
LEGISLATIVE UPDATE

Prepared for OAFP

February 16, 2020

Thursday was the deadline for bills to move out of committee in the first chamber. Those that did not move are dead for this session. The bills that did pass now switch chambers and the committee process begins anew. Once again, the timeline is short for committees to act. Policy committees are scheduled to shut down by end of the day on February 25.

HEALTH CARE**HB 4081 – PA Statutory Update**

The Oregon Society of Physician Assistants (OSPA) introduced legislation this session that seeks to remove administrative burden for hiring and employing PAs, while also modernizing the physician-physician assistant relationship. How exactly that relationship should be altered is complicated, says Elizabeth Remley, OSPA. This led to the -1 amendment, which Remley characterizes as the issues providing the biggest barriers to hiring PAs.

While the Oregon Medical Association supports the -1 amendment, Oregon Academy of Family Physicians' Sam Barber testified that they continue to have concerns with the bill, namely:

1. The removal of chart review from the statutory definition of supervision
2. The removal of board authority to require in-person supervision
3. Lack of a reasonable limit on the number of PAs one physician can supervise

Chair Andrea Salinas (D-Lake Oswego) stated on the record that she expects OSPA to work with other stakeholders on an amendment on the Senate side, referring to a drafting error that would allow PAs to be supervised asynchronously. "HB 4081 is just the first step in this process," said Rep. Salinas, "and after session, I expect the PAs to work with physician organizations and other stakeholders to develop standardized expectations for supervision of PAs commensurate with their education, skills and experience."

HB 4115 – Health Care Interpreters

This bill requires the Oregon Health Authority to develop a health care interpreter training program that is free or affordable, and maintain a registry of qualified or certified healthcare interpreters. It also prohibits interpretation service companies from employing interpreters not on the registry.

A new amendment removes health care providers and CCOs, shifting the burden to the interpretation service companies.

The Health Committee approved the bill and sent it to Ways and Means, over the objection of Rep. Cedric Hayden (R-Cottage Grove) who said, "Once this is fully implemented, I think this will put some of our interpreters out of a job instead of bringing people into the job."

SB 1577 – Banning Flavored Vape Products Turns into Vape Licensing Bill

The Oregon Health Authority testified that, “Flavored vape products are cheap, sweet and easy to get in Oregon.” They said, “We have a new generation of youth being addicted to nicotine.”

Vape shop owners insisted they are not the ones selling to minors. “You are punishing me for the action of somebody else.” They said legislation should target cheap, disposable vape products like Juul.

But what ultimately killed the flavored vape ban was its potential revenue impact to the state. A tobacco industry analysis, confirmed by revenue staff, said if voters pass the tobacco tax increase and expansion in November, and this flavored vape ban also passed, the state would lose \$5.4 million this biennium and \$22.6 million next biennium.

As a result, Sen. Laurie Monnes Anderson (D- Gresham) announced, “The flavor ban is gone but we do want to pass the licensure provisions for vape shops.”

Existing licensing programs such as Multnomah County’s are grandfathered in, so their regulations will not change.

The vape association and grocers say they will continue working on the bill to clarify and refine the licensure program.

The bill now goes to Ways and Means. “That’s a problem,” Sen. Tim Knopp (R-Bend) said. “We don’t have enough time to work this out [in the policy committee]”.

HJR 202 – Health Care is a Right

Despite Republicans’ discomfort with the concept, Rep. Mitch Greenlick’s (D-Portland) plan to refer a constitutional amendment to Oregon’s voters declaring health care is a fundamental right passed out of the House Health Committee this week.

Rep. Cedric Hayden (R-Roseburg) asked legislative counsel to provide clarity on what exactly it would mean to declare health care as a human right.

“The simplest answer to that question, which will be unsatisfactory, is that we don’t know. The courts will have to decide,” said legislative counsel’s Victor Ruther. “The bill creates an affirmative obligation to provide access to cost effective, clinically appropriate, affordable health care. Exactly what [that] means is unknown... It will be interesting to see how the courts interpret that language.”

