

# Senate Bill 458

Sponsored by Senator MORRISETTE; Senators G GEORGE, KRUSE, Representatives BEYER, BOONE, P SMITH

## 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**.

Modifies period that licensee of State Board of Chiropractic Examiners or similarly licensed chiropractic physician or doctor may serve as attending physician in workers' compensation claim.

## A BILL FOR AN ACT

1  
2 Relating to eligibility of licensed practitioner of chiropractic to serve as attending physician in  
3 workers' compensation claim; amending ORS 656.005 and 656.245.

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

5 **SECTION 1.** ORS 656.005 is amended to read:

6 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-  
7 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
8 preceding the fiscal year in which the injury occurred.

9 (2) "Beneficiary" means an injured worker, and the husband, wife, child or dependent of a  
10 worker, who is entitled to receive payments under this chapter. "Beneficiary" does not include:

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

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

16 (3) "Board" means the Workers' Compensation Board.

17 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-  
18 age with a guaranty contract insurer.

19 (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child to-  
20 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such  
21 stepchild was, at the time of the injury, a member of the worker's family and substantially dependent  
22 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-  
23 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-  
24 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,  
25 an invalid dependent child is considered to be a child under 18 years of age.

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

28 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-  
29 ances, arising out of and in the course of employment requiring medical services or resulting in  
30 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-  
31 dental means, if it is established by medical evidence supported by objective findings, subject to the

**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 following limitations:

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

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

9 (b) "Compensable injury" does not include:

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

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

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

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

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

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

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

26 (10) "Dependent" means any of the following-named relatives of a worker whose death results  
27 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,  
28 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the  
29 accident, are dependent in whole or in part for their support upon the earnings of the worker.  
30 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the  
31 accident other than father, mother, husband, wife or children are not included within the term "de-  
32 pendent."

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

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

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

40 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the  
41 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed  
42 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,  
43 territory or possession of the United States; or

44 (B) For a period of [30] **90** days from the date of first visit on the initial claim or for [12] **24**  
45 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic

1 Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in  
2 any state, territory or possession of the United States.

3 (c) "Consulting physician" means a doctor or physician who examines a worker or the worker's  
4 medical record to advise the attending physician or nurse practitioner authorized to provide  
5 compensable medical services under ORS 656.245 regarding treatment of a worker's compensable  
6 injury.

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

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

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

16 (14) "Guaranty contract insurer" and "insurer" mean the State Accident Insurance Fund Cor-  
17 poration or an insurer authorized under ORS chapter 731 to transact workers' compensation insur-  
18 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

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

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

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

23 (18) "Noncomplying employer" means a subject employer who has failed to comply with ORS  
24 656.017.

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

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

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

34 (22) "Payroll" means a record of wages payable to workers for their services and includes  
35 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
36 similar advantage received from the employer. However, "payroll" does not include overtime pay,  
37 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
38 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-  
39 ticipated under the contract of employment and which are paid at the sole discretion of the em-  
40 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices  
41 is only for the purpose of calculations based on payroll to determine premium for workers' com-  
42 pensation insurance, and does not affect any other calculation or determination based on payroll for  
43 the purposes of this chapter.

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

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

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

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

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

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

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

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

19 (25) "Self-insured employer" means an employer or group of employers certified under ORS  
20 656.430 as meeting the qualifications set out by ORS 656.407.

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

23 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS  
24 656.023.

25 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS  
26 656.027.

27 (29) "Wages" means the money rate at which the service rendered is recompensed under the  
28 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
29 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
30 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
31 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
32 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
33 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
34 which any worker shall be carried upon the payroll of the employer for the purpose of determining  
35 the premium of the employer.

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

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

1       **SECTION 2.** ORS 656.005, as amended by section 2, chapter 811, Oregon Laws 2003, is amended  
2 to read:

3       656.005. (1) “Average weekly wage” means the Oregon average weekly wage in covered em-  
4 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
5 preceding the fiscal year in which the injury occurred.

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

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

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

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

14       (4) “Carrier-insured employer” means an employer who provides workers’ compensation cover-  
15 age with a guaranty contract insurer.

16       (5) “Child” includes a posthumous child, a child legally adopted prior to the injury, a child to-  
17 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such  
18 stepchild was, at the time of the injury, a member of the worker’s family and substantially dependent  
19 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-  
20 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-  
21 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,  
22 an invalid dependent child is considered to be a child under 18 years of age.

