property to be allowed the exemption remain unchanged.

(c)(A) If the individual claiming the exemption is a veteran described in ORS 307.250 (2)(b), the claimant shall file a claim annually that satisfies the requirements of subsection (2) of this section on or before the date required in paragraph (a) of this subsection.

(B) If the county assessor has not received a claim filed under this paragraph on or before April 1 of the current year, not later than April 10 of each year, the county assessor shall notify the veteran in the county who secured an exemption under ORS 307.250 (2)(b) in the preceding year but who did not make application therefor on or before April 1 of the current year. The county assessor may provide the notification on an unsealed postal card. A veteran so notified may secure the exemption, if still qualified, by making application therefor to the county assessor not later than May 1 of the current year, accompanied by a late-filing fee of \$10, which shall be deposited in the general fund of the county for general governmental expenses. If the claim for any tax year is not filed within the time specified, the exemption may not be allowed on the assessment roll for that year.

(2)(a) The claim shall set out the basis of the claim and designate the property to which the exemption may apply. Except as provided in subsection (3) of this section, claims for exemptions under ORS 307.250 (2)(a) and (3)(a) shall have affixed thereto the certificate last issued by United States Department of Veterans Affairs or the branch of the Armed Forces of the United States, as the case may be, but dated within three years prior to the date of the claim for exemption, certifying the rate of disability of the claimant.

(b) Claims for exemption under ORS 307.250 (2)(b) shall, except as provided in subsection (3) of this section, have affixed thereto, in addition to the certificate last issued by a licensed physician **or naturopathic physician** and dated within one year prior to the date of the claim for exemption, certifying the rate of disability of the claimant, a statement by the claimant under oath or affirmation setting

forth the total gross income received by the claimant from all sources during the last calendar year.

(c) There also shall be affixed to each claim the affidavit or affirmation of the claimant that the statements contained therein are true.

(3) The provisions of subsection (2) of this section that require a veteran to affix to the claim certificates of the United States Department of Veterans Affairs, a branch of the Armed Forces of the United States or a licensed physician **or naturopathic physician** do not apply to a veteran who has filed the required certificate after attaining the age of 65 years or to a veteran who has filed, on or after September 27, 1987, a certificate certifying a disability rating that, under federal law, is permanent and cannot be changed.

(4)(a) Notwithstanding subsection (1) of this section, a surviving spouse may file a claim for the exemption under ORS 307.250 at any time during the tax year if:

(A) The veteran died during the previous tax year; or

(B) The property designated as the homestead was acquired after March 1 but prior to July 1 of the assessment year and the veteran died within 30 days of the date the property was acquired.

(b) The claim shall be allowed by the county assessor if the surviving spouse meets all of the qualifications for an exemption under ORS 307.250 other than the timely filing of a claim under subsection (1) of this section.

(c) If taxes on the exempt value have been paid, the taxes shall be refunded in the manner prescribed in paragraph (d) of this subsection. If taxes on the exempt value have not been paid, the taxes and any interest thereon shall be abated.

(d) The tax collector shall notify the governing body of the county of any refund required under this section and the governing body shall cause a refund of the taxes and any interest paid to be made from the unsegregated tax collections account described in ORS 311.385. The refund under this subsection shall be made without interest. The county assessor and tax collector shall make the necessary corrections in the records of their offices.

SECTION 28. ORS 332.507 is amended to read:

332.507. (1) As used in this section:

(a) "School employee" includes all employees of a public school district or an education service district.

(b) "Sick leave" means absence from duty because of a school employee's illness or injury or as otherwise provided for by law or by provisions of a collective bargaining agreement. In case of conflict with a rule adopted to interpret a law, the collective bargaining agreement to which the parties agree shall govern.

(2) Each district shall allow each school employee at least 10 days' sick leave at full pay for each school year or one day per month employed, whichever is greater.

(3) At the option of the local governing board, sick leave in excess of five consecutive work days shall be allowed only upon certificate of the school employee's attending physician, **naturopathic physician** or practitioner that the illness or injury prevents the school employee from working.

(4) Sick leave not taken shall accumulate for an unlimited number of days. A local governing board is required to permit a school employee to take up to 75 days sick leave accumulated in other Oregon districts. The accumulation shall not exceed that carried by the most recent employing district. However, the transfer of sick leave from another Oregon district shall not be effective until the school employee has completed 30 working days in the new district.

(5) For purposes of determining retirement benefits, a local governing board is required to permit a school employee to transfer an unlimited number of days of unused accumulated sick leave from another Oregon district employer.

SECTION 29. ORS 339.870 is amended to read:

339.870. (1) A school administrator, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of nonprescription medication, if the school administrator, teacher or other school employee in good faith administers nonprescription medication to a pupil pursuant to written permission and instructions of the pupil's parents or guardian.

(2) A school administrator, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of prescription medication, if the school administrator, teacher or other school employee in compliance with the instructions of a physician, physician assistant, nurse practitioner, **naturopathic physician** or clinical nurse specialist, in good faith administers prescription medication to a pupil pursuant to written permission and instructions of the pupil's parents or guardian.

(3) The civil and criminal immunities imposed by subsections (1) and (2) of this section do not apply to an act or omission amounting to gross negligence or willful and wanton misconduct.

SECTION 30. ORS 343.146 is amended to read:

343.146. (1) To receive special education, children with disabilities shall be determined eligible for special education services under a school district program approved under ORS 343.045 and as provided under ORS 343.221.

(2) Before initially providing special education, the school district shall ensure that a full and individual evaluation is conducted to determine the child's eligibility for special education and the child's special educational needs.

(3) Eligibility for special education shall be determined pursuant to rules adopted by the State Board of Education.

(4) Each school district shall conduct a reevaluation of each child with a disability in accordance with rules adopted by the State Board of Education.

(5) If a medical or vision examination or health assessment is required as part of an initial evaluation or reevaluation, the evaluation shall be given:

(a) In the case of a medical examination, by a physician licensed to practice by a state board of medical examiners or a state medical board **or by a naturopathic physician licensed under ORS chapter 685;**

(b) In the case of a health assessment, by a nurse licensed by a state board of nursing and specially certified as a nurse practitioner or by a licensed physician assistant; and

(c) In the case of a vision examination, by an ophthalmologist or optometrist licensed by a state board.

SECTION 31. ORS 410.530 is amended to read:

410.530. (1) The Department of Human Services has the following authority which it may delegate to any program certified by the department to provide assessment services:

(a) To provide information and education to the general public, hospitals, nursing facilities, physicians, physician assistants, **naturopathic physicians** and nurses regarding availability of the assessment program.

(b) To accept referrals from individuals, families, physicians, **naturopathic physicians**, human service professionals, nursing home professionals, social service agencies or other organizations.

(c) To assess the long term care needs of referred persons.

(d) To identify available noninstitutional services to meet the needs of referred persons, including public and private case management services.

(e) To prepare, explain and document recommendations for persons receiving assessment program services as to the need for skilled nursing care, for intermediate care as provided in a facility or for other care which is available in the community.

(f) To inform referred persons of the extent to which home and community-based services are available, and of their right to choose among the appropriate alternatives that may be available, in consultation with an attending physician and a family member.

(g) To provide public education targeted at older persons, caregivers and families regarding alternative long term care services.

(h) To determine and publish minimum qualifications for members of the admission assessment team.

(2)(a) After consultation with the committee appointed under subsection (3) of this section, the Department of Human Services shall adopt by rule criteria and procedures for certifying and decertifying public or private admission assessment programs and contracting with certified programs. The department shall establish a maximum fee that a certified program may charge for assessment services.

The rules shall specify that a certified program may not charge the person receiving assessment services for any portion of the fee associated with the services necessary to meet the minimum federal criteria.

(b) In certifying a program, the department shall determine that the program includes:

(A) Adequately trained personnel;

(B) Information regarding appropriate service and placement alternatives, including nursing facilities and community-based options;

(C) Provisions to the applicant of information about appropriate options; and

(D) Prohibition of an assessment being provided by any certified program which has any financial interest in the facility to which placement is recommended.

(c) The program shall not require the recommendation of the admission team be binding and the applicant has the right to choose from any options that are available.

(3) The Director of Human Services shall appoint an advisory committee to advise the department in certifying and decertifying programs that provide or fail to provide the service described in this section. The director shall appoint representatives from trade associations in Oregon for hospitals and health systems, nursing facilities and residential facilities and from an organization in Oregon representing the interests of senior citizens.

SECTION 32. ORS 410.720 is amended to read:

410.720. (1) It is the policy of this state to provide mental health and addiction services for all Oregon senior citizens and persons with disabilities through a comprehensive and coordinated statewide network of local mental health services and alcohol and drug abuse education and treatment. These services should involve family and friends and be provided in the least restrictive and most appropriate settings.

(2) The Department of Human Services and the Oregon Health Authority shall facilitate the formation of local community partnerships between the senior, disability, mental health, alcohol and drug abuse and health care communities by supporting the development of program approaches that meet minimum standards adopted by the Oregon Health Authority under ORS 430.357 including, but not limited to:

(a) Mental health and addiction screenings and assessments in long term care settings;

(b) Outreach services to seniors and persons with disabilities in their homes, including gatekeeper programs, neighborhood programs and programs designed for rural communities;

(c) Multilingual and multicultural medical and psychiatric services for ethnic minorities with physical disabilities and hearing impairments;

(d) Education and training for health care consumers, health care professionals and mental health and addiction services providers on mental health

and addiction issues, programs and services for seniors and persons with disabilities; and

(e) Education and consultation services for primary care physicians **and naturopathic physicians** treating seniors and persons with disabilities.

(3) In carrying out the provisions of subsections (1) and (2) of this section, the department and the authority shall:

(a) Develop plans for service coordination within the department and the authority;

(b) Recommend budget provisions for the delivery of needed services offered by the department and the authority; and

(c) Develop plans for expanding mental health and addiction services for seniors and persons with disabilities to meet the increasing demand.

SECTION 33. ORS 414.550 is amended to read: 414.550. As used in ORS 414.550 to 414.565:

(1) "Cystic fibrosis services" means a program for medical care, including the cost of prescribed medications and equipment, respiratory therapy, physical therapy, counseling services that pertain directly to cystic fibrosis related health needs and outpatient services including physician, physician assistant, **naturopathic physician** or nurse practitioner fees, X-rays and necessary clinical tests to insure proper ongoing monitoring and maintenance of the patient's health.

(2) "Eligible individual" means a resident of the State of Oregon over 18 years of age.

SECTION 34. ORS 414.615 is amended to read:

414.615. (1) Eligible persons shall select, to the extent practicable as determined by the Oregon Health Authority, from among available providers participating in the program.

(2) The authority by rule shall define the circumstances under which it may choose to reimburse for any medical services not covered under the prepaid capitation or costs of related services provided by or under referral from any physician **or naturopathic physician** participating in the program in which the eligible person is enrolled.

(3) The authority shall establish requirements as to the minimum time period that an eligible person is assigned to specific providers in the system.

(4) Actions taken by providers, potential providers, contractors and bidders in specific accordance with this chapter in forming consortiums or in otherwise entering into contracts to provide medical care shall be considered to be conducted at the direction of this state, shall be considered to be lawful trade practices and shall not be considered to be the transaction of insurance for purposes of ORS 279A.025, 279A.140, 414.145 and 414.610 to 414.620.

SECTION 35. ORS 414.618 is amended to read:

414.618. (1) In areas that are not served by a coordinated care organization, the Oregon Health Authority may execute prepaid capitated health service contracts for at least hospital, physician, physician assistant, **naturopathic physician** or nurse practi-

tioner medical care, or any combination of such medical care, with hospital and medical organizations, health maintenance organizations and any other appropriate public or private persons.

(2) For purposes of ORS 279A.025, 279A.140, 414.145 and 414.610 to 414.620, instrumentalities and political subdivisions of the state are authorized to enter into prepaid capitated health service contracts with the authority and shall not thereby be considered to be transacting insurance.

(3) In the event that there is an insufficient number of qualified bids for coordinated care organizations or prepaid capitated health services contracts for hospital, physician, physician assistant, **naturopathic physician** or nurse practitioner medical care in some areas of the state, the authority may continue a fee for service payment system.

(4) Payments to providers may be subject to contract provisions requiring the retention of a specified percentage in an incentive fund or to other contract provisions by which adjustments to the payments are made based on utilization efficiency.

(5) Contracts described in this section are not subject to ORS chapters 279A and 279B, except that the contracts are subject to ORS 279A.235 and 279A.250 to 279A.290.

SECTION 36. ORS 418.017 is amended to read:

418.017. (1) A parent may leave an infant at an authorized facility in the physical custody of an agent, employee, physician or other medical professional working at the authorized facility if the infant:

(a) Is 30 days of age or younger as determined to a reasonable degree of medical certainty; and

(b) Has no evidence of abuse.

(2) A parent leaving an infant under this section is not required to provide any identifying information about the infant or the parent.

(3) An agent, employee, physician or other medical professional working at an authorized facility shall receive an infant brought to the authorized facility under this section.

(4) If acting in good faith in receiving an infant, an authorized facility receiving an infant under this section and any agent, employee, physician or other medical professional working at the authorized facility are immune from any criminal or civil liability that otherwise might result from their actions relating to receiving the infant. A city, county or other political subdivision of this state that operates a sheriff's office, police station or fire station that receives an infant under this section is immune from any criminal or civil liability that otherwise might result from the actions taken by its employees or agents in receiving the infant.

(5) When an infant has been left at an authorized facility as provided in this section:

(a) The authorized facility shall notify the Department of Human Services that an infant has been left at the facility as provided in subsection (1) of this section no later than 24 hours after receiving the infant.

(b) The infant is deemed abandoned for purposes of ORS 419B.100, and the department is deemed to have protective custody of the infant under ORS 419B.150 from the moment the infant was left at the facility. The department shall comply with the applicable provisions of ORS chapter 419B with regard to the infant.