“Would this bill give someone the ability to sue based on the right given to them in this bill?” asked Rep. Hayden, seeking further clarity.

“I believe that the courts would read this that a person has the right to remedy their right in the courts.” Ruther qualified this by saying that he did not believe this would require the legislature to raise taxes to pay for healthcare. The obligation of the state must be balanced against funding for education and other essential public services according to the referral, and any action brought against the state may not interfere with that balance.

House Minority Leader Christine Drazan (R-Canby) was not moved by legislative counsel’s opinion. “From a legislative perspective, I don’t know how in good conscience we could ever forward something this fuzzy, this confusing, that we can’t even navigate in a legislative hearing in a way that I have any certainty about. That we could with a straight face send this to voters and say we know what we are asking them to vote on and the effect it will have on funding.”

“I think there is strong bipartisan support to get to universal health care,” added Rep. Hayden, but he thinks we should work continue working within the system to achieve this goal.

The bill now heads to the floor for debate.

HB 4161 – Regional Health Equity Coalition

Regional Health Equity Coalitions (RHEC) are autonomous, community driven, cross-sector groups that build on the inherent strengths of local communities to identify creative solutions to improve health equity for communities of color and other marginalized identities. This bill codifies the definition of RHECs in statute, and allows for the expansion of these programs in the future.

Sadly, there are only 4 RHECS in Oregon and two capacity-building grantees piloting the RHEC model, says Rep. Teresa Alonso Leon (D-Woodburn).

“In order to maintain good health, people need more than just great health care: they also need stable housing, food security, and access to community programs among many other things,” says Coalition for a Healthy Oregon’s Miranda Miller. In Grants Pass, the RHEC helped AllCare CCO recognize that the graduation rate for students of color was just 21%. AllCare invested in a graduation coach at a local school district and was able to raise the graduation rate to 96% after just 5 years.

The bill passed and now heads to the House floor.

HB 4029 – Charity Care and Medicaid Enrollment

Some hospitals require patients to apply for Medicaid as a condition of financial assistance. Rep. Andrea Salinas (D-Lake Oswego) has proposed HB 4029 to prohibit that practice.

Recently, there has been a federal change for legally present immigrants in the United States to access Medicaid, says SEIU’s Felisa Higgins. “SEIU represents members who hold green cards but may no longer qualify for Medicaid because of the new public charge rule,” Higgins told the committee. “This bill allows them to still have access to hospital charity care policies.”

There was no opposition to the bill. It passed the House Health Committee and now heads to the floor for debate.

HB 4074 – Genetic Counselor Licensure

300,000 Oregonians have a genetic condition. Genetic counsellors are specialized healthcare professionals who calculate the risk of, order lab tests, and educate patients about genetic diseases. Oregon is one of 21 states that do not require licensure of genetic counsellors. Sixty genetic counsellors are currently practicing in Oregon.

Karen Kovak, a genetic counsellor at OHSU, told the House Health Committee that HB 4074 would “increase patient access and create safeguards to make sure that care is appropriate and high-quality.” She continued, “We see every day how important genetic information is to patients and families in this rapidly expanding field.”

The bill authorizes the Health Licensing Office to license qualified genetic counsellors. OMA supports the bill.

The committee unanimously passed the bill, which now goes to the House floor.

HB 4013 – Kratom Regulation

The kratom regulation bill was changed to create an interim work group. The Oregon Health Authority, Oregon Liquor Control Commission and Department of Agriculture will work with kratom industry representatives to develop a regulation plan and report back to the 2021 session.

The new version of the bill also prohibits selling kratom products to anyone under age 21. Kratom is a stimulant that comes from a tree grown in SE Asia. It’s sold online and in convenience stores, and is currently unregulated.

The bill now goes to the floor for debate.

CCOs

HB 4101 – Telemedicine Coverage for Medicaid

The CEO of Rogue Community Health said, “We cannot recruit providers to these very frontier sites in Jackson County. Without technology such as telemedicine, we would not be able to provide access to care and that’s not fair.”

