SB 1591-2
(LC 118)
2/1/16 (TSB/ps)

Requested by Senator SHIELDS

PROPOSED AMENDMENTS TO
SENATE BILL 1591

On page 1 of the printed bill, line 2, after the semicolon insert "creating new provisions; amending ORS 746.230;".

Delete lines 4 through 28.

Delete page 2 and insert:

"SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS chapter 742.

"SECTION 2. (1) An insurer may not take a position in any action brought on an insurance policy issued in or for delivery in this state that is inconsistent with any written or oral statement or representation the insurer or the insurer's agent made to the Director of the Department of Consumer and Business Services concerning any language in the insurance policy that the insurer or the insurer's agent submitted to the director for approval.

(2) The director shall maintain a record of all written or oral statements or representations an insurer or the insurer's agent makes in connection with any review and approval of language for insurance policies issued in or for delivery in this state. The record is a public record that the director shall make available in accordance with ORS 192.410 to 192.505.

"SECTION 3. ORS 746.230 is amended to read:

"746.230. (1) [*No*] **An** insurer or other person [*shall*] **may not** commit or

perform any of the following unfair claim settlement practices:

"(a) Misrepresenting facts or policy provisions in settling claims;

"(b) Failing to acknowledge and act promptly upon communications relating to claims;

"(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

"(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

"(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

"(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

"(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

"(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

"(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

"(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

"(k) Delaying investigation or payment of claims by requiring a claimant or the claimant's physician, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

"(L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

"(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.

"(2) [*No*] **An** insurer [*shall*] **may not** refuse, without just cause, to pay or settle claims arising under coverages provided by [*its*] **the insurer's** policies with such frequency as to indicate a general business practice in this state[*, which general business practice*] **that** is evidenced by:

"(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

"(b) A substantial increase in the number of lawsuits filed against the insurer or [*its*] **the insurer's** insureds by claimants; or

"(c) Other relevant evidence.

"(3)(a) [*No*] **A** health maintenance organization, as defined in ORS 750.005, [*shall*] **may not** unreasonably withhold the granting of participating provider status from a class of statutorily authorized health care providers for services rendered within the lawful scope of practice if the health care providers are licensed as [*such*] **health care providers** and reimbursement is for services mandated by statute.

"(b) Any health maintenance organization that fails to comply with paragraph (a) of this subsection [*shall be*] **is** subject to discipline under ORS 746.015.

"(c) This subsection does not apply to group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Health Maintenance Organization Act.

"**(4) The department shall provide to any requester information about complaints that the department receives against an insurer for any of the unlawful practices described in this section. Before providing information about complaints that the department receives, the department shall remove any personal information that could identify any individual.**

"SECTION 4. ORS 746.230, as amended by section 6, chapter 59, Oregon Laws 2015, is amended to read:

"746.230. (1) [*No*] **An** insurer or other person [*shall*] **may not** commit or perform any of the following unfair claim settlement practices:

"(a) Misrepresenting facts or policy provisions in settling claims;

"(b) Failing to acknowledge and act promptly upon communications relating to claims;

"(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

"(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

"(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

"(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

"(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

"(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

"(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

"(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

"(k) Delaying investigation or payment of claims by requiring a claimant or the claimant's physician, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

"(L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

"(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.

"(2) [*No*] **An** insurer [*shall*] **may not** refuse, without just cause, to pay or settle claims arising under coverages provided by [*its*] **the insurer's** policies with such frequency as to indicate a general business practice in this state[*, which general business practice*] **that** is evidenced by:

"(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

"(b) A substantial increase in the number of lawsuits filed against the insurer or [*its*] **the insurer's** insureds by claimants; or

"(c) Other relevant evidence.

"**(3) The department shall provide to any requester information about complaints that the department receives against an insurer for any of the unlawful practices described in this section. Before providing information about complaints that the department receives, the department shall remove any personal information that could identify any individual.**

"SECTION 5. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.".