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

25       (7)(a) A “compensable injury” is an accidental injury, or accidental injury to prosthetic appli-  
26 ances, arising out of and in the course of employment requiring medical services or resulting in  
27 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-  
28 dental means, if it is established by medical evidence supported by objective findings, subject to the  
29 following limitations:

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

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

37       (b) “Compensable injury” does not include:

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

40       (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-  
41 forming, any recreational or social activities primarily for the worker’s personal pleasure; or

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

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

4 (d) A “nondisabling compensable injury” is any injury which requires medical services only.

5 (8) “Compensation” includes all benefits, including medical services, provided for a compensable  
6 injury to a subject worker or the worker’s beneficiaries by an insurer or self-insured employer pur-  
7 suant to this chapter.

8 (9) “Department” means the Department of Consumer and Business Services.

9 (10) “Dependent” means any of the following-named relatives of a worker whose death results  
10 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,  
11 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the  
12 accident, are dependent in whole or in part for their support upon the earnings of the worker.  
13 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the  
14 accident other than father, mother, husband, wife or children are not included within the term “de-  
15 pendent.”

16 (11) “Director” means the Director of the Department of Consumer and Business Services.

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

20 (b) Except as otherwise provided for workers subject to a managed care contract, “attending  
21 physician” means a doctor or physician who is primarily responsible for the treatment of a worker’s  
22 compensable injury and who is:

23 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the  
24 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed  
25 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,  
26 territory or possession of the United States; or

27 (B) For a period of [30] **90** days from the date of first visit on the initial claim or for [12] **24**  
28 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic  
29 Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in  
30 any state, territory or possession of the United States.

31 (c) “Consulting physician” means a doctor or physician who examines a worker or the worker’s  
32 medical record to advise the attending physician regarding treatment of a worker’s compensable  
33 injury.

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

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

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

43 (14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Cor-  
44 poration or an insurer authorized under ORS chapter 731 to transact workers’ compensation insur-  
45 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

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

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

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

5 (18) "Noncomplying employer" means a subject employer who has failed to comply with ORS  
6 656.017.

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

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

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

16 (22) "Payroll" means a record of wages payable to workers for their services and includes  
17 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
18 similar advantage received from the employer. However, "payroll" does not include overtime pay,  
19 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
20 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-  
21 ticipated under the contract of employment and which are paid at the sole discretion of the em-  
22 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices  
23 is only for the purpose of calculations based on payroll to determine premium for workers' com-  
24 pensation insurance, and does not affect any other calculation or determination based on payroll for  
25 the purposes of this chapter.

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

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

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

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

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

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

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

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

1 (25) "Self-insured employer" means an employer or group of employers certified under ORS  
2 656.430 as meeting the qualifications set out by ORS 656.407.

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

5 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS  
6 656.023.

7 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS  
8 656.027.

9 (29) "Wages" means the money rate at which the service rendered is recompensed under the  
10 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
11 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
12 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
13 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
14 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
15 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
16 which any worker shall be carried upon the payroll of the employer for the purpose of determining  
17 the premium of the employer.

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

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

28 **SECTION 3.** ORS 656.245 is amended to read:

29 656.245. (1)(a) For every compensable injury, the insurer or the self-insured employer shall cause  
30 to be provided medical services for conditions caused in material part by the injury for such period  
31 as the nature of the injury or the process of the recovery requires, subject to the limitations in ORS  
32 656.225, including such medical services as may be required after a determination of permanent  
33 disability. In addition, for consequential and combined conditions described in ORS 656.005 (7), the  
34 insurer or the self-insured employer shall cause to be provided only those medical services directed  
35 to medical conditions caused in major part by the injury.

36 (b) Compensable medical services shall include medical, surgical, hospital, nursing, ambulances  
37 and other related services, and drugs, medicine, crutches and prosthetic appliances, braces and  
38 supports and where necessary, physical restorative services. A pharmacist or dispensing physician  
39 shall dispense generic drugs to the worker in accordance with ORS 689.515. The duty to provide  
40 such medical services continues for the life of the worker.

