



Oregon

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OREGON INSURANCE DIVISION BULLETIN INS 2005-2

THIS BULLETIN HAS BEEN WITHDRAWN

DATE: September 2, 2005

TO: All Insurers, Rating Bureaus, Advisory Organizations and other Interested Persons

SUBJECT: 2005 Oregon Legislation Affecting Insurance

During the recent regular legislative session, the Insurance Division followed a large number of bills affecting the insurance industry. Most areas of insurance were addressed in this session's legislation, but bills dealing with home and auto insurance, health insurance, and construction and professional liability were especially prominent. Specifically, important consumer legislation establishing best practices in homeowner insurance, SB 118, was enacted. Finally, the credit scoring legislation passed in 2003 was re-evaluated and strengthened.

Enclosed is a summary of enacted insurance legislation that may affect your business. I hope you will find the summary useful. As you know, the summary is not intended to be a complete and detailed statement of all applicable legislation or to serve as a substitute for reading the law itself.

In this bulletin, for economy, the Director of the Department of Consumer and Business Services (DCBS) is referred to as the Director. Unless otherwise specified, the effective date of a bill is January 1, 2006. A bill may also have one or more operative dates that apply to one or more sections of the bill, in addition to its effective date. An operative date is the date on which the affected section or sections first apply.

For each bill, reference is made to its 2005 Oregon Laws chapter number if the chapter number is available when this bulletin is completed. The chapter number is indicated in parentheses following the bill number in the outline and in the heading for the bill in the text.

Notice

This bulletin is withdrawn as an active bulletin as of September 1, 2007, but will be archived and remain available on the Insurance Division website.

Signed this 7th day of September 2005.

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Joel S. Ario, Insurance Administrator

2005 Insurance Legislation

I. Insurance Regulation Generally

- A. HB 2160 (ch 180) Updating, clarifying and technical changes to Insurance Code
- B. SB 207 (ch 106) Electronic transactions

II. Life Insurance

- A. HB 2092 (ch 31) Charitable annuities; conditioned exemption from Insurance Code
- B. HB 2978 (ch 285) Life insurance; judicial revocation of designation of beneficiary

III. Health Insurance

- A. SB 1 (ch 705) Health insurance; mental health parity
- B. SB 20 (ch 442) Eye services; access to optometrists
- C. SB 117 (ch 634) Oregon Medical Insurance Pool; eligibility
- D. SB 122 (ch 304) Oregon Medical Insurance Pool, insurer assessments
- E. SB 303 (ch 744) Office of Private Health Partnerships; Abolition of Insurance Pool Governing Board
- F. SB 462 (ch 255) Insurers, health care service contractors; standards for investments in subsidiaries
- G. SB 501 (ch 765) Health insurance; annual reporting requirements; Mandated coverage of colorectal examinations
- H. SB 1026 (ch 477) Mandated coverage for prostate examinations
- I. HB 2497 (ch 69) Mandated coverage for women's health care
- J. HB 2498 (ch 482) Mandated coverage for clinical breast examinations
- K. HB 2772 (ch 571) Guaranteed associations; group health insurance
- L. HB 3329 (ch 628) Health insurance; payment for services by registered nurse first assistant
- M. HB 3465 (ch 418) Mandated coverage for emergency services

IV. Property and Casualty Insurance

- A. SB 118 (ch 489) Homeowner insurance

- B. SB 151 (ch 341) PIP benefits; benefit increases for funeral expenses and child care; measure for payment of hospital services
- C. SB 573 (ch 464) Credit scoring; effect of change in family status for underwriting and rating
- D. SB 585 (ch 465) Motor vehicle liability insurance; PIP benefits; managed care
- E. SB 599 (ch 361) Proof of vehicle insurance; dismissal of charge
- F. SB 923 (ch 235) Uninsured motorist coverage, matching
- G. SB 924 (ch 246) Uninsured motorist coverage, stolen vehicle
- H. SB 925 (ch 236) Uninsured motorist coverage; primary/secondary
- I. SB 926 (ch 247) Uninsured motorist coverage, bankrupt insurer
- J. HB 2718 (ch 189) Authority of certain public utilities to obtain workers' compensation insurance in the surplus line market
- K. HB 2719 (ch 102) Commercial liability insurance; notice of renewal and nonrenewal