(6) The authorized facility shall release the infant to the department when release is appropriate considering the infant's medical condition and shall provide the department with all information the facility has regarding the infant.

(7) As used in this section:

(a) "Abuse" has the meaning given that term in ORS 419B.005.

(b) "Authorized facility" means a hospital as described in ORS 442.015, freestanding birthing center as defined in ORS 442.015, physician's office, sheriff's office, police station or fire station.

(c) "Physician" means a person licensed by the Oregon Medical Board to practice medicine and surgery **or a naturopathic physician licensed under ORS chapter 685 to practice naturopathic medicine.**

SECTION 37. ORS 418.300 is amended to read:

418.300. [No] A private individual, including midwives, physicians, **naturopathic physicians,** nurses, hospital officials and all officers and employees or representatives of unauthorized agencies, organizations or institutions, [shall] **may not** engage in child-placing work, except that relatives of the first and second degrees may thus provide for children of their own blood.

SECTION 38. ORS 418.307 is amended to read:

418.307. (1) A physician licensed by the Oregon Medical Board, **a naturopathic physician licensed under ORS chapter 685,** [or] a dentist licensed by the Oregon Board of Dentistry[,] or a hospital licensed by the Department of Human Services is authorized to treat a child who is ward of the court or is a dependent or delinquent child in accord with the [physician's] best medical judgment **of the physician, naturopathic physician, dentist or responsible official of the hospital** and without consent if:

(a) Because of the general state of the child's health or any particular condition, the physician, **naturopathic physician,** dentist[,] or responsible official of the hospital determines that in the medical judgment of the physician, **naturopathic physician,** dentist or responsible official prompt action is reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or effective cure; and

(b) It is impossible or highly impractical to obtain consent for treating the child from the child-caring agency, the child's parent or the child's legal guardian.

(2) No charge of assault or battery shall be made against a physician, **naturopathic physician,** dentist[,] or hospital official or employee who pro-

vides medical treatment pursuant to subsection (1) of this section.

(3) A minor child described in subsection (1) of this section who is 15 years of age or older may consent to medical treatment pursuant to ORS 109.640.

SECTION 39. ORS 418.325, as amended by section 23, chapter 106, Oregon Laws 2016, is amended to read:

418.325. (1) A child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 shall safeguard the health of each child, ward or other dependent or delinquent child to whom the agency provides care or services by providing for medical examinations of each child by a qualified physician **or naturopathic physician** at the following intervals:

(a) Three examinations during the first year of the child's life;

(b) One examination during the second year of the child's life;

(c) One examination at the age of four;

(d) One examination at the age of six;

(e) One examination at the age of nine; and

(f) One examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child's health or by any particular condition.

(4) Within 90 days of obtaining custody of a child under six years of age, a child-caring agency shall provide for the child to be:

(a) Inoculated as determined appropriate by the local health department; and

(b) Tested for:

(A) Phenylketonuria pursuant to ORS 433.285;

(B) Visual and aural acuity consistent with the child's age;

(C) Sickle-cell anemia;

(D) Effects of rubella, if any;

(E) Effects of parental venereal disease, if any; and

(F) The hereditary or congenital effects of parental use of drugs or controlled substances.

(5) Within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, the child-caring agency shall provide for such child to have a complete physical examination by a physician **or naturopathic physician,** including but not limited to inspection for evidence of child abuse

in accordance with rules of the Department of Human Services, and be tested for visual and aural acuity consistent with the child's age.

(6) A child-caring agency shall record the results of tests provided a child pursuant to subsections (1) to (5) of this section in the child's health record. The child's health record shall be kept as a part of the agency's total records of that child. The child's health record shall be made available to both natural parents and to both prospective foster or adoptive parents of that child. A qualified member of a child-caring agency under the supervision of a qualified physician **or naturopathic physician** shall explain to adoptive parents the medical factors possible as a result of a child's birth history, hereditary or congenital defects, or disease or disability experience.

SECTION 40. ORS 418.747 is amended to read:

418.747. (1) The district attorney in each county shall be responsible for developing county multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, local health department personnel, county mental health department personnel who have experience with children and family mental health issues, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies that are represented on the team that specify:

- (a) The role of each agency;
- (b) Procedures to be followed to assess risks to the child;
- (c) Guidelines for timely communication between member agencies;
- (d) Guidelines for completion of responsibilities by member agencies;
- (e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as defined in ORS 329A.250, immediate notification of parents or guardians of children attending the child care facility is required regarding any abuse allegation and pending investigation; and
- (f) Criteria and procedures to be followed when removal of the child is necessary for the child's safety.

(3) Each team member and the personnel conducting child abuse investigations and interviews of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual abuse and rape of children and legally sound and age appropriate interview and investigatory techniques.

(4) All investigations of child abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and pro-

cedures called for in this section. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or child protective services worker, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of physical harm, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A law enforcement officer or child protective services worker shall make a reasonable effort to find and provide a trained investigator or interviewer.

(5) To ensure the protection and safe placement of a child, the Department of Human Services may request that team members obtain criminal history information on any person who is part of the household where the department may place or has placed a child who is in the department's custody. All information obtained by the team members and the department in the exercise of their duties is confidential and may be disclosed only when necessary to ensure the safe placement of a child.

(6) Each team shall classify, assess and review cases under investigation.

(7)(a) Each team shall develop and implement procedures for evaluating and reporting compliance of member agencies with the protocols and procedures required under this section. Each team shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies of the protocols and procedures required under this section and the results of the evaluation as requested.

(b) The administrator may:

(A) Consider the evaluation results when making eligibility determinations under ORS 418.746 (3);

(B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the protocols and procedures being used by the team based on the evaluation results; or

(C) Ask a team to evaluate the team's compliance with the protocols and procedures in a particular case.

(c) The information and records compiled under this subsection are exempt from ORS 192.410 to 192.505.

(8) Each team shall develop policies that provide for an independent review of investigation procedures of sensitive cases after completion of court actions on particular cases. The policies shall include independent citizen input. Parents of child abuse victims shall be notified of the review procedure.

(9) Each team shall designate at least one physician, physician assistant, **naturopathic physician** or nurse practitioner who has been trained to conduct child abuse medical assessments, as defined in ORS 418.782, and who is, or who may designate another physician, physician assistant, **naturopathic physician** or nurse practitioner who is, regularly available to conduct the medical assessment described in ORS 419B.023.

(10) If photographs are taken pursuant to ORS 419B.028, and if the team meets to discuss the case, the photographs shall be made available to each member of the team at the first meeting regarding the child's case following the taking of the photographs.

(11) No later than September 1, 2008, each team shall submit to the Department of Justice a written summary identifying the designated medical professional described in subsection (9) of this section. After that date, this information shall be included in each regular report to the Department of Justice.

(12) If, after reasonable effort, the team is not able to identify a designated medical professional described in subsection (9) of this section, the team shall develop a written plan outlining the necessary steps, recruitment and training needed to make such a medical professional available to the children of the county. The team shall also develop a written strategy to ensure that each child in the county who is a suspected victim of child abuse will receive a medical assessment in compliance with ORS 419B.023. This strategy, and the estimated fiscal impact of any necessary recruitment and training, shall be submitted to the Department of Justice no later than September 1, 2008. This information shall be included in each regular report to the Department of Justice for each reporting period in which a team is not able to identify a designated medical professional described in subsection (9) of this section.

SECTION 41. ORS 419B.020 is amended to read:

419B.020. (1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the Office of Child Care if the alleged child abuse occurred in a child care facility as defined in ORS 329A.250.

(2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility:

(a) The department and the law enforcement agency shall jointly determine the roles and responsibilities of the department and the agency in their respective investigations; and

(b) The department and the agency shall each report the outcomes of their investigations to the Office of Child Care.

(3) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(4) If a child is taken into protective custody by the department, the department shall promptly make

reasonable efforts to ascertain the name and address of the child's parents or guardian.

(5)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(6) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(7) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (6) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525, **a naturopathic physician licensed under ORS chapter 685** or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035.

SECTION 42. ORS 419B.023 is amended to read: 419B.023. (1) As used in this section:

(a) "Designated medical professional" means the person described in ORS 418.747 (9) or the person's designee.

(b) "Suspicious physical injury" includes, but is not limited to:

(A) Burns or scalds;

(B) Extensive bruising or abrasions on any part of the body;

(C) Bruising, swelling or abrasions on the head, neck or face;

(D) Fractures of any bone in a child under the age of three;

(E) Multiple fractures in a child of any age;

(F) Dislocations, soft tissue swelling or moderate to severe cuts;

(G) Loss of the ability to walk or move normally according to the child's developmental ability;

(H) Unconsciousness or difficulty maintaining consciousness;

(I) Multiple injuries of different types;

(J) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(K) Any other injury that threatens the physical well-being of the child.

(2) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

(a) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028; and

(b) Ensure that a designated medical professional conducts a medical assessment within 48 hours, or sooner if dictated by the child's medical needs.

(3) The requirement of subsection (2) of this section shall apply:

(a) Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel:

(A) During the investigation of a new allegation of abuse; or

(B) If the injury was not previously observed by a person conducting an investigation under ORS 419B.020; and

(b) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician, a physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under**

ORS chapter 685 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a designated medical professional, the health care provider shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's health care provider under ORS 419B.050.

(5) Nothing in this section prevents a person conducting a child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care.

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section.

SECTION 43. ORS 419B.035 is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant, **naturopathic physician** or nurse practitioner, regarding any child brought to the physician, physician assistant, **naturopathic physician** or nurse practitioner or coming before the physician, physi-

cian assistant, **naturopathic physician** or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505; and

(j) The Office of Child Care for purposes of ORS 329A.030 (8)(g).

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The

name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant, **naturopathic physician** or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant, **naturopathic physician** or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(i) of this

section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

SECTION 44. ORS 419B.352 is amended to read: 419B.352. The court may direct that the child or ward be examined or treated by a physician, psychiatrist, psychologist, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390, or receive other special care or treatment in a hospital or other suitable facility. If the court determines that mental health examination and treatment should be provided by services delivered through the Department of Human Services, the department shall determine the appropriate placement or services in consultation with the court and other affected agencies. If an affected agency objects to the type of placement or services, the court shall determine the appropriate type of placement or service. During the examination or treatment of the child or ward, the department may, if appropriate, be appointed guardian of the child or ward.

SECTION 45. ORS 421.467 is amended to read: 421.467. (1) Subject to ORS 421.468, the governing body of a county or city in this state may transfer a local inmate to the temporary custody of the Department of Corrections solely for employment at a forest work camp established under ORS 421.455 to 421.480. The county or city transferring the local inmate shall pay the cost of transportation and other expenses incidental to the local inmate's conveyance to the forest work camp and the return of the local inmate to the county or city, including the expenses of law enforcement officers accompanying the local inmate, and is responsible for costs of any medical treatment of the local inmate while the local inmate is employed at the forest work camp not compensated under ORS 655.505 to 655.555.

(2) Before a local inmate is sent to a forest work camp, the governing body of the county or city shall cause the local inmate to be given such inoculations as are necessary in the public interest, and must submit to the Department of Corrections a certificate, signed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390 that the local inmate is physically and mentally able to

perform the work described in ORS 421.470, and is free from communicable disease.

SECTION 46. ORS 421.590 is amended to read: 421.590. (1) For the purposes of this section:

(a) "Medical treatment program" means a treatment program based on a successful medical model that has been proven to reduce recidivism and that is within the range of treatments generally recognized as acceptable within the medical community, including:

(A) Treatment by prescribed medication when recommended by a qualified psychiatrist, physician, physician assistant, **naturopathic physician** or nurse practitioner; or

(B) Psychological treatment.

(b) "Program participant" means a person sentenced for a term of imprisonment based on conviction of a sex crime or a felony attempt to commit a sex crime, or a person who is eligible for parole or post-prison supervision after a term of imprisonment based on conviction of a sex crime or a felony attempt to commit a sex crime, who agrees to participate in a medical treatment program after having been evaluated to be a suitable candidate and who has been provided with adequate information to give informed consent to participation.

(c) "Sex crime" means rape in any degree, sodomy in any degree, unlawful sexual penetration in any degree and sexual abuse in the first or second degree.

(2) The Department of Corrections shall establish a medical treatment program for persons convicted of a sex crime or a felony attempt to commit a sex crime. Any person sentenced for a sex crime or a felony attempt to commit a sex crime may be evaluated to determine if available medical or psychological treatment would be likely to reduce the biological, emotional or psychological impulses that were the probable cause of the person's criminal conduct. If the evaluation determines that the person is a suitable candidate, the department shall offer to allow the person to participate in the medical treatment program. The person must agree to become a program participant.

(3) The State Board of Parole and Post-Prison Supervision shall offer as a condition of parole or post-prison supervision to persons convicted of a sex crime or a felony attempt to commit a sex crime the opportunity to participate in a medical treatment program established by the Department of Corrections under this section. Any person eligible for release for a sex crime or felony attempt to commit a sex crime may be evaluated to determine if available medical or psychological treatment would be likely to reduce the biological, emotional or psychological impulses that were the probable cause of the person's criminal conduct. If the evaluation determines that the person is a suitable candidate, the board shall offer to allow the person to participate in the medical treatment program. The person must agree to become a program participant.

(4) The Department of Corrections shall adopt rules prescribing the procedures and guidelines for implementing the medical treatment programs required under the provisions of this section.

SECTION 47. ORS 426.005 is amended to read: 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

(a) "Community mental health program director" means the director of an entity that provides the services described in ORS 430.630 (3) to (5).

(b) "Director of the facility" means a superintendent of a state mental hospital, the chief of psychiatric services in a community hospital or the person in charge of treatment and rehabilitation programs at other treatment facilities.

