LOBBY OREGON

LEGISLATIVE UPDATE

Prepared for OAFP

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New Workgroup on Primary Care

Rep. Rachel Prusak (D-Tualatin) will lead a new workgroup, established by the House Health Committee, on accessing primary care. House Health Committee chair Andrea Salinas (D-Lake Oswego) said the goal is to move toward a system of universal primary care access.

The workgroup will identify primary care services including areas of unmet need, and analyze policy options to put more emphasis on primary care.

The group will start meeting in March with the goal of proposing legislation for the 2021 session.

Bills Unveiled for Short Session

It's shaping up to be a busy short session. Dozens of bills were previewed this week as interim committees looked ahead to the short session. Proposed bills include:
(Note: Bills will receive new numbers once they are formally introduced in each chamber. Legislative Counsel creates draft bill numbers (LCs) when it writes each bill.)

HEALTHCARE BILLS

Prior Authorization & Step Therapy (LC 59)

The Oregon Medical Association is reintroducing a modified version of its 2019 bill (SB 139). This version would:

- Apply to commercial insurance but not OEBB or PEBB
- Require insurers to create online portals for prior authorization requests
- Give insurers more time to comply
- Allow 12-month authorizations for maintenance drugs
- Provide exceptions to step therapy protocols when physicians can justify them
- Not limit mid-year formulary changes (which would be dealt in other legislation).

The OMA said 26 other states have passed some form of step therapy reform. Rep. Mitch Greenlick (D-Portland) said, "Starting with a simpler drug and moving to more complicated drugs is good patient care."

Telehealth Parity in CCOs (LC 15)

When a service is covered by Medicaid, either through CCOs or fee-for-service, this bill says the same service must be covered if delivered via telehealth. Rep. Rachel Prusak (D-Tualatin) said the bill requires coverage parity, not payment parity.

Insurance and CCO Changes (LC 92)

This would extend the task force on universal health care until November 2021; prohibit CCOs from withholding information from OHA by claiming it is a trade secret; and require OHA report on CCO finances every two years. In addition, it would remove some insurance mandates from statute that are no longer in effect.

Dialysis Payment (LC 6)

This would create a new set of guidelines for dialysis payment and treatment by regulating the price of dialysis based on Medicare payments. It also aims to make treatment more affordable by capping copayments at 10% of charges.

Genetic Counselor Licensing (LC 20)

Requires licensure by the Health Licensing Office for genetic counselors. There are approximately 60 genetic counselors practicing in Oregon. Twenty-six other states require genetic counselor licensure.

Make Health Care a Right (LC 18)

A constitutional amendment would be referred to voters declaring that health care is a right in Oregon. Rep. Mitch Greenlick (D-Portland) said this new version of a proposal he has been working on for more than a decade requires the state to provide access in an affordable way, with checks to prevent any individual from breaking the bank by demanding specific services.

Ban Flavored Tobacco Vaping Products (LC 232)

Proponents say there are more than 10,000 vaping flavors including Mountain Dew, Fruity Pebbles and Captain Crunch, many of which target teens. A proposed federal ban targets candy and fruit flavors, but this bill goes beyond that to ban all flavors including mint and menthol.

Ban Internet and Phone Sale of Vaping Products (LC 52)

Despite state law raising the age to purchase tobacco products to 21, teens find it simple to purchase vaping products online or by phone. Proponents say this will close those loopholes. A recent survey shows one in four 11th graders report using vaping products.

HOSPITAL BILLS

Surgical Smoke (LC 204)

Requires hospitals and ambulatory surgery centers to use smoke evacuation systems during surgical procedures. The Senate Health Committee told proponents to work with hospitals on an educational campaign about filing surgical smoke complaints with OSHA. So, supporters are introducing the bill through the House Judiciary Committee instead.

Nonprofit Hospital Charity Care (LC 236)

Individuals receiving care at a nonprofit hospital could decline to be screened for Medicaid and still receive charity care. Proponents worry that undocumented immigrants who are afraid of deportation will not seek the care they need without this bill.

Nurse Staffing Law Funding (LC 90)

Rep. Rob Nosse (D-Portland) is proposing $1.3M to OHA for staff to implement the nurse staffing law. OHA does not have enough staff to meet the timelines in the law.

Health Care Interpreters (LC 186)

This would give OHA the authority to ensure qualified healthcare interpreters are part of the interpreter registry. It would also hold health care providers accountable if they do not work with qualified interpreters, and allow the Bureau of Labor and Industries (BOLI) to investigate.

INSURANCE BILLS

Uniform Grace Periods for Insurance Premiums (LC 219)

Health insurers issuing individual health plans would need to give people:

- 15 days to make a binder payment for a new policy
- 30 days grace period for monthly premium payments.

