

LEGISLATIVE UPDATE

Prepared for OAFP

May 12, 2019

SB 765 – Primary Care Spending

After nearly an hour of testimony on the Oregon Academy of Family Physician's primary care spending bill, Rep. Rob Nosse (D-Portland) said, "I can't figure out how it works."

For the past four years, insurers and CCOs have reported how much they spend on primary care as a percentage of their total medical spend. Part of the goal with SB 765 is to make the formula used to report that spending fits the national standard, so Oregon's primary care spending can be compared with other states.

"We now have an inaccurate report," Jennifer DeVoe, MD, Chair of the Dept. of Family Medicine at OHSU, said. "People around the country are asking how did Oregon increase primary care spending from 6% to 12% in one year." Glenn Rodriguez, MD, said we didn't. We just changed the formula. "The methodology change in 2017 changed the percentage of primary care spending without actually increasing the amount spent on primary care."

State law says Oregon's insurers and CCOs should spend 12% of their premium dollar on primary care. DeVoe said, "The more money you spend on primary care, the more money you save." A report from Portland State found that increased primary care spending through patient-centered primary care homes (PCPCH) saved \$240 million in the first three years through lower emergency room use, fewer hospitalizations and reduced specialty care costs.

The insurance carriers that testified — Cambia, Providence, Samaritan and Care Oregon — said they support primary care spending but were united in their opposition to the bill. "A lot of the math doesn't work for us," Bill Bouska, Samaritan Health, said. "This is not a collaborative bill."

HB 3063 – Eliminates Non-Medical Vaccine Exemptions

The House passed HB 3063, removing the non-medical vaccine exemptions for children in schools and registered daycares. Rep. Cheri Helt (R-Bend) and Rep. K Wallan (R-Medford) joined 33 Democrats to pass the bill. Four democrats – Reps. Paul Evans (Salem), Pam Marsh (Ashland), Susan McLain (Hillsboro), and Janeen Sollman (Hillsboro) – voted against it.

Representatives debated the bill on the floor for over two hours.

Rep. Cheri Helt, the only Republican sponsor of the bill, carried the bill to the floor. "I understand why this issue arouses passionate feelings," she said. "It strikes at the essence of the proper role of government, parental rights and what it means to enjoy the liberties of a free society. And it forces us as a self-governing people to debate and decide where the legal line is drawn between protecting individual freedoms and safeguarding health and the lives of society as a whole."

Rep. Mitch Greenlick (D-Portland), a sponsor of the bill, told the floor that the bill is *not* about freedom, "It's about whether children live or die."

Urging colleagues to vote against HB 3063, Rep. Bill Post (R-Keizer) said, “This bill cuts to my heart.”

“This goes directly against the [separate but equal] ruling of Brown vs. Education,” Rep. Post continued. “I feel as if we are amending the constitution without amending the constitution.”

Rep. Cedric Hayden (R-Roseburg) pointed out that none of the 10 measles cases in Oregon were contracted in school settings, and emphasized the negative impact this bill would have on the 31,000 non-immunized children in public school, 4,200 children in private school, and 16,000 children in daycare in Oregon.

The bill now goes to the Senate floor.

Senate Business Grinds to a Halt over Corporate Activity Tax & PERS

Senate Republicans boycotted the legislature all week in protest over the \$2 billion business activity tax (HB 3427) and the lack of progress on PERS.

HB 3427, the .5% business activity tax on sales over \$1 million that would raise \$2 billion for education was scheduled for debate on the Senate floor. The only way Republicans could stop it was to not show up, so the Senate did not have a quorum and could not debate or take action on any bills.

One of the Republicans’ demands was that the business tax be tied to meaningful PERS reform.

On Friday, Speaker Kotek and President Courtney unveiled a PERS plan that would lower rates in the short term by extending the pay-back period on the \$27 billion PERS funding deficit and require public employees to kick in a small percentage of their monthly 6% 401k contribution to help hold down rates.

SB 726 – Workplace Harassment & Discrimination

“There are a lot of protected classes in Oregon, and good for us,” Sen. Tim Knopp (R-Bend) told the House Judiciary Committee. He went on to say, “This bill sends a message loud and clear to every business in Oregon that it is not okay to have harassment and discrimination.”

