



PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 836

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

INSURANCE REGULATION

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FILING CAPTION: Repeal relating to Disclosure of Information about Complaints Regarding Unlawful Claims Settlement Practices

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REPEAL: 836-005-0405

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RULE SUMMARY: Pursuant to ORS 731.264, a complaint made to DCBS against any person regulated by the Insurance Code, and the record of the complaint, is confidential and may not be disclosed except as otherwise provided by law.

The statutory authority for OAR 836-005-0405 expired in 2021. This means that, pursuant to ORS 731.264, DCBS can no longer release these records covered by the rule. Because of this, OAR 836-005-0405 must be repealed to align DCBS rules with applicable law and eliminate the possibility of any confusion regarding the disclosure of insurance complaint records under ORS 731.264.

CHANGES TO RULE:

836-005-0405

~~Disclosure of Information about Complaints Regarding Unlawful Claims Settlement Practices-~~

~~(1) Subject to subsections (2) through (4), the director shall provide to a person who submits a request, records associated with complaints submitted to the director, for which:~~

~~(a) The director has confirmed the complaint to be about an alleged unlawful practice described in ORS 746.230;~~

~~(b) The complaint;~~

~~(A) Has been closed and the complainant has been provided a closing letter; or~~

~~(B) Has been open for more than 120 days;~~

~~(c) The complaint was submitted after January 1, 2017; and~~

~~(d) The complaint was submitted during a period in which disclosure of complaint information was authorized under ORS 731.264(3).~~

~~(2) For each complaint subject to disclosure, the director shall provide:~~

~~(a) The complaint intake form;~~

~~(b) Any narrative description submitted by the complainant with the initial complaint;~~

~~(c) Any request for information submitted by the director to an insurer on behalf of the complainant in order to resolve the complaint; and~~

~~(d) Any closing letter provided to the complainant by the director, which summarizes:~~

~~(A) The complaint;~~

~~(B) Steps the director took to investigate and resolve the complaint; and~~

~~(C) Any findings and conclusions reached by the director.~~

~~(3) Before providing records to a requestor, the director:~~

~~(a) Shall remove any information that could be used to identify any individual;~~

~~(b) Shall remove any information for which disclosure is prohibited under applicable federal or state law;~~

~~(c) May remove any information exempt from public records requests under ORS 192.410 to 192.505; and~~

~~(d) May require the requestor to pay any fees listed in OAR 440-005-0025 and 440-005-0030, unless waived under ORS 192.440.~~

~~(4) The director shall not provide complaint records:~~

~~(a) Unless a request is submitted to the director in writing;~~

~~(b) If a request is made with regard to a particular person, unless the request is made with regard to an insurer; nor~~

~~(c) If the director determines that release of such records would clearly and convincingly cause harm to the public interest in the particular instance. If such a determination is made, the director shall provide to the requestor, a written explanation of why the records will not be disclosed.~~

~~Statutory/Other Authority: ORS 731.264, 2016 Or Laws ch 62 (Enrolled Senate Bill 1591)~~

~~Statutes/Other Implemented: ORS 731.264~~