Danielle Sobel with the Oregon Primary Care Association said telehealth provides numerous benefits to their community health centers including “increased access to primary and dental care, reduced transportation costs and better access to specialists.”

The bill requires Medicaid to pay for telehealth services in Oregon. CCO 2.0 contracts require telehealth coverage. This will ensure that fee-for-service Medicaid also covers telehealth services. The new requirement is effective July 1, 2021.

The House Health Committee approved the bill. It now goes to Ways and Means.

SB 1551 – CCO \$ Reporting

The Senate Health Committee amended the bill, pushing the first OHA report to the legislature on CCO finances from September 2020 to September 2021.

The committee said there that the House needs to work on the bill — dealing with trade secrets, member transfers and capital requirements.

SB 1551 bill now goes to the Senate floor for debate.

PRESCRIPTION DRUGS

HB 4073 – Insulin Copay Cap

The House Health Committee approved capping patients’ out-of-pocket cost for insulin at \$75 for 30-day supply or \$225 for 90-day supply.

The bill now goes to the floor for debate.

SB 1535 – Continues Rx Work Group

This bill makes small but significant changes to the Task Force on Fair Pricing of Prescription Drugs by:

- Expanding its scope of work to look at rebates and markups along the entire supply chain
- Adding a generic drug manufacturer
- Extending the life of the task force
- Clarifying that pharmaceutical manufacturers need to report to DCBS whenever there is a cumulative price increase of 10% or more in a calendar year.

The bill passed 3-2 and now goes to the floor for debate.

HB 4116 – Pharmacists Prescribing HIV Drugs Bill Dies in Committee

The goal of HB 4116 was to make HIV drugs more readily accessible by allowing pharmacists to prescribe and dispense PrEP and PEP drugs. PrEP (Pre-exposure prophylaxis) is an oral medication taken daily to lower a person’s chances of HIV infection. PEP is post-exposure prophylaxis taken within 72 hours of HIV exposure.

Rep. Margaret Doherty (D-Tigard) said it could result in enormous savings. She said the cost of PeEP is about \$1000 per treatment, whereas treating one case of HIV can be as much as \$350,000.

Insurance carriers say they all provide these drugs but this bill was poorly structured. Amy Fauver, Kaiser, said, “PrEP drugs should not be furnished outside a

comprehensive PrEP program, which is highly specialized and requires extensive time, training and patient screening and monitoring.”

House Health Committee Chair Rep. Andrea Salinas (D-Lake Oswego) said they ran out of time, blamed the bill’s sponsor for not entertaining an amendment sooner, and said the bill is dead this session.

HEALTH INSURANCE

HB 4102 – Prior Authorizations

After 18 months of negotiations, the bill that streamlines how commercial insurers deal with prior authorizations passed out of the House Health Committee on Tuesday.

The bill’s sponsor commented, “I think it’s going to do a lot of good for providers and patients across Oregon to access care. And I look forward to coming back to make sure it’s more equitable and more insurers get covered in the future.” Currently the bill excludes Medicaid and insurance for public employees and educators.

“I tend to think that what’s good for the goose is good for the gander, and I look forward to talking about how to include OEBC and PEBB,” added Rep. Christine Drazan (R-Canby).

HB 4110 – Health Insurance Grace Periods

This bill requires health insurers selling in the individual market to allow a 30-day grace period for late payments and a 15-day period for initial binder payments. Current law only requires a 10-day grace period for past-due payments and no grace period for first premium payments.

The bill passed unanimously out of committee and now goes to the floor for debate.

HB 4114 – Dialysis Payment Bill Dies

House Health Committee Chair Rep. Andrea Salina (D-Lake Oswego) announced the bill to cap dialysis payment would not move forward this session. She said she will create an interim workgroup to focus on the issue.

