

D R A F T

SUMMARY

Authorizes health care facility, health care provider and patient to file notice of adverse health care incident with Oregon Patient Safety Commission.

Sets forth procedures by which health care facilities, health care providers and patients may engage in discussion and mediation related to adverse health care incidents.

Directs commission to use information received from notices of adverse health care incidents to improve patient outcomes and reduce frequency of adverse health care incidents.

Prohibits insurers from taking certain actions based on notice of adverse health care incident.

Establishes Task Force on Resolution of Adverse Health Care Incidents. Directs task force to report to Legislative Assembly.

Sunsets on December 31, 2023.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to resolution of matters related to health care; creating new pro-
3 visions; amending ORS 30.278, 31.250 and 743.056; and declaring an emer-
4 gency.

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

6 7 RESOLUTION OF ADVERSE HEALTH CARE INCIDENTS

8
9 **SECTION 1. Definitions. As used in sections 1 to 10 of this 2013 Act:**

10 **(1) “Adverse health care incident” means an objective, definable and**
11 **unanticipated consequence of patient care that is usually preventable**
12 **and results in the death of or serious physical injury to the patient.**

1 **(2) “Health care facility” has the meaning given that term in ORS**
2 **442.015.**

3 **(3) “Health care provider” means a person practicing within the**
4 **scope of the person’s license, registration or certification to practice**
5 **as:**

6 **(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;**

7 **(b) An occupational therapist under ORS 675.230 to 675.300;**

8 **(c) A physician under ORS 677.100 to 677.228;**

9 **(d) An emergency medical services provider under ORS chapter 682;**

10 **(e) A podiatric physician and surgeon under ORS 677.820 to 677.840;**

11 **(f) A nurse under ORS 678.040 to 678.101;**

12 **(g) A nurse practitioner under ORS 678.375 to 678.390;**

13 **(h) A dentist under ORS 679.060 to 679.180;**

14 **(i) A dental hygienist under ORS 680.040 to 680.100;**

15 **(j) A denturist under ORS 680.515 to 680.535;**

16 **(k) An audiologist or speech-language pathologist under ORS 681.250**
17 **to 681.350;**

18 **(L) An optometrist under ORS 683.040 to 683.155 and 683.170 to**
19 **683.220;**

20 **(m) A chiropractor under ORS 684.040 to 684.105;**

21 **(n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;**

22 **(o) A massage therapist under ORS 687.011 to 687.250;**

23 **(p) A direct entry midwife under ORS 687.405 to 687.495;**

24 **(q) A physical therapist under ORS 688.040 to 688.145;**

25 **(r) A medical imaging licensee under ORS 688.445 to 688.525;**

26 **(s) A pharmacist under ORS 689.151 and 689.225 to 689.285;**

27 **(t) A physician assistant under ORS 677.505 to 677.525; or**

28 **(u) A professional counselor or marriage and family therapist under**
29 **ORS 675.715 to 675.835.**

30 **(4) “Patient” means the patient or, if the patient is a minor, is de-**
31 **ceased or has been medically confirmed by the patient’s treating phy-**

1 sician to be incapable of making decisions for purposes of sections 1
2 to 10 of this 2013 Act, the patient's representative as provided in sec-
3 tion 8 of this 2013 Act.

4 **SECTION 2. Notice of adverse health care incident.** (1)(a) When an
5 adverse health care incident occurs in a health care facility, the health
6 care facility may file a notice of adverse health care incident with the
7 Oregon Patient Safety Commission in the form and manner provided
8 by the commission by rule.

9 (b) If a health care facility files a notice of adverse health care in-
10 cident under this subsection, the health care facility shall provide a
11 copy of the notice to the patient.

12 (c) A notice filed under this subsection may not include the name
13 of a health care provider, but the health care facility filing the notice
14 shall notify any health care providers involved in the adverse health
15 care incident of the notice.

