

## SENATE AMENDMENTS TO SENATE BILL 401

By COMMITTEE ON JUDICIARY

May 3

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest of the line and line 3 and  
2 insert “and amending ORS 165.692 and 743.028.”

3 Delete lines 5 through 29 and delete pages 2 through 9 and insert:

4 **“SECTION 1. (1) A person commits the crime of insurance fraud if the person, with in-**  
5 **tent to deceive or to defraud:**

6 **“(a) Provides false material information or makes or causes to be made a material mis-**  
7 **representation in connection with a claim for an insurance benefit, a payment for a loss or**  
8 **a recovery;**

9 **“(b) Fails to decline, refuse or return an insurance benefit, a payment for a loss or a**  
10 **recovery to which the person is not entitled by reason of an insurer’s mistake or other facts**  
11 **or circumstances connected with the person’s claim or the coverage provided by an applica-**  
12 **ble insurance policy;**

13 **“(c) Conceals from or fails to disclose to an insurer the occurrence of an event or the**  
14 **existence of any information that would cause the insurer not to provide an insurance ben-**  
15 **efit, a payment for a loss or a recovery to which the person is not entitled;**

16 **“(d) Obtains or retains an insurance benefit, a payment for a loss or a recovery in an**  
17 **amount greater than that to which the person is entitled under the insurance policy; or**

18 **“(e) Makes or causes to be made during an official proceeding, as defined in ORS 162.105,**  
19 **a false material statement in connection with an insurance claim.**

20 **“(2) Violation of subsection (1) of this section is:**

21 **“(a) A Class B felony if the value of the benefit or the amount paid or to be paid for a**  
22 **loss or recovery is \$10,000 or more.**

23 **“(b) A Class C felony if the value of the benefit or the amount paid or to be paid for a**  
24 **loss or recovery is \$1,000 or more and less than \$10,000.**

25 **“(c) A Class A misdemeanor if the value of the benefit or the amount paid or to be paid**  
26 **for a loss or recovery is less than \$1,000.**

27 **“(3) A court may order a person convicted of the crime of insurance fraud, in addition**  
28 **to and not in lieu of the penalties set forth in subsection (2) of this section, to make**  
29 **restitution to the insurer for the value of any benefit that the person obtained or for the**  
30 **amount paid to the person for a loss or recovery.**

31 **“SECTION 2. A district attorney or the Attorney General may commence a prosecution**  
32 **for violation of section 1 of this 2011 Act.**

33 **“SECTION 3. A prosecuting attorney shall notify the Director of the Department of**  
34 **Consumer and Business Services and any appropriate regulatory body or professional li-**  
35 **censing board of the conviction of a person for violation of section 1 of this 2011 Act.**



1 “(2) [*Knowingly*] Conceals from or fails to disclose to a health care payor the occurrence of any  
2 event or the existence of any information with the intent to obtain a health care payment to which  
3 the person is not entitled, or to obtain or retain a health care payment in an amount greater than  
4 that to which the person is or was entitled[.]; or

5 “(3) **Submits or causes to be submitted a claim for a health care payment for health care**  
6 **services that the person did not use or that were not provided to the person.**

7 “**SECTION 9.** ORS 743.028 is amended to read:

8 “743.028. (1) The Director of the Department of Consumer and Business Services shall prescribe  
9 uniform health insurance claim forms [*which shall*] **that must** be used by all insurers transacting  
10 health insurance in this state and by all state agencies that require health insurance claim forms  
11 for their records.

12 “(2) **All health insurance claim forms prescribed under subsection (1) of this section must**  
13 **contain or have attached to them the following notice prominently displayed in boldfaced**  
14 **type:**

15 “

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17 **NOTICE**

18 **FOR YOUR PROTECTION, OREGON LAW REQUIRES THAT YOU BE INFORMED THAT**  
19 **PRESENTING A FRAUDULENT CLAIM FOR A HEALTH CARE PAYMENT FOR HEALTH**  
20 **CARE SERVICES THAT YOU DID NOT USE OR THAT WERE NOT PROVIDED TO YOU IS**  
21 **A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.**

22 “

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24 “(3) **The absence of the warning described in subsection (2) of this section is not a defense**  
25 **to a charge of making a false claim for a health care payment under ORS 165.692.**

26 “**SECTION 10.** Sections 1 to 5 and 7 of this 2011 Act and the amendments to ORS 165.692  
27 **and 743.028 by sections 8 and 9 of this 2011 Act apply to all insurers in operation on or after**  
28 **the effective date of this 2011 Act and to all applications and claims for insurance, insurance**  
29 **benefits, payments for losses or recoveries and health care payments obtained, provided or**  
30 **delivered, as appropriate, on or after the effective date of this 2011 Act.”.**