

Senate Bill 298

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Board of Massage Therapists)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires regulation of bodywork in same manner that law currently regulates massage. Defines "bodywork." Changes name of State Board of Massage Therapists to State Board of Massage Therapists and Bodyworkers.

Excludes community colleges and accredited colleges and universities from definition of "massage facility."

Increases number of class hours required for licensure as massage therapist or bodyworker.

Authorizes board to require licensed massage therapists and licensed bodyworkers to acquire or renew endorsement before practicing advanced technique of massage or bodywork.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to therapeutic touching; creating new provisions; amending ORS 31.740, 182.454, 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 676.850, 677.060, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.059, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121, 687.122, 687.123, 687.250, 746.600 and 750.005 and section 1, chapter 5, Oregon Laws 2013; and declaring an emergency.

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

DEFINITIONS OF "BODYWORK" AND "MASSAGE FACILITY"

SECTION 1. ORS 687.011 is amended to read:

687.011. As used in ORS 687.011 to 687.250, 687.895 and 687.991:

(1) "Board" means the State Board of Massage Therapists **and Bodyworkers**.

(2) "**Bodywork**" means any form of touch therapy that uses manipulation, movement, energy or repatterning to produce structural and functional changes to the body.

(3) "**Bodyworker**" means a person licensed under ORS 687.011 to 687.250, 687.895 and 687.991 to practice bodywork.

[(2)] (4) "Certified class" means a class that is approved by the **State Board of Massage Therapists and Bodyworkers** and is offered:

(a) By a person or institution licensed as a career school under ORS 345.010 to 345.450;

(b) By a community college and approved by the Higher Education Coordinating Commission;

(c) By an accredited college or university; or

(d) In another state and licensed or approved by the appropriate agency in that state.

[(3)] (5) "Manual" means the use of the hands, feet or any other part of the body in the per-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 performance of massage **or bodywork**.

2 [(4)] (6) “Massage” [or “*massage therapy*”] means the use of pressure, friction, stroking, tapping
 3 or kneading on the human body, or the use of vibration or stretching on the human body by manual
 4 or mechanical means or gymnastics, with or without appliances such as vibrators, infrared heat, sun
 5 lamps or external baths, and with or without lubricants such as salts, powders, liquids or creams,
 6 for the purpose of, but not limited to, maintaining good health and establishing and maintaining good
 7 physical condition.

8 [(5)(a)] (7)(a) “Massage facility” means a facility where a person engages in the practice of
 9 massage **or bodywork**.

10 (b) “Massage facility” does not include:

11 (A) A career school licensed under ORS 345.010 to 345.450; [or]

12 **(B) An accredited college or university or a community college operated under ORS**
 13 **chapter 341; or**

14 [(B)] (C) A clinic or facility owned or operated by a person authorized to practice a profession
 15 by a health professional regulatory board, as defined in ORS 676.160.

16 [(6)] (8) “Massage therapist” means a person licensed under ORS 687.011 to 687.250, 687.895 and
 17 687.991 to practice massage.

18 **(9) “Practice of bodywork” means the performance of bodywork:**

19 **(a) For purposes other than sexual contact, as defined in ORS 167.002; and**

20 **(b) For compensation.**

21 [(7)] (10) “Practice of massage” means the performance of massage:

22 (a) For purposes other than sexual contact, as defined in ORS 167.002 [(5)]; and

23 (b) For compensation.

24 [(8)] (11) “Preceptor” means a licensed massage therapist **or licensed bodyworker**, who con-
 25 tracts with an approved school or program of massage **or bodywork** to provide direct on-site clin-
 26 ical supervision of a [*massage*] student enrolled in a certified class.

27 [(9)] (12) “Supervision” means:

28 (a) The process of overseeing and directing the training of [*massage*] students **enrolled in a**
 29 **certified class** as set forth in the rules of the board;

30 (b) The process of overseeing and directing a licensee, or a person that has a permit to operate
 31 a massage facility, who is being disciplined by the board; or

32 (c) Voluntary consultation with, and education of, less experienced licensed massage
 33 therapists, **bodyworkers** or practitioners in related fields.

34 [(10)] “*Treatment*” means the selection, application and practice of massage or massage therapy es-
 35 sential to the effective execution and management of a plan of care.]

36 [(11)] (13) “Unprofessional or dishonorable conduct” means a behavior, practice or condition
 37 that is contrary to the ethical standards adopted by the board.

38
 39 **REGULATION OF BODYWORK AND**
 40 **TECHNIQUES OF MASSAGE OR BODYWORK**

41
 42 **SECTION 2.** ORS 687.021 is amended to read:

43 687.021. (1) A person may not:

44 (a) Engage in or purport to engage in the practice of massage **or bodywork** without a massage
 45 therapist **or bodyworker** license issued by the State Board of Massage Therapists **and**

1 **Bodyworkers** under ORS 687.051.

2 (b) Operate a massage facility or purport to operate a massage facility without a permit issued
3 by the board under ORS 687.059, unless the person is an individual massage therapist **or**
4 **bodyworker**, who is working out of the individual's home.

5 (c) Advertise that the person engages in the practice of massage **or bodywork** unless the person
6 is licensed under ORS 687.051 or holds a permit under ORS 687.059.

7 (d) Use the word "massage" **or "bodywork"** in a business name unless the person is licensed
8 under ORS 687.051 or holds a permit under ORS 687.059.

9 (2) The board may exempt by rule a type of massage facility from the prohibition in subsection
10 (1)(b) of this section if the board finds that requiring a permit for that type of facility is not neces-
11 sary to regulate the practice of massage [*therapy*] **or bodywork** or to protect the health and safety
12 of the public.

13 (3) The Attorney General, the prosecuting attorney of any county or the board may maintain
14 an action for an injunction against a person violating this section. An injunction may be issued
15 without proof of actual damages sustained by a person. An injunction does not relieve a person from
16 criminal prosecution for violating this section or from any other civil, criminal or disciplinary reme-
17 dy.

18 **SECTION 3.** ORS 687.031 is amended to read:

19 687.031. (1) ORS 687.011 to 687.250, 687.895 and 687.991 do not apply to:

20 (a) Persons licensed under [*any other law*] **the laws** of this state to do [*any acts*] **an act** included
21 in the definition of massage **or bodywork** in ORS 687.011 or persons working under the direction
22 of [*any*] such a person, **so long as the licensed person is acting within the person's authorized**
23 **scope of practice.**

24 (b) Trainers of any amateur, semiprofessional or professional athlete or athletic team.

25 (c) Massage **or bodywork** practiced at the athletic department of [*any*] **an** institution main-
26 tained by public funds of the state or [*of any of*] its political subdivisions.

27 (d) Massage **or bodywork** practiced at the athletic department of [*any*] **a** school or college.

28 (e) Massage **or bodywork** clinics operated as part of a certified class for the purpose of student
29 training supervised by an approved instructor or preceptor if:

30 (A) [*Any*] **The charge for the massage or bodywork services** does not exceed the cost incurred
31 in providing the [*massage*] **services**; and

32 (B) The student is not compensated.

33 (f) Students enrolled in a certified class when practicing massage **or bodywork** techniques in a
34 nonclinical setting, **whether** at or away from massage school premises or program sites, under the
35 supervision of an approved instructor or preceptor, if:

36 (A) The student is clearly identified as a student to [*any member of the public*] **clients** receiving
37 massage **or bodywork** services; and

38 (B) The student is not compensated.

39 (g) Nonresident practitioners **of massage or bodywork** holding a valid license, permit, certif-
40 icate or registration issued by [*any other*] **another** state [*or*], **a** territory of the United States or
41 [*by*] a foreign country and temporarily practicing massage **or bodywork** in this state for a period
42 not exceeding 30 days for the purpose of:

43 (A) Presenting educational or clinical programs, lectures, seminars or workshops;

44 (B) Furnishing massage **or bodywork** services during an emergency as part of a disaster re-
45 sponse team; or

1 (C) Consulting with a massage therapist **or bodyworker** licensed in this state regarding massage
2 **or bodywork** practices or services.

3 (h) Trained or licensed practitioners of psychotherapy or counseling modalities that use physical
4 techniques to access or support psychotherapeutic processes [*when practicing*] **who:**

5 (A) **Practice** within the scope of a license; or

6 (B) [*if the practitioner has*] **Have** an express oral or written agreement that **specifies that** the
7 sole intent in using the physical techniques is to render the psychotherapy or counseling.

8 (i) Practitioners of reflexology who do not claim expressly or implicitly to be massage therapists
9 **or bodyworkers** and who limit their work to the practice of reflexology through the application of
10 pressure with the thumbs to reflex points on the feet, hands and ears for the purpose of bringing the
11 body into balance[, *thereby*] **and** promoting the well-being of clients.

12 (j) Practitioners who:

13 (A) Do not claim expressly or implicitly to be massage therapists **or bodyworkers**;

14 (B) Limit their work to one or more of the following [*practices*] **techniques**:

15 (i) Using touch, words and directed movement to deepen awareness of existing patterns of
16 movement and suggest new possibilities of movement;

17 (ii) Using minimal touch over specific points on the body to facilitate balance in the nervous
18 system; or

19 (iii) Using touch to affect the energy systems or channels of energy of the body;

20 (C) Are certified by a professional organization or credentialing agency that:

21 (i) Requires a minimum level of training, demonstration of competence and adherence to an ap-
22 proved scope of practice and ethical standards; and

23 (ii) Maintains disciplinary procedures to ensure adherence to the requirements of the organiza-
24 tion or agency; and

25 (D) Provide contact information in the practitioner's place of business for any organization or
26 agency that has certified the practitioner.

27 (2) The State Board of Massage Therapists **and Bodyworkers** has the authority to verify that
28 a practitioner **of massage or bodywork** claiming to be exempt from application of ORS 687.011 to
29 687.250, 687.895 and 687.991 under subsection (1)(j) of this section is certified by a professional or-
30 ganization or credentialing agency as required by subsection (1)(j)(C) of this section.

31 (3) A nonresident practitioner performing massage **or bodywork** under subsection (1)(g) of this
32 section must obtain a temporary practice permit if practicing in this state for [*a total of*] more than
33 30 days in a calendar year. Applications must be accompanied by the application fee provided for
34 in ORS 687.071. A temporary practice permit shall allow the nonresident practitioner to practice
35 massage **or bodywork** in this state for a maximum of 180 days in a calendar year.

36 **SECTION 4.** ORS 687.041 is amended to read:

37 687.041. (1) Applications to the State Board of Massage Therapists **and Bodyworkers** for a
38 massage therapist **or bodyworker** license shall be made on forms provided by the board and shall
39 contain the information required to assure the board of the applicant's eligibility for a license. The
40 application fee provided for in ORS 687.071 shall accompany the application.

41 (2) An applicant shall state on the application whether the applicant has ever been arrested for
42 or convicted of a [*crime exclusive of minor traffic offenses and if so, where and when*] **misdemeanor**
43 **or felony and the date and location of the arrest or conviction.**

44 (3) The board may require that an applicant submit to fingerprinting and may use the finger-
45 prints to request a criminal records check of the applicant under ORS 181.534. [*It*] **The board** may

1 also require the photograph of the applicant.

2 (4) All law enforcement agencies in this state shall cooperate with the board in the adminis-
3 tration of ORS 687.011 to 687.250, 687.895 and 687.991 and shall, when requested, investigate and
4 report to the board their findings regarding the arrest or conviction of the applicant for crimes
5 within or outside this state.

