

## 1999 Legislature passes variety of insurance laws

The 1999 Oregon Legislature, which adjourned July 24, passed a variety of laws relating to insurance. Unlike the 1997 session, when health insurance reform was a major focus, there was no common theme for insurance legislation in 1999.

Insurance-related legislation is summarized below. Laws enacted in the 1999 session are cited by their bill numbers as well as their 1999 Oregon Laws chapter numbers, if known. Unless otherwise specified, the effective date of a bill is Oct. 23, 1999. A bill also may 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.

### Insurance regulation generally

#### SB 145 — Merger, conversion of insurers and health care service contractors (ch. 362)

SB 145 deals generally with merger and conversion of corporations and other busi-

Additional information about laws approved during the 1999 session is available on the Oregon Legislature's Web site: [www.leg.state.or.us](http://www.leg.state.or.us).

ness organizations. The bill amends portions of the Insurance Code governing insurance holding companies to specifically authorize a domestic insurer to merge with a for-profit health care service contractor and to allow a domestic for-profit health care service contractor to merge with an insurer.

Effective date: June 28, 1999

Operative date for sections governing insurance holding companies: June 30, 1999

Operative date for remainder of bill: Jan. 1, 2000

#### SB 281 — Confidentiality of insurer examination work papers (ch. 364)

SB 281 further restricts public disclosure of work papers and other documents ob-

tained by the Insurance Division during its examination of an insurer. Under prior law, such records were exempt from public disclosure until the director of the Department of Consumer and Business Services (DCBS) issued a final examination report. The amendments provide that the work papers and other documents continue to be exempt after the examination report is issued. This change is similar to disclosure exemptions that currently apply to insurance-related complaints and investigations under the Insurance Code.

The director is authorized to disclose work papers and other documents if he or she determines that disclosure is necessary to protect the public interest.

#### SB 842 — Licensing car rental companies as insurance agents (ch. 485)

SB 842 adds new provisions to the Insurance Code that require the DCBS director to issue a limited license to car rental companies to enable them to offer and sell, in connection with the rental of cars to the

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## Consumer group grades Oregon complaint report an 'A+'

The 1997 *Consumer Guide to Oregon Insurance Complaints* is on the Insurance Division's Web site:

[www.cbs.state.or.us/ins](http://www.cbs.state.or.us/ins)

Printed copies are available at no charge by calling (503) 947-7984 or by writing to:

Publications  
Oregon Insurance Division  
350 Winter St. NE, Room 440  
Salem, OR 97310

The 1998 edition will be available in January.

Oregon was one of only six states to receive an "A+" grade from the Consumer Federation of America (CFA) for publishing comprehensive information about consumer complaints against insurance companies.

CFA surveyed state insurance departments to evaluate the complaint information available to consumers. Oregon and the other top-ranked states provide useful complaint information on the four major lines of insurance: auto, home, life and health.

CFA praised the *Consumer Guide to Oregon Insurance Complaints*, calling it an "exceptional brochure." The guide ranks insurers from best to worst based on the number of consumer complaints received by the Insurance Division.



# Insurance Division begins work on new or amended rules

The Insurance Division will be proposing a number of new or amended rules in the coming months.

As in past years, the division will appoint advisory committees for many of the proposed rules to help get interested parties' views on the issues and feedback on the division's proposals.

Some of the rulemaking is necessary to implement laws passed by the 1999 Oregon Legislature, which adjourned in July. (See related story, Page 1).

Possible issues for rulemaking include:

## Insurance regulation generally

### SB 842 — Licensing car rental companies as insurance agents

Rules will be needed to establish license fees and procedures for filing applications and syllabuses for continuing education.

### Agent trade practices

The division will be considering rules governing permissible forms of compensation for agents and consultants, and insurance trade practices.

### License and examination fees for agents, adjusters, and insurance consultants

(See story below.)

### Codification of statutory accounting principles

The Insurance Division and an advisory committee are reviewing the Statement of Accounting Principles adopted by the National Association of Insurance Commissioners (NAIC). The division will determine whether rulemaking is needed.

## Annual statements

A rule amendment is needed to adopt the NAIC's annual statement blanks and instructions for reporting year 1999.