41 (c) Notwithstanding any other provision of this chapter, medical services after the worker's  
42 condition is medically stationary are not compensable except for the following:

43 (A) Services provided to a worker who has been determined to be permanently and totally dis-  
44 abled.

45 (B) Prescription medications.



1 (C) Services necessary to administer prescription medication or monitor the administration of  
2 prescription medication.

3 (D) Prosthetic devices, braces and supports.

4 (E) Services necessary to monitor the status, replacement or repair of prosthetic devices, braces  
5 and supports.

6 (F) Services provided pursuant to an accepted claim for aggravation under ORS 656.273.

7 (G) Services provided pursuant to an order issued under ORS 656.278.

8 (H) Services that are necessary to diagnose the worker's condition.

9 (I) Life-preserving modalities similar to insulin therapy, dialysis and transfusions.

10 (J) With the approval of the insurer or self-insured employer, palliative care that the worker's  
11 attending physician referred to in ORS 656.005 (12)(b)(A) prescribes and that is necessary to enable  
12 the worker to continue current employment or a vocational training program. If the insurer or  
13 self-insured employer does not approve, the attending physician or the worker may request approval  
14 from the Director of the Department of Consumer and Business Services for such treatment. The  
15 director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327  
16 (3) to aid in the review of such treatment. The decision of the director is subject to review under  
17 ORS 656.704.

18 (K) With the approval of the director, curative care arising from a generally recognized, non-  
19 experimental advance in medical science since the worker's claim was closed that is highly likely  
20 to improve the worker's condition and that is otherwise justified by the circumstances of the claim.  
21 The decision of the director is subject to review under ORS 656.704.

22 (L) Curative care provided to a worker to stabilize a temporary and acute waxing and waning  
23 of symptoms of the worker's condition.

24 (d) When the medically stationary date in a disabling claim is established by the insurer or  
25 self-insured employer and is not based on the findings of the attending physician, the insurer or  
26 self-insured employer is responsible for reimbursement to affected medical service providers for  
27 otherwise compensable services rendered until the insurer or self-insured employer provides written  
28 notice to the attending physician of the worker's medically stationary status.

29 (e) Except for services provided under a managed care contract, out-of-pocket expense re-  
30 imbursement to receive care from the attending physician or nurse practitioner authorized to pro-  
31 vide compensable medical services under this section shall not exceed the amount required to seek  
32 care from an appropriate nurse practitioner or attending physician of the same specialty who is in  
33 a medical community geographically closer to the worker's home. For the purposes of this para-  
34 graph, all physicians and nurse practitioners within a metropolitan area are considered to be part  
35 of the same medical community.

36 (2)(a) The worker may choose an attending doctor, physician or nurse practitioner within the  
37 State of Oregon. The worker may choose the initial attending physician or nurse practitioner and  
38 may subsequently change attending physician or nurse practitioner two times without approval from  
39 the director. If the worker thereafter selects another attending physician or nurse practitioner, the  
40 insurer or self-insured employer may require the director's approval of the selection and, if re-  
41 quested, the director shall determine with the advice of one or more physicians, whether the se-  
42 lection by the worker shall be approved. The decision of the director is subject to review under  
43 ORS 656.704. The worker also may choose an attending doctor or physician in another country or  
44 in any state or territory or possession of the United States with the prior approval of the insurer  
45 or self-insured employer.

1 (b) A medical service provider who is not a member of a managed care organization is subject  
2 to the following provisions:

3 (A) A medical service provider who is not qualified to be an attending physician may provide  
4 compensable medical service to an injured worker for a period of 30 days from the date of injury  
5 or occupational disease or for 12 visits, whichever first occurs, without the authorization of an at-  
6 tending physician. Thereafter, medical service provided to an injured worker without the written  
7 authorization of an attending physician is not compensable.

8 (B) A medical service provider who is not an attending physician cannot authorize the payment  
9 of temporary disability compensation. Except as otherwise provided in this chapter, only the at-  
10 tending physician at the time of claim closure may make findings regarding the worker's impairment  
11 for the purpose of evaluating the worker's disability.

