

CHAPTER 409

AN ACT

HB 3363

Relating to doctors of osteopathic medicine; amending ORS 30.302, 97.953, 127.800, 136.685, 137.077, 316.771, 336.485, 414.353, 414.688, 417.875, 430.010, 431A.890, 432.005, 433.314, 453.665, 609.345, 655.505, 656.005, 659A.250, 677.010, 677.110, 677.132, 677.235, 677.492, 678.038, 678.245, 678.800, 682.025, 682.220, 685.030, 688.132, 689.225, 694.142, 743A.168, 743B.405, 743B.406, 743B.422, 743B.423, 807.090 and 807.710 and section 1, chapter 819, Oregon Laws 2015.

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

SECTION 1. ORS 30.302 is amended to read:

30.302. (1) As used in this section, "retired provider" means any person:

(a) Who holds a degree of Doctor of Medicine, Doctor of [Osteopathy] **Osteopathic Medicine** or Doctor of Podiatric Medicine, or who has met the minimum educational requirements for licensure to practice naturopathic medicine or as a physician assistant under ORS 677.505 to 677.525 or a nurse practitioner under ORS 678.375 to 678.390;

(b) Who has been licensed and is currently retired in accordance with the provisions of ORS chapter 677, 678 or 685;

(c) Who is registered with the Oregon Medical Board as a retired emeritus physician or who complies with the requirements of the Oregon Medical Board as a retired physician assistant, the Oregon State Board of Nursing as a retired nurse practitioner or the Oregon Board of Naturopathic Medicine as a retired naturopath;

(d) Who registers with the local health officer of the local public health authority, as defined in ORS 431.003, in which the physician, physician assistant, nurse practitioner or naturopath practices; and

(e) Who provides medical care as a volunteer without compensation solely through referrals from the local health officer specified in paragraph (d) of this subsection.

(2) Any retired provider who treats patients pursuant to this section shall be considered to be an agent of a public body for the purposes of ORS 30.260 to 30.300.

SECTION 2. ORS 97.953 is amended to read:

97.953. As used in ORS 97.951 to 97.982:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agent" means an:

(a) Attorney-in-fact as that term is defined in ORS 127.505; or

(b) Individual expressly authorized to make an anatomical gift on the principal's behalf by any record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's

death for the purpose of transplantation, therapy, research or education.

(4) "Body part" means an organ, an eye or tissue of a human being. The term does not include the whole body.

(5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift, and includes a stillborn infant or a fetus.

(6)(a) "Disinterested witness" means a witness other than:

(A) A spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift; or

(B) An adult who exhibited special care and concern for the individual.

(b) "Disinterested witness" does not include a person to whom an anatomical gift could pass under ORS 97.969.

(7) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement, symbol or designation on a driver license, identification card or donor registry.

(8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.

(9) "Donor registry" means a centralized database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(10) "Driver license" means a license or permit issued under ORS 807.021, 807.040, 807.200, 807.280 or 807.730, regardless of whether conditions are attached to the license or permit.

(11) "Eye bank" means an organization licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

(12) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. "Guardian" does not include a guardian ad litem.

(13) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state.

(14) "Identification card" means the card issued under ORS 807.021, 807.400 or 807.730, or a comparable provision of the motor vehicle laws of another state.

(15) "Know" means to have actual knowledge.

(16) "Minor" means an individual who is under 18 years of age.

(17) "Organ procurement organization" means an organization designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) "Parent" means a parent whose parental rights have not been terminated.

(19) "Physician" means an individual authorized to practice medicine [or osteopathy] under the law of any state.

(20) "Procurement organization" means an eye bank, organ procurement organization or tissue bank.

(21) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal.

(22) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(23) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Refusal" means a record that expressly states an intent to prohibit other persons from making an anatomical gift of an individual's body or body part.

(26) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(28) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.

(29) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(30) "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

(31) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

SECTION 3. ORS 127.800 is amended to read:

127.800. §1.01. Definitions. The following words and phrases, whenever used in ORS 127.800 to 127.897, have the following meanings:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.

(3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(4) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.

(5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

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

(7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

(a) His or her medical diagnosis;

(b) His or her prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed; and

(e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.

(8) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(9) "Patient" means a person who is under the care of a physician.

(10) "Physician" means a doctor [of medicine or osteopathy] licensed to practice medicine [by the Oregon Medical Board] **under ORS 677.100 to 677.228.**

(11) "Qualified patient" means a capable adult who is a resident of Oregon and has satisfied the requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(12) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

SECTION 4. Section 1, chapter 819, Oregon Laws 2015, is amended to read:

Sec. 1. As used in sections 1 to 14, **chapter 819, Oregon Laws 2015** [of this 2015 Act]:

(1) “Attending physician” means the physician who has primary responsibility for the care of a patient.

(2) “Capable” means that, in the opinion of an attending physician, consulting physician or other health care practitioner, a patient has the ability to make and communicate health care decisions to health care practitioners, including the ability to communicate through individuals familiar with the patient’s manner of communicating.

(3) “Consulting physician” means a physician who is qualified by specialty or experience to diagnose a patient who has a terminal disease and to make a prognosis for that patient.

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

(5) “Health care practitioner” means an individual who is licensed, certified or otherwise authorized by the laws of this state to provide health care services or to dispense drugs.

(6) “Investigational product” means a drug, biological product or device that has successfully completed Phase I and is currently in Phase II or a subsequent phase of an approved clinical trial, as defined in ORS 743A.192, assessing the safety of the drug, biological product or device.

(7) “Physician” means a doctor [of medicine or osteopathy] licensed to practice medicine under ORS [chapter 677] **677.100 to 677.228**.

(8) “Qualified” means, with respect to a patient, that the patient is:

- (a) Capable;
- (b) A resident of this state; and
- (c) 18 years of age or older.

(9) “Terminal disease” means an illness or a medical or surgical condition that in a physician’s reasonable medical judgment will result in the patient’s death within six months.

SECTION 5. ORS 136.685 is amended to read:

136.685. (1) No person employed or engaged in any capacity by or on behalf of any state or local law enforcement agency shall use upon another person any form of hypnotism, mesmerism or any other form of the exertion of will power or the power of suggestion which is intended to or results in a state of trance, sleep or entire or partial unconsciousness without first explaining to the intended subject that:

(a) The intended subject is free to refuse to be subject to the processes delineated in this section;

(b) There is a risk of psychological side effects resulting from the process;

(c) If the intended subject agrees to be subject to such processes, it is possible that the process will reveal emotions or information of which the intended subject is not consciously aware and which the intended subject may wish to keep private; and

(d) The intended subject may request that the process be conducted by a [licensed medical] doctor **licensed under ORS 677.100 to 677.228** or a li-

censed psychologist, at no cost to the intended subject.

(2) In the event that the prospective subject refuses to consent, none of the processes delineated in subsection (1) of this section shall be used upon that person.

SECTION 6. ORS 137.077 is amended to read:

137.077. The presentence report is not a public record and shall be available only to:

(1) The sentencing court for the purpose of assisting the court in determining the proper sentence to impose and to other judges who participate in a sentencing council discussion of the defendant. The sentencing judge may disclose information from the presentence report that is necessary to address the content of the report, examine the reasoning for a sentencing recommendation or to explain the reasons for the sentence imposed. Appellate judges may disclose information from the presentence report that is necessary for legal analysis of the case or to report the reasoning of the appellate court.

(2) The Department of Corrections, State Board of Parole and Post-Prison Supervision and other persons or agencies having a legitimate professional interest in the information likely to be contained therein. These agencies or persons may make the presentence report, or any reports based on the contents of that report, available to the victim.

(3) Appellate or review courts where relevant to an issue on which an appeal is taken or post-conviction relief sought.

(4) The district attorney, the defendant or the counsel of the defendant, as provided in ORS 137.079. The district attorney and counsel of the defendant may retain a copy of the presentence report as a part of the permanent records of the case. The district attorney and counsel of the defendant may disclose the contents of the presentence report to individuals or agencies when preparing for the sentencing of the defendant. “Individuals and agencies” include victims, psychologists, psychiatrists, [medical doctors] **physicians licensed under ORS 677.100 to 677.228** and any other person or agency who may assist the state or the defendant at the time of sentencing.

SECTION 7. ORS 316.771 is amended to read:

316.771. Each person qualifying for the additional personal exemption credit allowed in ORS 316.758 and 316.765 may claim the credit on the personal income tax return. However, the claim shall be substantiated by a letter from a licensed physician [or osteopath] describing the nature and extent of the physical disability. The requirement for substantiation may be waived partially, conditionally or absolutely, as provided under ORS 315.063.

SECTION 8. ORS 336.485 is amended to read:

336.485. (1) As used in this section:

(a) “Coach” means a person who instructs or trains members on a school athletic team, as identi-

fied by criteria established by the State Board of Education by rule.

(b) "Health care professional" means a [*medical doctor, osteopathic*] physician **licensed under ORS 677.100 to 677.228**, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.

(2)(a) Each school district shall ensure that coaches receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion.

(b) The board shall establish by rule:

(A) The requirements of the training described in paragraph (a) of this subsection, which shall be provided by using community resources to the extent practicable; and

(B) Timelines to ensure that, to the extent practicable, every coach receives the training described in paragraph (a) of this subsection before the beginning of the season for the school athletic team.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a school athletic team to participate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a school athletic team who is prohibited from participating in an athletic event or training, as described in paragraph (a) of this subsection, to participate in an athletic event or training no sooner than the day after the member experienced a blow to the head or body and only after the member:

(A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) Receives a medical release form from a health care professional.