6 **SECTION 5.** ORS 687.051 is amended to read:

7 687.051. (1) To be eligible for issuance of an initial license in this state as a massage therapist
8 **or bodyworker**, the applicant shall:

9 (a) Furnish the State Board of Massage Therapists **and Bodyworkers** with personal references
10 required by rule of the board.

11 (b) Have attained the age of 18 years.

12 (c) Furnish the board with educational certificates or transcripts required by law or rule of the
13 board including but not limited to proof of certification in cardiopulmonary resuscitation.

14 (d)(A) Have completed a minimum of [500] **750** contact hours of certified classes in the following
15 subjects:

16 (i) Anatomy and physiology;

17 (ii) Kinesiology;

18 (iii) Pathology;

19 (iv) Theory; and

20 (v) Hands-on practice of massage [*and*] **or** bodywork techniques and professional practices, in-
21 cluding client communication and boundaries, professional and business ethics and sanitation; or

22 (B) Obtain the approval of the board after the board performs a credentialing review, including
23 but not limited to a review of the classes completed by the applicant and the applicant's professional
24 experience, to determine the applicant's proficiency [*in the field of massage*].

25 (e) Pass an examination prepared and conducted by the board or its authorized representative
26 establishing **the applicant's** competency and ability to engage in the practice of massage **or**
27 **bodywork**. The examination must be administered in the English language or another language ap-
28 proved by the board and may be in written, oral or practical form and may test the applicant for
29 the required level of knowledge and skill in any subject related to massage and bodywork. The **State**
30 **Board of Massage Therapists and Bodyworkers** shall accept passage of the National Certification
31 Board for Therapeutic Massage and Bodywork examination or another [*board-approved*] national
32 standardized examination **approved by the State Board of Massage Therapists** as meeting the
33 written examination requirement [*contained*] **described** in this paragraph.

34 (f) Submit the application with payment for licensing within one year after notification of having
35 passed the qualifying examination.

36 (2) An applicant must be a person of good moral character. For purposes of this section, the
37 lack of good moral character may be established by reference to acts or conduct reflecting moral
38 turpitude or to acts or conduct that would cause a reasonable person to have substantial doubts
39 about the applicant's ability to **engage in the practice of** massage **or bodywork** in accordance with
40 ORS 687.011 to 687.250, 687.895 and 687.991 and rules of the **State Board of Massage Therapists**
41 **and Bodyworkers**.

42 (3) The board may require that an applicant furnish evidence satisfactory to the board that the
43 applicant can safely and competently practice [*the profession of*] massage **or bodywork**. The board
44 may consider evidence including, but not limited to, indications of impairment as defined in ORS
45 676.303 or of behavior, practices or conduct that would be considered unprofessional or dishonorable

1 conduct if engaged in by a person licensed under ORS 687.011 to 687.250, 687.895 and 687.991.

2 (4) The board shall adopt rules establishing the required hours for each subject listed in sub-
3 section (1)(d)(A) of this section.

4 (5) To be eligible for biennial renewal, a renewal applicant shall submit evidence to the board,
5 as determined by the board by rule, that the applicant has completed a minimum of 12 hours of
6 board-approved continuing education.

7 (6) To be eligible for inactive status, a licensed massage therapist [*must not be practicing*] **or**
8 **bodyworker may not practice** massage **or bodywork** in this state.

9 **SECTION 6.** ORS 687.057 is amended to read:

10 687.057. (1) The State Board of Massage Therapists **and Bodyworkers** may license by [*indorse-*
11 *ment*] **endorsement** or reciprocity any individual who applies, meets the requirements established
12 by the board and, on the date of making application, is [*a massage therapist*] licensed **to practice**
13 **massage or bodywork** under the laws of [*any other*] **another** state [*or*], a territory of the United
14 States or [*by*] a foreign country if the requirements **for licensure** in the state, territory or country
15 where the applicant is licensed are not less than [*those required in*] **the requirements of** ORS
16 687.011 to 687.250, 687.895 and 687.991. The board shall adopt rules for determining the necessity
17 of an examination based on educational preparation, successful completion of other examinations,
18 work experience and the number of years in active practice of massage **or bodywork**.

19 (2) The board may license by [*indorsement*] **endorsement** any individual who applies and suc-
20 cessfully completes a practical examination if the individual is already licensed under [*a law of this*
21 *state to do an act included in the definition of massage in ORS 687.011*] **the laws of this state to**
22 **do an act included in the definition of massage or bodywork in ORS 687.011.**

23 (3) The board may enter into an agreement with the appropriate regulatory body of any other
24 state, territory or foreign country for reciprocal licensing if the board determines that the quali-
25 fications and standards of the other state, territory or foreign country are not less than [*those re-*
26 *quired*] **the qualifications and standards set forth** in ORS 687.011 to 687.250, 687.895 and 687.991.

27 **SECTION 7.** ORS 687.059 is amended to read:

28 687.059. (1) To be issued a permit to operate a massage facility in this state, an applicant must:

29 (a) Submit an application to the State Board of Massage Therapists **and Bodyworkers** in a form
30 and manner prescribed by the board by rule;

31 (b) Comply with the health, safety and infection control requirements adopted by the board un-
32 der ORS 687.121;

33 (c) Pay the fee required under ORS 687.071 (1)(b);

34 (d) If the applicant is a natural person, be at least 18 years of age; and

35 (e) If the applicant is not a natural person, comport with the laws of this state related to busi-
36 ness formation, including making an appropriate filing with the Secretary of State.

37 (2) A massage facility for which a person has been issued a permit under this section may pro-
38 vide massage [*therapy*] **or bodywork services** only through the use of massage therapists **or**
39 **bodyworkers** licensed under ORS [*687.051*] **687.011 to 687.250.**

40 (3) The board may authorize relocating a massage facility if:

41 (a) The permittee submits an application in a form and manner prescribed by the board by rule;

42 (b) The permittee pays the fee required under ORS 687.071 (1)(h); and

43 (c) The permittee complies with any other applicable rule of the board.

44 (4) The board may authorize transferring a permit to operate a massage facility from one person
45 to another person if the person to whom the permit will be transferred:

- 1 (a) Submits an application in a form and manner prescribed by the board by rule;
- 2 (b) Pays the fee required under ORS 687.071 (1)(i);
- 3 (c) Makes all necessary changes to documents on file with the Secretary of State; and
- 4 (d) Complies with any other applicable rule of the board.

5 (5) The board may authorize transferring the name of a massage facility to another massage
6 facility if the permittee who operates the massage facility to which the name will be transferred:

- 7 (a) Submits an application in a form and manner prescribed by the board by rule;
- 8 (b) Pays the fee required under ORS 687.071 (1)(j);
- 9 (c) Makes all necessary changes to documents on file with the Secretary of State; and
- 10 (d) Complies with any other applicable rule of the board.

11 **SECTION 8.** ORS 687.061 is amended to read:

12 687.061. (1) Licenses issued under ORS 687.051 and permits issued under ORS 687.059 expire on
13 the date established by the State Board of Massage Therapists **and Bodyworkers** by rule and may
14 be renewed after payment of a renewal fee established by the board under ORS 687.071. If the re-
15 newal fee is not paid by the expiration date established by the board, a delinquency fee must be paid
16 prior to renewal. Licenses and permits may be renewed within three years after the date of expira-
17 tion upon payment of the renewal fee and the delinquency fee established by the board.

18 (2) An individual who engages in the practice of massage **or bodywork** without holding a valid
19 license issued under ORS 687.051 or a person who operates a massage facility without holding a
20 valid permit issued under ORS 687.059 is subject to disciplinary action and civil penalty by the
21 board, injunction and criminal prosecution. No disciplinary action, civil penalty or criminal pro-
22 ceeding shall be initiated under this section after the date that a renewal *[and]* **or** delinquency fee
23 is paid. However, payment of a renewal *[and]* **or** delinquency fee does not stay any disciplinary
24 action, civil penalty or criminal proceeding already assessed or initiated.

25 **SECTION 9.** ORS 687.071 is amended to read:

26 687.071. (1) The State Board of Massage Therapists **and Bodyworkers** shall impose fees for the
27 following:

- 28 (a) Issuance or renewal of a massage therapist **or bodyworker** license.
- 29 (b) Issuance or renewal of a permit to operate a massage facility.
- 30 (c) Examinations and reexaminations.
- 31 (d) Inactive status.
- 32 (e) Delinquency in renewal of a license or of a permit to operate a massage facility.
- 33 (f) Temporary practice permit.
- 34 (g) Application for *[massage]* license examination.
- 35 (h) Relocation of a massage facility as described in ORS 687.059 (3).
- 36 (i) Transferring a permit to operate a massage facility from one person to another person as
37 described in ORS 687.059 (4).

38 (j) Transferring the name of a massage facility to another massage facility as described in ORS
39 687.059 (5).

40 (2) If the effective period of an initial massage therapist **or bodyworker** license or permit to
41 operate a massage facility is to be less than 12 months by reason of the expiration date established
42 by *[rule of]* the board **by rule**, the required license fee shall be prorated to represent one-half of the
43 rate for a biennial period.

44 (3) The board shall examine or reexamine an applicant for a massage therapist **or bodyworker**
45 license who pays a fee for each examination and who meets the requirements of ORS 687.051.

1 (4) All moneys received by the board shall be paid into the account created by the board under
 2 ORS 182.470 and are continuously appropriated to the board for the administration and enforcement
 3 of ORS 687.011 to 687.250, 687.895 and 687.991.

4 **SECTION 10.** ORS 687.071, as amended by section 15, chapter 240, Oregon Laws 2013, is
 5 amended to read:

6 687.071. (1) The State Board of Massage Therapists **and Bodyworkers** shall impose fees for the
 7 following:

- 8 (a) Issuance or renewal of a massage therapist **or bodyworker** license.
- 9 (b) Issuance or renewal of a permit to operate a massage facility.
- 10 (c) Examinations and reexaminations.
- 11 (d) Inactive status.
- 12 (e) Delinquency in renewal of a license or of a permit to operate a massage facility.
- 13 (f) Temporary practice permit.
- 14 (g) Application for [*massage*] license examination.
- 15 (h) Relocation of a massage facility as described in ORS 687.059 (3).
- 16 (i) Transferring a permit to operate a massage facility from one person to another person as
 17 described in ORS 687.059 (4).
- 18 (j) Transferring the name of a massage facility to another massage facility as described in ORS
 19 687.059 (5).

20 (2) If the effective period of an initial massage therapist **or bodyworker** license or permit to
 21 operate a massage facility is to be less than 12 months by reason of the expiration date established
 22 by [*rule of*] the board **by rule**, the required license fee shall be prorated to represent one-half of the
 23 rate for a biennial period.

24 (3) The board shall examine or reexamine an applicant for a massage therapist **or bodyworker**
 25 license who pays a fee for each examination and who meets the requirements of ORS 687.051.

26 (4) All moneys received by the board shall be paid into the account created by the board under
 27 ORS 182.470 and are continuously appropriated to the board for the administration and enforcement
 28 of ORS 676.850, 687.011 to 687.250, 687.895 and 687.991.

