

**A-Engrossed**  
**Senate Bill 483**

Ordered by the Senate February 19  
Including Senate Amendments dated February 19

Sponsored by Senators KRUSE, PROZANSKI, Representatives GARRETT, CONGER; Senators BATES, STEINER HAYWARD

**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.

Authorizes health care facility, health care provider and patient to file notice of adverse health care incident with Oregon Patient Safety Commission.

Sets forth procedures by which health care facilities, health care providers and patients may engage in discussion and mediation related to adverse health care incidents.

Directs commission to use information received from notices of adverse health care incidents to improve patient outcomes and reduce frequency of adverse health care incidents.

Prohibits insurers from taking certain actions based on notice of adverse health care incident.

Establishes Task Force on Resolution of Adverse Health Care Incidents. Directs task force to report to Legislative Assembly.

Sunset on December 31, 2023.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

Relating to resolution of matters related to health care; creating new provisions; amending ORS 30.278, 31.250 and 743.056; and declaring an emergency.

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

**RESOLUTION OF ADVERSE HEALTH CARE INCIDENTS**

**SECTION 1. Definitions. As used in sections 1 to 10 of this 2013 Act:**

(1) **"Adverse health care incident" means an objective, definable and unanticipated consequence of patient care that is usually preventable and results in the death of or serious physical injury to the patient.**

(2) **"Health care facility" has the meaning given that term in ORS 442.015.**

(3) **"Health care provider" means a person practicing within the scope of the person's license, registration or certification to practice as:**

(a) **A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;**

(b) **An occupational therapist under ORS 675.230 to 675.300;**

(c) **A physician under ORS 677.100 to 677.228;**

(d) **An emergency medical services provider under ORS chapter 682;**

(e) **A podiatric physician and surgeon under ORS 677.820 to 677.840;**

(f) **A registered nurse under ORS 678.010 to 678.410;**

(g) **A dentist under ORS 679.060 to 679.180;**

(h) **A dental hygienist under ORS 680.040 to 680.100;**

**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.

- 1 (i) A denturist under ORS 680.515 to 680.535;
- 2 (j) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
- 3 (k) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
- 4 (L) A chiropractor under ORS 684.040 to 684.105;
- 5 (m) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- 6 (n) A massage therapist under ORS 687.011 to 687.250;
- 7 (o) A direct entry midwife under ORS 687.405 to 687.495;
- 8 (p) A physical therapist under ORS 688.040 to 688.145;
- 9 (q) A medical imaging licensee under ORS 688.445 to 688.525;
- 10 (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;
- 11 (s) A physician assistant under ORS 677.505 to 677.525; or
- 12 (t) A professional counselor or marriage and family therapist under ORS 675.715 to
- 13 675.835.

14 (4) "Patient" means the patient or, if the patient is a minor, is deceased or has been  
15 medically confirmed by the patient's treating physician to be incapable of making decisions  
16 for purposes of sections 1 to 10 of this 2013 Act, the patient's representative as provided in  
17 section 8 of this 2013 Act.

18 **SECTION 2. Notice of adverse health care incident.** (1)(a) When an adverse health care  
19 incident occurs in a health care facility or a location operated by a health care facility, the  
20 health care facility may file a notice of adverse health care incident with the Oregon Patient  
21 Safety Commission in the form and manner provided by the commission by rule.

22 (b) If a health care facility files a notice of adverse health care incident under this sub-  
23 section, the health care facility shall provide a copy of the notice to the patient.

24 (c) A notice filed under this subsection may not include the name of a health care pro-  
25 vider, but the health care facility filing the notice shall notify any health care providers in-  
26 volved in the adverse health care incident of the notice.

27 (2)(a) When an adverse health care incident occurs outside of a health care facility or a  
28 location operated by a health care facility, the health care provider treating the patient or  
29 the employer of the health care provider may file a notice of adverse health care incident  
30 with the commission in the form and manner provided by the commission by rule.

31 (b) If a health care provider or employer files a notice of adverse health care incident  
32 under this subsection, the health care provider or employer shall provide a copy of the notice  
33 to the patient.