(4) A coach may allow a member of a school athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers determines that the member has not suffered a concussion. The athletic trainer may, but is not required to, consult with a health care professional in making the determination that the member has not suffered a concussion.

SECTION 9. ORS 414.353 is amended to read:

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

(2) The Director of the Oregon Health Authority shall appoint the members of the committee, who shall serve at the pleasure of the director for a term of three years. An individual appointed to the committee may be reappointed upon completion of the

individual's term. The membership of the committee shall be composed of the following:

(a) Five persons licensed as physicians **under ORS 677.100 to 677.228** and actively engaged in the practice of medicine [*or osteopathic medicine*] in Oregon, who may be from among persons recommended by organizations representing physicians;

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

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

(3) If the committee determines that it lacks current clinical or treatment expertise with respect to a particular therapeutic class, or at the request of an interested outside party, the director shall appoint one or more medical experts otherwise qualified as described in subsection (2)(a) of this section who have such expertise. The medical experts shall have full voting rights with respect to recommendations made under ORS 414.361 (3) and (4). The medical experts may participate but may not vote in any other activities of the committee.

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

SECTION 10. ORS 414.688 is amended to read: 414.688. (1) As used in this section:

(a) "Practice of pharmacy" has the meaning given that term in ORS 689.005.

(b) "Retail drug outlet" has the meaning given that term in ORS 689.005.

(2) The Health Evidence Review Commission is established in the Oregon Health Authority, consisting of 13 members appointed by the Governor in consultation with professional and other interested organizations, and confirmed by the Senate, as follows:

(a) Five members must be physicians licensed to practice medicine in this state who have clinical expertise in the areas of family medicine, internal medicine, obstetrics, perinatal health, pediatrics, disabilities, geriatrics or general surgery. One of the physicians must be a doctor of [*osteopathy*] **osteopathic medicine**, and one must be a hospital representative or a physician whose practice is significantly hospital-based.

(b) One member must be a dentist licensed under ORS chapter 679 who has clinical expertise in general, pediatric or public health dentistry.

(c) One member must be a public health nurse.

(d) One member must be a behavioral health representative who may be a social services worker, alcohol and drug treatment provider, psychologist or psychiatrist.

(e) Two members must be consumers of health care who are patient advocates or represent the areas of indigent services, labor, business, education or corrections.

(f) One member must be a complementary or alternative medicine provider who is a chiropractic physician licensed under ORS chapter 684, a naturopathic physician licensed under ORS chapter 685 or an acupuncturist licensed under ORS chapter 677.

(g) One member must be an insurance industry representative who may be a medical director or other administrator.

(h) One member must be a pharmacy representative who engages in the practice of pharmacy at a retail drug outlet.

(3) No more than six members of the commission may be physicians either in active practice or retired from practice.

(4) Members of the commission serve for a term of four years at the pleasure of the Governor. A member is eligible for reappointment.

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

SECTION 11. ORS 417.875 is amended to read:

417.875. (1) As used in this section:

(a) "Coach" means a person who volunteers for, or is paid to instruct or train members of, a nonschool athletic team.

(b) "Health care professional" means a [*medical doctor, osteopathic*] physician **licensed under ORS 677.100 to 677.228**, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.

(c) "League governing body" means a governing body that:

(A) Oversees an association of nonschool athletic teams that provide instruction or training for team members and that may compete with each other; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

(d) "Nonschool athletic team" means an athletic team that includes members who are under 18 years of age and that is not affiliated with a public school in this state.

(e) "Referee" means a person who volunteers or is paid to act as a referee, as an umpire or in a similar supervisory position for events involving nonschool athletic teams.

(f) "Referee governing body" means a governing body that:

(A) Trains and certifies individuals to serve as referees for nonschool athletic team events; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

(2)(a) Each league governing body and each referee governing body shall ensure that the coaches and the referees, respectively, receive annual training to learn how to recognize the symptoms of a

concussion and how to seek proper medical treatment for a person suspected of having a concussion.

(b) Each league governing body and each referee governing body shall adopt a policy that establishes:

(A) The requirements of the training described in paragraph (a) of this subsection; and

(B) Procedures that ensure that every coach and referee receives the training described in paragraph (a) of this subsection.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a nonschool athletic team to participate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a nonschool athletic team who is prohibited from participating in an athletic event or training, as described in paragraph (a) of this subsection, to participate in an athletic event or training no sooner than the day after the member experienced a blow to the head or body and only after the member:

(A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) Receives a medical release form from a health care professional.

(4) A coach may allow a member of a nonschool athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers determines that the member has not suffered a concussion. The athletic trainer may, but is not required to, consult with a health care professional in making the determination that the member has not suffered a concussion.

(5) The league governing body shall develop or use existing guidelines and other relevant materials, and shall make available those guidelines and materials, to inform and educate persons under 18 years of age desiring to be a member on a nonschool athletic team, the parents and legal guardians of the persons and the coaches about the symptoms and warning signs of a concussion.

(6) For each year of participation, and prior to a person under 18 years of age participating as a member on a nonschool athletic team, at least one parent or legal guardian of the person must acknowledge the receipt of the guidelines and materials described in subsection (5) of this section and the review of those guidelines and materials by:

(a) The parent or legal guardian of the person; and

(b) If the person is 12 years of age or older, the person.

(7) A league governing body may hold an informational meeting prior to the start of any season for each nonschool athletic team regarding the symptoms and warning signs of a concussion.

(8)(a) Any person who regularly serves as a coach or as a referee and who complies with the

provisions of this section is immune from civil or criminal liability related to a head injury unless the person acted or failed to act because of gross negligence or willful or wanton misconduct.

(b) Nothing in this section shall be construed to affect the civil or criminal liability related to a head injury of a person who does not regularly serve as a coach or a referee.

SECTION 12. 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] **677.100 to 677.228**;

(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

(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 13. ORS 431A.890 is amended to read:

431A.890. (1) The Prescription Monitoring Program Advisory Commission is created for the purposes of:

(a) Studying issues related to the prescription monitoring program established under ORS 431A.855;

(b) Reviewing the program's annual report and making recommendations to the Oregon Health Authority regarding the operation of the program; and

(c) Developing criteria used to evaluate program data.

(2) The commission shall consist of 11 members appointed by the authority as follows:

(a) A person nominated by the Pain Management Commission;

(b) A person who dispenses controlled substances nominated by an association representing pharmacists;

(c) A practicing dentist nominated by an association representing dentists;

(d) A practicing [physician] **doctor of medicine** nominated by an association representing [physicians] **doctors of medicine**;

(e) A practicing doctor of [osteopathy] **osteopathic medicine** nominated by an association representing osteopathic physicians and surgeons;

(f) A nurse authorized to prescribe controlled substances nominated by an association representing nurses;

(g) A practicing naturopathic physician nominated by an association representing naturopathic physicians;

(h) A practicing optometrist, nominated by an association representing optometrists;

(i) A representative of the authority with expertise in administering addiction services; and

(j) Two members of the public, one of whom must be an expert in information technology.

SECTION 14. ORS 432.005 is amended to read:

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

(1) "Amendment" means a change to an item that appears on a certified copy of a vital record after a certified copy has been issued.

(2) "Authorized representative" means an agent designated in a written statement signed by the registrant or other qualified applicant, the signing of which was witnessed.

(3) "Certified copy" means the document, in either paper or electronic format, issued by the State Registrar of the Center for Health Statistics and containing all or a part of the information contained on the original vital record, and which, when issued by the state registrar, has the full force and effect of the original vital record.

(4) "Certified copy item" means any item of information that appears on a certified copy.

(5) "Certifier" means a person required to attest to the accuracy of information submitted on a report.

(6) "Correction" means a change to an item that is not included in a certified copy of a vital record, or a change to an item that is included in a certified copy provided that no certified copy has been issued.

(7) "Court of competent jurisdiction" means a court within the United States with jurisdiction over a person subject to regulation under this chapter.

(8) "Date of registration" means the month, day and year a vital record is incorporated into the official records of the Center for Health Statistics.

(9) "Dead body" means a human body or such parts of such human body from the condition of which it reasonably may be concluded that death occurred.

(10) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a contract or other record that is executed or adopted by a person with the intent to attest to the accuracy of the facts in the record.

(11) "Government agency" means a unit of federal, state, local or tribal government.

(12) "Health research" means a systematic study to gain information and understanding about health, with the goal of finding ways to improve human health, that conforms to or is conducted in accordance with generally accepted scientific standards or principles and that is designed to develop or contribute to general scientific knowledge.

(13) "Facts of live birth" means the name of the child, date of birth, place of birth, sex and parent's name or parents' names appearing on the record of live birth.

(14) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, that is not an induced termination of pregnancy. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of the voluntary muscles.

(15) "Final disposition" means the burial, interment, cremation, removal from the state or other authorized disposition of a dead body or fetus, except that when removal from the state is conducted by the holder of a certificate of removal registration issued under ORS 692.270, the final disposition may not be considered complete until the report of death is filed.

(16)(a) "Human remains" means a dead body.

(b) "Human remains" does not include human ashes recovered after cremation.

(17)(a) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and that does not result in a live birth.

(b) "Induced termination of pregnancy" does not include management of prolonged retention of products of conception following fetal death.

(18) "Institution" means any establishment, public or private, that provides inpatient or outpatient medical, surgical or diagnostic care or treatment or nursing, custodial or domiciliary care, or to which persons are committed by law.

(19) "Interment" means the disposition of human remains by entombment or burial.

