

LEGISLATIVE UPDATE

Prepared for OAFP

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SB 872 – Omnibus Rx Cost Transparency Bill Unites Opposition

The Human Services Subcommittee held a hearing on this session's big, omnibus prescription drug price transparency bill but did not take action.

Sen. Elizabeth Steiner Hayward described the bill saying, "All of the provisions in this bill are designed to increase transparency in one of, if not the most opaque supply chains in the world." The bill would require:

- Pharmaceutical manufacturers to report on the price of the 15 most prescribed and 15 most expensive drugs,
- Insurance companies to better publicize their formularies for the individual and small group markets,
- Large group plans to improve online information about their Rx coverage,
- Increased regulation of PBMs,
- State programs including PEBB, OEBC and OHP to use fee-only PBMs instead of rebate-based PBMS, and
- Hospitals to show mark-ups on outpatient Rx.

The bill would also allow consumers who pay cash for prescriptions to submit those receipts and have them count toward their deductible.

Insurance carriers, bioscience companies and pharmaceutical manufacturers all oppose the bill. They complained that the process to develop SB 872 lacked the broad-based input that characterized many other Rx price transparency bills. They agreed that HB 4005, the drug transparency bill passed in 2018, should be given time for implementation before changing its provisions.

Rep. Rob Nosse (D-Portland) said, "This is a very tough area. It's hard fought over. And it's a very important part of our economy. I think we have to be very careful making what seem to be big changes and not do them lightly."

Ways and Means could still take action on SB 872, but time is running out on this session.

HB 3397 – Rx Purchasing Co-Op

In an effort to lower the cost of prescription drugs, HB 3397 allows the OHA to enter into a contract with a third-party purchasing agent to ensure OHA pays the lowest cost for Rx. This allows the CCOs to align their preferred drug lists.

The debate was whether to "require" OHA to do this or "allow" it.

Rep. Rob Nosse (D-Portland) said, "The CCOs have some reservations about being told how to purchase drugs. By changing it from 'shall' to 'may', we establish the ability for them to come together to collaborate and figure out if they can indeed purchase them together and save money as opposed to mandating it."

The bill's sponsor, Rep. Cedric Hayden (R-Cottage Grove) said, "This is a simple concept of economies of scale, to get our CCOs to work together to purchase pharmaceuticals at the lowest cost." He went on to say, "This allows OHA to enter into a

contract rather than requiring it. If we don't get there, we will be back in the short session.”

The committee appropriated \$111,000 for the bill.

HB 2678 – Preferred Rx List for CCOs

This requires the Oregon Health Authority to maintain a preferred drug list for its fee-for-service Medicaid patients and a partial preferred drug list for CCOs. Ways and Means approved the bill, sending it to the floor for debate.

HB 3273 – Rx Take-Back Program

This bill requires manufacturers to create a statewide drug take-back program that would be run by a nonprofit contractor. There was broad agreement on the concept. As Rep. Cedric Hayden (R-Cottage Grove) put it, “I think we do need to get past the point of flushing it down the toilet as the solution.”

But policy changes in the Natural Resources Subcommittee shifted most of the cost of the program away from Pharma and onto generic drug and over-the-counter drug companies.

The Department of Environmental Quality will oversee the program, which is projected to cost \$258,000 this biennium and will be covered by fees.

HB 2185 – PBM Restrictions

The Senate Rules Committee approved changes to HB 2185, adding additional restrictions to how pharmacy benefit managers (PBMs) operate. Kevin Russell, representing the Oregon Pharmacy Coalition, said, “PBMs have gotten so strong, we can no longer negotiate contracts with the PBMs that are fair to pharmacists, pharmacies and patients.”

HB 2185 would:

- Allow patients to use a local pharmacy rather than mandating a mail order pharmacy,
- Permit local pharmacies to mail prescription drugs to patients,
- Define specialty drugs,
- Prevent PBMs from paying 340B pharmacies, including FQHCs and some hospital pharmacies, differently than other pharmacies, and
- Ban gag clauses that prohibit pharmacists from telling consumers about lower-cost options.

The PBMs still hope to clean up some of the definitions in the bill before it is implemented in 2021.

The Senate Rules Committee amended the bill and sent it to the floor for debate.

HB 2847 – Rural Medical Provider Tax Credit Expansion

The Senate Finance and Revenue Committee voted to support Rep. E Werner Reschke's (R-Klamath Falls) proposal to expand the rural medical provider tax credit to include providers at Sky Lakes Medical Center in Klamath Falls. The expansion will cost the state ~\$200k and allow about 40 additional providers to receive the credit.

“Sky Lakes is at a disadvantage to all other rural hospitals at recruiting talent. This is meant to level the playing field,” said Reschke.