BEHAVIORAL HEALTH

HB 4082 – Behavioral Health Roadmap

House Behavioral Health Committee amended the behavioral health roadmap bill to include OHA’s Director (instead of its Director of Behavioral Health) and the Chief Justice of the Oregon Supreme Court. The bill also now specifies that an ideal healthcare system is “community-based”.

HB 4082 has a \$0.5 million fiscal for the rest of the biennium, which would fund three OHA positions and a limited-term contract. House Behavioral Health Committee Chair Mitch Greenlick (D-Portland) is not pleased. OHA Behavioral Health Director Steve Allen responded, “We can’t properly support a commission as important as this without additional staff.”

SB 1553 – Barriers for Co-Occurring Behavioral Health and Addiction Disorders

Developmental and intellectual disabilities were added to the co-occurring disorders targeted by this bill. SB 1553 requires OHA to report to the legislature on existing barriers to treatment and suggestions to improve access long-term.

OHA is asking for \$653,000 this biennium to meet its staffing needs to prepare the report. The bill was referred to Ways and Means.

HB 4149 – OHA Mapping of Alcohol and Drug Policy Commission’s Strategic Plan

The Alcohol and Drug Policy Commission’s Strategic Plan is finalized and will be submitted to the legislature next week (well ahead of its June 2020 deadline).

Rep. Tawna Sanchez (D-Portland) had high hopes for HB 4149, which as originally written, would have had a fiscal impact of \$10 million this biennium. Counties and cities were opposed, because it would have taken away their funding. So Rep. Sanchez “whittled everything down.” She added, “It is a start. Just barely a start. It won’t allow us to implement anything, but it will allow us to start mapping.”

The House Behavioral Health Committee amended the bill to task ODA with mapping what resources Oregon has, and what it needs, to implement the Strategic Plan recommendations. It now has a \$200,000 fiscal, and unanimously passed out of committee to Ways and Means.

Reginald Richard, Executive Director of the Commission, said, “It isn’t everything we’d hoped for, or what we need, but it is a great start.”

SB 1552 – Continue Certified Community Behavioral Health Clinics Pilot Project

The Senate Mental Health Committee amended SB 1552, which continues funding Certified Community Behavioral Health Clinics (CCBHC) through the biennium, to also evaluate coordination with CCOs. The bill requires \$15.3 million in general funds to receive a \$63 million federal match, and is now in Ways and Means.

DENTAL HEALTH

SB 1549 – Dental Therapist Bill Sent to Work Group

Senate Health Committee Chair Laurie Monnes Anderson (D-Gresham) said she didn’t have the vote to pass SB 1549 this session, so she’s creating a work group to look at dental therapists’ educational requirements and scope of practice. The work group is to make recommendations to the 2021 legislature.

Another bill, making its way through the process this session, may be amended to recognize tribal sovereignty to regulate dental therapists, clearing the way for Medicaid payments to those providers.

BUSINESS

SB 1527 – Noncompete Agreements

The Senate Labor and Business Committee unanimously approved a slightly modified version of the noncompete bill. It makes three primary changes to noncompete agreements:

1. Only salaried employees earning more than \$97,311 (the median income for a family of four), adjusted annually for inflation, can have noncompetes
2. The maximum term of a noncompete agreement is reduced from 18 to 12 months
3. Noncompete agreements that don’t comply with Oregon law are void, shifting the burden to employers to prove the agreement is legal

Sen. Tim Knopp (R-Bend) said, “It gives business some certainty and employees will no longer have to hire attorneys and do the uncomfortable work of getting out of these agreements.”

Oregon Business and Industries, representing 1600 businesses, is neutral on the bill, which now goes to the floor for debate.

HB 4107 – Businesses Must Accept Cash

The House Judiciary Committee approved the bill requiring businesses, but not government, to accept cash. It includes a list of exemptions:

- Phone and internet sales
- For licensed insurance agents
- Hospitals and medical service providers, as long as they invoice the patient and give them an opportunity to pay by cash at a later date

The bill's sponsor Rep. Janelle Bynum (D-Clackamas) said, "The intent is to make sure everyone has an opportunity to participate in our economy." Why then, Rep. Ron Noble (R-McMinnville) asked, is government excluded? "Government is one of those areas we need to make sure there is no denial of access," he said.