(20) "Legal representative" means a licensed attorney representing the registrant or other qualified applicant.

(21) "Live birth" means the complete expulsion or extraction from its mother of a product of human

conception, irrespective of the duration of pregnancy, that, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(22) "Medical certifier" means a physician, physician assistant or nurse practitioner licensed under the laws of this state or under the laws of Washington, Idaho or California who has treated a decedent within the 12 months preceding death.

(23) "Person acting as a funeral service practitioner" means:

(a) A person other than a funeral service practitioner licensed under ORS 692.045, including but not limited to a relative, friend or other interested party, who performs the duties of a funeral service practitioner without payment; or

(b) A funeral service practitioner who submits reports of death in another state if the funeral service practitioner is employed by a funeral establishment licensed in another state and registered with the State Mortuary and Cemetery Board under ORS 692.270.

(24) "Person in charge of an institution" means the officer or employee who is responsible for administration of an institution.

(25) "Personally identifiable information" means information that can be used to distinguish or trace an individual's identity or, when combined with other personal or identifying information, is linked or linkable to a specific individual.

(26) "Physician" means a person authorized to practice medicine, [osteopathy,] chiropractic or naturopathic medicine under the laws of this state or under the laws of Washington, Idaho or California, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(27) "Record" means a report that has been registered by the state registrar.

(28) "Record of foreign live birth" means a document registered by the state registrar for a person born in a foreign country who may or may not be a citizen of the United States and who was adopted under the laws of this state.

(29) "Registration" means the process by which vital records and reports are accepted and incorporated into the official records of the Center for Health Statistics.

(30) "Report" means a document, whether in paper or electronic format, containing information related to a vital event submitted by a person required to submit the information to the state registrar for the purpose of registering a vital event.

(31) "State" includes a state or territory of the United States, the District of Columbia and New York City.

(32) "System of vital statistics" means:

(a) The collection, registration, preservation, amendment, certification and verification of, and the

maintenance of the security and integrity of, vital records;

(b) The collection of reports required by this chapter; and

(c) Activities related to the activities described in paragraphs (a) and (b) of this subsection, including the tabulation, analysis, dissemination and publication of vital statistics and training in the use of health data.

(33) "Verification" means confirmation of the information on a vital record based on the facts contained in a report.

(34) "Vital record" means a report of a live birth, death, fetal death, marriage, declaration of domestic partnership, dissolution of marriage or domestic partnership and related data that have been accepted for registration and incorporated into the official records of the Center for Health Statistics.

(35) "Vital statistics" means the aggregated data derived from records and reports of live birth, death, fetal death, induced termination of pregnancy, marriage, declaration of domestic partnership, dissolution of marriage, dissolution of domestic partnership and supporting documentation and related reports.

SECTION 15. ORS 433.314 is amended to read:

433.314. The Oregon Health Authority shall institute and carry on an educational program among *[medical and]* **physicians licensed under ORS 677.100 to 677.228**, naturopathic physicians, chiropractors, midwives, potential parents and the public concerning the need for newborn infants to receive vitamin K within 24 hours after birth.

SECTION 16. ORS 453.665 is amended to read:

453.665. (1) Subject to subsection (2) of this section, the Oregon Health Authority shall provide for the issuance, allowance, modification, amendment, revision, suspension and revocation of general and specific licenses that relate to by-product materials, source materials or special nuclear materials and to devices or equipment that utilize any of those materials. The authority may not require a specific license for the use of an X-ray machine within the limits of the license by a licensed dentist, chiropodist or veterinarian or by a person licensed to practice medicine, *[surgery, osteopathy,]* chiropractic, naturopathic medicine or any other system or method of healing. Otherwise the authority may require registration or a general or specific license or both registration and a general or specific license with respect to any radiation source.

(2)(a) Each application for a specific license shall be in writing and shall state such information as the authority by rule determines both to be necessary to decide the applicant's technical, insurance, financial or other qualifications and to be reasonable and necessary to protect occupational and public health and safety. At any time after the filing of the application for and before the expiration of a specific license the authority may require further written statements, and may cause inspections to be made

as the authority considers necessary, to determine whether the license should be granted, denied, modified, amended, revised, suspended or revoked. An application for a specific license or any statement relating to that application or to any license must be signed by the applicant or licensee.

(b) Each license shall be in such form and contain terms and conditions the authority considers necessary to protect the occupational and public health and safety.

(c) A general or specific license or right to possess or use a radiation source under a general or specific license may not be assigned in any manner without the approval of the authority.

(d) The terms and conditions of any general or specific license may be modified, amended or revised by rule or order.

(e) Subject to any requirement for registration, the authority may by rule recognize a license from any other state or from the federal government as compliance with a license requirement of this section or of ORS 453.635.

(f) When the authority finds that a radiation source, a use of a radiation source, a user of a radiation source or a class of such sources, uses or users will not constitute a significant risk to the health and safety of the public, the authority may exempt the source, use, user or class, as the case may be, from any requirement for registration or a license.

SECTION 17. ORS 609.345 is amended to read:

609.345. (1) The requirements for a permit in ORS 609.335 and 609.341 do not apply to the following:

(a) A wildlife rehabilitation center operated under a valid permit issued by the State Fish and Wildlife Commission pursuant to ORS 497.308.

(b) A facility operated under a valid license or research facility registration issued by the United States Department of Agriculture pursuant to the federal Animal Welfare Act of 1970 (7 U.S.C. 2133 or 2136).

(c) An exotic animal protection organization, including humane societies and animal shelters, incorporated under ORS chapter 65, that houses an exotic animal at the written request of the state or a state agency for a period not to exceed 30 days.

(d) A law enforcement agency.

(e) A licensed veterinary hospital or clinic.

(f) An educational facility that houses a member of the order Crocodylia pursuant to a written request of the state, a local government or a state agency stating the need to house the member of the order Crocodylia at the educational facility.

(g) A person or organization that takes in an exotic animal in an emergency situation but that does not otherwise qualify for an exemption under this section. The person or organization may keep the exotic animal for not more than 48 hours during which time the person or organization must make a good faith effort to contact a law enforcement agency, the State Department of Agriculture or a

wildlife rehabilitation center described in paragraph (a) of this subsection.

(h) A person with a disability as defined in 42 U.S.C. 12102(2)(A) who possesses a service monkey if:

(A) The person presents, at the request of the State Department of Agriculture, written proof from a [medical doctor] **physician licensed under ORS 677.100 to 677.228** that the person has a disability and that the service monkey performs specific tasks for the benefit of the person with the disability;

(B) The service monkey was obtained from, and trained at, a nonprofit organization whose mission is to improve the quality of life of persons with disabilities; and

(C) The person complies with any requirements of the Americans with Disabilities Act relating to service animals.

(2) As used in subsection (1)(h) of this section, “service monkey” means a nonhuman primate of the genus *Cebus* that is trained to perform specific tasks for a person with a disability.

SECTION 18. ORS 655.505 is amended to read: 655.505. As used in ORS 655.505 to 655.555:

(1) “Attending practitioner” means Department of Corrections or Oregon Youth Authority medical staff, or specialists assisting Department of Corrections or Oregon Youth Authority medical staff, while the inmate is committed to the physical and legal custody of the Department of Corrections. At all other times, “attending practitioner” means a person licensed in Oregon or another state as a [medical] doctor **of medicine**, doctor of [osteopathy] **osteopathic medicine**, doctor of optometry, doctor of dentistry or nurse practitioner who provides services within the scope of the license.

(2) “Authorized work or occupational training assignment” means the work assignment of an inmate:

(a) As authorized by ORS 421.305 and 421.312;

(b) As authorized by ORS 421.450 to 421.480;

(c) As authorized by ORS 144.410 to 144.525;

(d) As authorized by ORS 420.011;

(e) As authorized by ORS 420.240 to 420.265; or

(f) In any other inmate activity or program, including, but not limited to, on-the-job training established by the Department of Corrections under section 41, Article I, Oregon Constitution, whether or not compensation has been established by the Director of the Department of Corrections for participation in the activity or program.

(3) “Department” means the Oregon Department of Administrative Services.

(4) “Injury” means:

(a) An accidental injury or accidental injury to prosthetic devices occurring in the course of, and caused in major part by, an authorized work or occupational training assignment requiring medical services and resulting in disability or death; or

(b) Any disease or infection that:

(A) Arises out of, and in the course of, an authorized work or occupational training assignment;

(B) Is caused in major part by ingestion, absorption or inhalation of, or contact with, dust, fumes, vapors, gases, radiation or other substances to which a worker who is not an inmate is not ordinarily subjected or exposed while working;

(C) Requires medical services; and

(D) Results in disability or death.

(5) “Inmate” means a person committed to the physical and legal custody of the Department of Corrections.

(6) “Medical services” means reasonable and necessary services prescribed by an attending practitioner for conditions resulting from injury for a period that the nature of the injury or the process of recovery requires. “Medical services” includes medical, surgical, hospital, nursing, ambulance and other related services, drugs, medicine, crutches and prosthetic appliances, braces and supports and, when necessary, physical restorative services.

(7) “Medically stationary” means that no further material improvement would reasonably be expected from medical treatment or the passage of time.

(8) The terms “beneficiary,” “child” and “dependent” have the meanings given those terms in ORS 656.005.

SECTION 19. ORS 656.005 is amended to read:

656.005. (1) “Average weekly wage” means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2) “Beneficiary” means an injured worker, and the spouse in a marriage, child or dependent of a worker, who is entitled to receive payments under this chapter. “Beneficiary” does not include:

(a) A spouse of an injured worker living in a state of abandonment for more than one year at the time of the injury or subsequently. A spouse who has lived separate and apart from the worker for a period of two years and who has not during that time received or attempted by process of law to collect funds for support or maintenance is considered living in a state of abandonment.