(c) "Facility" means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other facility as the authority determines suitable that provides diagnosis and evaluation, medical care, detoxification, social services or rehabilitation to persons who are in custody during a prehearing period of detention or who have been committed to the Oregon Health Authority under ORS 426.130.

(d) "Licensed independent practitioner" means:

(A) A physician, as defined in ORS 677.010; [or]

(B) A nurse practitioner certified under ORS 678.375 and authorized to write prescriptions under ORS 678.390; or

(C) A naturopathic physician licensed under ORS chapter 685.

(e) "Nonhospital facility" means any facility, other than a hospital, that is approved by the authority to provide adequate security, psychiatric, nursing and other services to persons under ORS 426.232 or 426.233.

(f) "Person with mental illness" means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm.

(C) A person:

(i) With a chronic mental illness, as defined in ORS 426.495;

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;

(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and

(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.

(g) "Prehearing period of detention" means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person's behalf in the exercise of duties.

SECTION 48. ORS 426.020 is amended to read:

426.020. (1) The superintendent of a hospital referred to in ORS 426.010 shall be a person the Oregon Health Authority considers qualified to administer the hospital. If the superintendent of any hospital is a physician licensed by the Oregon Medical Board, the superintendent shall serve as chief medical officer.

(2) If the superintendent is not a physician, the Director of the Oregon Health Authority or the designee of the director shall designate a physician to serve as chief medical officer. The designated chief medical officer may be an appointed state employee in the unclassified service, a self-employed contractor or an employee of a public or private entity that contracts with the authority to provide chief medical officer services. Unless the designated chief medical officer is specifically appointed as a state employee in the unclassified service, the designated chief medical officer shall not be deemed a state employee for purposes of any state statute, rule or policy.

(3)(a) Notwithstanding any other provision of law, the designated chief medical officer may supervise physicians **and naturopathic physicians** who are employed by the hospital or who provide services at the hospital pursuant to a contract.

(b) The designated chief medical officer may delegate all or part of the authority to supervise other physicians **and naturopathic physicians** at the hospital to a physician who is employed by the state, a self-employed contractor or an employee of a public or private entity that contracts with the authority to provide physician services.

SECTION 49. ORS 427.005 is amended to read:

427.005. As used in this chapter:

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

(2) "Care" means:

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

(b) Supervision;

(c) Protection; and

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

(3) "Community developmental disabilities program director" means the director of an entity that provides services described in ORS 430.664 to per-

sons with intellectual disabilities or other developmental disabilities.

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

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

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

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

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

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

(5) "Director of the facility" means the person in charge of care, treatment and training programs at a facility.

(6) "Facility" means a group home, activity center, community mental health clinic or other facility or program that the Department of Human Services approves to provide necessary services to persons with intellectual disabilities or other developmental disabilities.

(7) "Incapacitated" means a person is unable, without assistance, to properly manage or take care of personal affairs, including but not limited to financial and medical decision-making, or is incapable, without assistance, of self-care.

(8) "Independence" means the extent to which persons with intellectual disabilities or other developmental disabilities exert control and choice over their own lives.

(9) "Integration" means:

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

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

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

(10)(a) "Intellectual disability" means significantly subaverage general intellectual functioning, defined as intelligence quotients under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior, that is manifested before the individual is 18 years of age.

(b) An individual with intelligence quotients of 70 through 75 may be considered to have an intel-

lectual disability if there is also significant impairment in adaptive behavior, as diagnosed and measured by a qualified professional.

(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

(d) Intellectual disability is synonymous with mental retardation.

(11) "Intellectual functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

(12) "Minor" means an unmarried person under 18 years of age.

(13) "Naturopathic physician" has the meaning given the term in ORS 685.010.

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

[(14)] (15) "Productivity" means regular engagement in income-producing work, preferable competitive employment with supports and accommodations to the extent necessary, by a person with an intellectual disability or another developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with an intellectual disability or another developmental disability in work contributing to a household or community.

[(15)] (16) "Service coordination" means person-centered planning, case management, procuring, coordinating and monitoring of services under an individualized support plan to establish desired outcomes, determine needs and identify resources for a person with developmental disabilities and advocating for the person.

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

[(17)] (18) "Training" means:

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

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

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

SECTION 50. ORS 427.235 is amended to read:

427.235. (1) Any two persons may notify the court having probate jurisdiction for the county or the circuit court, if it is not the probate court but its jurisdiction has been extended to include commitment of a person with an intellectual disability under ORS 3.275, that a person within the county has an intellectual disability and is in need of commitment for residential care, treatment and training.

Such notice shall be in writing and sworn to before an officer qualified to administer an oath and shall set forth the facts sufficient to show the need for investigation. The circuit court shall forward notice to the community developmental disabilities program director in the county if it finds the notice sufficient to show the need for investigation. The director or the designee of the director shall immediately investigate to determine whether the person has an intellectual disability and is in need of commitment for residential care, treatment and training.

(2) Any person who acts in good faith shall not be held civilly liable for making of the notification under subsection (1) of this section.

(3) Any investigation conducted by the community developmental disabilities program director or the designee of the director under subsection (1) of this section shall commence with an interview or examination of the person alleged to have an intellectual disability, where possible, in the home of the person or other place familiar to the person. Further investigation if warranted shall include a diagnostic evaluation as described in ORS 427.105 and may also include interviews with the person's relatives, neighbors, teachers and physician **or naturopathic physician**. The investigation shall also determine if any alternatives to commitment are available. The investigator shall also determine and recommend to the court whether the person is incapacitated and in need of a guardian or conservator.

(4) The investigation report shall be submitted to the court within 30 days of receipt of notice from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also be made available to the Department of Human Services and to the person alleged to have an intellectual disability and, if the person is a minor or incapacitated, to the parents or guardian of the person as soon as possible after its completion but in any case prior to a hearing held under ORS 427.245.

(5) Any person conducting an evaluation or investigation under this section shall in no way be held civilly liable for conducting the investigation or performing the diagnostic evaluation.

(6) If requested by a person conducting an investigation under this section, a physician **or naturopathic physician** who has examined the person alleged to have an intellectual disability may, with patient authorization or in response to a court order, provide any relevant information the physician **or naturopathic physician** has regarding the person alleged to have an intellectual disability.

SECTION 51. ORS 427.255 is amended to read:

427.255. (1) If the court finds that there is probable cause to believe that the failure to take into custody pending an investigation or hearing a person alleged to have an intellectual disability and be in need of commitment for residential care, treatment and training would pose an imminent and serious danger to the person or to others, the court may issue a warrant of detention to either the community developmental disabilities program director or the

sheriff of the county directing that the director, the sheriff or the designee of the director or sheriff take the person into custody and produce the person at the time and place stated in the warrant. At the time the person is taken into custody, the custodian shall advise the person or, if the person is incapacitated or a minor, the parents or guardian of the person of the person's right to counsel, to have legal counsel appointed if the person is unable to afford legal counsel, and, if requested, to have legal counsel appointed immediately.

(2) A person taken into custody under subsection (1) of this section shall be provided all care, custody, evaluation and treatment required for the mental and physical health and safety of the person and the director of the facility retaining custody shall report any care, custody, evaluation or treatment provided the person to the court as required by ORS 427.280. Any diagnostic evaluation performed on such person shall be consistent with Department of Human Services rules and ORS 427.105. Any prescription or administration of drugs shall be the sole responsibility of the treating physician **or naturopathic physician**. The person shall have the right to the least hazardous treatment procedures while in custody, and the treating physician **or naturopathic physician** shall be notified immediately of the use of any mechanical restraints on the person. A note of each use of mechanical restraint and the reasons therefor shall be made a part of the person's clinical record over the signature of the treating physician **or naturopathic physician**.

SECTION 52. ORS 427.270 is amended to read:

427.270. (1) The examining facility conducting the diagnostic evaluation shall make its report in writing to the court. Where components of the diagnostic evaluation have been performed within the previous year according to Department of Human Services rules and ORS 427.105, and the records of the evaluation are available to the examining facility pursuant to ORS 179.505 and department rules, the results of such evaluation may be introduced in court in lieu of repetition of those components by the examining facility. If the facility finds, and shows by its report, that the person examined has an intellectual disability and is in need of commitment for residential care, treatment and training, the report shall include a recommendation as to the type of treatment or training facility most suitable for the person. The report shall also advise the court whether in the opinion of the examining facility the person and, if the person is a minor or incapacitated, the parents or legal guardian of the person would cooperate with voluntary treatment or training and whether the person would benefit either from voluntary treatment or training or from appointment of a legal guardian or conservator.

(2) Upon request by the person or the parent, legal guardian or legal counsel of the person, the court shall appoint an additional physician, **naturopathic physician** or psychologist, or both, to examine the person and make separate reports in writing

to the court. However, the court shall not appoint more than one additional physician **or naturopathic physician** and one additional psychologist to examine the person.

SECTION 53. ORS 427.275 is amended to read:

427.275. (1) Any physician, **naturopathic physician** or psychologist employed by the court to make a diagnostic evaluation of a person alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training, shall be allowed a fee as the court in its discretion determines reasonable for the evaluation. The costs of the evaluation shall be paid by the county of residence of the person or, if the person has no residence within the state, by the county in which the person is taken into custody. The county shall not be held responsible for the costs of prior examinations or tests reported to the court, or of diagnostic evaluations performed or arranged by the community developmental disabilities program or Department of Human Services.

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

SECTION 54. ORS 430.010 is amended to read:

430.010. As used in this chapter:

(1) "Outpatient service" means:

(a) A program or service providing treatment by appointment and by:

(A) Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS 677.010 to 677.450;

(B) Psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to 675.150;

(C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410;

(D) Regulated social workers authorized to practice regulated social work by the State Board of Licensed Social Workers under ORS 675.510 to 675.600; [or]

(E) Professional counselors or marriage and family therapists licensed by the Oregon Board of Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or

(F) **Naturopathic physicians licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685; or**

(b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the authority under:

(A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(C) ORS 430.610 to 430.880 for mental or emotional disturbances.

(2) "Residential facility" means a program or facility providing an organized full-day or part-day program of treatment. Such a program or facility shall be licensed, approved, established, maintained, contracted with or operated by the authority under:

(a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(c) ORS 430.610 to 430.880 for mental or emotional disturbances.

SECTION 55. ORS 430.401 is amended to read:

430.401. (1) A police officer, physician, **naturopathic physician**, physician assistant, nurse practitioner, judge, treatment facility, treatment facility staff member or sobering facility that is registered with the Oregon Health Authority under ORS 430.262 based on a written request for registration received by the authority before January 1, 2016, or the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without malice.

(2) A sobering facility registered with the authority under ORS 430.262 based on a written request for registration received by the authority on or after January 1, 2016, and the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without gross negligence.

SECTION 56. ORS 430.545 is amended to read:

430.545. (1) Evaluation sites provided for under ORS 430.450 to 430.555 shall conduct such procedures as may be necessary to determine if an individual is a drug-dependent person. A person shall be evaluated only with that person's written consent. Subject to approval of the Oregon Health Authority, the director of a treatment facility or the director of an evaluation site may designate personnel to provide treatment or evaluation as appropriate under the lawful limitations of their certification, licensure or professional practice.

(2) Antagonist drugs may be administered for diagnosis of addiction by a registered nurse at an approved site when the nurse has completed required training and a physician **or naturopathic physician** is available on call. Antagonist drugs shall not be

administered without informed written consent of the person.

SECTION 57. ORS 430.560 is amended to read: 430.560. (1) The Oregon Health Authority shall adopt rules [*setting forth*] **to establish** requirements, in accordance with ORS 430.357, for drug treatment programs that contract with the authority and that involve:

(a) Detoxification;
(b) Detoxification with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when detoxification or detoxification with acupuncture and counseling has proven ineffective or upon a written request of a physician licensed by the Oregon Medical Board **or a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine** showing medical need for synthetic opiates if the request is approved in writing by the parole and probation officer, if any, of the drug-dependent person. The copy of the request and the approval must be included in the client's permanent treatment and releasing authority records.

(2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a pregnant woman with her informed consent without prior resort to the treatment programs described in subsection (1)(a) and (b) of this section.

SECTION 58. ORS 430.735 is amended to read: 430.735. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:
(a) Abandonment, including desertion or willful forsaking of a person with a developmental disability or the withdrawal or neglect of duties and obligations owed a person with a developmental disability by a caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse of an adult.

(e) Neglect.

(f) Verbal abuse of a person with a developmental disability.

(g) Financial exploitation of a person with a developmental disability.

(h) Involuntary seclusion of a person with a developmental disability for the convenience of the caregiver or to discipline the person.

(i) A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.373 to 678.390 and any treatment activities

that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

(2) "Adult" means a person 18 years of age or older with:

(a) A developmental disability who is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; or

(b) A mental illness who is receiving services from a community program or facility.

(3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) "Community program" means a community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695.

(6) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a person with a developmental disability.

(b) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.

(d) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

(8) "Intimidation" means compelling or deterring conduct by threat.

(9) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) A police department established by a university under ORS 352.121 or 353.125;

(c) Any county sheriff's office;

(d) The Oregon State Police; or

(e) Any district attorney.

(10) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a person with a developmental disability that may result in physical harm or significant emotional harm to the person;

(b) The failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse; or

(c) Withholding of services necessary to maintain the health and well-being of an adult which leads to physical harm of an adult.

(11) "Person with a developmental disability" means a person described in subsection (2)(a) of this section.

(12) "Public or private official" means:

(a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services or Oregon Health Authority, local health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Regulated social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Any public official;

(L) Firefighter or emergency medical services provider;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined by rule adopted by the Home Care Commission; or

(o) Home care worker, as defined in ORS 410.600.

(13) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(14)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(15) "Sexual contact" has the meaning given that term in ORS 163.305.