## Property & casualty insurance

### SB 787 — Large construction project, wrap-up insurance policies

Rulemaking is needed to simplify the prior approval filing process and to deal with other matters related to insurance for large construction projects.

### Market conduct practices

Rulemaking may address requirements for keeping complaint records for property and casualty insurers.

## Life and health insurance

### SB 210 — Conformance of state health insurance laws with federal law

Possible rulemaking issues include pregnancy coverage, definition of a late enrollee, and law changes governing insurers who discontinue issuing and renewing policies.

### HB 2080 — Long-term care tax credit

Rules may be needed to ensure appropriate replacement when the new tax credit takes effect.

### Long-term care insurance

Rules need to be updated to incorporate changes in the NAIC's model regulation.

### Coordination of benefits

Rules need to be updated to incorporate changes in the NAIC's model regulation and to more clearly define how benefits

Notices of proposed rules and amendments are available on the Insurance Division's Web site at [www.cbs.state.or.us/ins](http://www.cbs.state.or.us/ins). If you would like to receive written notices, a one-year subscription to the rulemaking mailing list is available for \$35. To subscribe or for more information, please call **Sue Munson**, (503) 947-7272.

paid by indemnity carriers should be reconciled with services provided by HMOs and other service providers.

### Regulation XXX - Valuation of life insurance policies model regulation

Oregon will consider whether to adopt the NAIC's model regulation, which is intended to ensure that life insurance companies keep adequate reserves.

## Workers' compensation

### SB 280 — Workers' compensation insurance; rating organizations; statistical agent

Possible issues include licensing rating organizations, exchanging data, and the process for designating a statistical agent.

### HB 3055 — Workers' compensation; premium audit billing; appeal rights

Rulemaking appears necessary to incorporate changes to the process for premium audits, and to notice requirements.

## Hearing set for proposed changes to license, exam fees

Proposed changes to the Insurance Division's administrative rules governing licensing and examination fees for agents, adjusters, and insurance consultants will be the subject of a public hearing Nov. 2 in Salem. The amended rules would:

- Increase examination fees by \$10 to cover the division's actual costs.
- Reduce the license application fee from \$45 to \$30 to more accurately reflect costs.
- Establish a separate license fee of \$45 to cover the actual cost of issuing a license.
- Extend the license period for an initial license from one year to two years.

The application, examination, and licensing fees would be paid when application is made. However, fees for applicants who don't take the exam or receive a license will be refunded.

Current rules do not provide for refunds.

The proposed fee changes and rule amendments, which would be effective Jan. 1, 2000, are intended to be revenue neutral for the Insurance Division.

The public hearing begins at 1:30 p.m. Tuesday, Nov. 2, in Hearing Room F in the basement of the Labor & Industries Building, 350 Winter Street N.E., in Salem. The last day for written comment is Tuesday, Nov. 9.

The notice of hearing and proposed rule amendments may be accessed on the Insurance Division's Web site at [www.cbs.state.or.us/ins](http://www.cbs.state.or.us/ins). To request a printed copy, contact Sue Munson, (503) 947-7272.

Written comments should be sent by the Nov. 9 deadline to Lewis Littlehales, Oregon Insurance Division, 350 Winter St. NE, Room 440-1, Salem, OR 97310.

## DEPUTY COMMISSIONER'S COLUMN

### Divisions join forces to address viatical settlement abuses

Viatical settlements occupy a prominent place in the current life insurance marketplace. A viatical settlement is a transaction in which a life insurance policyholder sells the policy and its anticipated death benefit to another person for a discounted percentage of the death benefit. When the insured dies, the person who bought the policy from the original policyholder receives the death benefit. The amount of return on the investment depends on the accuracy with which the person judges the life expectancy of the insured.

The viatical market began during the 1980s when companies started purchasing life insurance policies from terminally ill individuals. The market arose because the terminally ill are sometimes unable to work or otherwise provide for their needs, and their only significant asset is their life insurance coverage. These individuals often decide that this asset is most critically needed before death.

The Oregon Insurance Division began regulating viatical settlements after the Legislative Assembly passed enabling legislation in 1995. Prior to 1995, transaction of viatical settlements was not permitted in Oregon. The Insurance Division proposed the 1995 legislation to allow the transactions to occur, but with consumer protections. The applicable statutes are ORS 744.319 to 744.358. Rules implementing the legislation are OAR 836-014-0200 to 836-014-0330. (The statutes and rules use the term "life settlement" rather than "viatical settlement," but "viatical settlement" is now more common in the marketplace.)