(b) A person who intentionally causes the compensable injury to or death of an injured worker.

(3) “Board” means the Workers’ Compensation Board.

(4) “Carrier-insured employer” means an employer who provides workers’ compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state.

(5) “Child” includes a posthumous child, a child legally adopted prior to the injury, a child toward whom the worker stands in loco parentis, a child born out of wedlock and a stepchild, if such stepchild was, at the time of the injury, a member of the worker’s family and substantially dependent upon the worker for support. A dependent child who is an invalid is a child, for purposes of benefits, re-

ardless of age, so long as the child was an invalid at the time of the accident and thereafter remains an invalid substantially dependent on the worker for support. For purposes of this chapter, a dependent child who is an invalid is considered to be a child under 18 years of age.

(6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) "Compensable injury" does not include:

(A) Injury to any active participant in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A "disabling compensable injury" is an injury which entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A "nondisabling compensable injury" is any injury which requires medical services only.

(8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means any of the following-named relatives of a worker whose death results from any injury: Parent, grandparent, stepparent, grandson, granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the accident, are dependent in whole or in part for their support upon the earnings of the worker. Unless otherwise provided by treaty, aliens not residing within the United States at the time of the accident other than parent, spouse in a marriage or children are not included within the term "dependent."

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licentiate.

(b) Except as otherwise provided for workers subject to a managed care contract, "attending physician" means a doctor, physician or physician assistant who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A [*medical doctor or doctor of osteopathy*] **physician** licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, "attending physician" does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) "Consulting physician" means a doctor or physician who examines a worker or the worker's medical record to advise the attending physician or nurse practitioner authorized to provide compensa-

ble medical services under ORS 656.245 regarding treatment of a worker's compensable injury.

(13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, who contracts to pay a remuneration for and secures the right to direct and control the services of any person.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, "temporary service provider" has the meaning for that term provided in ORS 656.850.

(14) "Insurer" means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) "Consumer and Business Services Fund" means the fund created by ORS 705.145.

(16) "Invalid" means one who is physically or mentally incapacitated from earning a livelihood.

(17) "Medically stationary" means that no further material improvement would reasonably be expected from medical treatment, or the passage of time.

(18) "Noncomplying employer" means a subject employer who has failed to comply with ORS 656.017.

(19) "Objective findings" in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. "Objective findings" does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) "Palliative care" means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) "Party" means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of such employer.

(22) "Payroll" means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, "payroll" does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments which are not anticipated under the contract of employment and which are paid at the sole discretion of the employer. The exclusion

from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers' compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) "Person" includes partnership, joint venture, association, limited liability company and corporation.

(24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with such condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Subject employer" means an employer who is subject to this chapter as provided by ORS 656.023.

(28) "Subject worker" means a worker who is subject to this chapter as provided by ORS 656.027.

(29) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance

Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(30) “Worker” means any person, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, subject to the direction and control of an employer and includes salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an inmate or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant. For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, “worker” does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(31) “Independent contractor” has the meaning for that term provided in ORS 670.600.

SECTION 20. ORS 659A.250 is amended to read:

659A.250. (1) For purposes of ORS 659A.250 to 659A.262, “access” means ingress to and egress from residential areas which are concentrated in a central location. It shall not include:

(a) The right to enter the individual residences of employees unless a resident of the household consents to the entry;

(b) The right to use any services provided by the employer for the exclusive use of the employees;

(c) The right to enter single residences shared by employees and employers where a separate entrance to the employee’s quarter is not provided; or

(d) The right to enter work areas.

(2) “Authorized person” means government officials, [medical doctors] **physicians**, certified education providers, local health officials, representatives of religious organizations and any other providers of services for farmworkers funded in whole or part by state, federal or local government.

(3) “Housing” means living quarters owned, rented or in any manner controlled by an employer and occupied by the employee.

(4) “Invited person” means persons invited to a dwelling unit by an employee or a member of the employee’s family residing with the employee.

SECTION 21. ORS 677.010 is amended to read:

677.010. As used in this chapter, subject to the exemptions in ORS 677.060 and unless the context requires otherwise:

(1) “Approved internship” means the first year of post-graduate training served in a hospital that is approved by the board or by the Accreditation Council of Graduate Medical Education, the American Osteopathic Association or the Royal College of Physicians and Surgeons of Canada.

(2) “Approved school of medicine” means a school offering a full-time resident program of study

in medicine or [osteopathy] **osteopathic medicine** leading to a degree of Doctor of Medicine or Doctor of [Osteopathy] **Osteopathic Medicine**, such program having been fully accredited or conditionally approved by the Liaison Committee on Medical Education, or its successor agency, or the American Osteopathic Association, or its successor agency, or having been otherwise determined by the board to meet the association standards as specifically incorporated into board rules.

(3) “Board” means the Oregon Medical Board.

(4) “Diagnose” means to examine another person in any manner to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is so examining another person. It is not necessary that the examination be made in the presence of such other person; it may be made on information supplied either directly or indirectly by such other person.

(5) “Dispense” 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.

(6) “Dispensing physician” means a physician or podiatric physician and surgeon who purchases prescription drugs for the purpose of dispensing them to patients or other individuals entitled to receive the prescription drug and who dispenses them accordingly.

(7) “Drug” means all medicines and preparations for internal or external use of humans, intended to be used for the cure, mitigation or prevention of diseases or abnormalities of humans, which are recognized in any published United States Pharmacopoeia or National Formulary, or otherwise established as a drug.

(8) “Fellow” means an individual who has not qualified under ORS 677.100 (1) and (2) and who is pursuing some special line of study as part of a supervised program of a school of medicine, a hospital approved for internship or residency training, or an institution for medical research or education that provides for a period of study under the supervision of a responsible member of that hospital or institution, such school, hospital or institution having been approved by the board.

(9) “Intern” means an individual who has entered into a hospital or hospitals for the first year of post-graduate training.

(10) “License” means permission to practice, whether by license, registration or certification.

(11) “Licensee” means an individual holding a valid license issued by the board.

(12) “Physical incapacity” means a condition that renders an individual licensed under this chapter unable to practice under that license with professional skill and safety by reason of physical illness or physical deterioration that adversely affects cognition, motor or perceptive skill.

(13) “Physician” means a person who holds a degree of Doctor of Medicine or Doctor of [Osteopathy] **Osteopathic Medicine**, or a person who holds a degree of Doctor of Podiatric Medicine if the context in which the term “physician” is used does not authorize or require the person to practice outside the scope of a license issued under ORS 677.805 to 677.840.

(14) “Podiatric physician and surgeon” means a physician licensed under ORS 677.805 to 677.840 to treat ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle.

(15)(a) “Podiatry” means:

(A) The diagnosis or the medical, physical or surgical treatment of ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a hospital licensed under ORS 441.025 or in an ambulatory surgical center licensed by the Oregon Health Authority and is under the supervision of or in collaboration with a podiatric physician and surgeon; and

(B) Assisting in the performance of surgery, as provided in ORS 677.814.

(b) “Podiatry” does not include administering general or spinal anesthetics or the amputation of the entire foot.

(16) “Prescribe” means to direct, order or designate the use of or manner of using by spoken or written words or other means.

(17) “Resident” means an individual who, after the first year of post-graduate training, in order to qualify for some particular specialty in the field of medicine, pursues a special line of study as part of a supervised program of a hospital approved by the board.

SECTION 22. ORS 677.110 is amended to read:

677.110. (1) Applicants who satisfy the requirements of ORS 677.100 shall be admitted to an examination in subjects covered in schools of medicine that grant degrees of Doctor of Medicine or Doctor of [Osteopathy] **Osteopathic Medicine**. The examination shall be sufficient to test the applicant’s fitness to practice medicine. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than 75 is required for passing. The Oregon Medical Board may require the applicant to take and pass the Federation Licensing Examination, also known as FLEX.

(2) The Oregon Medical Board may accept a certificate issued by the National Board of Medical Examiners of the United States or the National Board of Examiners for Osteopathic Physicians and Surgeons or the Medical Council of Canada or successful completion of the United States Medical Licensing Examination in lieu of its own examination.

(3) If an applicant fails the examination, the board may permit the applicant to take a subsequent examination, if the applicant has otherwise complied with the law and the rules of the board.

(4) After any applicant satisfactorily passes the examination in the required subjects, and otherwise complies with the law and the rules of the board, the board shall grant a license to the applicant to practice medicine in Oregon.

SECTION 23. ORS 677.132 is amended to read:

677.132. (1)(a) When a need exists, the Oregon Medical Board may issue a limited license for a specified period to an applicant who possesses the qualifications prescribed by the rules of the board.

(b) The board shall supervise the activities of the holder of a limited license and impose restrictions as the board finds necessary.

(c) Each person holding a limited license under this subsection must obtain an unlimited license at the earliest time possible. The board shall refuse to renew a limited license issued under this subsection at the end of a period specified by rule if the board determines that the holder of the limited license is not pursuing diligently an attempt to become qualified for an unlimited license.

(d) The board by rule shall prescribe the types of and limitations upon licenses issued under this subsection.

