

SB 367 A STAFF MEASURE SUMMARY

Carrier: Sen. Hansell

Senate Committee On Health Care

Action Date: 03/23/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-0-2-0
Yeas: 3 - Kruse, Monnes Anderson, Steiner Hayward
Exc: 2 - Beyer, Knopp
Fiscal: No fiscal impact
Revenue: No revenue impact
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WHAT THE MEASURE DOES:

Allows a health care provider to disclose an inmate’s health information to another health care provider without authorization from the inmate when an employee of a Department of Corrections' facility is exposed to the inmate’s bodily fluids. Limits disclosure of protected health information (PHI) to communicable diseases.

ISSUES DISCUSSED:

- Current treatment protocol for individuals exposed to an inmate’s bodily fluids can make an individual ill; results in extended absence from work
- Expand the bill to include all law enforcement in Oregon; relating to clause probably prohibits such an amendment
- Concerns about disclosure of an inmate’s PHI and potential violation of their civil rights

EFFECT OF AMENDMENT:

- Specifies an inmate’s PHI can only be shared provider to provider.

BACKGROUND:

Individuals at correctional facilities are disproportionately ill, with rates of chronic and infectious diseases significantly higher than the general population. Inmates released from secure correctional facilities represent 13 percent to 19 percent of individuals with human immunodeficiency virus (HIV), 12 percent to 16 percent of individuals with hepatitis B, 20 percent to 32 percent of individuals with hepatitis C, and 35 percent of individuals with tuberculosis. State and federal laws protect people's health information including their disease status, and specifically HIV, mental health conditions and substance use. Such laws encourage greater participation and trust in the health care system through protection of a patient’s sensitive personal health information (PHI) including individuals involved with the criminal justice system.

Privacy and security laws require health care providers and correctional facilities to protect an inmate’s PHI. Correctional facilities may not use or disclose PHI without an inmate’s authorization unless it is permitted or required by federal or state law. Federal law does permit, under limited circumstances, certain disclosures without an inmate’s authorization. For example, a correctional facility may disclose a patient’s PHI without his or her authorization for the purpose of providing health care to the inmate or for the health and safety of the inmate, other inmates or employees of the facility. In Oregon, a correctional facility can disclose an inmate’s PHI for the limited purpose of providing health care or ensuring the health or safety of the person or other inmates (OAR 943-014).

Senate Bill 367-A allows for a health care provider, under limited circumstances, to disclose an inmate’s protected health information to another health care provider without authorization.