

Enrolled
Senate Bill 110

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CHAPTER

AN ACT

Relating to resolving adverse health care events; amending ORS 30.278, 31.250 and 742.407; and repealing sections 20 and 22, chapter 5, Oregon Laws 2013.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 20 and 22, chapter 5, Oregon Laws 2013, are repealed.

SECTION 2. ORS 30.278, as amended by section 12, chapter 5, Oregon Laws 2013, is amended to read:

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

(2) This section does not apply to a notice of adverse health care incident received under section 2, chapter 5, Oregon Laws 2013.

SECTION 3. ORS 31.250, as amended by section 14, chapter 5, Oregon Laws 2013, is amended to read:

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

- (a) The action is settled or otherwise resolved within 270 days after the action is filed; or
 - (b) All parties to the action agree in writing to waive dispute resolution under this section.
- (2) Dispute resolution under this section may consist of arbitration, mediation or a judicial settlement conference.

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

- (4) The court may impose appropriate sanctions against any party or attorney who:
 - (a) Fails to attend an arbitration hearing, mediation session or judicial settlement conference conducted for the purposes of the requirements of this section;
 - (b) Fails to act in good faith in any arbitration, mediation or judicial settlement conference conducted for the purposes of the requirements of this section;

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

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

(5) This section does not apply to parties to an action described in subsection (6) of this section that have participated in a discussion and mediation under sections 3 and 5, chapter 5, Oregon Laws 2013.

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

SECTION 4. ORS 742.407, as amended by section 16, chapter 5, Oregon Laws 2013, is amended to read:

742.407. (1) As used in this section:

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

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

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

(d) "Patient's family" includes:

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

(B) A foster parent or foster child.

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

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

(b) A notice of adverse health care incident filed under section 2, chapter 5, Oregon Laws 2013; or

(c) Participation in a discussion or mediation under section 3 or 5, chapter 5, Oregon Laws 2013.

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

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

(b) A notice of adverse health care incident filed under section 2, chapter 5, Oregon Laws 2013; or

(c) Participation in a discussion or mediation under section 3 or 5, chapter 5, Oregon Laws 2013.

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

(5) An insurer may not provide or be required to provide information related to an adverse health care incident as defined in section 1, chapter 5, Oregon Laws 2013, for credentialing purposes.

Passed by Senate March 17, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2021

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Tina Kotek, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State