

OPA BILLS

74th Oregon Legislature, 2007

PASSED

HB 2022 Health Care Employee Violence Prevention

(Governor signed June 13, 2007)

HB 2022 requires health care employers (defined as hospitals or ambulatory surgical centers, and including the home health care employees and services of those entities) to conduct periodic safety and security assessments to identify existing or potential hazards for assaults committed against employees. The bill also requires that health care employers conduct the first assessment no later than April 1 2008, and based on that assessment, develop and implement an assault prevention and protection program for employees. Finally, health care employers are required to provide assault prevention and protection training to employees on a regular and ongoing basis. HB 2022 takes effect July 1, 2007.

An employee who provides home health care services may refuse to treat a patient unless accompanied by a second employee if, based on the patient's past behavior or physical or mental condition, the employee believes that the patient may assault the employee. Such an employee also may refuse to treat a patient unless the employee is equipped with a radio that allows the employee to transmit one-way or two-way messages indicating that the employee is being assaulted.

HB 2179 Department of Human Services Authorized to Request Criminal Records without Prior Written Consent for Record Check

(Governor signed June 22, 2007)

HB 2179 provides that the Department of Human Services may obtain an individual's criminal offender information from the Department of State Police without prior written consent from the individual when the record check is requested in order to investigate a report of child abuse or neglect and the individual is alleged to have abused or neglected a child or lives with or frequents the residence of the alleged victim. The bill also provides that notice of a criminal offender record check must include a statement that the individual may challenge the accuracy of criminal offender information and a statement that Title VII of the Civil Rights Act may apply to the individual. HB 2179 takes effect January 1, 2008.

HB 2312 Mentally Ill Persons' Right to Access the Outdoors

(Governor signed April 17, 2007 – Chapter 56 Oregon Laws 2007)

HB 2312 provides that every mentally ill person committed to the Department of Human Services shall have the right of daily access to fresh air and the outdoors unless such access would create a significant risk of harm to self or others. HB 2312 takes effect January 1, 2008.

HB 2765 Police Officer Training in Recognition of Mental Illness

(Governor signed June 12, 2007)

HB 2765 provides that the Department of Public Safety Standards and Training shall include in the training for basic certification as a police officer, at least 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model. HB 2765 takes effect January 1, 2008.

HB 2918 Autism Insurance Mandate

(Speaker of the House signed June 29th, 2007)

HB 2918 requires insurance coverage for treatment of children under 18 years of age who have been diagnosed with pervasive developmental disorder, subject to same conditions as treatment of physical illness (medical necessity). This coverage is limited to services to restore or improve function, but not to maintain function.

HB 3233 Sex Offender Treatment Certification

(Speaker of the House signed June 29, 2007)

HB 3233 establishes a certification process for Certified Clinical Sex Offender Therapists and Certified Associate Sex Offender Therapists (Certified Sex Offender Therapists). The certifications may be annually renewed. Persons not certified may continue to treat sex offenders but may not practice under the title of Clinical Sex Offender Therapist or Associate Sex Offender Therapist. Neither a Certified Sex Offender Therapist, nor any employee may disclose any communication by a client made during the course of noninvestigatory treatment, except: 1) when the client or a person authorized to act on behalf of the client has given consent to the disclosure; 2) when the client initiates legal action or makes a complaint against the sex offender therapist; 3) when the communication reveals the intent to commit a crime harmful to the client or others; 4) when the communication reveals that a minor may have been the victim of a crime or physical, sexual or emotional abuse or neglect; or 5) to parole and probation officers supervising the client under a mandated sex offender treatment condition imposed by a court or releasing authority.

HB 3233 also establishes the Sex Offender Treatment Board within the Oregon Health Licensing Agency. The Board is charged with determining the qualifications and fitness of applicants for certification, establishing standards of practice and professional responsibility, adopting standards for training and continuing education and advising the

Oregon Health Licensing Agency on all matters relating to the certification, oversight and discipline of Certified Sex Offender Therapists. The Oregon Health Licensing Agency is directed to issue certifications when appropriate and to maintain a registry of all Certified Sex Offender Therapists, available to the public online.

HB 3233 will take effect upon the Governor's signature.

HB 5039 Limits Biennial Expenditures by State Board of Psychologist Examiners
(Governor signed April 17, 2007 – Chapter 38, Oregon Laws 2007)

HB 5039 limits payments of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds collected or received by the State Board of Psychologist Examiners, to \$860,541 for the biennium beginning July 1, 2007. HB 5039 takes effect July 1, 2007.