(16) "Verbal abuse" means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 59. ORS 431.180 is amended to read:

431.180. (1) Nothing in ORS 431.001 to 431.550 and 431.990 or any other public health law of this state shall be construed as authorizing the Oregon Health Authority or its representatives, or any local public health authority or its representatives, to interfere in any manner with an individual's right to select the physician, physician assistant, **naturopathic physician** or nurse practitioner of the individual's choice or the individual's choice of mode of treatment, nor as interfering with the practice of a person whose religion treats or administers sick or suffering people by purely spiritual means.

(2) This section does not apply to the laws of this state imposing sanitary requirements or rules adopted under the laws of this state imposing sanitary requirements.

SECTION 60. ORS 431A.680 is amended to read:

431A.680. (1) Physicians, nurse midwives, **naturopathic physicians** and other licensed health care professionals who provide prenatal and postnatal care to patients may provide to each patient, and family members of the patient, if appropriate, the informational materials published by the Oregon Health Authority under ORS 431A.675 or other maternal mental health education materials that are approved by the authority.

(2) Hospitals and other health care facilities that provide maternity care may give postnatal and post-pregnancy loss patients, and family members of the patients, if appropriate, prior to the discharge of the patient, the informational materials published by the authority under ORS 431A.675 or other maternal mental health education materials that are approved by the authority.

SECTION 61. ORS 433.017 is amended to read:

433.017. (1) A licensed physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390 attending a pregnant woman in this state for conditions relating to her pregnancy during the period of gestation or at the time of delivery shall, as required by rule of the Oregon Health Authority, take or cause to be taken a sam-

ple of blood of every woman so attended at the time of the first professional visit or within 10 days thereafter. The blood specimen [thus] obtained **under this subsection** [shall] **must** be submitted to a licensed laboratory for [such] tests related to any infectious condition which may affect a pregnant woman or fetus, as the authority shall by rule require, including but not limited to an HIV test as defined in ORS 433.045.

(2) Every other person permitted by law to attend a pregnant woman in this state, but not permitted by law to take blood samples, shall, as required by rule of the authority, cause a sample of blood of such pregnant woman to be taken by a licensed physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390 and have such sample submitted to a licensed laboratory for the tests described under subsection (1) of this section.

(3) In all cases under subsections (1) and (2) of this section the physician, physician assistant, **naturopathic physician** or nurse practitioner shall request consent of the patient to take a blood sample. [No] A sample [shall] **may not** be taken without [such] **the patient's** consent.

SECTION 62. ORS 433.040 is amended to read:

433.040. (1) As used in this section, "vaccine" includes vaccines, immune products and chemoprophylactic medications.

(2) When the State Health Officer of the Oregon Health Authority determines that there is clear evidence that adverse and avoidable health outcomes from a preventable and acute communicable disease are expected to affect identifiable categories of high-risk individuals throughout Oregon and that assistance with the administration of vaccine is warranted due to a vaccine shortage to protect or treat such individuals, the health officer shall implement the Oregon Vaccine Education and Prioritization Plan as provided in subsection (3) of this section.

(3) The authority shall develop and adopt by rule the Oregon Vaccine Education and Prioritization Plan to protect the public health during a vaccine shortage. The plan shall consist of:

(a) Guidelines for physicians, **naturopathic physicians**, nurses, hospitals, health systems, pharmacies and others that hold vaccines for the distribution and administration of vaccines. The guidelines shall include, but are not limited to, a definition of high-risk groups for priority protection or treatment in the event a vaccine shortage is imminent;

(b) Rules for imposing a civil penalty of \$500 against persons who knowingly violate the guidelines for each repeat violation of the guidelines; and

(c) Procedures for:

(A) Mobilizing public and private health resources to assist in vaccine distribution and administration; and

(B) Notifying health professional regulatory boards and licensing authorities of repeated violations of the guidelines by health professionals regulated by the board or licensed by the licensing authority.

(4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the requirements of ORS 183.335 (6)(a). The authority may amend the temporary rules adopted pursuant to subsection (3) of this section as often as is necessary to respond to a vaccine shortage.

SECTION 63. ORS 433.110 is amended to read:

433.110. Every physician, physician assistant, **naturopathic physician** or nurse attending a person affected with any communicable disease shall use all precautionary measures to prevent the spread of the disease as the Oregon Health Authority may prescribe by rule.

SECTION 64. ORS 433.290 is amended to read:

433.290. (1) The Legislative Assembly finds that many newborn children are given their first tests for metabolic diseases too early for the detection of these diseases because parents remove these newborn infants from the hospital before the optimum testing period commences. To assure proper first testing and follow-up testing and increase knowledge about the nature and results of these diseases, the Oregon Health Authority shall institute and carry on an intensive educational program among physicians, **naturopathic physicians**, hospitals, public health nurses, the parents of newborn children and the public concerning the disease of phenylketonuria and other metabolic diseases. This educational program shall include information concerning:

(a) The nature of these diseases; and

(b) Examinations for the detection of these diseases in infancy in order that measures may be taken to prevent the mental retardation resulting from these diseases.

(2) The authority shall make a special effort specifically to inform expectant parents and parents of newborn children of the necessity of newborn infants receiving appropriate tests within the optimum time range after birth to prevent the mental retardation or other serious complications resulting from these diseases.

SECTION 65. ORS 435.205 is amended to read:

435.205. (1) The Oregon Health Authority and every local health department shall offer family planning and birth control services within the limits of available funds. Both agencies jointly may offer such services. The Director of the Oregon Health Authority or a designee shall initiate and conduct discussions of family planning with each person who might have an interest in and benefit from such service. The authority shall furnish consultation and assistance to local health departments.

(2) Family planning and birth control services may include interviews with trained personnel; dis-

tribution of literature; referral to a licensed physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390 for consultation, examination, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products.

(3) Any literature, charts or other family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English shall be made available in the appropriate foreign language for that segment of the population.

(4) In carrying out its duties under this section, and with the consent of the local public health authority as defined in ORS 431.003, the local health department may adopt a fee schedule for services provided by the local health department. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

(5) The local health department shall collect fees according to the schedule adopted under subsection (4) of this section. Such fees may be used to meet the expenses of providing the services authorized by this section.

SECTION 66. ORS 435.305 is amended to read:

435.305. (1) A person may be sterilized by appropriate means upon request and upon the advice of a physician licensed under ORS chapter 677, **naturopathic physician licensed under ORS chapter 685** or physician assistant licensed under ORS 677.505 to 677.525.

(2) A health care provider described in subsection (1) of this section or a hospital may not be held liable for performing a sterilization without obtaining the consent of the spouse of the person sterilized.

(3) Free clinics to sterilize males under subsection (1) of this section may be conducted as a part of the program provided for in ORS 435.205.

(4)(a) A nurse practitioner licensed by the Oregon State Board of Nursing under ORS 678.375 and acting within the scope of practice authorized by the board may provide medical advice to any person about a sterilization procedure.

(b) A nurse practitioner may acknowledge and sign a consent to sterilization procedure form if, no fewer than 30 days before the procedure, the form is provided to and signed by the person on whom the procedure will be performed.

(c) A nurse practitioner may not acknowledge or sign a consent to sterilization procedure form if the form is provided to or signed by the person on whom the procedure will be performed fewer than 30 days before the procedure.

(d) A nurse practitioner may not perform a sterilization procedure on any person.

SECTION 67. ORS 435.485 is amended to read:

435.485. (1) [No] A physician **or naturopathic physician** is **not** required to give advice with respect to or participate in any termination of a pregnancy if the refusal to do so is based on an election not to give such advice or to participate in such terminations and the physician **or naturopathic physician** so advises the patient.

(2) [No] A hospital employee or member of the hospital medical staff is **not** required to participate in any termination of a pregnancy if the employee or staff member notifies the hospital of the election not to participate in such terminations.

SECTION 68. ORS 435.496 is amended to read:

435.496. (1) Each induced termination of pregnancy which occurs in this state, regardless of the length of gestation, shall be reported to the Center for Health Statistics within 30 days by the person in charge of the institution in which the induced termination of pregnancy was performed. If the induced termination of pregnancy was performed outside an institution, the attending physician **or the naturopathic physician** shall prepare and file the report.

(2) If the person who is required to file the report under subsection (1) of this section has knowledge that the person who underwent the induced termination of pregnancy also underwent a follow-up visit or had follow-up contact with a health care provider, the person shall include the fact of the follow-up visit or contact, and whether any complications were noted, in the report. If the person filing the report is not personally aware of the follow-up visit or contact but was informed of the visit or contact, the person shall include the source of that information in the report.

(3) Reports submitted under this section shall not disclose the names or identities of the parents.

SECTION 69. ORS 441.098 is amended to read:

441.098. (1) As used in this section and ORS 441.099 and 441.991:

(a) "Facility" means a hospital, outpatient clinic owned by a hospital, ambulatory surgical center, freestanding birthing center or facility that receives Medicare reimbursement as an independent diagnostic testing facility.

(b) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(c)(A) "Health practitioner" means a physician, **naturopathic physician licensed under ORS chapter 685**, dentist, direct entry midwife, licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner, certified nurse practitioner, licensed physician assistant or medical imaging licensee under ORS 688.405 to 688.605.

(B) "Health practitioner" does not include a provider in a health maintenance organization as defined in ORS 750.005.

(d) "Physician" has the meaning given that term in ORS 677.010.

(2) A health practitioner's decision to refer a patient to a facility for a diagnostic test or health care treatment or service shall be based on the patient's clinical needs and personal health choices.

(3) If a health practitioner refers a patient for a diagnostic test or health care treatment or service at a facility in which the health practitioner or an immediate family member of the health practitioner has a financial interest, the health practitioner or the practitioner's designee shall inform the patient orally and in writing of that interest at the time of the referral.

(4)(a) If a health practitioner refers a patient to a facility for a diagnostic test or health care treatment or service, the health practitioner or the practitioner's designee shall inform the patient, in the form and manner prescribed by the Oregon Health Authority by rule, that:

(A) The patient may receive the test, treatment or service at a different facility of the patient's choice; and

(B) If the patient chooses a different facility, the patient should contact the patient's insurer regarding the extent of coverage or the limitations on coverage for the test, treatment or service at the facility chosen by the patient.

(b) Rules concerning the form and manner for informing a patient as required by this subsection shall:

(A) Be designed to ensure that the information is conveyed in a timely and meaningful manner;

(B) Be administratively simple; and

(C) Accommodate a provider's adoption and use of electronic health record systems.

(5) A health practitioner may not deny, limit or withdraw a referral to a facility solely for the reason that the patient chooses to obtain the test, treatment or service from a different facility.

(6) The authority may not impose additional restrictions or limitations on any referral described in this section that are in addition to the requirements specified in subsections (3) and (4) of this section.

(7) In obtaining informed consent for a diagnostic test or health care treatment or service that will take place at a facility, a health practitioner shall disclose the manner in which care will be provided in the event that complications occur that require health services beyond what the facility has the capability to provide.

(8) Subsections (3) to (5) of this section do not apply to a referral for a diagnostic test or health care treatment or service:

(a) For a patient who is receiving inpatient hospital services or services in an emergency department if the referral is for a diagnostic test or health care treatment or service to be performed while the patient is in the hospital or emergency department;

(b) Made to a particular facility after the initial referral of the patient to that facility; or

(c) Made by the facility or provider to whom a patient was referred.

SECTION 70. ORS 443.065 is amended to read:

443.065. The home health agency shall:

(1) Be primarily engaged in providing skilled nursing services and at least one other service delineated in ORS 443.075 (1)(b) and (c);

(2) Have policies established by professional personnel associated with the agency or organization, including one or more physicians **or naturopathic physicians** and one or more registered nurses, at least two of whom are neither owners nor employees of the agency, and two consumers, to govern the services that it provides;

(3) Require supervision of services that it provides under subsection (1) of this section by a physician, physician assistant, nurse practitioner, **naturopathic physician** or registered nurse, preferably a public health nurse;

(4) Maintain clinical and financial records on all patients; and

(5) Have an overall plan and budget in effect.

SECTION 71. ORS 443.075 is amended to read:

443.075. (1) A home health agency must have an order for treatment, plan of treatment or plan of care from a physician, **naturopathic physician licensed under ORS chapter 685**, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390 for the following services and supplies:

(a) Home nursing care provided by or under the supervision of a registered nurse;

(b) Physical, occupational or speech therapy, medical social services or other therapeutic services;

(c) Home health aide services; and

(d) Medical supplies, other than drugs and biologicals, and the use of medical appliances.

(2) A home health agency shall have each plan of treatment or plan of care reviewed by the physician, **naturopathic physician**, physician assistant or nurse practitioner periodically, in accordance with rules adopted by the Oregon Health Authority.

SECTION 72. ORS 443.445 is amended to read:

443.445. (1) A residential facility may not admit individuals who require continuous nursing care except as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, if any resident of a residential facility requires nursing care for eight or more consecutive days or a physician or the designee of a physician, **a naturopathic physician** or a registered nurse certifies that continued nursing care is required, the resident shall be transferred to an appropriate health care facility for as long as necessary.

(3) A resident of a residential care facility, residential training facility or residential training home who requires nursing care in addition to training or care needs, or any combination thereof, may be served by that facility or home with approval from the Department of Human Services and in accordance with the rules of the department and consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 (8).

(4) A resident of a residential treatment facility or residential treatment home who requires nursing care in addition to treatment needs may be served by that facility or home with approval from the Oregon Health Authority and in accordance with the rules of the authority and consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 (8).

(5) A residential facility may not admit individuals of categories other than those designated on its license without prior written consent of the licensing agency.

(6) In the case of residential facilities supervised by and operated exclusively for persons who rely upon prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized church or religious denomination, no medical, psychological or rehabilitative procedures shall be required.

