

Oregon Psychological Association

2005 Legislative Report

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The 73rd Oregon Legislature was tremendously successful for the Oregon Psychological Association. OPA continued to build a presence in Salem as a politically active professional association, while educating legislators about issues that are important to us.

OPA saw several policy successes this session. Mental Health parity, nearly twenty years in coming, finally passed. (SB 1). OPA gained support for allowing psychologists to appropriately participate in the development of special education plans for Oregon school children (HB 2431). Additionally, we made a tremendous change in how the Oregon Board of Psychologist Examiners conducts disciplinary proceedings; bringing unprecedented accountability and fairness to these hearings (HB 2285).

Even in those areas where we did not achieve legislation that we supported, we made tremendous headway. Limited prescriptive authority for psychologists continued to gain support among legislators (SB 407). We are progressing far faster on this issue than many other states, which have introduced similar legislation for many sessions without even receiving public hearings. We advanced the proposal to add psychologist to the list of providers who are eligible for tax credit for working in rural communities (HB 2514). Although OPA did not pass it through the entire legislature, we did pass it through three committees and to the floor of the House of Representatives for a vote. We built a strong base of support, even with some legislators who were reluctant to grant any new tax credits. This bill is well positioned for reintroduction next session.

In a session dominated by partisan fights over K-12 education funding and a strong disinclination of the House and Senate to work together we can proudly point to a productive session. In addition to the bills that we passed and prevented, we can now point to a long list of legislative supporters. The high regard by Senators and Representatives, Democrats and Republicans will help us build on this session's achievements and build for long term success.

OPA Priority Bills:

SB 1 Mental Health Parity

Requires group health insurance policies to cover expenses for treatment of chemical dependency, mental or nervous conditions at the same level as and subject to limitations no more restrictive than those imposed on coverage or reimbursement of expenses for treatment of other medical conditions. Prohibits coverage from treatment limitation, limits on payments for treatment, or limits on duration of treatment unless similar limitations exist for coverage of other medical conditions. Allows coverage to be limited to treatment that is medically necessary as determined under the policy for other medical conditions. Establishes that coverage is not required for long-term residential program that last more than 45 days; psychoanalysis or psychotherapy as part of an educational or training program; court-ordered sex offender treatment; or, a screening interview or treatment program. Allows

insured, under some circumstances, to receive outpatient services under terms of the insured's policy while living temporarily in a sheltered living situation.

Removes maximum dollar amounts of treatment expenses for mental health and chemical dependency services that health insurance policies are required to cover for children and adults. Establishes that insurers may manage benefits by using contracted provider panels, differential designs, preadmission screenings, prior authorization, utilization review and other mechanisms. Removes nurse practitioners from list of those who can perform utilization reviews. Requires that utilization reviews adhere to standards set by National Committee for Quality Assurance or Medicare. Requires non-contracting providers to cooperate with same standards as contracting providers in utilization review procedures. Allows health maintenance organizations and health care service contractors to create substantive plan benefit and reimbursement differentials at the same level of and no more restrictive than those for other medical conditions. Applies Act to group health insurance policies issued or renewed on or after January 1, 2007. Declares January 1, 2007 as effective date of Act.

OPA Position: OPA strongly supported this issue for several sessions.

HB 2514 Add Psychologists to the Rural Provider Tax Credit

Adds licensed psychologists to the list of rural medical providers who can qualify for the rural medical providers' tax. Allows the Office of Rural Health to identify the rural area for which psychologists can provide psychological services which qualifies the provider for the tax credit. Provides the Office of Rural Health the authority to establish criteria for certifying individuals as eligible for this tax credit. The rural medical practice tax credit was enacted in 1989. The purpose of this tax credit is to attract new medical practitioners and continue medical practices in under served rural areas. Under current law, the rural medical practice tax credit against personal income taxes has an annual cap of \$5,000. Applies to tax years beginning on or after January 1, 2009.

OPA Position: Strongly Support

SB 407 Limited Prescription Authority for Psychologists

Authorizes certain psychologists to prescribe drugs on approved formulary.

OPA Position: Strongly Support

History and Status:

OPA made good progress on this very controversial issue this session, despite very strong opposition from the Oregon Psychiatric Association. The bill received a public hearing in February before the Senate Health Policy Committee. This hearing demonstrated that prescription privileges for

psychologists, which were introduced for the first time in Oregon last session, gained significant acceptance by legislators. It also demonstrated that the opposition's arguments are losing their power of persuasiveness.

OPA has identified nine State Senators with strong support for the issue: Sen. Alan Bates, Sen. Richard Devlin, Sen. Gary George, Sen. Laurie Monnes Anderson, Sen. Bill Morrisette, Sen. Frank Morse, Sen. David Nelson, Sen. Charlie Ringo and Sen. Vicki Walker. OPA must continue to work with these supporters as well as the fifteen senators who are currently undecided during the coming interim to gain support to pass the bill next session.

It can be taken as a very good sign of progress that the opposition became concerned enough about our progress on this issue that they received a special grant of \$40,000 from their national association to hire one of the most influential lobbyists in Salem to help defeat this bill.