SB 3 Healthy Kids

SB 3 creates the Oregon Healthy Kids Program to provide affordable, accessible health care for Oregon's children. The program is composed of:

- Medical assistance administered by the Department of Human Services;
- private health option administered by the Office of Private Health Partnerships;
- Statewide Healthy Kids Advice Line;
- Statewide Healthy Kids Healthcare Access Line, giving names and locations of available providers.

The bill expands enrollment eligibility for the Children's Health Insurance Program to 200% FPL. It also requires the Office of Private Health Partnerships (OPHP) to administer a private health option to expand private health care coverage for children by contracting with health insurance carriers to provide health benefit plans. OPHP will provide a subsidy for health benefit plans provided for children whose family's household income is more than 200% FPL but less than 300% FPL. This will be open to children who come from families with income above 300% FPL, but these children will pay the full unsubsidized premiums.

SB 3 will not become law unless the funding mechanism located in SJR 4 passes the November, 2007 special election. SJR 4 dedicates revenues from increased tobacco taxes to providing health care to children, low-income adults and other medically underserved Oregonians, as well as for tobacco use prevention and education.

A number of Healthy Kids measures **did not pass** this session due to Republican opposition to their funding mechanisms. Among others, these included [HB 2200](#), [HB 2201](#) and [HB 3558](#), all of which would have created various permutations of the Oregon Healthy Kids program.

SB 264 Reporting Abuse of Persons with Developmental Disabilities

(Governor signed June 20, 2007 – Chapter 492, Oregon Laws 2007)

SB 264 modifies the definition of “adult” in the statutes governing abuse reporting for persons who are mentally ill or have a developmental disability. The new definition provides that an adult is a person 18 years of age or older: 1) with a developmental disability who is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; or 2) with a mental illness who is receiving services from a community program or facility. SB 264 also clarifies that the definition of “adult protective services”(in the statutes governing abuse reporting for persons who are mentally ill or have a developmental disability) includes petitioning for a protective order.

SB 264 takes effect January 1, 2008.

SB 328 Psychiatric Security Review Board Rules Regarding Commitment of Young Persons with Mental Retardation

(Speaker of the House signed June 23, 2007)

SB 328 provides that the juvenile panel of the Psychiatric Security Review Board exercises continuing jurisdiction over a young person committed to or retained in a hospital or facility for the treatment of a serious mental condition. If the Board determines that placement of the young person in a particular hospital or facility creates a substantial danger to others, the Board may direct the Department of Human Services to place the young person in a specific type of facility or provide specific care or supervision, but the actual placement of the young person is the responsibility of the Department. SB 328 provides that “a mental defect manifesting in significantly subaverage general intellectual functioning, when it is accompanied by significant limitations in adaptive functioning in at least two areas or characterized by severe and pervasive impairment manifested during the developmental period”, is no longer excluded from the definition of “mental disease or defect” in ORS 419C.520.

The bill provides that the juvenile panel of the Psychiatric Review Board must adopt rules to implement the provisions of the bill, including rules that define the type of dangerous behavior that would require temporary placement of a young person with mental retardation in a secure hospital or facility.

SB 328 takes effect January 1, 2008.

SB 329 Healthy Oregon Act

SB 329 establishes several committees and boards to study and propose a new health care insurance and delivery system for Oregon. The bill establishes the Oregon Health Fund

Board (OHFB) within the Department of Human Services, and also establishes the Oregon Health Fund (OHF) within the state budget.

The OHFB will be comprised of seven members appointed by the Governor, with expertise in consumer advocacy, management, finance, health care, and labor relations. A majority of the members of this board may not receive or have not received in the past two years more than 50% of their family's income from the health care industry or health insurance industry.

The main points of the bill are as follows:

Establishes the Oregon Health Fund, which shall contain:

- Employer and employee health care contributions;
- Individual health care premium contributions;
- Federal funds from SSA and state matching funds

After being appointed, the OHFB is to establish several committees, which do not have the same restrictions as appointments to the OHFB itself:

1. OHFB shall establish one committee to examine the impact of federal law requirements on reducing the number of uninsured Oregonians, improving access to health care and achieving the goals of the Healthy Oregon Act.
2. OHFB shall establish subcommittees to develop proposals for the Oregon Health Fund comprehensive plan, on the following subjects:
 - Financing;
 - Delivery;
 - Benefits;
 - Eligibility
3. Membership of subcommittees shall include:
 - Geographic and ethnic representation of the state
 - Individuals with actuarial and financial management experience
 - Individuals who are providers of health care (inc safety net providers)
 - Consumers, including seniors, disabilities and people with complex medical needs