16 (2)(a) When an adverse health care incident occurs outside of a
17 health care facility, the health care provider treating the patient or
18 the employer of the health care provider may file a notice of adverse
19 health care incident with the commission in the form and manner
20 provided by the commission by rule.

21 (b) If a health care provider or employer files a notice of adverse
22 health care incident under this subsection, the health care provider
23 or employer shall provide a copy of the notice to the patient.

24 (c) If an employer files the notice under this subsection, the notice
25 may not include the name of the health care provider, but the em-
26 ployer shall notify each health care provider involved in the adverse
27 health care incident of the notice.

28 (3) A patient may file a notice of adverse health care incident with
29 the commission in the form and manner provided by the commission
30 by rule. When the commission receives a notice of adverse health care
31 incident from a patient under this subsection, the commission shall

1 **notify all health care facilities and health care providers named in the**
2 **notice within seven days after receiving the notice.**

3 **(4) A notice of adverse health care incident filed under this section**
4 **is not:**

5 **(a) A written claim or demand for payment.**

6 **(b) A claim for purposes of ORS 742.400.**

7 **(5) The filing of a notice of adverse health care incident as provided**
8 **in this section satisfies the notice requirements of ORS 30.275.**

9 **SECTION 3. Discussion of adverse health care incident. (1) A health**
10 **care facility or health care provider who files or is named in a notice**
11 **of adverse health care incident filed under section 2 of this 2013 Act**
12 **and the patient involved in the incident may engage in a discussion**
13 **regarding the incident within the time established by the Oregon Pa-**
14 **tient Safety Commission by rule.**

15 **(2) The health care facility or health care provider who files or is**
16 **named in the notice shall notify the patient and all health care facili-**
17 **ties and health care providers involved in the adverse health care in-**
18 **cident of the date, time and location of the discussion and shall**
19 **reasonably accommodate all persons that wish to attend.**

20 **(3) The patient and the health care facility or health care provider**
21 **who files or is named in the notice may include other persons in the**
22 **discussion.**

23 **(4) Within the time established by the commission by rule, the**
24 **health care facility or health care provider who files or is named in**
25 **the notice may:**

26 **(a) Communicate to the patient the steps the health care facility**
27 **or health care provider will take to prevent future occurrences of the**
28 **adverse health care incident; and**

29 **(b)(A) Determine that no offer of compensation for the adverse**
30 **health care incident is warranted and communicate that determi-**
31 **nation to the patient orally or in writing; or**

1 **(B) Determine that an offer of compensation for the adverse health**
2 **care incident is warranted and extend that offer in writing to the pa-**
3 **tient.**

4 **(5) If a health care facility or health care provider makes an offer**
5 **of compensation under subsection (4) of this section, the facility or**
6 **provider shall advise the patient of the patient’s right to seek legal**
7 **advice before accepting the offer.**

8 **(6) Except for offers of compensation extended under subsection (4)**
9 **of this section, discussions between the health care facility or health**
10 **care provider and the patient about the amount of compensation of-**
11 **fered under subsection (4) of this section must remain oral.**

12 **(7) The health care facility or health care provider and the patient**
13 **may agree to extend the time limit established by rule of the com-**
14 **mission under this section, but a time limit may not be extended to**
15 **more than 180 days after the notice of adverse health care incident is**
16 **filed under section 2 of this 2013 Act unless the health care facility or**
17 **health care provider and the patient also agree to extend the statute**
18 **of limitations applicable to a negligence claim.**

19 **(8) If the patient accepts an offer of compensation made under**
20 **subsection (4) of this section, the health care facility or health care**
21 **provider who made the offer shall notify the commission.**

22 **(9) The commission shall request a report indicating the status of**
23 **the matter from the person that filed the notice of adverse health care**
24 **incident under section 2 of this 2013 Act within 180 days after the date**
25 **the notice was filed. If the matter is not resolved 180 days after the**
26 **notice was filed, the commission may request additional reports from**
27 **the person that filed the notice as necessary.**

28 **SECTION 4. Discussion communications.** (1) As used in this section,
29 **“discussion communication” means:**

30 **(a) All communications, written and oral, that are made in the**
31 **course of a discussion under section 3 of this 2013 Act; and**

1 (b) All memoranda, work products, documents and other materials
2 that are prepared for or submitted in the course of or in connection
3 with a discussion under section 3 of this 2013 Act.