The bill now heads to the floor for debate.

OTHER ISSUES

Revenue Forecast Up Again

Revenues to the state continue to outpace expectation. The state economist told legislators General Fund and Lottery resources are up \$183 million since the December forecast.

Economists say the fear of recession has diminished. But, they said, recessions are a psychological phenomenon, often driven by "coordinated pessimism." The biggest threat to Oregon's economy currently is coronavirus, since 20 to 30% of Oregon exports go to China.

HB 4124 – Campaign Contribution Limits Task Force

Legislators are still trying to figure out how best to implement Measure 47 – the campaign contribution limits ballot measure passed by voters in 2006 that was later ruled unconstitutional – if the Oregon Supreme Court reinstates the law as part of an upcoming ruling on Multnomah County's campaign finance law.

The two options under consideration are:

1. Start it at the beginning of the next election cycle, November 3, 2020. This would create a level playing field for all candidates in the 2022 election but would not give the Secretary of State's Elections Division time to implement the complicated new law.
2. Wait until July 1, 2021. This would give the Secretary of State time and legislators a chance to correct any problems with the law in the 2021 session. But starting mid-election cycle would favor incumbents who would be able to raise unlimited contributions before that date.

Campaign finance reform advocate Dan Meek prefers option 1, saying, "Measure 47 ensures a level playing field because candidates would have to zero out their campaign fund within 60 days of the election."

Former Legislative Counsel Greg Chamov supports option 2 saying, "It sets up a thoughtful process to create a system that is thoughtful, constitutional and fair."

HB 4104 – Using Campaign Funds for Childcare

Bill sponsor Rep. Karin Power (D-Portland) said, "I'd love to see more people with kids run for school board and other office." One challenge for candidates, she said, is paying someone to babysit while a candidate knocks on doors or attends campaign events. HB 4104 makes it clear that campaign funds could be used for those childcare expenses, or to pay for special help needed for a disabled or elderly family member.

Family Forward testified in support, saying it breaks down one of the barriers people face when running for office.

The Secretary of State has said this is a permissible use of campaign funds. This would codify that.

Supporters say campaign funds could not be used for routine childcare expenses, just those resulting from active campaigning.

HB 4005 – Safe Gun Storage

This bill still requires gun owners to keep their guns locked using a trigger or cable lock, or a gun safe. House Judiciary Committee Chair Rep. Tawna Sanchez (D-Portland) said, “Simply holding people accountable for not locking up their guns isn’t the worst thing.”

The committee added an amendment clarifying that if a gun is under the control of the owner or authorized user, and that person is alone at home and the doors and windows are locked, their gun may be left unlocked.

Rep. Ron Noble (R-McMinnville), a former police officer, said, “I don’t think this bill is enforceable.” He was one of five committee members voting no on the bill, but six others supported it, sending it to the House Rules Committee.

SB 1538 – Enables Local Governments and Schools to Limit Concealed Firearms

The Oregon Legislature took away local governments’ rights to regulate concealed firearms in 1995, said Sen. Floyd Prozanski (D-Eugene). SB 1538 gives that right back to city, county and metropolitan service districts, school districts, colleges and universities. The bill passed out of the Senate Judiciary Committee on pure party lines, and is now in Rules.

Sen. Alan Olsen (R-Canby) said, “This bill should just find its way to the cemetery.”

“[It will] create massive amounts of confusion in the public square,” added Sen. Dennis Linthicum (R-Klamath Falls)

Sen. James Manning Jr. (D-Eugene) responded, “There are many people who don’t carry firearms into public spaces and their needs need to be taken into account.”

“[This] will restore us to the condition we thought we were in before what I consider an unfortunate Supreme Court decision a decade ago,” said Sen. Michael Dembrow (D-Portland).

Sen. Sara Gelser (D-Corvallis) called it a “basic, commonsense safety measure.”

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