Due dates:

Upon effective date, Oregon Health Policy Commission (OHPC), Oregon Health Plan Research (OHPR), the Health Services Commission (HSC) and the Medicaid Advisory Committee (MAC) must begin to compile data and conduct research to help the subcommittees;

30 days after effective date: Governor must appoint an executive director of the OHFB;

February 1, 2008: OHPC, OHPR, HSC and MAC must present reports containing data and recommendations to the subcommittees as follows:

- OHPC to report on financing mechanisms;
- OHPR to report on the health care delivery model;
- HSC to report on methodology for defining the set of essential health services to be used;
- MAC to report on eligibility and enrollment requirements.

February 1, 2008: OHFB shall present to the Legislature a plan for design and implementation of a health insurance exchange.

February 29, 2008: OHFB shall report to the Legislative Assembly on the progress of the subcommittees and the Board toward development of a comprehensive plan that meets the goals of the program.

SB 364 Department of Human Services Policy of Self-Determination for Persons Receiving Mental Health Services

(Senate President signed June 28, 2007)

SB 364 provides that the Department of Human Services must adopt a policy that supports and promotes self-determination for persons receiving mental health services in order to remove barriers that segregate persons with disabilities from full participation in the community or prevent persons with disabilities from enjoying: a meaningful life, the benefits of community involvement, and citizen rights guaranteed by law.

SB 364 directs the Director of Human Services to establish a Consumer Advisory Council composed of persons who have received or are receiving mental health or addiction services, charged with advising the Director on the provision of mental health services by the Department of Human Services. The bill also provides that at least 20 percent of the membership of all task forces, commissions, advisory groups and committees established by a public body and primarily related to persons with mental health or addiction issues must be made up of persons who have received or are receiving mental health or addiction services. The Department of Human Services must adopt rules to implement SB 364.

SB 364 takes effect January 1, 2008.

SB 879 Pain Management Commission Review of Pain Management Curriculum

(Governor signed June 20, 2007 – Chapter 528 Oregon Laws 2007)

SB 879 directs the Pain Management Commission to review pain management curricula of educational institutions in the state which provide post-secondary training for persons required by statute to complete a pain management education program. The Commission must report its findings and make recommendations regarding legislation to the

Legislature by January 1 of each odd numbered year. SB 879 also requires dentists, occupational therapists and physical therapists to complete one pain management education program, either within 24 months of the effective date of the bill or within 24 months of the first renewal of the person's license after the effective date of the bill. SB 879 takes effect January 1, 2008.

SB 5534 Appropriation of General Fund Monies to the Psychiatric Review Board
(Governor signed May 15, 2007 – Chapter 137 Oregon Laws 2007)

SB 5534 appropriates \$1,035,014 from the General Fund to the Psychiatric Review Board for the biennium beginning July 1, 2007. SB 5534 also provides that for the biennium beginning July 1, 2007, the Psychiatric Review Board is limited to a maximum amount of \$2000 for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Psychiatric Security Review Board. SB 5534 takes effect July 1, 2007.

FAILED

HB 2189-A Child Abuse Includes Circumstances Creating Substantial Threat to the Child; Immunity for Reporters

(Rereferred to Human Services and Women's Wellness March 28, 2007)

HB 2189-A would have expanded the definition of child abuse for reporting purposes to include circumstances that create a substantial threat that a child will experience or be subjected to any of the conditions that constitute abuse under the statute. The bill also would have clarified that anyone who reported child abuse in good faith and had reasonable grounds for making the report, whether they reported voluntarily or were required to report by law, would be immune from liability for making the report.

HB 2526 Notification of Persons Who Should Not Drive because of a Mental Condition

(Referred to House Elections, Ethics and Rules Committee May 9, 2007)

HB 2526 would have required the Oregon Department of Transportation (ODOT) to immediately notify an individual if a physician, health care provider or the superintendent of the hospital for the mentally ill or mentally retarded notified ODOT that the individual should not drive because of a mental condition or cognitive or functional impairment.

HB 2590 Drug Policy Coordinator

(Public Hearing in House Health Care Committee April 24, 2007)

HB 2590 would have directed the Governor to appoint a Drug Policy Coordinator who would consult with state agencies and officials and make recommendations on ways to limit illegal sales and use of methamphetamines and other controlled substances. The Drug Policy Coordinator also would have been directed to consult and coordinate with local mental health authorities on local activities relating to the treatment and prevention of substance abuse.