12 (C) Notwithstanding subparagraphs (A) and (B) of this paragraph, a nurse practitioner licensed  
13 under ORS 678.375 to 678.390 **or a doctor or physician licensed by the State Board of**  
14 **Chiropractic Examiners or a similarly licensed doctor or physician in any country or any**  
15 **state, territory or possession of the United States** may:

16 (i) Provide compensable medical services for 90 days, **or longer if preauthorized by the**  
17 **insurer or self-insured employer**, from the date of the first visit on the claim;

18 (ii) Authorize the payment of temporary disability benefits for a period not to exceed 60 days  
19 from the date of the first visit on the initial claim; and

20 (iii) When an injured worker treating with a nurse practitioner authorized to provide  
21 compensable services under this section becomes medically stationary within the 90-day period in  
22 which the nurse practitioner is authorized to treat the injured worker, shall refer the injured worker  
23 to a physician qualified to be an attending physician as defined in ORS 656.005 for the purpose of  
24 making findings regarding the worker's impairment for the purpose of evaluating the worker's disa-  
25 bility. If a worker returns to the nurse practitioner after initial claim closure for evaluation of a  
26 possible worsening of the worker's condition, the nurse practitioner shall refer the worker to an  
27 attending physician and the insurer shall compensate the nurse practitioner for the examination  
28 performed.

29 (3) Notwithstanding any other provision of this chapter, the director, by rule, upon the advice  
30 of the committee created by ORS 656.794 and upon the advice of the professional licensing boards  
31 of practitioners affected by the rule, may exclude from compensability any medical treatment the  
32 director finds to be unscientific, unproven, outmoded or experimental. The decision of the director  
33 is subject to review under ORS 656.704.

34 (4) Notwithstanding subsection (2)(a) of this section, when a self-insured employer or the insurer  
35 of an employer contracts with a managed care organization certified pursuant to ORS 656.260 for  
36 medical services required by this chapter to be provided to injured workers:

37 (a) Those workers who are subject to the contract shall receive medical services in the manner  
38 prescribed in the contract. Workers subject to the contract include those who are receiving medical  
39 treatment for an accepted compensable injury or occupational disease, regardless of the date of in-  
40 jury or medically stationary status, on or after the effective date of the contract. If the managed  
41 care organization determines that the change in provider would be medically detrimental to the  
42 worker, the worker shall not become subject to the contract until the worker is found to be med-  
43 ically stationary, the worker changes physicians or nurse practitioners, or the managed care or-  
44 ganization determines that the change in provider is no longer medically detrimental, whichever  
45 event first occurs. A worker becomes subject to the contract upon the worker's receipt of actual

1 notice of the worker's enrollment in the managed care organization, or upon the third day after the  
2 notice was sent by regular mail by the insurer or self-insured employer, whichever event first oc-  
3 curs. A worker shall not be subject to a contract after it expires or terminates without renewal. A  
4 worker may continue to treat with the attending physician or nurse practitioner authorized to pro-  
5 vide compensable medical services under this section under an expired or terminated managed care  
6 organization contract if the physician or nurse practitioner agrees to comply with the rules, terms  
7 and conditions regarding services performed under any subsequent managed care organization con-  
8 tract to which the worker is subject. A worker shall not be subject to a contract if the worker's  
9 primary residence is more than 100 miles outside the managed care organization's certified ge-  
10 ographical area. Each such contract must comply with the certification standards provided in ORS  
11 656.260. However, a worker may receive immediate emergency medical treatment that is  
12 compensable from a medical service provider who is not a member of the managed care organization.  
13 Insurers or self-insured employers who contract with a managed care organization for medical ser-  
14 vices shall give notice to the workers of eligible medical service providers and such other informa-  
15 tion regarding the contract and manner of receiving medical services as the director may prescribe.  
16 Notwithstanding any provision of law or rule to the contrary, a worker of a noncomplying employer  
17 is considered to be subject to a contract between the State Accident Insurance Fund Corporation  
18 as a processing agent or the assigned claims agent and a managed care organization.

19 (b)(A) For initial or aggravation claims filed after June 7, 1995, the insurer or self-insured em-  
20 ployer may require an injured worker, on a case-by-case basis, immediately to receive medical ser-  
21 vices from the managed care organization.

22 (B) If the insurer or self-insured employer gives notice that the worker is required to receive  
23 treatment from the managed care organization, the insurer or self-insured employer must guarantee  
24 that any reasonable and necessary services so received, that are not otherwise covered by health  
25 insurance, will be paid as provided in ORS 656.248, even if the claim is denied, until the worker  
26 receives actual notice of the denial or until three days after the denial is mailed, whichever event  
27 first occurs. The worker may elect to receive care from a primary care physician or nurse practi-  
28 tioner authorized to provide compensable medical services under this section who agrees to the  
29 conditions of ORS 656.260 (4)(g). However, guarantee of payment is not required by the insurer or  
30 self-insured employer if this election is made.