4 (2) Discussion communications and offers of compensation made
5 under section 3 of this 2013 Act:

6 (a) Do not constitute an admission of liability.

7 (b) Are confidential and may not be disclosed.

8 (c) Except as provided in subsection (3) of this section, are not ad-
9 missible as evidence in any subsequent adjudicatory proceeding and
10 may not be disclosed by the parties in any subsequent adjudicatory
11 proceeding.

12 (3)(a) A party may move the court or other decision maker to admit
13 as evidence in a subsequent adjudicatory proceeding a discussion
14 communication that contradicts a statement made during the subse-
15 quent adjudicatory proceeding. The court or other decision maker
16 shall allow a discussion communication that contradicts a statement
17 made at a subsequent adjudicatory proceeding into evidence only if the
18 discussion communication is material to the claims presented in the
19 subsequent adjudicatory proceeding.

20 (b) A party may not move to admit expressions of regret or apology
21 that are inadmissible under ORS 677.082.

22 (4) Communications, memoranda, work products, documents and
23 other materials, otherwise subject to discovery, that were not prepared
24 specifically for use in a discussion under section 3 of this 2013 Act, are
25 not confidential.

26 (5) Any communication, memorandum, work product or document
27 that, before its use in a discussion under section 3 of this 2013 Act,
28 was a public record as defined in ORS 192.410 remains subject to dis-
29 closure to the extent provided by ORS 192.410 to 192.505.

30 (6) The limitations on admissibility and disclosure in subsequent
31 adjudicatory proceedings imposed by this section apply to any subse-

1 **quent judicial proceeding, administrative proceeding or arbitration**
2 **proceeding. The limitations on disclosure imposed by this section in-**
3 **clude disclosure during any discovery conducted as part of a subse-**
4 **quent adjudicatory proceeding, and a person that is prohibited from**
5 **disclosing information under the provisions of this section may not**
6 **be compelled to reveal confidential communications or agreements in**
7 **any discovery conducted as part of a subsequent adjudicatory pro-**
8 **ceeding.**

9 **SECTION 5. Mediation. (1) If a discussion under section 3 of this**
10 **2013 Act does not result in the resolution of an adverse health care**
11 **incident, the patient and the health care facility or health care pro-**
12 **vider who files or is named in a notice of adverse health care incident**
13 **filed under section 2 of this 2013 Act may enter into mediation.**

14 **(2) The Oregon Patient Safety Commission shall develop and main-**
15 **tain a panel of qualified individuals to serve as mediators. The parties,**
16 **by mutual agreement, may choose any mediator from within or out-**
17 **side the panel.**

18 **(3) The parties shall bear the cost of mediation equally unless oth-**
19 **erwise mutually agreed.**

20 **(4) Other persons that may participate in the mediation include, but**
21 **are not limited to:**

22 **(a) Members of the patient's family, at the discretion of the patient;**

23 **(b) Attorneys for the patient, the health care facility and the health**
24 **care provider;**

25 **(c) Malpractice insurance carriers;**

26 **(d) Risk management personnel; and**

27 **(e) Any lien holder with an interest in the dispute.**

28 **(5) If a health care facility or health care provider makes an offer**
29 **of compensation as part of a mediation under this section, the facility**
30 **or provider shall advise the patient of the patient's right to seek legal**
31 **advice before accepting the offer.**

1 (6) Mediation under this section is subject to ORS 36.210, 36.220,
2 36.222, 36.224, 36.226, 36.232, 36.234, 36.236 and 36.238.