In our regulatory program, we license life settlement providers, review and approve their contract forms, require disclosure of important information to consumers, and establish minimum standards for fair payments.

The viatical settlement industry has grown in size and complexity nationally since Oregon established its regulatory program. Initial regulatory concerns were directed at consumer protection because terminally ill policyholders can be at a disadvantage in negotiations.

Enforcement activities occurring in other states indicate additional regulatory concerns. The thriving viatical market is attracting scam artists who target unsuspecting policyholders, investors and insurers. State insurance regulators in Florida and Texas recently charged a number of viatical companies, brokers, insurance agents, and policyholders with "clean sheeting," a fraudulent practice that involves hiding



Nancy Ellison

terminal medical conditions from a life insurer to obtain a policy that can then be sold to investors.

In Oregon, the Division of Finance and Corporate Securities (DFCS) has joined forces with the Insurance Division to regulate the viatical industry.

The Insurance Division's primary focus is on protecting policyholders. Before considering life settlement contracts, terminally ill consumers have a right to know of any alternatives and consequences so they can make informed decisions during these difficult times in their lives.

Our rules also cover standards for evaluating whether payments under life settlement contracts are fair and equitable. Some providers have criticized our standards as too high, arguing that they are hindering the viatical market in Oregon. We will be considering this issue as we review our rules for viatical providers.

DFCS takes over when brokers sell life settlement contracts or interests in the contracts to third parties. It rightfully considers these investment instruments to be securities, and as such, subject to Oregon securities laws.

A bill to clarify that state securities laws apply to viatical settlements and to require U.S. brokers to be licensed was unanimously approved by the Oregon Senate but failed in the House during the 1999 legislative session. The Insurance Division supported the bill because these investments clearly are securities and should be regulated as such.

Despite the setback, DFCS still holds that viatical settlements are securities and will continue its efforts to address abuses in the viatical market. Its primary concerns are:

- The lack of adequate disclosure to investors about the returns and risks of purchasing shares in viaticals.
- The sale of fraudulently obtained life insurance policies to investors who are left holding the bag when an insurer rescinds such policies.

The Insurance Division and DFCS will continue to closely monitor developments in the viatical industry. While viaticals may be a legitimate option for the terminally ill, abuses in the industry clearly require increased scrutiny by state insurance and securities regulators.

Deputy Insurance Commissioner  
Division Administrator

### About the Regulator

The *Oregon Insurance Regulator* is published several times a year to promote communication between the Insurance Division and its constituents. The *Regulator* is mailed to: The home addresses of all Oregon resident agents and adjusters, and nonresident agents in California, Idaho and Washington; insurers doing business in Oregon; and other interested parties. Back issues of the *Regulator* are available on our Web site: [www.cbs.state.or.us/ins](http://www.cbs.state.or.us/ins).

## LEGISLATURE

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public, personal accident insurance, liability insurance, personal effects coverage, and roadside aid insurance. The bill establishes requirements for disclosure of information to car renters. It also requires licensed car rental companies to provide training and continuing education to employees who transact insurance.

#### **SB 1210 — Cooperation with law enforcement and other governmental agencies (ch. 633)**

SB 1210 requires insurers to cooperate with law enforcement agencies and other state or federal agencies investigating or prosecuting suspected criminal conduct involving insurance, and to provide information requested by any such agency unless the information is privileged. "Insurer" is defined to include, but not be limited to, insurance companies, insurance agents and legal entities that self-insure their workers' compensation risks or self-insure and provide insurance services to their employees. The bill requires an insurer to notify an agency if the insurer has reason to believe that criminal conduct involving insurance is occurring. A person who discloses or provides information is immune from civil liability, unless actual malice is shown.

If an insurer or agency does not provide information as required and if the suspected criminal conduct results in a conviction, the insurer or agent is ineligible for compensation that might otherwise be available through restitution.