34 (c) If an employer files the notice under this subsection, the notice may not include the  
35 name of the health care provider, but the employer shall notify each health care provider  
36 involved in the adverse health care incident of the notice.

37 (3) A patient may file a notice of adverse health care incident with the commission in the  
38 form and manner provided by the commission by rule. When the commission receives a no-  
39 tice of adverse health care incident from a patient under this subsection, the commission  
40 shall notify all health care facilities and health care providers named in the notice within  
41 seven days after receiving the notice.

42 (4) A notice of adverse health care incident filed under this section is not:

43 (a) A written claim or demand for payment.

44 (b) A claim for purposes of ORS 742.400.

45 (5) The filing of a notice of adverse health care incident as provided in this section sat-

1 isfies the notice requirements of ORS 30.275.

2 (6) An inmate as defined in ORS 30.642 may not file a notice of adverse health care inci-  
3 dent under this section.

4 **SECTION 3. Discussion of adverse health care incident.** (1) A health care facility or  
5 health care provider who files or is named in a notice of adverse health care incident filed  
6 under section 2 of this 2013 Act and the patient involved in the incident may engage in a  
7 discussion regarding the incident within the time established by the Oregon Patient Safety  
8 Commission by rule.

9 (2) The health care facility or health care provider who files or is named in the notice  
10 shall notify the patient and all health care facilities and health care providers involved in the  
11 adverse health care incident of the date, time and location of the discussion and shall rea-  
12 sonably accommodate all persons that wish to attend.

13 (3) The patient and the health care facility or health care provider who files or is named  
14 in the notice may include other persons in the discussion.

15 (4) Within the time established by the commission by rule, the health care facility or  
16 health care provider who files or is named in the notice may:

17 (a) Communicate to the patient the steps the health care facility or health care provider  
18 will take to prevent future occurrences of the adverse health care incident; and

19 (b)(A) Determine that no offer of compensation for the adverse health care incident is  
20 warranted and communicate that determination to the patient orally or in writing; or

21 (B) Determine that an offer of compensation for the adverse health care incident is  
22 warranted and extend that offer in writing to the patient.

23 (5) If a health care facility or health care provider makes an offer of compensation under  
24 subsection (4) of this section, the facility or provider shall advise the patient of the patient's  
25 right to seek legal advice before accepting the offer.

26 (6) Except for offers of compensation extended under subsection (4) of this section, dis-  
27 cussions between the health care facility or health care provider and the patient about the  
28 amount of compensation offered under subsection (4) of this section must remain oral.

29 (7) The health care facility or health care provider and the patient may agree to extend  
30 the time limit established by rule of the commission under this section, but a time limit may  
31 not be extended to more than 180 days after the notice of adverse health care incident is filed  
32 under section 2 of this 2013 Act unless the health care facility or health care provider and  
33 the patient also agree to extend the statute of limitations applicable to a negligence claim.

34 (8) If the patient accepts an offer of compensation made under subsection (4) of this  
35 section, the health care facility or health care provider who made the offer shall notify the  
36 commission.

37 (9) The commission shall request a report indicating the status of the matter from the  
38 person that filed the notice of adverse health care incident under section 2 of this 2013 Act  
39 within 180 days after the date the notice was filed. If the matter is not resolved 180 days  
40 after the notice was filed, the commission may request additional reports from the person  
41 that filed the notice as necessary.

42 **SECTION 4. Discussion communications.** (1) As used in this section, "discussion com-  
43 munication" means:

44 (a) All communications, written and oral, that are made in the course of a discussion  
45 under section 3 of this 2013 Act; and

1       **(b) All memoranda, work products, documents and other materials that are prepared for**  
2 **or submitted in the course of or in connection with a discussion under section 3 of this 2013**  
3 **Act.**

4       **(2) Discussion communications and offers of compensation made under section 3 of this**  
5 **2013 Act:**