3 **SECTION 6. Payment and resolution.** (1) A payment made to a pa-
4 tient under section 3 of this 2013 Act or as a result of a mediation
5 under section 5 of this 2013 Act is not a payment resulting from a
6 written claim or demand for payment.

7 (2) A health care provider or health care facility may require the
8 patient to execute all documents and obtain any necessary court ap-
9 proval to resolve an adverse health care incident. The parties shall
10 negotiate the form of such documents or court approval as necessary.

11 **SECTION 7. Statute of limitations; evidence of offers and payments.**

12 (1) The provisions of sections 3 and 5 of this 2013 Act relating to dis-
13 cussion and mediation do not prevent a patient from bringing a civil
14 action for negligence unless the patient signed a release of the claim.

15 (2) The statute of limitations applicable to a negligence claim is
16 tolled for 180 days, or another period agreed upon by the patient and
17 the health care facility or health care provider who files or is named
18 in the notice of adverse health care incident filed under section 2 of
19 this 2013 Act, from the date the notice is filed.

20 (3) If a civil action based on an adverse health care incident is
21 commenced, the court shall inform the parties of the opportunity to
22 participate in the notice, discussion and mediation process under
23 sections 2, 3 and 5 of this 2013 Act.

24 (4) Evidence of an offer of compensation, and the amount, payment
25 or acceptance of any compensation, under section 3 or 5 of this 2013
26 Act is inadmissible in any adjudicatory proceeding. However, any
27 judgment in favor of the patient must be reduced by the amount of
28 any compensation paid under sections 3 and 5 of this 2013 Act.

29 **SECTION 8. Patient representatives.** (1) A patient who is a minor,
30 is deceased or has been medically confirmed by the patient's treating
31 physician to be incapable of making decisions for purposes of sections

1 1 to 10 of this 2013 Act may be represented for purposes of sections 1
2 to 10 of this 2013 Act by the first of the persons, in the following order
3 of priority, who can be located upon reasonable effort by the health
4 care facility or health care provider and who is willing to serve as the
5 patient's representative:

6 (a) A guardian of the patient who is authorized to make health care
7 decisions for the patient.

8 (b) The spouse of the patient.

9 (c) A parent of the patient.

10 (d) A majority of the adult children of the patient who can be lo-
11 cated.

12 (e) A majority of the adult siblings of the patient who can be lo-
13 cated.

14 (f) An adult friend of the patient.

15 (g) A person, other than a health care provider who files or is
16 named in a notice of adverse health care incident under section 2 of
17 this 2013 Act, appointed by a hospital under ORS 127.760.

18 (2) The conservator of the patient appointed under ORS chapter 125
19 may serve as a patient's representative with the patient's represen-
20 tative designated under subsection (1) of this section if the
21 conservator's representation is necessary to consider an offer of com-
22 pensation under section 3 or 5 of this 2013 Act.

23 **SECTION 9. Duties of Oregon Patient Safety Commission.** (1) The
24 Oregon Patient Safety Commission shall make rules establishing re-
25 quirements and procedures as necessary to implement sections 1 to 10
26 of this 2013 Act, including, but not limited to:

27 (a) Procedures for filing a notice of adverse health care incident
28 under section 2 of this 2013 Act and for conducting discussions and
29 mediations under sections 3 and 5 of this 2013 Act.

30 (b) The form of the notice of adverse health care incident under
31 section 2 of this 2013 Act.

