

Senate Bill 374

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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**.

Extends reinsurance program for medical professional liability insurance policies provided by State Accident Insurance Fund Corporation for one year. Requires Director of Department of Consumer and Business Services to report on performance of program to Seventy-sixth Legislative Assembly.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to reinsurance program for medical professional liability insurance policies provided by
3 State Accident Insurance Fund Corporation; amending sections 1, 2, 14 and 15, chapter 781,
4 Oregon Laws 2003; and declaring an emergency.

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

6 **SECTION 1.** Section 1, chapter 781, Oregon Laws 2003, as amended by section 1, chapter 574,
7 Oregon Laws 2007, is amended to read:

8 **Sec. 1.** (1) The State Accident Insurance Fund Corporation shall establish a reinsurance pro-
9 gram for medical professional liability insurance policies issued by authorized insurers in the cal-
10 endar years 2004, 2005, 2006, 2007, 2008, 2009, 2010 [*and*], 2011 **and 2012** to doctors of medicine and
11 doctors of osteopathy licensed under ORS chapter 677 and nurse practitioners certified by the
12 Oregon State Board of Nursing who:

13 (a) Have a rural practice that meets the criteria established by the Office of Rural Health that
14 applied as of January 1, 2004, for purposes of ORS 315.613, excluding urbanized areas, as defined
15 by the United States Census Bureau according to the most recent federal decennial census, pursuant
16 to the authority of the United States Department of Commerce under 13 U.S.C. 141;

17 (b) Hold an active, unrestricted license to practice medicine or are currently certified as a nurse
18 practitioner;

19 (c) Have an in-force policy of medical professional liability insurance with an authorized insurer
20 with minimum limits of coverage of \$1 million per occurrence and \$1 million aggregate; and

21 (d) Are willing to serve patients with Medicare coverage and patients receiving medical assist-
22 ance provided under Medicaid in at least the same proportion to their total number of patients as
23 the Medicare and Medicaid populations represent to the total number of patients in need of care in
24 the rural areas of the counties in which the doctors or nurse practitioners practice, as determined
25 by the Office of Rural Health. The Office of Rural Health shall establish by rule criteria for and
26 procedures for the annual attestation of compliance by participating doctors and nurse practitioners
27 with the requirements of this paragraph. The requirements of this paragraph do not apply to nurse
28 practitioners participating in the program who are employed by licensed physicians.

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 (2) The reinsurance program established in accordance with this section must be carried out in
2 accordance with the plan approved under section 2, chapter 781, Oregon Laws 2003.

3 (3) The coverage provided under the reinsurance program shall be priced by the State Accident
4 Insurance Fund Corporation, in accordance with rate standards or percentage reductions determined
5 by the Director of the Department of Consumer and Business Services after consultation with the
6 Office of Rural Health, at rates that will significantly reduce premiums for doctors and nurse prac-
7 titioners to whom this section applies so as to make the medical professional liability insurance
8 reasonably affordable.

9 (4)(a) The State Accident Insurance Fund Corporation may provide coverage as authorized in
10 this section on such terms and conditions as the State Accident Insurance Fund Corporation deter-
11 mines to be reasonable, subject to the requirements and other terms of the plan approved under
12 section 2, chapter 781, Oregon Laws 2003.

13 (b) Notwithstanding paragraph (a) of this subsection, the State Accident Insurance Fund Cor-
14 poration must make all reasonable efforts consistent with the goals of sections 1 to 7, 10 to 12 and
15 14, chapter 781, Oregon Laws 2003, to transfer any assumed reinsurance liability.

16 (5) The State Accident Insurance Fund Corporation is not required to provide coverage for risks
17 under this section that exceeds the amount the director is authorized to credit against assessments
18 in section 7, chapter 781, Oregon Laws 2003, but the State Accident Insurance Fund Corporation is
19 liable for all risks that it covers under this section.

20 (6) As used in this section:

21 (a) "Medicaid" means medical assistance provided under 42 U.S.C. 1396a, section 1902 of the
22 Social Security Act.