6       **(a) Do not constitute an admission of liability.**

7       **(b) Are confidential and may not be disclosed.**

8       **(c) Except as provided in subsection (3) of this section, are not admissible as evidence in**  
9 **any subsequent adjudicatory proceeding and may not be disclosed by the parties in any sub-**  
10 **sequent adjudicatory proceeding.**

11       **(3)(a) A party may move the court or other decision maker to admit as evidence in a**  
12 **subsequent adjudicatory proceeding a discussion communication that contradicts a state-**  
13 **ment made during the subsequent adjudicatory proceeding. The court or other decision**  
14 **maker shall allow a discussion communication that contradicts a statement made at a sub-**  
15 **sequent adjudicatory proceeding into evidence only if the discussion communication is ma-**  
16 **terial to the claims presented in the subsequent adjudicatory proceeding.**

17       **(b) A party may not move to admit expressions of regret or apology that are inadmissible**  
18 **under ORS 677.082.**

19       **(4) Communications, memoranda, work products, documents and other materials, other-**  
20 **wise subject to discovery, that were not prepared specifically for use in a discussion under**  
21 **section 3 of this 2013 Act, are not confidential.**

22       **(5) Any communication, memorandum, work product or document that, before its use in**  
23 **a discussion under section 3 of this 2013 Act, was a public record as defined in ORS 192.410**  
24 **remains subject to disclosure to the extent provided by ORS 192.410 to 192.505.**

25       **(6) The limitations on admissibility and disclosure in subsequent adjudicatory proceedings**  
26 **imposed by this section apply to any subsequent judicial proceeding, administrative proceed-**  
27 **ing or arbitration proceeding. The limitations on disclosure imposed by this section include**  
28 **disclosure during any discovery conducted as part of a subsequent adjudicatory proceeding,**  
29 **and a person that is prohibited from disclosing information under the provisions of this**  
30 **section may not be compelled to reveal confidential communications or agreements in any**  
31 **discovery conducted as part of a subsequent adjudicatory proceeding.**

32       **SECTION 5. Mediation.** **(1) If a discussion under section 3 of this 2013 Act does not result**  
33 **in the resolution of an adverse health care incident, the patient and the health care facility**  
34 **or health care provider who files or is named in a notice of adverse health care incident filed**  
35 **under section 2 of this 2013 Act may enter into mediation.**

36       **(2) The Oregon Patient Safety Commission shall develop and maintain a panel of qualified**  
37 **individuals to serve as mediators. The parties, by mutual agreement, may choose any**  
38 **mediator from within or outside the panel.**

39       **(3) The parties shall bear the cost of mediation equally unless otherwise mutually agreed.**

40       **(4) Other persons that may participate in the mediation include, but are not limited to:**

41       **(a) Members of the patient's family, at the discretion of the patient;**

42       **(b) Attorneys for the patient, the health care facility and the health care provider;**

43       **(c) Professional liability insurance carriers;**

44       **(d) Risk management personnel; and**

45       **(e) Any lien holder with an interest in the dispute.**

1 (5) If a health care facility or health care provider makes an offer of compensation as  
2 part of a mediation under this section, the facility or provider shall advise the patient of the  
3 patient's right to seek legal advice before accepting the offer.

4 (6) Mediation under this section is subject to ORS 36.210, 36.220, 36.222, 36.224, 36.226,  
5 36.232, 36.234, 36.236 and 36.238.

6 **SECTION 6. Payment and resolution.** (1) A payment made to a patient under section 3  
7 of this 2013 Act or as a result of a mediation under section 5 of this 2013 Act is not a pay-  
8 ment resulting from a written claim or demand for payment.

9 (2) A health care provider or health care facility may require the patient to execute all  
10 documents and obtain any necessary court approval to resolve an adverse health care inci-  
11 dent. The parties shall negotiate the form of such documents or court approval as necessary.

12 **SECTION 7. Statute of limitations; evidence of offers and payments.** (1) The provisions  
13 of sections 3 and 5 of this 2013 Act relating to discussion and mediation do not prevent a  
14 patient from bringing a civil action for negligence unless the patient signed a release of the  
15 claim.