1 **(2) The commission shall use notices of adverse health care inci-**
2 **dents filed under section 2 of this 2013 Act to:**

3 **(a) Establish quality improvement techniques to reduce patient care**
4 **errors that contribute to adverse health care incidents.**

5 **(b) Develop evidence-based prevention practices to improve patient**
6 **outcomes.**

7 **(c) Upon the request of a health care facility or health care pro-**
8 **vider, assist the facility or provider in reducing the frequency of a**
9 **particular adverse health care incident, including, but not limited to,**
10 **determining the underlying cause of the incident and providing advice**
11 **regarding preventing reoccurrence of the incident.**

12 **SECTION 10. Use of information by Oregon Patient Safety Com-**
13 **mission.** (1) **The Oregon Patient Safety Commission may disseminate**
14 **information relating to a notice of adverse health care incident filed**
15 **under section 2 of this 2013 Act to the public and to health care pro-**
16 **viders and health care facilities not involved in the adverse health care**
17 **incident as necessary to meet the goals described in section 9 of this**
18 **2013 Act. Information disclosed under this subsection may not identify**
19 **a health care facility, health care provider or patient involved in the**
20 **adverse health care incident.**

21 **(2) The commission may not disclose any information provided**
22 **pursuant to a discussion under section 3 of this 2013 Act to a regula-**
23 **tory agency or licensing board.**

24 **(3) The commission may use and disclose information provided**
25 **pursuant to a discussion under section 3 of this 2013 Act as necessary**
26 **to assist a health care facility or health care provider involved in an**
27 **adverse health care incident in determining the cause of and potential**
28 **mitigation of the incident. If the commission discloses information**
29 **under this subsection to a person not involved in the incident, the in-**
30 **formation may not identify a health care facility, health care provider**
31 **or patient involved in the incident.**

1 **(4) A regulatory agency, licensing board, health care facility, health**
2 **insurer or credentialing entity may not ask the commission, a health**
3 **care facility, a health care provider or other person whether a facility**
4 **or provider has filed a notice of adverse health care incident or use the**
5 **fact that a notice of adverse health care incident was filed as the basis**
6 **of disciplinary, regulatory, licensure or credentialing action. This**
7 **subsection does not prevent a person from using information, if the**
8 **information is otherwise available, to engage in quality review of pa-**
9 **tient care or as the basis of imposing a restriction, limitation, loss or**
10 **denial of privileges on a health care provider or other action against**
11 **a health care provider based on a finding of medical incompetence,**
12 **unprofessional conduct, physical incapacity or impairment.**

13 **SECTION 11.** ORS 30.278 is amended to read:

14 30.278. **(1)** When notice is received under ORS 30.275 of a claim of pro-
15 fessional negligence against a physician, optometrist, dentist, dental
16 hygienist or naturopath who is acting within the scope of employment by a
17 public body or within the scope of duties as defined by ORS 30.267, the per-
18 son receiving the notice shall report to the appropriate licensing board, in
19 the same manner as required by ORS 742.400, the information required by
20 ORS 742.400 to be reported by insurers or self-insured associations.

21 **(2) This section does not apply to a notice of adverse health care**
22 **incident received under section 2 of this 2013 Act.**

23 **SECTION 12.** ORS 30.278, as amended by section 11 of this 2013 Act, is
24 amended to read:

25 30.278. ~~[(1)]~~ When notice is received under ORS 30.275 of a claim of pro-
26 fessional negligence against a physician, optometrist, dentist, dental
27 hygienist or naturopath who is acting within the scope of employment by a
28 public body or within the scope of duties as defined by ORS 30.267, the per-
29 son receiving the notice shall report to the appropriate licensing board, in
30 the same manner as required by ORS 742.400, the information required by
31 ORS 742.400 to be reported by insurers or self-insured associations.

1 [(2) *This section does not apply to a notice of adverse health care incident*
2 *received under section 2 of this 2013 Act.*]

3 **SECTION 13.** ORS 31.250 is amended to read:

4 31.250. (1) In any action described in subsection [(5)] (6) of this section,
5 all parties to the action and their attorneys must participate in some form
6 of dispute resolution within 270 days after the action is filed unless:

7 (a) The action is settled or otherwise resolved within 270 days after the
8 action is filed; or

9 (b) All parties to the action agree in writing to waive dispute resolution
10 under this section.

