

Senate Bill 483

Sponsored by Senators KRUSE, PROZANSKI, Representatives GARRETT, CONGER

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**.

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.

Sunsets 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 nurse under ORS 678.040 to 678.101;

(g) A nurse practitioner under ORS 678.375 to 678.390;

(h) A dentist under ORS 679.060 to 679.180;

(i) A dental hygienist under ORS 680.040 to 680.100;

(j) A denturist under ORS 680.515 to 680.535;

(k) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

(L) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

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 (m) A chiropractor under ORS 684.040 to 684.105;
- 2 (n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- 3 (o) A massage therapist under ORS 687.011 to 687.250;
- 4 (p) A direct entry midwife under ORS 687.405 to 687.495;
- 5 (q) A physical therapist under ORS 688.040 to 688.145;
- 6 (r) A medical imaging licensee under ORS 688.445 to 688.525;
- 7 (s) A pharmacist under ORS 689.151 and 689.225 to 689.285;
- 8 (t) A physician assistant under ORS 677.505 to 677.525; or
- 9 (u) A professional counselor or marriage and family therapist under ORS 675.715 to
- 10 675.835.

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

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

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

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

24 (2)(a) When an adverse health care incident occurs outside of a health care facility, the
 25 health care provider treating the patient or the employer of the health care provider may file
 26 a notice of adverse health care incident with the commission in the form and manner pro-
 27 vided by the commission by rule.

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

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

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

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

- 40 (a) A written claim or demand for payment.
- 41 (b) A claim for purposes of ORS 742.400.

42 (5) The filing of a notice of adverse health care incident as provided in this section sat-
 43 isfies the notice requirements of ORS 30.275.

44 **SECTION 3. Discussion of adverse health care incident.** (1) A health care facility or
 45 health care provider who files or is named in a notice of adverse health care incident filed

1 under section 2 of this 2013 Act and the patient involved in the incident may engage in a
2 discussion regarding the incident within the time established by the Oregon Patient Safety
3 Commission by rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (2) Discussion communications and offers of compensation made under section 3 of this
45 2013 Act:

1 (a) Do not constitute an admission of liability.

2 (b) Are confidential and may not be disclosed.

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

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

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

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

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

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

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

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

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

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

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

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

38 (c) Malpractice insurance carriers;

39 (d) Risk management personnel; and

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

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

44 (6) Mediation under this section is subject to ORS 36.210, 36.220, 36.222, 36.224, 36.226,
 45 36.232, 36.234, 36.236 and 36.238.

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

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

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

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

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

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

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

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

30 (b) The spouse of the patient.

31 (c) A parent of the patient.

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

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

34 (f) An adult friend of the patient.

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

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

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

45 (a) Procedures for filing a notice of adverse health care incident under section 2 of this

1 2013 Act and for conducting discussions and mediations under sections 3 and 5 of this 2013
2 Act.

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

5 (2) The commission shall use notices of adverse health care incidents filed under section
6 2 of this 2013 Act to:

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

9 (b) Develop evidence-based prevention practices to improve patient outcomes.

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

14 **SECTION 10. Use of information by Oregon Patient Safety Commission.** (1) The Oregon
15 Patient Safety Commission may disseminate information relating to a notice of adverse
16 health care incident filed under section 2 of this 2013 Act to the public and to health care
17 providers and health care facilities not involved in the adverse health care incident as nec-
18 cessary to meet the goals described in section 9 of this 2013 Act. Information disclosed under
19 this subsection may not identify a health care facility, health care provider or patient in-
20 volved in the adverse health care incident.

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

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

29 (4) A regulatory agency, licensing board, health care facility, health insurer or creden-
30 tialing entity may not ask the commission, a health care facility, a health care provider or
31 other person whether a facility or provider has filed a notice of adverse health care incident
32 or use the fact that a notice of adverse health care incident was filed as the basis of disci-
33 plinary, regulatory, licensure or credentialing action. This subsection does not prevent a
34 person from using information, if the information is otherwise available, to engage in quality
35 review of patient care or as the basis of imposing a restriction, limitation, loss or denial of
36 privileges on a health care provider or other action against a health care provider based on
37 a finding of medical incompetence, unprofessional conduct, physical incapacity or impair-
38 ment.

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

40 30.278. (1) When notice is received under ORS 30.275 of a claim of professional negligence
41 against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the
42 scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the
43 person receiving the notice shall report to the appropriate licensing board, in the same manner as
44 required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers or
45 self-insured associations.

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

3 **SECTION 12.** ORS 30.278, as amended by section 11 of this 2013 Act, 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 section*
 11 *2 of this 2013 Act.*]

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

13 31.250. (1) In any action described in subsection [(5)] **(6)** of this section, all parties to the action
 14 and their attorneys must participate in some form of dispute resolution within 270 days after the
 15 action is filed unless:

- 16 (a) The action is settled or otherwise resolved within 270 days after the action is filed; or
- 17 (b) All parties to the action agree in writing to waive dispute resolution under this section.