16 (2) The statute of limitations applicable to a negligence claim is tolled for 180 days, or  
17 another period agreed upon by the patient and the health care facility or health care provider  
18 who files or is named in the notice of adverse health care incident filed under section 2 of  
19 this 2013 Act, from the date the notice is filed.

20 (3) If a civil action based on an adverse health care incident is commenced, the court  
21 shall inform the parties of the opportunity to participate in the notice, discussion and medi-  
22 ation process under sections 2, 3 and 5 of this 2013 Act.

23 (4) Except as provided in section 4 of this 2013 Act, evidence that a party participated  
24 or did not participate in the notice, discussion and mediation process under sections 2, 3 and  
25 5 of this 2013 Act is inadmissible in any adjudicatory proceeding.

26 (5) Evidence of an offer of compensation, and the amount, payment or acceptance of any  
27 compensation, under section 3 or 5 of this 2013 Act is inadmissible in any adjudicatory pro-  
28 ceeding. However, any judgment in favor of the patient must be reduced by the amount of  
29 any compensation paid under sections 3 and 5 of this 2013 Act.

30 **SECTION 8. Patient representatives.** (1) A patient who is a minor, is deceased or has  
31 been medically confirmed by the patient's treating physician to be incapable of making deci-  
32 sions for purposes of sections 1 to 10 of this 2013 Act may be represented for purposes of  
33 sections 1 to 10 of this 2013 Act by the first of the persons, in the following order of priority,  
34 who can be located upon reasonable effort by the health care facility or health care provider  
35 and who is willing to serve as the patient's representative:

36 (a) A guardian of the patient who is authorized to make health care decisions for the  
37 patient.

38 (b) The spouse of the patient.

39 (c) A parent of the patient.

40 (d) A majority of the adult children of the patient who can be located.

41 (e) A majority of the adult siblings of the patient who can be located.

42 (f) An adult friend of the patient.

43 (g) A person, other than a health care provider who files or is named in a notice of ad-  
44 verse health care incident under section 2 of this 2013 Act, appointed by a hospital under  
45 ORS 127.760.

1       (2) The conservator of the patient appointed under ORS chapter 125 may serve as a  
2 patient's representative with the patient's representative designated under subsection (1) of  
3 this section if the conservator's representation is necessary to consider an offer of compen-  
4 sation under section 3 or 5 of this 2013 Act.

5       **SECTION 9. Duties of Oregon Patient Safety Commission.** (1) The Oregon Patient Safety  
6 Commission shall make rules establishing requirements and procedures as necessary to im-  
7 plement sections 1 to 10 of this 2013 Act, including, but not limited to:

8       (a) Procedures for filing a notice of adverse health care incident under section 2 of this  
9 2013 Act and for conducting discussions and mediations under sections 3 and 5 of this 2013  
10 Act.

11       (b) The form of the notice of adverse health care incident under section 2 of this 2013  
12 Act.

13       (2) The commission shall use notices of adverse health care incidents filed under section  
14 2 of this 2013 Act to:

15       (a) Establish quality improvement techniques to reduce patient care errors that con-  
16 tribute to adverse health care incidents.

17       (b) Develop evidence-based prevention practices to improve patient outcomes and dis-  
18 seminate information about those practices.

19       (c) Upon the request of a health care facility or health care provider, assist the facility  
20 or provider in reducing the frequency of a particular adverse health care incident, including,  
21 but not limited to, determining the underlying cause of the incident and providing advice  
22 regarding preventing reoccurrence of the incident.

23       **SECTION 10. Use of information by Oregon Patient Safety Commission.** (1) The Oregon  
24 Patient Safety Commission may disseminate information relating to a notice of adverse  
25 health care incident filed under section 2 of this 2013 Act to the public and to health care  
26 providers and health care facilities not involved in the adverse health care incident as nec-  
27 essary to meet the goals described in section 9 of this 2013 Act. Information disclosed under  
28 this subsection may not identify a health care facility, health care provider or patient in-  
29 volved in the adverse health care incident.