29 **SECTION 11.** ORS 687.081 is amended to read:

30 687.081. (1) The State Board of Massage Therapists **and Bodyworkers** may discipline a person,
 31 deny, suspend, revoke or refuse to renew a license [*to practice massage or a permit to operate a*
 32 *massage facility*] **or permit issued by the board** and issue a reprimand to or censure or place on
 33 probation a licensee or permittee, if the person:

- 34 (a) Has violated a provision of ORS 687.011 to 687.250, 687.895 and 687.991 or any rule of the
 35 board adopted under ORS 687.121.
- 36 (b) Has made a false representation or statement to the board in order to induce or prevent
 37 action by the board.
- 38 (c) Is licensed under ORS 687.051 or holds a permit under ORS 687.059 and has a physical or
 39 mental condition that makes the licensee or permittee unable to conduct safely the practice of
 40 massage **or bodywork** or **the** operation of a massage facility.
- 41 (d) Is licensed under ORS 687.051 or holds a permit under ORS 687.059 and is habitually
 42 intemperate in the use of alcoholic beverages or is addicted to the use of habit-forming drugs or
 43 controlled substances.
- 44 (e) Has misrepresented to a [*patron*] **client any massage or bodywork** services rendered.
- 45 (f) Has been convicted of a crime that bears a demonstrable relationship to the practice of

1 massage **or bodywork** or **the** operation of a massage facility.

2 (g) Whether licensed to practice massage **or bodywork** or applying for a license to practice
3 massage **or bodywork**, fails to meet a requirement under ORS 687.051.

4 (h) Whether permitted to operate a massage facility or applying for a permit to operate a mas-
5 sage facility, fails to meet a requirement under ORS 687.059.

6 (i) Violates a provision of ORS 167.002 to 167.027.

7 (j) Engages in unprofessional or dishonorable conduct.

8 (k) Has been the subject of disciplinary action as a massage therapist, **bodyworker** or operator
9 of a massage facility by another state [*or*], territory of the United States or [*by a*] foreign country
10 and the board determines that the cause of the disciplinary action would be a violation under ORS
11 687.011 to 687.250, 687.895 or 687.991 or the rules of the board if the cause of the disciplinary action
12 had occurred in this state.

13 (2) If the board places a licensee or permittee on probation pursuant to subsection (1) of this
14 section, the board may impose and at any time modify the following conditions of probation:

15 (a) Limitation on the scope of the practice of massage **or bodywork** or the operation of a mas-
16 sage facility.

17 (b) Referral to the impaired health professional program established under ORS 676.190.

18 (c) Individual or peer supervision.

19 (d) Any other condition that the board considers necessary for the protection of the public or
20 the rehabilitation of the licensee or permittee.

21 (3) If the board determines that the continued practice of massage **or bodywork** by a licensee
22 or the continued operation of a massage facility by a permittee constitutes a serious danger to the
23 public, the board may impose an emergency suspension of the license or permit without a hearing.
24 Simultaneous with the order of suspension, the board shall institute proceedings for a hearing as
25 provided under ORS 687.011 to 687.250, 687.895 and 687.991. The suspension shall continue unless
26 and until the licensee or permittee obtains injunctive relief from a court of competent jurisdiction
27 or the board determines that the suspension is no longer necessary for the protection of the public.

28 (4) In addition to or instead of the discipline described in subsection (1) of this section, the board
29 may impose a civil penalty under ORS 687.250. Civil penalties under this subsection shall be imposed
30 pursuant to ORS 183.745.

31 (5) Prior to imposing a sanction authorized under this section, the board shall consider, but is
32 not limited to considering, the following factors:

33 (a) The person's past history in observing the provisions of ORS 687.011 to 687.250, 687.895 and
34 687.991 and the rules of the board;

35 (b) The effect of the violation on public safety and welfare;

36 (c) The degree to which the action subject to sanction violates professional ethics and standards
37 of practice;

38 (d) The economic and financial condition of the person subject to sanction; and

39 (e) Any mitigating factors that the board may choose to consider.

40 (6) In addition to the sanctions authorized by this section, the board may assess against a person
41 the reasonable costs of a disciplinary action taken against the person.

42 (7) The board shall adopt a code of ethical standards for massage therapists **and bodyworkers**
43 and shall take appropriate measures to ensure that all applicants and **persons licensed to practice**
44 massage [*therapists*] **or bodywork** are aware of those standards.

45 (8) Upon receipt of a complaint under ORS 687.011 to 687.250, 687.895 and 687.991, the board

1 shall conduct an investigation as described under ORS 676.165.

2 (9) Information that the board obtains as part of an investigation into the conduct of a person
 3 or as part of a contested case proceeding, consent order or stipulated agreement involving the
 4 conduct of a person is confidential as provided under ORS 676.175.

5 **SECTION 12.** ORS 687.086 is amended to read:

6 687.086. (1) If the State Board of Massage Therapists **and Bodyworkers** proposes to impose any
 7 of the sanctions authorized in ORS 687.081 or take other disciplinary action, opportunity for a
 8 hearing shall be accorded as provided in ORS chapter 183. Hearings under this section must be
 9 conducted by an administrative law judge assigned from the Office of Administrative Hearings es-
 10 tablished by ORS 183.605.

11 (2) Promulgation of **board** rules, conduct of **board** hearings, issuance of **board** orders and judi-
 12 cial review of **board** rules and orders shall be as provided in ORS chapter 183.

13 **SECTION 13.** ORS 687.095 is amended to read:

14 687.095. Unless state or federal laws relating to confidentiality or the protection of health in-
 15 formation prohibit disclosure, a **licensed** massage therapist **or licensed bodyworker** who has rea-
 16 sonable cause to believe that a licensee of another board has engaged in prohibited conduct as
 17 defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150.

18 **SECTION 14.** ORS 687.115 is amended to read:

19 687.115. (1) The State Board of Massage Therapists **and Bodyworkers** operates as a semi-
 20 independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the pro-
 21 visions of ORS 687.011 to 687.250, 687.895 and 687.991. The board consists of seven members
 22 appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS
 23 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the
 24 board:

25 (a) Four must be licensed **as** massage therapists **or bodyworkers**.

26 (b) Three must be members of the public, including one public member selected from a health
 27 related field. Public members may not be:

28 (A) Massage therapists **or bodyworkers**; or

29 (B) A spouse, domestic partner, child, parent or sibling of a massage therapist **or bodyworker**.

30 (2)(a) Board members required to be licensed massage therapists **or licensed bodyworkers** may
 31 be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a
 32 professional organization representing massage therapists **or bodyworkers**.

33 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
 34 tation on the board according to:

35 (A) Geographic areas of this state; and

36 (B) Ethnic group.

37 (3)(a) The term of office of each member is four years, but a member serves at the pleasure of
 38 the Governor. The terms must be staggered so that no more than three terms end each year. A
 39 member is eligible for reappointment. If there is a vacancy in the membership of the board for any
 40 reason, the Governor shall make an appointment to become immediately effective for the remainder
 41 of the unexpired term.

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

44 (A) Is not a resident of this state;

45 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-

1 cused; or

2 (C) **Was appointed under subsection (1)(a) of this section and** is not a licensed massage
 3 therapist, **licensed bodyworker** or [a] retired massage therapist **or bodyworker** who was [a *licensed*
 4 *massage therapist*] **licensed and** in good standing **with the board** at the time of retirement[, *if the*
 5 *board member was appointed to serve on the board as a massage therapist*].

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

9 (5) The board may:

10 (a) Hold meetings at times and locations determined by the board.

11 (b) Hire, define the duties and fix the salary of an administrator who may hire and define the
 12 duties and provide supervision and evaluation of other employees as necessary to carry out the
 13 provisions of ORS 687.011 to 687.250, 687.895 and 687.991. The administrator, with approval of the
 14 board, may also employ special consultants. All salaries, compensation and expenses incurred or
 15 allowed shall be paid out of funds received by the board.

16 **SECTION 15.** ORS 687.121 is amended to read:

17 687.121. The State Board of Massage Therapists **and Bodyworkers** may adopt rules:

18 (1) Establishing reasonable standards concerning the sanitary and hygienic conditions of, and
 19 public health and safety for, premises and facilities used by massage therapists **and bodyworkers**.

20 (2) Establishing health, safety and infection control requirements for massage facilities.

21 (3) Relating to the methods and procedures used in the practice of massage **or bodywork**.

22 (4) Governing the examination and investigation of applicants for a license under ORS 687.051
 23 or a permit under ORS 687.059 and the issuance, renewal, suspension and revocation of such licenses
 24 and permits.

25 (5) Setting standards for [*certifying*] **certified** classes under ORS 687.051.

26 (6) Requiring that a massage therapist **or bodyworker** supply the board with the accurate,
 27 current address or addresses **of the premises** where the massage therapist **or bodyworker** engages
 28 in the practice of massage **or bodywork**.

29 **(7) Regulating the practice of massage or bodywork, including requiring a licensed mas-**
 30 **sage therapist or licensed bodyworker to acquire an appropriate endorsement before prac-**
 31 **ticing an advanced technique of massage or bodywork and to renew that endorsement.**

32 [(7)] **(8)** Requiring that a person who holds a permit to operate a massage facility supply the
 33 board with the accurate, current address where the massage facility is located.

34 [(8)] **(9)** Fixing the educational, training and experience requirements for licensing by [*indorse-*
 35 *ment*] **endorsement** or reciprocity.

36 [(9)] **(10)** Establishing requirements for issuance and retention of an inactive massage therapist
 37 **or bodyworker** license or permit to operate a massage facility.

38 [(10)] **(11)** Regarding any other matter that the board reasonably considers necessary and proper
 39 for the administration and enforcement of ORS 687.011 to 687.250, 687.895 and 687.991.

40 **SECTION 16.** ORS 687.122 is amended to read:

41 687.122. (1) Upon the complaint of any [*citizen*] **resident** of this state, or upon its own motion,
 42 the State Board of Massage Therapists **and Bodyworkers** may investigate any alleged violation of
 43 ORS 687.011 to 687.250, 687.895 and 687.991.

44 (2) In the conduct of investigations, the board may:

45 (a) Take evidence;

1 (b) Take the depositions of witnesses, including the person charged, in the manner provided by
 2 law in civil cases;

3 (c) Compel the appearance of witnesses, including the person charged, before the board in per-
 4 son the same as in civil cases;

5 (d) Require answers to interrogatories; and

6 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
 7 matter under investigation.

8 (3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas
 9 over the signature of the board chairperson and the seal of the board in the name of the State of
 10 Oregon.

11 (4) If a person fails to comply with a subpoena issued under this section, the judge of the circuit
 12 court shall compel obedience by proceedings for contempt as in the case of disobedience of the re-
 13 quirements of a subpoena issued from the court.

14 **SECTION 17.** ORS 687.123 is amended to read:

15 687.123. Upon complaint about a massage facility or the premises on which a massage therapist
 16 practices massage **or a bodyworker practices bodywork**, the State Board of Massage Therapists
 17 **and Bodyworkers** or [its] **an** authorized representative **of the board** may inspect the massage fa-
 18 cility or premises in order to determine whether the massage facility or premises meet the standards
 19 set by order of the board under ORS 687.121 (1) or (2).

20 **SECTION 18.** ORS 687.250 is amended to read:

21 687.250. (1) The State Board of Massage Therapists **and Bodyworkers** shall report to the proper
 22 district attorney all cases that in the judgment of the board warrant criminal prosecution under ORS
 23 687.991.