11 (2) Dispute resolution under this section may consist of arbitration, me-
12 diation or a judicial settlement conference.

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

17 (4) The court may impose appropriate sanctions against any party or at-
18 torney who:

19 (a) Fails to attend an arbitration hearing, mediation session or judicial
20 settlement conference conducted for the purposes of the requirements of this
21 section;

22 (b) Fails to act in good faith in any arbitration, mediation or judicial
23 settlement conference conducted for the purposes of the requirements of this
24 section;

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

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

1 the hearing, session or conference commences, an exemption from the re-
2 quirements of this paragraph.

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

6 [(5)] (6) The provisions of this section apply to any action in which a
7 claim for damages is made against a health practitioner, as described in ORS
8 31.740, or against a health care facility, as defined in ORS 442.015, based on
9 negligence, unauthorized rendering of health care or product liability under
10 ORS 30.900 to 30.920.

11 **SECTION 14.** ORS 31.250, as amended by section 13 of this 2013 Act, is
12 amended to read:

13 31.250. (1) In any action described in subsection [(6)] (5) of this section,
14 all parties to the action and their attorneys must participate in some form
15 of dispute resolution within 270 days after the action is filed unless:

16 (a) The action is settled or otherwise resolved within 270 days after the
17 action is filed; or

18 (b) All parties to the action agree in writing to waive dispute resolution
19 under this section.

20 (2) Dispute resolution under this section may consist of arbitration, me-
21 diation or a judicial settlement conference.

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

26 (4) The court may impose appropriate sanctions against any party or at-
27 torney who:

28 (a) Fails to attend an arbitration hearing, mediation session or judicial
29 settlement conference conducted for the purposes of the requirements of this
30 section;

31 (b) Fails to act in good faith in any arbitration, mediation or judicial

1 settlement conference conducted for the purposes of the requirements of this
2 section;

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

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

12 *[(5) This section does not apply to parties to an action described in sub-*
13 *section (6) of this section that have participated in a discussion and mediation*
14 *under sections 3 and 5 of this 2013 Act.]*

15 *[(6)]* (5) The provisions of this section apply to any action in which a
16 claim for damages is made against a health practitioner, as described in ORS
17 31.740, or against a health care facility, as defined in ORS 442.015, based on
18 negligence, unauthorized rendering of health care or product liability under
19 ORS 30.900 to 30.920.

20 **SECTION 15.** ORS 743.056 is amended to read:

21 743.056. (1) As used in this section:

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

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

28 (c) “Health practitioner” means a person described in ORS 31.740 (1).

29 (d) “Patient’s family” includes:

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

1 (B) A foster parent or foster child.

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

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

8 (b) **A notice of adverse health care incident filed under section 2**
9 **of this 2013 Act; or**

10 (c) **Participation in a discussion or mediation under section 3 or 5**
11 **of this 2013 Act.**

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

14 (a) The disclosure to a patient or the patient's family by a health prac-
15 titioner or facility of an adverse event or information relating to the cause
16 of an adverse event;

17 (b) **A notice of adverse health care incident filed under section 2**
18 **of this 2013 Act; or**

19 (c) **Participation in a discussion or mediation under section 3 or 5**
20 **of this 2013 Act.**

21 (4) **An insurer may establish requirements for coverage of payments**
22 **of compensation made under section 3 of this 2013 Act or as a result**
23 **of a mediation under section 5 of this 2013 Act. Requirements estab-**
24 **lished under this subsection may not be intended to or have the effect**
25 **of preventing meaningful participation in discussions and mediations**
26 **under sections 3 and 5 of this 2013 Act.**

27 (5) **An insurer may not provide or be required to provide informa-**
28 **tion related to an adverse health care incident as defined in section 1**
29 **of this 2013 Act for credentialing purposes.**

30 **SECTION 16.** ORS 743.056, as amended by section 15 of this 2013 Act, is
31 amended to read:

1 743.056. (1) As used in this section:

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

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

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

9 (d) "Patient's family" includes:

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

12 (B) A foster parent or foster child.

