



MEMORANDUM

To: Rep. Nosse, Chair, House Committee on Behavioral Health and Health Care
Rep. Javadi, Vice Chair, House Committee on Behavioral Health and Health Care
Rep. Nelson, Vice Chair, House Committee on Behavioral Health and Health Care
Members of the House Committee on Behavioral Health and Health Care

From: Mark Bonanno, General Counsel and Vice President of Health Policy

Date: March 13, 2025

Re: OMA Comments on HB 3324

The Oregon Medical Association (OMA) engages in advocacy, policy, and community for over 7,000 physicians, physician associates, and medical and PA students in Oregon so they can remain focused on patient care.

We appreciate the opportunity to provide testimony regarding House Bill 3324 and we are in support of the bill with an amendment to include medical clinics as well as hospitals.

The reason for the bill in simple, in 2024 the Oregon Supreme Court issued an opinion in the case of *Brown v. GlaxoSmithKline, LLC* (372 Or. 225) that unexpectedly extended a concept known as strict products liability to anyone who provides a product or supply to a patient when taking care of that patient.

Thousands of products and supplies are used daily in hospitals and clinics and those locations are not involved in the design or manufacture of the product or supply. Yet, now in Oregon, those hospitals and clinics essentially step into the shoes of manufacturers for liability purposes because they are deemed sellers of those products and supplies. There will be no need to determine whether care was provided negligently or not, if a product or supply provided in that care ends up being determined to be defective, that is the end of the inquiry. The hospital or clinic will be liable and there would be no need to sue a manufacturer.

Without restoring an exception for hospitals and clinics similar to an exception physicians have had since 2009, the new threat of strict liability could lead to fewer independent and physician-owned practices for fear of taking on too much liability. Further, we could experience the stifling of medical innovation for fear of using newer treatments or engaging in a common and acceptable practice of prescribing drugs “off-label” if early studies are showing promise the drug could treat other diseases than what it was designed for.

Respectfully, we would encourage the Committee to consider including medical clinics to the bill to ensure we are not back here in later legislative sessions trying to add them in.

We are glad to respond to questions.

The Oregon Medical Association (OMA) is the state’s largest professional organization engaging in advocacy, policy, community-building, and networking opportunities for Oregon’s physicians, physician associates, medical students, and physician associate students. The OMA’s members speak with one voice as they advocate for policies that improve access to quality patient care, reduce administrative burdens on medical professionals, and improve the health of all Oregonians. Additional information can be found at www.theOMA.org.