23 (b) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Secu-
24 rity Amendments of 1965.

25 **SECTION 2.** Section 2, chapter 781, Oregon Laws 2003, as amended by section 2, chapter 574,
26 Oregon Laws 2007, is amended to read:

27 **Sec. 2.** (1) The State Accident Insurance Fund Corporation shall submit to the Director of the
28 Department of Consumer and Business Services and to the Office of Rural Health a plan for carrying
29 out the provisions of section 1, chapter 781, Oregon Laws 2003. The director and the office shall
30 approve the plan following a determination that the plan:

31 (a) Satisfies the purposes of sections 1 to 7, chapter 781, Oregon Laws 2003.

32 (b) Obligates the State Accident Insurance Fund Corporation to carry out the reinsurance pro-
33 gram established under section 1, chapter 781, Oregon Laws 2003, by any appropriate coverage,
34 which may consist of financial reinsurance, on an insurer-to-insurer basis.

35 (c) Provides administrative management for the reinsurance program.

36 (d) Is financially sound.

37 (e) Facilitates payments from the Rural Medical Liability Reinsurance Fund established by sec-
38 tion 5, chapter 781, Oregon Laws 2003, and is otherwise fair and reasonable to the participating
39 primary insurers and their insureds.

40 (f) Establishes appropriate underwriting and rating standards.

41 (g) Minimizes transactional and claim costs for the State Accident Insurance Fund Corporation
42 and for primary users.

43 (h) Is appropriate in relation to the insurance market in this state.

44 (i) Effectively reduces premiums for medical professional liability insurance for doctors and
45 nurse practitioners eligible for coverage under the plan.

1 (2)(a) The plan approved under this section must provide, to the extent funds are available from
2 the credit provided in section 7, chapter 781, Oregon Laws 2003, for the annual assessment owed
3 by the State Accident Insurance Fund Corporation under ORS 656.612, for a reduction in premiums
4 as provided in this subsection for medical professional liability insurance for eligible doctors and
5 nurse practitioners. The reduction of premium shall be:

6 (A) 80 percent for doctors specializing in obstetrics and nurse practitioners certified for
7 obstetric care;

8 (B) 60 percent for doctors specializing in family or general practice who provide obstetrical
9 services;

10 (C) Up to 40 percent for doctors and nurse practitioners engaging in one or more of the fol-
11 lowing practices:

12 (i) Family practice without obstetrics.

13 (ii) General practice.

14 (iii) Internal medicine.

15 (iv) Geriatrics.

16 (v) Pulmonary medicine.

17 (vi) Pediatrics.

18 (vii) General surgery.

19 (viii) Anesthesiology; and

20 (D) Up to the following percentages for doctors and nurse practitioners other than those in-
21 cluded in subparagraph (A), (B) or (C) of this paragraph:

22 (i) 35 percent, for calendar year 2008.

23 (ii) 25 percent, for calendar year 2009.

24 (iii) 15 percent, for calendar year 2010.

25 (iv) 15 percent, for calendar year 2011.

26 (v) **15 percent, for calendar year 2012.**

27 (b) Notwithstanding section 1 (1)(a), chapter 781, Oregon Laws 2003, a doctor who meets all the
28 criteria for eligibility for a reduction in premiums established in section 1 (1)(b), (c) and (d), chapter
29 781, Oregon Laws 2003, who has a rural practice that meets the criteria established by the Office
30 of Rural Health that applied as of January 1, 2004, for the purposes of ORS 315.613, and is located
31 in an urbanized area of Jackson County, as defined by the United States Census Bureau according
32 to the most recent federal decennial census taken pursuant to the authority of the United States
33 Department of Commerce under 13 U.S.C. 141(a), and who specializes in obstetrics is eligible for a
34 reduction in premiums as provided in paragraph (a)(A) of this subsection, and a doctor who spe-
35 cializes in family practice and provides obstetrical services, or in general practice and provides
36 obstetrical services, or a nurse practitioner who is certified in obstetrical care, is eligible for a re-
37 duction in premiums as provided in paragraph (a)(B) of this subsection.

