

End of Session 2009 Report, OPA Legislative Committee

It was an extraordinarily busy Legislative Session for the OPA Legislative Committee. We participated in NAMI's Lobby Day on January 21st, and held the OPA Lobby Day on February 18th. Members of the OPA Legislative Committee also visited Oregon's Congressional delegation on March 4th. The committee monitored over 60 bills, often giving testimony or making amendments to the most critical. This is a brief summary of several of the priority bills. HB 2702, the bill seeking prescriptive authority for psychologists, is covered in a separate article.

HB 2009 – Oregon Health Policy Board

HB 2009 makes four major changes to Oregon state governance of health care. First, the measure establishes the Oregon Health Policy Board, a nine-member panel appointed by the Governor to oversee the development and implementation of health care policy in Oregon. The Board is to develop a plan for the Legislature by December 31, 2010 to provide and fund access to affordable health care for all Oregonians by 2015. In addition, the Board is to establish and continuously refine statewide health care quality standards, establish evidence based clinical standards, establish cost containment mechanisms to reduce health care costs, and to ensure Oregon's health care workforce is sufficient in numbers and training to meet demand for health care. The Board will carry out these duties through the Oregon Health Authority.

A variety of state governmental agencies will move under the Board's jurisdiction, including the Division of Medical Assistance Programs, the Addictions and Mental Health Division and the Public Health Division within the existing Department of Human Services; the Oregon Medical Insurance Pool within the Department of Consumer and Business Services; the Office of Private Health Partnerships; and the Public Employees' Benefit Board and the Oregon Educators Benefit Board. The transfer of these agencies to the Board's jurisdiction must be completed by June 30, 2011. The measure eliminates the Oregon Health Fund Board and the Oregon Health Policy Commission.

Second, HB 2009 directs the Oregon Health Policy Board to begin to implement (through the Oregon Health Authority) a variety of specific health care reform initiatives that will hopefully reduce health care costs and improve the quality of health care. These include the establishment and operation of a statewide Physician Orders for Life Sustaining Treatment registry, the creation of a Health Information Technology Oversight Council to promote the use of electronic health records and data exchange, the creation of the Statewide Health Improvement Program to prevent chronic disease and reduce the utilization of expensive and invasive acute treatments, the establishment of a Healthcare Workforce database, and the development of evidence-based health care guidelines for use by health care providers, consumers, and purchasers of health care in Oregon.

Third, the measure attempts to strengthen requirements for the collection of health market data—including insurance company data, capital project investment data of certain health care providers, health care data for the purposes of determining the distribution of

resources allocated to health care, identifying the demands for health care, evaluating the effectiveness of intervention programs, comparing the costs and effectiveness of various treatment settings, improving the quality and affordability of health care, and evaluating health disparities—including those related to race and ethnicity.

Fourth, HB 2009 includes several sections that contain directives to the Director of the Department of Consumer and Business Services concerning premium rate filings submitted by insurers who provide health coverage for individuals or small businesses. The Director is for example, required to open a 30-day public comment period on the rate filing. The Director is also to give written notice to an insurer approving or disapproving a rate filing, and an insurer licensed by DCBS must include in the rate filing a statement of administrative expenses in a form prescribed by DCBS by rule. The Director may, after conducting an actuarial review of the rate filing, approve a proposed premium rate for a health benefit plan for small employers or individuals if certain criteria are met.

HB 2116 – Health Care for All Oregon Children

HB 2116 establishes two assessments: a 1% health insurance premium assessment on a specified group of health insurers, Medicaid managed care plans, and the Public Employee Benefit Board; and, an assessment on hospitals that are paid by Medicare under a diagnostic related grouping (DRG) reimbursement mechanism.

In addition, the measure establishes the Health Care for All Oregon Children program. The health insurance premium assessment is paid into a newly created Health System Fund, which is continuously appropriated to the Department of Human Services to implement the Health Care for All Oregon Children program. The Hospital assessment is paid into an existing fund, the Hospital Quality Assurance Fund, and proceeds from the assessment are primarily to be used to fund the Oregon Health Plan Standard program. The premium assessment is expected to provide funding for nearly 80,000 children during the 2009-11 biennium. The hospital assessment will allow the OHP Standard program to double from an average monthly caseload of approximately 25,000 low-income adults to 50,000 during the 2009-11 biennium. Both assessments end on September 30, 2013.