31 (C) If the insurer or self-insured employer does not give notice that the worker is required to  
32 receive treatment from the managed care organization, the insurer or self-insured employer is under  
33 no obligation to pay for services received by the worker unless the claim is later accepted.

34 (D) If the claim is denied, the worker may receive medical services after the date of denial from  
35 sources other than the managed care organization until the denial is reversed. Reasonable and  
36 necessary medical services received from sources other than the managed care organization after  
37 the date of claim denial must be paid as provided in ORS 656.248 by the insurer or self-insured em-  
38 ployer if the claim is finally determined to be compensable.

39 (5) Notwithstanding any other provision of this chapter, the director, by rule, shall authorize  
40 physician assistants licensed by the Board of Medical Examiners for the State of Oregon who prac-  
41 tice in areas served by Type A or Type B rural hospitals described in ORS 442.470 to authorize the  
42 payment of temporary disability compensation for injured workers for a period not to exceed 30 days  
43 from the date of the first visit on the claim. In addition, the director, by rule, may authorize such  
44 assistants who practice in areas served by a Type C rural hospital described in ORS 442.470 to au-  
45 thorize such payment.

1 (6) A nurse practitioner licensed under ORS 678.375 to 678.390 who is not a member of the  
2 managed care organization, is authorized to provide the same level of services as a primary care  
3 physician as established by ORS 656.260 (4), if at the time the worker is enrolled in the managed  
4 care organization, the nurse practitioner maintains the worker's medical records and with whom the  
5 worker has a documented history of treatment, if that nurse practitioner agrees to refer the worker  
6 to the managed care organization for any specialized treatment, including physical therapy, to be  
7 furnished by another provider that the worker may require and if that nurse practitioner agrees to  
8 comply with all the rules, terms and conditions regarding services performed by the managed care  
9 organization.

10 (7) Subject to the provisions of ORS 656.704, if a claim for medical services is disapproved, the  
11 injured worker, insurer or self-insured employer may request administrative review by the director  
12 pursuant to ORS 656.260 or 656.327.

13 **SECTION 4.** ORS 656.245, as amended by section 4, chapter 811, Oregon Laws 2003, and section  
14 4, chapter 26, Oregon Laws 2005, is amended to read:

15 656.245. (1)(a) For every compensable injury, the insurer or the self-insured employer shall cause  
16 to be provided medical services for conditions caused in material part by the injury for such period  
17 as the nature of the injury or the process of the recovery requires, subject to the limitations in ORS  
18 656.225, including such medical services as may be required after a determination of permanent  
19 disability. In addition, for consequential and combined conditions described in ORS 656.005 (7), the  
20 insurer or the self-insured employer shall cause to be provided only those medical services directed  
21 to medical conditions caused in major part by the injury.

22 (b) Compensable medical services shall include medical, surgical, hospital, nursing, ambulances  
23 and other related services, and drugs, medicine, crutches and prosthetic appliances, braces and  
24 supports and where necessary, physical restorative services. A pharmacist or dispensing physician  
25 shall dispense generic drugs to the worker in accordance with ORS 689.515. The duty to provide  
26 such medical services continues for the life of the worker.

27 (c) Notwithstanding any other provision of this chapter, medical services after the worker's  
28 condition is medically stationary are not compensable except for the following:

29 (A) Services provided to a worker who has been determined to be permanently and totally dis-  
30 abled.

31 (B) Prescription medications.

32 (C) Services necessary to administer prescription medication or monitor the administration of  
33 prescription medication.

34 (D) Prosthetic devices, braces and supports.

35 (E) Services necessary to monitor the status, replacement or repair of prosthetic devices, braces  
36 and supports.

37 (F) Services provided pursuant to an accepted claim for aggravation under ORS 656.273.

38 (G) Services provided pursuant to an order issued under ORS 656.278.

39 (H) Services that are necessary to diagnose the worker's condition.

40 (I) Life-preserving modalities similar to insulin therapy, dialysis and transfusions.