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

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

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

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

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

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

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

35 **(5) This section does not apply to parties to an action described in subsection (6) of this**
 36 **section that have participated in a discussion and mediation under sections 3 and 5 of this**
 37 **2013 Act.**

38 [(5)] **(6)** The provisions of this section apply to any action in which a claim for damages is made
 39 against a health practitioner, as described in ORS 31.740, or against a health care facility, as defined
 40 in ORS 442.015, based on negligence, unauthorized rendering of health care or product liability un-
 41 der ORS 30.900 to 30.920.

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

43 31.250. (1) In any action described in subsection [(6)] **(5)** of this section, all parties to the action
 44 and their attorneys must participate in some form of dispute resolution within 270 days after the
 45 action is filed unless:

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

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

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

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

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

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

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

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

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

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

22 [(6)] (5) The provisions of this section apply to any action in which a claim for damages is made
23 against a health practitioner, as described in ORS 31.740, or against a health care facility, as defined
24 in ORS 442.015, based on negligence, unauthorized rendering of health care or product liability un-
25 der ORS 30.900 to 30.920.

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

27 743.056. (1) As used in this section:

28 (a) “Adverse event” means a negative consequence of patient care that is unanticipated, is
29 usually preventable and results in or presents a significant risk of patient injury.

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

32 (c) “Health practitioner” means a person described in ORS 31.740 (1).

33 (d) “Patient’s family” includes:

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

35 (B) A foster parent or foster child.

36 (2) An insurer may not decline or refuse to defend or indemnify a health practitioner or a health
37 care facility with respect to a claim, for any reason that is based on:

38 (a) The disclosure to the patient or the patient’s family by the health practitioner or facility of
39 an adverse event or information relating to the cause of an adverse event;

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

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

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

44 (a) The disclosure to a patient or the patient’s family by a health practitioner or facility of an
45 adverse event or information relating to the cause of an adverse event;

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

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

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

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

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

11 743.056. (1) As used in this section:

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

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

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

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

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

19 (B) A foster parent or foster child.

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

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

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

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

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

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

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

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

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

36 [(5) An insurer may not provide or be required to provide information related to an adverse health
37 care incident as defined in section 1 of this 2013 Act for credentialing purposes.]

38
39 **TASK FORCE ON RESOLUTION OF ADVERSE**
40 **HEALTH CARE INCIDENTS**

41
42 **SECTION 17.** (1) The Task Force on Resolution of Adverse Health Care Incidents is es-
43 tablished, consisting of 12 members appointed as follows:

44 (a) The President of the Senate shall appoint two members from among members of the
45 Senate as follows:

- 1 (A) One member from the Democratic party.
- 2 (B) One member from the Republican party.
- 3 (b) The Speaker of the House of Representatives shall appoint two members from among
4 members of the House of Representatives as follows:
- 5 (A) One member from the Democratic party.
- 6 (B) One member from the Republican party.
- 7 (c) The Governor shall appoint eight members, including:
- 8 (A) At least three members who are physicians licensed under ORS chapter 677 and in
9 active practice; and
- 10 (B) At least three members who are trial lawyers.
- 11 (2) The task force shall:
- 12 (a) Evaluate the implementation and effects of sections 1 to 10 of this 2013 Act; and
- 13 (b) Before December 31 of each year, report to an appropriate committee or interim
14 committee of the Legislative Assembly on the implementation and effects of sections 1 to 10
15 of this 2013 Act.
- 16 (3) The task force may recommend legislation to be introduced to improve the resolution
17 of adverse health care incidents.
- 18 (4) A majority of the voting members of the task force constitutes a quorum for the
19 transaction of business.
- 20 (5) Official action by the task force requires the approval of a majority of the voting
21 members of the task force.
- 22 (6) The Governor shall select one member of the task force to serve as chairperson and
23 another to serve as vice chairperson, for the terms and with the duties and powers necessary
24 for the performance of the functions of such offices as the Governor determines.
- 25 (7) The term of a member of the task force is four years, but a member serves at the
26 pleasure of the appointing authority. A member may be reappointed. Before the expiration
27 of the term of a member, the appointing authority shall appoint a successor or reappoint the
28 member. If there is a vacancy for any cause, the appointing authority shall make an ap-
29 pointment to become immediately effective.
- 30 (8) Members of the Legislative Assembly appointed to the task force are nonvoting
31 members of the task force and may act in an advisory capacity only.
- 32 (9) The task force shall meet at times and places specified by the call of the chairperson
33 or of a majority of the voting members of the task force.
- 34 (10) The task force may adopt rules necessary for the operation of the task force.
- 35 (11) The Oregon Patient Safety Commission shall provide staff support to the task force.
- 36 (12) Members of the task force who are not members of the Legislative Assembly are not
37 entitled to compensation, but may be reimbursed for actual and necessary travel and other
38 expenses incurred by them in the performance of their official duties in the manner and
39 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
40 of the task force shall be paid out of funds appropriated to the commission for purposes of
41 the task force.
- 42 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist
43 the task force in the performance of its duties and, to the extent permitted by laws relating
44 to confidentiality, to furnish such information and advice as the members of the task force
45 consider necessary to perform their duties.