30       (2) The commission may not disclose any information provided pursuant to a discussion  
31 under section 3 of this 2013 Act to a regulatory agency or licensing board.

32       (3) The commission may use and disclose information provided pursuant to a discussion  
33 under section 3 of this 2013 Act as necessary to assist a health care facility or health care  
34 provider involved in an adverse health care incident in determining the cause of and potential  
35 mitigation of the incident. If the commission discloses information under this subsection to  
36 a person not involved in the incident, the information may not identify a health care facility,  
37 health care provider or patient involved in the incident.

38       (4) A regulatory agency, licensing board, health care facility, health insurer or creden-  
39 tialing entity may not ask the commission, a health care facility, a health care provider or  
40 other person whether a facility or provider has filed a notice of adverse health care incident  
41 or use the fact that a notice of adverse health care incident was filed as the basis of disci-  
42 plinary, regulatory, licensure or credentialing action. This subsection does not prevent a  
43 person from using information, if the information is otherwise available, to engage in quality  
44 review of patient care or as the basis of imposing a restriction, limitation, loss or denial of  
45 privileges on a health care provider or other action against a health care provider based on

1 **a finding of medical incompetence, unprofessional conduct, physical incapacity or impair-**  
2 **ment.**

3 **SECTION 11.** ORS 30.278 is amended to read:

4 30.278. (1) When notice is received under ORS 30.275 of a claim of professional negligence  
5 against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the  
6 scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the  
7 person receiving the notice shall report to the appropriate licensing board, in the same manner as  
8 required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers or  
9 self-insured associations.

10 **(2) This section does not apply to a notice of adverse health care incident received under**  
11 **section 2 of this 2013 Act.**

12 **SECTION 12.** ORS 30.278, as amended by section 11 of this 2013 Act, is amended to read:

13 30.278. [(1)] When notice is received under ORS 30.275 of a claim of professional negligence  
14 against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the  
15 scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the  
16 person receiving the notice shall report to the appropriate licensing board, in the same manner as  
17 required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers or  
18 self-insured associations.

19 *[(2) This section does not apply to a notice of adverse health care incident received under section*  
20 *2 of this 2013 Act.]*

21 **SECTION 13.** ORS 31.250 is amended to read:

22 31.250. (1) In any action described in subsection [(5)] **(6)** of this section, all parties to the action  
23 and their attorneys must participate in some form of dispute resolution within 270 days after the  
24 action is filed unless:

25 (a) The action is settled or otherwise resolved within 270 days after the action is filed; or

26 (b) All parties to the action agree in writing to waive dispute resolution under this section.

27 (2) Dispute resolution under this section may consist of arbitration, mediation or a judicial  
28 settlement conference.

29 (3) Within 270 days after filing an action described in subsection [(5)] **(6)** of this section, the  
30 parties or their attorneys must file a certificate indicating that the parties and attorneys have  
31 complied with the requirements of this section.

32 (4) The court may impose appropriate sanctions against any party or attorney who:

33 (a) Fails to attend an arbitration hearing, mediation session or judicial settlement conference  
34 conducted for the purposes of the requirements of this section;

35 (b) Fails to act in good faith in any arbitration, mediation or judicial settlement conference  
36 conducted for the purposes of the requirements of this section;

37 (c) Fails to timely submit any documents required for an arbitration, mediation or judicial  
38 settlement conference conducted for the purposes of the requirements of this section; or

39 (d) Fails to have a person with authority to approve a resolution of the action available at the  
40 time of any arbitration hearing, mediation session or judicial settlement conference conducted for  
41 the purposes of the requirements of this section, unless the party or attorney receives from the  
42 court, before the hearing, session or conference commences, an exemption from the requirements of  
43 this paragraph.

44 **(5) This section does not apply to parties to an action described in subsection (6) of this**  
45 **section that have participated in a discussion and mediation under sections 3 and 5 of this**

1 **2013 Act.**

2 [(5)] (6) The provisions of this section apply to any action in which a claim for damages is made  
3 against a health practitioner, as described in ORS 31.740, or against a health care facility, as defined  
4 in ORS 442.015, based on negligence, unauthorized rendering of health care or product liability un-  
5 der ORS 30.900 to 30.920.