HB 2173 and HB 2184 – Rural Broadband Funding Passes

HB 2173 repeals the sunset date on the Oregon Broadband Advisory Council and creates the Oregon Broadband Office within the Oregon Business Development

Department (OBDD). The office will be tasked with supporting broadband infrastructure deployment, including awarding and managing funds allocated to OBDD for use by the office to support broadband projects.

HB 2184 is the companion bill that raises funds for broadband development grants by including wireless carriers in the Universal Service Fund.

The Joint Subcommittee on Transportation and Economic Development passed the bills on a party line vote with ~\$1 million to staff the council and office.

HB 2257 – Treatment of Substance Use Disorder as a Chronic Illness

An Oregon Health Authority advisory group will study and implement training standards for substance use disorder (SUD) treatment. The bill also prohibits CCOs, PEBB and OEBB from requiring prior authorization for the payment of medication-assisted treatment for SUD. Finally, the bill establishes a SUD treatment pilot project in up to four counties for pregnant women using the Project Nurture model.

William Miller works with the Future Generations Collaborative focused on fetal alcohol syndrome in the Native American community. “Alcohol remains Oregon’s most pervasive drug choice and causes the most harm,” he told the Human Services Subcommittee. “This [bill] allows the state to take an upstream approach to treatment and intervention.”

The Human Services Subcommittee approved \$2.5 million to begin this project.

HB 3165 – School-Based Health Center Grants

This bill funds 10 planning grants to assess an alternative for the school-based health center model and could include mental health and/or dental services. The bill adds more school-based health centers, if funding becomes available.

The Human Services Subcommittee approved \$950,000 for planning grants.

SB 579 – Death With Dignity Waiting Period

Patients in the final stage of dying, who have started the physician-assisted suicide process, could have the 15-day waiting period waived if a physician determines that they don’t have 15 days to live.

Bruce Yelley told the House Rules Committee, “The cruelty of not passing this bill just baffles me. It’s a common sense thing.”

Geoff Sugarman ran the campaign that passed the original law passed in 1994. He said, “This bill does not allow someone to ask for and receive their prescription on the very same day. The process that is outlined in the law still must be followed. There still has to be an oral and a written request. There still has to be a second opinion. There still has to be a counseling referral. There still has to be informed consent. None of those things go away.”

Opponents said the bill is not needed. Bud Pierce, MD, works with patients who are dying from cancer. “When people are within 15 days of their death, it’s coming, and all they really need is to be embraced and loved by their family and community, be given symptom management, and they are dying quick.”

Rep. Denyc Boles (R-Salem) opposed the bill saying, “This puts a vulnerable population at significant risk.”

The committee approved the bill on a party-line vote, sending it to the floor for debate.

HB 2270 – Tobacco Tax for Medicaid May Be Headed to Ballot

A revised version of the \$2 per pack increase in the cigarette tax to help fund Medicaid is headed to the November 2020 ballot. The proposal would also tax vaping products for the first time.

The Legislative Revenue Office (LRO) described it as “a dramatic increase in the price [of cigarettes] from \$6 to \$8 per pack.” They predict this will raise an additional \$160 million per year.

Some Republican members of the House Revenue Committee weren’t happy. The committee held two days of hearings on the same concepts in April, but some of the details have changed. “The level of frustration is rising,” Rep. Werner Reschke (R-Klamath Falls) said.

LRO predicts that for every 10% increase in the price of tobacco, there is an 8.5% decline in consumption. And this is a 30% increase.

Republicans complained that they didn’t know if this was supposed to be a public health measure or a bill to raise funding. “I think this misses every mark I can imagine,” Rep. Lynn Findley (R-Vale) said.

If voters approve the tax in the November 2020 general election, it will take effect January 1, 2021.

The House Revenue Committee approved the bill. It now goes to the Joint Tax Expenditures Committee.

HB 2005 – Paid Family & Medical Leave

The paid family and medical leave bill would create an insurance program that functions similarly to unemployment benefits. It provides between 65% and 100% of an employee’s weekly wage when they take 12 to 16 weeks off to care for a new child or sick family member.

Rep. Paul Holvey (D-Eugene) said, “This kind of family leave insurance is just critical to a lot of workers that need to have that benefit and yet can’t afford to take it or are subject to losing their job if they need to take it.”

Employers with more than 25 employees are responsible for paying 40% of the rate and withholding the other 60% from employee wages.

Employers with 25 or fewer employees must withhold the employee’s 60% but are exempted from paying the 40% share. If the small employer chooses to pay the 40%, they are eligible for grants of up to \$3000 to cover the cost of hiring temporary replacement employees or \$1000 to cover overtime.

Employees would be eligible once they have worked 90 days or earned \$1000.

The Employment Department will begin collecting contributions to the program on January 1, 2022, with benefits beginning on January 1, 2023.

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

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