



April 17, 2023

TO: Chair Prozanski, Vice-Chair Thatcher, Senate Committee on Judiciary

FROM: Ryan Chieffo, Director of Government and Regulatory Affairs, on behalf of Standard Insurance Company

RE: Opposition to HB 3243

Standard Insurance Company (“The Standard”) is Oregon’s largest headquartered insurance company. We have been an Oregon company since our founding in Portland in 1906. We are one of the largest employers in downtown Portland, serving individuals and businesses in Oregon and across the country and providing life insurance, disability insurance, annuities, and retirement plans. I write on behalf of The Standard to convey our opposition to HB 3243.

Over at least the last seven legislative sessions, the Legislature has rejected bills similar or identical to HB 3243 – bills that would encourage unnecessary and often premature insurance litigation – as bad public policy. This current attempt is more of the same.

This legislation – which has not been requested by Oregon’s well-respected insurance regulator – would make providing insurance and employee benefits more expensive in Oregon. The impacts of the premature and unnecessary litigation would disproportionately impact Oregon-based insurers including The Standard, as we have larger concentrations of Oregon customers than our out of state competitors. And it would provide consumers with confusingly different remedies based on how they get their insurance and the type of employer they work for.

HB 3243 quite simply does not work in conjunction with the existing state and federal regulatory scheme for private sector employee benefits including life, health, dental, vision and disability insurance. It would create competing regulatory schemes and disparate remedies and damages depending on how Oregonians get their insurance policies. The majority of Oregonians get their life, disability and health benefits through their employer, and the majority of those workers are employed by private sector companies. Private sector employee benefits are governed by federal ERISA legislation and rules, meaning that workers with private sector jobs would not fall under the HB 3243 framework at all. This type of “bad faith” litigation was intentionally excluded under ERISA by Congress to encourage employer adoption of affordable benefits coverage for their employees.

ERISA does not govern public employee benefits. One result of HB 3243 would be that Oregonians working for public employers would have different – and excessive in our opinion – remedies than their private sector counterparts. Richer remedies and increased litigation for public employee benefits will lead to higher benefits costs for their public employers.

Further, existing guidance indicates it is likely that at least some claims under Oregon's new Paid Family Medical Leave program will be subject to HB 3243. Those claims, along with claims under health insurance policies, are much more frequent than claims under auto or homeowners' insurance policies, and are the types of claims the existing regulator, the Division of Financial Regulation ("DFR") is well-suited to help consumers with. For Oregon's new PFML program, introducing a new remedy and litigation options outside the framework contemplated in statute could prove costly and is likely not what this Legislature nor the Oregon Employment Department contemplated.

Insurance is a comprehensively regulated industry, and unique in how it is regulated, which is why it is not part of the Unlawful Trade Practices Act. DFR, within the Department of Consumer and Business Services, wields a broad set of laws and regulations to ensure every aspect of the business done by insurers like The Standard is consumer-friendly and compliant. Before an insurance company can do any business in Oregon, DFR must approve it for a license to operate. For Life insurers like The Standard, DFR must review and approve every word and provisions in every insurance policy before those policies can be sold in Oregon. Once operating, DFR regularly examines the market conduct and financial stability of Oregon insurers to ensure they are treating customers fairly, following the law, and are financially able to pay claims. In response to specific concerns or through any of their regular dealings with the insurance companies, DFR investigates potential wrongdoing. And it maintains a group of well-trained advocates assigned to assist consumers in resolving complaints against insurers, at no cost to the consumer. DFR has published statistics that in 2021 it recovered more than \$7.5 million for consumers through this process, and penalized insurers approximately \$3.5 million.

Oregon's comprehensive regulatory framework is capped by DFR's unprecedented authority to protect consumers and penalize insurance companies when those companies violate laws and regulations. DFR's already-strong enforcement structure was made more robust in 2013 when, in response to a proposal similar to HB 3243, the Legislature passed a compromise bill negotiated between advocates, DFR, and industry, including The Standard. That bill created ORS § 731.256, which gave DFR unique authority to order insurance companies to pay restitution, claims, and any other equitable relief DFR deems appropriate – authority that continues to be available to Oregonians at no cost.

Lastly, under existing law, Oregon insurance consumers already have litigation options available to them. Oregon insurance consumers can and do regularly sue their insurers to resolve disputes around their policy coverage and claims.

This bill is an overly broad solution in search of a problem. As the Legislature has determined every other time this concept has been brought forward, this is bad policy that will increase the cost of providing employee benefits. Oregonians are already protected by a strong regulator with significant authority to avoid harm coming to consumers and to punish companies that cause harm. I urge you to vote "NO."

Thank you.