6 **SECTION 14.** ORS 31.250, as amended by section 13 of this 2013 Act, is amended to read:

7 31.250. (1) In any action described in subsection [(6)] (5) of this section, all parties to the action  
8 and their attorneys must participate in some form of dispute resolution within 270 days after the  
9 action is filed unless:

10 (a) The action is settled or otherwise resolved within 270 days after the action is filed; or

11 (b) All parties to the action agree in writing to waive dispute resolution under this section.

12 (2) Dispute resolution under this section may consist of arbitration, mediation or a judicial  
13 settlement conference.

14 (3) Within 270 days after filing an action described in subsection [(6)] (5) of this section, the  
15 parties or their attorneys must file a certificate indicating that the parties and attorneys have  
16 complied with the requirements of this section.

17 (4) The court may impose appropriate sanctions against any party or attorney who:

18 (a) Fails to attend an arbitration hearing, mediation session or judicial settlement conference  
19 conducted for the purposes of the requirements of this section;

20 (b) Fails to act in good faith in any arbitration, mediation or judicial settlement conference  
21 conducted for the purposes of the requirements of this section;

22 (c) Fails to timely submit any documents required for an arbitration, mediation or judicial  
23 settlement conference conducted for the purposes of the requirements of this section; or

24 (d) Fails to have a person with authority to approve a resolution of the action available at the  
25 time of any arbitration hearing, mediation session or judicial settlement conference conducted for  
26 the purposes of the requirements of this section, unless the party or attorney receives from the  
27 court, before the hearing, session or conference commences, an exemption from the requirements of  
28 this paragraph.

29 [(5) This section does not apply to parties to an action described in subsection (6) of this section  
30 that have participated in a discussion and mediation under sections 3 and 5 of this 2013 Act.]

31 [(6)] (5) The provisions of this section apply to any action in which a claim for damages is made  
32 against a health practitioner, as described in ORS 31.740, or against a health care facility, as defined  
33 in ORS 442.015, based on negligence, unauthorized rendering of health care or product liability un-  
34 der ORS 30.900 to 30.920.

35 **SECTION 15.** ORS 743.056 is amended to read:

36 743.056. (1) As used in this section:

37 (a) "Adverse event" means a negative consequence of patient care that is unanticipated, is  
38 usually preventable and results in or presents a significant risk of patient injury.

39 (b) "Claim" means a written demand for restitution for an injury alleged to have been caused  
40 by the medical negligence of a health practitioner or licensed health care facility.

41 (c) "Health practitioner" means a person described in ORS 31.740 (1).

42 (d) "Patient's family" includes:

43 (A) A parent, sibling or child by marriage, blood, adoption or domestic partnership.

44 (B) A foster parent or foster child.

45 (2) An insurer may not decline or refuse to defend or indemnify a health practitioner or a health



1 care facility with respect to a claim, for any reason that is based on:

2 (a) The disclosure to the patient or the patient's family by the health practitioner or facility of  
3 an adverse event or information relating to the cause of an adverse event;

4 (b) **A notice of adverse health care incident filed under section 2 of this 2013 Act; or**

5 (c) **Participation in a discussion or mediation under section 3 or 5 of this 2013 Act.**

6 (3) A policy or contract of insurance or indemnity may not include a provision or term excluding  
7 or limiting coverage based on:

8 (a) The disclosure to a patient or the patient's family by a health practitioner or facility of an  
9 adverse event or information relating to the cause of an adverse event;

10 (b) **A notice of adverse health care incident filed under section 2 of this 2013 Act; or**

11 (c) **Participation in a discussion or mediation under section 3 or 5 of this 2013 Act.**

12 (4) **An insurer may establish requirements and policy provisions for coverage of pay-**  
13 **ments of compensation made under section 3 of this 2013 Act or as a result of a mediation**  
14 **under section 5 of this 2013 Act. Requirements and policy provisions established under this**  
15 **subsection may not be intended to or have the effect of preventing meaningful participation**  
16 **in discussions and mediations under sections 3 and 5 of this 2013 Act.**

17 (5) **An insurer may not provide or be required to provide information related to an ad-**  
18 **verse health care incident as defined in section 1 of this 2013 Act for credentialing purposes.**

19 **SECTION 16.** ORS 743.056, as amended by section 15 of this 2013 Act, is amended to read:

20 743.056. (1) As used in this section:

21 (a) "Adverse event" means a negative consequence of patient care that is unanticipated, is  
22 usually preventable and results in or presents a significant risk of patient injury.

