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HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 2144

By: Kannady and **Deck** of the House

and

**Weaver** of the Senate

AS INTRODUCED

An Act relating to insurance; creating the Insurance Consumers Protection Act; providing definitions; creating a statutory cause of action; clarifying determination of reasonableness and necessity; providing who may bring action; declaring certain policy, contract, or plan provisions void; clarifying there is no requirement to exhaust administrative remedies; directing that claimants are entitled to trial by jury; clarifying issues of bad faith are question of fact; creating a statutory cause of action against certain bad faith insurers; clarifying duty of good faith and fair dealing is nondelegable; providing when a cause of action for bad faith shall lie; providing for damages; permitting punitive damages; providing categories; directing jury to base award on certain factors; limiting certain punitive damages; clarifying considerations and defenses; clarifying that causes of actions in act do not limit other actions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1119 of Title 12, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Insurance  
5 Consumers Protection Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1119.1 of Title 12, unless there  
8 is created a duplication in numbering, reads as follows:

9 As used in the Insurance Consumers Protection Act:

10 1. "Bad faith" means conduct of an insurer that violates its  
11 duty or duties of good faith and fair dealing to a first-party  
12 claimant or third-party beneficiary by acts including but not  
13 limited to unreasonably or untimely refusing to pay or tender the  
14 proper benefits for a valid claim under the insurance policy. This  
15 duty of good faith and fair dealing is contained in every insurance  
16 contract and is a nondelegable duty;

17 2. "First-party claimant" means an individual corporation,  
18 association, partnership, or other legal entity asserting an  
19 entitlement to benefits owed directly to or on behalf of an insured  
20 under an insurance policy. First-party claimants include a public  
21 entity that has paid a claim for benefits dues to an insurer's  
22 unreasonable delay or denial of the claim;

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1           3. "Insurance" is a contract whereby one undertakes to  
2 indemnify another or to pay a specified amount upon determinable  
3 contingencies;

4           4. "Insurer" means every person engaged in the business of  
5 making, selling, or binding contracts of insurance or indemnity in  
6 Oklahoma, except for independent insurance agents and captive  
7 insurance agents that market for only one insurer. A nonprofit  
8 hospital service and medical indemnity corporation is an insurer  
9 within the meaning of this act. The term insurer does not include  
10 burial associations;

11           5. "Insured" means a person for whom the insurance policy is  
12 written to protect;

13           6. "Issued in this state" refers to every health and disability  
14 policy, insurance contract, insurance certificate, and insurance  
15 agreement existing, offered, issued, delivered, or renewed in the  
16 State of Oklahoma or providing health or disability benefits to a  
17 resident or domiciliary of the State of Oklahoma and every employee  
18 benefit plan covering a resident or domiciliary of the State of  
19 Oklahoma, whether or not on behalf of an employer located or  
20 domiciled in Oklahoma, on or after January 1, 2005, notwithstanding  
21 any contractual or statutory choice-of-law provision to the  
22 contrary;

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1 7. "Person" means an individual, entity, company, insurer,  
2 association, organization, society, reciprocal or inter-insurance  
3 exchange, partnership, syndicate, business trust, or corporation;

4 8. "Prior authorization" or "pre-authorization" means the  
5 review and approval by the insurer of treatment recommendations from  
6 a health insurance policyholder's physician or the review by the  
7 insured's agent experienced in remedying the type of casualty or  
8 damage at issue; and

9 9. "Third-party beneficiary" means a person that receives  
10 benefits from a contract between two other parties, one of which is  
11 an insurer, even though they are not a party to the contract.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1119.2 of Title 12, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. There is hereby created a statutory cause of action for an  
16 insured under an insurance policy, as a first-party claimant, and  
17 any third-party beneficiary to the contract of insurance between the  
18 insurer and insured, to maintain an action in district court or any  
19 court of competent jurisdiction for the bad faith refusal of or  
20 untimely pre-authorization of benefits, and for payment of such  
21 benefits.

22 B. Provided, however, the recommended treatment for which pre-  
23 authorization or payment of benefits is sought shall be reasonable  
24 and necessary for the person covered by the insurance policy. The

1 | reasonableness and necessity of the recommended treatment shall be  
2 | determined by a jury.

3 | C. Either the first-party claimant or third-party beneficiary  
4 | may prosecute a claim for bad faith created by this act.

5 | D. An insurance policy, insurance contract, or plan that is  
6 | issued in this state shall not contain a provision purporting to  
7 | reserve discretion to the insurer, plan administrator, or claim  
8 | administrator to interpret the terms of the policy, contract, or  
9 | plan or to determine eligibility for benefits. If an insurance  
10 | policy, contract, or plan contains such a provision, the provision  
11 | is void.

12 | E. There is no requirement to exhaust any administrative  
13 | remedies with the Oklahoma Insurance Department before filing an  
14 | action asserting a cause of action for bad faith in a district  
15 | court.

16 | F. A claimant under this section is entitled to a trial by  
17 | jury.

18 | G. The issue of bad faith is always a question of fact which  
19 | must be submitted to a jury pursuant to Section 6 of Article 2 of  
20 | the Oklahoma Constitution.

21 | SECTION 4. NEW LAW A new section of law to be codified  
22 | in the Oklahoma Statutes as Section 1119.3 of Title 12, unless there  
23 | is created a duplication in numbering, reads as follows:

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1 A. There is hereby created a statutory cause of action against  
2 an insurer, except pursuant to an insurance policy providing for  
3 statutory workers' compensation benefits under the Administrative  
4 Workers' Compensation Act in Title 85A of the Oklahoma Statutes or  
5 the Workers' Compensation Code in Title 85 of the Oklahoma Statutes,  
6 if the action or actions of the insurer is in bad faith as defined  
7 by this act.

