

Senate Bill 792

Sponsored by Senators KRUSE, MONNES ANDERSON; Senator KNOPP, Representatives HUFFMAN, PARRISH

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**.

Limits independent medical examinations in litigation to body part or parts or specific condition in controversy.

Provides that party against whom civil action is filed may only obtain individually identifiable health information that relates to injured body part or parts or specific condition for which damages are claimed.

Provides that physician or psychologist who performs independent medical examination may only use information about examination or individual examined for purposes of litigation for which examination was conducted.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health records; creating new provisions; amending ORCP 44 A and 44 E; and declaring
3 an emergency.

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

5 **SECTION 1.** ORCP 44 A is amended to read:

6 **A Order for examination.** When the mental or physical condition or the blood relationship of a
7 party, or of an agent, employee, or person in the custody or under the legal control of a party (in-
8 cluding the spouse of a party in an action to recover for injury to the spouse), is in controversy, the
9 court may order the party to submit to a physical or mental examination by a physician or a mental
10 examination by a psychologist or to produce for examination the person in such party's custody or
11 legal control. **The court may only order examination of the body part or parts or specific**
12 **condition in controversy.** The order may be made only on motion for good cause shown and upon
13 notice to the person to be examined and to all parties and shall specify the time, place, manner,
14 conditions, and scope of the examination and the person or persons by whom it is to be made.

15 **SECTION 2.** ORCP 44 E is amended to read:

16 **E Access to individually identifiable health information.**

17 **E(1)** Any party against whom a civil action is filed for compensation or damages for injuries
18 may obtain copies of individually identifiable health information as defined in Rule 55 H:

19 **E(1)(a) That is** within the scope of discovery under Rule 36 B; **and**

20 **E(1)(b) That relates to the injured body part or parts or specific condition for which**
21 **damages are claimed.**

22 **E(2)** Individually identifiable health information may be obtained by written patient authori-
23 zation, by an order of the court, or by subpoena in accordance with Rule 55 H.

24 **SECTION 3.** **A physician or psychologist who performs an examination under ORCP 44**
25 **may disclose information about the examination and the person examined only for the pur-**
26 **poses of the litigation for which the examination was conducted.**

27 **SECTION 4.** **(1) Section 3 of this 2015 Act and the amendments to ORCP 44 A by section**

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 **1 of this 2015 Act apply only to examinations conducted under ORCP 44 on or after the ef-**
2 **fective date of this 2015 Act.**

3 **(2) The amendments to ORCP 44 E by section 2 of this 2015 Act apply only to requests**
4 **to obtain individually identifiable health information made on or after the effective date of**
5 **this 2015 Act.**

6 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
8 **on its passage.**

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