V. Other

- A. SB 837 (ch 175) Self-insurance by public bodies for tort liability, property damage
- B. HB 2078 (ch 647) Task Force on Construction Claims
- C. HB 2669 (ch 395) Service contracts
- D. HB 3091 (ch 194) Title insurance; ownership by financial institutions

I. Insurance Regulation Generally

A. HB 2160 (ch 180) Updating, Clarifying and Technical Changes to Insurance Code

HB 2160 makes various clarifying and technical changes to the Insurance Code. These changes include, but are not limited to, the following:

1. A clarification of the extent to which insurers may combine coverages of different lines of insurance.
2. A statement of limitations and conditions governing loans on individual annuity policies, which apply when insurers allow individuals to borrow upon them.
3. A clarification of the applicability of Insurance Code to surplus line insurers and changes to regulation of surplus line insurance.
4. A modification of procedures and timelines for directors, officers and beneficial owners of securities of a domestic stock insurer to file a statement of security ownership with DCBS. The timelines now conform to comparable requirements in federal securities laws. The bill gives DCBS authority to adopt rules that establish an ongoing process for oversight of domestic stock insurers and their transactions.

B. SB 207 (ch 106) Electronic Transactions

SB 207 restricts the use of an electronic notice of cancellation or termination of property and casualty insurance to satisfy the requirement of a written notice. An insurer may use the electronic notice only if the insurer sends the notice to the consumer with a request for a return receipt and the consumer returns the receipt to the insurer. If the insurer does not receive a return receipt, the insurer must send a written cancellation to the consumer. This change applies to cancellation of property and casualty coverages only, since life insurance benefits, other than annuities, and health insurance and benefits cannot be cancelled electronically under current law.

II. Life Insurance

A. HB 2092 (ch 31) Charitable Annuities; Conditioned Exemption From Insurance Code

HB 2092 eliminates the current regulatory program for charitable annuities in the Insurance Code, under which specified categories of educational institutions and nonprofit corporations are authorized to issue the annuities, and replaces the program with a conditional exemption from the Insurance Code. Under the new law, a charitable organization may qualify for the conditional exemption if the charitable organization, when it issues a charitable annuity, has at least \$300,000 in net assets as shown by an annual audited financial statement meeting specified requirements; has been in continuous operation for at least five years; and maintains a separate trust fund as a reserve fund adequate to meet the future payments under all outstanding annuity agreements. Educational institutions and nonprofit corporations that are authorized under current law to issue charitable annuities are authorized to continue operation.

B. HB 2978 (ch 285) Life Insurance; Judicial Revocation of Designation of Beneficiary

HB 2978 authorizes a judgment of marital dissolution, separation or annulment to revoke a designation of a beneficiary in a life insurance policy or a pension plan, public retirement system, individual retirement account or other described account when the designation is made in favor of a spouse or a relative of the spouse and the designation is revocable.

III. Health Insurance

A. SB 1 (ch 705) Health Insurance; Mental Health Parity

SB 1 requires group health insurance policies to cover expenses arising from treatment for chemical dependency and for mental or nervous conditions at the same level as those imposed for treatment of other medical conditions and subject to treatment limitations that are no more restrictive. The bill eliminates the separate minimum dollar coverage amounts now required for treatment services. The bill eliminates the separate minimum dollar coverage amounts now required for treatment services. These amounts were established in 1987 and were

allocated on the basis of the type of service and whether the service recipient is an adult or a child or adolescent.

Effective date: January 1, 2007. The bill applies to group health insurance policies issued or renewed on or after that date.

B. SB 20 (ch 442) Eye Services; Access to Optometrists

SB 20 is intended to ensure consumer access to optometrists when a health insurer contracts with an independent practice association (IPA) to provide eye care services under a policy. Current law requires a health insurance policy that covers eye care services that can be provided by an optometrist to pay for the services if they are performed by an optometrist or by a physician, but there has been some question whether insurers effectively prevent consumers from going to optometrists by contracting with an IPA whose membership is limited to physicians, some of whom provide eye care services. The bill prohibits an insurer from limiting coverage for eye care services to services provided by a physician when the services could also be provided by a licensed optometrist.

C. SB 117 (ch 634) Oregon Medical Insurance Pool; Eligibility

SB 117 grants eligibility for coverage provided by the Oregon Medical Insurance Pool to individuals who are eligible for tax credit for health insurance costs under the federal Internal Revenue Code.