24 (2) The board may, in its own name, assess a civil penalty against a person who violates a pro-
 25 vision of ORS 687.011 to 687.250, 687.895 and 687.991. The board may assess the civil penalty instead
 26 of or in addition to disciplinary action under ORS 687.081, an injunction issued under ORS 687.021
 27 or criminal prosecution by the district attorney under this section. The amount of the civil penalty
 28 may not exceed \$1,000 for any single violation. Except as the board may otherwise provide under
 29 ORS 182.462 (1)(e), moneys collected through the assessment of civil penalties by the board under
 30 this subsection or ORS 687.081 shall be deposited into the account created by the board pursuant
 31 to ORS 182.470 and are continuously appropriated to the board for carrying out the provisions of
 32 ORS 687.011 to 687.250, 687.895 and 687.991.

33
 34 **CONFORMING AMENDMENTS**
 35

36 **SECTION 19.** ORS 31.740 is amended to read:

37 31.740. Punitive damages may not be awarded against a health practitioner if:

38 (1) The health practitioner is licensed, registered or certified as:

39 (a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

40 (b) An occupational therapist under ORS 675.230 to 675.300;

41 (c) A regulated social worker under ORS 675.510 to 675.600;

42 (d) A physician under ORS 677.100 to 677.228 or 677.805 to 677.840;

43 (e) An emergency medical services provider under ORS chapter 682;

44 (f) A nurse under ORS 678.040 to 678.101;

45 (g) A nurse practitioner under ORS 678.375 to 678.390;

- 1 (h) A dentist under ORS 679.060 to 679.180;
- 2 (i) A dental hygienist under ORS 680.040 to 680.100;
- 3 (j) A denturist under ORS 680.515 to 680.535;
- 4 (k) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
- 5 (L) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
- 6 (m) A chiropractor under ORS 684.040 to 684.105;
- 7 (n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- 8 (o) A massage therapist **or bodyworker** under ORS 687.011 to 687.250;
- 9 (p) A physical therapist under ORS 688.040 to 688.145;
- 10 (q) A medical imaging licensee under ORS 688.445 to 688.525;
- 11 (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;
- 12 (s) A physician assistant as provided by ORS 677.505 to 677.525; or
- 13 (t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and
- 14 (2) The health practitioner was engaged in conduct regulated by the license, registration or
- 15 certificate issued by the appropriate governing body and was acting within the scope of practice for
- 16 which the license, registration or certificate was issued and without malice.

17 **SECTION 20.** ORS 182.454, as amended by section 19, chapter 722, Oregon Laws 2013, and

18 section 3, chapter 72, Oregon Laws 2014, is amended to read:

19 182.454. The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

- 20 (1) The Appraiser Certification and Licensure Board.
- 21 (2) The State Board of Architect Examiners.
- 22 (3) The State Board of Examiners for Engineering and Land Surveying.
- 23 (4) The State Board of Geologist Examiners.
- 24 (5) The State Landscape Architect Board.
- 25 (6) The Oregon Board of Optometry.
- 26 (7) The Oregon Patient Safety Commission.
- 27 (8) The Oregon Wine Board.
- 28 (9) The State Board of Massage Therapists **and Bodyworkers**.
- 29 (10) The Physical Therapist Licensing Board.
- 30 (11) The State Landscape Contractors Board.
- 31 (12) The Citizens' Initiative Review Commission.

32 **SECTION 21.** ORS 182.460 is amended to read:

33 182.460. (1) Except as provided in subsections (2) and (3) of this section and as otherwise pro-

34 vided by law, the provisions of ORS 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C,

35 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing

36 a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability pro-

37 visions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are

38 included within the Public Employees Retirement System.

39 (2) Notwithstanding subsection (1) of this section, the following provisions apply to a board:

- 40 (a) ORS 240.309 (1) to (6) and 240.321;
- 41 (b) ORS 279A.250 to 279A.290;
- 42 (c) ORS 282.210 to 282.230; and
- 43 (d) ORS 293.240.

44 (3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board

45 of Optometry, the State Board of Massage Therapists **and Bodyworkers** and the Physical Therapist

1 Licensing Board.

2 (4) In carrying out the duties, functions and powers of a board, the board may contract with any
 3 state agency for the performance of duties, functions and powers as the board considers appropriate.
 4 A state agency may not charge a board an amount that exceeds the actual cost of those services.
 5 ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant
 6 to a voluntary interagency agreement or contract.

7 (5) A board shall adopt personnel policies and contracting and purchasing procedures. The
 8 Oregon Department of Administrative Services shall review those policies and procedures for com-
 9 pliance with applicable state and federal laws and collective bargaining contracts.

10 (6) Except as otherwise provided by law, directors and employees of a board are eligible to re-
 11 ceive the same benefits as state employees and are entitled to retain their State of Oregon hire
 12 dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer
 13 of all accumulated state agency leaves.

14 **SECTION 22.** ORS 182.462 is amended to read:

15 182.462. (1)(a) A board shall adopt budgets on a biennial basis using classifications of expen-
 16 ditures and revenues required by ORS 291.206 (1), but the budget is not subject to review and ap-
 17 proval by the Legislative Assembly or to future modification by the Emergency Board or the
 18 Legislative Assembly.

19 (b) The budget referred to in paragraph (a) of this subsection shall be adopted in accordance
 20 with applicable provisions of ORS chapter 183. Except as provided in this paragraph, a board shall
 21 adopt or modify a budget only after a public hearing thereon. A board must give notice of the
 22 hearing to all holders of licenses issued by the board.

23 (c) A board shall follow generally accepted accounting principles and keep financial and statis-
 24 tical information as necessary to completely and accurately disclose the financial condition and fi-
 25 nancial operations of the board as may be required by the Secretary of State.

26 (d) A board shall prepare an annual financial statement of board revenues and expenses and
 27 shall make the statement available for public review. The board shall provide a copy of the state-
 28 ment to the Oregon Department of Administrative Services not later than the 90th day after the end
 29 of the state fiscal year.

30 (e) A board may, by rule, elect to donate all or part of the revenue derived by the board from
 31 civil penalties to the General Fund of the State Treasury.

32 (2) In addition to the reports required by ORS 182.472, the Oregon Board of Optometry, the State
 33 Board of Massage Therapists **and Bodyworkers** and the Physical Therapist Licensing Board shall,
 34 on or before February 1 of each odd-numbered year, present the budget adopted by the board under
 35 this section to the Governor, the President of the Senate, the Speaker of the House of Represen-
 36 tatives and the Legislative Fiscal Officer.

37 **SECTION 23.** ORS 192.556 is amended to read:

38 192.556. As used in ORS 192.553 to 192.581:

39 (1) "Authorization" means a document written in plain language that contains at least the fol-
 40 lowing:

41 (a) A description of the information to be used or disclosed that identifies the information in a
 42 specific and meaningful way;

43 (b) The name or other specific identification of the person or persons authorized to make the
 44 requested use or disclosure;

45 (c) The name or other specific identification of the person or persons to whom the covered entity

- 1 may make the requested use or disclosure;
- 2 (d) A description of each purpose of the requested use or disclosure, including but not limited
3 to a statement that the use or disclosure is at the request of the individual;
- 4 (e) An expiration date or an expiration event that relates to the individual or the purpose of the
5 use or disclosure;
- 6 (f) The signature of the individual or personal representative of the individual and the date;
- 7 (g) A description of the authority of the personal representative, if applicable; and
- 8 (h) Statements adequate to place the individual on notice of the following:
- 9 (A) The individual’s right to revoke the authorization in writing;
- 10 (B) The exceptions to the right to revoke the authorization;
- 11 (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits
12 on whether the individual signs the authorization; and
- 13 (D) The potential for information disclosed pursuant to the authorization to be subject to
14 redisclosure by the recipient and no longer protected.
- 15 (2) “Covered entity” means:
- 16 (a) A state health plan;
- 17 (b) A health insurer;
- 18 (c) A health care provider that transmits any health information in electronic form to carry out
19 financial or administrative activities in connection with a transaction covered by ORS 192.553 to
20 192.581; or
- 21 (d) A health care clearinghouse.
- 22 (3) “Health care” means care, services or supplies related to the health of an individual.
- 23 (4) “Health care operations” includes but is not limited to:
- 24 (a) Quality assessment, accreditation, auditing and improvement activities;
- 25 (b) Case management and care coordination;
- 26 (c) Reviewing the competence, qualifications or performance of health care providers or health
27 insurers;
- 28 (d) Underwriting activities;
- 29 (e) Arranging for legal services;
- 30 (f) Business planning;
- 31 (g) Customer services;
- 32 (h) Resolving internal grievances;
- 33 (i) Creating deidentified information; and
- 34 (j) Fundraising.
- 35 (5) “Health care provider” includes but is not limited to:
- 36 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
37 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
38 or an employee of the psychologist, occupational therapist, regulated social worker, professional
39 counselor or marriage and family therapist;
- 40 (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed
41 under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
- 42 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
43 the nurse or nursing home administrator;
- 44 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 45 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental

- 1 hygienist or denturist;
- 2 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
3 of the speech-language pathologist or audiologist;
- 4 (g) An emergency medical services provider licensed under ORS chapter 682;
- 5 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 6 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
7 physician;
- 8 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
9 physician;
- 10 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to 687.250 or an employee
11 of the massage therapist **or bodyworker**;
- 12 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
13 entry midwife;
- 14 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
15 therapist;
- 16 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
17 imaging licensee;
- 18 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
19 care practitioner;
- 20 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
21 somnographic technologist;
- 22 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 23 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 24 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
25 service practitioner;
- 26 (t) A health care facility as defined in ORS 442.015;
- 27 (u) A home health agency as defined in ORS 443.005;
- 28 (v) A hospice program as defined in ORS 443.850;
- 29 (w) A clinical laboratory as defined in ORS 438.010;
- 30 (x) A pharmacy as defined in ORS 689.005;
- 31 (y) A diabetes self-management program as defined in ORS 743A.184; and
- 32 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
33 course of business.
- 34 (6) “Health information” means any oral or written information in any form or medium that:
- 35 (a) Is created or received by a covered entity, a public health authority, an employer, a life
36 insurer, a school, a university or a health care provider that is not a covered entity; and
- 37 (b) Relates to:
- 38 (A) The past, present or future physical or mental health or condition of an individual;
- 39 (B) The provision of health care to an individual; or
- 40 (C) The past, present or future payment for the provision of health care to an individual.
- 41 (7) “Health insurer” means:
- 42 (a) An insurer as defined in ORS 731.106 who offers:
- 43 (A) A health benefit plan as defined in ORS 743.730;
- 44 (B) A short term health insurance policy, the duration of which does not exceed six months in-
45 cluding renewals;

- 1 (C) A student health insurance policy;
 2 (D) A Medicare supplemental policy; or
 3 (E) A dental only policy.
- 4 (b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board
 5 under ORS 735.600 to 735.650.
- 6 (8) “Individually identifiable health information” means any oral or written health information
 7 in any form or medium that is:
- 8 (a) Created or received by a covered entity, an employer or a health care provider that is not
 9 a covered entity; and
- 10 (b) Identifiable to an individual, including demographic information that identifies the individual,
 11 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 12 vidual, and that relates to:
- 13 (A) The past, present or future physical or mental health or condition of an individual;
 14 (B) The provision of health care to an individual; or
 15 (C) The past, present or future payment for the provision of health care to an individual.
- 16 (9) “Payment” includes but is not limited to:
- 17 (a) Efforts to obtain premiums or reimbursement;
 18 (b) Determining eligibility or coverage;
 19 (c) Billing activities;
 20 (d) Claims management;
 21 (e) Reviewing health care to determine medical necessity;
 22 (f) Utilization review; and
 23 (g) Disclosures to consumer reporting agencies.
- 24 (10) “Personal representative” includes but is not limited to:
- 25 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
 26 authority to make medical and health care decisions;
- 27 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
 28 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
 29 decisions;
- 30 (c) A person appointed as a personal representative under ORS chapter 113; and
 31 (d) A person described in ORS 192.573.
- 32 (11)(a) “Protected health information” means individually identifiable health information that is
 33 maintained or transmitted in any form of electronic or other medium by a covered entity.
- 34 (b) “Protected health information” does not mean individually identifiable health information in:
- 35 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
 36 U.S.C. 1232g);
 37 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
 38 (C) Employment records held by a covered entity in its role as employer.
- 39 (12) “State health plan” means:
- 40 (a) Medical assistance as defined in ORS 414.025;
 41 (b) The Health Care for All Oregon Children program; or
 42 (c) Any medical assistance or premium assistance program operated by the Oregon Health Au-
 43 thority.
- 44 (13) “Treatment” includes but is not limited to:
- 45 (a) The provision, coordination or management of health care; and

(b) Consultations and referrals between health care providers.

