

LEGISLATIVE UPDATE

Prepared for OAFP

April 14, 2019

2019 Session reaches the Halfway Mark

April 9 was the halfway point in the 2019 legislative session. That was the deadline for a bill's first committee to move it or see it die for this session. Those policy bills that passed now switch chambers and begin the committee process all over again. Bills with a price tag go to Ways and Means where they sit and wait for the May revenue forecast to see how much money the state has to work with in 2019-21.

SB 765 – Primary Care Payment Reform

The Senate Health Committee passed the bill that requires insurers to meet value based spending targets for primary care. The bill also modifies definitions for purposes of calculating primary care spending.

Republicans voted against the bill. Sen. Dennis Linthicum (R-Klamath Falls) commented that he thought “overall the bill is a step in the right direction, but adding pharmaceuticals to the definition of total medical expenditures will make it harder to meet the primary care spend target.”

The bill now goes to the floor for debate.

SB 698 – Rx Translations

The Senate Health Committee passed the bill to require translations on certain prescription labels. The bill was amended to make it easier to comply with by allowing the translation to be *either* on the label *or* on an informational insert. It also limits the requirement to the top 14 languages spoken in Oregon, but allows the board to require other languages in the future based on demographic changes.

HB 2270 – Tobacco Tax for Medicaid

Gov. Kate Brown championed a \$2 per pack tobacco tax increase to support the Oregon Health Plan in testimony before the House Revenue Committee. “By increasing the cost of tobacco products and e-cigarettes, HB 2270 not only provides the funding we need to provide health care coverage for Oregonians, it invests in prevention and cessation to improve the health of our communities,” she said.

The tax would raise an estimated \$346M per biennium.

Opponents described the proposal as “unreasonable.” Jonathan Polansky, President of Plaid Pantry and owner of 108 convenience stores said, “A 150% tax increase is unprecedented and just not fair. Making it illegal to sell cigars in packages of 20 or fewer is extreme. It will drive many of our customers to illegal, untaxed sources.”

Pediatrician, Peter Reed, MD, supports the addition of taxes on e-cigarettes. “Contrary to industry suggestions that vaping can be a tool to quit cigarettes, vaping is for teens the golden ticket to a lifetime of nicotine dependence. Vaping products and devices should not remain tax-free and, therefore, less expensive and more appealing to youth.”

If the legislature supports the tobacco tax increase, it's expected to end up on a statewide ballot, either by legislative referral or referred by tobacco supporters.

SB 808 – Suicide CE

Committee members were not content with an amendment to the bill that would require suicide continuing education for medical providers, so the Senate Health Committee sent the bill to the Senate Rules Committee to keep the bill alive. The plan is to amend the bill there before moving it to the House.

HB 2011 – Cultural competency CE

Licensed health professionals would be required to complete cultural competency continuing education once every four years. The hospital association supports the bill saying, "Cultural competency training allows hospitals to meet patients' social, cultural and linguistic needs thereby providing better care."

The House Health Committee approved the bill, sending it to the floor for debate.

HB 2019 – Business Activity Tax to support Education

The Joint Student Success Committee introduced a business activity tax designed to raise \$2 billion per biennium for education (Pre-K through grade 12). The tax would be \$250 plus 0.49 percent of the total taxable business receipts in excess of \$1 million. Businesses with receipts of less than \$1 million would be exempt from the tax.

The taxable receipts calculation also allows a 25% subtraction for either:

- Purchases from other businesses or
- Labor costs.

An individual or business with more than \$500,000 in receipts would have to register with the Department of Revenue but only those over \$1 million would have to pay the tax.

Sen. Mark Hass (D-Beaverton) says the \$1 million threshold means only about 40,000 of Oregon's 460,000 businesses will pay the tax.

The plan also includes minor reductions to the personal income tax rates.

The joint committee is also working on a spending plan designed to increase high school graduation rates by investing more in K-12 and preschool programs.

HB 2012 – Medicaid Buy-in becomes Interim Study

House Health Committee chair Rep. Andrea Salinas (D-Lake Oswego) says she wants the Oregon Health Authority to develop either a Medicaid Buy-in plan or a public option for Oregonians with incomes up to 600% FPL and bring it back for the 2021 session. She also wants OHA to analyze the impact such a plan would have on the commercial insurance market.

