

## Chapter 741

### Accident and Health Insurance

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#### CROSS REFERENCES

Hospital liens, 87.555  
Insurance law generally, Ch. 736  
Person causing death or disability not to benefit thereby, 111.060

##### 741.010

Application of General Insurance Law, 736.010  
Classification of insurance for licensing, 736.060

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Capital and surplus requirements, 736.095



**741.010 Companies may be authorized to engage in accident and health insurance business.** Insurance companies may be organized in this state for the purpose of transacting, and foreign and alien companies may be granted permission to transact, the business of writing insurance against bodily injury or death by accident, and against disablement resulting from sickness, and every insurance appertaining thereto, including identification.

**741.020 Exceptions to application of this chapter.** (1) This chapter does not apply to or affect fraternal benefit associations, societies or orders with representative form of government operating on a lodge system or the benefit certificates or policies issued by them.

(2) Nothing in this chapter applies to or affects any general or blanket or group policy of insurance, insuring 25 or more persons, issued to any municipal corporation or department thereof, or to any corporation, copartnership, association, or individual employer, police or fire department, underwriters corps, salvage bureau, or like associations or organizations where the officers, members or employees or classes or departments thereof are insured against specified accidental bodily injuries or diseases while exposed to the hazards of the occupation or otherwise for a premium intended to cover the risks of all the persons insured under such policy.

(3) Nothing in this chapter applies to or affects contracts of life insurance or contracts supplemental thereto which contain provisions intended to safeguard such life insurance against lapse or that provide a special surrender value therefor in the event that the insured thereunder, by reason of accidental bodily injury or disease, is unable to continue the premium payments thereon.

**741.030 Capital and surplus requirements.** (1) Any company applying for authority to transact the business described in ORS 741.010 shall show to the satisfaction of the State Insurance Commissioner:

(a) If a foreign corporation, that it is possessed of a paid-up capital or maintains a deposit capital in the United States over all liabilities therein for the benefit of all policyholders in the United States of not less than \$200,000 and a surplus of not less than \$100,000; or

(b) If a domestic company, that it is possessed of a paid-up capital of not less than \$100,000 and a surplus of \$50,000 or more;

and is in compliance with the requirements of the laws of this state relating to such paid-up capital and the investments of such companies, excepting life insurance companies now doing business under ORS 739.105 and life insurance companies transacting their business upon the mutual plan and possessing assets amounting to \$1,000,000 or more and a surplus over all liabilities of \$100,000 or more.

(2) The foregoing and no other shall be the sole qualifications as to capital for such companies.

**741.040 Issuance and suspension or revocation of certificates of authority.** (1) If the applicant company has furnished evidence of its authority to transact such insurance as it requests permission to do in this state and has complied with all requirements of the law and of the Department of Insurance of the State of Oregon, the State Insurance Commissioner shall issue his certificate of authority to such company, specifying the class or classes of disability insurance which it may transact under such authorization, such certificate to continue in full force and effect until suspended or revoked by the commissioner.

(2) The certificate of authority granted to such company may be suspended at any time by the commissioner on receipt of satisfactory evidence that the company or its agents are transgressing the laws of the state, or that the company is financially impaired or that the acts of the company or its agents are not in conformity with the insurance laws. Such certificates of authority may also be revoked for the same causes after due notice of complaint has been given and a hearing granted to the company on such complaint.

**741.050 Prerequisites to issuance of policy.** No policy of insurance against loss or damage from disease or by bodily injury by accident, or both, of the assured shall be issued or delivered in this state:

(1) Unless and until a copy of the form thereof and the table or manual of risks of the corporation have been filed at least 30 days with the State Insurance Commissioner, unless before the expiration of the

30 days the commissioner approves the same in writing.

(2) If the commissioner has notified the corporation in writing that, in his opinion and for reasons specified, the form of the policy does not comply with the requirements of the laws of this state. Upon the petition of the corporation the opinion of the commissioner shall be subject to review by any court of competent jurisdiction.

(3) Unless every portion is plainly printed in type not smaller than long primer or 10-point type.

(4) Unless there is printed on the first page thereof and on its filing back in type not smaller than 18-point or great primer, a brief description of the policy, stating the character, assessability and limit of coverage to the extent required by and to the satisfaction of the commissioner as for the public good.

(5) Unless the exceptions are printed with the same prominence as the benefits to which such exceptions apply.

(6) Excepting in the case of limited travel accident policies, unless the applicant for insurance, with each policy issued, personally signs an application requiring the following information:

(a) Name, age, address and occupation.

(b) Other insurance carried, with names of companies and amounts.

(c) Previous record of disability from accident and health.

(d) Whether or not applicant has been refused insurance or has had insurance canceled by any company.

(7) Unless it contains the provision that the initial premium shall be paid to the agent countersigning the policy, who shall be a resident licensed agent residing in the State of Oregon.

(8) Unless it contains in substance the standard provisions set forth in ORS 741.060.

#### **741.060 Standard provisions of policies.**

(1) The standard provisions required by ORS 741.050 to be contained in the policy described therein are as follows:

(a) Contract of insurance. A provision that such policy, with a copy of the application therefor, if any, and of such other papers as may be attached to or indorsed thereon shall constitute the entire contract of insurance except as the same may be affected by any table of rates or classifica-

tions of risks filed by the corporation with the State Insurance Commissioner.

