

## **SB 834**

### **Improving Provider and Patient Communication: Apology Law**

#### **What is an Apology Law?**

An apology law permits the disclosure of errors from a provider to a patient without threat of the statements being used in lawsuits. In other words, an apology law allows a provider to tell a patient that something went wrong while protecting that particular conversation from being used against them in a court of law. Apology laws do not limit the patient's rights to pursue legal action against the provider.

#### **Why are Apology Laws Important?**

- Improve transparency and communication
- Encourage ethical behavior without legal ramifications
- Prevent the devolution from doctor/patient to defendant/plaintiff

#### **Who is Currently Protected Under Apology Laws in Oregon?**

Licensees under the Oregon Medical Board, including MDs (Doctors of Medicine), DOs (Doctors of Osteopathic Medicine), DPMs (podiatrists), PAs (physician assistants) and LAcS (acupuncturists) have had this provision since 2003 (see ORS 677.082). Licensees under the Oregon Dental Board, including Oregon dentists who are DMDs (Doctors of Medicine in Dentistry) or DDSs (Doctors of Dental Surgery), and hygienists, do not have this provision.

#### **Oregon Dental Practice Act**

Currently, under administrative rules, Oregon dentists are required to advise a patient of any recognized treatment complications. While dentists could be disciplined by the Board of Dentistry for failing to disclose certain treatment outcomes, the absence of an apology/regret privilege law complicates those disclosures in a way that does not occur for health care practitioners licensed under the Oregon Medical Board. The Oregon Dental Association and Kaiser Permanente are proposing legislation in 2019 that would provide Board of Dentistry licensees with the same protections already afforded to many other licensed health care practitioners in the state.

#### **Does This Remove the Ability for a Patient to Sue the Provider?**

Absolutely not! Patients retain all of their legal rights. This would simply prohibit the actual disclosure from being used in court proceedings.

#### **What Our Bill Would Do:**

SB 834 will extend the same protections currently afforded to OMB licensees to Board of Dentistry licensees.

**For additional information**

**Please contact ODA Director of Government Affairs Jen Lewis-Goff**

**[JLewis-goff@oregondental.org](mailto:JLewis-goff@oregondental.org); 503-826-4165**