

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Measure: SB 567 - A6

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Includes as unlawful practice medical provider's denial of treatment that is likely to benefit patient based on patient's race, color, national origin, sex, sexual orientation, gender identity, age, or disability.

Government Unit(s) Affected:

Oregon Board of Medical Imaging (OBMI), Oregon Judicial Department (OJD), Board of Examiners for Speech-Language Pathology and Audiology (BSPA), Oregon Veterinary Medical Examining Board (OVMEB), Board of Massage Therapists, Oregon Medical Board (OMB), Oregon Board of Naturopathic Medicine (OBNM), Oregon State Board of Nursing (OSBN), Occupational Therapy Licensing Board (OTLB), Oregon Board of Pharmacy (OBOP), Oregon Board of Physical Therapy, Oregon Health Authority (OHA), Department of Justice (DOJ), Bureau of Labor and Industries (BOLI), Oregon Board of Chiropractic Examiners (OBCE), Department of Corrections (DOC), Board of Licensed Social Workers (BLSW), Oregon Mortuary and Cemetery Board (OMCB), Board of Optometry, Board of Licensed Professional Counselors and Therapists (BLPCT), Oregon Board of Dentistry (OBD), Oregon Board of Psychology

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

SB 567, as amended by the - A6 amendment, declares that it is unlawful practice for a health care provider or any person acting on behalf of a provider to deny medical treatment to a patient that is likely to benefit the patient based on an individualized assessment of the patient using objective medical evidence, or to limit or restrict in any manner the allocation of medical resources to a patient, based on the patient's race, color, national origin, sex, sexual orientation, gender identity, age, or disability.

Bureau of Labor and Industries

The total fiscal impact of this measure for the Bureau of Labor and Industries (BOLI) is indeterminate. The BOLI Civil Rights Division investigates and enforces complaints related to unlawful practices and discrimination in place of public accommodations. However, current investigators in this Division are not qualified to perform medical investigations that would indicate if a treatment that would benefit a patient was withheld based on race, color, national origin, etc. BOLI anticipates that they will need to contract with outside medical experts to review medical evidence, serve as witnesses at trial, and assist with rulemaking. This cost is estimated at \$250,000 General Fund each biennium, but the agency notes that it cannot predict the number of complaints it will actually receive. The agency will need to return to the Legislative Emergency Board or a subsequent legislative session to request funds depending on the actual costs incurred as a result of this measure.

BOLI also may need additional positions to handle investigations under this measure. Any need for the agency to return for funding and position authority will take into account whether adjustments made in the 2021-23 Legislatively Adopted Budget help accommodate workload as a result of this measure.

BOLI notes that current practice is to assess comparative cases to determine if discrimination has occurred, and that this new work will be difficult to do given medical and personal privacy regulations. BOLI also notes that although this measure has an emergency clause and takes effect on passage, which would allow a person to file a complaint on passage of the measure, the agency will not have rules in place to investigate complaints until several months after the measure is passed. Because BOLI must investigate and analyze a case within one year of a complaint being filed, the agency may need to issue a “right to sue” notice for complaints filed in the first few months after this measure is passed, and complainants would need to pursue the case in court.

Other state agencies

The measure is anticipated to have no impact on the Department of Justice, Oregon Judicial Department, Department of Corrections, Oregon Health Authority, and state health professional regulatory boards.