This session's progress is perfectly in line with the three to four session timeline The Tresidder Company projected for passage of such a controversial legislative proposal.

HB 2431 Allow Psychologists to Authorize Individual Education Plans

Requires that any mental health assessment given as part of evaluation or reevaluation to determine child's eligibility for special education services be performed by licensed psychologist.

OPA Position: Strongly Support

History and Status:

This bill was drafted very differently from the intent of what OPA originally requested. A combination of the poorly drafted bill and concerns about our intent by the Oregon Education Association (teachers union) resulted in some initial opposition. Under the direction of Rep. Phil Barnhart, the OPA and the Oregon Education Association developed a small work group to discuss the intended goal of the legislation and best solution. Ultimately, the group was able to identify an administrative solution to the problem that was agreeable to all parties.

Rep. Barnhart submitted a request to the Department of Education asking that a review of the administrative rules in this area be held and the opportunity to revise the rules to allow for appropriate participation of psychologists in the development of Individual Education Plans. The Dept. of Education agreed to undertake this activity after the adjournment of the legislative session. The Oregon Education Association and OPA have agreed to working with the Dept. of Education on this issue and Rep. Barnhart has indicated his willingness to assist us in this area as well.

HB 2285

Requires health professional licensing boards, to disclose information obtained by the board in its investigation of the complaint leading to disciplinary action.

Excludes from disclosure: (1) information that is privileged or confidential under other laws; (2) information would permit the identification the person(s) who made the complaint; (3) information that would permit the identification of any person that provided information that led to the filing of the notice and who will not be providing testimony at the hearing; and (4) reports of expert witnesses. Provides that a licensee may only disclose information received from the board to the extent necessary to prepare for the hearing.

OPA Position: Support

Bills of Interest:

HB 2316 Designation of Predatory Sex Offenders

Modifies procedures used by Board of Parole in determining whether or not an offender is a predatory sex offender. Allows that designation of person as predatory sex offender be based solely on application of the Static 99 assessment tool.

OPA Position: Oppose

History and Status:

OPA opposed this bill in the House. We issued a floor letter speaking to the problems with the proposal. Unfortunately, the bill passed the House floor. However, OPA worked in the Senate to assure that the bill would not go forward in the same form as the House version. In the Senate, it was amended to be a completely different bill before passage.

HB 2824 OBPE Semi-Independence

Converts State Board of Psychologist Examiners to semi-independent state agency.

OPA Position: Support

History and Status:

OPA traditionally supported the OBPE in seeking semi-independence. The Governor opposed this action this session. The bill did not have a hearing or other activity. The bill was in committee upon adjournment

HB 3488 Oregon State Hospital Planning

Directs Department of Human Services to develop review process and make recommendations regarding mental health system of care and to develop plan for second phase of review using Phase I Framework Master Plan. Requires completion of schematic design phase for new state hospital facility by date of convening of Seventy-fourth Legislative Assembly. Sunsets January 2, 2008. Authorizes Oregon Department of Administrative Services to issue financing agreements to finance payment of schematic design phase.

Appropriates moneys to Department of Human Services for plan. Declares emergency, effective July 1, 2005.

Directs Department of Human Services to develop review process and make recommendations regarding mental health system of care and to develop plan for second phase of review using Phase I Framework Master Plan.

OPA Position: No Position

History and Status:

This bill did not pass, but funding is included in the DHS budget to continue the planning process with respect to the State Hospital. In addition, Legislative Leadership has agreed to work with the Governor to be sure the conversation about the hospital's future continues over the interim and into the next legislative session. The Legislature also appropriated critical funding for the continued construction and operation of additional community-based facilities.

SB 59 Elimination of Oral Exam

Allows Oregon Board of Psychologist Examiners to set the licensing examination by rule. Modifies requirements for examinations of applicants for licensure by eliminating oral exam.

OPA Position: Support

History and Status:

OBPE conducts a written and oral examination for potential licensees as specified by statute. The board is now reviewing recommendations from a national licensing standards organization, and has established a work group to review the board's process including the use of both a written and oral test component. OPA provided testimony in support of the Boards' bill in committee. The Governor has signed the bill into law. (Chapter 7, 2005 Laws) Effective date, January 1, 2006.

SB 60 OBPE Investigative Powers

Allows Oregon Board of Psychologist Examiners to proceed with an investigation and disciplinary proceeding against a person whose license is lapsed, suspended or revoked.

OPA Position: Support

History and Status:

OBPE receives about 60 formal consumer complaints a year relating to the unethical or unlicensed practice of psychology. Some of the issues brought to the board include licensees having sex with clients, custody evaluations, parole evaluations, therapy and treatment plans, dual relationships, informed

consent, and billing disputes. OBPE estimates that approximately 5-10 percent of these cases result in disciplinary action. Because it often takes several months for the board to complete its investigation and make a decision in disciplinary matters, it is theoretically possible for a licensee to let a professional license lapse at the end of the year in order to avoid formal sanction by the board. OPA provided testimony in support of the Boards' bill in committee. The Governor has signed the bill into law. (Chapter 8, 2005 Laws) Effective date, January 1, 2006.