SECTION 24. ORS 192.556, as amended by section 30, chapter 698, Oregon Laws 2013, is amended to read:

192.556. As used in ORS 192.553 to 192.581:

(1) "Authorization" means a document written in plain language that contains at least the following:

(a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;

(b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;

(c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;

(d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;

(e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

(f) The signature of the individual or personal representative of the individual and the date;

(g) A description of the authority of the personal representative, if applicable; and

(h) Statements adequate to place the individual on notice of the following:

(A) The individual's right to revoke the authorization in writing;

(B) The exceptions to the right to revoke the authorization;

(C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and

(D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.

(2) "Covered entity" means:

(a) A state health plan;

(b) A health insurer;

(c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.553 to 192.581; or

(d) A health care clearinghouse.

(3) "Health care" means care, services or supplies related to the health of an individual.

(4) "Health care operations" includes but is not limited to:

(a) Quality assessment, accreditation, auditing and improvement activities;

(b) Case management and care coordination;

(c) Reviewing the competence, qualifications or performance of health care providers or health insurers;

(d) Underwriting activities;

(e) Arranging for legal services;

(f) Business planning;

(g) Customer services;

(h) Resolving internal grievances;

(i) Creating deidentified information; and

(j) Fundraising.

- 1 (5) “Health care provider” includes but is not limited to:
- 2 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
- 3 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
- 4 or an employee of the psychologist, occupational therapist, regulated social worker, professional
- 5 counselor or marriage and family therapist;
- 6 (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed
- 7 under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
- 8 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
- 9 the nurse or nursing home administrator;
- 10 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 11 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
- 12 hygienist or denturist;
- 13 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
- 14 of the speech-language pathologist or audiologist;
- 15 (g) An emergency medical services provider licensed under ORS chapter 682;
- 16 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 17 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
- 18 physician;
- 19 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
- 20 physician;
- 21 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to 687.250 or an employee
- 22 of the massage therapist **or bodyworker**;
- 23 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
- 24 entry midwife;
- 25 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
- 26 therapist;
- 27 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
- 28 imaging licensee;
- 29 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
- 30 care practitioner;
- 31 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
- 32 somnographic technologist;
- 33 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 34 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 35 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
- 36 service practitioner;
- 37 (t) A health care facility as defined in ORS 442.015;
- 38 (u) A home health agency as defined in ORS 443.005;
- 39 (v) A hospice program as defined in ORS 443.850;
- 40 (w) A clinical laboratory as defined in ORS 438.010;
- 41 (x) A pharmacy as defined in ORS 689.005;
- 42 (y) A diabetes self-management program as defined in ORS 743A.184; and
- 43 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
- 44 course of business.
- 45 (6) “Health information” means any oral or written information in any form or medium that:

- 1 (a) Is created or received by a covered entity, a public health authority, an employer, a life
 2 insurer, a school, a university or a health care provider that is not a covered entity; and
 3 (b) Relates to:
 4 (A) The past, present or future physical or mental health or condition of an individual;
 5 (B) The provision of health care to an individual; or
 6 (C) The past, present or future payment for the provision of health care to an individual.
 7 (7) “Health insurer” means an insurer as defined in ORS 731.106 who offers:
 8 (a) A health benefit plan as defined in ORS 743.730;
 9 (b) A short term health insurance policy, the duration of which does not exceed six months in-
 10 cluding renewals;
 11 (c) A student health insurance policy;
 12 (d) A Medicare supplemental policy; or
 13 (e) A dental only policy.
 14 (8) “Individually identifiable health information” means any oral or written health information
 15 in any form or medium that is:
 16 (a) Created or received by a covered entity, an employer or a health care provider that is not
 17 a covered entity; and
 18 (b) Identifiable to an individual, including demographic information that identifies the individual,
 19 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 20 vidual, and that relates to:
 21 (A) The past, present or future physical or mental health or condition of an individual;
 22 (B) The provision of health care to an individual; or
 23 (C) The past, present or future payment for the provision of health care to an individual.
 24 (9) “Payment” includes but is not limited to:
 25 (a) Efforts to obtain premiums or reimbursement;
 26 (b) Determining eligibility or coverage;
 27 (c) Billing activities;
 28 (d) Claims management;
 29 (e) Reviewing health care to determine medical necessity;
 30 (f) Utilization review; and
 31 (g) Disclosures to consumer reporting agencies.
 32 (10) “Personal representative” includes but is not limited to:
 33 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
 34 authority to make medical and health care decisions;
 35 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
 36 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
 37 decisions;
 38 (c) A person appointed as a personal representative under ORS chapter 113; and
 39 (d) A person described in ORS 192.573.
 40 (11)(a) “Protected health information” means individually identifiable health information that is
 41 maintained or transmitted in any form of electronic or other medium by a covered entity.
 42 (b) “Protected health information” does not mean individually identifiable health information in:
 43 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
 44 U.S.C. 1232g);
 45 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

1 (C) Employment records held by a covered entity in its role as employer.

2 (12) “State health plan” means:

3 (a) Medical assistance as defined in ORS 414.025;

4 (b) The Health Care for All Oregon Children program; or

5 (c) Any medical assistance or premium assistance program operated by the Oregon Health Au-
6 thority.

7 (13) “Treatment” includes but is not limited to:

8 (a) The provision, coordination or management of health care; and

9 (b) Consultations and referrals between health care providers.

10 **SECTION 25.** ORS 433.443 is amended to read:

11 433.443. (1) As used in this section:

12 (a) “Covered entity” means:

13 (A) The Children’s Health Insurance Program;

14 (B) A health insurer that is an insurer as defined in ORS 731.106 and that issues health insur-
15 ance as defined in ORS 731.162;

16 (C) The state medical assistance program; and

17 (D) A health care provider.

18 (b) “Health care provider” includes but is not limited to:

19 (A) A psychologist, occupational therapist, regulated social worker, professional counselor or
20 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
21 or an employee of the psychologist, occupational therapist, regulated social worker, professional
22 counselor or marriage and family therapist;

23 (B) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist li-
24 censed under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;

25 (C) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
26 the nurse or nursing home administrator;

27 (D) A dentist licensed under ORS chapter 679 or an employee of the dentist;

28 (E) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
29 hygienist or denturist;

30 (F) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
31 of the speech-language pathologist or audiologist;

32 (G) An emergency medical services provider licensed under ORS chapter 682;

33 (H) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;

34 (I) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
35 physician;

36 (J) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
37 physician;

38 (K) A massage therapist **or bodyworker** licensed under ORS 687.011 to 687.250 or an employee
39 of the massage therapist **or bodyworker**;

40 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
41 entry midwife;

42 (M) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
43 therapist;

44 (N) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
45 imaging licensee;

1 (O) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respir-
2 atory care practitioner;

3 (P) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
4 somnographic technologist;

5 (Q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;

6 (R) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;

7 (S) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
8 service practitioner;

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

10 (U) A home health agency as defined in ORS 443.005;

11 (V) A hospice program as defined in ORS 443.850;

12 (W) A clinical laboratory as defined in ORS 438.010;

13 (X) A pharmacy as defined in ORS 689.005;

14 (Y) A diabetes self-management program as defined in ORS 743A.184; and

15 (Z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
16 course of business.

17 (c) "Individual" means a natural person.

18 (d) "Individually identifiable health information" means any oral or written health information
19 in any form or medium that is:

20 (A) Created or received by a covered entity, an employer or a health care provider that is not
21 a covered entity; and

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

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

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

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

28 (e) "Legal representative" means attorney at law, person holding a general power of attorney,
29 guardian, conservator or any person appointed by a court to manage the personal or financial affairs
30 of a person, or agency legally responsible for the welfare or support of a person.

31 (2)(a) During a public health emergency declared under ORS 433.441, the Public Health Director
32 may, as necessary to appropriately respond to the public health emergency:

33 (A) Adopt reporting requirements for and provide notice of those requirements to health care
34 providers, institutions and facilities for the purpose of obtaining information directly related to the
35 public health emergency;

36 (B) After consultation with appropriate medical experts, create and require the use of diagnostic
37 and treatment protocols to respond to the public health emergency and provide notice of those
38 protocols to health care providers, institutions and facilities;

39 (C) Order, or authorize local public health administrators to order, public health measures ap-
40 propriate to the public health threat presented;

41 (D) Authorize pharmacists licensed under ORS chapter 689 to administer vaccines to persons
42 who are three years of age or older;

43 (E) Upon approval of the Governor, take other actions necessary to address the public health
44 emergency and provide notice of those actions to health care providers, institutions and facilities,
45 including public health actions authorized by ORS 431.264;

1 (F) Take any enforcement action authorized by ORS 431.262, including the imposition of civil
2 penalties of up to \$500 per day against individuals, institutions or facilities that knowingly fail to
3 comply with requirements resulting from actions taken in accordance with the powers granted to
4 the Public Health Director under subparagraphs (A), (B) and (E) of this paragraph; and

5 (G) The authority granted to the Public Health Director under this section:

6 (i) Supersedes any authority granted to a local public health authority if the local public health
7 authority acts in a manner inconsistent with guidelines established or rules adopted by the director
8 under this section; and

9 (ii) Does not supersede the general authority granted to a local public health authority or a
10 local public health administrator except as authorized by law or necessary to respond to a public
11 health emergency.

12 (b) The authority of the Public Health Director to take administrative action, and the effec-
13 tiveness of any action taken, under paragraph (a)(A), (B) and (D) to (G) of this subsection terminates
14 upon the expiration of the declared state of public health emergency, unless the actions are con-
15 tinued under other applicable law.

16 (3) Civil penalties under subsection (2) of this section shall be imposed in the manner provided
17 in ORS 183.745. The Public Health Director must establish that the individual, institution or facility
18 subject to the civil penalty had actual notice of the action taken that is the basis for the penalty.
19 The maximum aggregate total for penalties that may be imposed against an individual, institution
20 or facility under subsection (2) of this section is \$500 for each day of violation, regardless of the
21 number of violations of subsection (2) of this section that occurred on each day of violation.

22 (4)(a) During a declared state of public health emergency, the Public Health Director and local
23 public health administrators shall be given immediate access to individually identifiable health in-
24 formation necessary to:

25 (A) Determine the causes of an illness related to the public health emergency;

26 (B) Identify persons at risk;

27 (C) Identify patterns of transmission;

28 (D) Provide treatment; and

29 (E) Take steps to control the disease.

