

House Bill 2240

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Board of Chiropractic Examiners)

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**.

Adds chiropractic physicians and State Board of Chiropractic Examiners to insurance provisions relating to notice of professional negligence claims to health professional regulatory boards and to subsequent actions of boards.

A BILL FOR AN ACT

1
2 Relating to chiropractic physicians; creating new provisions; and amending ORS 742.400.

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

4 **SECTION 1.** ORS 742.400 is amended to read:

5 742.400. (1) As used in this section:

6 (a) "Claim" means a written demand for payment from or on behalf of a covered practitioner for
7 an injury alleged to have been caused by professional negligence that is made in a complaint filed
8 with a court of appropriate jurisdiction.

9 (b) "Covered practitioner" means a **chiropractic physician**, physician, podiatric physician and
10 surgeon, physician assistant, nurse practitioner, optometrist, dentist, dental hygienist or naturopath.

11 (c) "Disposition of a claim" means:

12 (A) A judgment or award against the covered practitioner by a court, a jury or an arbitrator;

13 (B) A withdrawal or dismissal of the claim; or

14 (C) A settlement of the claim.

15 (d) "Reporter" means:

16 (A) A primary insurer;

17 (B) A public body required to defend, save harmless and indemnify an officer, employee or agent
18 of the public body under ORS 30.260 to 30.300;

19 (C) An entity that self-insures or indemnifies for claims alleging professional negligence on the
20 part of a covered practitioner; or

21 (D) A health maintenance organization as defined in ORS 750.005.

22 (2) Within 30 days after receiving notice of a claim, a reporter shall report the claim to the
23 appropriate board, as follows:

24 (a) The Oregon Medical Board if the covered practitioner is a physician, podiatric physician and
25 surgeon or physician assistant;

26 (b) The Oregon State Board of Nursing if the covered practitioner is a nurse practitioner;

27 (c) The Oregon Board of Optometry if the covered practitioner is an optometrist;

28 (d) The Oregon Board of Dentistry if the covered practitioner is a dentist or dental hygienist;

29 [*or*]

30 (e) The Board of Naturopathic Examiners if the covered practitioner is a naturopath[.]; **or**

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 (f) **The State Board of Chiropractic Examiners if the covered practitioner is a**
2 **chiropractic physician.**

3 (3) The report required under subsection (2) of this section shall include:

4 (a) The name of the covered practitioner;

5 (b) The name of the person that filed the claim;

6 (c) The date on which the claim was filed; and

7 (d) The reason or reasons for the claim, except that the report may not disclose any data that
8 is privileged under ORS 41.675.

9 (4) Within 30 days after the date of an action taken in disposition of a claim, a reporter shall
10 notify the appropriate board identified in subsection (2) of this section of the disposition.

11 (5)(a) A board that receives a report of a claim under this section shall publicly post the report
12 on the board's website if the claim results in a judicial finding or admission of liability or a money
13 judgment, award or settlement that involves a payment to the claimant. The board may not publicly
14 post information about claims that did not result in a judicial finding or admission of liability or a
15 money judgment, award or settlement that involves a payment to the claimant but shall make the
16 information available to the public upon request. The board shall remove from the board's website
17 any record based on a reported claim against a covered practitioner if the board does not receive
18 another report of a claim against the practitioner within four years after the date reported under
19 subsection (3)(c) of this section.

20 (b) If a board discloses information about a claim that is the subject of a report received under
21 this section, the board shall indicate in the disclosure whether the claim resulted in a judicial
22 finding or an admission of liability or a money judgment, an award or a settlement that involves a
23 payment to the claimant. A board may not publicly disclose or publish any allegations or factual
24 assertions included in the claim unless the complaint resulted in a judicial finding or an admission
25 of liability or a money judgment, an award or a settlement that involves a payment to the claimant.

26 (c) For purposes of this subsection, "judicial finding" means a finding of liability by a court, a
27 jury or an arbitrator.

28 (6) A board that receives a report under this section shall provide copies of the report to each
29 health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,
30 441.990, 442.342, 442.344 and 442.400 to 442.463 that employs or grants staff privileges to the covered
31 practitioner.

32 (7) A person that reports in good faith concerning any matter required to be reported under this
33 section is immune from civil liability by reason of making the report.

34 **SECTION 2. The amendments to ORS 742.400 by section 1 of this 2009 Act apply to claims**
35 **made on or after the effective date of this 2009 Act.**

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