

# Senate Bill 86

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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**.

Exempts retainer medical practice from application of Insurance Code if health care provider maintaining practice is certified by Department of Consumer and Business Services to meet specified criteria.

Authorizes department to investigate and take enforcement actions with respect to health care provider maintaining or purporting to maintain retainer medical practice.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to retainer medical practices; creating new provisions; amending ORS 731.036; and declar-  
3 ing an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of the In-**  
6 **urance Code.**

7 **SECTION 2. (1) As used in this section and section 3 of this 2011 Act:**

8 (a) "Health care provider" or "provider" means a person licensed, certified or otherwise  
9 authorized or permitted by laws of this state to provide medical services in the ordinary  
10 course of business or practice of a profession.

11 (b) "Medical services" includes, but is not limited to, one or more of the following:

12 (A) Physician services.

13 (B) Preventive and wellness care.

14 (C) Inpatient hospital and surgical services.

15 (D) Emergency services.

16 (E) Ambulatory care services.

17 (F) Mental health services.

18 (G) Audiology services.

19 (H) Vision services.

20 (I) Dental services.

21 (J) Chiropractic services.

22 (K) Naturopathic services.

23 (L) Laboratory services.

24 (M) Medical equipment and supplies.

25 (N) Prescription drugs.

26 (O) Home health services.

27 (2) Upon the application of a health care provider made in the form and manner pre-  
28 scribed by the Department of Consumer and Business Services, the department may certify

**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 or renew a certification of the provider’s retainer medical practice based upon criteria  
 2 adopted by the department by rule that may include, but are not limited to, the following:

3 (a) The provider contracts directly with a limited number of patients to provide a limited  
 4 set of medical services that are specified in the contract in exchange for the payment of a  
 5 periodic fee by or on behalf of each patient;

6 (b) The provider is financially responsible;

7 (c) The provider has the requisite experience or expertise for the practice;

8 (d) The provider gives the written disclosures described in subsection (3) of this section;

9 (e) The provider does not use or disseminate misleading, deceptive or false statements  
 10 in marketing, advertising, promotional, sales or informational materials regarding the prac-  
 11 tice or in communications with patients or prospective patients; and

12 (f) The provider has not engaged in dishonest, fraudulent or illegal conduct in any busi-  
 13 ness or profession.

14 (3) To maintain a certification as a retainer medical practice, a health care provider must  
 15 make the following written disclosures available to prospective patients in the first content  
 16 page of marketing materials and in the first content page of contracts with patients, in  
 17 12-point font or larger:

18 (a) That the retainer medical practice is not insurance;

19 (b) That the retainer medical practice does not provide comprehensive medical services;

20 (c) That a patient must pay for all services not specified in the contract; and

21 (d) Any other disclosures required by the department by rule.

22 (4) The department may by written order deny, suspend or revoke a retainer medical  
 23 practice certification or may refuse to renew a retainer medical practice certification if the  
 24 department finds that:

25 (a) The health care provider does not meet criteria adopted by the department under  
 26 subsection (2) of this section;

27 (b) The provider has provided false, misleading, incomplete or inaccurate information in  
 28 the application for certification or the application for renewal of a certification;

29 (c) The provider’s license to provide the medical services offered through the retainer  
 30 medical practice is revoked;

31 (d) The provider’s authority to operate a retainer medical practice or similar practice in  
 32 another jurisdiction is denied, suspended, revoked or not renewed;

33 (e) Any other jurisdiction charges the provider with a felony or misdemeanor involving  
 34 dishonesty; or

35 (f) The provider fails to comply with subsection (6) of this section.

36 (5) With respect to a health care provider certified by the department to maintain a  
 37 retainer medical practice, or a health care provider without a certification that is purporting  
 38 to maintain a retainer medical practice, the department is authorized to:

39 (a) Investigate;

40 (b) Subpoena documents and records used by the provider in the practice; and

41 (c) Take any actions necessary for the administration and enforcement of this section.

42 (6) A health care provider subject to an investigation under subsection (5) of this section  
 43 must:

44 (a) Promptly respond to inquiries in the form and manner specified by the department;  
 45 and

1 (b) Reimburse the expenses incurred by the department in conducting the investigation.

2 (7) A health care provider may contest any order made under subsection (4) of this sec-  
3 tion in accordance with ORS chapter 183.

4 (8) A certification issued under subsection (2) of this section is effective for one year or  
5 for a longer period as prescribed by the department by rule.

6 (9) The department may adopt rules necessary or appropriate to implement the pro-  
7 visions of this section.

8 **SECTION 3. A health care provider certified by the Department of Consumer and Busi-  
9 ness Services as a retainer medical practice shall:**

10 (1) Notify the department immediately whenever the provider's license to provide medical  
11 services or authority to operate a retainer medical practice or similar practice is denied,  
12 suspended, revoked or not renewed in this state or in any other jurisdiction.

13 (2) Notify the department no later than 30 days after any change to the name, address  
14 or contact information that is provided in the application for certification under section 2  
15 of this 2011 Act.

16 **SECTION 4.** ORS 731.036 is amended to read:

17 731.036. The Insurance Code does not apply to any of the following to the extent of the subject  
18 matter of the exemption:

19 (1) A bail bondsman, other than a corporate surety and its agents.

20 (2) A fraternal benefit society that has maintained lodges in this state and other states for 50  
21 years prior to January 1, 1961, and for which a certificate of authority was not required on that  
22 date.

23 (3) A religious organization providing insurance benefits only to its employees, *[which]* **if the**  
24 organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal  
25 Revenue Code on September 13, 1975.

26 (4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-  
27 insurance program for tort liability in accordance with ORS 30.282.

28 (5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-  
29 insurance program for property damage in accordance with ORS 30.282.