38 (c) If the funds available to provide premium reductions are insufficient to provide the maximum
39 reduction, the plan shall provide for lowering or eliminating the amount provided for premium re-
40 ductions for the doctors and nurse practitioners eligible for a reduction in premiums under para-
41 graph (a)(D) of this subsection. If, after eliminating all premium reductions for the doctors and nurse
42 practitioners eligible for a reduction in premiums under paragraph (a)(D) of this subsection, the re-
43 maining funds are insufficient to provide the maximum reductions provided under the plan, the
44 amounts provided for a reduction in premiums for doctors and nurse practitioners eligible under
45 paragraph (a)(C) of this subsection shall be lowered or eliminated.

1 (d) Premium reductions shall be a percentage of the actual premium charged for medical pro-
 2 fessional liability insurance in the market of authorized insurers for limits purchased of up to \$1
 3 million per occurrence and \$3 million annual aggregate. However, the premium reduction for a
 4 doctor or nurse practitioner referred to in paragraph (a)(C) or (D) of this subsection shall be the
 5 lesser of the percentage of the actual premium or the premium paid by the doctor or nurse practi-
 6 tioner for calendar year 2007. For a doctor or nurse practitioner who first becomes eligible for the
 7 program on or after January 1, 2008, the premium reduction shall be the lesser of the percentage
 8 of either the actual premium or the premium for the first eligibility year determined according to
 9 2007-based rates. When determining the lesser amount under this paragraph, any step increases in
 10 the premium owing to the claims-made nature of the policy may not be considered.

11 (e) Premium reductions shall be effective beginning with the first premium payment in each
 12 calendar year under the reinsurance program.

13 (3) The plan adopted under this section may not obligate the State Accident Insurance Fund
 14 Corporation to provide coverage under section 1, chapter 781, Oregon Laws 2003, at a cost to the
 15 State Accident Insurance Fund Corporation that exceeds an average of \$5 million for each policy
 16 year for which the coverage is provided. The cost to the State Accident Insurance Fund Corporation
 17 shall be the actuarially determined costs of the reinsurance program.

18 **SECTION 3.** Section 14, chapter 781, Oregon Laws 2003, as amended by section 4, chapter 574,
 19 Oregon Laws 2007, is amended to read:

20 **Sec. 14.** (1) The State Accident Insurance Fund Corporation shall continue paying reinsurance
 21 claims incurred or made prior to January 1, [2012] **2013**, from the Rural Medical Liability Reinsur-
 22 ance Fund until the State Accident Insurance Fund Corporation has extinguished its liabilities for
 23 reinsurance issued under section 1, chapter 781, Oregon Laws 2003, by payment of claims or by
 24 purchase of reinsurance. Purchase of reinsurance under this subsection shall be subject to approval
 25 by the Director of the Department of Consumer and Business Services.

26 (2) Sections 1 to 8 and 10 to 12, chapter 781, Oregon Laws 2003, are repealed January 2, 2014.

27 (3) The amendments to ORS 656.632 by section 13, chapter 781, Oregon Laws 2003, become op-
 28 erative January 2, 2014.

29 **SECTION 4.** Section 15, chapter 781, Oregon Laws 2003, as amended by section 5, chapter 574,
 30 Oregon Laws 2007, is amended to read:

31 **Sec. 15.** (1) The Director of the Department of Consumer and Business Services shall report in
 32 the manner provided by ORS 192.245 to the Seventy-fourth [and], Seventy-fifth **and Seventy-sixth**
 33 Legislative Assemblies on the performance of the program established under section 1, chapter 781,
 34 Oregon Laws 2003.

35 (2) The State Accident Insurance Fund Corporation shall provide all data and other information
 36 required by the director to prepare the reports required under this section.

37 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
 38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 39 **on its passage.**