

March 28, 2021

HEALTH CARE**SB 780 – Provider Liability for COVID-19**

In response to the COVID-19 pandemic, many health care providers had to alter their normal standard of care for reasons that are outside of their control—including the Governor’s Executive Orders banning non-emergency care. This led Sen. Floyd Prozanski (D-Eugene) to bring together providers, hospitals and health systems, the trial lawyers and unions to discuss the possibility of a narrow liability exemption for providers who followed the standard of care during the pandemic.

The limited liability protections in SB 780 with the -1 amendment do not apply to cases of gross negligence or reckless misconduct and are limited to the period of the COVID-19 emergency. The bill does not protect a health care provider from claims based on discrimination of a patient.

SEIU strongly opposes the bill. They say that the bill does not include whistleblower protections for hospital workers who may come forward to expose unsafe practices. “Many health care workers, not just doctors and nurses, are responsible for implementing, enforcing, and practicing safe operating procedures to protect patients from [COVID-19]” says Felisa Hagins, SEIU Local 49.

Sen. Prozanski, chair of the Senate Judiciary Committee, says this is not a done deal. He says he will review the proposed amendments from SEIU.

SB 844 – Prescription Drug Affordability Board

“This policy gives stakeholders a voice in the conversation around prescription drug spending. Patient advocates, health care workers, insurers, benefit managers, and yes, drug manufacturers will all come together to form real solutions for Oregonians,” Rep. Rachel Prusak (D-Tualatin) told the Senate Health Committee.

SB 844 would allow the House Speaker, Senate President and Governor to appoint 23 stakeholders to the Prescription Drug Affordability Council, which would make recommendations to a five-person Governor-appointed Board. The Board would be in the Department of Consumer and Business Services, and have the authority to place upper payment limits on prescription drugs.

The Board would do this by:

1. Identifying drugs that meet specific criteria for an affordability review, based on the cost manufactures set
2. Reviewing whether that cost has created an affordability issue or disparity in Oregon, including by consulting with the Stakeholder Council
3. If the Board decides this is the case, it may set an upper payment limit for that drug.

Rep. Prusak said the bill would apply to all payers and all purchasers in the state. Maryland and Maine have similar boards, and seven other states are currently considering them.

PhRMA, the Biotechnology Innovation Association, the Oregon Bioscience Association and several oncologists testified in opposition to the bill, citing concerns about stifling innovation, limiting patient access to expensive drugs, and argued that this bill would not lower costs for patients. PhRMA said that it interprets the bill as saying that Pharmacy Benefit Managers and insurers may opt out of it, which would allow the rebate system to continue, but that physicians and hospital would continue to be bound by it.

The Healthcare Distribution Alliance asked that the bill be amended to include a supply chain expert on the Council.

HB 2508 – Telehealth Pay Parity

Two amendments were proposed to the bill that requires insurers to cover telehealth services at the same rate as the equivalent in person service. The first, proposed by Rep. Christine Drazan (R-Canby) and Rep. Cedric Hayden (R-Roseburg), would have required reimbursement at a minimum of 85% of the in-person rate for physical health services, and 100% for behavioral health services. It also sunset the law in 2023, and would require DCBS to report back to the Legislature at that time about the impact on the cost of premiums.

Rep. Rachel Prusak (D-Tualatin/West Linn) said she heavily considered adding a sunset, but heard overwhelmingly from providers urban and rural, that they were afraid to make investments in the technology if they knew the law wasn't permanent.

Prusak *did* however have another amendment drafted that includes the report back to ensure that the policy isn't adversely impacting premiums. Her amendment additionally requires OHA to adopt rules to ensure CCOs reimburse for telehealth services, clarifies that the requirements of the law do not prohibit the use of global budgets, value-based payment methods or capitation arrangements.

The House Health Committee voted unanimously to pass the bill with Prusak's amendment. It now goes to the floor for debate.

SB 143 – Rural Medical Provider Tax Credit

SB 143 would extend the sunset of the rural medical tax credit. The Legislature puts sunsets on all tax credits, and so bills such as this one must be passed to keep them in effect. SB 143 proposes to extend the credit until 2028.