HB 2506 – Licensed Professional Counselor Bill

Licensed Professional Counselors have been attempting to pass vendorship/title legislation for over a decade. Historically the OPA has been opposed to all variations of this legislation due to the fact that none of these included a true practice act for the licensed counselors or clear requirements for education and training or standardization for exams. After the 2007 and 2008 Sessions, it became clear to the OPA that the Legislature intended to pass an LPC vendorship bill in the 2009 session. The OPA then decided that it was best to work with the Licensed Professional Counselors to come up with a true practice act with the input of the OPA. Several board members worked directly with the new leadership of the LPC's association and created a bill that was acceptable to all parties. The bill included standardized training, education and

examinations. The grandfather clause included a requirement for a written attestation by individual LPC's that they have acquired the training and education. HB 2506 becomes effective January 1, 2010.

HB 2610 – Use of the Term Doctor

HB 2610 was introduced with the intention of clarifying who could use the term “doctor” in clinical settings. The bill as introduced did not provide for the use of the term “doctor” by residents in hospital settings. Several psychologists at the Oregon State Hospital thought this would be problematic and asked that we amend the bill to include language to allow for this. While preparing language for this amendment, we realized that there was nothing in current statute that specifically allowed psychologists to use the term doctor. This legislation remedied that problem. In addition we were also able to amend the residents’ language into this bill. HB 2610 becomes effective January 1, 2010.

SB 24 (Passed), SB 468 (Failed) - Telemedicine

SB 24 Requires health benefit plans to provide coverage of medically necessary, evidence based telemedical health services, if health service is covered by the benefit plan. It also establishes that telemedicine not be limited to medically underserved areas or areas where there is a shortage of specialists. The OPA was supportive of this legislation, recognizing the benefits of this technology.

OBPE Bills

SB 173

SB 173 Increases the number of members to the Board of Psychologist Examiners from seven to nine members. It also increases from five to six the number of members who must be residents of Oregon and allows a member to have a Master’s Degree in lieu of a Ph.D. with an emphasis in psychology. In addition it increases from two to three the number of public board members. The OPA was neutral on this bill however expressed to OBPE the concern about being able to find willing and qualified public members.

SB 174

SB 174 increases the maximum civil penalty from \$1,000 to \$5,000 not to exceed \$10,000, under certain circumstances, that the State Board of Psychologist Examiners may impose for disciplinary violations. This bill specifies circumstances under which the board may impose the maximum civil penalty. It requires a person with a doctoral degree in psychology, who is employed by and practicing psychology at agencies or described state programs, to practice psychology for no more than 24 months without a license. This applies to disciplinary actions proposed by the board on or after January 1, 2010. Originally this bill had a penalty of \$10,000 that could have been applied to all licensees for any violation. OPA felt that this amount was too high, and that there was not sufficient language in the legislation to clarify how this fine would be imposed. The

OPA, under the leadership of Scott Pengelly, negotiated successfully with the OBPE to develop the compromise language that we then amended into the bill. In addition we amended the intent of the language from SB 175 into 174 due to the fact that SB 175 died in a Senate Committee. SB 174 becomes effective January 1, 2010.

SB 175

This bill would have required a person with a doctoral degree in psychology who is employed by and practicing psychology at agencies or described state programs, to practice psychology for no more than 24 months without a license. This bill died in a Senate committee due to the fact that it was not drafted correctly. The language would have required all mental health professionals employed in community mental health programs to be psychologists. At the request of Senator Whitsett we amended the correct language into SB 174, and the subsequent language passed.

SB 5538

The Subcommittee ratified an increase to the licensure fee to fund continuing service levels and maintain a healthy ending balance. Biennial license renewal fees will increase from \$510 to \$750, an increase of 47 percent; inactive license renewals will increase from \$50 to \$100, an increase of 100 percent. The fee increase is expected to generate approximately \$325,000 in Other Fund revenues. Originally this bill called for fees to be increased \$300 to \$810. After several conversations with the OBPE it was agreed that some increase was needed, However the OPA thought that \$810 per biennium was too much. The bill was amended to reduce the fee increase to \$750. In addition the OBPE will be changing the fee billing cycle. The new cycle will be based on the licensee's birthday, rather than every other December. SB 5538 became effective July 1, 2009.

Health Licensing Board Bills

There were many licensing board bills introduced during the 2009 Legislative Session. Below is a description of each licensing board bill that passed. To view all of the licensing board bills introduced please email Betsy Jones @ bjones@smithgovernmentrelations.com. She will provide via email the full OPA bill tracking report.