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

16 [(a)] the disclosure to the patient or the patient's family by the health
17 practitioner or facility of an adverse event or information relating to the
18 cause of an adverse event[;]

19 [(b) A notice of adverse health care incident filed under section 2 of this
20 2013 Act; or]

21 [(c) Participation in a discussion or mediation under section 3 or 5 of this
22 2013 Act].

23 (3) A policy or contract of insurance or indemnity may not include a
24 provision or term excluding or limiting coverage based on[.]

25 [(a)] the disclosure to a patient or the patient's family by a health prac-
26 titioner or facility of an adverse event or information relating to the cause
27 of an adverse event[;]

28 [(b) A notice of adverse health care incident filed under section 2 of this
29 2013 Act; or]

30 [(c) Participation in a discussion or mediation under section 3 or 5 of this
31 2013 Act].

1 *[(4) An insurer may establish requirements for coverage of payments of*
2 *compensation made under section 3 of this 2013 Act or as a result of a medi-*
3 *ation under section 5 of this 2013 Act. Requirements established under this*
4 *subsection may not be intended to or have the effect of preventing meaningful*
5 *participation in discussions and mediations under sections 3 and 5 of this 2013*
6 *Act.]*

7 *[(5) An insurer may not provide or be required to provide information re-*
8 *lated to an adverse health care incident as defined in section 1 of this 2013*
9 *Act for credentialing purposes.]*

10

11

**TASK FORCE ON RESOLUTION OF ADVERSE
HEALTH CARE INCIDENTS**

12

13

14 **SECTION 17. (1) The Task Force on Resolution of Adverse Health**
15 **Care Incidents is established, consisting of 12 members appointed as**
16 **follows:**

17 **(a) The President of the Senate shall appoint two members from**
18 **among members of the Senate as follows:**

19 **(A) One member from the Democratic party.**

20 **(B) One member from the Republican party.**

21 **(b) The Speaker of the House of Representatives shall appoint two**
22 **members from among members of the House of Representatives as**
23 **follows:**

24 **(A) One member from the Democratic party.**

25 **(B) One member from the Republican party.**

26 **(c) The Governor shall appoint eight members, including:**

27 **(A) At least three members who are physicians licensed under ORS**
28 **chapter 677 and in active practice; and**

29 **(B) At least three members who are trial lawyers.**

30 **(2) The task force shall:**

31 **(a) Evaluate the implementation and effects of sections 1 to 10 of**

1 **this 2013 Act; and**

2 **(b) Before December 31 of each year, report to an appropriate**
3 **committee or interim committee of the Legislative Assembly on the**
4 **implementation and effects of sections 1 to 10 of this 2013 Act.**

5 **(3) The task force may recommend legislation to be introduced to**
6 **improve the resolution of adverse health care incidents.**

7 **(4) A majority of the voting members of the task force constitutes**
8 **a quorum for the transaction of business.**

9 **(5) Official action by the task force requires the approval of a ma-**
10 **jority of the voting members of the task force.**

11 **(6) The Governor shall select one member of the task force to serve**
12 **as chairperson and another to serve as vice chairperson, for the terms**
13 **and with the duties and powers necessary for the performance of the**
14 **functions of such offices as the Governor determines.**

15 **(7) The term of a member of the task force is four years, but a**
16 **member serves at the pleasure of the appointing authority. A member**
17 **may be reappointed. Before the expiration of the term of a member,**
18 **the appointing authority shall appoint a successor or reappoint the**
19 **member. If there is a vacancy for any cause, the appointing authority**
20 **shall make an appointment to become immediately effective.**

21 **(8) Members of the Legislative Assembly appointed to the task force**
22 **are nonvoting members of the task force and may act in an advisory**
23 **capacity only.**