A handful of provider organizations testified, along with Robert Duehmig from the Office of Rural Health, about the importance of this credit in recruiting and retaining providers in rural Oregon. "The purpose of this credit is to increase access to healthcare in rural Oregon by increasing and maintaining the number of providers... This has been a challenge for years and will continue to be", added Duehmig.

Some advocates testified in favor of expanding the credit as well. Katy King, on behalf of the Oregon Chapter of the American College of Emergency Physicians asked the committee to exempt emergency physicians from the \$300k income cap currently in statute. "The average medical school debt now is over \$225,000, which severely limits the ability of young physicians to start families and buy homes, while taking a pay cut in rural areas," she said.

Sen. Lee Beyer (D-Springfield) asked "what would it save if the credit was allowed to sunset?"

Sam Barber on behalf of the Oregon Rural Health Association responded that while the credit costs roughly \$7 million per year, it would only save about \$1.2 million in the 2021-2023 biennium due to a provision of the law that would allow any provider now eligible to continue receiving the tax credit for another 10 years even if SB 143 were not to pass this session.

SB 629 – Telepharmacy Services in Remote Areas

The Senate Health Committee held a short public hearing on SB 629, which would allow telepharmacy services in remote parts of the state. Sen. Bill Hansell (R-Athena), said the bill comes from his constituents in La Grande who have trouble staffing their clinic's pharmacy, as well as patients who are forced to travel to see a pharmacist. He said that Oregon is the only state west of Texas that does not allow telepharmacy.

The Oregon Society of Health System Pharmacists, the Oregon State Pharmacy Association, and the Oregon Association of Hospitals and Health Systems all support the bill, Sen. Hansell said. The Committee carried over SB 629, as it ran out of time to hear further testimony.

SB 3 – EMS Transports

The Senate Health Committee passed SB 3, which now goes to the Senate floor.

Sen. President Peter Courtney (D-Salem) joined the work session to share his motivation for introducing the bill, which would require insurers to cover emergency transport services. In January 2020, he was in Arizona when he experienced unimaginable pain and could not walk. He was hospitalized, but the hospital did not know what was wrong with him. Sen. Courtney was "medevacked" to OHSU upon his request, where he was diagnosed with a staph infection and gout. He underwent two surgeries and was hospitalized for 30 days in Portland, and spent 30 days in a rehabilitation clinic where he learned to walk again.

"The cost of that flight was \$15,560 and every dime has to be paid before you get on that plane," he told the Committee. "I had the resources. Thank God that we could come up with 16 grand to get on that plane. I would not want anyone to be in this situation. You are very vulnerable. If I had not been medevacked, I don't know if I would have lived."

HB 2464 – Surgical Technologist Training

Oregon's Labor Commissioner Val Hoyle testified in support of this bill. She says that she normally doesn't weigh in on legislation, but after seeing some of the testimony in opposition to this bill, it seemed to imply that apprenticeship models of education are a lesser option than classroom-based models of education. "As the person that certifies apprenticeship models in the state, I just couldn't let that go" she told the House Health Committee.

Current statute does not allow on the job training for surgical techs, which is why this bill is needed. The bill does not set up an apprenticeship program, it simply allows for the discussion to occur about how such a program would occur. The curriculum would have to meet one of the two national standards. Then it would go to the Bureau of Labor and Industry to figure out the needed competencies and standards. After all of that, it would go to a public voting body to decide whether such a program should be available in Oregon.

Robert Duehmig from the Oregon Office of Rural Health says the model is recognized in 45 other states. "HB 2464 is a grow your own program that will meet the needs of our rural facilities."

The bill is scheduled for a work session on 4/1.

BEHAVIORAL HEALTH

SB 680 – Peer Respite Centers

This bill would fund three peer-run respite centers to serve people with mental illness experiencing acute distress, anxiety or emotional pain for up to two weeks. One center would be located in the Portland metropolitan area, one in southern Oregon, and one in eastern/central Oregon.

Many patient advocates and people with lived experience spoke in support of these peer-run and delivered services.