SECTION 73. ORS 443.850 is amended to read: 443.850. As used in ORS 443.850 to 443.869:

(1) "Hospice program" means a coordinated program of home and inpatient care, available 24 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and supportive services to a patient-family unit experiencing a life threatening disease with a limited prognosis. A hospice program is an institution for purposes of ORS 146.100.

(2) "Hospice services" means items and services provided to a patient-family unit by a hospice program or by other individuals or community agencies under a consulting or contractual arrangement with a hospice program. Hospice services include acute, respite, home care and bereavement services provided to meet the physical, psychosocial, spiritual and other special needs of a patient-family unit during the final stages of illness, dying and the bereavement period.

(3) "Interdisciplinary team" means a group of individuals working together in a coordinated manner to provide hospice care. An interdisciplinary team includes, but is not limited to, the patient-family unit, the patient's attending physician or clinician and one or more of the following hospice program personnel:

- (a) Physician.
- (b) Physician assistant.
- (c) Nurse practitioner.
- (d) Nurse.
- (e) Nurse's aide.
- (f) Occupational therapist.
- (g) Physical therapist.
- (h) Trained lay volunteer.
- (i) Clergy or spiritual counselor.

(j) Credentialed mental health professional such as psychiatrist, psychologist, psychiatric nurse or social worker.

(k) **Naturopathic physician.**

(4) "Patient-family unit" includes an individual who has a life threatening disease with a limited prognosis and all others sharing housing, common

ancestry or a common personal commitment with the individual.

(5) "Person" includes individuals, organizations and groups of organizations.

SECTION 74. ORS 453.307 is amended to read: 453.307. As used in ORS 453.307 to 453.414:

(1) "Community right to know regulatory program" or "local program" means any law, rule, ordinance, regulation or charter amendment established, enforced or enacted by a local government that requires an employer to collect or report information relating to the use, storage, release, possession or composition of hazardous substances and toxic substances if a primary intent of the law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

(2) "Emergency service personnel" includes those entities providing emergency services as defined in ORS 401.025.

(3) "Employer" means:

(a) Any person operating a facility that is included in one or more of the 21 standard industrial classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent Decree of June 8, 1976 (8 E.R.C. 2120); or

(b) Any person operating a facility designated by the State Fire Marshal.

(4) "Fire district" means any agency having responsibility for providing fire protection services.

(5) "Hazardous substance" means:

(a) Any substance designated as hazardous by the Director of the Department of Consumer and Business Services or by the State Fire Marshal;

(b) Any substance for which a material safety data sheet is required by the Director of the Department of Consumer and Business Services under ORS 654.035 and which appears on the list of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by the American Conference of Governmental Industrial Hygienists; or

(c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005.

(6) "Health professional" means a physician licensed under ORS chapter 677, **naturopathic physician licensed under ORS 685**, physician assistant licensed under ORS 677.505 to 677.525, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical services provider.

(7) "Law enforcement agency" has the meaning given that term in ORS 181A.010.

(8) "Local government" means a city, town, county, regional authority or other political subdivision of this state.

(9) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agency thereof, and the federal government and any agency thereof.

(10) "Trade secret" has the meaning given that term in ORS 192.501 (2).

SECTION 75. ORS 475.744 is amended to read:

475.744. (1) [No] A person [shall] **may not** sell or give a hypodermic device to a minor unless the minor demonstrates a lawful need [therefor] **for the hypodermic device** by authorization of a physician, **naturopathic physician licensed under ORS chapter 685**, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, parent or legal guardian or by other means acceptable to the seller or donor.

(2) As used in this section, "hypodermic device" means a hypodermic needle or syringe or medication packaged in a hypodermic syringe or any instrument adapted for the subcutaneous injection of a controlled substance as defined in ORS 475.005.

SECTION 76. ORS 475.950 is amended to read:

475.950. (1) A person commits the offense of failure to report a precursor substances transaction if the person does any of the following:

(a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to the Department of State Police a report that meets the reporting requirements established by rule under ORS 475.945.

(b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, within 10 days after receipt of the substance, submit to the Department of State Police a report that meets the reporting requirements established by rule under ORS 475.945.

(2) This section does not apply to any of the following:

(a) Any pharmacist or other authorized person who sells or furnishes a precursor substance upon the prescription of a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, dentist or veterinarian.

(b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor substance to patients upon prescription.

(c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise furnishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, dentist or veterinarian for distribution to patients upon prescription.

(d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner if the person complies with the alternate reporting requirements.

(e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance from a licensed pharmacist, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, dentist or veterinarian pursuant to a prescription.

(f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in compliance with ORS 475.973.

(g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person with whom the practitioner has a professional relationship.

(h) Any person who obtains a precursor substance from a practitioner, as defined in ORS 475.005, with whom the person has a professional relationship.

(i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical isomer.

(3) Penalties related to providing false information on a report required under this section are provided under ORS 475.965.

(4) The Department of State Police and any law enforcement agency may inspect and remove copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a precursor substance during the normal business hours of the retail or wholesale distributor or may require the retail or wholesale distributor to provide copies of the records.

(5) Failure to report a precursor substances transaction is a Class A misdemeanor.

SECTION 77. ORS 475.975 is amended to read:

475.975. (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of iodine in its elemental form if the person knowingly possesses iodine in its elemental form.

(2) Subsection (1) of this section does not apply to:

(a) A physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses iodine in its elemental form in the regular course of lawful business activities;

(b) A person who possesses iodine in its elemental form in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school;

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or

(C) Manufacturing, government agency or research facility in the course of lawful business activities;

(c) A licensed veterinarian;

(d) A person working in a general hospital who possesses iodine in its elemental form in the regular course of employment at the hospital; or

(e) A person who possesses iodine in its elemental form as a prescription drug pursuant to a prescription issued by a licensed veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390.

(3) Except as otherwise provided in subsection (4) of this section, a person who sells or otherwise transfers iodine in its elemental form to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.

(4) A licensed veterinarian is not required to make a record of a sale or transfer of iodine in its elemental form under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.

(5) A person commits the crime of unlawful distribution of iodine in its elemental form if the person knowingly sells or otherwise transfers iodine in its elemental form to a person not listed in subsection (2) of this section.

(6) Unlawful possession of iodine in its elemental form is a Class A misdemeanor.

(7) Unlawful distribution of iodine in its elemental form is a Class A misdemeanor.

SECTION 78. ORS 475.976 is amended to read:

475.976. (1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of an iodine matrix if the person knowingly possesses an iodine matrix.

(2) Subsection (1) of this section does not apply to:

(a) A person who possesses an iodine matrix as a prescription drug, pursuant to a prescription issued by a licensed veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, **naturopathic physician licensed under ORS chapter 685** or nurse practitioner licensed under ORS 678.375 to 678.390;

(b) A person who is actively engaged in the practice of animal husbandry of livestock as defined in ORS 609.125;

(c) A person who possesses an iodine matrix in conjunction with experiments conducted in a chem-

istry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school;

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or

(C) Manufacturing, government agency or research facility in the course of lawful business activities;

(d) A veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses an iodine matrix in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses an iodine matrix in the regular course of employment at the hospital.

(3) Except as otherwise provided in subsection (4) of this section, a person who sells or otherwise transfers an iodine matrix to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.

(4) A licensed veterinarian is not required to make a record of a sale or transfer of an iodine matrix under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.

(5) A person commits the crime of unlawful distribution of an iodine matrix if the person knowingly sells or otherwise transfers an iodine matrix to a person not listed in subsection (2) of this section.

(6) Unlawful possession of an iodine matrix is a Class A misdemeanor.

(7) Unlawful distribution of an iodine matrix is a Class A misdemeanor.

SECTION 79. ORS 475.978 is amended to read:

475.978. (1) A person who sells or otherwise transfers more than the amount permitted by administrative rule adopted by the Department of State Police of methyl sulfonyl methane to a person other than a physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, **naturopathic physician licensed under ORS chapter 685**, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons shall make a record of each such sale or transfer. The record must be made on

a form provided by the department, completed pursuant to instructions provided by the department and retained by the person for at least three years. Failure to make and retain a record required under this subsection is a Class A violation.

(2) The department shall adopt a rule establishing the minimum amount of methyl sulfonyl methane the sale or transfer of which requires a report under subsection (1) of this section. In establishing the minimum amount, the department shall determine an amount that is reasonably designed not to infringe upon legitimate uses of methyl sulfonyl methane but that discourages the use of methyl sulfonyl methane in the illicit production and distribution of methamphetamine.

(3) This section applies to the sale or transfer of bulk methyl sulfonyl methane in its powder form only, and does not apply to the sale or transfer of products containing methyl sulfonyl methane in other forms including, but not limited to, liquids, tablets, capsules not containing methyl sulfonyl methane in pure powder form, ointments, creams, cosmetics, foods and beverages.

SECTION 80. ORS 616.750 is amended to read:

616.750. If the State Department of Agriculture for reasonable cause believes that any person working in any food establishment is affected with any infectious or contagious disease, the department may require the person to be examined by a competent physician, **naturopathic physician**, physician assistant or nurse practitioner and that the physician, **naturopathic physician**, physician assistant or nurse practitioner furnish the department with a certificate stating whether the person is affected with any infectious or contagious disease. If within five days after so required the person has not furnished the department with such a certificate by a competent physician, **naturopathic physician**, physician assistant or nurse practitioner, the person is guilty of a violation of ORS 616.745 and the department may apply to the circuit court to enjoin the person from continuing to work in the food establishment until the certificate is furnished. The circuit court hereby is authorized to issue the injunction.

SECTION 81. ORS 628.270 is amended to read:

628.270. (1) The Oregon Health Authority may, by rule, define certain communicable diseases which may be spread to the public through the handling of food in refrigerated locker plants.

(2) [No] A person who has a communicable or infectious disease described in subsection (1) of this section [shall] **may not** be permitted to work in or about any refrigerated locker plant or to handle any food in connection with the operation of such plant.

(3) In the discretion of the State Department of Agriculture, an employee of a locker plant may be required to furnish a certificate of health from a physician, **naturopathic physician**, physician assistant or nurse practitioner duly accredited by the authority for the purpose of issuing such certificates.

If such certificate is required under municipal ordinance upon examination deemed adequate by the authority, a certificate issued in compliance with such ordinance is sufficient under this section.

(4) Any health certificate required by this section shall be revoked by the authority at any time that the holder thereof is found, upon physical examination of such holder, to have any communicable or infectious disease. Refusal of any person employed in such locker plant to submit to proper and reasonable physical examination, upon written demand by the authority or the department, is cause for revocation of the employee's health certificate and also is sufficient reason for revocation of the locker plant's license unless the employee immediately is removed from any work or operation in or about such locker plant involving the handling of food.

SECTION 82. ORS 659A.312 is amended to read:

659A.312. (1) It is an unlawful employment practice for an employer to deny to grant already accrued paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. The total length of the leaves shall be determined by the employee, but shall not exceed the amount of already accrued paid leave or 40 work hours, whichever is less, unless agreed to by the employer.

(2) The employer may require verification by a physician **or naturopathic physician** of the purpose and length of each leave requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence used by the employee prior to that medical determination is not affected.

(3) An employer shall not retaliate against an employee for requesting or using accrued paid leave of absence as provided by this section.

(4) This section does not:

(a) Prevent an employer from providing leave for bone marrow donations in addition to leave required under this section.

(b) Affect an employee's rights with respect to any other employment benefit.

(5) This section applies only to employees who work an average of 20 or more hours per week.

SECTION 83. ORS 659A.413 is amended to read:

659A.413. (1) A place of public accommodation that has an employee toilet facility shall allow a customer to use that facility during normal business hours if:

(a) The customer requesting the use of the employee toilet facility suffers from an eligible medical condition;

(b) Three or more employees of the place of public accommodation are working at the time the customer requests use of the employee toilet facility;

(c) The customer presents a letter or other document from a physician, **naturopathic physician**, physician assistant, nurse or nurse practitioner indicating that the customer suffers from an eligible

medical condition, or presents an identification card that was issued by a national organization that advocates for persons with eligible medical conditions and that indicates that the person suffers from an eligible medical condition;

(d) The employee toilet facility is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the place of public accommodation; and

(e) A public restroom is not immediately available to the customer.

(2) This section does not apply to a gas station, as defined in ORS 646.932, with a building of 800 square feet or less.

SECTION 84. ORS 676.340 is amended to read:

676.340. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;

(b) A nurse licensed under ORS 678.040 to 678.101;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390;

(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;

(e) A physician assistant licensed under ORS 677.505 to 677.525;

(f) A dental hygienist licensed under ORS 680.010 to 680.205;

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

(h) A pharmacist licensed under ORS chapter 689; *[and]*

(i) An optometrist licensed under ORS chapter 683; **and**

(j) A naturopathic physician licensed under ORS chapter 685.

SECTION 85. ORS 676.345 is amended to read:

676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician or physician assistant, with the Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;

(d) By a pharmacist, with the State Board of Pharmacy; *[and]*

(e) By an optometrist, with the Oregon Board of Optometry; **and**

(f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made annually. The health professional regulatory boards listed in subsection (1) of this section shall charge no fee for registration under this section.

SECTION 86. ORS 678.725 is amended to read:

678.725. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015, any licensee licensed by the Health Licensing Office, any physician licensed by the Oregon Medical Board, **any naturopathic physician licensed by the Oregon Board of Naturopathic Medicine**, any licensed professional nurse and any licensed pharmacist shall report to the office suspected violations of ORS 678.710 to 678.820 and unsanitary or other unsatisfactory conditions in a nursing home.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee licensed under ORS 678.710 to 678.820 who has reasonable cause to believe that a licensee of any board as defined in ORS 676.150 has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(c) Any person may report to the office suspected violations of ORS 678.710 to 678.820 or unsanitary conditions in a nursing home.

(2) Information acquired by the office pursuant to subsection (1) of this section is confidential and is not subject to public disclosure.