23 (b) "Claim" means a written demand for restitution for an injury alleged to have been caused  
24 by the medical negligence of a health practitioner or licensed health care facility.

25 (c) "Health practitioner" means a person described in ORS 31.740 (1).

26 (d) "Patient's family" includes:

27 (A) A parent, sibling or child by marriage, blood, adoption or domestic partnership.

28 (B) A foster parent or foster child.

29 (2) An insurer may not decline or refuse to defend or indemnify a health practitioner or a health  
30 care facility with respect to a claim, for any reason that is based on[.]

31 [(a)] the disclosure to the patient or the patient's family by the health practitioner or facility  
32 of an adverse event or information relating to the cause of an adverse event[.]

33 [(b) A notice of adverse health care incident filed under section 2 of this 2013 Act; or]

34 [(c) Participation in a discussion or mediation under section 3 or 5 of this 2013 Act].

35 (3) A policy or contract of insurance or indemnity may not include a provision or term excluding  
36 or limiting coverage based on[.]

37 [(a)] the disclosure to a patient or the patient's family by a health practitioner or facility of an  
38 adverse event or information relating to the cause of an adverse event[.]

39 [(b) A notice of adverse health care incident filed under section 2 of this 2013 Act; or]

40 [(c) Participation in a discussion or mediation under section 3 or 5 of this 2013 Act].

41 [(4) An insurer may establish requirements for coverage of payments of compensation made under  
42 section 3 of this 2013 Act or as a result of a mediation under section 5 of this 2013 Act. Requirements  
43 established under this subsection may not be intended to or have the effect of preventing meaningful  
44 participation in discussions and mediations under sections 3 and 5 of this 2013 Act.]

45 [(5) An insurer may not provide or be required to provide information related to an adverse health

1 *care incident as defined in section 1 of this 2013 Act for credentialing purposes.]*  
2

3 **TASK FORCE ON RESOLUTION OF ADVERSE**  
4 **HEALTH CARE INCIDENTS**  
5

6 **SECTION 17. (1) The Task Force on Resolution of Adverse Health Care Incidents is es-**  
7 **tablished, consisting of 14 members appointed as follows:**

8 (a) **The President of the Senate shall appoint two members from among members of the**  
9 **Senate as follows:**

10 (A) **One member from the Democratic party.**

11 (B) **One member from the Republican party.**

12 (b) **The Speaker of the House of Representatives shall appoint two members from among**  
13 **members of the House of Representatives as follows:**

14 (A) **One member from the Democratic party.**

15 (B) **One member from the Republican party.**

16 (c) **The Governor shall appoint 10 members, including:**

17 (A) **At least three members who are physicians licensed under ORS chapter 677 and in**  
18 **active practice;**

19 (B) **At least three members who are trial lawyers;**

20 (C) **One member who is a representative of the hospital industry; and**

21 (D) **One member who is an advocate for patient safety.**

22 (2) **The task force shall:**

23 (a) **Evaluate the implementation and effects of sections 1 to 10 of this 2013 Act; and**

24 (b) **Before December 31 of each year, report to an appropriate committee or interim**  
25 **committee of the Legislative Assembly on the implementation and effects of sections 1 to 10**  
26 **of this 2013 Act.**

27 (3) **The task force may recommend legislation to be introduced to improve the resolution**  
28 **of adverse health care incidents.**

29 (4) **A majority of the voting members of the task force constitutes a quorum for the**  
30 **transaction of business.**

