

# Senate Bill 23

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## 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**.

Establishes Oregon Patient Safety Commission as central agency for collection of data and analyses by patient safety organizations in Oregon. Requires commission to submit biennial general fund budget request to Oregon Department of Administrative Services. Requires commission to analyze statewide patient safety data, to compare statewide data to federal data and to report findings. Authorizes commission to use Department of Revenue Collections Unit to recover unpaid fees. Removes sunset on Oregon Patient Safety Reporting Program.

## A BILL FOR AN ACT

1  
2 Relating to Oregon Patient Safety Commission; creating new provisions; and amending ORS 442.820  
3 and sections 1, 4 and 16, chapter 686, Oregon Laws 2003.

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

5 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of sections**  
6 **1 to 12, chapter 686, Oregon Laws 2003.**

7 **SECTION 2. (1) The Oregon Patient Safety Commission is the central agency in Oregon**  
8 **responsible for the collection of data and analyses produced by all entities in Oregon that are**  
9 **certified by the United States Department of Health and Human Services under 42 U.S.C.**  
10 **299b-24 as patient safety organizations.**

11 **(2) The commission shall incorporate the data and analyses collected under this section**  
12 **in the preparation of reports required by section 4, chapter 686, Oregon Laws 2003.**

13 **SECTION 3. (1) By September 1 of each even-numbered year, the Oregon Patient Safety**  
14 **Commission shall submit to the Oregon Department of Administrative Services a requested**  
15 **amount for a general fund appropriation for the following biennium. The department shall**  
16 **include and submit the funding request to the Legislative Assembly as part of the Governor's**  
17 **biennial budget. Notwithstanding ORS 182.456 to 182.472, any appropriation of general funds**  
18 **shall be subject to review and approval by the Legislative Assembly and to future modifica-**  
19 **tion by the Emergency Board or the Legislative Assembly. Any request approved by the**  
20 **Legislative Assembly shall be appropriated to the department for direct allocation to the**  
21 **commission.**

22 **(2) The commission request for a general fund appropriation shall be prepared as part**  
23 **of and in accordance with the budget process described in ORS 182.462.**

24 **SECTION 4. Section 1, chapter 686, Oregon Laws 2003, is amended to read:**

25 **Sec. 1.** As used in sections 1 to 12, **chapter 686, Oregon Laws 2003** [*of this 2003 Act*]:

26 (1) "Participant" means an entity that reports patient safety data to [*a*] **the Oregon** Patient  
27 Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical  
28 staff member of the entity.

**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.

(2) “Patient safety activities” includes but is not limited to:

(a) The collection and analysis of patient safety data by a participant;

(b) The collection and analysis of patient safety data by the Oregon Patient Safety Commission established in [section 2 of this 2003 Act] **ORS 442.820**;

(c) The utilization of patient safety data by participants;

(d) The utilization of patient safety data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding patient safety data among two or more participants with the intent of making a disclosure to or preparing a report to be submitted to [a] **the** patient safety reporting program.

(3) “Patient safety data” means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a participant for the purpose of reporting patient safety data voluntarily to [a] **the** patient safety reporting program, or that are communicated among two or more participants with the intent of making a disclosure to or preparing a report to be submitted to [a] **the** patient safety reporting program; [or]

**(b) Are collected or prepared by a patient safety organization certified by the United States Department of Health and Human Services under 42 U.S.C. 299b-24; or**

[(b)] (c) Are created by or at the direction of the patient safety reporting program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(4) “Patient safety reporting program” [includes but is not limited to] **means** the Oregon Patient Safety Reporting Program created in section 4, **chapter 686, Oregon Laws 2003**. [of this 2003 Act and any other patient safety reporting program established to improve the safety and quality of patient care.]

(5) “Serious adverse event” means an objective and definable negative consequence of patient care, or the risk thereof, that is unanticipated, usually preventable and results in, or presents a significant risk of, patient death or serious physical injury.

**SECTION 5.** ORS 442.820 is amended to read:

442.820. (1) The Oregon Patient Safety Commission is established as a semi-independent state agency subject to ORS 182.456 to 182.472. The commission shall exercise and carry out all powers, rights and privileges that are expressly conferred upon it, are implied by law or are incident to such powers.

(2) The mission of the commission is to improve patient safety by reducing the risk of serious adverse events occurring in Oregon’s health care system and by encouraging a culture of patient safety in Oregon. To accomplish this mission, the commission shall:

(a) Establish a confidential, voluntary serious adverse event reporting system to identify serious adverse events;

(b) Establish quality improvement techniques to reduce systems’ errors contributing to serious adverse events; and

(c) Disseminate evidence-based prevention practices to improve patient outcomes.

(3) ORS 192.410 to 192.505 do not apply to public records created or maintained by the commission that contain patient safety data or to reports obtained by the program.

