

LEGISLATIVE UPDATE

Prepared for OAHU

June 28, 2020

HB 4212 –COVID Response; REALD Data Collection; Liability Protection

This is an omnibus bill with more than a dozen provisions related to the coronavirus. Key provisions include:

Limited Liability Protection

Despite a huge, bi-partisan push by legislators and businesses to add limited liability protection for businesses that comply with state COVID-19 guidelines, legislative leadership decided to create a new work group to work on the issue. An amendment to add liability protection to HB 4212 failed on a 7-7 vote in the Joint Committee.

Rep. John Lively (D-Springfield) said, “Businesses that are following the state guidelines deserve to have protection from lawsuits.” Rep. Caddy McKeown (D-Coos Bay) added, “We should protect businesses that are doing the right thing.”

The amendment gives limited liability protection only during the COVID-19 emergency. Rep. David Gomberg (D-Lincoln City) said it also, “Protects rights of the public and employees when they encounter bad behavior.” He noted it, “Would not protect employers from reckless misconduct.”

Sen. Floyd Prozanski (D-Eugene) said the key for the work group will be crafting a bill, “so those who are bad actors do not get the same protection as those who do the right thing.”

REALD Data Collection

Another provision in HB 4212 would require a broad range of health care providers to collect data on “race, ethnicity, preferred spoken and written languages, English proficiency, interpreter needs and disability status” for all COVID cases.

Oregon Health Authority (OHA) director Pat Allen said, “Lack of access to this data has inhibited about ability to work on a response to COVID.”

The OMA expressed concerns about an “Unfunded mandate when we already have a strained workforce.”

Providers worked with OHA to delay implementation of the new reporting requirement until October 1. OHA will work with providers to develop a template for the data collection.

Other Issues:

The bill also includes an eviction moratorium for residential and commercial tenants

SB 1606 – Disability Rights in Hospitals

Sen. Sara Gelser (D-Corvallis) introduced this bill because, she said, people with disabilities have been discriminated against while trying to get hospital care during the COVID-19 crisis. “We don’t put civil rights on the back burner just because we are in the middle of a pandemic,” she said.

Advocates and parents said people with disabilities were told they needed to have a POLST or Advance Directive before receiving hospital care. And support people were not allowed into the hospital even when the person with disabilities was unable to

understand medical directives or provide informed consent. House Speaker Tina Kotek (D-Portland) said, “I am appalled by the stories about what is happening to these families.”

Hospitals and health care providers were concerned that the sweeping language in the bill could actually prevent people with disabilities from receiving the care they wanted because of burdensome reporting requirements.

The final bill was pared back to say:

- Hospitals cannot require a POLST or advance directive as a condition of treatment and
- Patients with disabilities must be allowed to have care givers or support people with them in the hospital at all times.
- Nothing in the bill prevents or interferes with a provider’s ability to discuss POLST or advance directives with a patient.

Additional work may be done before the next Special Session to clarify broader civil rights protection for people with disabilities receiving hospital care.

Expanded Telehealth Coverage Extended Through December

The State of Oregon has reached an agreement with most commercial health insurance companies to continue providing expanded telehealth options through at least Dec. 31, 2020, though no mandate was put in law. The agreement does not extend to self-insured plans.

“Throughout this pandemic, telehealth has provided Oregonians with essential access to health care services that otherwise might have been unavailable or required the risk of an in-person appointment,” said Gov. Kate Brown. “It has transformed how many people have accessed behavioral health services. I’d like to thank Oregon’s insurers for partnering with us in this agreement, which gives us the opportunity and the time to develop more permanent telehealth policies with appropriate flexibilities during the 2021 session.”

The agreement follows [guidance issued by the Department of Consumer and Business Services and the Oregon Health Authority](#) in late March requiring health insurance plans of all types to provide coverage for multiple telehealth platforms at the same rate as an in-person visit to limit in-person health care services.

This means health insurance companies will continue to provide coverage for expanded telehealth services for Oregonians and pay for these services at the rates they established during the COVID-19 pandemic.

In addition to these companies, the Oregon Health Plan will continue to offer pay parity and other allowances for many telehealth services, offering the same rate as an in-person visit for physical health services, behavioral health services, and some dental and long-term care services.

Legislature Passes Broad Police Accountability Reforms

The legislature passed a package of six bills dealing with police accountability, each beginning with “Whereas Black Lives Matter”. The bills cover a variety of topics including:

- Bans on chokeholds and use of tear gas for crowd control
- Duty to intervene and report another officer who is engaging in misconduct
- Transparency of police discipline records

- Establishment of a new committee to examine policies to improve transparency in investigations and police protocols and to examine use of force policies and report back by December 31st, 2020.

As Rep. Janelle Bynum (D-Happy Valley), the Chair of House Judiciary Committee, put it, “These measures represent just a first step in the long road of reforms that our state must tackle.”

SB 1603 – Rural Broadband

The COVID-19 crisis has made internet connections more important than ever. Rep. Pam Marsh (D-Ashland) said, “Individuals and families who lacked access to broadband over the last three months missed out on public health information, remote work opportunities, online learning, health appointments, digital grocery deliveries, live-streamed religious services, and more, including the opportunity to participate in on-line legislative hearings.”

Sen. Arnie Roblan (D-Coos Bay) said, “400,000 Oregonians, 50 schools and 10 libraries do not have appropriate internet connections.” This would fund those needed connections.

SB 1603 would spread out a tax, currently paid by those with land phone lines, to VOIP and cell phone users. The bill would raise the cell phone tax by \$4 per year to raise \$5M for rural broadband.

The wireless communication industry opposed the bill saying there are other federal funding sources available for broadband expansion.

Even though the new funding would support rural broadband and most Republicans represent rural districts, they opposed the bill saying it created a new tax on cell phones and should have required a 3/5ths vote in both chambers of the Legislature. Democrats in the House and Senate pushed the bill through.

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