30 (b) Individually identifiable health information accessed as provided by paragraph (a) of this
31 subsection may not be used for conducting nonemergency epidemiologic research or to identify
32 persons at risk for post-traumatic mental health problems, or for any other purpose except the pur-
33 poses listed in paragraph (a) of this subsection.

34 (c) Individually identifiable health information obtained by the Public Health Director or local
35 public health administrators under this subsection may not be disclosed without written authori-
36 zation of the identified individual except:

37 (A) Directly to the individual who is the subject of the information or to the legal representative
38 of that individual;

39 (B) To state, local or federal agencies authorized to receive such information by state or federal
40 law;

41 (C) To identify or to determine the cause or manner of death of a deceased individual; or

42 (D) Directly to a health care provider for the evaluation or treatment of a condition that is the
43 subject of a proclamation of a state of public health emergency issued under ORS 433.441.

44 (d) Upon expiration of the state of public health emergency, the Public Health Director or local
45 public health administrators may not use or disclose any individually identifiable health information

1 that has been obtained under this section. If a state of emergency that is related to the state of
 2 public health emergency has been declared under ORS 401.165, the Public Health Director and local
 3 public health administrators may continue to use any individually identifiable information obtained
 4 as provided under this section until termination of the state of emergency.

5 (5) All civil penalties recovered under this section shall be paid into the State Treasury and
 6 credited to the General Fund and are available for general governmental expenses.

7 (6) The Public Health Director may request assistance in enforcing orders issued pursuant to
 8 this section from state or local law enforcement authorities. If so requested by the Public Health
 9 Director, state and local law enforcement authorities, to the extent resources are available, shall
 10 assist in enforcing orders issued pursuant to this section.

11 (7) If the Oregon Health Authority adopts temporary rules to implement the provisions of this
 12 section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may
 13 amend temporary rules adopted pursuant to this subsection as often as necessary to respond to the
 14 public health emergency.

15 **SECTION 26.** ORS 676.150 is amended to read:

16 676.150. (1) As used in this section:

17 (a) “Board” means the:

18 (A) State Board of Examiners for Speech-Language Pathology and Audiology;

19 (B) State Board of Chiropractic Examiners;

20 (C) State Board of Licensed Social Workers;

21 (D) Oregon Board of Licensed Professional Counselors and Therapists;

22 (E) Oregon Board of Dentistry;

23 (F) Board of Licensed Dietitians;

24 (G) State Board of Massage Therapists **and Bodyworkers**;

25 (H) Oregon Board of Naturopathic Medicine;

26 (I) Oregon State Board of Nursing;

27 (J) Nursing Home Administrators Board;

28 (K) Oregon Board of Optometry;

29 (L) State Board of Pharmacy;

30 (M) Oregon Medical Board;

31 (N) Occupational Therapy Licensing Board;

32 (O) Physical Therapist Licensing Board;

33 (P) State Board of Psychologist Examiners;

34 (Q) Board of Medical Imaging;

35 (R) State Board of Direct Entry Midwifery;

36 (S) State Board of Denture Technology;

37 (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

38 (U) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
 39 vices providers;

40 (V) Oregon State Veterinary Medical Examining Board; or

41 (W) State Mortuary and Cemetery Board.

42 (b) “Licensee” means a health professional licensed or certified by or registered with a board.

43 (c) “Prohibited conduct” means conduct by a licensee that:

44 (A) Constitutes a criminal act against a patient or client; or

45 (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

1 (d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best
 2 interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s
 3 profession or conduct that endangers the health, safety or welfare of a patient or client.

4 (2) Unless state or federal laws relating to confidentiality or the protection of health information
 5 prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has en-
 6 gaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for
 7 the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the
 8 conduct without undue delay, but in no event later than 10 working days after the reporting licensee
 9 learns of the conduct.

10 (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime
 11 shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or
 12 arrest.

13 (4) The board responsible for a licensee who is reported to have engaged in prohibited or un-
 14 professional conduct shall investigate in accordance with the board’s rules. If the board has rea-
 15 sonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present
 16 the facts to an appropriate law enforcement agency without undue delay, but in no event later than
 17 10 working days after the board finds reasonable cause to believe that the licensee engaged in pro-
 18 hibited conduct.

19 (5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection
 20 (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section
 21 is subject to discipline by the board responsible for the licensee.

22 (6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section
 23 commits a Class A violation.

24 (7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this sec-
 25 tion is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

26 (8) Except as part of an application for a license or for renewal of a license and except as pro-
 27 vided in subsection (3) of this section, a board may not require a licensee to report the licensee’s
 28 criminal conduct.

29 (9) The obligations imposed by this section are in addition to and not in lieu of other obligations
 30 to report unprofessional conduct as provided by statute.

31 (10) A licensee who reports to a board in good faith as required by subsection (2) of this section
 32 is immune from civil liability for making the report.

33 (11) A board and the members, employees and contractors of the board are immune from civil
 34 liability for actions taken in good faith as a result of a report received under subsection (2) or (3)
 35 of this section.

36 **SECTION 27.** ORS 676.160 is amended to read:

37 676.160. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

- 38 (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- 39 (2) State Board of Chiropractic Examiners;
- 40 (3) State Board of Licensed Social Workers;
- 41 (4) Oregon Board of Licensed Professional Counselors and Therapists;
- 42 (5) Oregon Board of Dentistry;
- 43 (6) Board of Licensed Dietitians;
- 44 (7) State Board of Massage Therapists **and Bodyworkers**;
- 45 (8) State Mortuary and Cemetery Board;

- 1 (9) Oregon Board of Naturopathic Medicine;
- 2 (10) Oregon State Board of Nursing;
- 3 (11) Nursing Home Administrators Board;
- 4 (12) Oregon Board of Optometry;
- 5 (13) State Board of Pharmacy;
- 6 (14) Oregon Medical Board;
- 7 (15) Occupational Therapy Licensing Board;
- 8 (16) Physical Therapist Licensing Board;
- 9 (17) State Board of Psychologist Examiners;
- 10 (18) Board of Medical Imaging;
- 11 (19) Oregon State Veterinary Medical Examining Board; and
- 12 (20) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
- 13 vices providers.

14 **SECTION 28.** ORS 676.850 is amended to read:

15 676.850. (1) As used in this section, “board” means the:

- 16 (a) State Board of Examiners for Speech-Language Pathology and Audiology;
- 17 (b) State Board of Chiropractic Examiners;
- 18 (c) State Board of Licensed Social Workers;
- 19 (d) Oregon Board of Licensed Professional Counselors and Therapists;
- 20 (e) Oregon Board of Dentistry;
- 21 (f) Board of Licensed Dietitians;
- 22 (g) State Board of Massage Therapists **and Bodyworkers**;
- 23 (h) Oregon Board of Naturopathic Medicine;
- 24 (i) Oregon State Board of Nursing;
- 25 (j) Nursing Home Administrators Board;
- 26 (k) Oregon Board of Optometry;
- 27 (L) State Board of Pharmacy;
- 28 (m) Oregon Medical Board;
- 29 (n) Occupational Therapy Licensing Board;
- 30 (o) Physical Therapist Licensing Board;
- 31 (p) State Board of Psychologist Examiners;
- 32 (q) Board of Medical Imaging;
- 33 (r) State Board of Direct Entry Midwifery;
- 34 (s) State Board of Denture Technology;
- 35 (t) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
- 36 (u) Home Care Commission; and
- 37 (v) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-
- 38 vice providers.

39 (2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which
 40 the board may require a person authorized to practice the profession regulated by the board to re-
 41 ceive cultural competency continuing education approved by the authority under ORS 413.450.

42 (b) Cultural competency continuing education courses may be taken in addition to or, if a board
 43 determines that the cultural competency continuing education fulfills existing continuing education
 44 requirements, instead of any other continuing education requirement imposed by the board.

45 (3)(a) A board, or the Health Licensing Office for those boards for which the office issues and

1 renews authorizations to practice the profession regulated by the board, shall document partic-
2 ipation in cultural competency continuing education by persons authorized to practice a profession
3 regulated by the board.

4 (b) For purposes of documenting participation under this subsection, a board may adopt rules
5 requiring persons authorized to practice the profession regulated by the board to submit documen-
6 tation to the board, or to the office for those boards for which the office issues and renews author-
7 izations to practice the profession regulated by the board, of participation in cultural competency
8 continuing education.

9 (4) A board shall report biennially to the authority on the participation documented under sub-
10 section (3) of this section.

11 (5) The authority, on or before August 1 of each even-numbered year, shall report to the interim
12 committees of the Legislative Assembly related to health care on the information submitted to the
13 authority under subsection (4) of this section.

14 **SECTION 29.** ORS 677.060 is amended to read:

15 677.060. This chapter does not affect or prevent the following:

16 (1) The practice of medicine or podiatry in this state by any commissioned medical or podiatric
17 officer serving in the Armed Forces of the United States or Public Health Service, or any medical
18 or podiatric officer on duty with the United States Department of Veterans Affairs, while any such
19 medical or podiatric officer is engaged in the performance of the actual duties prescribed by the
20 laws and regulations of the United States.

21 (2) The meeting in this state of any licensed practitioner of medicine of any other state or
22 country with a licensed practitioner of medicine in this state, for consultation.

23 (3) Supervised clinical training by an acupuncture student who is enrolled in a school approved
24 to offer credit for post-secondary clinical education in Oregon or clinical practice of acupuncture
25 by a practitioner licensed to practice acupuncture in another state or foreign country who is en-
26 rolled in clinical training approved by the Oregon Medical Board.

27 (4) The practice of medicine or podiatry by an individual licensed to practice medicine or
28 podiatry in another state or country who is providing health care services for an out-of-state athletic
29 team provided that:

30 (a) The individual is practicing pursuant to a written agreement with the team under which the
31 individual provides health care services:

32 (A) Only for team members, team staff members or family members traveling with the team; and

33 (B) For a specific athletic event taking place in this state;

34 (b) The individual practices medicine or podiatry for no more than 10 consecutive days for each
35 athletic event or, upon written order by the executive director of the Oregon Medical Board, an
36 additional amount of time not to exceed 21 consecutive days for each athletic event;

37 (c) The individual does not provide health care services or perform consultations for a resident
38 of this state unless the resident is a team member, team staff member or family member traveling
39 with the team; and

40 (d) The individual does not provide health care services at a health care facility, as defined in
41 ORS 442.015, unless the health care facility is located in an arena or stadium or on a college campus
42 or is a temporary facility established for an athletic event.

43 (5) The furnishing of medical or surgical assistance in cases of emergency requiring immediate
44 attention.

45 (6) The domestic administration of family remedies.

1 (7) The practice of dentistry, pharmacy, nursing, optometry, psychology, regulated social work,
2 chiropractic, naturopathic medicine or cosmetic therapy, by any person authorized by this state.

3 (8) The practice of the religion of persons who endeavor to prevent or cure disease or suffering
4 by prayer or other spiritual means in accordance with the tenets of any church. Nothing in this
5 chapter interferes in any manner with the individual's right to select the practitioner or mode of
6 treatment of an individual's choice, or interferes with the right of the person so employed to give
7 the treatment so chosen if public health laws and rules are complied with.

8 (9) The sale of lenses, artificial eyes, limbs or surgical instruments or other apparatus or appli-
9 ances of a similar character.

10 (10) The sale, rent or use for hire of any device or appliance, the sale of which is not prohibited
11 by the laws of Oregon or the United States.