(2)(a) The board may issue a limited license to practice medicine in this state to a physician who is licensed to practice medicine in another state or country and who:

(A) Holds a degree of Doctor of Medicine, **Doctor of Osteopathic Medicine** or its equivalent;

(B) Is appointed as a full-time professor of medicine at a school of medicine in this state;

(C) Is in good standing with the state or country from which the physician holds a license to practice medicine;

(D) Meets any requirements established by rule of the board;

(E) Pays the license fee established by rule of the board;

(F) Submits to the board letters that attest to the applicant’s distinguished status and that are written by:

(i) The dean of the school of medicine where the applicant is a full-time professor of medicine;

(ii) The department chairpersons at the school of medicine who are directly involved in the applicant’s faculty assignments; and

(iii) At least five of the applicant’s academic colleagues who work outside of this state and who are nationally or internationally recognized experts in the specialty area in which the applicant practices or are current or former deans of schools of medicine;

(G) Maintains active membership in at least two medical specialty societies that restrict membership based on academic or area-of-practice criteria; and

(H) Has published at least two medical papers in peer-reviewed journals.

(b) The board may establish by rule other criteria or qualifications that a physician applying for the limited license described in this subsection must meet.

(c) A physician who is issued the limited license described in this subsection may practice medicine only in conjunction with a full-time appointment as a professor of medicine. A limited license is valid only so long as the physician maintains the full-time appointment.

(3) A person licensed under this section is subject to all the provisions of this chapter and to all the rules of the board and has the same duties and responsibilities and is subject to the same penalties and sanctions as any other person licensed under this chapter.

(4) The board may not issue more than eight licenses under subsection (2) of this section in a four-year period. The board shall ensure by rule the availability of at least two licenses in each year in a four-year period.

SECTION 24. ORS 677.235 is amended to read:

677.235. (1) The Oregon Medical Board consists of 13 members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Seven must have the degree of Doctor of Medicine;

(b) Two must have the degree of Doctor of [Osteopathy] **Osteopathic Medicine**;

(c) One must have the degree of Doctor of Podiatric Medicine;

(d) One must be a physician assistant licensed under ORS 677.512 or a retired physician assistant; and

(e) Two must be members of the public representing health consumers and who are not:

(A) Otherwise eligible for appointment to the board; or

(B) A spouse, domestic partner, child, parent or sibling of an individual having the degree of Doctor of Medicine, Doctor of [Osteopathy] **Osteopathic Medicine** or Doctor of Podiatric Medicine or of a physician assistant licensed under ORS 677.512 or a retired physician assistant.

(2)(a)(A) Board members required to possess the degree of Doctor of Medicine may be selected by the Governor from a list of three to five candidates for each member described in subsection (1)(a) of this section whose term expires in that year, submitted by the Oregon Medical Association not later than February 1.

(B) Board members required to possess the degree of Doctor of [Osteopathy] **Osteopathic Medicine** may be selected by the Governor from a list of three to five candidates for each member described in subsection (1)(b) of this section whose term expires in that year, submitted by the Osteopathic Physicians and Surgeons of Oregon, Inc., not later than February 1.

(C) The board member required to possess the degree of Doctor of Podiatric Medicine may be selected by the Governor from a list of three to five candidates for the member described in subsection (1)(c) of this section whose term expires in that year, submitted by the Oregon Podiatric Medical Association not later than February 1.

(D) The board member required to be a physician assistant licensed under ORS 677.512 or a retired physician assistant may be selected by the Governor from a list of three to five candidates for the member described in subsection (1)(d) of this section whose term expires in that year, submitted by the Oregon Society of Physician Assistants not later than February 1.

(b) The physician members and the physician assistant member must have been in the active practice of their profession for at least five years immediately preceding their appointment.

(c) Neither the public members nor any person who is a spouse, domestic partner, child, parent or sibling of a public member may be employed as a health professional.

(d)(A) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to geographic areas of this state and ethnic group.

(B) Of the seven members who hold the degree of Doctor of Medicine, there shall be at least one member appointed from each federal congressional district.

(3)(a) The term of office of each board member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than five terms end each year. A term begins on March 1 of the year the member is appointed and ends on the last day of February of the third year thereafter. A member may not serve more than two consecutive terms.

(b) If a vacancy occurs on the board, another qualifying member possessing the same professional degree, license or retired status or fulfilling the same public capacity as the person whose position has been vacated shall be appointed as provided in this section to fill the unexpired term.

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

(A) Is not a resident of this state;

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

(C) Is not a current licensee or a retired licensee whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a licensee.

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

SECTION 25. ORS 677.492 is amended to read:

677.492. (1) If a physician is required to be responsible for the care of a patient of another health care provider with admitting privileges to a health care facility as a condition to the patient's admission to and continued care in a health care facility, the physician is not liable for the acts or omissions of the other health care provider that result in injury, death or damage to the patient unless:

(a) At the time the injury, death or damage occurs, the physician is physically present and directly supervising the other health care provider;

(b) At the time the injury, death or damage occurs, the physician is not physically present, but the physician is directly supervising and instructing the other health care provider; or

(c) The injury, death or damage to the patient results from a direct violation of a written hospital patient care protocol by the other health care provider, the physician knew or in the exercise of reasonable care should have known of the violation in time to take action to prevent the injury, death or damage, and the physician failed to take action to prevent the injury, death or damage.

(2) The immunity provided by this section applies only to a person who holds a degree of Doctor of Medicine or Doctor of [Osteopathy] **Osteopathic Medicine** who is licensed to practice medicine under the provisions of ORS [chapter 677] **677.100 to 677.228**.

(3) The immunity provided by this section does not apply if the other health care provider is an employee, a partner or a fellow shareholder of the physician in a corporation established for the provision of health care services.

SECTION 26. ORS 678.038, as amended by section 6, chapter 26, Oregon Laws 2016, is amended to read:

678.038. A registered nurse who is employed by a public or private school, or by an education service district or a local public health authority as defined in ORS 431.003 to provide nursing services at a public or private school, may accept an order from a physician licensed to practice medicine [or osteopathy] in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

SECTION 27. ORS 678.245 is amended to read:

678.245. As used in ORS 678.245 to 678.285:

(1) "Ambulatory surgical center" has the meaning given that term in ORS 442.015.

(2) "Anesthesiologist" means a physician who has completed a residency program in anesthesiology that meets or exceeds the standards adopted by the Oregon Medical Board.

(3) "Certified registered nurse anesthetist" means a registered nurse licensed by the Oregon State Board of Nursing as a certified registered nurse anesthetist.

(4) "Hospital" has the meaning given that term in ORS 442.015.

(5) "Medical collaboration" means approval of the anesthesia plan by an anesthesiologist and an anesthesiologist being readily available during the administration of anesthetic agents until the patient's post-anesthesia condition is satisfactory and stable.

(6) "Office" means a location other than an ambulatory surgical center or hospital at which medical, surgical or dental services are rendered.

(7) "Physician" means a doctor [of medicine or osteopathy] licensed [in Oregon under ORS chapter 677] **to practice medicine under ORS 677.100 to 677.228**.

(8) "Procedure" means surgery, labor and delivery or other medical services in a hospital or ambulatory surgical center rendered by a physician or other health care provider qualified by appropriate state license and hospital or center privileges or hospital or center written authorization to render such services.

SECTION 28. ORS 678.800 is amended to read:

678.800. (1) The Nursing Home Administrators Board is established within the Health Licensing Office.

(2) The board consists of nine members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be concerned with the care and treatment of the chronically ill or infirm elderly patients and must be residents of this state. Of the members of the board:

(a) Three must be nursing home administrators licensed under ORS 678.710 to 678.820;

(b) One must be a [medical doctor] **physician** licensed [by the Oregon Medical Board] **under ORS 677.100 to 677.228** actively engaged in private practice and conversant with the care and treatment of the long-term patient;

(c) One must be a licensed professional nurse actively engaged in caring for chronically ill and infirm patients and licensed by the Oregon State Board of Nursing;

(d) One must be a pharmacist licensed by the State Board of Pharmacy; and

(e) Three must be members of the public who are not:

(A) Otherwise eligible for appointment to the board; or

(B) A spouse, domestic partner, child, parent or sibling of a nursing home administrator.

(3)(a) Board members required to be nursing home administrators may be selected by the Governor from a list of three to five nominees submitted by any professional organization representing nursing home administrators.

(b) Except for those persons described in paragraph (a) of this subsection, no member of the board may have a direct financial interest in a nursing home.

(c) No more than two of the members of the board may be officials or full-time employees of state or local governments.

(d) At least one public member must be at least 62 years of age.

(e) No public members of the board may hold any pecuniary interest in, or have any employment contract with, a long term care facility.

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

(A) Geographic areas of this state; and

(B) Ethnic group.

(4)(a) The term of office of each member is three years but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

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

(A) Is not a resident of this state;

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

(C) Is not a licensed nursing home administrator or a retired nursing home administrator whose license as a nursing home administrator was in good standing at the time of retirement, if the member was appointed to serve on the board as a nursing home administrator.

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

SECTION 29. 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, 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, 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 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] **677.100 to 677.228**, actively registered and in good standing with the 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 30. ORS 682.220 is amended to read:

682.220. (1) The Oregon Health Authority may deny, suspend or revoke licenses for ambulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted thereunder.

(2) The license of an emergency medical services provider may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for any of the following reasons:

(a) A failure to have completed successfully an authority approved course.

(b) In the case of a provisional license, failure to have completed successfully an authority approved course.

(c) Failure to meet or continue to meet the physical and mental qualifications required under ORS 682.208.

(d) The use of fraud or deception in receiving a license.

(e) Practicing skills beyond the scope of practice established by the Oregon Medical Board under ORS 682.245.

(f) Rendering emergency or nonemergency care under an assumed name.