Effective date: July 22, 2005

D. SB 122 (ch 304) Oregon Medical Insurance Pool, Insurer Assessments

SB 122 authorizes the Oregon Medical Insurance Pool Board, subject to approval by DCBS, to develop a program for adjusting the assessment of an insurer based on the insurer's contribution to reducing enrollment in the Pool.

E. SB 303 (ch 744) Office of Private Health Partnerships; Abolition Of Insurance Pool Governing Board

SB 303 creates the Office of Private Health Partnerships, abolishes the Insurance Pool Governing Board and transfers the Board's duties and functions to the Office. The Board, and now the Office, is required to provide the following: information about health coverage and premiums charged to self-employed individuals and small employers in this state; direct assistance to insurance producers and consumers regarding health benefit plans; a central source for information about resources for health care and health insurance; and health benefit plans for small employers. The bill authorizes the Office to establish procedures for publishing data regarding applicants and enrollees in the Family Health Insurance Assistance Program, health benefit plans for employers offered by the Office and other programs that the Office operates.

Effective date: August 17, 2005, but most of the bill actually becomes operative on January 1, 2006.

F. SB 462 (ch 255) Insurers, HealthCare Service Contractors; Standards for Investments in Subsidiaries

SB 462 applies to health care service contractors the same standard for investment in subsidiaries that now applies to insurance companies. Health care service contractors are currently subject to the same laws governing insurance holding company systems that apply to commercial insurers. This legislation also provides a transition period for health care service contractors to conform to the new requirements and to complete investments that were authorized and had been contemplated prior to this legislation.

SB 462 also clarifies the standards governing insurance company investments generally.

G. SB 501 (ch 765) Health Insurance; Annual Reporting Requirements; Mandated Coverage of Colorectal Examinations

SB 501 requires each health insurer to submit to DCBS an annual report containing information derived from the insurer's annual financial statement, in a format and according to instructions prescribed by DCBS. The information includes membership numbers, premium amounts, cost claims and medical loss ratios, and financial information. The Health Insurance Reform Advisory Committee in DCBS will make recommendations to DCBS for the reporting format and instructions, and will evaluate the reporting requirements according to health insurance market segments. DCBS is required to make the reported information available to the public through the Internet.

SB 501 also requires health insurance policies to cover colorectal cancer screening examinations and laboratory tests for insureds.

Effective date: August 23, 2005. The reporting requirement goes into effect immediately but the mandated coverage applies to policies issued or renewed on or after January 1, 2006.

H. SB 1026 (ch 477) Mandated Coverage for Prostate Examinations

SB 1026 requires health insurance policies to cover prostate cancer screening examinations for men who are 50 years of age or older, either on a biennial basis or as determined by the treating physician, and for men younger than 50 years who are at high risk for prostate cancer, as determined by the treating physician.

I. HB 2497 (ch 69) Mandated Coverage for Women's Health Care

HB 2497 exempts statutes mandating health insurance coverage for pregnancy and childbirth expenses, mammograms, and pelvic and Pap smear examinations from automatic statutory repeal under ORS 743.700. Under the automatic statutory repeal provision, a statute that imposes a mandated benefit or coverage is automatically repealed on the sixth anniversary of its enactment unless the statute is exempted from repeal or is continued by legislative action.

Effective date: May 18, 2005

J. HB 2498 (ch 482) Mandated Coverage for Clinical Breast Examinations

HB 2498 requires health insurance policies to cover clinical breast examinations annually for women of 18 years or older; and at any time when recommended by a woman's health care provider. Current law provides for mammograms but not for regular clinical breast examinations.

K. HB 2772 (ch 571) Guaranteed Associations; Group Health Insurance

HB 2772 authorizes a health insurer to offer a group health policy to a "guaranteed association" if the policy covers 500 or more members of the association or their dependents. The bill defines "guaranteed association" to be a statewide nonprofit organization representing individuals engaged in professional real estate activities or licensed as escrow agents, that is determined by DCBS to qualify as a group health insurance policyholder. The bill also establishes standards to be followed by an insurer when the insurer establishes premium rates for a policy issued under this bill.

L. HB 3329 (ch 628) Health Insurance; Payment for Services by Registered Nurse First Assistant

HB 3329 requires a health insurer to provide payment or reimbursement for professional services performed by a registered nurse whose certification as a registered nurse first assistant has been recognized by the Oregon State Board of Nursing. The Board is required to adopt rules establishing procedures for the recognition of nurses who have received the certification.

