

House Bill 2625

Sponsored by Representative SCHOUTEN (at the request of Oregon Association of Acupuncturists) (Pre-session filed.)

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**.

Requires insurers to annually increase reimbursement paid to integrative medicine providers based on cost of living increases unless insurers show good cause for not increasing reimbursement.

Authorizes integrative medicine providers to form cooperative or cooperative bargaining association. Exempts from antitrust prohibitions negotiations between integrative medicine provider cooperative and insurers conducted under supervision of Director of Department of Consumer and Business Services or director's designee.

A BILL FOR AN ACT

1
2 Relating to providers of integrative medicine; creating new provisions; and amending ORS 646.740.

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

4 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of the Insurance Code.**

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

6 (a) **"Health benefit plan" has the meaning given that term in ORS 743B.005.**

7 (b) **"Integrative medicine" includes:**

8 (A) **Acupuncture.**

9 (B) **Massage therapy.**

10 (C) **Chiropractic medicine.**

11 (2) **An insurer offering a health benefit plan that covers integrative medicine shall, on**
12 **January 1 of each calendar year, adjust the reimbursement paid to licensed or certified pro-**
13 **viders of integrative medicine to reflect any increase in the cost of living in the prior cal-**
14 **endar year based on the Consumer Price Index for All Urban Consumers, West Region (All**
15 **Items), as published by the Bureau of Labor Statistics of the United States Department of**
16 **Labor.**

17 (3) **An insurer is not required to increase reimbursement under subsection (2) of this**
18 **section if the insurer demonstrates to the Department of Consumer and Business Services,**
19 **in the manner prescribed by the department, that the insurer has good cause for not in-**
20 **creasing the reimbursement. The department shall adopt by rule the circumstances that**
21 **qualify as good cause.**

22 **SECTION 3. The baseline reimbursement to be adjusted by the cost of living on January**
23 **1, 2022, in accordance with section 2 of this 2021 Act, must be no less than the reimburse-**
24 **ment paid by the insurer on January 1, 2021.**

25 **SECTION 4. (1) As used in this section:**

26 (a) **"Insurer" has the meaning given that term in ORS 731.106.**

27 (b) **"Integrative medicine" has the meaning given that term in section 2 of this 2021 Act.**

28 (c) **"Provider" means an individual who is licensed or certified to practice integrative**

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 **medicine in this state.**

2 **(2)(a) The Legislative Assembly declares that it is in the public interest that residents in**
3 **this state have access to the nonpharmacologic therapies for pain management offered by**
4 **integrative medicine providers as an alternative to opioid use.**

5 **(b) The Legislative Assembly finds that:**

6 **(A) Integrative medicine providers in independent practice are constrained in their ability**
7 **to negotiate with insurers that have a stronger bargaining position over the providers in**
8 **setting the amount of reimbursement paid for integrative medicine services.**

9 **(B) As a result of the unequal bargaining power, integrative medicine providers have**
10 **experienced flat or declining reimbursement rates despite the increasing costs of doing**
11 **business.**

12 **(C) Integrative medicine providers are facing financial burdens that threaten to put them**
13 **out of business, reducing access to integrative medicine and nonpharmacologic therapies for**
14 **pain management in this state.**

15 **(3) Integrative medicine providers have the right to form, join and participate in a coop-**
16 **erative or a cooperative bargaining association for the purpose of representation and collec-**
17 **tive bargaining with insurers regarding the reimbursement paid by insurers for integrative**
18 **medicine services as provided in this section.**

19 **(4) It is the intent of this section to displace competition with a regulatory program in**
20 **the health care industry to a limited degree. The regulatory program is intended to grant**
21 **immunity from federal and state antitrust laws to integrative medicine providers and insur-**
22 **ers for the limited purpose of allowing the providers and insurers to bargain collectively and**
23 **to arrive at a negotiated reimbursement rate for integrative medicine services. The activities**
24 **of any person that complies with this section may not be considered to be in restraint of**
25 **trade, a conspiracy or combination or any other unlawful activity in violation of any pro-**
26 **vision of ORS 646.705 to 646.826 or federal antitrust laws.**