The bill now goes to Ways and Means. Rep. Salinas says she will keep working on a new amendment to the bill.

SB 139 – OMA Utilization Management Bill

Stakeholders were able to come to agreement on the Oregon Medical Association's bill dealing with prior authorizations and step therapy. The amendment removes CCOs from the utilization management provisions, due to cost concerns. Though it retains reporting requirements for CCOs.

The bill was passed out of committee and sent to Ways and Means.

SB 770 – Healthcare for All

The Senate Health Committee passed, on a party line vote, the bill that establishes a Universal Health Care Commission to recommend the design of the Health Care for All Oregon Plan. It is now headed to Ways and Means.

HB 2658 – 60-day Notice for Rx price hikes

Pharmaceutical companies would need to notify the Oregon Health Authority if they raise the price of brand name drugs by 10% or \$10,000 in a year, or generic drugs that increase by 25% or \$300 per year.

Chief sponsor Rep. Andrea Salinas (D-Lake Oswego) says this will give insurers time to adjust their formularies and consumers time to work with their physician on alternative medications.

Rep. Ron Noble (R-McMinnville) opposed the bill saying, “This 60-day provision was negotiated out of HB 4005 in 2018.”

With the new amendment that adjusts reporting for generic drugs, Rep. Mitch Greenlick (D-Portland) said, “This is not a stupid bill.”

But Rep. Cedric Hayden (R-Cottage Grove) said, “Sometimes the regulation we pass doesn’t achieve what it’s intended to achieve. Because of the 10% trigger, Pharma just raises prices by 9.5%.”

The bill now heads to the floor for debate.

PBM Restrictions

The House Health Committee passed two bills designed to restrict what Pharmacy Benefit Managers (PBM) can do.

HB 2185 prohibits PBMs from prohibiting pharmacies from delivering drugs by mail or hand delivery. Pharmacies would be required to disclose to customers any delivery fees. Rep. Mitch Greenlick (D-Portland) said, “I can’t believe we need a bill to allow pharmacists to do what this bill says. They deliver prescriptions...”

The bill would also allow pharmacies to disclose to consumers when it’s cheaper to pay the retail cost of a drug than their copay.

HB 2840 has similar provisions dealing with mail order and prohibiting PBMs from limiting what pharmacists can tell consumers about the least expensive way to purchase their prescription.

Rep. Rob Nosse (D-Portland) said, “There are legitimate concerns about PBM practices but at the same time, a lot of plans use them to help hold down the cost of drugs. So trying to thread that needle...”

HB 2185 was sent to the floor for a vote. HB 2840 has a \$10 million price tag because of its impact on OEBC and PEBC, so it goes to Ways and Means.

HB 3273 – Rx Take Back Program

Prescription and non-prescription drug manufacturers would need to create a nonprofit drug take back program under HB 3273. Communities with less than 20,000 population could have a mail-in option.

If approved by the legislature, the programs would become operational in February 2021.

The House Health Committee approved the bill and sent it to Ways and Means.

HB 3397 – Oregon Medicaid Rx Purchasing Cooperative

This bill creates the Oregon Medicaid Purchasing Cooperative and requires the Oregon Health Authority to contract with a purchasing agent for prescription drugs.

The House Health Committee approved the bill with no discussion, sending it to Ways and Means.

SB 409 – Wholesale Rx Importation

The Senate Health Committee passed SB 409 with an amendment to require the Board of Pharmacy to study the feasibility of implementing a wholesale importation program to import drugs from Canada, rather than implement the importation program. The legislature would receive a report back before the 2020 Session.

Sen. Shemia Fagan (D-Portland) opposed the amendment. “I think it will just allow Pharma one more opportunity to kill the bill,” she told the committee. She also noted that during the initial public hearing, she asked why pharmaceutical manufacturers can afford to sell the same drug to Canadians at a lower price than they can sell it to Oregonians? She says in 3 months she has still not received an answer to that question.

