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

"SECTION 3. A prosecuting attorney shall notify the Director of the Department of

Consumer and Business Services and any appropriate regulatory body or professional li-

censing board of the conviction of a person for violation of section 1 of this 2011 Act.

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for violation of section 1 of this 2011 Act.

"SECTION 4. (1) An insurer shall have a civil cause of action to recover the value of benefits provided to, or payments or recoveries obtained by, a person convicted of insurance fraud under section 1 of this 2011 Act unless the person convicted has made or has been ordered to make restitution under section 1 (3) of this 2011 Act.

"(2) An insurer, after obtaining a judgment under subsection (1) of this section, shall notify the Department of Consumer and Business Services, the National Association of Insurance Commissioners or the National Insurance Crime Bureau and any appropriate regulatory body or professional licensing board of the judgment obtained.

"SECTION 5. (1) A person may provide information, including a report or oral or written evidence of testimony, concerning insurance fraud that the person reasonably suspects or anticipates or that the person knows has occurred to the Department of Consumer and Business Services, to the National Insurance Crime Bureau, to the National Association of Insurance Commissioners, to a law enforcement agency or to an insurer.

"(2) If a person in good faith provides information in accordance with subsection (1) of this section for the purpose of preventing, investigating or prosecuting insurance fraud, the person is not liable for civil damages as a result of providing the information.

"(3) An insurer that reasonably believes that a person has committed, is committing or is about to commit an act that may constitute the crime of insurance fraud under section 1 of this 2011 Act shall disclose all material information concerning the crime to the National Insurance Crime Bureau or the National Association of Insurance Commissioners and to the Department of Consumer and Business Services. The insurer shall cooperate with the department in any investigation the department or a prosecuting attorney conducts or any prosecution that a prosecuting attorney commences under section 2 of this 2011 Act.

"SECTION 6. Section 7 of this 2011 Act is added to and made a part of the Insurance Code.

"SECTION 7. (1) An insurer, on all insurance policy applications and on all insurance claim forms the insurer issues or provides to an insured, shall attach or incorporate the following notice prominently displayed in boldfaced type:

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NOTICE

FOR YOUR PROTECTION, OREGON LAW REQUIRES THAT YOU BE INFORMED THAT PRESENTING A FRAUDULENT CLAIM FOR AN INSURANCE BENEFIT OR A PAYMENT FOR A LOSS OR A RECOVERY IS A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.

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"(2) The absence of the notice described in subsection (1) of this section is not a defense to a charge of insurance fraud under section 1 of this 2011 Act.

"SECTION 8. ORS 165.692 is amended to read:

"165.692. A person commits the crime of making a false claim for health care payment when the person, with intent to deceive or to defraud:

"(1) [Knowingly] Makes or causes to be made a claim for health care payment that contains any false material statement or [false representation of a material fact] material misrepresentation in order to receive a health care payment; [or]

SA to SB 401 Page 2 "(2) [Knowingly] Conceals from or fails to disclose to a health care payor the occurrence of any event or the existence of any information with the intent to obtain a health care payment to which the person is not entitled, or to obtain or retain a health care payment in an amount greater than that to which the person is or was entitled[.]; or

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

"SECTION 9. ORS 743.028 is amended to read:

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

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

NOTICE

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

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

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

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