8 B. There is no requirement to exhaust any administrative  
9 remedies with the Oklahoma Insurance Department before filing an  
10 action asserting a cause of action for bad faith in a district  
11 court.

12 C. A claimant under this section is entitled to a trial by  
13 jury.

14 D. The issue of bad faith is always a question of fact which  
15 must be submitted to a jury.

16 E. The duty of good faith and fair dealing is contained in  
17 every insurance contract and is a nondelegable duty.

18 SECTION 5. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1119.4 of Title 12, unless there  
20 is created a duplication in numbering, reads as follows:

21 A cause of action for bad faith created by this act shall lie  
22 if:

23 1. The insurer was required under the insurance policy to pay  
24 the insured's claim;

1           2. The insurer's refusal to pay the claim was unreasonable or  
2 untimely under the circumstances related to the claim;

3           3. The insurer had no reasonable basis for the refusal, or the  
4 amount it offered to satisfy the claim was unreasonably low; or

5           4. The violation by the insurer of its duty of good faith and  
6 fair dealing was the direct cause of the injury sustained by the  
7 insured.

8           SECTION 6.           NEW LAW           A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1119.5 of Title 12, unless there  
10 is created a duplication in numbering, reads as follows:

11           A. If the insurer violates its duty or duties of good faith and  
12 fair dealing, the amount of damages shall be fixed as the amount of  
13 money that will compensate a first-party claimant or third-party  
14 beneficiary for any loss suffered as a result of the breach of the  
15 duty of good faith and fair dealing.

16           B. In fixing the amount of damages, the jury may consider  
17 financial losses, emotional distress, embarrassment, loss of  
18 reputation, and mental pain and suffering.

19           C. The jury may award punitive damages for the sake of example  
20 and by way of punishing the insurer based upon the following  
21 factors, in accordance with Section 9.1 of Title 23 of the Oklahoma  
22 Statutes:

23           1. The profitability of the misconduct to the insurer;

24           2. The duration of the misconduct and any concealment of it;

1           3. The attitude and conduct of the insurer upon discovery of  
2 the bad faith action; and

3           4. The financial condition of the insurer.

4           D. Category I. Where the jury finds by clear and convincing  
5 evidence that an insurer has recklessly disregarded its duty to deal  
6 fairly and act in good faith with its insured; the jury, in a  
7 separate proceeding conducted after the jury has made such finding  
8 and awarded actual damages, may award punitive damages in an amount  
9 not to exceed the greater of:

10           1. One Hundred Thousand Dollars (\$100,000.00); or

11           2. The amount of the actual damages awarded.

12           E. Category II. Where the jury finds by clear and convincing  
13 evidence that:

14           1. An insurer has acted intentionally and with malice towards  
15 others; or

16           2. An insurer has intentionally and with malice breached its  
17 duty to deal fairly and act in good faith with its insured.

18           The jury, in a separate proceeding conducted after the jury has  
19 made such finding and awarded actual damages, may award punitive  
20 damages in an amount not to exceed the greatest of:

21           a. Five Hundred Thousand Dollars (\$500,000.00),

22           b. twice the amount of actual damages awarded, or  
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1 c. the increased financial benefit derived by the insurer  
2 as a direct result of the conduct causing the injury  
3 to the plaintiff and other persons or entities.

4 F. Category III. Where the jury finds by clear and convincing  
5 evidence that:

6 1. An insurer has acted intentionally and with malice towards  
7 others; or

8 2. An insurer has intentionally and with malice breached its  
9 duty to deal fairly and act in good faith with its insured, and the  
10 court finds, on the record and out of the presence of the jury, that  
11 there is evidence beyond a reasonable doubt that the insurer acted  
12 intentionally and with malice and engaged in conduct life-  
13 threatening to humans, the jury, in a separate proceeding conducted  
14 after the jury has made such finding and awarded actual damages, may  
15 award punitive damages in any amount the jury deems appropriate,  
16 without regard to the limitations set forth in subsections B and C  
17 of this section. Any award of punitive damages under this  
18 subsection awarded in any manner other than as required in this  
19 subsection shall be void and reversible error.

20 G. In determining the amount, if any, of punitive damages to be  
21 awarded under either subsection B, C, or D of this section, the jury  
22 shall make the award based upon the factors set forth in subsection  
23 A of this section.

1 H. Any award of punitive damages under this section awarded in  
2 any manner other than as required in this section shall be void and  
3 reversible error.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1119.6 of Title 12, unless there  
6 is created a duplication in numbering, reads as follows:

7 A cause of action for bad faith as provided for by this act  
8 requires analysis of the insurer's action and not the interpretation  
9 of any health insurance plan or how a health insurance plan relates  
10 to the claim. Any insurance contract issued in this state that  
11 offers health insurance benefits shall not contain a provision  
12 purporting to reserve discretion to the insurer to interpret the  
13 terms of the contract. If an insurance contract contains such a  
14 provision, the provision is void. The interpretation of a health  
15 insurance plan shall not be a defense to a bad faith cause of  
16 action.

17 SECTION 8. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1119.7 of Title 12, unless there  
19 is created a duplication in numbering, reads as follows:

20 The causes of actions authorized in this act are in addition to,  
21 and do not limit or affect, other actions available by statute or  
22 common law, now or in the future. The statutory causes of action  
23 created by this act are in addition to the common law bad faith  
24 causes of action and in no way limit remedies or rights established

1 by common law for the cause of action for breach of the duty of good  
2 faith and fair dealing under Oklahoma law.

3 SECTION 9. This act shall become effective November 1, 2025.  
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY  
6 OVERSIGHT, dated 03/04/2025 - DO PASS, As Coauthored.  
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