12 (11) The practice of physiotherapy, electrotherapy or hydrotherapy carried on by a duly licensed
13 practitioner of medicine, naturopathic medicine or chiropractic, or by ancillary personnel certified
14 by the State Board of Chiropractic Examiners, pursuant to ORS 684.155 (1)(c)(A), to provide
15 physiotherapy, electrotherapy or hydrotherapy and working under the direction of a chiropractic
16 physician.

17 (12) The practice [*or use*] of massage **or bodywork**, Swedish movement, physical culture, or
18 other natural methods requiring use of the hands.

19 (13) The use of the title "doctor," "chiropractic physician," "naturopathic physician," "doctor
20 of optometry," "optometric physician" or "podiatric physician" in accordance with ORS 676.110 and
21 676.120.

22 **SECTION 30.** ORS 746.600 is amended to read:

23 746.600. As used in ORS 746.600 to 746.690:

24 (1)(a) "Adverse underwriting decision" means any of the following actions with respect to in-
25 surance transactions involving insurance coverage that is individually underwritten:

26 (A) A declination of insurance coverage.

27 (B) A termination of insurance coverage.

28 (C) Failure of an insurance producer to apply for insurance coverage with a specific insurer that
29 the insurance producer represents and that is requested by an applicant.

30 (D) In the case of life or health insurance coverage, an offer to insure at higher than standard
31 rates.

32 (E) In the case of insurance coverage other than life or health insurance coverage:

33 (i) Placement by an insurer or insurance producer of a risk with a residual market mechanism,
34 an unauthorized insurer or an insurer that specializes in substandard risks.

35 (ii) The charging of a higher rate on the basis of information that differs from that which the
36 applicant or policyholder furnished.

37 (iii) An increase in any charge imposed by the insurer for any personal insurance in connection
38 with the underwriting of insurance. For purposes of this sub-subparagraph, the imposition of a ser-
39 vice fee is not a charge.

40 (b) "Adverse underwriting decision" does not mean any of the following actions, but the insurer
41 or insurance producer responsible for the occurrence of the action must nevertheless provide the
42 applicant or policyholder with the specific reason or reasons for the occurrence:

43 (A) The termination of an individual policy form on a class or statewide basis.

44 (B) A declination of insurance coverage solely because the coverage is not available on a class
45 or statewide basis.

- 1 (C) The rescission of a policy.
- 2 (2) "Affiliate of" a specified person or "person affiliated with" a specified person means a person
3 who directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is
4 under common control with, the person specified.
- 5 (3) "Applicant" means a person who seeks to contract for insurance coverage, other than a
6 person seeking group insurance coverage that is not individually underwritten.
- 7 (4) "Consumer" means an individual, or the personal representative of the individual, who seeks
8 to obtain, obtains or has obtained one or more insurance products or services from a licensee that
9 are to be used primarily for personal, family or household purposes, and about whom the licensee
10 has personal information.
- 11 (5) "Consumer report" means any written, oral or other communication of information bearing
12 on a natural person's creditworthiness, credit standing, credit capacity, character, general reputa-
13 tion, personal characteristics or mode of living that is used or expected to be used in connection
14 with an insurance transaction.
- 15 (6) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a co-
16 operative or nonprofit basis:
- 17 (a) Regularly engages, in whole or in part, in assembling or preparing consumer reports;
18 (b) Obtains information primarily from sources other than insurers; and
19 (c) Furnishes consumer reports to other persons.
- 20 (7) "Control" means, and the terms "controlled by" or "under common control with" refer to,
21 the possession, directly or indirectly, of the power to direct or cause the direction of the manage-
22 ment and policies of a person, whether through the ownership of voting securities, by contract other
23 than a commercial contract for goods or nonmanagement services, or otherwise, unless the power
24 of the person is the result of a corporate office held in, or an official position held with, the con-
25 trolled person.
- 26 (8) "Covered entity" means:
- 27 (a) A health insurer;
28 (b) A health care provider that transmits any health information in electronic form to carry out
29 financial or administrative activities in connection with a transaction covered by ORS 746.607 or
30 by rules adopted under ORS 746.608; or
31 (c) A health care clearinghouse.
- 32 (9) "Credit history" means any written or other communication of any information by a con-
33 sumer reporting agency that:
- 34 (a) Bears on a consumer's creditworthiness, credit standing or credit capacity; and
35 (b) Is used or expected to be used, or collected in whole or in part, as a factor in determining
36 eligibility, premiums or rates for personal insurance.
- 37 (10) "Customer" means a consumer who has a continuing relationship with a licensee under
38 which the licensee provides one or more insurance products or services to the consumer that are
39 to be used primarily for personal, family or household purposes.
- 40 (11) "Declination of insurance coverage" or "decline coverage" means a denial, in whole or in
41 part, by an insurer or insurance producer of an application for requested insurance coverage.
- 42 (12) "Health care" means care, services or supplies related to the health of an individual.
- 43 (13) "Health care operations" includes but is not limited to:
- 44 (a) Quality assessment, accreditation, auditing and improvement activities;
45 (b) Case management and care coordination;

- 1 (c) Reviewing the competence, qualifications or performance of health care providers or health
2 insurers;
- 3 (d) Underwriting activities;
- 4 (e) Arranging for legal services;
- 5 (f) Business planning;
- 6 (g) Customer services;
- 7 (h) Resolving internal grievances;
- 8 (i) Creating deidentified information; and
- 9 (j) Fundraising.
- 10 (14) "Health care provider" includes but is not limited to:
- 11 (a) A psychologist, occupational therapist, regulated social worker, professional counselor or
12 marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675
13 or an employee of the psychologist, occupational therapist, regulated social worker, professional
14 counselor or marriage and family therapist;
- 15 (b) A physician or physician assistant licensed under ORS chapter 677, an acupuncturist licensed
16 under ORS 677.759 or an employee of the physician, physician assistant or acupuncturist;
- 17 (c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of
18 the nurse or nursing home administrator;
- 19 (d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
- 20 (e) A dental hygienist or denturist licensed under ORS chapter 680 or an employee of the dental
21 hygienist or denturist;
- 22 (f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee
23 of the speech-language pathologist or audiologist;
- 24 (g) An emergency medical services provider licensed under ORS chapter 682;
- 25 (h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
- 26 (i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic
27 physician;
- 28 (j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic
29 physician;
- 30 (k) A massage therapist **or bodyworker** licensed under ORS 687.011 to 687.250 or an employee
31 of the massage therapist **or bodyworker**;
- 32 (L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct
33 entry midwife;
- 34 (m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical
35 therapist;
- 36 (n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical
37 imaging licensee;
- 38 (o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory
39 care practitioner;
- 40 (p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the poly-
41 somnographic technologist;
- 42 (q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
- 43 (r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
- 44 (s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral
45 service practitioner;

- 1 (t) A health care facility as defined in ORS 442.015;
 2 (u) A home health agency as defined in ORS 443.005;
 3 (v) A hospice program as defined in ORS 443.850;
 4 (w) A clinical laboratory as defined in ORS 438.010;
 5 (x) A pharmacy as defined in ORS 689.005;
 6 (y) A diabetes self-management program as defined in ORS 743.694; and
 7 (z) Any other person or entity that furnishes, bills for or is paid for health care in the normal
 8 course of business.
- 9 (15) "Health information" means any oral or written information in any form or medium that:
 10 (a) Is created or received by a covered entity, a public health authority, a life insurer, a school,
 11 a university or a health care provider that is not a covered entity; and
 12 (b) Relates to:
 13 (A) The past, present or future physical or mental health or condition of an individual;
 14 (B) The provision of health care to an individual; or
 15 (C) The past, present or future payment for the provision of health care to an individual.
 16 (16) "Health insurer" means an insurer who offers:
 17 (a) A health benefit plan as defined in ORS 743.730;
 18 (b) A short term health insurance policy, the duration of which does not exceed six months in-
 19 cluding renewals;
 20 (c) A student health insurance policy;
 21 (d) A Medicare supplemental policy; or
 22 (e) A dental only policy.
 23 (17) "Homeowner insurance" means insurance for residential property consisting of a combina-
 24 tion of property insurance and casualty insurance that provides coverage for the risks of owning
 25 or occupying a dwelling and that is not intended to cover an owner's interest in rental property or
 26 commercial exposures.
 27 (18) "Individual" means a natural person who:
 28 (a) In the case of life or health insurance, is a past, present or proposed principal insured or
 29 certificate holder;
 30 (b) In the case of other kinds of insurance, is a past, present or proposed named insured or
 31 certificate holder;
 32 (c) Is a past, present or proposed policyowner;
 33 (d) Is a past or present applicant;
 34 (e) Is a past or present claimant; or
 35 (f) Derived, derives or is proposed to derive insurance coverage under an insurance policy or
 36 certificate that is subject to ORS 746.600 to 746.690.
 37 (19) "Individually identifiable health information" means any oral or written health information
 38 that is:
 39 (a) Created or received by a covered entity or a health care provider that is not a covered en-
 40 tity; and
 41 (b) Identifiable to an individual, including demographic information that identifies the individual,
 42 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 43 vidual, and that relates to:
 44 (A) The past, present or future physical or mental health or condition of an individual;
 45 (B) The provision of health care to an individual; or

- 1 (C) The past, present or future payment for the provision of health care to an individual.
- 2 (20) "Institutional source" means a person or governmental entity that provides information
3 about an individual to an insurer, insurance producer or insurance-support organization, other than:
4 (a) An insurance producer;
5 (b) The individual who is the subject of the information; or
6 (c) A natural person acting in a personal capacity rather than in a business or professional ca-
7 pacity.
- 8 (21) "Insurance producer" or "producer" means a person licensed by the Director of the De-
9 partment of Consumer and Business Services as a resident or nonresident insurance producer.
- 10 (22) "Insurance score" means a number or rating that is derived from an algorithm, computer
11 application, model or other process that is based in whole or in part on credit history.
- 12 (23)(a) "Insurance-support organization" means a person who regularly engages, in whole or in
13 part, in assembling or collecting information about natural persons for the primary purpose of pro-
14 viding the information to an insurer or insurance producer for insurance transactions, including:
15 (A) The furnishing of consumer reports to an insurer or insurance producer for use in con-
16 nection with insurance transactions; and
17 (B) The collection of personal information from insurers, insurance producers or other
18 insurance-support organizations for the purpose of detecting or preventing fraud, material misrep-
19 resentation or material nondisclosure in connection with insurance underwriting or insurance claim
20 activity.
- 21 (b) "Insurance-support organization" does not mean insurers, insurance producers, governmental
22 institutions or health care providers.
- 23 (24) "Insurance transaction" means any transaction that involves insurance primarily for per-
24 sonal, family or household needs rather than business or professional needs and that entails:
25 (a) The determination of an individual's eligibility for an insurance coverage, benefit or payment;
26 or
27 (b) The servicing of an insurance application, policy or certificate.
- 28 (25) "Insurer" has the meaning given that term in ORS 731.106.
- 29 (26) "Investigative consumer report" means a consumer report, or portion of a consumer report,
30 for which information about a natural person's character, general reputation, personal character-
31 istics or mode of living is obtained through personal interviews with the person's neighbors, friends,
32 associates, acquaintances or others who may have knowledge concerning such items of information.
- 33 (27) "Licensee" means an insurer, insurance producer or other person authorized or required to
34 be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.
- 35 (28) "Loss history report" means a report provided by, or a database maintained by, an
36 insurance-support organization or consumer reporting agency that contains information regarding
37 the claims history of the individual property that is the subject of the application for a homeowner
38 insurance policy or the consumer applying for a homeowner insurance policy.
- 39 (29) "Nonaffiliated third party" means any person except:
40 (a) An affiliate of a licensee;
41 (b) A person that is employed jointly by a licensee and by a person that is not an affiliate of the
42 licensee; and
43 (c) As designated by the director by rule.
- 44 (30) "Payment" includes but is not limited to:
45 (a) Efforts to obtain premiums or reimbursement;