41 (J) With the approval of the insurer or self-insured employer, palliative care that the worker's  
42 attending physician referred to in ORS 656.005 (12)(b)(A) prescribes and that is necessary to enable  
43 the worker to continue current employment or a vocational training program. If the insurer or  
44 self-insured employer does not approve, the attending physician or the worker may request approval  
45 from the Director of the Department of Consumer and Business Services for such treatment. The

1 director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327  
 2 (3) to aid in the review of such treatment. The decision of the director is subject to review under  
 3 ORS 656.704.

4 (K) With the approval of the director, curative care arising from a generally recognized, non-  
 5 experimental advance in medical science since the worker's claim was closed that is highly likely  
 6 to improve the worker's condition and that is otherwise justified by the circumstances of the claim.  
 7 The decision of the director is subject to review under ORS 656.704.

8 (L) Curative care provided to a worker to stabilize a temporary and acute waxing and waning  
 9 of symptoms of the worker's condition.

10 (d) When the medically stationary date in a disabling claim is established by the insurer or  
 11 self-insured employer and is not based on the findings of the attending physician, the insurer or  
 12 self-insured employer is responsible for reimbursement to affected medical service providers for  
 13 otherwise compensable services rendered until the insurer or self-insured employer provides written  
 14 notice to the attending physician of the worker's medically stationary status.

15 (e) Except for services provided under a managed care contract, out-of-pocket expense re-  
 16 imbursement to receive care from the attending physician shall not exceed the amount required to  
 17 seek care from an appropriate attending physician of the same specialty who is in a medical com-  
 18 munity geographically closer to the worker's home. For the purposes of this paragraph, all physi-  
 19 cians within a metropolitan area are considered to be part of the same medical community.

20 (2)(a) The worker may choose an attending doctor or physician within the State of Oregon. The  
 21 worker may choose the initial attending physician and may subsequently change attending physician  
 22 two times without approval from the director. If the worker thereafter selects another attending  
 23 physician, the insurer or self-insured employer may require the director's approval of the selection  
 24 and, if requested, the director shall determine with the advice of one or more physicians, whether  
 25 the selection by the worker shall be approved. The decision of the director is subject to review un-  
 26 der ORS 656.704. The worker also may choose an attending doctor or physician in another country  
 27 or in any state or territory or possession of the United States with the prior approval of the insurer  
 28 or self-insured employer.

29 (b) A medical service provider who is not a member of a managed care organization is subject  
 30 to the following provisions:

31 (A) A medical service provider who is not qualified to be an attending physician may provide  
 32 compensable medical service to an injured worker for a period of 30 days from the date of injury  
 33 or occupational disease or for 12 visits, whichever first occurs, without the authorization of an at-  
 34 tending physician. Thereafter, medical service provided to an injured worker without the written  
 35 authorization of an attending physician is not compensable.

36 (B) A medical service provider who is not an attending physician cannot authorize the payment  
 37 of temporary disability compensation. Except as otherwise provided in this chapter, only the at-  
 38 tending physician at the time of claim closure may make findings regarding the worker's impairment  
 39 for the purpose of evaluating the worker's disability.

40 **(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, a doctor or physician**  
 41 **licensed by the State Board of Chiropractic Examiners or a similarly licensed doctor or**  
 42 **physician in any country or any state, territory or possession of the United States may:**

43 **(i) Provide compensable medical services for 24 visits or 90 days from the date of the first**  
 44 **visit on the claim unless preauthorized by the insurer or self-insured employer to provide**  
 45 **additional visits or to provide medical services for a longer period.**

1           **(ii) Authorize the payment of temporary disability benefits for a period not to exceed 60**  
2           **days from the date of the first visit on the initial claim.**

3           (3) Notwithstanding any other provision of this chapter, the director, by rule, upon the advice  
4 of the committee created by ORS 656.794 and upon the advice of the professional licensing boards  
5 of practitioners affected by the rule, may exclude from compensability any medical treatment the  
6 director finds to be unscientific, unproven, outmoded or experimental. The decision of the director  
7 is subject to review under ORS 656.704.