24 **(9) The task force shall meet at times and places specified by the**
25 **call of the chairperson or of a majority of the voting members of the**
26 **task force.**

27 **(10) The task force may adopt rules necessary for the operation of**
28 **the task force.**

29 **(11) The Oregon Patient Safety Commission shall provide staff sup-**
30 **port to the task force.**

31 **(12) Members of the task force who are not members of the Legis-**

1 **lative Assembly are not entitled to compensation, but may be reim-**
2 **bursed for actual and necessary travel and other expenses incurred by**
3 **them in the performance of their official duties in the manner and**
4 **amounts provided for in ORS 292.495. Claims for expenses incurred in**
5 **performing functions of the task force shall be paid out of funds ap-**
6 **propriated to the commission for purposes of the task force.**

7 **(13) All agencies of state government, as defined in ORS 174.111, are**
8 **directed to assist the task force in the performance of its duties and,**
9 **to the extent permitted by laws relating to confidentiality, to furnish**
10 **such information and advice as the members of the task force consider**
11 **necessary to perform their duties.**

12 **SECTION 18. On or before October 1, 2018, the Task Force on Re-**
13 **solution of Adverse Health Care Incidents shall report to an appropri-**
14 **ate committee or interim committee of the Legislative Assembly. The**
15 **report must evaluate:**

16 **(1) Whether the resolution process described in sections 1 to 10 of**
17 **this 2013 Act has been successful; and**

18 **(2) Whether any improvements to the process are necessary.**

19 **SECTION 19. Notwithstanding the terms of office specified in sec-**
20 **tion 17 of this 2013 Act, of the members first appointed by the Gover-**
21 **nor to the Task Force on Resolution of Adverse Health Care Incidents:**

22 **(1) Two shall serve for a term ending June 30, 2014.**

23 **(2) Three shall serve for a term ending June 30, 2015.**

24 **(3) Three shall serve for a term ending June 30, 2016.**

25
26 **SUNSETS AND OPERATIVE DATES**

27
28 **SECTION 20. Sections 1 to 10 and 17 to 19 of this 2013 Act are re-**
29 **pealed on December 31, 2023.**

30 **SECTION 21. (1) Sections 1 to 10 of this 2013 Act and the amend-**
31 **ments to ORS 30.278, 31.250 and 743.056 by sections 11, 13 and 15 of this**

1 **2013 Act become operative on July 1, 2014.**

2 **(2) The Oregon Patient Safety Commission may take any action**
3 **before the operative date specified in subsection (1) of this section to**
4 **enable the commission to exercise, on and after the effective date**
5 **specified in subsection (1) of this section, all the duties, functions and**
6 **powers conferred on the commission by sections 1 to 10 of this 2013**
7 **Act.**

8 **SECTION 22. The amendments to ORS 30.278, 31.250 and 743.056 by**
9 **sections 12, 14 and 16 of this 2013 Act become operative on December**
10 **31, 2023.**

11
12 **APPLICABILITY**

13
14 **SECTION 23. Sections 1 to 10 of this 2013 Act and the amendments**
15 **to ORS 30.278, 31.250 and 743.056 by sections 11, 13 and 15 of this 2013**
16 **Act apply only to adverse health care incidents that occur on or after**
17 **the operative date specified in section 21 of this 2013 Act.**

18
19 **CAPTIONS**

20
21 **SECTION 24. The unit and section captions used in this 2013 Act**
22 **are provided only for the convenience of the reader and do not become**
23 **part of the statutory law of this state or express any legislative intent**
24 **in the enactment of this 2013 Act.**

25
26 **EMERGENCY CLAUSE**

27
28 **SECTION 25. This 2013 Act being necessary for the immediate**
29 **preservation of the public peace, health and safety, an emergency is**
30 **declared to exist, and this 2013 Act takes effect on its passage.**