(3) Any person who reports or provides information to the office under subsection (1) of this section and who provides information in good faith may not be subject to an action for civil damages as a result of making the report or providing the information.

SECTION 87. ORS 680.205 is amended to read:

680.205. (1) An expanded practice dental hygienist may render all services within the scope of practice of dental hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the expanded practice dental hygienist permit to:

(a) Patients or residents of the following facilities or programs who, due to age, infirmity or disability, are unable to receive regular dental hygiene treatment:

(A) Nursing homes as defined in ORS 678.710;

(B) Adult foster homes as defined in ORS 443.705;

(C) Residential care facilities as defined in ORS 443.400;

(D) Adult congregate living facilities as defined in ORS 441.525;

(E) Mental health residential programs administered by the Oregon Health Authority;

(F) Facilities for persons with mental illness, as those terms are defined in ORS 426.005;

(G) Facilities for persons with developmental disabilities, as those terms are defined in ORS 427.005;

(H) Local correctional facilities and juvenile detention facilities as those terms are defined in ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Corrections institutions as defined in ORS 421.005; or

(I) Public and nonprofit community health clinics.

(b) Adults who are homebound.

(c) Students or enrollees of nursery schools and day care programs and their siblings under 18 years of age, Job Corps and similar employment training facilities, primary and secondary schools, including private schools and public charter schools, and persons entitled to benefits under the Women, Infants and Children Program.

(d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by **naturopathic physicians**, nurse practitioners, physician assistants or midwives.

(e) Patients whose income is less than the federal poverty level.

(f) Other populations that the Oregon Board of Dentistry determines are underserved or lack access to dental hygiene services.

(2) Unless different criteria for referral of a patient or resident to a dentist are included in an agreement described in subsection (3) of this section, at least once each calendar year, an expanded practice dental hygienist shall refer each patient or resident to a dentist who is available to treat the patient or resident.

(3) An expanded practice dental hygienist may render the services described in paragraphs (a) to (d) of this subsection to the patients described in subsection (1) of this section if the expanded practice dental hygienist has entered into an agreement in a format approved by the board with a dentist licensed under ORS chapter 679. The agreement must set forth the agreed-upon scope of the dental hygienist's practice with regard to:

(a) Administering local anesthesia;

(b) Administering temporary restorations without excavation;

(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs specified in the agreement; and

(d) Referral parameters.

(4) This section does not authorize an expanded practice dental hygienist to administer nitrous oxide except under the indirect supervision of a dentist licensed under ORS chapter 679.

(5) An expanded practice dental hygienist may assess the need for and appropriateness of sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is applied or supplied to patients.

(6) An expanded practice dental hygienist must also procure all other permits or certificates required by the board under ORS 679.250.

SECTION 88. ORS 680.545 is amended to read:

680.545. Denturists licensed prior to January 1, 2004, who have not received an oral pathology endorsement from the State Board of Denture Technology may not treat any person without having first received a statement, dated within 30 days of the date of treatment and signed by a dentist, physician, **naturopathic physician**, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, that the person's oral cavity is substantially free from disease and mechanically sufficient to receive a denture.

SECTION 89. ORS 681.230 is amended to read:

681.230. (1) Without obtaining a license under this chapter, a person may use a procedure included in the practice of speech-language pathology or audiology if the procedure is within the person's scope of practice and the person is:

(a) Licensed by a health professional regulatory board as defined in ORS 676.160;

(b) Performing basic audiometric testing under the supervision of a physician licensed under ORS chapter 677 **or a naturopathic physician licensed under ORS chapter 685** and representing that the person is a medical assistant or audiology assistant;

(c) A teacher who is licensed by the Teacher Standards and Practices Commission and who holds a hearing impaired endorsement issued by the commission;

(d) A student participating in supervised field work or supervised course work in speech-language pathology or audiology as part of a college or university program approved by the State Board of Examiners for Speech-Language Pathology and Audiology; or

(e) A student taking an undergraduate course in speech-language pathology approved by the board.

(2) A person practicing speech-language pathology or audiology without a license under subsection (1) of this section may not represent or imply that the person is a speech-language pathologist, speech-language pathology assistant or audiologist.

(3) A person practicing speech-language pathology or audiology without a license under subsection (1)(d) or (e) of this section:

(a) Must use a title that indicates that the person is a student trainee.

(b) May not be paid for speech-language pathology or audiology services provided by the person, except that the person may be provided a reasonable educational stipend.

(4) Without obtaining a license under this chapter, a person may:

(a) Consult with or disseminate the person's research findings and scientific information to an accredited academic institution or a governmental agency; and

(b) Offer lectures to the public for a fee, monetary or otherwise.

SECTION 90. ORS 682.025 is amended to read:

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

(1) "Ambulance" or "ambulance vehicle" means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(2) "Ambulance service" means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing prehospital care or medical transportation to persons who are ill or injured or who have disabilities.

(3) "Emergency care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications [as] prescribed by a licensed physician **or naturopathic physician**, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. [However,] "Emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(4) "Emergency medical services provider" means a person who has received formal training in prehospital and emergency care, and is licensed to attend any person who is ill or injured or who has a disability. Police officers, firefighters, funeral home employees and other persons serving in a dual capacity one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of this chapter.

(5) "Fraud or deception" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

(6) "Governmental unit" means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

(7) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, used or intended for the use of the general public for vehicles.

(8) "Nonemergency care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677 **or naturopathic physician licensed under ORS chapter 685**, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board **or Oregon**

Board of Naturopathic Medicine in the course of providing prehospital care.

(9) "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.

(10) "Patient" means a person who is ill or injured or who has a disability and who is transported in an ambulance.

(11) "Prehospital care" means care rendered by emergency medical services providers as an incident of the operation of an ambulance and care rendered by emergency medical services providers as incidents of other public or private safety duties, and includes, but is not limited to, "emergency care."

(12) "Scope of practice" means the maximum level of emergency or nonemergency care that an emergency medical services provider may provide.

(13) "Standing orders" means the written protocols that an emergency medical services provider follows to treat patients when direct contact with a physician is not maintained.

(14) "Supervising physician" means a medical or osteopathic physician licensed under ORS chapter 677, actively registered and in good standing with the **Oregon Medical Board**, who provides direction of emergency or nonemergency care provided by emergency medical services providers.

(15) "Unprofessional conduct" means conduct unbecoming a person licensed to perform emergency care, or detrimental to the best interests of the public and includes:

(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which does or might impair an emergency medical services provider's ability safely and skillfully to practice emergency or nonemergency care;

(b) Willful performance of any medical treatment which is contrary to acceptable medical standards; and

(c) Willful and consistent utilization of medical service for treatment which is or may be considered inappropriate or unnecessary.

SECTION 91. ORS 688.805 is amended to read: 688.805. (1) Nothing in ORS 688.800 to 688.840 is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of this state.

(2) Nothing in ORS 688.800 to 688.840 prohibits:

(a) The practice of respiratory care by a student enrolled in a respiratory care education program approved by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or their successors or equivalent organizations, as approved by the Re-

spiratory Therapist and Polysomnographic Technologist Licensing Board.

(b) The practice of polysomnography by a student who is:

(A) Enrolled in an educational program for polysomnography approved by the board; and

(B) In the physical presence of a supervisor approved by the board.

(c) Self-care by a patient, or gratuitous care by a friend or family member who does not claim to be a respiratory care practitioner.

(d) Respiratory care services rendered in the course of an emergency.

(3) Persons in the military services or working in federal facilities are exempt from the provisions of ORS 688.800 to 688.840 when functioning in the course of assigned duties.

(4) Nothing in ORS 688.800 to 688.840 is intended to permit the practice of medicine by a person licensed to practice respiratory care or polysomnography unless the person is also licensed to practice medicine.

(5) The practice of respiratory care:

(a) May be performed in any clinic, hospital, skilled nursing facility, private dwelling or other setting approved by the board.

(b) Must be performed in accordance with the prescription or verbal order of a physician or **naturopathic physician** and shall be performed under a qualified medical director for respiratory care.

(6) The practice of polysomnography:

(a) May be performed in a clinic, hospital, skilled nursing facility, sleep center, sleep laboratory, physician's office, **naturopathic physician's office**, private dwelling or other setting approved by the board.

(b) Must be performed in accordance with the prescription or verbal order of a physician, **naturopathic physician** or physician assistant licensed under ORS chapter 677 or a nurse practitioner licensed under ORS 678.375 to 678.390 and under the direction of a qualified medical director for polysomnography.

SECTION 92. ORS 688.807 is amended to read: 688.807. Notwithstanding ORS 688.805:

(1) ORS 688.800 to 688.840 do not prohibit a respiratory care practitioner from practicing polysomnography in accordance with the prescription or verbal order of a physician or **naturopathic physician** and under the direction of a qualified medical director for respiratory care or for polysomnography.

(2) A polysomnographic technologist may not practice respiratory care without a license issued under ORS 688.815, unless the act is within the scope of practice of a polysomnographic technologist.

SECTION 93. ORS 689.005 is amended to read: 689.005. As used in this chapter:

(1) "Administer" means the direct application of a drug or device whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or the practitioner's authorized agent; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Approved continuing pharmacy education program" means those seminars, classes, meetings, workshops and other educational programs on the subject of pharmacy approved by the board.

(3) "Board of pharmacy" or "board" means the State Board of Pharmacy.

(4) "Clinical pharmacy agreement" means an agreement between a pharmacist or pharmacy and a health care organization or a physician as defined in ORS 677.010 or a **naturopathic physician as defined in ORS 685.010** that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the patients of the health care organization [or], physician or **naturopathic physician**.

(5) "Continuing pharmacy education" means:

(a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic and legal aspects of health care;

(b) The properties and actions of drugs and dosage forms; and

(c) The etiology, characteristics and therapeutics of the disease state.

(6) "Continuing pharmacy education unit" means the unit of measurement of credits for approved continuing education courses and programs.

(7) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device other than by administration from one person to another, whether or not for a consideration.

(8) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(9) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(10) "Distribute" means the delivery of a drug other than by administering or dispensing.

(11) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(12) "Drug order" means a written order, in a hospital or other inpatient care facility, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, that is immediately reduced to writing by a pharmacist, licensed nurse or other practitioner.

(13) "Drug outlet" means any pharmacy, nursing home, shelter home, convalescent home, extended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with facilities located within or out of this state that is engaged in dispensing, delivery or distribution of drugs within this state.

(14) "Drug room" means a secure and lockable location within an inpatient care facility that does not have a licensed pharmacy.

(15) "Electronically transmitted" or "electronic transmission" means a communication sent or received through technological apparatuses, including computer terminals or other equipment or mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(16) "Hormonal contraceptive patch" means a transdermal patch applied to the skin of a patient, by the patient or by a practitioner, that releases a drug composed of a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy.

(17) "Institutional drug outlet" means hospitals and inpatient care facilities where medications are dispensed to another health care professional for administration to patients served by the hospitals or facilities.

(18) "Intern" means a person who is enrolled in or has completed a course of study at a school or college of pharmacy approved by the board and who is licensed with the board as an intern.

(19) "Internship" means a professional experiential program approved by the board under the supervision of a licensed pharmacist registered with the board as a preceptor.

(20) "Itinerant vendor" means a person who sells or distributes nonprescription drugs by passing from house to house, or by haranguing the people on the public streets or in public places, or who uses the customary devices for attracting crowds, recommending their wares and offering them for sale.

(21) "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device.

(22) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or rela-

belonging of its container, except that this term does not include the preparation or compounding of a drug by an individual for their own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a practitioner as an incident to administering or dispensing of a drug in the course of professional practice; or

(b) By a practitioner or by the practitioner's authorization under supervision of the practitioner for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(23) "Manufacturer" means a person engaged in the manufacture of drugs.

(24) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under ORS 689.305.

(25) "Nonprescription drugs" means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(26) "Person" means an individual, corporation, partnership, association or any other legal entity.

(27) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or to engage in the practice of clinical pharmacy.

(28) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed and approved by the board where the practice of pharmacy may lawfully occur and includes apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and prescription laboratories but does not include a place used by a manufacturer or wholesaler.

(29) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists the pharmacist in the practice of pharmacy pursuant to rules of the board.

(30) "Practice of clinical pharmacy" means:

(a) The health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's health and wellness;

(b) The provision of patient care services, including but not limited to post-diagnostic disease state management services; and

(c) The practice of pharmacy by a pharmacist pursuant to a clinical pharmacy agreement.

(31) "Practice of pharmacy" means:

(a) The interpretation and evaluation of prescription orders;

(b) The compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(c) The prescribing and administering of vaccines and immunizations and the providing of patient care services pursuant to ORS 689.645;

(d) The administering of drugs and devices to the extent permitted under ORS 689.655;

(e) The participation in drug selection and drug utilization reviews;

(f) The proper and safe storage of drugs and devices and the maintenance of proper records therefor;

(g) The responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices;

(h) The monitoring of therapeutic response or adverse effect to drug therapy;

(i) The optimizing of drug therapy through the practice of clinical pharmacy;

(j) Patient care services, including medication therapy management and comprehensive medication review;

(k) The offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy; and

(L) The prescribing and dispensing of hormonal contraceptive patches and self-administered oral hormonal contraceptives pursuant to ORS 689.683.

(32) "Practitioner" means a person licensed and operating within the scope of such license to prescribe, dispense, conduct research with respect to or administer drugs in the course of professional practice or research:

(a) In this state; or

(b) In another state or territory of the United States if the person does not reside in Oregon and is registered under the federal Controlled Substances Act.

(33) "Preceptor" means a pharmacist or a person licensed by the board to supervise the internship training of a licensed intern.

(34) "Prescription drug" or "legend drug" means a drug which is:

(a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of the following statements:

(A) "Caution: Federal law prohibits dispensing without prescription"; or

(B) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(b) Required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(35) "Prescription" or "prescription drug order" means a written, oral or electronically transmitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use of a drug. When the context requires, "prescription" also means the drug prepared under such written, oral or electronically transmitted direction.

