

**Medical Liability Task Force
Meeting #1 Summary**

Wednesday, May 17, 2010
1:00-3:00 pm

Work Group Members in Attendance

Michael Alexander, Co-Chair
Joseph Siemieniczuk, Co-Chair
Rick Bennett
Peter Bernardo
Jeffrey Bildstein
Janet Billups
Jim Dameron
Craig Fausel
Scott Gallant
Robert Holland
Josie Mooney
Laura Potter
Christoffer Poulsen
Mark Stevenson
Lawrence Wobbrock

OHPR Staff in Attendance

Jeanene Smith
Lynn-Marie Crider

OHFB Liaison Representative in Attendance

Chuck Hofmann

Meeting Summary (actions in bold)

Committee Introductions

Each member of the task force, Board liaison, and staff introduced him or herself.

Discussion

Chuck Hofmann, Health Policy Board liaison, offered opening comments. He asked the task force to look at the medical liability system from a patient-centered standpoint.

Jeanene Smith, staff, reviewed the work that the Board has requested be done. The task force will make recommendations to the Board in the fall and complete its work by December.

The co-chairs suggested that the work of the task force be informed by the following questions:

- Does the medical liability system increase direct and indirect costs of health care out of proportion to its benefits to patients and others?

- In the light of our answer to the first question, what if any recommendations might the task force offer to shift the balance between costs and benefits?

Co-chair Siemieniczuk suggested that the costs of the system include awards and settlements and the cost of defensive medicine to the degree it is a product of the medical liability system. The benefits include awards to patients who have been injured and the protection that defensive medicine brings to patients.

Lynn-Marie Crider, staff, shared some preliminary statistical data on trends in malpractice claims and costs in Oregon. She also summarized the components of the federal health reform law relating to medical liability.

Members of the task force requested that the following be distributed to the work group:

- The report commissioned by a 2004 Legislative Task Force
- The grant application submitted by the Office for Oregon Health Policy and Research earlier this year
- A paper on health courts
- Cory Streisinger's testimony on the rural medical malpractice premium assistance program.

There was an extensive discussion of the co-chairs' proposed framing of the issue. Some of the points of view expressed are summarized below:

- Costs and benefits cannot be quantified, so the questions need to be reformulated. The real question is do we get enough bang for the buck? (Bernardo)
- We should not get bogged down in a debate about the cost of defensive medicine. We should just assume there are costs and think about alternatives. The question should include whether we can reduce defensive medicine and improve patient safety. (Billups)
- Changes to the medical liability system will not affect total health care costs, at least not for a long time. (Bernardo)
- It seems like the current system doesn't do a very good job of helping people who are injured as a result of encounters with the health care system. We should ask if there is a better way to meet the objectives of the medical liability system. (Stevenson, Bennett)
- We should talk about the rural reinsurance program. (Gallant)
- A goal should be to stabilize the premiums, not necessarily to lower them. (Bernardo)
- One way to frame our task might be with this critique:
 - My malpractice premium is not used efficiently. Too much is spent for administration and legal expense.
 - Not enough people get compensation relative to the numbers of people who are injured in the medical system.
 - The system doesn't necessarily drive quality improvement.
- The questions we should ask about alternatives are
 - How does the alternative affect cost?
 - How does it affect patient safety?
 - What barriers does it create to recovery by injured patients? (Dameron)
- We should talk about the concept of guidelines and safe harbors that is the subject of the planning grant OHPR has applied for. (Holland, Bildstein)
- Perhaps the group can agree that the medical liability system needs work to:
 - Close claims more quickly

- Be more efficient
- Compensate a larger proportion of the people who are hurt by medical errors
- Become more predictable for physicians. (Siemienczuk)
- We should talk about early offer and disclosure programs because a lot of expense is incurred to get the facts. We should also limit shields that interfere with getting the facts. (Wobbrock)

Direction to staff:

Prepare materials on offer and disclosure programs and health courts.

The next committee meeting is scheduled for: June 2, 2010. [Note: Subsequent to this meeting, the June 2, 2010 meeting was cancelled. The next meeting will be **July 7, 2010, 1 – 3 pm.**]