1 (4) ORS 192.610 to 192.690 do not apply to portions of a meeting of the Oregon Patient Safety  
 2 Commission Board of Directors, or subcommittees or advisory committees established by the board,  
 3 to consider information that identifies a participant or patient and the written minutes of that por-  
 4 tion of the meeting.

5 **(5) Notwithstanding ORS 182.460, ORS 293.250 applies to the commission for the purpose**  
 6 **of collecting from participants fees established under section 6, chapter 686, Oregon Laws**  
 7 **2003, that are owed to the commission and are past due.**

8 **SECTION 6.** Section 4, chapter 686, Oregon Laws 2003, is amended to read:

9 **Sec. 4.** (1) The Oregon Patient Safety Reporting Program is created in the Oregon Patient  
 10 Safety Commission to develop a serious adverse event reporting system. The program shall include  
 11 but is not limited to:

12 (a) Reporting by participants, in a timely manner and in the form determined by the Oregon  
 13 Patient Safety Commission Board of Directors established in [*section 7 of this 2003 Act*] **ORS**  
 14 **442.830**, of the following:

15 (A) Serious adverse events;

16 (B) Root cause analyses of serious adverse events;

17 (C) Action plans established to prevent similar serious adverse events; and

18 (D) Patient safety plans establishing procedures and protocols.

19 (b) Analyzing reported serious adverse events, root cause analyses and action plans to develop  
 20 and disseminate information to improve the quality of care with respect to patient safety. This in-  
 21 formation shall be made available to participants and shall include but is not limited to:

22 (A) Statistical analyses;

23 (B) Recommendations regarding quality improvement techniques;

24 (C) Recommendations regarding standard protocols; and

25 (D) Recommendations regarding best patient safety practices.

26 (c) Providing technical assistance to participants, including but not limited to recommendations  
 27 and advice regarding methodology, communication, dissemination of information, data collection,  
 28 security and confidentiality.

29 (d) Auditing participant reporting to assess the level of reporting of serious adverse events, root  
 30 cause analyses and action plans.

31 (e) Overseeing action plans to assess whether participants are taking sufficient steps to prevent  
 32 the occurrence of serious adverse events.

33 (f) Creating incentives to improve and reward participation, including but not limited to pro-  
 34 viding:

35 (A) Feedback to participants; and

36 (B) Rewards and recognition to participants.

37 (g) Distributing written reports using aggregate, de-identified data from the program to describe  
 38 statewide serious adverse event patterns and maintaining a website to facilitate public access to  
 39 reports, as well as a list of names of participants. The reports shall include but are not limited to:

40 (A) The types and frequencies of serious adverse events;

41 (B) Yearly serious adverse event totals and trends;

42 (C) Clusters of serious adverse events;

43 (D) Demographics of patients involved in serious adverse events, including the frequency and  
 44 types of serious adverse events associated with language barriers or ethnicity;

45 (E) Systems' factors associated with particular serious adverse events;

1 (F) Interventions to prevent frequent or high severity serious adverse events; *[and]*

2 (G) **Analyses of statewide patient safety data in Oregon and comparisons of that data to**  
 3 **national patient safety data; and**

4 *[(G)]* (H) Appropriate consumer information regarding prevention of serious adverse events.

5 (2) Participation in the program is voluntary. The following entities are eligible to participate:

6 (a) Hospitals as defined in ORS 442.015;

7 (b) Long term care facilities as defined in ORS 442.015;

8 (c) Pharmacies licensed under ORS chapter 689;

9 (d) Ambulatory surgical centers as defined in ORS 442.015;

10 (e) Outpatient renal dialysis facilities as defined in ORS 442.015;

11 (f) Freestanding birthing centers as defined in ORS 442.015; and

12 (g) Independent professional health care societies or associations.

13 (3) Reports or other information developed and disseminated by the program may not contain  
 14 or reveal the name of or other identifiable information with respect to a particular participant pro-  
 15 viding information to the commission for the purposes of sections 1 to 12 *[of this 2003 Act]*, **chapter**  
 16 **686, Oregon Laws 2003**, or to any individual identified in the report or information, and upon whose  
 17 patient safety data, patient safety activities and reports the commission has relied in developing and  
 18 disseminating information pursuant to this section.

19 (4) After a serious adverse event occurs, a participant must provide written notification in a  
 20 timely manner to each patient served by the participant who is affected by the event. Notice pro-  
 21 vided under this subsection may not be construed as an admission of liability in a civil action.

22 **SECTION 7.** Section 16, chapter 686, Oregon Laws 2003, as amended by section 4, chapter 476,  
 23 Oregon Laws 2007, is amended to read:

24 **Sec. 16.** *[Sections 1, 4, 5, 6, 9, 10 and 12]* **Sections 8 and 10**, chapter 686, Oregon Laws 2003,  
 25 *[and section 3 of this 2007 Act]* are repealed on January 2, 2010.