(36) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or dispensing or compounding of drugs or chemicals or for the administering or dispensing of prescriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully occur.

(37) "Self-administered oral hormonal contraceptive" means a drug composed of a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that the patient to whom the drug is prescribed may take orally.

(38) "Shopkeeper" means a business or other establishment, open to the general public, for the sale or nonprofit distribution of drugs.

(39) "Unit dose" means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the medication.

(40) "Wholesale drug outlet" means any person who imports, stores, distributes or sells for resale any drugs including legend drugs and nonprescription drugs.

SECTION 94. ORS 742.420 is amended to read: 742.420. As used in ORS 742.420 to 742.440:

(1) "Discount medical plan" means a contract, agreement or other business arrangement between a discount medical plan organization and a plan member in which the organization, in exchange for fees, service or subscription charges, dues or other consideration, offers or purports to offer the plan member access to providers and the right to receive medical and ancillary services at a discount from providers.

(2) "Discount medical plan organization" means a person that contracts on behalf of plan members with a provider, a provider network or another discount medical plan organization for access to medical and ancillary services at a discounted rate and determines what plan members will pay as a fee, service or subscription charge, dues or other consideration for a discount medical plan.

(3) "Licensee" means a discount medical plan organization that has obtained a license from the Director of the Department of Consumer and Business Services in accordance with ORS 742.426.

(4) "Medical and ancillary services" means, except when administered by or under contract with the State of Oregon, any care, service, treatment or product provided for any dysfunction, injury or illness of the human body including, but not limited to, care provided by a physician, **naturopathic physician**, physician assistant or nurse practitioner, inpatient care, hospital and surgical services, emergency and ambulance services, audiology services, dental care services, vision care services, mental health services, substance abuse counseling or treatment, chiropractic services, podiatric care services, laboratory services, home health care services, medical equipment and supplies or prescription drugs.

(5) "Plan member" means an individual who pays fees, service or subscription charges, dues or other

consideration in exchange for the right to participate in a discount medical plan.

(6)(a) "Provider" means a person that has contracted or otherwise agreed with a discount medical plan organization to provide medical and ancillary services to plan members at a discount from the person's ordinary or customary fees or charges.

(b) "Provider" does not include:

(A) A person that, apart from any agreement or contract with a discount medical plan organization, provides medical and ancillary services at a discount or at fixed or scheduled prices to patients or customers the person serves regularly; or

(B) A person that does not charge fees, service or subscription charges, dues or other consideration in exchange for providing medical and ancillary services at a discount or at fixed or scheduled prices.

(7) "Provider network" means a person that negotiates directly or indirectly with a discount medical plan organization on behalf of more than one provider that provides medical or ancillary services to plan members.

SECTION 95. ORS 742.504 is amended to read: 742.504. Every policy required to provide the

coverage specified in ORS 742.502 shall provide uninsured motorist coverage that in each instance is no less favorable in any respect to the insured or the beneficiary than if the following provisions were set forth in the policy. However, nothing contained in this section requires the insurer to reproduce in the policy the particular language of any of the following provisions:

(1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and arising out of the ownership, maintenance or use of the uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal representative is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the insurer, or, in the event of disagreement, may be determined by arbitration as provided in subsection (10) of this section.

(b) No judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in this policy, shall be conclusive, as between the insured and the insurer, on the issues of liability of the person or organization or of the amount of damages to which the insured is legally entitled.

(2) As used in this policy:

(a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

(b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of physical contact of the vehicle with the insured or

with a vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascertained;

(B) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof; and

(C) At the insurer's request, the insured or the legal representative of the insured makes available for inspection the vehicle the insured was occupying at the time of the accident.

(c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

(A) The named insured as stated in the policy and any person designated as named insured in the schedule and, while residents of the same household, the spouse of any named insured and relatives of either, provided that neither the relative nor the spouse is the owner of a vehicle not described in the policy and that, if the named insured as stated in the policy is other than an individual or spouses in a marriage who are residents of the same household, the named insured shall be only a person so designated in the schedule;

(B) Any child residing in the household of the named insured if the insured has performed the duties of a parent to the child by rearing the child as the insured's own although the child is not related to the insured by blood, marriage or adoption; and

(C) Any other person while occupying an insured vehicle, provided the actual use thereof is with the permission of the named insured.

(d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

(A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of those terms is defined in the public liability coverage of the policy, insured under the public liability provisions of the policy; or

(B) A nonowned vehicle operated by the named insured or spouse if a resident of the same household, provided that the actual use thereof is with the permission of the owner of the vehicle and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.

(e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described vehicle in the policy.

(f) "Occupying" means in or upon or entering into or alighting from.

(g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a

motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or the vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the phantom vehicle cannot be ascertained;

(B) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident; and

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof.

(h) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.

(i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising out of a motor vehicle accident if:

(A) The vehicle is operated without the consent of the insured;

(B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability insurance;

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer or to the equivalent department in the state where the accident occurred; and

(D) The insured or someone on behalf of the insured cooperates with the appropriate law enforcement agency in the prosecution of the theft of the vehicle.

(j) "Sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages" means the amount of damages that:

(A) A claimant could have recovered in a civil action from the owner or operator at the time of the injury after determination of fault or comparative fault and resolution of any applicable defenses;

(B) Are calculated without regard to the tort claims limitations of ORS 30.260 to 30.300; and

(C) Are no larger than benefits payable under the terms of the policy as provided in subsection (7) of this section.

(k) "Uninsured vehicle," except as provided in paragraph (L) of this provision, means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily injury or death under ORS 806.070 applicable at the time of the accident with respect to any person or

organization legally responsible for the use of the vehicle, or with respect to which there is collectible bodily injury liability insurance applicable at the time of the accident but the insurance company writing the insurance denies coverage or the company writing the insurance becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at the time of the accident.

(B) A hit-and-run vehicle.

(C) A phantom vehicle.

(D) A stolen vehicle.

(E) A vehicle that is owned or operated by a self-insurer:

(i) That is not in compliance with ORS 806.130 (1)(c); or

(ii) That provides recovery to an insured in an amount that is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(L) "Uninsured vehicle" does not include:

(A) An insured vehicle, unless the vehicle is a stolen vehicle;

(B) Except as provided in paragraph (k)(E) of this subsection, a vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

(C) A vehicle that is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any such government;

(D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or

(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.

(m) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, but does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(3) This coverage applies only to accidents that occur on and after the effective date of the policy, during the policy period and within the United States of America, its territories or possessions, or Canada.

(4)(a) This coverage does not apply to bodily injury of an insured with respect to which the insured or the legal representative of the insured shall, without the written consent of the insurer, make

any settlement with or prosecute to judgment any action against any person or organization who may be legally liable therefor.

(b) This coverage does not apply to bodily injury to an insured while occupying a vehicle, other than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by the vehicle.

(c) This coverage does not apply so as to inure directly or indirectly to the benefit of any workers' compensation carrier, any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or any similar law or the State Accident Insurance Fund Corporation.

(d) This coverage does not apply with respect to underinsured motorist benefits unless:

(A) The limits of liability under any bodily injury liability insurance applicable at the time of the accident regarding the injured person have been exhausted by payment of judgments or settlements to the injured person or other injured persons;

(B) The described limits have been offered in settlement, the insurer has refused consent under paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the claim against the tortfeasor;

(C) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement, and the insurer has consented under paragraph (a) of this subsection; or

(D) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured protects the insurer's right of subrogation to the claim against the tortfeasor.

(e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow the insurer a reasonable time in which to collect and evaluate information related to consent to the proposed offer of settlement. The insured shall provide promptly to the insurer any information that is reasonably requested by the insurer and that is within the custody and control of the insured. Consent will be presumed to be given if the insurer does not respond within a reasonable time. For purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt of a written request for consent, unless the insured and the insurer agree otherwise.

(5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable hereunder. The insured and every other person making

claim hereunder shall submit to examinations under oath by any person named by the insurer and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails to furnish the forms within 15 days after receiving notice of claim.

(b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit to physical examinations by physicians, **naturopathic physicians**, physician assistants or nurse practitioners selected by the insurer and shall, upon each request from the insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

(6) If, before the insurer makes payment of loss hereunder, the insured or the legal representative of the insured institutes any legal action for bodily injury against any person or organization legally responsible for the use of a vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with the legal action shall be forwarded immediately to the insurer by the insured or the legal representative of the insured.

(7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit of the insurer's liability for all damages because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting each person, the limit of liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident.

(b) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the amount paid and the present value of all amounts payable on account of the bodily injury under any workers' compensation law, disability benefits law or any similar law.

(c) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the credit given to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

(d) The amount payable under the terms of this coverage may not be reduced by the amount of liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been paid to the injured person. If liability proceeds have been offered and not paid, the amount payable under the terms of the coverage shall include the amount of liability limits offered but not accepted due to the insurer's refusal to consent. The insured shall cooperate so as to permit the insurer to proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.

(8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured or the

legal representative of the insured has fully complied with all the terms of this policy.

(9)(a) With respect to bodily injury to an insured:

(A) While occupying a vehicle owned by a named insured under this coverage, the insurance under this coverage is primary.

(B) While occupying a vehicle not owned by a named insured under this coverage, the insurance under this coverage shall apply only as excess insurance over any primary insurance available to the occupant that is similar to this coverage, and this excess insurance coverage shall then apply only to the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(b) With respect to bodily injury to an insured while occupying any motor vehicle used as a public or livery conveyance, the insurance under this coverage shall apply only as excess insurance over any other insurance available to the insured that is similar to this coverage, and this excess insurance coverage shall then apply only to the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all other insurance.

(10) If any person making claim hereunder and the insurer do not agree that the person is legally entitled to recover damages from the owner or operator of an uninsured vehicle because of bodily injury to the insured, or do not agree as to the amount of payment that may be owing under this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time of the dispute to settle the matter by arbitration, the arbitration shall take place as described in ORS 742.505. Any judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof, provided, however, that the costs to the insured of the arbitration proceeding do not exceed \$100 and that all other costs of arbitration are borne by the insurer. "Costs" as used in this provision does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the arbitration proceedings. The person and the insurer each agree to consider themselves bound and to be bound by any award made by the arbitrators pursuant to this coverage in the event of such election. At the election of the insured, the arbitration shall be held:

(a) In the county and state of residence of the insured;

(b) In the county and state where the insured's cause of action against the uninsured motorist arose; or

(c) At any other place mutually agreed upon by the insured and the insurer.

(11) In the event of payment to any person under this coverage:

(a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement or judgment that may result from the exercise of any

rights of recovery of the person against any uninsured motorist legally responsible for the bodily injury because of which payment is made;

(b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the person shall have against such other uninsured person or organization because of the damages that are the subject of claim made under this coverage, but only to the extent that the claim is made or paid herein;

(c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one or more of whom is uninsured, the insured shall have the election to receive from the insurer any payment to which the insured would be entitled under this coverage by reason of the act or acts of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with legal action against any or all persons claimed to be liable to the insured for the injuries. If the insured elects to receive payment from the insurer under this coverage, then the insured shall hold in trust for the benefit of the insurer all rights of recovery the insured shall have against any other person, firm or organization because of the damages that are the subject of claim made under this coverage, but only to the extent of the actual payment made by the insurer;

(d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;

(e) If requested in writing by the insurer, the person shall take, through any representative not in conflict in interest with the person, designated by the insurer, such action as may be necessary or appropriate to recover payment as damages from such other uninsured person or organization, such action to be taken in the name of the person, but only to the extent of the payment made hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for expenses, costs and attorney fees incurred by the insurer in connection therewith; and

(f) The person shall execute and deliver to the insurer any instruments and papers as may be appropriate to secure the rights and obligations of the person and the insurer established by this provision.

(12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured under this coverage unless within two years from the date of the accident:

(A) Agreement as to the amount due under the policy has been concluded;

(B) The insured or the insurer has formally instituted arbitration proceedings;

(C) The insured has filed an action against the insurer; or

(D) Suit for bodily injury has been filed against the uninsured motorist and, within two years from the date of settlement or final judgment against the uninsured motorist, the insured has formally instituted arbitration proceedings or filed an action against the insurer.

(b) For purposes of this subsection:

(A) "Date of settlement" means the date on which a written settlement agreement or release is signed by an insured or, in the absence of these documents, the date on which the insured or the attorney for the insured receives payment of any sum required by the settlement agreement. An advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for purposes of the time limitation in this subsection.

(B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by entry in an appellate court of an appellate judgment.

SECTION 96. ORS 743B.222 is amended to read:

743B.222. (1) As used in this section, "women's health care provider" means an obstetrician or gynecologist, physician assistant specializing in women's health, advanced registered nurse practitioner specialist in women's health, **naturopathic physician specializing in women's health** or certified nurse midwife, practicing within the applicable lawful scope of practice.

(2) Every health insurance policy that covers hospital, medical or surgical expenses and requires an enrollee to designate a participating primary care provider shall permit a female enrollee to designate a women's health care provider as the enrollee's primary care provider if:

(a) The women's health care provider meets the standards established by the insurer in collaboration with interested parties, including but not limited to the Oregon section of the American College of Obstetricians and Gynecologists; and

(b) The women's health care provider requests that the insurer make the provider available for designation as a primary care provider.

(3) If a female enrollee has designated a primary care provider who is not a women's health care provider, an insurance policy as described in subsection (2) of this section shall permit the enrollee to have direct access to a women's health care provider, without a referral or prior authorization, for obstetrical or gynecological care by a participating health care professional who specializes in obstetrics or gynecology.

(4) The standards established by the insurer under subsection (2) of this section shall not prohibit an insurer from establishing the maximum number of participating primary care providers and participating women's health care providers necessary to serve a defined population or geographic service area.