### Life and health insurance

#### **SB 16 — Eye care services (ch. 749)**

SB 16 requires a health benefit plan that includes eye care services to allow an insured person to receive emergency eye care without obtaining a referral from a primary care provider. This change removes a possible procedural delay and brings this coverage into line with statutory requirements for coverage of emergency medical services generally.

#### **SB 210 — Conformance of state health insurance laws with federal law**

SB 210 conforms health insurance statutes to federal laws and makes other related revisions. The federal laws govern portability of health insurance coverage and require health policies to cover breast reconstruction following a mastectomy.

The federal portability laws were enacted to ensure that people who leave a job will not lose health coverage. The federal legislation also guarantees availability of health insurance for small employers. This legislation ensures continued state regulation of health insurance, consistent with applicable federal law.

#### **SB 414 — Functions of Insurance Pool Governing Board (ch. 547)**

SB 414 eliminates the Insurance Pool Governing Board's responsibility for developing a program under which the board makes low-cost health benefit plans available to small employers. The bill instead requires the board to encourage increased health insurance coverage among small employers by providing information, benefit and premium comparisons, and technical assistance relating to coverage, and to otherwise furnish information about other resources for obtaining health care and assistance for making use of the resources.

Operative date: July 1, 2000.

#### **SB 516 — Oregon Medical Insurance Pool coverage; Medicare (ch. 754)**

SB 516 enables a person who has been enrolled in the Oregon Medical Insurance Pool (OMIP) for a period specified by the OMIP board to continue that coverage as secondary after the person becomes eligible for Medicare. OMIP provides health insurance coverage for individuals who are at high health risk and are unable to obtain coverage elsewhere.

#### **SB 562 — Independent Practice Associations (ch. 271)**

SB 562 fixes an error in 1997 legislation that requires Independent Practice Associations (IPAs), in addition to insurance companies, to reimburse health care providers retroactively for covered treatment or services. The IPA requirement is incorrect because IPAs do not reimburse providers and do not hold funds for that purpose. Rather, an IPA is an intermediary for providers, engaging in negotiation with insurers on behalf of the providers.

Effective date: June 16, 1999.

#### **SB 565 — Community colleges; eligibility to self-insure health insurance (ch. 502)**

SB 565 exempts community college districts and community college service districts from application of the Insurance Code when such districts individually or jointly insure their employees, retired employees or their dependents, or students, or some combination thereof, according to specified conditions. Community colleges

will thus be able to establish a self-insurance program under requirements currently applicable to cities, counties, school districts and other types of districts.

#### **SB 588 — Women's health examinations (ch. 429)**

SB 588 amends ORS 743.727, which requires that health insurance policies cover mammograms, and ORS 743.728, which requires that health insurance policies cover pap smears and pelvic examinations. The bill establishes the permitted frequency of covered examinations in statute. Currently, their frequency is established by DCBS. For mammograms, the amendments also prohibit an insurance policy from limiting coverage to the statutory schedule if a woman's health care provider determines she is at high risk for breast cancer.

Effective date: July 1, 1999

#### **SB 1291 — Eligibility criteria for Family Health Insurance Assistance Program (ch. 634)**

SB 1291 amends statutes governing the Family Health Insurance Assistance Program (ORS 653.800 et seq.) to modify eligibility for the program. The requirement that an eligible individual must enroll in a group health benefit plan if the coverage is available to the individual through employment is mitigated by provisions authorizing the Insurance Pool Governing Board to implement criteria that make enrollment in an individual health benefit plan possible if it is more advantageous for an eligible individual.

#### **SB 1331 — Benefits for chemical dependency, mental and nervous conditions**

SB 1331 increases by 25 percent the current dollar benefit limitations for coverage in group health insurance policies for mental and nervous conditions and chemical dependency.

#### **HB 2080 — Long-term care tax credit**

HB 2080 establishes an income tax credit for premium costs for a long-term care insurance policy. Corporations that offer long-term care insurance to their employees employed in Oregon are eligible for the credit, as are individuals who pay premiums on long-term care coverage. The credit is limited to the lesser of 15 percent of premiums or \$500 (\$500 per employee if the employer is claiming the credit). The law applies to policies issued on or after Jan. 1, 2000.

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### **HB 2581 — Coverage of pregnancy and maternity services (ch. 428)**

HB 2581 requires health insurance policies to cover costs of pregnancy and childbirth care. The bill defines pregnancy care and specifies that the benefits are to be extended to enrollees, enrolled spouses and enrolled dependents.