(g) The impersonation of another emergency medical services provider.

(h) Unprofessional conduct.

(i) Obtaining a fee by fraud or misrepresentation.

(j) Habitual or excessive use of intoxicants or drugs.

(k) The presence of a mental disorder that demonstrably affects an emergency medical services provider's performance, as certified by two psychiatrists retained by the authority.

(L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions about the ability of the emergency medical services provider to perform the duties of an emergency medical services provider in accordance with the standards established by this chapter. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of the conviction.

(m) Suspension or revocation of an emergency medical services provider license issued by another state:

(A) For a reason that would permit the authority to suspend or revoke a license issued under this chapter; and

(B) Evidenced by a certified copy of the order of suspension or revocation.

(n) Gross negligence or repeated negligence in rendering emergency medical assistance.

(o) Rendering emergency or nonemergency care without being licensed, except as provided in ORS 30.800.

(p) Rendering emergency or nonemergency care as an emergency medical services provider without written authorization and standing orders from a supervising physician who has been approved by the Oregon Medical Board in accordance with ORS 682.245.

(q) Refusing an invitation for an interview with the authority as specified in this section.

(3) The authority may investigate any evidence that appears to show that an emergency medical services provider licensed by the authority is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an emergency medical services provider. The authority may investigate the off-duty conduct of an emergency medical services provider to the extent that such conduct may reasonably raise questions about the ability of the emergency medical services provider to perform the duties of an emergency medical services provider in accordance with the standards established by this chapter. Upon receipt of a complaint about an emergency medical services provider or applicant, the authority shall conduct an investigation as described under ORS 676.165. The authority shall conduct the investigation in accordance with ORS 676.175.

(4)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any [medical or osteopathic] physician licensed under ORS [chapter 677] **677.100 to 677.228**, any owner of an ambulance licensed under this chapter or any emergency medical services provider licensed under this chapter shall report to the authority any information the person may have that appears to show

that an emergency medical services provider is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an emergency medical services provider.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an emergency medical services provider licensed under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

(5) If, in the opinion of the authority, it appears that the information provided to it under provisions of this section is or may be true, the authority may request an interview with the emergency medical services provider. At the time the authority requests an interview, the authority shall provide the emergency medical services provider with a general statement of the issue or issues of concern to the authority. The request must include a statement of the procedural safeguards available to the emergency medical services provider, including the right to end the interview on request, the right to have counsel present and the following statement: "Any action proposed by the Oregon Health Authority shall provide for a contested case hearing."

(6) Information regarding an ambulance service provided to the authority pursuant to this section is confidential and is not subject to public disclosure or admissible as evidence in any judicial proceeding. Information that the authority obtains as part of an investigation into the conduct of an emergency medical services provider or applicant or as part of a contested case proceeding, consent order or stipulated agreement involving the conduct of an emergency medical services provider or applicant is confidential as provided under ORS 676.175. Information regarding an ambulance service does not become confidential due to its use in a disciplinary proceeding against an emergency medical services provider.

(7) A person who reports or provides information to the authority under this section and who provides information in good faith is not subject to an action for civil damage as a result thereof.

(8) In conducting an investigation under subsection (3) of this section, the authority may:

- (a) Take evidence;
- (b) Take depositions of witnesses, including the person under investigation, in the manner provided by law in civil cases;
- (c) Compel the appearance of witnesses, including the person under investigation, in the manner provided by law in civil cases;
- (d) Require answers to interrogatories; and
- (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(9) The authority may issue subpoenas to compel compliance with the provisions of subsection (8) of

this section. If any person fails to comply with a subpoena issued under this subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a court may compel obedience as provided in ORS 183.440.

SECTION 31. ORS 685.030 is amended to read: 685.030. (1) This chapter does not apply to any:

(a) Physician licensed by the Oregon Medical Board to practice medicine[, *osteopathy*] or podiatry;

(b) Chiropractor licensed by the State Board of Chiropractic Examiners; or

(c) Christian Scientist or other person who by religious or spiritual means endeavors to prevent or cure disease or suffering in accord with the tenets of any church.

(2) This chapter does not authorize licensees to:

(a) Practice optometry or administer chiropractic adjustments;

(b) Practice any system or method of treatment not authorized in this chapter; or

(c) Do major surgery.

(3) A licensee under this chapter may perform health maintenance and restoration measures consistent with generally recognized and accepted principles of naturopathic medicine, including but not limited to:

(a) Administering, dispensing or writing prescriptions for drugs;

(b) Recommending the use of specific and appropriate over-the-counter pharmaceuticals;

(c) Administering anesthetics or antiseptics in connection with minor surgery as defined in ORS 685.010;

(d) Ordering diagnostic tests;

(e) Using radiopaque substances administered by mouth or rectum necessary for Roentgen diagnostic purposes; or

(f) Administering substances by penetration of the skin or mucous membrane of the human body for diagnostic, preventive or therapeutic purposes. The Oregon Board of Naturopathic Medicine may adopt by rule appropriate procedures for administering substances under this paragraph.

SECTION 32. ORS 688.132 is amended to read:

688.132. (1) As used in this section, "provider of care" means a [*medical doctor, osteopathic*] physician, chiropractic physician, podiatric physician and surgeon, naturopathic physician, dentist, physician assistant or nurse practitioner.

(2) A licensed physical therapist shall immediately refer a person being treated by the licensed physical therapist to a provider of care if the person exhibits symptoms:

(a) That require treatment or diagnosis by a provider of medical care;

(b) For which physical therapy is contraindicated;

(c) That the physical therapist does not know how to treat; or

(d) For which treatment is outside the scope of practice of physical therapy.

SECTION 33. ORS 689.225 is amended to read:

689.225. (1) A person may not engage in the practice of pharmacy unless the person is licensed under this chapter. Nothing in this section prevents physicians, dentists, veterinarians[, *osteopaths*] or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

(2) A person may not take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import unless the person is licensed to practice pharmacy under this chapter.

(3) A pharmacist may not possess personally or store drugs other than in a licensed pharmacy except for those drugs legally prescribed for the personal use of the pharmacist or when the pharmacist possesses or stores the drugs in the usual course of business and within the pharmacist's scope of practice. An employee, agent or owner of any registered manufacturer, wholesaler or pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the business or employment of the person.

(4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians working under the supervision, direction and control of a pharmacist. For retail and institutional drug outlets, the board shall adopt rules which include requirements for training, including provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians is subject to the reporting requirements of ORS 689.455.

(5) The mixing of intravenous admixtures by pharmacy technicians working under the supervision, direction and control of a pharmacist is authorized and does not constitute the practice of pharmacy by the pharmacy technicians.

(6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty of a Class A misdemeanor.

SECTION 34. ORS 694.142 is amended to read:

694.142. The Health Licensing Office shall adopt by rule standards of practice for hearing aid specialists in providing services to consumers. The standards must include, but are not limited to:

(1) Before fitting or dispensing a hearing aid, the hearing aid specialist shall determine through direct observation and a personal interview whether any of the following conditions exist:

(a) Visible congenital or traumatic deformity of the ear;

(b) Active drainage from the ear within the previous 90 days or a history of active drainage from the ear;

(c) Sudden or rapidly progressive hearing loss within the previous 90 days;

(d) Acute or chronic dizziness;

(e) Unilateral hearing loss of sudden or recent onset within 90 days;

(f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards Institute, 500, 1,000 and 2,000 Hz average; or

(g) Any other condition that the office may establish by rule.

(2) If any of the conditions listed in subsection (1) of this section are found, the hearing aid specialist shall refer the person to a physician licensed under ORS [chapter 677] **677.100 to 677.228** who specializes in diseases of the ear or, if no such licensed physician is available in the community, to any physician licensed under ORS [chapter 677] **677.100 to 677.228**.

(3) Within the 90 days prior to fitting or dispensing a hearing aid to a person under 18 years of age, the person receiving the hearing aid must be referred to one of the following licensed medical physicians:

(a) An otolaryngologist for examination and for a recommendation of corrective measures that may be required;

(b) A properly licensed medical physician for like examination and recommendation; or

(c) An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and for a recommendation of corrective measures that may be required if the person is also examined by a properly licensed medical physician who gives approval for possible hearing aid use.

(4) Notwithstanding subsection (3) of this section, replacement of a hearing aid with an identical hearing aid within one year of the initial fitting or dispensing of the hearing aid does not require a referral to a physician.

(5)(a) Hearing aid specialists shall make clear their credentials, never representing that the services or advice of a person licensed to practice medicine [and surgery, osteopathy and surgery,] or a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true. Hearing aid specialists shall also refrain from using the word "doctor" or "clinic" or other words, abbreviations or symbols that tend to connote an audiologic, medical or osteopathic profession when that use is not accurate.

(b) A person issued a temporary license shall deal in hearing aids under supervision of a person licensed under this chapter or an audiologist licensed under ORS chapter 681. An audiologist who supervises temporary licensees must comply with ORS 694.015 to 694.170 and rules adopted under ORS 694.015 to 694.170, and is subject to ORS 694.991, when supervising temporary licensees.

(c) A hearing aid specialist shall maintain a business address and telephone number at which the specialist may be reached during normal business hours.

(d) A person may not sell a hearing aid by direct mail. For purposes of this paragraph, delivery by

mail of a replacement hearing aid or parts does not constitute sale by direct mail.