(b) Statements not incorporated in policy. A provision that no statement made by the applicant for insurance, which statement is not incorporated in or indorsed on the policy issued to such applicant, shall avoid the policy or be used in evidence, and no provisions of the charter, constitution or by-laws shall be used in defense of any claims arising under any such policy unless such provisions are incorporated in full in the policy; but this requirement shall not be deemed to apply to the table of rates or manual of classification of risks of any corporation filed with the commissioner prior to the date of the occurrence of the injury or commencement of the sickness for which indemnity is claimed.

(c) Time of notice of claim. A provision that specifies the time within which notice of accident or disability shall be given, which time shall be not less than 20 days from the date of the accident nor less than 10 days from the date of the beginning of the disability from sickness upon which claim is based; provided, however, that in case of accidental death, immediate notice thereof may be required unless the notices herein specified shall be shown not to have been reasonably possible.

(d) Notice of indemnity. A provision that notice of a claim for indemnity shall be deemed sufficient when given to the office or agent of the corporation specified in the policy.

(e) Reinstatement of lapsed policy. A provision that under every such policy, if a past-due premium is accepted by the corporation or by a branch office, or by an authorized agent of the corporation in the city, town or county in which the insured resides, or by the duly authorized agent of the corporation who accepted the last premium on the policy, such acceptance shall reinstate the policy in full as to disability resulting from accidental bodily injuries thereafter sustained, but shall only reinstate the policy as to disability from disease beginning more than 10 days after the date of such acceptance.

(f) Injury after change of occupation. A provision that if the insured is injured or contracts disease after having changed his occupation to one classified by the corporation as more hazardous than that stated in the policy, or while he is doing any act or

thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, the corporation shall pay such proportion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits fixed by the corporation for such more hazardous occupation according to the corporation's rates and classification of risks filed with the commissioner in this state prior to the occurrence of the injury or the commencement of the disease for which indemnity is claimed.

(g) Payment of benefits. A provision that the corporation will pay the benefits promised within 60 days of the receipt by it of due proof of death or disability.

(h) Cancellation of policy. A provision that the policy may be canceled at any time by the corporation by written notice delivered to the insured or mailed to him at his last address as shown by the records of the corporation and the tender of the corporation's check for the unearned portion of the premium, but that such cancellation shall be without prejudice to any claim arising on account of disability commencing prior to the date on which the cancellation takes effect; provided, however, that any such corporation may, at its option, issue a policy noncancelable by it, which policy shall contain a statement to the effect that it is noncancelable for a stated term or noncancelable for any cause except nonpayment of premium by the assured; and provided further, that nothing herein contained shall preclude the issuance by any such corporation of a noncancelable policy containing a provision that it shall terminate upon the assured reaching an age specified therein.

(i) Proof of claims. A provision that no such policy shall limit the time within which proofs of claim shall be furnished to the corporation to a period less than 90 days from the date of death, dismemberment or loss of sight or from the termination of any other disability.

(2) Any such policy may be issued or delivered in this state, which, in the opinion of the commissioner, contains provisions of any one or more of the foregoing requirements more favorable to the policyholder than hereinbefore provided.

**741.070 Provisions authorized in policies issued by foreign companies in Oregon and by Oregon companies without state.** The policies of insurance against accidental in-

jury or disease, of a company not organized under the laws of this state, may contain any provision which the law of the state, territory or district of the United States under which the company is organized prescribes shall be in such policies when issued in this state; and the policies of insurance against accidental injury or disease, of a company organized under the laws of this state, may, when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, notwithstanding anything in this chapter to the contrary.

**741.080 Prohibited provisions; liability of insurers covering same hazard.** No policy insuring against accidental bodily injuries or disease or death shall be issued or delivered in this state, if it contains in substance, any of the following provisions:

(1) Time when suit may be brought. A provision limiting the time within which an action at law or suit in equity may be commenced to less than one year from the date when the final proof of claim is filed with the corporation.

(2) Deductions. A provision authorizing the deduction of any premium or assessment from any indemnity payable under the terms of the policy, except such premium or assessment as may be due or covered by written order or note at the time of payment of the indemnity.

(3) Limiting amount of indemnity. A provision limiting the amount of indemnity to be paid to a sum less than the indemnity as stated in the policy and for which the premium has been paid. However, if the assured carries other insurance covering the same hazard without giving written notice to the companies, corporations or associations issuing the policies, then and in that case each company, corporation or association shall be liable only for such proportionate amount of benefits as the indemnity promised bears to the total amount of indemnity in all the policies covering such hazard and for the return of such part of the premium paid as exceeds the pro rata of the premium for the benefits paid.

**741.090 Validity and construction of policies issued in violation of statute.** A policy issued in violation of this chapter shall be held valid and shall be construed as provided in this chapter; and when any pro-

vision in a policy is in conflict with any provision of this chapter, the rights, duties and obligations of the company and policyholder and the beneficiary shall be governed by the provisions of this chapter.

**741.100 Records to be kept at office of resident agent.** Each company writing accident licensed agent or agents complete maintain at the office or offices of its resident and health insurance in this state shall records of business written in this state.

**741.990 Penalties.** Any company, corporation or association to which this chapter applies, or any officer thereof, which issues or delivers in this state, or to any citizen thereof, any accident or health policy or contract in wilful violation of the provisions of this chapter shall be punished by a fine of not more than \$500 for each offense; and the State Insurance Commissioner may revoke the license of any company or agent thereof which violates any provision of this chapter.