HB 2800A Psychologist Prescriptive Authority

(Referred to Ways and Means Committee May 2, 2007)

HB 2800-A would have authorized the State Board of Psychologist Examiners to issue certificates of prescriptive authority to licensed psychologists with a minimum of two years post-licensure clinical experience, a master's degree in clinical psychopharmacology, at least 250 hours of integrated supervised clinical experience, experience treating patients under the supervision of a licensed physician or nurse practitioner knowledgeable in about the administration of psychotropic medications, and national certification in psychopharmacology. The bill also would have established a Committee on Prescribing Psychologists to oversee certification.

HB 3016-A Community Mental Health Housing Trust Account

(Referred to Ways and Means May 3, 2007)

HB 3016-A would have created the Community Mental Health Housing Trust Account within the State Treasury, separate and distinct from the General Fund. Seventy percent of interest earned on the deposits in the account would have been expended to develop community housing for people with chronic mental illness. The remaining thirty percent of the interest would have been expended on institutional housing. The bill also would have established a Community Mental Health Housing Trust Account Board to advise the Department of Human Services regarding the expenditure of funds from the account and the progress of projects funded by the account.

HB 3136-A Department of Human Services Website

(Referred to Ways and Means May 2, 2007)

HB 3136-A would have appropriated \$494,750 from the General Fund to the Department of Human Services to purchase a website to provide access to information and services related to mental and behavioral health.

HB 3267A Task Force on Coordination of Behavioral Science Research

(In the Senate Health Policy and Public Affairs Committee upon adjournment of the 2007 Legislature sine die)

HB 3267-A would have established the Task Force on Coordination of Behavioral Science Research. The Task Force would have been directed to study methods to increase the coordination of behavioral science research with practical efforts to improve the well-being of Oregonians, including: 1) a review of Oregon's systems for monitoring human well-being; 2) a proposal of strategies for coordinating research and practice organizations to ensure implementation of programs to improve the well-being of Oregonians; and 3) identification of behavioral science research, programs, policies and practices that could be utilized to help Oregonians.

HB 3336-A Task Force on Mental Retardation in Capital Cases

(Referred to Ways and Means Committee May 16, 2007)

HB 3336-A would have established a Task Force on Mental Retardation in Capital Cases in order to study issues surrounding the determination of whether a criminal defendant in a capital case is a person with mental retardation. The study would have included: 1) an applicable definition of mental retardation; 2) whether the determination of mental retardation should be made by a judge or jury and at what stage of the proceeding; 3) the standard of proof and which party should bear the burden of persuading the decision maker; 4) limits on expert witness testimony; 5) role of privacy laws and evidentiary privilege; and 6) who may raise the issue of mental retardation, when the issue may be raised and procedures to address the issue when it is raised after sentencing.

HB 3007 Crisis Intervention Training for Police Officers

(Referred to House Judiciary Committee March 12, 2007)

HB 3007 would have required the Department of Public Safety Standards and Training to include crisis intervention in the minimum training required for basic certification as a police officer. The training would have included law, theory, policies and practices relating to crisis intervention, including the identification of and assistance to members of the public with mental illness or who potentially have mental health problems.

HB 3524-A Task Force on Establishing a Mental Health Database

(In the Senate Health Policy and Public Affairs Committee upon adjournment of the 2007 Legislature sine die)

HB 3524-A would have established a Task Force on Establishing a Mental Health Database charged with identifying issues and making recommendations to the Seventy-fifth Legislative Assembly regarding the establishment and implementation of a Mental Health Database to aid law enforcement officers in assisting mentally ill individuals to obtain medical, mental health and social services.

SB 114 Elements of Offenses Requiring Culpable Mental State

(In the Senate Judiciary Committee upon adjournment of the 2007 Legislature sine die)

SB 114 would have provided that an element of a criminal offense necessarily requires a culpable mental state if it is associated with an act of a person, and that circumstances that are independent from acts do not necessarily require a culpable mental state.

SB 142 Provisions Regarding Transfer to Institutions for the Mentally Ill for Persons in the Custody of the Oregon Youth Authority

(In the Senate Judiciary Committee upon adjournment of the 2007 Legislature sine die)

SB 142 would have provided that persons other than youth offenders who are placed in a youth correction facility would be subject to the same statutory provisions as are youth offenders regarding: 1) transfer to an institution for the mentally ill or mentally deficient; 2) voluntary admission to a hospital; 3) escape, absenteeism, or parole violation; 4) violation of Oregon Youth Authority Rules; and 5) Oregon Youth Authority's liability for misconduct. The bill also would have allowed the Oregon Youth Authority to retain custody over paroled youth offenders.