(6) If the person or the parent or guardian of the person refuses to seek a medical opinion from the physician to whom the person has been referred under subsection (2) or (3) of this section, the person dealing in hearing aids must obtain from the person or the parents or guardian of the person prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the office. Any person dealing in hearing aids or employees and putative agents thereof, upon making the required referral for a medical opinion under subsection (2) of this section, may not in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical opinion prior to the fitting and dispensing of a hearing aid. Nothing required to be performed by a person dealing in hearing aids under this section means that the person is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of ORS 694.042 and this section.

SECTION 35. ORS 743A.168, as amended by section 7, chapter 11, Oregon Laws 2016, is amended to read:

743A.168. A group health insurance policy providing coverage for hospital or medical expenses, other than limited benefit coverage, shall provide coverage for expenses arising from treatment for chemical dependency, including alcoholism, and for mental or nervous conditions at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions. The following apply to coverage for chemical dependency and for mental or nervous conditions:

(1) As used in this section:

(a) "Chemical dependency" means the addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with the individual's social, psychological or physical adjustment to common problems. For purposes of this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, tobacco products or foods.

(b) "Facility" means a corporate or governmental entity or other provider of services for the treatment of chemical dependency or for the treatment of mental or nervous conditions.

(c) "Group health insurer" means an insurer, a health maintenance organization or a health care service contractor.

(d) "Program" means a particular type or level of service that is organizationally distinct within a facility.

(e) "Provider" means a person that:

(A) Has met the credentialing requirement of a group health insurer, is otherwise eligible to receive reimbursement for coverage under the policy and is:

(i) A health facility as defined in ORS 430.010;

(ii) A residential facility as defined in ORS 430.010;

(iii) A day or partial hospitalization program as defined in ORS 430.010;

(iv) An outpatient service as defined in ORS 430.010; or

(v) An individual behavioral health or medical professional licensed or certified under Oregon law; or

(B) Is a provider organization certified by the Oregon Health Authority under subsection (13) of this section.

(2) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance. Deductibles and coinsurance for treatment in health facilities or residential facilities may not be greater than those under the policy for expenses of hospitalization in the treatment of other medical conditions. Deductibles and coinsurance for outpatient treatment may not be greater than those under the policy for expenses of outpatient treatment of other medical conditions.

(3) The coverage may not be made subject to treatment limitations, limits on total payments for treatment, limits on duration of treatment or financial requirements unless similar limitations or requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses may be limited to treatment that is medically necessary as determined under the policy for other medical conditions.

(4)(a) Nothing in this section requires coverage for:

(A) Educational or correctional services or sheltered living provided by a school or halfway house;

(B) A long-term residential mental health program that lasts longer than 45 days;

(C) Psychoanalysis or psychotherapy received as part of an educational or training program, regardless of diagnosis or symptoms that may be present; or

(D) A court-ordered sex offender treatment program.

(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpatient services under the terms of the insured's policy while the insured is living temporarily in a sheltered living situation.

(5) A provider is eligible for reimbursement under this section if:

(a) The provider is approved or certified by the Oregon Health Authority;

(b) The provider is accredited for the particular level of care for which reimbursement is being requested by the Joint Commission on Accreditation of Hospitals or the Commission on Accreditation of Rehabilitation Facilities;

(c) The patient is staying overnight at the facility and is involved in a structured program at least eight hours per day, five days per week; or

(d) The provider is providing a covered benefit under the policy.

(6) Payments may not be made under this section for support groups.

(7) If specified in the policy, outpatient coverage may include follow-up in-home service or outpatient services. The policy may limit coverage for in-home service to persons who are homebound under the care of a physician.

(8) Nothing in this section prohibits a group health insurer from managing the provision of benefits through common methods, including but not limited to selectively contracted panels, health plan benefit differential designs, preadmission screening, prior authorization of services, utilization review or other mechanisms designed to limit eligible expenses to those described in subsection (3) of this section.

(9) The Legislative Assembly has found that health care cost containment is necessary and intends to encourage insurance policies designed to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization under criteria incorporated into such policies, either directly or by reference.

(10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed professional counselors and licensed marriage and family therapists, a group health insurer may provide for review for level of treatment of admissions and continued stays for treatment in health facilities, residential facilities, day or partial hospitalization programs and outpatient services by either group health insurer staff or personnel under contract to the group health insurer, or by a utilization review contractor, who shall have the authority to certify for or deny level of payment.

(b) Review shall be made according to criteria made available to providers in advance upon request.

(c) Review shall be performed by or under the direction of a *[medical or osteopathic]* physician licensed *[by the Oregon Medical Board]* **under ORS 677.100 to 677.228**, a psychologist licensed by the State Board of Psychologist Examiners, a clinical social worker licensed by the State Board of Licensed Social Workers or a professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, in accordance with standards of the National Committee for Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Services.

(d) Review may involve prior approval, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior approval is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review. If prior approval is not required, group health insurers shall permit providers, policyholders or

persons acting on their behalf to make advance inquiries regarding the appropriateness of a particular admission to a treatment program. Group health insurers shall provide a timely response to such inquiries. Noncontracting providers must cooperate with these procedures to the same extent as contracting providers to be eligible for reimbursement.

(11) Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers contracting with the health maintenance organization. Health maintenance organizations and health care service contractors may create substantive plan benefit and reimbursement differentials at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other medical conditions and apply them to contracting and noncontracting providers.

(12) Nothing in this section prevents a group health insurer from contracting with providers of health care services to furnish services to policyholders or certificate holders according to ORS 743B.460 or 750.005, subject to the following conditions:

(a) A group health insurer is not required to contract with all providers that are eligible for reimbursement under this section.

(b) An insurer or health care service contractor shall, subject to subsections (2) and (3) of this section, pay benefits toward the covered charges of noncontracting providers of services for the treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to subsections (2) and (3) of this section, have the right to use the services of a noncontracting provider of services for the treatment of chemical dependency or mental or nervous conditions, whether or not the services for chemical dependency or mental or nervous conditions are provided by contracting or noncontracting providers.

(13) The Oregon Health Authority shall establish a process for the certification of an organization described in subsection (1)(e)(B) of this section that:

(a) Is not otherwise subject to licensing or certification by the authority; and

(b) Does not contract with the authority, a subcontractor of the authority or a community mental health program.

(14) The Oregon Health Authority shall adopt by rule standards for the certification provided under subsection (13) of this section to ensure that a certified provider organization offers a distinct and specialized program for the treatment of mental or nervous conditions.

(15) The Oregon Health Authority may adopt by rule an application fee or a certification fee, or both, to be imposed on any provider organization that applies for certification under subsection (13) of this section. Any fees collected shall be paid into the Oregon Health Authority Fund established in ORS 413.101 and shall be used only for carrying out the provisions of subsection (13) of this section.

(16) The intent of the Legislative Assembly in adopting this section is to reserve benefits for different types of care to encourage cost effective care and to ensure continuing access to levels of care most appropriate for the insured's condition and progress. This section does not prohibit an insurer from requiring a provider organization certified by the Oregon Health Authority under subsection (13) of this section to meet the insurer's credentialing requirements as a condition of entering into a contract.

(17) The Director of the Department of Consumer and Business Services and the Oregon Health Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section that are considered necessary for the proper administration of this section.

SECTION 36. ORS 743B.405 is amended to read:

743B.405. (1) A medical services contract may not require the provider, as an element of the contract or as a condition of compensation for services, to agree:

(a) In the event of alleged improper medical treatment of a patient, to indemnify the other party to the medical services contract for any damages, awards or liabilities including but not limited to judgments, settlements, attorney fees, court costs and any associated charges incurred for any reason other than the negligence or intentional act of the provider or the provider's employees;

(b) To charge the other party to the medical services contract a rate for services rendered pursuant to the medical services contract that is no greater than the lowest rate that the provider charges for the same service to any other person;

(c) To deny care to a patient because of a determination made pursuant to the medical services contract that the care is not covered or is experimental, or to deny referral of a patient to another provider for the provision of such care, if the patient is informed that the patient will be responsible for the payment of such noncovered, experimental or referral care and the patient nonetheless desires to obtain such care or referral; or

(d) Upon the provider's withdrawal from or termination or nonrenewal of the medical services contract, not to treat or solicit a patient even at that patient's request and expense.

(2) A medical services contract shall:

(a) Grant to the provider adequate notice and hearing procedures, or such other procedures as are fair to the provider under the circumstances, prior to termination or nonrenewal of the medical services contract when such termination or nonrenewal is based upon issues relating to the quality of patient care rendered by the provider.

(b) Set forth generally the criteria used by the other party to the medical services contract for the termination or nonrenewal of the medical services contract.

(c) Entitle the provider to an annual accounting accurately summarizing the financial transactions

between the parties to the medical services contract for that year.

(d) Allow the provider to withdraw from the care of a patient when, in the professional judgment of the provider, it is in the best interest of the patient to do so.

(e) Provide that a [*doctor of medicine or doctor of osteopathy*] **physician** licensed under ORS [*chapter 677*] **677.100 to 677.228** shall be retained by the other party to the medical services contract and shall be responsible for all final medical and mental health decisions relating to coverage or payment made pursuant to the medical services contract.

(f) Provide that a physician, as defined in ORS 677.010, who is practicing in conformity with ORS 677.095 may advocate a decision, policy or practice without being subject to termination or penalty for the sole reason of such advocacy.

(g)(A) Entitle the party to the medical services contract who is being reimbursed for the provision of health care services on a basis that includes financial risk withholds, or the party's representative, to a full accounting of health benefits claims data and related financial information on no less than a quarterly basis by the party to a medical service contract who has made reimbursement, as follows:

(i) The data shall include all pertinent information relating to the health care services provided, including related provider and patient information, reimbursements made and amounts withheld under the financial risk withhold provisions of the medical services contract for the period of time under reconciliation and settlement between the parties.