### **HB 3529 — Coverage of services by women's health care provider**

HB 3529 provides that when a female enrollee in a health insurance policy has chosen a primary care provider who is not a gynecologist or obstetrician, the policy must allow the female enrollee to go directly to an obstetrician or gynecologist for medically necessary follow-up visits resulting from a preventive women's health care examination. This kind of examination includes, but is not limited to, mammograms, pelvic examinations and pap smears. The female enrollee will no longer have to obtain a referral from the primary care provider.

## Workers' compensation

### **SB 280 — Workers' compensation insurance; rating organizations; statistical agent (ch. 235)**

SB 280 amends ORS 737.355 to authorize the director of DCBS to license one or more rating organizations for workers' compensation insurance, but not necessarily all rating organizations that have applied for a license, according to a selection process established by the director. The bill also amends ORS 737.225 to restrict the number of workers' compensation statistical agents to one. ORS 737.355 as amended also requires each workers' compensation rating organization to exchange data with other licensed workers' compensation rating organizations.

Effective date: June 9, 1999

### **SB 592 — Workers' compensation insurance; premium assessments (ch. 409)**

SB 592 requires the director of DCBS to use rulemaking to establish workers' compensation premium assessments.

### **HB 2021 — Workers' compensation insurance; advertising dividends**

HB 2021 amends provisions of the workers' compensation law relating to payments to the attending physician of an injured

worker. Of interest to insurers and agents is a provision that prohibits insurers and agents transacting workers' compensation insurance from quoting projected net insurance premiums based upon figures that are discretionary or terms that are not guaranteed in the workers' compensation insurance policy.

### **HB 3055 — Workers' compensation; premium audit billing; appeal rights**

HB 3055 relates primarily to workers' compensation claims, but the bill also amends a section in the Insurance Code to require workers' compensation insurers to include notification of appeal rights and requirements in their final premium audit billings.

## Motor vehicle liability insurance

### **SB 504 — Attorney fees for car coverages (ch. 790)**

SB 504 amends ORS 742.061, which generally provides for recovery of attorney fees from an insurer if a settlement is not made within six months from the date proof of loss is filed with the insurer, an action is brought against the insurer and the plaintiff's recovery exceeds the amount of any tender made by the insurer. The amendments exempt actions to recover personal injury protection (PIP) benefits and actions to recover uninsured motorist (UM) benefits or underinsured motorist (UIM) benefits when the insurer is able to show that settlement negotiations have progressed substantially.

Actions for PIP benefits are exempt if the insurer, in writing and not later than six months from the date that proof of loss is filed with the insurer, has accepted coverage and the only issue is the amount of benefits due the insured, and the insurer has consented to submit the case to binding arbitration. Actions for UM or UIM benefits are exempt if the insurer, in writing and not later than six months from the date that proof of loss is filed with the insurer, has accepted coverage and the only issues are the liability of the uninsured or underinsured motorist and the damages due the insured, and the insurer has agreed to submit the case to binding arbitration.

### **HB 2608 — Motor vehicle insurance; personal injury benefits (ch. 434)**

HB 2608 clarifies statutes governing personal injury protection (PIP) benefits to provide that PIP benefits under a motor vehicle liability insurance policy are not available if the vehicle is owned or furnished or available for regular use by any

of the insured persons and is not described in the policy.

### **HB 2740 — Motor vehicle insurance, personal injury protection coverage (ch. 438)**

HB 2740 provides that a person who lends or rents a motor vehicle to another person is not liable for injury, death or damage arising from the use of the vehicle by the other person, when the vehicle lender is engaged in the business of selling, renting, leasing or repairing motor vehicles and the vehicle lender provides the vehicle to another person in the course of the lender's business and pursuant to a written agreement. Also, unless the written agreement provides otherwise, the insurance of the person borrowing or renting the car is primary and the insurance of the person providing the motor vehicle is secondary or excess.

ORS 743.450, relating to required contents of motor vehicle liability insurance policies, is amended to require that such a policy include liability coverage for the named insured's operation of a motor vehicle provided by a person engaged in the business of repairing or servicing motor vehicles, when the motor vehicle is a temporary replacement while the named insured's vehicle is being repaired or serviced. The coverage must be up to the limits of coverage for a vehicle owned by the named insured.