31 (5) **Official action by the task force requires the approval of a majority of the voting**  
32 **members of the task force.**

33 (6) **The Governor shall select one member of the task force to serve as chairperson and**  
34 **another to serve as vice chairperson, for the terms and with the duties and powers necessary**  
35 **for the performance of the functions of such offices as the Governor determines.**

36 (7) **The term of a member of the task force is four years, but a member serves at the**  
37 **pleasure of the appointing authority. A member may be reappointed. Before the expiration**  
38 **of the term of a member, the appointing authority shall appoint a successor or reappoint the**  
39 **member. If there is a vacancy for any cause, the appointing authority shall make an ap-**  
40 **pointment to become immediately effective.**

41 (8) **Members of the Legislative Assembly appointed to the task force are nonvoting**  
42 **members of the task force and may act in an advisory capacity only.**

43 (9) **The task force shall meet at times and places specified by the call of the chairperson**  
44 **or of a majority of the voting members of the task force.**

45 (10) **The task force may adopt rules necessary for the operation of the task force.**

1 (11) The Oregon Patient Safety Commission shall provide staff support to the task force.

2 (12) Members of the task force who are not members of the Legislative Assembly are not  
3 entitled to compensation, but may be reimbursed for actual and necessary travel and other  
4 expenses incurred by them in the performance of their official duties in the manner and  
5 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions  
6 of the task force shall be paid out of funds appropriated to the commission for purposes of  
7 the task force.

8 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist  
9 the task force in the performance of its duties and, to the extent permitted by laws relating  
10 to confidentiality, to furnish such information and advice as the members of the task force  
11 consider necessary to perform their duties.

12 **SECTION 18.** On or before October 1, 2018, the Task Force on Resolution of Adverse  
13 Health Care Incidents shall report to an appropriate committee or interim committee of the  
14 Legislative Assembly. The report must evaluate whether any improvements to the process  
15 are necessary.

16 **SECTION 19.** Notwithstanding the terms of office specified in section 17 of this 2013 Act,  
17 of the members first appointed by the Governor to the Task Force on Resolution of Adverse  
18 Health Care Incidents:

19 (1) Three shall serve for a term ending June 30, 2014.

20 (2) Four shall serve for a term ending June 30, 2015.

21 (3) Three shall serve for a term ending June 30, 2016.

22  
23 **SUNSETS AND OPERATIVE DATES**  
24

25 **SECTION 20.** Sections 1 to 10 and 17 to 19 of this 2013 Act are repealed on December 31,  
26 2023.

27 **SECTION 21.** (1) Sections 1 to 10 of this 2013 Act and the amendments to ORS 30.278,  
28 31.250 and 743.056 by sections 11, 13 and 15 of this 2013 Act become operative on July 1, 2014.

29 (2) The Oregon Patient Safety Commission may take any action before the operative date  
30 specified in subsection (1) of this section to enable the commission to exercise, on and after  
31 the effective date specified in subsection (1) of this section, all the duties, functions and  
32 powers conferred on the commission by sections 1 to 10 of this 2013 Act.

33 **SECTION 22.** The amendments to ORS 30.278, 31.250 and 743.056 by sections 12, 14 and  
34 16 of this 2013 Act become operative on December 31, 2023.

35  
36 **APPLICABILITY**  
37

38 **SECTION 23.** Sections 1 to 10 of this 2013 Act and the amendments to ORS 30.278, 31.250  
39 and 743.056 by sections 11, 13 and 15 of this 2013 Act apply only to adverse health care inci-  
40 dents that occur on or after the operative date specified in section 21 of this 2013 Act.

41  
42 **CAPTIONS**  
43

44 **SECTION 24.** The unit and section captions used in this 2013 Act are provided only for  
45 the convenience of the reader and do not become part of the statutory law of this state or

1 **express any legislative intent in the enactment of this 2013 Act.**

2

3

**EMERGENCY CLAUSE**

4

5 **SECTION 25. This 2013 Act being necessary for the immediate preservation of the public**  
6 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
7 **on its passage.**

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