

House Bill 3964

Sponsored by Representative EVANS, Senator PATTERSON

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes a process for some health insurers and some health providers to choose to mediate and arbitrate when they are not able to agree on a new contract. Tells the Governor to make the final decision and permits penalties. (Flesch Readability Score: 60.1).

Establishes a voluntary mediation and arbitration process that certain health insurers and providers may participate in if the insurer and provider are unable to reach an agreement during a contract renewal negotiation. Establishes that the Governor, or a designee, shall issue a final determination in the arbitration process and may impose penalties for failure to comply.

A BILL FOR AN ACT

1
2 Relating to health insurance contract negotiations.

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

4 Whereas Oregon is facing a health care crisis that is affecting Oregonians' ability to access and
5 receive affordable health care; and

6 Whereas the for-profit nature of the commercial health care market has resulted in an inade-
7 quate number of providers available to meet the health care needs of Oregonians; and

8 Whereas it is in the public interest that health insurers and health care providers negotiate in
9 good faith to ensure health care services remain available and affordable for all; now, therefore,

10 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of the Insurance Code.**

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

12 (a) "Health insurer" means an insurer that contracts with a provider to provide covered
13 services under a policy or certificate of health insurance.

14 (b) "Provider" means a person or entity that contracts with a health insurer for the
15 provision of covered health care services under a policy or certificate of health insurance.

16 (2) When a provider and a health insurer negotiate the renewal of a contract that will
17 affect the health care of more than 30,000 Oregonians, the provider and the health insurer
18 may agree to participate in the mediation and binding arbitration process described in this
19 section if:

20 (a) The provider and health insurer agree that there is an impasse in negotiations; and

21 (b) The provider and health insurer both agree, in writing, to engage in good faith in the
22 mediation and binding arbitration process described in this section, including the payment
23 of any penalties.

24 (3) The mediation and arbitration process shall be as follows:

25 (a) Upon written agreement to enter the mediation and binding arbitration process de-
26 scribed in this subsection, the parties shall participate in a 15-day cooling off period.

27 (b) During the cooling off period described in paragraph (a) of this subsection, the pro-
28 vider and the health insurer shall choose a mediator, who must be a senior judge in good

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 standing or a qualified legal practitioner with extensive experience in health insurance and
 2 mediation. If the parties cannot agree on a mediator within 10 days, they shall each submit
 3 three names to the Governor during the cooling off period described in paragraph (a) of this
 4 subsection, and the Governor shall select a mediator from the proposed choices.

5 (c) The provider and the health insurer shall engage in mediation for up to 120 days, or
 6 until the mediator declares an impasse.

7 (d) If the parties do not reach an agreement through mediation under paragraph (c) of
 8 this subsection, the parties shall participate in a second 15-day cooling off period during
 9 which both parties shall develop a final offer to present at arbitration.

10 (e) Following the end of the cooling off period described in paragraph (d) of this sub-
 11 section, the provider and the health insurer shall participate in arbitration with the Gover-
 12 nor or a designee of the Governor. The Governor, or the Governor's designee, shall issue a
 13 final determination within five days of the conclusion of arbitration.

14 (f)(A) The final determination issued under paragraph (e) of this subsection shall set
 15 forth the terms of the contract and the amount each party shall pay for mediation and ar-
 16 bitration.

17 (B) Notwithstanding subparagraph (A) of this paragraph, if either the provider or the
 18 health insurer fails to implement the final determination issued by the Governor under par-
 19 agraph (e) of this subsection, that party shall pay the full cost of mediation and arbitration.

20 (4) In addition to payment for mediation and arbitration as described in subsection (3)(f)
 21 of this section, the arbitrator may also order either party that fails to comply with the final
 22 determination to forfeit and pay to the General Fund of the State Treasury a civil penalty
 23 in an amount determined by the arbitrator that does not exceed \$10,000 plus an additional
 24 \$1,000 per day for each day the party fails to implement the final determination. This penalty
 25 shall be imposed in accordance with the penalties described in ORS 731.988.

26