27 **(5) A cooperative or cooperative bargaining association of integrative medicine providers**
28 **may negotiate with one or more insurers to establish the reimbursement rate to be paid by**
29 **insurers for integrative medicine services provided by members of the cooperative or coop-**
30 **erative bargaining association. The insurers may negotiate the reimbursement rate for**
31 **integrative medicine services through a committee that sets forth the views of the insurers**
32 **and votes on any issues being negotiated as authorized by this section, including the re-**
33 **imbursement paid for integrative medicine services.**

34 **(6) The Director of the Department of Consumer and Business Services shall actively**
35 **supervise negotiations under subsection (5) of this section, review the reimbursement rates**
36 **established by the negotiations and approve the reimbursement rates proposed by the parties**
37 **before the rates take effect. Proposed reimbursement rates and any adjustments to previ-**
38 **ously approved rates must be approved by the director before the rates or adjustments may**
39 **be implemented.**

40 **(7) The director may compel the parties to take whatever action the director considers**
41 **necessary to:**

42 **(a) Ensure that the parties are engaging in conduct that is authorized under this section;**

43 **(b) Ensure that the public policies of the state expressed in subsection (2) of this section**
44 **are being fulfilled; and**

45 **(c) Enjoin conduct by any of the parties that is not authorized by the director or conduct**

1 **that the director finds does not advance the interests of the state in carrying out the regu-**
 2 **latory program.**

3 **(8) The director may designate employees of the Department of Consumer and Business**
 4 **Services to carry out the responsibility of actively supervising the conduct of the parties,**
 5 **including serving as intermediaries between prospective parties.**

6 **(9) The director may adopt rules to carry out the director's authority under this section.**
 7 **The director by rule shall set and collect fees from the parties who are participants in the**
 8 **regulatory program. The fees shall be deposited into the Consumer and Business Services**
 9 **Fund established under ORS 705.145 to be used for carrying out the purposes of this section.**

10 **SECTION 5.** ORS 646.740 is amended to read:

11 646.740. The provisions of ORS [136.617,] 646.705 to 646.805 and 646.990 may not be construed
 12 to make the following illegal:

13 (1) The activities of any labor organization or individual working men and women permitted by
 14 ORS chapters 661 to 663.

15 (2) The right of producers, as defined in ORS 646.515, and commercial fishermen to join, belong
 16 to and act through cooperative bargaining associations under ORS 646.515 to 646.545. For the
 17 purpose of this subsection, activities of cooperative bargaining associations and their members that
 18 are lawful under 15 U.S.C. 521 and 522 or 7 U.S.C. 291 and 292 are lawful under ORS 646.515 to
 19 646.545.

20 (3) The activities of any person subject to regulation by the Public Utility Commission under
 21 ORS chapters 756 to 759 to the extent that such activities are so regulated and are lawful there-
 22 under or the activities of any person conducted or carried out in accordance with any agreement
 23 or procedure approved as provided in 49 U.S.C. [5b or 5c] **10706.**

24 (4) The activities of any person subject to regulation by the Director of the Department of
 25 Consumer and Business Services under ORS chapters 731 to 750 to the extent that such activities
 26 are so regulated and are lawful thereunder.

27 (5) The activities of any state or national banking institution or savings and loan association,
 28 and of any other lending institution, to the extent that such activities are regulated by the Director
 29 of the Department of Consumer and Business Services under ORS chapters 706 to 725 and are lawful
 30 thereunder.

31 (6) Any other activity specifically authorized under state law or local ordinance.

32 (7) The activities of any metropolitan service district formed under ORS chapter 268 and the
 33 activities of any person subject to regulation by a metropolitan service district formed under ORS
 34 chapter 268 to the extent that those activities are so regulated and are lawful thereunder.

35 (8) The activities of any person conducted or carried out in accordance with the terms and
 36 conditions of a certificate issued pursuant to 15 U.S.C. 4001 to 4021.

37 (9) The activities of a health care provider authorized by and in accordance with ORS 442.700
 38 to 442.760 to the extent the activities are regulated and lawful under ORS 442.700 to 442.760.

39 (10) The negotiating activities of a dealer in agricultural commodities that are carried out and
 40 supervised under ORS 646.737 or 646.738.

41 (11) The negotiating activities of a dealer in Oregon seafood commodities that are carried out
 42 and supervised under ORS 646.739.

43 **(12) The negotiating activities of integrative medicine providers and insurers that are**
 44 **carried out and supervised under section 4 of this 2021 Act.**