(ii) Any reconciliation and settlement undertaken pursuant to a medical services contract shall be based directly and exclusively upon data provided to the party who is being reimbursed for the provision of health care services.

(iii) All data, including supplemental information or documentation, necessary to finalize the reconciliation and settlement provisions of a medical services contract relating to financial risk withholds shall be provided to the party who is being reimbursed for the provision of health care services no later than 30 days prior to finalizing the reconciliation and settlement.

(B) Nothing in this paragraph shall be construed to prevent parties to a medical services contract from mutually agreeing to alternative reconciliation and settlement policies and procedures.

(h) Provide that when continuity of care is required to be provided under a health benefit plan by ORS 743B.225, the insurer and the individual provider shall provide continuity of care to enrollees as provided in ORS 743B.225.

(3) The other party to a medical services contract shall not:

(a) Refer to other documents or instruments in a contract unless the nonprovider party agrees to make available to the provider for review a copy of the documents or instruments within 72 hours of request; or

(b) Provide as an element of a contract with a third party relating to the provision of medical services to a patient of the provider that the provider's patient may not sue or otherwise recover from the nonprovider party, or must hold the nonprovider party harmless for, any and all expenses, damages, awards or liabilities that arise from the management decisions, utilization review provisions or other policies or determinations of the nonprovider party that have an impact on the provider's treatment decisions and actions with regard to the patient.

(4) An insurer, independent practice association, medical or mental health clinic or other party to a medical services contract shall provide the criteria for selection of parties to future medical services contracts upon the request of current or prospective parties.

SECTION 37. ORS 743B.406 is amended to read: 743B.406. (1) As used in this section:

(a) "Contractual discount" means a percentage reduction, required under a contract with an insurer, in a vision care provider's usual and customary rate for vision care services and materials.

(b) "Discount card" means a card or other purchasing mechanism or device that is not insurance or a discount medical plan, as defined in ORS 742.420, that purports to offer discounts or access to discounts in health-related purchases from health care providers.

(c) "Materials" includes, but is not limited to:

- (A) Lenses;
- (B) Devices containing lenses;
- (C) Contact lenses;
- (D) Prisms;
- (E) Lens treatments and contact lens coatings;
- (F) Orthopedic or prosthetic devices to correct, relieve or treat defects or abnormal conditions of the human eye or adnexa; and

(G) Vision training.

(d) "Vision care insurance" means a health benefit plan or a policy or certificate of insurance that covers vision care services and materials.

(e) "Vision care provider" includes:

(A) A person licensed to practice optometry under ORS chapter 683; and

(B) A physician licensed under ORS [chapter 677] **677.100 to 677.228** to practice medicine [or osteopathy] who has completed a residency program in ophthalmology.

(f) "Vision care services" means services provided by a vision care provider within the scope of the provider's license to practice optometry or ophthalmology.

(2) A contract between a vision care provider and an entity that offers vision care insurance or a vision care discount card may not:

(a) Limit or specify the fee that a vision care provider may charge for vision care services or materials that are not reimbursed, in whole or in part, by the vision care insurance or discount card.

(b) Require a vision care provider to participate in one vision care insurance plan or discount card

program as a condition for participating in another insurance plan.

(c) Change the terms, the contractual discount or the reimbursement rates, under vision care insurance or a vision care discount card, without a signed acknowledgment that the vision care provider agrees to the changes.

(d) Directly or indirectly restrict or limit a vision care provider's choice of suppliers of materials.

(3) This section does not prohibit the use of a discount card by a patient of a vision care provider if:

(a) The enrollment of the vision care provider is:

(A) Completely voluntary; and

(B) Not conditioned upon the vision care provider's participation in any other discount card program with different provider terms and conditions or in another insurance plan; and

(b) The discount card program does not reimburse the vision care provider for the cost of the vision care services that were discounted.

SECTION 38. ORS 743B.422 is amended to read:

743B.422. All utilization review performed pursuant to a medical services contract to which an insurer is not a party shall comply with the following:

(1) The criteria used in the review process and the method of development of the criteria shall be made available for review to a party to such medical services contract upon request.

(2) A [doctor of medicine or osteopathy] **physician** licensed under ORS [chapter 677] **677.100 to 677.228** shall be responsible for all final recommendations regarding the necessity or appropriateness of services or the site at which the services are provided and shall consult as appropriate with medical and mental health specialists in making such recommendations.

(3) Any patient or provider who has had a request for treatment or payment for services denied as not medically necessary or as experimental shall be provided an opportunity for a timely appeal before an appropriate medical consultant or peer review committee.

(4) A provider request for prior authorization of nonemergency service must be answered within two business days, and qualified health care personnel must be available for same-day telephone responses to inquiries concerning certification of continued length of stay.

SECTION 39. ORS 743B.423 is amended to read:

743B.423. (1) All insurers offering a health benefit plan in this state that provide utilization review or have utilization review provided on their behalf shall file an annual summary with the Department of Consumer and Business Services that describes all utilization review policies, including delegated utilization review functions, and documents the insurer's procedures for monitoring of utilization review activities.

(2) All utilization review activities conducted pursuant to subsection (1) of this section shall comply with the following:

(a) The criteria used in the utilization review process and the method of development of the criteria shall be made available for review to contracting providers upon request.

(b) A [*doctor of medicine or osteopathy*] **physician** licensed under ORS [*chapter 677*] **677.100 to 677.228** shall be responsible for all final recommendations regarding the necessity or appropriateness of services or the site at which the services are provided and shall consult as appropriate with medical and mental health specialists in making such recommendations.

(c) Any provider who has had a request for treatment or payment for services denied as not medically necessary or as experimental shall be provided an opportunity for a timely appeal before an appropriate medical consultant or peer review committee.

(d) A provider request for prior authorization of nonemergency service must be answered within two business days, and qualified health care personnel must be available for same-day telephone responses to inquiries concerning certification of continued length of stay.

SECTION 40. ORS 807.090 is amended to read:

807.090. (1) If the Department of Transportation determines that a person may be ineligible for a license because the person has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle, the person may establish eligibility for a license:

(a) By personally demonstrating to the satisfaction of the department that, notwithstanding the mental or physical condition or impairment, the person is qualified to safely operate a motor vehicle; or

(b) If the department reasonably believes that, notwithstanding the demonstration under paragraph (a) of this subsection, the person's mental or physical condition or impairment affects the person's ability to safely operate a motor vehicle, by receiving a determination of eligibility from the medical determination officer of the department under this section.

(2) The medical determination officer shall determine that a person is eligible for a license under this section if an applicant establishes to the satisfaction of the officer that the person's mental or physical condition or impairment does not affect the person's ability to safely operate a motor vehicle. The medical determination officer shall use the following to determine the person's eligibility under this subsection:

(a) A report from the person's physician, nurse practitioner or physician assistant of the person's condition or impairment.

(b) If the person's condition or impairment apparently involves only visual deficiencies, the department may require a person to submit a report

from a licensed optometrist or a licensed physician who specializes in diagnosis and treatment of diseases of the eye.

(c) The medical determination officer may require an examination and a written report of findings and recommendations from a qualified physician, nurse practitioner or physician assistant identified by the officer in addition to other reports submitted.

(3) If a person establishes eligibility for a license under this section by receiving a determination of eligibility, the department may require the person to reestablish eligibility at reasonable intervals. The frequency of reestablishing eligibility under this subsection shall be established by the medical determination officer after reviewing any recommendations from the physician, nurse practitioner or physician assistant of the person required to reestablish eligibility.

(4) The department may employ any qualified physician, nurse practitioner or physician assistant who holds an unrestricted license in the State of Oregon to perform the duties assigned to the medical determination officer by this section.

(5) As used in this section, "physician" means a person who holds a degree of Doctor of Medicine or Doctor of [*Osteopathy*] **Osteopathic Medicine** and is licensed under ORS [*chapter 677*] **677.100 to 677.228** and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685.

SECTION 41. ORS 807.710 is amended to read:

807.710. (1) For the purposes of this section:

(a) "Physician" means a person who holds a degree of Doctor of Medicine or Doctor of [*Osteopathy*] **Osteopathic Medicine** and is licensed under ORS [*chapter 677*] **677.100 to 677.228** and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685.

(b) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care.

(2) In consultation with medical experts and experts on cognitive or functional impairments, the Department of Transportation shall adopt rules requiring reporting and:

(a) Designating physicians and health care providers required to report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle.

(b) Designating the cognitive or functional impairments that are likely to affect a person's ability to safely operate a motor vehicle.

(3) Determinations regarding a person's ability to safely operate a motor vehicle may not be based solely on the diagnosis of a medical condition or cognitive or functional impairment, but must be based on the actual effect of that condition or impairment on the person's ability to safely operate a motor vehicle.

(4) Reports required by the department under this section shall be upon forms prescribed or provided by the department. Each report shall include the person's name, address, date of birth, sex and a description of how the person's current medical status affects the person's ability to safely operate a motor vehicle. The department shall consider this information in determining the person's eligibility for a driver license or driver permit.

(5) A designated physician or health care provider may at any time report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section. If the report is made

in good faith, the physician or health care provider is immune from civil liability that might otherwise result from making the report. A designated physician or health care provider is immune from civil liability for failure to make a report under this section, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section.

(6) Except as provided in ORS 802.240, reports made under this section are confidential and shall be used by the department only to determine the qualifications of persons to operate motor vehicles upon the highways.

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