SECTION 97. ORS 743.683 is amended to read:

743.683. (1) [No] A Medicare supplement insurance policy, contract or certificate in force in the state [shall] **may not** contain benefits which duplicate benefits provided by Medicare.

(2) The Director of the Department of Consumer and Business Services shall adopt by rule specific standards for policy provisions of Medicare supplement policies and certificates. The standards shall be in addition to and in accordance with applicable

laws of this state. [No] A requirement of the Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in ORS 743.680 to 743.689, [shall] **may not** apply to Medicare supplement policies. The standards may cover, but not be limited to:

- (a) Terms of renewability;
- (b) Initial and subsequent conditions of eligibility;
- (c) Nonduplication of coverage;
- (d) Probationary periods;
- (e) Benefit limitations, exceptions and reductions;
- (f) Elimination periods;
- (g) Requirements for replacement;
- (h) Recurrent conditions; and
- (i) Definitions of terms.

(3) Provisions established by the director governing eligibility for Medicare supplement insurance shall not be limited to persons qualifying for Medicare by reason of age.

(4) The director may adopt by rule standards that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the director, are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage under a Medicare supplement policy.

(5) Notwithstanding any other provision of law of this state, a Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician or **naturopathic physician** within six months before the effective date of coverage.

(6) The director shall adopt by rule standards for benefits and claims payment under Medicare supplement policies.

SECTION 98. ORS 744.364 is amended to read:

744.364. (1)(a) A life settlement provider entering into a life settlement contract shall first obtain:

(A) If the owner is the insured, a written statement from a licensed physician, a **naturopathic physician licensed under ORS chapter 685**, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390 that the owner is of sound mind and under no constraint or undue influence to enter into a life settlement contract; and

(B) A document in which the insured consents to the release of the insured's medical records to a licensed life settlement provider, life settlement broker and the insurance company that issued the life insurance policy covering the life of the insured.

(b) Within 20 days after an owner executes documents necessary to transfer any rights under an insurance policy or, if the insured is terminally ill, within 20 days after an owner entering any agreement, option, promise or any other form of understanding, expressed or implied, to transfer the policy

for value, the life settlement provider shall give written notice to the insurer that issued the insurance policy that the policy has or will become a settled policy. The notice must be accompanied by the documents required by paragraph (c) of this subsection.

(c) The life settlement provider shall deliver a copy of the medical release required under paragraph (a)(B) of this subsection, a copy of the owner's application for the life settlement contract, the notice required under paragraph (b) of this subsection and a request for verification of coverage to the insurer that issued the life policy that is the subject of the life transaction. The Director of the Department of Consumer and Business Services shall develop and approve a form for the request for verification.

(d) The insurer shall respond to a request for verification of coverage submitted on an approved form by a life settlement provider or life settlement broker within 30 calendar days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on a form approved by the director. The insurer shall accept an original or facsimile or electronic copy of such request and any accompanying authorization signed by the owner. Failure by the insurer to meet its obligations under this subsection is a violation of the Insurance Code.

(e) Prior to or at the time of execution of the life settlement contract, the life settlement provider shall obtain a witnessed document in which the owner consents to the life settlement contract, represents that the owner has a full and complete understanding of the life settlement contract, that the owner has a full and complete understanding of the benefits of the life insurance policy, acknowledges that the owner is entering into the life settlement contract freely and voluntarily and, for persons with a terminal illness or chronic illness or condition, acknowledges that the insured has a terminal illness or chronic illness and that the terminal illness or chronic illness or condition was diagnosed after the life insurance policy was issued.

(f) If a life settlement broker performs any of the activities required of the life settlement provider, the provider is deemed to have fulfilled the requirements of this section that were performed by the broker.

(2) All medical information solicited or obtained by any licensee is privileged and confidential under ORS 705.137.

(3)(a) All life settlement contracts entered into in this state must provide the owner with an absolute right to rescind the contract before the earlier of 60 calendar days after the date upon which the life settlement contract is executed by all parties or 30 calendar days after the life settlement proceeds

have been sent to the owner under subsection (5) of this section.

(b) The life settlement provider may condition rescission upon the owner both giving notice and repaying to the life settlement provider within the rescission period all proceeds of the settlement and any premiums, loans and loan interest paid by or on behalf of the life settlement provider in connection with or as a consequence of the life settlement.

(c) If the insured dies during the rescission period, the life settlement contract is deemed to have been rescinded, subject to repayment within 60 calendar days of the death of the insured to the life settlement provider or purchaser of all life settlement proceeds and any premiums, loans and loan interest that have been paid by the life settlement provider or purchaser.

(d) In the event of any rescission, if the life settlement provider has paid commissions or other compensation to a life settlement broker in connection with the rescinded transaction, the life settlement broker shall refund all such commissions and compensation to the life settlement provider within five business days following receipt of written demand from the life settlement provider. The demand must be accompanied by either the owner's notice of rescission if rescinded at the election of the owner, or the notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

(4) The life settlement purchaser shall have the right to rescind a life settlement contract within three days after the disclosures mandated by ORS 744.354 (7) are received by the purchaser.

(5)(a) The life settlement provider shall instruct the owner to send the executed documents required to effect the change in ownership, assignment or change in beneficiary directly to an independent escrow agent selected by the provider.

(b) Within three business days after the date the escrow agent receives the document, or from the date the life settlement provider receives the documents, if the owner erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the life settlement into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

(c) Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment or change in beneficiary forms to the life settlement provider or related provider trust or other designated representative of the life settlement provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the owner.

(6) Failure to pay the owner the full contract amount for the life settlement contract within the time set forth under subsection (5) of this section

renders the life settlement contract voidable by the owner until the time full payment is tendered to and accepted by the owner. Funds are deemed sent by a life settlement provider to an owner as of the date that the escrow agent either releases funds for wire transfer to the owner or places a check for delivery to the owner via the United States Postal Service or another nationally recognized delivery service.

(7)(a) Contacts with the insured for the purpose of determining the health status of the insured by the life settlement provider or life settlement broker after the life settlement has occurred may be made only by the life settlement provider or broker licensed in this state or its authorized representatives and are limited to once every three months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less.

(b) The limitations set forth in this subsection do not apply to any contacts with an insured for reasons other than determining the insured's health status.

SECTION 99. ORS 744.367 is amended to read:

744.367. (1) A person may not enter into a life settlement contract at any time prior to the application or issuance of a policy that is the subject of a life settlement contract or within a five-year period commencing with the date of issuance of the insurance policy or certificate. However, this five-year restriction does not apply if the owner certifies to the life settlement provider that any one or more of the following conditions has been met within the five-year period:

(a) The policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy if the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 60 months. The time covered under a group policy is calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

(b) The owner submits independent evidence to the life settlement provider that one or more of the following conditions have been met within the five-year period:

(A) The owner or insured is terminally ill or chronically ill;

(B) The owner's spouse dies;

(C) The owner divorces the owner's spouse;

(D) The owner retires from full-time employment;

(E) The owner becomes physically or mentally disabled and a physician, **naturopathic physician licensed under ORS chapter 685**, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390 determines that the disability prevents the owner from maintaining full-time employment; or

(F) A final order, judgment or decree is entered by a court of competent jurisdiction, on the application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition

seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all or a substantial part of the owner's assets; or

(c) The owner enters into a life settlement contract more than two years after the date of issuance of a policy and, with respect to the policy, at all times prior to the date that is two years after policy issuance, the following conditions are met:

(A) Policy premiums have been funded exclusively with unencumbered assets, including an interest in the life insurance policy being financed only to the extent of its net cash surrender value, provided by, or full recourse liability incurred by, the insured or a person closely related to the insured by blood or law or a party having a lawful substantial economic interest in the continued life, health and bodily safety of the person insured, or a trust established primarily for the benefit of such parties;

(B) There is no agreement or understanding with any other person to guarantee any such liability or to purchase or stand ready to purchase the policy, including through an assumption or forgiveness of the loan; and

(C) Neither the insured nor the policy has been evaluated for settlement.

(2) Copies of the independent evidence described in subsection (1)(b) of this section and documents required by ORS 744.364 (1) must be submitted to the insurer when the life settlement provider or other party entering into a life settlement contract with an owner submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider.

(3) If the life settlement provider submits to the insurer a copy of the owner's or insured's certification described in and the documents required by ORS 744.364 (1) when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the life settlement provider, the copy conclusively establishes that the life settlement contract satisfies the requirements of this section and the insurer shall respond in a timely manner to the request.

(4) An insurer may not, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, life settlement provider or life settlement broker sign any forms, disclosures, consent or waiver form that has not been expressly approved by the Director of the Department of Consumer and Business Services for use in connection with life settlement contracts in this state.

(5) Upon receipt of a properly completed request for a change of ownership or beneficiary of a policy, the insurer shall respond in writing within 30 calendar days with written acknowledgement confirming that the change has been effected or specifying

the reasons why the requested change cannot be processed. The insurer may not unreasonably delay effecting change of ownership or beneficiary and may not otherwise seek to interfere with any life settlement contract lawfully entered into in this state.

SECTION 100. ORS 744.382 is amended to read:

744.382. (1) A licensee may not pay or offer to pay a finder's fee, commission or other compensation to a person described in this subsection, in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection applies with respect to payments or offers of payment to:

(a) The physician, **naturopathic physician**, attorney or accountant of the policyholder, of the certificate holder or of the insured individual when the individual is other than the policyholder or certificate holder.

(b) Any person other than a physician, **naturopathic physician**, attorney or accountant described in paragraph (a) of this subsection, who provides medical, legal or financial planning services to the policyholder, to the certificate holder or to the insured individual when the individual is other than the policyholder or certificate holder.

(c) Any person other than one described in paragraph (a) or (b) of this subsection who acts as an agent of the policyholder, certificate holder or insured individual.

(2) A licensee may not solicit an investor who could influence the treatment of the illness or condition of the individual whose life would be the subject of a life settlement contract.

(3) All information solicited or obtained from a policyholder or certificate holder by a licensee is subject to ORS 746.600 to 746.690. For purposes of this subsection, a licensee is considered an insurance-support organization within the meaning of ORS 746.600.

(4) A licensee may not discriminate in the making of a life settlement contract on the basis of race, religion, creed, sex, sexual orientation, national origin, marital status, age, familial status or occupation or discriminate between persons who have dependents and persons who do not have dependents.

SECTION 101. ORS 746.230, as amended by section 6, chapter 59, Oregon Laws 2015, is amended to read:

746.230. (1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:

(a) Misrepresenting facts or policy provisions in settling claims;

(b) Failing to acknowledge and act promptly upon communications relating to claims;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

(k) Delaying investigation or payment of claims by requiring a claimant or the claimant's physician, **naturopathic physician**, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

(l) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.

(2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:

(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

(b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by claimants; or

(c) Other relevant evidence.

SECTION 102. ORS 759.720 is amended to read:

759.720. (1) Any customer, telecommunications utility or local exchange carrier who suffers damages from a violation of ORS 646.608, 646.639 and 759.700 to 759.720 by an information provider has a cause of action against such information provider. The court may award the greater of three times the actual damages or \$500, or order an injunction or restitution. Except as provided in subsection (2) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) The court may not award attorney fees to a prevailing defendant under the provisions of subsection

(1) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.

(3) When an information provider has failed to comply with any provision of ORS 646.608, 646.639 and 759.700 to 759.720, any obligation by a customer that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable.

(4) Any obligation that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable if made by:

(a) An unemancipated child under 18 years of age; or

(b) A person whose physician **or naturopathic physician** substantiates that:

(A) The person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the person's action; and

(B) The disorder was diagnosed before the obligation was incurred.

(5) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under subsection (2) or (4) of this section, no further billing or collection activities shall be undertaken in regard to that obligation.

(6) The telecommunications utility or local exchange carrier may require the customer to take pay-per-call telephone blocking service after the initial obligation has been voided.

SECTION 103. Section 13, chapter 819, Oregon Laws 2015, is amended to read:

Sec. 13. Eligibility for hospice care must be determined on the basis of a patient's overall prognosis and care or treatment goals as determined by the patient's attending physician **or the patient's naturopathic physician** and may not be determined on the basis of whether a patient is undergoing or has undergone a treatment as described in section 3 [of this 2015 Act], **chapter 819, Oregon Laws 2015.**

SECTION 104. Section 5, chapter 290, Oregon Laws 1987, is amended to read:

Sec. 5. (1) In carrying out the provisions of section 2 [of this 1987 Act] **chapter 290, Oregon Laws 1987**, the Public Utility Commission shall establish rules to prohibit the termination of local exchange residential service when such termination would significantly endanger the physical health of the residential customer.

(2) The commission shall provide by rule a method for determining when the termination of local exchange residential service would significantly endanger the physical health of the residential customer.

(3)(a) The commission shall require that each telecommunications public utility:

(A) Accept medical statements by licensed physicians, **naturopathic physicians** and licensed

nurse practitioners as sufficient evidence of significant endangerment of health; and

(B) Establish procedures for submitting and receiving such medical statements.

(b) A medical statement submitted under this subsection shall be valid for such period as the commission, by rule, may prescribe.

(4) Rules adopted by the commission pursuant to this section shall not apply to telecommunication service other than local exchange residential service.

(5) A customer submitting a medical certificate as provided in this section is not excused from paying for telecommunication service. Customers are required to enter into a time payment agreement with the utility if an overdue balance exists. Local exchange service is subject to termination if a cus-

tomers refuses to enter into or fails to abide by terms of a payment agreement.

(6) Nothing in this section prevents the termination of local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunication service without also terminating local exchange telecommunication service.

SECTION 105. Any board or agency that must adopt or amend rules necessary to comply with the amendments to statutes and session law by sections 1 to 104 of this 2017 Act shall adopt or amend the rules not later than March 1, 2018.

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