

# House Bill 2299

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Oregon Optometric Association)

## 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**.

Specifies requirements for reimbursement under vision care plan. Gives vision care provider cause of action against insurer for violation of requirements.

Prohibits vision care providers from charging higher rate for services or materials that are not covered by insurance.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to vision care providers; creating new provisions; amending ORS 683.140; and declaring an  
3 emergency.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Contractual discount” means a percentage reduction, required under a contract with**  
8 **an insurer, in a vision care provider’s usual and customary rate for vision services and ma-**  
9 **terials.**

10 (b) **“Materials” includes:**

11 (A) **Lenses;**

12 (B) **Devices containing lenses;**

13 (C) **Artificial intraocular lenses;**

14 (D) **Ophthalmic frames and other lens mounting apparatuses;**

15 (E) **Prisms;**

16 (F) **Lens treatments and contact lens coatings;**

17 (G) **Prosthetic devices to correct, relieve or treat defects or abnormal conditions of the**  
18 **human eye or adnexa; and**

19 (H) **Other ophthalmic devices.**

20 (c) **“Vision care plan” means a medical expense policy or certificate of insurance that**  
21 **covers only vision care and materials.**

22 (d) **“Vision care provider” includes:**

23 (A) **A person licensed to practice optometry under ORS chapter 683; and**

24 (B) **A physician licensed under ORS chapter 677 to practice medicine or osteopathy who**  
25 **has completed a residency program in ophthalmology.**

26 (2) **An insurer offering a vision care plan may not limit or specify the fee that a vision**  
27 **care provider may charge for services or materials that are not covered by the vision care**  
28 **plan.**

29 (3) **An insurer shall reimburse a vision care provider for covered services and materials**

**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 **at a reasonable rate. An insurer may not promote or advertise a service or material as being**  
2 **a covered service or material if the insurer reimburses for the service or material at a rate**  
3 **that is not reasonable.**

4 **(4) An insurer may not require a vision care provider to be credentialed by the insurer**  
5 **as a condition for entering into a contract with the insurer.**

6 **(5) An insurer may not restrict or limit a vision care provider, directly or indirectly, to**  
7 **specific suppliers of materials or optical laboratories.**

8 **(6) An insurer may not change the terms, the contractual discount, or the reimburse-**  
9 **ment rates, under a vision care plan without a signed acknowledgment that the vision care**  
10 **provider agrees to the changes.**

11 **(7) The term of a contract between an insurer and a vision care provider for the re-**  
12 **imbursement of vision care services and materials may not exceed two years.**

13 **SECTION 3. (1) Any person adversely affected by a violation of section 2 of this 2015 Act**  
14 **may bring an action in an appropriate court to enjoin the violation or to recover actual**  
15 **damages or \$200, whichever is greater. The court or the jury may award punitive damages,**  
16 **and the court may provide such equitable relief as it deems necessary or proper.**

17 **(2) In any action brought by a person under this section, the court may award reasonable**  
18 **attorney fees to the prevailing party.**

19 **(3) Actions brought under this section must be commenced within one year after the date**  
20 **of the injury.**

21 **SECTION 4. ORS 683.140 is amended to read:**

22 **683.140. (1) The Oregon Board of Optometry may discipline as provided in this section any**  
23 **optometrist or person, where appropriate, for the following causes:**

24 **(a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable re-**  
25 **lationship to the duties of an optometrist. The record of conviction, or a certified copy thereof cer-**  
26 **tified by the clerk of the court or by the judge in whose court the conviction is had, shall be**  
27 **conclusive evidence of such conviction.**

28 **(b) Securing a license by practicing fraud or deceit upon the board.**

29 **(c) Unprofessional conduct, or for gross ignorance or inefficiency in the profession.**

30 **(d) Obtaining any fee by fraud or misrepresentation.**

31 **(e) Employing directly or indirectly any suspended or unlicensed optometrist to perform any**  
32 **work covered by ORS 683.010 to 683.340.**

33 **(f) Advertising optometric services or treatment or advice in which untruthful, improbable, mis-**  
34 **leading or deceitful statements are made.**

35 **(g) Impairment as defined in ORS 676.303.**

36 **(h) Permitting another person to use the optometrist's license.**

37 **(i) Using advertisements that do not indicate that a licensed optometrist is practicing at the**  
38 **advertised location or locations or advertising optometric services without having a licensed**  
39 **optometrist at the location or locations.**

40 **(j) Advertising professional methods or professional superiority.**

41 **(k) Failing to comply with the requirements for continuing education.**

42 **(L) Violating the federal Controlled Substances Act.**

43 **(m) Prescribing controlled substances without a legitimate optometric purpose, or without fol-**  
44 **lowing accepted procedures for examination of patients or for record keeping.**

45 **(n) Failing to report to the board any adverse action taken against the optometrist or person**

1 by another licensing jurisdiction, health **professional** regulatory board, peer review body, health  
2 care institution, professional optometric society or association, governmental agency, law enforce-  
3 ment agency or court for acts similar to conduct that would constitute grounds for disciplinary  
4 action as described in this section.

5 (o) Having been disciplined by any health regulatory board of another state based on acts sim-  
6 ilar to acts described in this section. A certified copy of the record of disciplinary action of the  
7 health regulatory board taking the disciplinary action is considered conclusive evidence of the  
8 action.

9 (p) Any violation of the provisions of ORS 683.010 to 683.340.

10 (q) **Charging a patient more than the usual and customary rate for services or materials**  
11 **that are excluded from coverage under a medical expense health insurance policy or certif-**  
12 **icate.**

13 (2) When disciplining an optometrist or other person as authorized by subsection (1) of this  
14 section, the Oregon Board of Optometry may do any or all of the following:

15 (a) Deny an initial license;

16 (b) Revoke, suspend or refuse to renew a license;

17 (c) Place the optometrist on probation;

18 (d) Impose limitations on the optometrist; or

19 (e) Take other disciplinary action as the board in its discretion finds proper, including the as-  
20 sessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil  
21 penalty not to exceed \$10,000 for each violation, or both.

22 **SECTION 5. Section 2 of this 2015 Act applies to contracts between insurers and vision**  
23 **care providers that are entered into or extended on and after the effective date of this 2015**  
24 **Act.**

25 **SECTION 6. This 2015 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
27 **on its passage.**

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