Among its provisions, the bill would:

- Extend the statute of limitations from one year to five years
- Prevent employers from requiring nondisclosure or no-rehire agreements as part of a settlement agreement
- Give employers the ability to not pay severance to executives if they are being dismissed because of harassment or discrimination
- Require the Bureau of Labor and Industries to provide model harassment policies that employers would have to post in the workplace.

Supporters say the EEOC reported that 1 in 4 women have experienced harassment at work, and 75% of them experience discrimination when they report that harassment.

Simone Crow told the committee she was sexually harassed as a 19-year-old waitress. “I kept my mouth closed because I thought sexual harassment in the workplace was normal.”

Robin Wright said the executive director of a nonprofit in Portland harassed her. “I waited so long time to speak up about my sexual harassment because there were no clear guidelines from my employer about who to speak to, what the process would be, and how I would be protected as a worker from retaliation.”

Allison Seymour said as a nurse, harassment is almost routine. “It happened last night when a patient asked me to sleep with him.” She added, “It happened every day that I worked last week.”

If enacted, the bill would become effective October 1, 2020.

HB 2014 – Eliminates Non-Economic Damages Cap

The debate over removing the \$500,000 cap on non-economic damages shifted to the Senate Judiciary Committee.

Medical providers and business oppose removing the cap. Bryan Boehringer, OMA, said, “Removing the non-economic cap would make Oregon an outlier among its neighboring Western states” and that increased rates for medical malpractice could jeopardize rural ob-gyns and other high-risk specialties.

Anthony Smith, NFIB, added, “By eliminating the cap on noneconomic damages in Oregon, all forms of liability insurance will become more expensive.”

Chelsea Sullivent, speaking for the Survivor Caucus, said passage of HB 2014 would be a victory for those who have experienced sexual assault. “I would tell you that Oregon’s current cap on damages is harmful, counterproductive and insufficient compared to the pain survivors endure...” She went on to say, “No survivor can put a price on the abuse they have endured, but surely the legislature can agree that our lifelong trauma is worth more than what we can currently be awarded in civil court.”

Opponents of the bill proposed an amendment that would remove the cap in cases where there is a criminal conviction. The trial lawyers rejected that idea saying, “By preserving the cap for those who are negligent, you protect those who are covering up and expose solely the person who committed the crime. If you think about US Gymnastics, the church, scouts, that’s who you are protecting.”

HB 3076 – Hospital Charity Care & Community Benefits

Rep. Andrea Salinas (D-Lake Oswego) told the House Rules Committee she has three goals with HB 3076:

1. Make clear who qualifies for charity care
2. Limit the interest rate on collections
3. Set an individualized spending floor for each hospital’s community benefit.

“We believe this will allow us to continue to respond to community needs,” Jessica Adamson, Providence, testified. “What the floor will do is bring some consistency and transparency to the community benefits across hospital systems.”

Under the proposal, nonprofit hospitals would have to provide charity care for patients with incomes up to 400% of the federal poverty level.

The Oregon Health Authority would set a floor for community benefit spending by each hospital, nonprofit and for profit, using objective data.

Rep. Denyc Boles (R-Salem) said she’s concerned this would reduce local decision-making and concentrate power at the state level.

The committee is waiting for a new set of amendments.

SB 249 – Prior Authorizations

The Insurance Division told the House Health Committee that it receives 90 complaints a year about prior authorizations. They include:

- Overturning a prior approval, and
- Denying a treatment at the last minute after an approval was granted.

They said timelines are critical. Decisions need to be quick, accurate and complete. To achieve that, SB 249 gives insurers two business days to respond to a prior authorization request. If more information is needed, insurers have two business days after additional material is provided.

The bill also makes it clear that patients, as well as providers, can request prior authorization.

Jesse O'Brien with DCBS said, "This is not intended to change the prior authorization process but to make it more fair, open and transparent."

Insurers support the bill but reminded the committee that it only applies to the regulated market, not to self-insured plans.