30 (6) Cities, counties, school districts, community college districts, community college service dis-  
31 tricts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure  
32 for health insurance coverage, excluding disability insurance, their employees or retired employees,  
33 or their dependents, or students engaged in school activities, or combination of employees and de-  
34 pendants, with or without employee or student contributions, if all of the following conditions are  
35 met:

36 (a) The individual or jointly self-insured program meets the following minimum requirements:

37 (A) In the case of a school district, community college district or community college service  
38 district, the number of covered employees and dependents and retired employees and dependents  
39 aggregates at least 500 individuals;

40 (B) In the case of an individual public body program other than a school district, community  
41 college district or community college service district, the number of covered employees and depen-  
42 dents and retired employees and dependents aggregates at least 500 individuals; and

43 (C) In the case of a joint program of two or more public bodies, the number of covered em-  
44 ployees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

45 (b) The individual or jointly self-insured health insurance program includes all coverages and

1 benefits required of group health insurance policies under ORS chapters 743 and 743A;

2 (c) The individual or jointly self-insured program must have program documents that define  
3 program benefits and administration;

4 (d) Enrollees must be provided copies of summary plan descriptions including:

5 (A) Written general information about services provided, access to services, charges and sched-  
6 uling applicable to each enrollee's coverage;

7 (B) The program's grievance and appeal process; and

8 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-  
9 tablished under ORS chapters 743 and 743A;

10 (e) The financial administration of an individual or jointly self-insured program must include the  
11 following requirements:

12 (A) Program contributions and reserves must be held in separate accounts and used for the ex-  
13 clusive benefit of the program;

14 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with  
15 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper  
16 actuarial calculations including the following:

17 (i) Known claims, paid and outstanding;

18 (ii) A history of incurred but not reported claims;

19 (iii) Claims handling expenses;

20 (iv) Unearned contributions; and

21 (v) A claims trend factor; and

22 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-  
23 cordance with the provisions of ORS 742.065 unless the program has received written approval for  
24 an alternative arrangement for protection against economic loss from the Director of the Depart-  
25 ment of Consumer and Business Services;

26 (f) The individual or jointly self-insured program must have sufficient personnel to service the  
27 employee benefit program or must contract with a third party administrator licensed under ORS  
28 chapter 744 as a third party administrator to provide such services;

29 (g) The individual or jointly self-insured program shall be subject to assessment in accordance  
30 with ORS 735.614 [and 743.951] and former enrollees shall be eligible for portability coverage in  
31 accordance with ORS 735.616;

32 (h) The public body, or the program administrator in the case of a joint insurance program of  
33 two or more public bodies, files with the Director of the Department of Consumer and Business  
34 Services copies of all documents creating and governing the program, all forms used to communicate  
35 the coverage to beneficiaries, the schedule of payments established to support the program and,  
36 annually, a financial report showing the total incurred cost of the program for the preceding year.  
37 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing  
38 requirement; and

39 (i) Each public body in a joint insurance program is liable only to its own employees and no  
40 others for benefits under the program in the event, and to the extent, that no further funds, in-  
41 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

42 (7) All ambulance services.

43 (8) A person providing any of the services described in this subsection. The exemption under this  
44 subsection does not apply to an authorized insurer providing such services under an insurance pol-  
45 icy. This subsection applies to the following services:

1 (a) Towing service.

2 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,  
 3 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated  
 4 under its own power.

5 (c) Transportation and arrangements for the transportation of human remains, including all  
 6 necessary and appropriate preparations for and actual transportation provided to return a  
 7 decedent's remains from the decedent's place of death to a location designated by a person with  
 8 valid legal authority under ORS 97.130.

9 (9)(a) A person described in this subsection who, in an agreement to lease or to finance the  
 10 purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in par-  
 11 agraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft  
 12 or other occurrence, as specified in the agreement. The exemption established in this subsection  
 13 applies to the following persons:

14 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-  
 15 stallment contract.

16 (B) The lessor of the motor vehicle.

17 (C) The lender who finances the purchase of the motor vehicle.

18 (D) The assignee of a person described in this paragraph.

19 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,  
 20 between the amount received by the seller, lessor, lender or assignee, as applicable, [*which*] **that**  
 21 represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under  
 22 the agreement.

23 (10) A self-insurance program for tort liability or property damage that is established by two or  
 24 more affordable housing entities and that complies with the same requirements that public bodies  
 25 must meet under ORS 30.282 (6). As used in this subsection:

26 (a) "Affordable housing" means housing projects in which some of the dwelling units may be  
 27 purchased or rented, with or without government assistance, on a basis that is affordable to indi-  
 28 viduals of low income.

29 (b) "Affordable housing entity" means any of the following:

30 (A) A housing authority created under the laws of this state or another jurisdiction and any  
 31 agency or instrumentality of a housing authority, including but not limited to a legal entity created  
 32 to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

33 (B) A nonprofit corporation that is engaged in providing affordable housing.

34 (C) A partnership or limited liability company that is engaged in providing affordable housing  
 35 and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or  
 36 a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or  
 37 nonprofit corporation:

38 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-  
 39 ited liability company;

40 (ii) Has the power to direct the management or policies of the partnership or limited liability  
 41 company;

42 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by  
 43 the partnership or limited liability company; or

44 (iv) Has any other material relationship with the partnership or limited liability company.

45 (11) A community-based health care initiative approved by the Administrator of the Office for

1 Oregon Health Policy and Research under ORS 735.723 operating a community-based health care  
2 improvement program approved by the administrator.

3 **(12) A retainer medical practice that maintains its certification by the Department of**  
4 **Consumer and Business Services under section 2 of this 2011 Act.**

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

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