

LEGISLATIVE UPDATE

Prepared for OAFP

March 24, 2019

First Legislative Deadlines Loom

Friday, March 29 is the first big deadline in the 2019 legislative session. Bills must be posted for work session in the first chamber committees by the end of the day Friday, or they die.

Committees then have until Tuesday, April 9 to complete those work sessions. At that point, bills that pass switch sides and begin the committee hearing process in the other chamber.

HB 2014 – Removes Cap on Non-Economic Damages

On a straight party-line vote, the House Judiciary Committee voted to remove the \$500,000 cap on non-economic damages in bodily injury cases. The \$500,000 cap remains on wrongful death damage awards.

Opponents proposed removing the cap in cases where the perpetrator was charged with a criminal act but that was not added to the bill.

Republicans on the committee said they are working on amendments and hope those might be added to the bill on the Senate side.

The bill now goes to the House floor for a vote.

HB 2270 – \$2 Cigarette Tax Increase for OHP

The House Revenue Committee is beginning to focus on a significant cigarette tax increase to help fund the Oregon Health Plan. The initial proposal is a \$2 per pack increase plus a new tax on vaping products.

Oregon's current cigarette tax of \$1.33 per pack is projected to raise \$400 million in 2019-21. Sixty-five percent of that, or \$259 million, will go to the Oregon Health Plan.

A \$2 per pack increase would raise the Oregon tax to more than California (\$2.87 per pack) or Washington (\$3.025 per pack).

A cigarette tax increase is likely to be referred to the voters, either by the legislature or by the tobacco companies.

SB 526 – Universally-offered Home Visitation

Sen. Elizabeth Steiner Hayward (D-Portland) is the chief proponent of a plan to offer new parents a home visit by a registered nurse. "The intent is to empower parents and help them become the best parents, which we know they want to be," she told the Senate Health Committee.

Commercial carriers would be required to cover the cost with no cost sharing by policyholders. The state would have to pay for the Medicaid population, which has half of the babies born in Oregon, as well as OEBC & PEBC. The state's cost is expected to be \$1.6M in 2019-23.

The program would be phased in but ultimately home visits would be offered to all new parents based on the Family Connects model used in other states. But the program is completely voluntary, so parents can choose whether they want the service.

Sen. Lee Beyer (D-Springfield) said, “I’m a little concerned about how fast the rollout will be and how expensive it will be,” but the committee approved the bill, sending it to Ways and Means.

SB 136 – Removes 10-Day Limit on CRNA Prescribing

The Senate Health Committee voted unanimously to pass the bill that removes the 10-day limit on prescribing for certified registered nurse anesthetists. It now goes to the floor.

HB 2220 – Dentist Vaccinations

The House Health Committee unanimously approved the bill allowing dentists to administer vaccination. The bill was amended to remove a new certification requirement for dentists who want to give vaccinations. Rep. Cedric Hayden (R-Cottage Grove) said the bill still requires dentists to complete an OHA-approved training before they can prescribe and administer vaccines.

The bill now goes to the House floor for a vote.

SB 872 – Rx Cost Control Omnibus Bill

In Oregon, from 1991 to 2014, prescription drug spending increased by an average of 7.2% annually according to Sen. Elizabeth Steiner Hayward (D-Beaverton). HB 4005, passed in 2017, created the Task Force on Fair Pricing of Prescription Drugs to look at cost drivers as a whole and develop recommendations for the legislature. SB 872 reflects the Task Force’s recommendations.

The bill targets manufacturers, pharmacy benefit managers, insurers, hospitals, state entities, and consumers. Provisions include:

- Disclosure of total spending on pharmaceuticals by patient assistance programs
- Fee-only pharmacy benefit managers for OEBB/PEBB and CCOs (i.e. no rebates)
- Publishing info around insurers’ formularies, notices sent to insureds when changed
- Disclosure of lesser cash price or cost-share and prohibition on gag clauses
- Disclosure of hospital and medical provider mark ups for prescription drugs
- State agency annual cost reporting for prescription drugs (top 10 most prescribed, top 10 most paid, top 10 increases in cost)
- Disclosure of funding of patient advocacy organizations by Pharmaceutical supply chain
- Disclosure of rebates, fees and reimbursements by PBMs
- Disclosure of prices in drug advertisement
- Operative dates for various provisions will be staggered through 2022

Many of the organizational members of the Task Force on Fair Pricing testified with support, though all had concerns about the provisions that impact them.