- 1 (b) Determining eligibility or coverage;
- 2 (c) Billing activities;
- 3 (d) Claims management;
- 4 (e) Reviewing health care to determine medical necessity;
- 5 (f) Utilization review; and
- 6 (g) Disclosures to consumer reporting agencies.
- 7 (31)(a) "Personal financial information" means:
- 8 (A) Information that is identifiable with an individual, gathered in connection with an insurance
- 9 transaction from which judgments can be made about the individual's character, habits, avocations,
- 10 finances, occupations, general reputation, credit or any other personal characteristics; or
- 11 (B) An individual's name, address and policy number or similar form of access code for the
- 12 individual's policy.
- 13 (b) "Personal financial information" does not mean information that a licensee has a reasonable
- 14 basis to believe is lawfully made available to the general public from federal, state or local gov-
- 15 ernment records, widely distributed media or disclosures to the public that are required by federal,
- 16 state or local law.
- 17 (32) "Personal information" means:
- 18 (a) Personal financial information;
- 19 (b) Individually identifiable health information; or
- 20 (c) Protected health information.
- 21 (33) "Personal insurance" means the following types of insurance products or services that are
- 22 to be used primarily for personal, family or household purposes:
- 23 (a) Private passenger automobile coverage;
- 24 (b) Homeowner, mobile homeowners, manufactured homeowners, condominium owners and
- 25 renters coverage;
- 26 (c) Personal dwelling property coverage;
- 27 (d) Personal liability and theft coverage, including excess personal liability and theft coverage;
- 28 and
- 29 (e) Personal inland marine coverage.
- 30 (34) "Personal representative" includes but is not limited to:
- 31 (a) A person appointed as a guardian under ORS 125.305, 419B.372, 419C.481 or 419C.555 with
- 32 authority to make medical and health care decisions;
- 33 (b) A person appointed as a health care representative under ORS 127.505 to 127.660 or 127.700
- 34 to 127.737 to make health care decisions or mental health treatment decisions;
- 35 (c) A person appointed as a personal representative under ORS chapter 113; and
- 36 (d) A person described in ORS 746.611.
- 37 (35) "Policyholder" means a person who:
- 38 (a) In the case of individual policies of life or health insurance, is a current policyowner;
- 39 (b) In the case of individual policies of other kinds of insurance, is currently a named insured;
- 40 or
- 41 (c) In the case of group policies of insurance under which coverage is individually underwritten,
- 42 is a current certificate holder.
- 43 (36) "Pretext interview" means an interview wherein the interviewer, in an attempt to obtain
- 44 personal information about a natural person, does one or more of the following:
- 45 (a) Pretends to be someone the interviewer is not.

1 (b) Pretends to represent a person the interviewer is not in fact representing.

2 (c) Misrepresents the true purpose of the interview.

3 (d) Refuses upon request to identify the interviewer.

4 (37) "Privileged information" means information that is identifiable with an individual and that:

5 (a) Relates to a claim for insurance benefits or a civil or criminal proceeding involving the in-
6 dividual; and

7 (b) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits
8 or a civil or criminal proceeding involving the individual.

9 (38)(a) "Protected health information" means individually identifiable health information that is
10 transmitted or maintained in any form of electronic or other medium by a covered entity.

11 (b) "Protected health information" does not mean individually identifiable health information in:

12 (A) Education records covered by the federal Family Educational Rights and Privacy Act (20
13 U.S.C. 1232g);

14 (B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or

15 (C) Employment records held by a covered entity in its role as employer.

16 (39) "Residual market mechanism" means an association, organization or other entity involved
17 in the insuring of risks under ORS 735.005 to 735.145, 737.312 or other provisions of the Insurance
18 Code relating to insurance applicants who are unable to procure insurance through normal insur-
19 ance markets.

20 (40) "Termination of insurance coverage" or "termination of an insurance policy" means either
21 a cancellation or a nonrenewal of an insurance policy, in whole or in part, for any reason other than
22 the failure of a premium to be paid as required by the policy.

23 (41) "Treatment" includes but is not limited to:

24 (a) The provision, coordination or management of health care; and

25 (b) Consultations and referrals between health care providers.

26 **SECTION 31.** ORS 750.005 is amended to read:

27 750.005. As used in ORS 750.005 to 750.095:

28 (1) "Claims" means any amount incurred by the insurer covering contracted benefits.

29 (2) "Complementary health services" means the following health care services:

30 (a) Chiropractic as defined in ORS 684.010;

31 (b) Naturopathic medicine as defined in ORS 685.010;

32 (c) Massage [*therapy*] **and bodywork** as defined in ORS 687.011; or

33 (d) Acupuncture as defined in ORS 677.757.

34 (3) "Doctor" means any person lawfully licensed or authorized by statute to render any health
35 care services.

36 (4) "Health care service contractor" means:

37 (a) Any corporation that is sponsored by or otherwise intimately connected with a group of
38 doctors licensed by this state, or by a group of hospitals licensed by this state, or both, under con-
39 tracts with groups of doctors or hospitals that include conditions holding the subscriber harmless
40 in the event of nonpayment by the health care service contract as provided in ORS 750.095, and that
41 accepts prepayment for health care services; or

42 (b) Any person referred to in ORS 750.035.

43 (5) "Health care services" means the furnishing of medicine, medical or surgical treatment,
44 nursing, hospital service, dental service, optometrical service, complementary health services or any
45 or all of the enumerated services or any other necessary services of like character, whether or not

1 contingent upon sickness or personal injury, as well as the furnishing to any person of any and all
 2 other services and goods for the purpose of preventing, alleviating, curing or healing human illness,
 3 physical disability or injury.

4 (6) "Health maintenance organization" means any health care service contractor operated on a
 5 for-profit or not for-profit basis which:

6 (a) Qualifies under Title XIII of the Public Health Service Act; or

7 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
 8 cluding at least the following basic health care services:

9 (i) Usual physician services;

10 (ii) Hospitalization;

11 (iii) Laboratory;

12 (iv) X-ray;

13 (v) Emergency and preventive services; and

14 (vi) Out-of-area coverage;

15 (B) Is compensated, except for copayments, for the provision of basic health care services listed
 16 in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate ba-
 17 sis;

18 (C) Provides physicians' services primarily directly through physicians who are either employees
 19 or partners of such organization, or through arrangements with individual physicians or one or more
 20 groups of physicians organized on a group practice or individual practice basis; and

21 (D) Employs the terms "health maintenance organization" or "HMO" in its name, contracts,
 22 literature or advertising media on or before July 13, 1985.

23 **SECTION 32.** Section 1, chapter 5, Oregon Laws 2013, is amended to read:

24 **Sec. 1.** As used in sections 1 to 10, **chapter 5, Oregon Laws 2013** [*of this 2013 Act*]:

25 (1) "Adverse health care incident" means an objective, definable and unanticipated consequence
 26 of patient care that is usually preventable and results in the death of or serious physical injury to
 27 the patient.

28 (2) "Health care facility" has the meaning given that term in ORS 442.015.

29 (3) "Health care provider" means a person practicing within the scope of the person's license,
 30 registration or certification to practice as:

31 (a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

32 (b) An occupational therapist under ORS 675.230 to 675.300;

33 (c) A physician under ORS 677.100 to 677.228;

34 (d) An emergency medical services provider under ORS chapter 682;

35 (e) A podiatric physician and surgeon under ORS 677.820 to 677.840;

36 (f) A registered nurse under ORS 678.010 to 678.410;

37 (g) A dentist under ORS 679.060 to 679.180;

38 (h) A dental hygienist under ORS 680.040 to 680.100;

39 (i) A denturist under ORS 680.515 to 680.535;

40 (j) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

41 (k) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

42 (L) A chiropractor under ORS 684.040 to 684.105;

43 (m) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

44 (n) A massage therapist **or bodyworker** under ORS 687.011 to 687.250;

45 (o) A direct entry midwife under ORS 687.405 to 687.495;

- 1 (p) A physical therapist under ORS 688.040 to 688.145;
 - 2 (q) A medical imaging licensee under ORS 688.445 to 688.525;
 - 3 (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;
 - 4 (s) A physician assistant under ORS 677.505 to 677.525; or
 - 5 (t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835.
- 6 (4) "Patient" means the patient or, if the patient is a minor, is deceased or has been medically
 7 confirmed by the patient's treating physician to be incapable of making decisions for purposes of
 8 sections 1 to 10, **chapter 5, Oregon Laws 2013** [of this 2013 Act], the patient's representative as
 9 provided in section 8, **chapter 5, Oregon Laws 2013** [of this 2013 Act].

10
 11 **NAME CHANGE PROVISION**

12
 13 **SECTION 33.** (1) The amendments to ORS 182.454, 182.460, 182.462, 676.150, 676.160,
 14 676.850, 687.011, 687.021, 687.031, 687.041, 687.051, 687.057, 687.059, 687.061, 687.071, 687.081,
 15 687.086, 687.115, 687.121, 687.122, 687.123 and 687.250 by sections 1 to 12, 14 to 18, 20 to 22 and
 16 26 to 28 of this 2015 Act are intended to change the name of the "State Board of Massage
 17 Therapists" to the "State Board of Massage Therapists and Bodyworkers."

18 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
 19 may substitute for words designating the "State Board of Massage Therapists," wherever
 20 they occur in statutory law, other words designating the "State Board of Massage Therapists
 21 and Bodyworkers."

22
 23 **OPERATIVE DATE**

24
 25 **SECTION 34.** (1) Section 33 of this 2015 Act and the amendments to ORS 31.740, 182.454,
 26 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 676.850, 677.060, 687.011, 687.021, 687.031,
 27 687.041, 687.051, 687.057, 687.059, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121,
 28 687.122, 687.123, 687.250, 746.600 and 750.005 and section 1, chapter 5, Oregon Laws 2013, by
 29 sections 1 to 32 of this 2015 Act become operative on January 1, 2016.

30 (2) The State Board of Massage Therapists may take any action before the operative date
 31 specified in subsection (1) of this section that is necessary to enable the board to exercise,
 32 on and after the operative date specified in subsection (1) of this section, all the duties,
 33 functions and powers conferred on the board by the amendments to ORS 31.740, 182.454,
 34 182.460, 182.462, 192.556, 433.443, 676.150, 676.160, 676.850, 677.060, 687.011, 687.021, 687.031,
 35 687.041, 687.051, 687.057, 687.059, 687.061, 687.071, 687.081, 687.086, 687.095, 687.115, 687.121,
 36 687.122, 687.123, 687.250, 746.600 and 750.005 and section 1, chapter 5, Oregon Laws 2013, by
 37 sections 1 to 32 of this 2015 Act.

38
 39 **CAPTIONS**

40
 41 **SECTION 35.** The unit captions used in this 2015 Act are provided only for the conven-
 42 ience of the reader and do not become part of the statutory law of this state or express any
 43 legislative intent in the enactment of this 2015 Act.

44
 45 **EMERGENCY CLAUSE**

1 **SECTION 36.** This 2015 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
3 on its passage.
4
