

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Bonamici, Dingfelder, Kruse, Whitsett, Prozanski
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/23, 3/16

WHAT THE MEASURE DOES: Prohibits an insurer from not defending or indemnifying a health care practitioner or health care facility against a claim arising from a malpractice claim or other negligence claim that is based on disclosure to the patient or patient’s family by the health care practitioner or health care facility. Includes licensed providers of ambulatory health care within those entities eligible to participate in the Oregon Patient Safety Reporting Program. Applies to insurance policies issued or renewed on or after the effective date of this measure. Defines “patient’s family.” Prohibits a policy from containing a provision that excludes coverage based on a disclosure. Includes a health care institution or health care facility within the protection offered by the Oregon Patient Safety Reporting Program in that any expression of regret or apology to the patient of patient’s family does not constitute an admission of liability. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- An apology, including an expression of regret or apology does not constitute an admission for any purpose in a civil action, ORS 677.082
- An apology should not allow insurance company to refuse to defend or indemnify

EFFECT OF COMMITTEE AMENDMENT: Defines “patient’s family.” Prohibits a policy from containing a provision that excludes coverage based on a disclosure. Includes a health care institution or health care facility within the protection offered by the Oregon Patient Safety Reporting Program in that any expression of regret or apology to the patient or patient’s family does not constitute an admission of liability.

BACKGROUND: House Bill 2349 (2003) created the Oregon Patient Safety Corporation as an independent public corporation to improve patient safety. It established the Oregon Patient Safety Reporting Program to encourage the reporting of medical mishaps that may or may not be the result of medical error so that these mishaps may be analyzed and prevented in the future.