The bill will likely be sent to Ways and Means next week.

HB 2840 & HB 2185 – PBM Restrictions

Rep. Ron Noble (R-McMinnville) says he introduced these bills because “Pharmacists are prohibited from doing what’s best for their customers.”

The bills would prohibit PBMs from:

- Requiring patients to use mail order
- Restricting local pharmacists from offering delivery or mail order
- Limiting pharmacists from providing information about lower cost alternatives (ie, no gag clause)
- Prohibiting pharmacists from selling lower cost drugs
- Charging pharmacists a fee to appeal reimbursement levels for drugs.

Kevin Russell, Oregon Pharmacy Coalition, says pharmacies need protection from PBM abuses. “PBM rules aren’t designed to improve patient care, they are designed to keep the business at the PBM,” he told the House Health Committee.

Representatives from the PBM and insurance industry were opposed to various provisions of the bill, arguing that these are tools “to effectively maintain quality and manage costs.”

Legislators on the Health Committee said they may try to combine elements of the two bills into one PBM bill.

HB 3273 – Rx “Take Back” Program

Rep. Sheri Schouten (D-Beaverton) has brought back her bill to stand up a statewide drug “take back” program in order to help curb opioid addiction and keep pharmaceuticals out of our wastewater. Washington, California, and New York already have similar programs. The bill would require pharmaceutical manufacturers to design and implement the program.

Pharma is opposed to the bill because it only implicates manufacturers and that there is a lack of evidence that statewide programs are an effective means of reaching these goals. They say that the safe disposal of drugs is better done in the home, and that the industry is educating the public on how to do so.

HB 2831 – Peer-run respite centers

With no discussion or debate, the House Health Committee approved \$2.25 million to fund three new peer-run respite centers for people with mental illness. One of the centers will be in the Portland-metro area, one in southern Oregon and the third in central or eastern Oregon.

The bill now goes to Ways and Means.

HB 2447 – Health care delivery for Oregon’s future

Rep. Mitch Greenlick (D-Portland) says he has a dream that the Oregon Health Authority will convene a new discussion with health insurance carriers and providers on how to truly transform health care in Oregon. He said his vision is for a non-profit, vertically integrated, coordinated system that would result in year-after-year, 0% rate increases for the delivery of health care.

Greenlick says the bill would provide anti-trust protection for carriers.

OHA Director Pat Allen says he welcomes the idea because he sees misaligned financial incentives in the current system, problems dealing with upstream investments, and difficulty working with big health care cost drivers.

Allen says this bill would give them a “chance to do some experimentation.”

Rep. Cedric Hayden (R-Cottage Grove) described it as, “Some very good ideas and some fairytale ideas.”

PEBB & OEGB Budget Presentation

Officials from PEBB and OEGB told the Human Services Subcommittee of Ways and Means the two plans now cover about 300,000 Oregonians, about 7% of the population and more than the individual market.

PEBB has 139,000 covered lives; OEGB 153,000.

Both plans say they are trying to emphasize the coordinated care model by:

- Promoting alternative payment methodologies.
- Integrating behavioral and physical health
- Supporting the use of medical homes
- Increasing payments for primary care, and
- Managing costs to a 3.4% increase.

In 2018, for the first time, PEBB and OEGB's coordinated care model plans are more popular than it PPO plans.

SJR 23 – Personal Kicker Reform

Legislators are considering a constitutional amendment to redirect personal kicker funds to K-12 with an emphasis on seismic retrofitting school buildings and behavioral health services for students.

Sen. James Manning (D-Eugene) said, "Constituents have told me they don't really need the kicker."

Tootie Smith, Taxpayers Association of Oregon, described SJR 23 as "an attempt by lawmakers to steal the kicker."

The kicker "kicks" when revenues to the state exceed economists' projection by more than 2%. When that happens, all of the additional revenue, including the 2%, must be returned to taxpayers.

Since being passed in 1979 the kicker has kicked 10 times and returned \$3.4 billion to taxpayers. Rep. Christine Drazen (R-Canby) says, "the kicker is one of the only programs that keeps the growth of government in check." This year, the kicker is expected to return \$748 million to taxpayers.

