
LEGISLATIVE UPDATE

Prepared for OAFP

May 17, 2021

Second Chamber Deadlines Loom

Friday marked the deadline for bills to be scheduled for a work session in the second chamber. Bills must be passed out of committee by Friday, May 28th or they are dead.

Bills in Ways and Means are exempt from the deadlines.

SJR 12 – HOPE Amendment

“As a physician, I think we are already paying far more than we need to to cover everyone,” Rep. Maxine Dexter (D-Portland), who now fills late Representative Mitch Greenlick’s seat, told the House Health Committee.

SJR 12 would refer the HOPE Amendment to the Oregon Constitution to voters in 2022. The amendment would establish the state’s obligation to ensure every resident has access to cost-effective, clinically appropriate and affordable health care.

The House Health Committee moved the bill to the House floor on a party line vote. Reps. Suzanne Weber (R-Tillamook), Ron Noble (R-McMinnville) and Cedric Hayden (R-Roseburg) all expressed concern about its potential cost.

Rep. Hayden said he is “concerned about putting [healthcare] in the Constitution as a ‘right’ rather than a ‘need,’” and opposes what he considers an unfunded mandate.

Rep. Noble said, “I’m afraid I’m going to be a no, although I very much support where this is trying to go.” He added that is healthcare is going to be a right, so should public safety and education.

HB 2648 - Over the Counter Pseudoephedrine

With the passage of this bill, Oregon will become the 50th state in the union to allow over the counter purchase of pseudoephedrine. Oregon passed legislation in the early 2000s requiring a prescription to purchase the drug due to a proliferation of meth labs at the time. The landscape has changed significantly since then and domestic meth labs are at a 20 year low thanks to increased federal regulation, and new regulatory approaches for meth precursors.

If passed, Oregon would use a national database that tracks pseudoephedrine purchasing at the point of sale.

There was no opposition.

HB 3036 – PA Supervision

HB 3036 updates the supervisory relationship between physicians and physician assistants (PA) by removing the current practice agreement requirements for employing a PA, including chart review requirements, and replaces them with a new “collaborative agreement” that gives more flexibility to the employer for how a PA is supervised.

Rep. Rachel Prusak (D-Tualatin/West Linn), a nurse practitioner, supports the bill. “One of my main missions in the legislature is to pass policy to expand preventive primary care. Addressing a shortage is a part of that work... HB 3036 will remove some

of the most [administratively] burdensome requirements, and leave decisions on how to supervise PAs to the employer.”

Despite physicians and physician assistants working finding language they could agree on, Art Towers from the Trial Lawyers Association says they are still opposed. “There’s one unintended consequence...that is that the bill doesn’t just talk about physician assistants as employees, the way the bill is structured, they could also be independent contractors.” He says that this detail would shift greater liability onto the physician assistant, and they are concerned that they will not purchase large enough policies to cover damages.

The drafter of the bill, Suzanne Trujillo, says in a situation where a patient is harmed by a physician assistant, the patient would still be able to bring a lawsuit against the physician assistant and potentially the collaborating employer, if for example the PA was given too much leeway under the collaboration agreement.

Rep. Prusak added that nurse practitioners are not required by statute to purchase a specific amount of liability insurance.

HB 2261 – Online Vape Sales

The Senate Health Committee passed the bill that bans remote sales of nicotine inhalant delivery devices.

It now goes to the floor for debate.

HB 2623 – Insulin Co-Pay Cap

The Senate Health Committee passed the bill that caps copays for insulin at \$75 for a 30-day supply and \$225 for a 90-day supply. The caps will be adjusted annually for inflation. The bill does not prohibit health plans from using drug formulary or other utilization management protocols applicable to prescription drug coverage under the plan.

HB 2517 - Utilization Management

The Senate Health Committee passed the bill supported by the Oregon Medical Association and 40 other organizations, it would require CCOs to report annually the number of requests for prior authorization, including initial and reversed denials and reasons for them to the Oregon Health Authority, and insurers to report them to DCBS.

The bill also modifies utilization review requirements and step therapy coverage guidelines for insurers. Different from previous sessions, HB 2517 also covers PEBB and OEBB.

The bill now goes to the floor for debate.

HB 2528 – Dental Therapy

Rep. Rachel Prusak (D-Tualatin/West Linn) told the Senate Health Committee this bill was heavily negotiated in the House, with the understanding that the Senate would take up some lingering concerns regarding extractions. The -A10 amendment makes a number of technical changes to the bill:

- It removes the limitation that only dental therapists who are graduates of pilot projects may receive licensure before 2025.
- Changes the requirement that 51% of a dental therapist’s patient population must be underserved or located in dental care professional shortage areas to a requirement that a dental therapist shall practice in areas of the state that are

dental care professional shortage areas *or* health professional shortage areas as designated by the federal government.

Rep. Cedric Hayden (R-Roseburg), a practicing dentist, is one of those who still has concerns. In addition to the issues around extractions, the bigger concern he says, is that the proposed amendment moves the implementation date from 2025 to 2022.

Rep. Hayden was backed in his opposition by the Oregon Dental Association and Dr. Phillip Marucha, the former Dean of the OHSU School of Dentistry. Marucha says that dental hygienists receive twice as much anatomy and four times more pharmacology as the national standard for dental therapists, yet don't perform irreversible procedures.

But advocates say that there are major inequities around access when it comes to oral health. Dr. Gary Allen, Advantage Dental, says "only 40% of Oregon dentists accept Medicaid, and most of those limit the number of Medicaid patients they're willing to see... It's important to remember that these providers will be working under a collaborative agreement with a dentist which requires the dentist to sign off on *any* procedures done by the dental therapist."

The bill was scheduled for a work session on 5/19.

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