The bill also standardizes notice requirements that a policy will be terminated for nonpayment.

These changes would apply to policies beginning January 1, 2020.

This bill is the product of a work group looking for alternative to short-term health plans as a way to get more people insured in the individual health insurance market.

Insurance Mandate Advisory Committee (LC 7)

There were 26 health insurance mandates introduced in the 2019 legislative session. This proposal would create a committee in DCBS to review the cost impacts of proposed mandates so legislative committees have more information before they act.

BEHAVIORAL HEALTH BILLS

Create Behavioral Health Roadmap (LC 45)

This is Rep. Mitch Greenlick's (D-Portland) attempt to give some structure to Oregon's behavioral health system. He said it would create a legislative commission to envision what an ideal system would look like, where we are now, how much we are spending and a process for the legislature to identify what the next steps are to move us toward an ideal system. "We've promised to create a community mental health system and one reason that hasn't happened," he said, "is we don't know where we are going."

Behavioral Health Gap Analysis (LC 221)

This directs OHA to prepare an assessment that forecasts the supply of and demand for behavioral health professionals in Oregon over the next decade. It also establishes a licensure requirement for a variety of counselors who are currently unlicensed.

"Catch All" Mental Health Bill (LC 92)

Update CCOs' financial reporting requirements in SB41 (2019) to address: civil penalties, corrective actions, financial problems in CCOs, and concerns about the National Insurance Commission's reporting standards.

It would also extend SB 770 (2019)'s Taskforce on Universal Healthcare's reporting requirement to Nov. 1, 2021, and require it to provide the legislature with an update in fall 2020.

The bill would also clarify CCO provisions, such as when the OHA can transfer a member from one CCO to another, and make clear whether exemptions for benefits required by certain health insurance policies, such as those in the essential benefits package, will be repealed.

Certified Community Behavioral Health Clinics Program (LC 263)

Continue the Certified Community Behavioral Health Clinics (CCBHCs) demonstration program through June 2021, or earlier if federal funding terminates. The Health Authority would evaluate the program and report findings to the legislature by December 1, 2020. It has a fiscal of $50.1 million to fund the program through the end of this biennium – this funding was not granted in the 2019 session because federal matching funds were up in the air.

OHA Report on Behavioral Health Treatment Barriers (LC 270)

Require OHA's Health Policy Board and key stakeholders to write a report on regulatory and policy barriers to effective and timely behavioral health treatment for individuals with co-occurring disorders, with recommendations for legislation in the 2021 session.

BEHAVIORAL HEALTH INFORMATIONAL HEARINGS

Oregon State Hospital Backlog and Missing Community Resources

The "aid and assist" population – individuals who a judge determines need psychiatric stabilization to understand the criminal charges against them and be able to aid and assist in their own defense – has grown exponentially. Over the past 8 years, Oregon's average aid and assist daily population has increased by 149%.

From the fall of 2018 to July 2019, Oregon State Hospital was not able to meet demand. To increase capacity for the aid and assist population, they reallocated two civil commitment units. In July 2019, the hospital initiated its first "pause" on civil admissions, which has backed up the system.

Steven Allen, OHA Behavioral Health Director, said the crisis is a result of increased aid-and-assist cases, and decreased discharges due to limited community capacity to provide the level of support required.

Overcrowding in aid-and-assist cases, which are federally mandated, means the hospital cannot meet demand for other patient populations. Currently, 59 people are on the civil commitment waiting list, and 46 are ready to be discharged to the community level, but cannot be released because there are not sufficient local resources for them.

Allen told the House Behavioral Health Subcommittee, "Do we need more psychiatric bed capacity? Yes. …But we also need to get upstream. We're not providing services proactively when they need it, so they can avoid arrest. We're not attending sufficiently to their substance abuse disorders. We need to do this at the community level."

Oregon Alcohol and Drug Policy Commission's Strategic Plan in Progress

Oregon has the highest rate of substance use and substance use disorders in the nation. Reginald Richardson, Executive Director of the Oregon Alcohol and Drug Policy Commission, updated House and Senate committees on its 2020-2025 strategic plan, a draft of which should be ready in February. The final version is due in July 2020.

"We believe the way to tackle this problem most effectively is by working with state agencies to become a system," said Richardson. In working with 13 state agencies, the commission's goals are to:

1. Implement a statewide system of policies, practices and investments
2. Increase the impact of substance misuse prevention strategies
3. Increase rapid access to effective substance use disorder treatment
4. Increase access to recovery support.

Advocates Highlight Addiction Crisis

Every day, five Oregonians die from alcohol and 1-2 Oregonians die from drug overdoses, more than a half of which are from methamphetamines, according to Mike Marshall, Director of Oregon Recovers. The total deaths from drugs and alcohol is 700% higher than the worst year of the AIDS epidemic in Oregon.