In 2012, voters passed Ballot Measure 84 diverting the corporate kicker to K-12 spending.

If approved, the bill would be referred to Oregon voters.

HB 3075 – Allow Double-Coverage in PEBB & OEGB

At the end of the 2017 session, legislators passed a cost containment bill (SB 1067) designed to save \$94 million in the Oregon Educators Benefit Board (OEGB) and Public Employees Benefit Board (PEBB).

The biggest piece of that was limiting their rate of growth to 3.4%.

The most controversial piece was prohibiting double coverage in OEGB and PEBB for families where both parents are teachers or public employees. Workers say they need the double coverage to pay their families' high health care costs.

Rural school administrators testified that restricting double coverage will hurt their ability to compete for employees. "We don't have Amazon or Nike in rural Oregon," Jack Thompson, Lake Co. ESD, said. "Living wage jobs in our community come from the public sector."

Will Cahill, superintendent of the Lakeview School District, said, "25% of our employees are married to another PEBB or OEGB member." One of them told him, "If this incentive goes away, I will too."

OEBB and PEBB claim that eliminating the double coverage will actually raise costs for the state. Rep. Rob Nosse (D-Portland) says, “I voted for 1067. Unfortunately it doesn’t save that much money and it has unintended consequences. We didn’t really save money. We made a mistake.”

SB 599 – Medical Marijuana Patient Access Committee

Patient advocates want to create a new Medical Marijuana Patient Access Committee within the Oregon Health Authority. Anthony Taylor with Compassionate Oregon said the committee would, “Study how to reduce barriers to accessing medical marijuana.”

Their bill includes a series of other provisions including:

- Allowing higher limits for growers who work with medical
- Permanent medical marijuana cards for patients who have a lifetime illness or disability, such as ALS.
- Prohibiting denial of state licenses, including for childcare, simply because someone has a medical marijuana card.

Dan Kouzer from Springfield said, “This sounds like Christmas morning for medical marijuana users.”

The chair of the Senate Health Committee, Sen. Laurie Monnes Anderson (D-Gresham), said this was their first cannabis bill and, “I want to learn more so we can help ensure the needs of the patients.”

HB 2217 – Death with Dignity revision

Oregon’s 25-year-old Death with Dignity law requires, among other things, that the patient use self-administered, oral medication to end their life. Supporters of HB 2217 say that was not the original intent.

The problem, they say, is the “oral” requirement. Sen. Elizabeth Steiner Hayward, MD (D-Portland) said, “ALS patients don’t have the hand control to take pills.” Charles Blenky, MD, OHSU, said, “Those seeking death with dignity simply want control. Some can’t achieve that because of language in the law.”

HB 2217 would remove the word “ingesting” from the original law and replace it with self-administered.

It’s not surprising that those who oppose Oregon’s Death with Dignity law also oppose this change.

“I’m against suicide of the terminally ill,” Bud Pierce, MD, told the House Health Committee. “This bill makes us actors in the end of life. I think that is immoral.”

The surprise came when a strong supporter of the law, former state representative George Eighmey, who is now the Board President of Death with Dignity National Center, spoke in opposition. “This will shift the balance against the vulnerable by permitting use of devices that others may use against the terminally ill person’s wishes.”

HB 2563 – Creates a Newborn Bloodspot Screening Advisory Board

The House Health Committee amended this bill, removing the list of diseases that must be screen for in newborns, and replacing it with a 13-member advisory board to make recommendation to the Oregon Health Authority on newborn tests.

The bill now goes to the floor for a vote.

SB 823 – Workplace Violence Prevention

Healthcare and social assistance workers are nearly five times more likely to be injured and require time away from work as the result of workplace violence. Between 2013-2018, 2,961 accepted disabling claims for non-fatal assaults. 10% of those were in hospitals.

Current Oregon law requires hospitals to conduct periodic safety assessments, develop and implement an assault prevention program, provide training and maintain a record of assaults.

SB 823 would improve Oregon's workplace safety laws by embedding elements of the Workplace Violence Prevention Toolkit, developed by a coalition of hospitals, SEIU Local 49 and the Oregon Nurses Association, in statute.

The bill will also further protect employees from employer retaliation when they report violence, and requires hospitals to hire 24-hr security personnel for emergency departments, which experience the majority of these events.

Amendments are forthcoming.

###