HB 2627 – Peer managed recovery centers

This would invest \$5 million, possibly from cannabis tax funds, for a peer managed pilot program to create recovery centers.

“I know this is a lot of money. I get it,” Rep. Tawna Sanchez (D-Portland) said. “But we could affect our child welfare system with this. We could affect our education system with this. We could affect our criminal justice system with this.” She went on to say, “We know that every part of our state is affected by addictions.”

The bill now goes to Ways and Means.

HB 2678 – OHP prior authorization for Rx not on PDL

An amendment allows OHA to align the preferred drug lists (PDL) for CCOs and fee-for-service through a cooperative process and clarifies how OHA handles prior authorization for drugs not on the PDL. It also helps OHA better leverage federal rebates to get the lowest cost drug possible.

There were competing amendments on this bill. The committee chose to go with Rep. Rob Nosse’s -6 amendment.

The bill also includes reference to a carve out from the preferred drug list for mental health drugs. OHA says that issue is better dealt with in SB 138, which passed the Senate Health Committee and was sent to Ways and Means.

Rep. Rob Nosse (D-Portland) said, “We will have more time to massage another tortured bill” down in Ways and Means.

HB 2935 – Rx label readers for visually impaired

Pharmacies would be required to provide prescription label reading devices to consumers who are blind or vision impaired. The devices read out loud a microchip, embedded in the prescription label, giving instructions and warnings about that drug to the consumer.

Rep. Cedric Hayden (R-Cottage Grove) said, “ I get concerned when we get too prescriptive. I think there is a lot of technology out there. I’m afraid this bill will be a limiting factor on the technological innovation that is out there.”

The bill came out of committee on a party-line vote and goes to the floor for debate.

HB 3076 – Nonprofit hospital charity care

House Health Committee chair Rep. Andrea Salinas (D-Lake Oswego) continues working with the hospital association and SEIU on legislation requiring charity care and community benefits by Oregon's nonprofit hospitals. But so far, the two sides have not found agreement on a compromise.

The bill was sent without recommendation to the Rules Committee, which keeps it alive despite the deadlines.

HB 2017 – OHA health care study

A number of bills to set up interim studies of Oregon's health care system are moving to either the Rules Committee or Ways and Means.

This one would require OHA to study health care in Oregon and report back before the 2021 session.

It's likely some of these study bills will be consolidated into one or maybe two interim work groups.

The House Health Committee sent this one to Rules without recommendation.

HB 2986 – CCOs partner with equity coalitions

The House Health Committee approved a plan requiring the Oregon Health Authority and CCOs to partner with regional health equity organizations with practical. Rep. Cedric Hayden (R-Cottage Grove) said, "I believe our CCOs are already doing this."

The bill was sent to Ways and Means.

SB 579 – Death with Dignity waiting period

Oregon's Death with Dignity law requires a 15-day waiting period between the time someone requests a prescription to end their life and receiving that prescription. SB 579 would eliminate that waiting period for patients with less than 15 days to live.

The Senate Judiciary Committee passed the bill on a party-line vote. It now goes to the floor for debate.

HB 2217 – Death with Dignity changes

A minor amendment was enough for the national Death with Dignity association to withdraw its objections to HB 2217. The bill clarifies that medication to end one's life under Oregon's physician assisted suicide law needs to be self administered but does not need to be oral.

"This is a small, minute but important change," Rep. Tiffany Mitchell (D-Astoria) said.

The House Health Committee approved the bill on a party-line vote. It now goes to the floor for debate.

780 – PEBB/OEBB Pilot Project to allow CCO Coverage

The Senate Health Committee passed the bill with an amendment that limits the bill to four counties—Josephine, Jackson, Curry, and southern Douglas.

It now goes to Ways and Means.

SB 703 – Personal Health Information becomes task force

The Senate Judiciary Committee amended SB 703 so it now creates a Task Force on Protecting Health Information. That task force will look at options for the use of protected health information for commercial purposes and safeguards for protecting health information.

Health plans objected to the original bill saying it would prohibit them from using de-identified health information to analyze what medical procedures work.

The task force will report back before the 2020 legislative session.

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