## Other casualty insurance

### **SB 359 — Disclosure of insurance coverage, rental aircraft (ch. 440)**

SB 359 repeals ORS 837.135, relating to aircraft operations, which requires that a person who rents an airplane to another person in the ordinary course of business must inform the renter whether insurance coverage is provided and, if coverage is provided, must describe the nature of the coverage.

### **SB 436 — Title plants, title insurance (ch. 183)**

SB 436 amends current statutory title plant requirements (ORS 731.438) to require a title insurer, in order to qualify for and hold a certificate of authority to transact title insurance, to own and maintain a title plant covering a minimum period of 50 years, with exceptions. Specific requirements for exclusive ownership and maintenance of title plants in the Portland metropolitan area are deleted. Requirements for ownership and maintenance of title

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## COMPANY ACTIONS

### Sanctions

**Fortis Insurance Co.**  
Milwaukee, WI

*Violation:* Used unapproved health insurance rates. Failed to promptly respond to an inquiry from the DCBS director.  
*Penalty:* \$12,000 fine.  
*Date of order:* Aug. 2, 1999.

**New York Life Insurance Co.**  
New York, NY

*Violation:* Terminated agents without sufficient notice.  
*Penalty:* \$14,000 fine.  
*Date of order:* July 19, 1999.

### New Admissions - Insurers

**Farm Bureau Life Ins. Co.**

West Des Moines, IA • June 17, 1999  
Life, Health

**Hudson Ins. Co.**

Wilmington, DE • Aug. 3, 1999  
Property, Casualty incl. WC, Surety, Marine and Transportation

**Kaiser Permanente Health Alternatives dba KPHA Health Plans**  
Portland, OR • June 16, 1999  
HCSC-HMDI

**Landcar Casualty Co.**  
Sandy, UT • July 16, 1999  
Casualty excl. WC

**Secura Insurance, a Mutual Company**  
Appleton, WI • Aug. 4, 1999  
Casualty excl. WC, Marine and Transportation

### New Admissions - Nonprofits

**Crisis Pregnancy Centers of the Portland Metro Area**

Portland, OR • July 12, 1999  
Annuities

**Legacy Health System**  
Portland, OR • Aug. 4, 1999  
Annuities

**Mt. Hood Community College District Foundation, Inc.**  
Gresham, OR • Aug. 13, 1999  
Annuities

**Portland Community College Foundation, Inc.**  
Portland, OR • May 28, 1999  
Annuities

**National Benevolent Assoc. of the Christian Church (Disciples of Christ)**  
St. Louis, MO • June 1, 1999  
Annuities

**The Trustees of Princeton University**  
Princeton, NJ • July 15, 1999  
Annuities

## PRODUCER ACTIONS

**Murray S. Altorfer and Altorfer-Stokes Insurance**

Portland, OR  
*Violations:* Transacted insurance without a license. Failed to respond to an inquiry from the DCBS director.  
*Penalty:* Individual agent and agency licenses revoked.  
*Date of order:* July 9, 1999

**Teresa R. Johnson**  
Salem, OR

*Violations:* Misappropriated premiums. Convicted of first degree theft, a felony.  
*Penalty:* License revoked.  
*Date of order:* July 8, 1999.

**Northwestern Group Marketing Services, Inc.**

Portland, OR  
*Violation:* Misrepresented information on an insurance application.  
*Penalty:* \$1,000 fine.  
*Date of order:* July 8, 1999.

**Hazel Phillips Travel Service**  
The Dalles, OR

*Violations:* Transacted insurance without a license. Authorized unlicensed employees to transact insurance. Failed to keep proper records. Failed to establish and use a premium trust account.  
*Penalty:* \$2,000 fine.  
*Date of order:* July 21, 1999.

**Shaw Aviation Insurance Services, Inc.**

Gold River, CA  
*Violation:* Reduced or rebated part of its commission on an insurance policy.  
*Penalty:* \$2,102.50 fine.  
*Date of order:* July 16, 1999.