HB 2058

HB 2058 standardizes health profession regulatory board's appointment, confirmation, and removal process. It deletes the Department of Human Services from several references. This bill also deletes the term "family member" and defines the relationship as a spouse, domestic partner, child, parent or sibling. It includes and standardizes the Oregon Mortuary and Cemetery Board member term limits, governor appointment, and geographic and ethnic representation. HB 2058 became effective June 25, 2009.

HB 2059

HB 2059 requires licensee of a health professional regulatory board to report prohibited conduct to the board. It defines licensee, prohibited conduct and unprofessional conduct. This bill requires licensees to report other licensees without undue delay, or no later than 10 working days. It requires the board receiving the report of prohibited or unprofessional conduct to investigate and, if necessary, present the facts to the appropriate law enforcement agency without undue delay or no later than 10 working days. It also requires licensees arrested or convicted of a misdemeanor or felony to report conviction or arrest to the board within 10 days after conviction or arrest. This bill specifies that other boards that have reporting requirements are required to maintain those reporting standards. HB 2059 grants immunity from civil liability for good faith reporting. It maintains federal and state compliance with confidentiality laws and specifies educational and clinical experience necessary to obtain license in massage therapy and includes passage of the National Certification Board for Therapeutic Massage and Bodyworks or another board-approved national standardized examination as meeting the written examination requirement for licensure. The language in this bill clarifies “law” vs. “statute” in reporting unprofessional conduct. This legislation adds Oregon State Veterinary Medical Examining Board, and State Mortuary and Cemetery Board to list of Section 1 meaning of “boards”. HB 2059 becomes effective January 1, 2010.

HB 2118

HB 2118 requires the Oregon Health Licensing Agency to investigate complaints against health regulatory board licensee, applicant or any other person alleged to be practicing in violation of law; requires that public members of health professional licensing boards review investigatory material and report concerning complaints against licensee. This allows health professional regulatory board to obtain fingerprints for the purpose of conducting criminal background checks on licenses seeking license renewal, applicants for license, board employees, volunteers, or applicants for employment. This bill allows the board to release or withhold personal electronic mail address, home address and personal telephone number for person licensed, registered or certified by the board. It requires the release of information if a request for information is made for public health or state health planning purposes. It will require the Director of the Oregon Health Licensing Agency to prepare periodic reports regarding licensing, monitoring and investigative activities of the agency and submit reports to the Governor. This standardizes certain provisions for membership and appointment of health professional regulatory boards, appointment of executive directors and reporting and auditing of certain board activities. This legislation changes definitions, examination, education, licensing and record keeping provisions related to certain health regulatory boards. HB 2118 becomes effective January 1, 2010.

HB 2345

HB 2345 directs the Department of Human Services (DHS) to establish or contract to

establish an impaired health professional program. It specifies components of program. This bill directs DHS to contract with an independent third party to establish a monitoring entity for impaired professionals. It specifies the duties of the monitoring entity. This legislation authorizes health profession licensing boards to participate in the impaired health professional program. It specifies the procedures by which the board may refer a licensee to the program. The language in this bill modifies the licensee reporting requirement from one to three business days to report arrest or conviction of a misdemeanor or felony crime to the board. It specifies that if a licensee self-refers to the program, the licensee "to the best of the licensees' knowledge" they are not under investigation. This bill adds the impaired health professional program into the definition of public provider under the disclosure of written accounts by the health care services provider. It prohibits boards from establishing alternate impaired health professional programs. This bill specifies the process for transferring licensees currently participating in the impaired professional programs to impaired profession program established (or contracted by) DHS. It also requires DHS to report on the program to the Governor, Legislative Assembly and health profession licensing boards on or before January 31, 2011. HB 2345 deletes existing impaired professional programs of health profession licensing boards. It applies to licensees identified by health profession licensing boards, and disciplinary proceedings commenced, on or after July 1, 2010. This bill became effective on July 14, 2009.

HB 3175

HB 3175 eliminates the requirement by certain regulatory boards to remove claims of negligence filed against medical professionals from their websites if no other claims are filed within four years. This bill becomes effective January 1, 2010.

This end of year report was compiled by lobbyists Lara Smith and Betsy Jones of Smith Government Relations, the lobbying firm representing the OPA. The OPA Legislative Committee would like to thank Lara and Betsy for guiding us through a very, very intense Legislative Session, and our first Session working with their firm. They kept us abreast of the latest information at all times, giving us biweekly tracking updates, and guiding us through testimony and the details of legislative process. Their expertise and professionalism is deeply appreciated, and we would not have been able to manage this Session without their leadership.

Submitted by the OPA Legislative Committee