SB 143 Repeal of ORS 420.500

(In the Senate Judiciary Committee upon adjournment of the 2007 Legislature sine die)

SB 143 would have repealed ORS 420.500 which limits to 14 days the amount of time a youth offender in a youth correction facility may be transferred to an institution for the mentally ill or mentally deficient without formal commitment.

SB 229-A Physical, Psychological or Psychiatric Evaluation of Licensed Psychologist

(In the House Health Care Committee upon adjournment of the 2007 Legislature sine die)

SB 229-A would have allowed the State Board of Psychologist Examiners to order a licensed psychologist to undergo a physical, psychological or psychiatric evaluation if the Board received a complaint about the psychologist and the Board had reasonable cause to doubt the fitness of the psychologist to practice. In the House Health Care Committee, the Oregon State Bar proposed an amendment that would have allowed for a limited contested case hearing on the facts OBPE was basing its evaluation order upon. OPA supported these amendments, which were adopted by the committee. Once the amendments were part of the bill, however, OBPE withdrew its support for the bill, and it died in committee.

This situation repeated itself with several licensing boards' bills during the last weeks of session, with the result that the Governor's office will be convening a task force on the subject of these evaluations during the 2007-2009 interim. OPA should plan to be

involved in the work of this task force, either as a member or by attending and commenting.

SB 452—Licensed Professional Counselor/Marriage and Family Therapist Insurance Mandate

(In Senate Health Care Committee upon adjournment of the 2007 Legislature sine die)

SB 452 would have required health benefit plans to provide coverage for services rendered by professional counselors or marriage and family therapists acting within their scope of practice if plan covered services by other professionals providing same or similar services.

SB 717-C Scope of Practice Review Committees

(Referred to Ways and Means Committee June 23, 2007)

SB 717-C would have required the Department of Human Services to contract with a nonprofit entity established to coordinate and advance a statewide response to the health care workforce shortage (institute). Under the terms of the contract, the Healthcare Workforce Institute would have been required to appoint and convene a committee to review a proposed change to the scope of practice of a health care profession at the written request of a health professional regulatory board, a health care professional or an organization representing health care professionals.

SB 754-A Personal Income Tax Credit on Loans Used to Obtain Degree in Social Work

(In the Senate Finance and Revenue Committee upon adjournment of the 2007 Legislature sine die)

SB 754-A would have allowed a taxpayer to claim a tax credit against interest payments on loans taken by the taxpayer to obtain a degree in social work, so long as the taxpayer was employed by a public body or other eligible nonprofit organization providing public assistance for at least six months of the tax year for which the credit was claimed.

SB 847 Geriatric Mental Health Professional Certification Pilot Program

(In the Ways and Means Committee upon adjournment of the 2007 Legislature sine die)

SB 847 would have established a pilot project in the Department of Human Services for a geriatric mental health professional certification program. The program would have addressed the special mental health needs of older individuals and would have focused on the prevention and treatment of emotional disturbance, mental illness and drug dependency in older adults.

HB 2687 Licensed Professional Counselor Insurance Mandate

(In Ways and Means upon adjournment of the 2007 Legislature sine die)

HB 2687 would have required insurance companies to cover LPC visits if a policy also covered other behavioral health services. The bill also would have added one additional investigator to the LPC Licensing Board staff.

HB 2858 Certified Insanity Defense Evaluators

(In committee upon adjournment of the 2007 Legislature sine die)

HB 2858 would have required that no evidence may be introduced by the defendant on the issue of insanity under ORS 161.295, unless the defendant prior to trial, submitted to the court an evaluation performed by a psychiatrist or psychologist certified by the Department of Human Services. The evaluation would have addressed the issue of insanity under ORS 161.295 and the dispositional determination under ORS 161.325, 161.327, 161.328 or 161.329.

The PSRB, along with some psychologists and psychiatrists, has concerns about the (reportedly) widely varying quality of insanity evaluation reports. The intent of HB 2858 was to provide training to any psychologist or psychiatrist interested in providing such reports; once this training was completed, the practitioner would become a certified evaluator. Although HB 2858 failed in 2007, it should be expected to reappear next session. Preparatory to that reappearance, an OPA board member has offered to supervise a review of reports submitted to the PSRB, in order to determine the extent of the problem. The results of this review would position OPA to take a leadership role in shaping a solution next session, if it turns out to be necessary.