8           (4) Notwithstanding subsection (2)(a) of this section, when a self-insured employer or the insurer  
9 of an employer contracts with a managed care organization certified pursuant to ORS 656.260 for  
10 medical services required by this chapter to be provided to injured workers:

11           (a) Those workers who are subject to the contract shall receive medical services in the manner  
12 prescribed in the contract. Workers subject to the contract include those who are receiving medical  
13 treatment for an accepted compensable injury or occupational disease, regardless of the date of in-  
14 jury or medically stationary status, on or after the effective date of the contract. If the managed  
15 care organization determines that the change in provider would be medically detrimental to the  
16 worker, the worker shall not become subject to the contract until the worker is found to be med-  
17 ically stationary, the worker changes physicians or the managed care organization determines that  
18 the change in provider is no longer medically detrimental, whichever event first occurs. A worker  
19 becomes subject to the contract upon the worker's receipt of actual notice of the worker's enroll-  
20 ment in the managed care organization, or upon the third day after the notice was sent by regular  
21 mail by the insurer or self-insured employer, whichever event first occurs. A worker shall not be  
22 subject to a contract after it expires or terminates without renewal. A worker may continue to treat  
23 with the attending physician under an expired or terminated managed care organization contract if  
24 the physician agrees to comply with the rules, terms and conditions regarding services performed  
25 under any subsequent managed care organization contract to which the worker is subject. A worker  
26 shall not be subject to a contract if the worker's primary residence is more than 100 miles outside  
27 the managed care organization's certified geographical area. Each such contract must comply with  
28 the certification standards provided in ORS 656.260. However, a worker may receive immediate  
29 emergency medical treatment that is compensable from a medical service provider who is not a  
30 member of the managed care organization. Insurers or self-insured employers who contract with a  
31 managed care organization for medical services shall give notice to the workers of eligible medical  
32 service providers and such other information regarding the contract and manner of receiving med-  
33 ical services as the director may prescribe. Notwithstanding any provision of law or rule to the  
34 contrary, a worker of a noncomplying employer is considered to be subject to a contract between  
35 the State Accident Insurance Fund Corporation as a processing agent or the assigned claims agent  
36 and a managed care organization.

37           (b)(A) For initial or aggravation claims filed after June 7, 1995, the insurer or self-insured em-  
38 ployer may require an injured worker, on a case-by-case basis, immediately to receive medical ser-  
39 vices from the managed care organization.

40           (B) If the insurer or self-insured employer gives notice that the worker is required to receive  
41 treatment from the managed care organization, the insurer or self-insured employer must guarantee  
42 that any reasonable and necessary services so received, that are not otherwise covered by health  
43 insurance, will be paid as provided in ORS 656.248, even if the claim is denied, until the worker  
44 receives actual notice of the denial or until three days after the denial is mailed, whichever event  
45 first occurs. The worker may elect to receive care from a primary care physician who agrees to the

1 conditions of ORS 656.260 (4)(g). However, guarantee of payment is not required by the insurer or  
2 self-insured employer if this election is made.

3 (C) If the insurer or self-insured employer does not give notice that the worker is required to  
4 receive treatment from the managed care organization, the insurer or self-insured employer is under  
5 no obligation to pay for services received by the worker unless the claim is later accepted.

6 (D) If the claim is denied, the worker may receive medical services after the date of denial from  
7 sources other than the managed care organization until the denial is reversed. Reasonable and  
8 necessary medical services received from sources other than the managed care organization after  
9 the date of claim denial must be paid as provided in ORS 656.248 by the insurer or self-insured em-  
10 ployer if the claim is finally determined to be compensable.

11 (5) Notwithstanding any other provision of this chapter, the director, by rule, shall authorize  
12 nurse practitioners certified by the Oregon State Board of Nursing and physician assistants licensed  
13 by the Board of Medical Examiners for the State of Oregon who practice in areas served by Type  
14 A or Type B rural hospitals described in ORS 442.470 to authorize the payment of temporary disa-  
15 bility compensation for injured workers for a period not to exceed 30 days from the date of the first  
16 visit on the claim. In addition, the director, by rule, may authorize such practitioners and assistants  
17 who practice in areas served by a Type C rural hospital described in ORS 442.470 to authorize such  
18 payment.

19 (6) Subject to the provisions of ORS 656.704, if a claim for medical services is disapproved, the  
20 injured worker, insurer or self-insured employer may request administrative review by the director  
21 pursuant to ORS 656.260 or 656.327.

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