M. HB 3465 (ch 418) Mandated Coverage for Emergency Services

HB 3465 eliminates the repeal date for the statutory requirement that health insurance policies cover emergency medical services, without prior authorization, if it is reasonable to believe that the time needed to go to a participating provider would place the person in serious jeopardy. Emergency medical services include screening examinations, stabilization of conditions, and services by nonparticipating providers.

Effective date: June 29, 2005

IV. Property and Casualty Insurance

A. SB 118 (ch 489) Homeowner Insurance

SB 118 establishes best practices for insurers transacting homeowner insurance. The bill restricts an insurer's use of claim experience and consumer inquiries about coverage for the purpose of underwriting and rating. The bill also limits the use of claims experience of insured property prior to purchase when the consumer shows that the risk leading to the claims has been mitigated. The bill prohibits an insurer from canceling a policy during a policy term except for specified reasons and restricts the use of loss history reports. Finally, when an adverse underwriting decision relating to homeowner insurance is based on a loss history report, the bill requires an insurer or producer to give the consumer the specific reasons for the decision.

B. SB 151 (ch 341) PIP Benefits; Benefit Increases for Funeral Expenses and Child Care; Measure for Payment of Hospital Services

SB 151 increases personal injury protection (PIP) benefits required in motor vehicle liability insurance policies, for the following purposes and amounts: funeral expenses, from \$2,500 to \$5,000; per-day child care expenses, from \$15 to \$25 per day; and total child care expenses, from \$450 to \$750. These amounts were last increased in 1989. SB 151 also authorizes an insurer to exclude PIP coverage for an injured person who willfully conceals or misrepresents any material fact in connection with a PIP claim. Finally, the bill establishes a separate alternative measure for payment of hospital services, which had been subject to the standard that applies to payment for medical services generally. This change is intended to allow more complete reimbursement of hospital expenses.

C. SB 573 (ch 464) Credit Scoring; Effect of Change in Family Status For Underwriting and Rating

SB 573 amends 2003 legislation that regulates the use of credit scoring by insurance companies, to clarify its applicability to underwriting and setting rates. Under current law, it has been questioned whether an insurer may re-rate an existing policy or consumer based on the consumer's credit history or credit score when a consumer has a change in family status. The bill prohibits an insurer from re-rating the policy or consumer in this circumstance when the marital status of the consumer changes because of death or divorce.

D. SB 585 (ch 465) Motor Vehicle Liability Insurance; PIP Benefits; Managed Care

SB 585 prohibits insurers from entering into or renewing any contract that provides managed care services to beneficiaries under the personal injury protection (PIP) benefits included in a motor vehicle liability insurance policy. At the same time, the bill authorizes insurers to enter into or renew contracts that provide evaluation services for beneficiaries. Insurers may therefore audit the quality of and the need for medical services once they are

provided, but may not limit or restrict access to providers or their services. SB 585 is consistent with current statutory law on this point

The bill also prohibits a lien for medical services provided under PIP coverage to an injured person prior to perfection of a lien by a hospital or physician, but this prohibition does not preclude a hospital or physician from perfecting a lien.

E. SB 599 (ch 361) Proof of Vehicle Insurance; Dismissal of Charge

SB 599 requires a court to dismiss a charge of failing to carry proof of compliance with financial responsibility requirements against a person if the person charged with the offense delivers to the clerk of the court proof of compliance at the time of the violation.

F. SB 923 (ch 235) Uninsured Motorist Coverage, Matching

SB 923 corrects a problem in provisions of the Insurance Code governing uninsured motorist coverage in motor vehicle liability insurance policies. Uninsured motorist coverage, including underinsured motorist coverage, allows an insured injured claimant to collect from his or her policy when the person who is at fault either has no coverage or has insufficient coverage to fully compensate the injured claimant. The amount paid under uninsured motorist coverage is supposed to be equal to the difference between the amount paid by the at-fault person's coverage and the lesser of the amount of the claim or the payment limit of the uninsured motorist coverage. The problem under current law is that underinsured coverage works only when the injured claimant's coverage is greater than the amount of coverage provided by the at-fault person. This limitation sometimes causes a problem when there are multiple claimants against the at-fault person's coverage. SB 923 requires an insured's uninsured motorist coverage benefits and underinsurance coverage benefits to provide coverage for bodily injury or death when the limits for the insured's uninsured motorist coverage equal the limits of the liability policy of the person at fault and the amount of liability insurance recovered is less than the limits of the insured's uninsured motorist coverage.