**Paul S. Urke**  
Canby, OR

*Violation:* Made statements in his agent license renewal certification that he knew were false or misleading.  
*Penalty:* \$1,000 fine.  
*Date of order:* June 21, 1999

## KEY CONTACTS

**Administration**

Information ..... (503) 947-7980  
Fax ..... (503) 378-4351  
E-mail ..... dcbs.insmail@state.or.us

Administrator ..... Nancy Ellison  
Deputy Admin. .... Charles Nicoloff

**Admin. Services & Operations**

Information ..... (503) 947-7980  
Manager ..... Elaine Day

• **Agent Licensing**

Information ..... (503) 947-7981  
Manager ..... Margarita Nuñez

**Consumer Protection/Complaints**

Information ..... (503) 947-7984  
Manager ..... Joel Ario

**Company Regulation**

Information ..... (503) 947-7982  
Manager ..... Charles Nicoloff

**Rates & Forms**

Information ..... (503) 947-7983  
Manager ..... Patrick Fitzgerald

• **Health**

Information ..... (503) 947-7985  
Asst. Manager ... Maxi McKibben

• **Life/Property & Casualty**

Information ..... (503) 947-7983  
Asst. Manager ..... Donna Bleiler

## LEGISLATURE

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plants in other areas of the state are amended to define and allow maintenance on an exclusive or joint basis. The bill requires a title insurer, as another means of transacting title insurance in an additional county, to obtain underlying title insurance from a person who possesses a qualified title plant for the additional county.

Effective date: Jan. 1, 2000

### **SB 787 — Large construction project, wrap-up insurance policies (ch. 482)**

SB 787 amends legislation authorizing insurers to issue "wrap-up" casualty insurance coverage, which is sold in connection with large construction projects exceeding \$90 million. Such a policy insures a construction project sponsor and all other contractors on the project. The bill prohibits a project sponsor from charging the prime contractor for wrap-up coverage and prohibits the prime contractor from charging subcontractors for it. The bill regulates the premium that a project sponsor may charge the prime contractor. The bill establishes financial protections for small contractors (and their insurance agents) involved in large construction projects.

### **SB 1205 — Construction of general liability insurance policies involving environmental claims (ch. 783)**

SB 1205 establishes rules of construction for interpretation of general liability insurance policies involving environmental claims affecting Oregon sites, in connection with any action to determine the existence of coverage for the costs of investigating and remediating environmental contamination. The bill applies Oregon law when the contaminated property is located within Oregon. The bill's rules of construction do not apply if they are contrary to the intent of the parties to a general liability insurance policy, so the bill is intended to cover situations with respect to which a policy is silent or unclear.

The scope of suits to which this bill applies, as "suits" is defined in the bill, includes formal judicial proceedings, administrative proceedings and "actions taken under administrative oversight of the Department of Environmental Quality or the United States Environmental Protection Agency pursuant to written voluntary agreements, consent decrees and consent orders." The bill prohibits denial of insurance coverage for fees, costs and expenses incurred by an insured pursuant to a writ-

ten voluntary agreement with the DEQ or EPA on the ground that the expenses constitute voluntary payments by the insured.

Effective date: July 19, 1999

### **HB 3048 — Insurance disclosure, self storage facilities**

HB 3048 requires the rental agreement for storage of a person's personal property at a self-storage facility to state whether the property is protected by insurance held by the facility owner. If the personal property is not protected by insurance, the rental agreement must say so. Failure to include either a provision describing the insurance or a provision stating that the personal property is not insured is declared to be an unlawful practice for purposes of a private right of action or prosecution by the Attorney General.

## Related legislation

### **HB 2417 — Denial of noneconomic damages if driver is intoxicated or is driving without insurance**

HB 2417 bars a plaintiff from recovering noneconomic damages in an action for injury or death arising from operation of motor vehicle if the plaintiff was intoxicated or driving uninsured at the time of the event causing the injury or death. The limitation on the ability of an uninsured plaintiff to recover does not apply if the plaintiff was insured within 180 days before the event and the plaintiff has not operated a motor vehicle uninsured within the one-year period preceding the date on which motor vehicle liability coverage lapsed.