HB 2138 – Volunteer EMS Tax Credit

Wayne Eldersby, an EMT intermediate located in Halfway, told the House Revenue Committee that it costs him approximately \$300 a year just for gas to get to and from calls. That is on top of the cost he incurred travelling to Baker, and staying in a hotel, just to receive his certification.

"The \$250 tax credit is a small price to pay for the volunteers that help save lives," said Sam Barber, Oregon Rural Health Association.

Approximately 500 people collected the \$250 credit for volunteer EMS providers in 2017.

The Committee passed the bill unanimously. It now goes to the Joint Tax Expenditures Committee.

SB 698 – Rx Drug Translations

"The only difference between medicine and poison is being able to read the label," family medicine resident Maggie Wells said during a public hearing in House Health.

The bill seeks to address this issue by requiring pharmacies to provide translated instructions in the top fourteen languages spoken in Oregon other than English.

Jeston Black, Multnomah County, has two implementation concerns, but is supportive of the underlying concept. He says their clinics serve 63,000 patients annually. Of those, almost half prefer a language other than English.

But they want to be sure instructions can be included on the label or the insert, as some labels in English are too long to print on the bottle. He also says that only seven of the fourteen languages required in the bill are available with current software. They have requested an amendment giving the Board of Pharmacy leeway in how they enforce the bill.

The bill will be scheduled for a work session next week.

SB 66 – Air Force Education Counts Toward LPN License

The House Health Committee unanimously passed SB 66, which now goes to the floor. The Board of Nursing's bill enables US Air Force training program grads to sit for the national licensed practical nurse (LPN) licensure exam. The bill also allows LPN applicants who are licensed in other states, based on their military education, to be licensed in Oregon.

"Good bill," said Rep. Cedric Hayden (R-Roseburg).

HB 2303 – Increasing Access to Pseudoephedrine

The Senate Judiciary Committee heard public testimony on HB 2303, which would remove the need for a prescription for pseudoephedrine, but put it "behind the counter" and track sales in a new electronic system called NPLeX.

A coalition of cities, counties and law enforcement agencies spoke in opposition to the current version of the bill.

The Association of Oregon Counties said that Oregon's response to meth production so far has been a "phenomenal success," and that with this bill, "we're setting ourselves up for a resurgence of meth labs."

The ACLU testified against the current version of the bill on privacy concerns.

All parties who testified against the bill support amendments to treat Sudafed like contraception, allowing pharmacists to prescribe and dispense it without a prescription, and to maintain the current Prescription Drug Management Program.

Woodburn Police Chief Jim Ferraris told the committee, "NPLEx isn't the answer. PDMP is the answer."

HB 2185 – PBM Requirements

The Senate Health Committee held another public hearing on proposed amendments to HB 2185.

Sen. Monnes Anderson (D-Gresham) opened the hearing saying, "I just don't like the original bill and so I'm just not going to move it."

Pharmacists testified on behalf of -5 amendments, saying they would:

- Allow local pharmacies to deliver drugs by mail
- Define the types of medications that can be labeled "specialty" drugs
- Create "reasonable" accreditation and participation requirements for "specialty" pharmacies
- Allow long-term care pharmacies to dispense urgent drugs to patients
- Prevent hospital-owned retain pharmacies from being reimbursed differently from other pharmacies
- Enact rules and regulation requirements on PBMs to pay pharmacies at least the acquisition price of the drug (this rule is on the books, but difficult to enforce), and
- Eliminate retroactive fees.

The PBM association and health insurers association are neutral on the current bill, but strongly oppose the -5 amendments, calling it is the "kitchen sink of anti-PBM legislation" and said they were not consulted in the process.

Sen. Monnes Anderson told the committee that she wants to send a version of HB 2185 to Ways and Means, where that committee can consider all three PBM bills at once (including SB 872 and HB 2850). She said she wants a bill that is "fairly more palatable to the opposition but still has some teeth in it, especially when it comes to enforcement on some of these things."

HB 2217 – Death with Dignity Revision

HB 2217 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.

Sen. Steiner Hayward (D-Portland) explained that this is a "minor, technical expansion that is really important to allow access to the law for a significant subset of people" who have difficulty swallowing.

Unsurprisingly, opponents of physician-assisted suicide also oppose HB 2217.

###