G. SB 924 (ch 246) Uninsured Motorist Coverage, Stolen Vehicle

SB 924 provides that when an insured's own car is stolen and the insured is injured by that car while it is stolen, the insured's injuries will be covered by the uninsured motorist coverage of the insured's policy. The bill accomplishes this purpose by designating the insured's car, while it is stolen, as an uninsured vehicle. Under current law, the insured person's uninsured motorist coverage would not apply.

**H. SB 925 (ch 236) Uninsured Motorist Coverage;
Primary/Secondary Coverage**

SB 925 clarifies statutory law governing the priority of uninsured motorist coverages under motor vehicle liability insurance policies when a policyholder is injured while occupying a car that is not owned by the policyholder. The bill provides that the coverage of the policyholder is secondary to the coverage of the owner of the car.

I. SB 926 (ch 247) Uninsured Motorist Coverage, Bankrupt Insurer

SB 926 amends the definition of uninsured motorist coverage to eliminate the limitation on the applicability of the coverage when an insured's insurer goes bankrupt. Currently, an insured may make a claim under the coverage only if the insurer goes bankrupt within two years after the accident giving rise to a claim. This bill eliminates the two-year limitation so that if a claim is not settled within the two-year period, the uninsured motorist coverage will still be available to the claimant-insured.

**J. HB 2718 (ch 189) Authority of Certain Public Utilities to Obtain
Workers' Compensation Insurance in the
Surplus Line Market**

HB 2718 authorizes a public utility with assets of more than \$500 million to obtain excess insurance coverage from an eligible surplus line carrier. The law otherwise requires an employer that self-insures workers' compensation coverage to have excess insurance coverage only with an insurer authorized to transact business in Oregon.

**K. HB 2719 (ch 102) Commercial Liability Insurance; Notice of
Renewal and Nonrenewal**

HB 2719 increases from 30 days to 45 days the notice that an insurer of a commercial liability policy must give to a policyholder prior to the effective date of a nonrenewal or a renewal on less favorable terms or with higher rates.

V. Other

**A. SB 837 (ch 175) Self-insurance by Public Bodies for Tort
Liability, Property Damage**

SB 837 authorizes a local public body to establish a self-insurance program against its tort liability or against property damage, and authorizes two or more local bodies to establish a joint self-insurance program. The bill establishes elements for a self-insurance program covering three or more public bodies, including but not limited to the requirements that the aggregate annual contributions to the program equal at least \$1 million; that the insurer or employer provide documentation defining benefits and administration; and that program contributions and reserves be kept in separate accounts and used exclusively for the program.

B. HB 2078 (ch 647) Task Force on Construction Claims

HB 2078 creates a Task Force on Construction Claims to study claims and industry practices, causes of construction defects, consumer protection and the availability and affordability of liability insurance for contractors. The task force will include members representing the insurance industry. The study will evaluate construction claims and their causes, costs and availability of insurance and consumer protection, and make recommendations for reducing claims. DCBS will engage a professionally qualified expert to study and make recommendations of alternatives and pricing relating to contractor insurance, including the designation of a private insurer. The task force must make a report and may recommend legislation to the next Legislative Assembly in January 2007.

Effective date: July 27, 2005

C. HB 2669 (ch 395) Service Contracts

HB 2669 authorizes businesses that sell service contracts for servicing, repairing or replacing heating, ventilation or air conditioning systems or their components in an existing residential dwelling, or roofing systems, to meet an alternative proof of financial responsibility. The alternative requires an obligor to file a surety bond of \$25,000 with DCBS and authorizes the state or a person damaged by a violation of the law to recover damages under the bond. Current law requires either a reimbursement insurance policy or documents showing that an obligor has a net worth of at least \$100 million. DCBS administers the registration program for service contract obligors.

D. HB 3091 (ch 194) Title Insurance; Ownership by Financial Institutions

HB 3091 authorizes Oregon state commercial and savings banks, financial holding companies and bank holding companies to acquire and hold stock in corporations licensed to transact title insurance as insurance producers. HB 3091 also authorizes corporations owned by those financial institutions to be licensed as insurance producers to transact title insurance. These financial institutions already have the authority to hold stock in corporations transacting other classes of insurance as insurance producers, and this bill removes the exception for title insurance. Their acquisition and holding of the stock remain subject under the Bank Act to approval of DCBS Director; to subsequent regulation of an institution's authority to acquire and hold the stock; to annual reporting requirements; and to other restrictions.