Our "fractured and incomplete" system is expensive and ineffective. "We're spending a huge amount of money on the consequences of this issue and virtually no money on effectively solving it," said Marshall.

He outlined three recommendations for the legislature to implement in the February session to take on the crisis:

1. Raise the price of beer, wine and cider by 20%
2. Dedicate the increase in beer tax revenue to implementing the Alcohol and Drug Commission's strategic plan
3. Appoint a "Recovery Tsar" to oversee the state's efforts

Criminal Justice Commission Executive Director Mike Schmitt spoke about the state's poor return on investment. "We are spending more per person, year-on-year, and we still have such bad outcomes," he said.

Heather Jefferson of the Oregon Council for Behavioral Health, a trade association of providers, told legislators that providers are operating with 20-30% less revenue than they need to meet demand. To improve access, Jefferson suggests the legislature increase private and public reimbursement, which she said is significantly lower than for equivalent mental health services.

Oregon Lacks the Workforce it Needs to Treat Behavioral Health

Steve Allen told the Senate Mental Health Committee, "We don't have the workforce we need to get the [behavioral health] work done in Oregon. And that workforce isn't going to magically appear." Psychiatrists need 12 years of training to practice. Allen continued, "The perfect time to start longer-term [workforce] planning is now."

Allen reminded the committee that "quality is just as important as quantity" and that to recruit and retain skilled, sensitive practitioners, rates must increase. Currently, behavioral health professionals earn as much as they would working at Starbucks, he said. "The most acute patients are currently being treated by the least experienced professionals. We have an upside-down workforce."

The most acute workforce shortages are in psychiatry and addiction medicine, as well as in certain geographies, Allen told the committee. The executive director of BestCare, an addiction treatment service in Jefferson, Crook, Deschutes and Klamath counties, told the committee, "We need staff that can work with doctors and wander around homeless camps at the same time." These people are not easy to find.

Rx BILLS

Import Rx from Canada

Oregon would join Florida, Colorado, Vermont and Maine in allowing the import of prescription drugs from Canada. Rep. Kim Wallan (R-Medford) said pharmaceuticals have now surpassed hospitals as the largest slice of the health care pie.

Wallan said, "Generally, I would be opposed to creating a new bureaucracy… but it is time to do this for Oregonians and stop subsidizing the rest of the world." Wallan, who is an insulin-dependent diabetic, said insulin that costs $150 to $300+ in the US can be purchased for $30 in Canada.

Caps Co-Pay for Insulin (LC 47)

Out-of-pocket cost for any insulin purchase would be capped at $100 for commercially insured patients. Rep. Sheri Schouten (D-Beaverton) said, “One in four diabetics in Oregon report using less than the required dose to save money.” There are reportedly 435,000 Oregonians (12.8% of the population) with diabetes.

Rep. Mitch Greenlick (D-Portland) said, “This doesn’t reduce the cost of insulin. It simply shifts the cost from the patient to the premium.” He went on to say, “I’ll support this, but we need to do something to reduce the cost of these products.”

Pharmacists Prescribing HIV Medication

Pharmacists would be allowed to prescribe medications that can prevent HIV for patients who are HIV negative. These are called Pre-Exposure and Post Exposure Prophylactics. The bill would also prohibit preauthorization by insurance companies for receiving anti-retroviral drugs, and require insurance to cover pharmacist consultations for the use of these drugs.

BUSINESS ISSUES

Noncompete Agreements (LC 75)

Reduces the maximum term for noncompete agreements from 18 months to 6 months, restricts noncompetes to employees earning more than $97,000 per year, and requires employers to pay 50% of an employee’s salary when the noncompete is in force.

This is AFL-CIO’s priority bill in 2020. They say the changes are proposed because “employees should have mobility to make their work lives better.”

Business groups said Oregon already has one of the highest thresholds for noncompetes.

Bans “Cash Free” Businesses (LC 175)

Businesses, with some exceptions, would be required to accept cash. Supporters say businesses that only accept credit or debit cards discriminate against the poor. The bill also prohibits other types of discrimination in high school sports organizations, school and business dress codes and restrictions on “natural hair”.

OTHER ISSUES

Campaign Finance Limits (LC 164)

Sen. Jeff Golden (D-Ashland) is proposing campaign finance limits that would have minimal restrictions on individuals, PACs or unions, but would prohibit corporate contributions.

Individuals would be able to contribute up to $1,500 to candidates in legislative races, and $4,000 in statewide races.

PACs and unions would be able to contribute $30,000 to a candidate in a legislative race, and $80,000 in statewide races.

Firearms Safe Storage (LC 38)

Requires firearms be stored with a trigger lock or in a locked cabinet.

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