



Memorandum

To: Senate Committee on Health Care

From: Stacey Schubert, Director, OHA Office of Health Analytics

Date: March 31, 2023

Subject: SB 966 REALD-SOGI Clarification

Additional clarification on whether SB 966 mandates collection of REALD-SOGI (ahead of the implementation of REALD-SOGI system wide)

In general, Senate Bill (SB) 966 does not create a new mandate for Oregon All Payer All Claims Reporting Program (APAC) reporters to collect race, ethnicity, language and disability, or sexual orientation and gender identity (REALD-SOGI) data.*

The demographic information in APAC is currently not REALD or SOGI compliant. That's primarily because commercial insurance companies—which submit about three-quarters of the claims in APAC—have not historically been required to collect REALD or SOGI demographic information. However, House Bill (HB) 3159, which was passed by the Oregon Legislature in 2021, will require all insurers to eventually collect demographic REALD and SOGI information from their members. **SB 966 would require insurers to report this data when it becomes available (availability based on implementation timeline of HB 3159 being led by the Oregon Health Authority (OHA) Equity and Inclusion Division).**

* Note: There is a small group of organizations that report to APAC which are not covered under the collection mandate of HB 3159 (2021). For that small group, SB 966 will be the vehicle for a mandate to collect and report REALD-SOGI data to APAC. This includes Third Party Administrators and Pharmacy Benefit Managers. APAC would not collect data from any entity in advance of implementation of HB 3159.

Trade secrets protections for voluntary APAC reporters

The -1 amendment for SB 966 extends the same protections regarding trade secrets to voluntary data submitters that exist for mandatory reporters. The protection prohibits releasing data at a level that a market advantage is gained by a competitor or lost by a data reporter.**

How does APAC protect trade secrets currently? What protections, exactly, would voluntary reporters start to receive?

APAC currently assures that trade secrets are protected by releasing only one of the following: **the amount allowed by the payer or the name of the payer**. By only releasing one or the other, data requesters cannot analyze the data in a way that reveals financial information about individual payers that would fall under the trade secrets protection.

** Trade secrets limitations can be overridden by public need for the data and is not an absolute limitation. Such a determination would not originate with the program but could be made by OHA leadership, the Oregon Legislature, or the Governor.

