



MEMORANDUM

To: Senator Prozanski, Chair, Senate Committee on Judiciary
Senator Kruse, Vice-Chair, Senate Committee on Judiciary
Members of the Senate Committee on Judiciary

From: Bryan Boehringer, OMA Government Relations

Date: March 26, 2015

Re: Opposition to SB 601

The Oregon Medical Association supports the safeguarding of patient information and the efficient practice of medicine.

Both federal and state law already provide a detailed framework for both the privacy and security of medical information. The federal framework that comes from the Health Insurance Portability and Accountability Act (HIPAA) includes detailed reporting requirements when a breach of protected health information is suspected as well as a daunting civil monetary penalty program for violations of the law. Compliance with privacy and security laws are a significant regulatory burden on small provider offices.

SB 601 would expand the Oregon Consumer Identity Theft Protection Act (Theft Protection Act), and create a HIPAA-like penalty law in the state by automatically making a violation of the Theft Protection Act a violation of the Unlawful Trade Practices Act (UTPA). The bill as proposed significantly expands the definition of personal information that becomes subject to the Theft Protection Act and specifically includes the broad term “medical or health insurance information.”

As a result of SB 601, health care providers would have to create two separate processes to respond to two separate administrative programs. The first would be to respond to the federal Office for Civil Rights administration of the breach reporting rules regarding HIPAA. The second would be to respond to Oregon’s administration of its Theft Protection Act. Responding to two separate administrative programs is costly and time consuming especially for provider offices who are reimbursed less and less for their services yet only seem to have expenses and administrative burdens keep increasing.

Most troubling for health care providers would be the fact that SB 601, for the first time, would make violations of the Theft Protection Act an unlawful trade practice under the UTPA. As a result, a health care provider would become subject to greatly expanded legal and liability risk for simply taking care of patients and gathering appropriate medical information to do so.

OMA respectfully opposes this bill unless there are amendments that both reduce the regulatory burden and decrease the liability exposure for health care providers.