Multnomah County Commissioner Sharon Meieran, a practicing ER doctor, also testified in strong support of the bill. She said that she has never worked an ER shift without treating a person in need of mental health care.

David Westbrook, Lines for Life, testified about the immediate need to build capacity for people in crisis. These centers will play a role in national roll-out of 988, which will be similar to 911 for behavioral crises. In the best case scenario, 988 will have three components: a call center hub (operated by Lines for Life), mobile crisis and crisis respite centers, he said.

Sen. Dick Anderson (R-Lincoln City) asked that the bill be amended to include a fourth center on the Coast.

HB 3377 – Addiction Crisis Recovery Fund

Rep. Tawna Sanchez (D-N/NE Portland) introduced HB 3377, a “highly ambitious” bill to help address the addiction crisis. Oregon has the 4th highest rate of substance abuse in the country—that means roughly one in 14 adults living in Oregon qualifies as having a substance abuse disorder.

The original bill proposes a significant increase in alcohol taxes, with all of the new revenue dedicated to addictions prevention, treatment and correlated behavioral health. Oregon currently has the lowest alcohol taxes in the country. Due to heavy industry opposition, Sanchez told the House Behavioral Health Committee that she will replace the bill with an amendment to create a task force to study optimum minimum pricing of beer and wine to discourage overconsumption, which is “all we can get at this moment in time.”

The base bill would:

- Create an Addiction Crisis Recovery Fund to be used by the Alcohol and Drug Policy Commission (ADPC)
- Create an Office of Behavioral Workforce Development and Office of Intervention and Engagement in the Oregon Health Authority
- Mandate hospitals provide 24-hour access to certified alcohol and drug counselors and peer mentors, and medical management of withdrawal for patients
- Require at least 30% of addiction treatment providers have mental health expertise
- Direct the ADPC to establish minimum payments by OHA or CCOs to addiction treatment providers, and require OHA increase reimbursement to addiction treatment providers
- Task OHA with studying optimum minimum pricing of beer and wine to discourage overconsumption

Dozens of advocates and people with lived experience testified in support of the base bill. The Oregon Brewers Guild, Oregon Winegrowing Association and Oregon

Wine Council opposed it, saying HB 3377 would have a negative effect on Oregon's winegrowing and craft brew industries when they are already hurting due to the pandemic. Dan Jarman, Oregon Winegrowing Association, testified, "No other state has minimum pricing for a broad set of alcohol products that includes wine, especially with the intent of reducing consumption."

HB 3123 – CCBHC Extension

The House Behavioral Health Committee unanimously passed HB 3123, which now goes to Ways and Means. The bill would fund the Certified Community Behavioral Health Clinics demonstration program through 2023.

DENTAL

HB 2627—Interim Therapeutic Restorations

The House Health Committee voted unanimously to pass the bill that expands dental hygienists' scope of practice to provide interim therapeutic restorations. It now goes to the House floor for debate.

HB 2977 – Dental Director

The House Health Committee passed the bill that requires the Oregon Health Authority to appoint a dental director to oversee programs operated by OHA that increase access to oral health services, preventative oral health activities.

PUBLIC HEALTH

HB 2261—Prohibits Remote Vape Sales

"Teen use of electronic cigarettes (e-cigarettes) has increased at an alarming rate in the past decade, prompting the US Surgeon General to describe it as an epidemic. According to the CDC, approximately 31.2% of high school students and 12.5% of middle school students reported using tobacco products in 2019" says Attorney General Ellen Rosenblum. In Oregon, e-cigarette use among 11th graders grew from 13% to 23% in the two-year period from 2017 to 2019, an 80% increase. E-cigarettes have surpassed cigarettes, little cigars, and smokeless tobacco as the product of choice among youth.

In 2017, the legislature passed legislation banning online sales of tobacco products. This bill simply expands that prohibition to include vape products.

Physicians, public health officials and a recently graduated high school student from Grants Pass testified in support to the bill. Americans for Tax Reform and the American Vaping Association submitted testimony in opposition, arguing that this bill would reduce access to "lifesaving reduced harm tobacco products like electronic cigarettes," particularly in rural areas.

The House Health Committee passed the bill. It now goes to the floor for debate.

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