### **HB 2525 — Hearings officer panel**

HB 2525 establishes a pilot program for a centralized hearing panel within the Oregon Employment Department. Several state agencies, including the Insurance Division, must use hearings officers assigned from the panel to conduct contested case hearings. The bill transfers the Insurance Division's hearing staff and contested cases to the Employment Department, which will administer and conduct the contested cases on and after Jan. 1, 2000.

Effective date: Aug. 1, 1999

Operative date: Jan. 1, 2000

### **HB 2554 — Civil liability of health practitioner who provides unpaid health care services (ch. 771)**

HB 2554 limits the civil liability of health practitioners when they provide health care services without compensation, for injury, death or other loss arising from the health services unless an injury, death

or loss results from a health practitioner's gross negligence. This limited immunity is available to health practitioners who are registered with the appropriate health professional regulatory board and who provide services without compensation. The limitation on liability is available only if the patient receiving the services (or an authorized person on behalf of the patient) signs a notice that the services are provided without compensation and that liability of the health practitioner is limited. Also, the health practitioner must obtain the patient's informed consent for the services.

### **HB 2718 — Dental liability coverage for retired dentists**

HB 2718 requires the Department of Administrative Services to establish a program for purchasing and maintaining liability insurance for retired dentists who provide dental services through nonprofit corporations to low income persons. The insurance under the program is required to be acquired through contracts with liability insurers authorized to offer liability malpractice insurance in Oregon.

### **HB 3245 — Civil actions relating to computer date failure (Y2K) (ch. 810)**

HB 3245 establishes rules for civil actions arising from computer date failures owing to the inability of a computer product or service to properly process calendar dates 1999 or subsequent years or owing to incompatibility between a computer product or service and another product, service or data with respect to the processing of such dates. The bill requires a complaint for damages caused by a computer date failure to allege a specific material defect; establishes a statute of limitation and ultimate repose for such actions; requires a claimant to give notice and opportunity to cure; and establishes affirmative defenses for civil liability for damages.

Effective date: July 20, 1999

### **SB 217 — Use of a trade name or assumed business name by a securities licensee (ch. 53)**

Recognizing that a number of individuals or businesses are licensed in more than one industry, such as in both securities and insurance, the Division of Finance and Corporate Securities (DFCS) introduced SB 217, which permits use of a trade name or assumed business name by a securities licensee if the licensee files a one-time notice and pays a one-time fee of \$50. For more information or to request a form to file an assumed business name or a trade name, contact DFCS, (503) 378-4387.

Effective date: April 19, 1999

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**Deputy Insurance Commissioner  
Insurance Division Administrator  
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**Editor  
John Piper**



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## PERSONNEL

**Richard Zafuto** is now an investigator in the Investigations Unit. He had been a compliance officer in the Consumer Assistance Unit.

**Chris Stover**, a licensing technician in Agent Licensing, retired Aug. 31.

Employees recently joining the Insurance Division are:

- **Carol Addie**, licensing coordinator, Agent Licensing.
- **Doug Beck**, compliance officer, Consumer Assistance.
- **Fred Bowman**, office specialist 1, Company Regulation.
- **Barb Merrifield**, program technician 1, Rates & Forms.

### Agent Licensing receptionist combines enthusiasm and efficiency to win award

You can tell **Judy Wentworth**, a receptionist for the Agent Licensing Unit, enjoys her job the minute she answers the phone. Thanks to her enthusiasm and efficiency, Wentworth was named July 1999 employee of the month for the Department of Consumer and Business Services (DCBS). Insurance is one of nine divisions that make up DCBS.

When not assisting agents on the phone, she's busy processing license applications and renewals. Wentworth is in her sixth year with the Insurance Division.



**Judy Wentworth**

### IRES awards AIE designation to Oregon's Gail Woods

**Gail Woods**, a market conduct examiner in the Insurance Division's Consumer Protection Section, has been awarded the Accredited Insurance Examiner (AIE) designation by the Insurance Regulatory Examiners Society (IRES).

IRES is a nonprofit educational and professional development society for insurance regulatory professionals throughout North America.

The AIE designation recognizes regulatory professionals who have completed an extensive curriculum of insurance-related courses and study.

### Goodpaster elected IRES VP

**Jann Goodpaster**, CIE, chief market conduct examiner, recently was elected IRES vice president. She also chairs the IRES Accreditation and Ethics Committee.



**INSURANCE DIVISION**  
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