SB 361 Insurance Coverage for Marriage and Family Therapists

Requires individual or group health insurance policy to pay for services rendered by professional counselors or marriage and family therapists acting within their scope of practice if policy provides payment or reimbursement for services by other professionals providing same or similar services.

OPA Position: Oppose

History and Status:

OPA worked with Senators to prevent this bill from moving forward. It did not even receive a hearing, and was in committee upon adjournment.

SB 403 Expand Rural Provider Tax Credit

Allows annual \$10,000 tax credit for physician whose practice is at least 60 percent rural practice and are on the medical staff of a rural hospital. Requires the Department of Revenue to annually adjust the credit using the Consumer Price Index. Applies Act to tax years beginning or after January 1, 2006. Adds licensed psychologists to program.

OPA Position: Support

History and Status:

Current laws allow a \$5,000 tax credit for medical practitioners with a 60 percent rural practice and are on staff of a rural hospital. Practitioners currently eligible for the program include Medical Doctors, Doctors of Osteopathy, Podiatrists, Nurse Practitioners, Physician Assistants and Certified Registered Nurse Anesthesiologists, Dentists and Optometrists. Eligibility criterion for some of these practitioners varies.

During hearings in the Senate OPA amended the bill to add psychologists to the list of qualified providers eligible to receive the tax credit. However, neither OPA nor the Oregon Medical Association was unable to get the bill out of Revenue Committee for a vote. The bill was in committee upon adjournment.

HB 2458/SB 907 Methamphetamine Plan

The House and Senate Committees on Judiciary have worked to develop a comprehensive approach to Methamphetamine. They focused on the issues of Meth production, abuse and the crimes that accompany them in a

comprehensive manner instead of the piecemeal approach provided by the 30+ individual bills that were introduced this session. The product of this work group is what has ultimately moved forward as the “methamphetamine package.” Provisions of the bills include:

- Create or modify a number of crimes relating to manufacturing, possession, and distribution of methamphetamine, precursors, or other materials used in manufacturing methamphetamine;
- Create or modify crimes relating to child neglect or dependent mistreatment when exposed to methamphetamine labs;
- Establish a grant program administered through the Criminal Justice Commission to create new drug courts or expand the capacity of current drug courts;
- Add resources for the District Attorney assistance program of the Department of Justice and for the Department of Corrections’ Alternative Incarceration Addictions program;
- Expand crimes of arson to include fires and explosions resulting from manufacturing of methamphetamine;
- Require the Board of Pharmacy to adopt rules to classify ephedrine, pseudoephedrine or phenylpropanolamine as a Schedule III drug requiring a prescription; and
- Authorize the Department of Human Services to terminate Food Stamp benefits for specific actions relating to manufacture or delivery of methamphetamine.

In addition to the major policy and criminal provisions of this legislation they allocated limited funds as follow:

- Department of Corrections (DOC) for additional incarceration costs from new crimes - \$1,471,866
- DOC for housing and post release treatment for offenders released from alternative incarceration addiction programs - \$900,000
- Two attorneys and one investigator to assist District Attorneys and law enforcement agencies - \$550,087
- Public Defense Services Commission for defense activities for additional prosecutions from adding DOJ resources - \$450,000
- Support for existing drug courts in Benton, Marion, Malheur and Multnomah counties that are losing federal funding for 2005-07 - \$942,679
- Additional support for Oregon State Police Crime Lab work - \$88,143
- Funding for new drug court grant program administered by the Criminal Justice Commission – 2,500,000

OPA Position: No Position

History and Status:

OPA had no official position on this legislation. However it will likely have significant impact on those members who work at the Oregon State Hospital, correctional facilities and with forensic clients.

HB 3122

Creates State Board of Professional Art Therapists.

OPA Position: No Position

History and Status:

No hearings were held. In committee upon adjournment

SB 39

Requires the trial court to state on the record the mental disease or defect established as a basis for a guilty except for insanity (GEI) verdict. Requires the court, after the entry of a GEI verdict and if committing the defendant to the jurisdiction of the Psychiatric Security Review Board (PSRB), to order a psychological or psychiatric evaluation be provided to the court if no such evaluation was provided to the court prior to trial.

OPA Position: No position

History and Status:

OPA monitored but did not actively advocate on this bill. It was passed and signed into law by the Governor.
(Chapter 337, 2005 Laws) Effective date, January 1, 2006.

SB 232

The bill also expands the Psychiatric Security Review Board (PSRB) to include a five-member juvenile panel for disposition of youth who have a serious mental condition or who present a danger to themselves or others.

OPA Position: No position

History and Status:

OPA monitored but did not actively advocate on this bill. It was passed by the legislature on the final day and is waiting to be signed into law by the Governor.

SB 249

Establishes that person convicted of aggravated murder is not subject to death penalty if person is mentally retarded.

OPA Position: No position

History and Status:

This bill received no public hearing. In committee upon adjournment

SB 561

Prohibits community college, Oregon University System and Oregon Health and Science University personnel from recommending to student, parent or guardian that student seek prescription for certain types of medicine.

OPA Position: Opposed

History and Status:

OPA worked to ensure that this bill received no public hearing. In committee upon adjournment

SB 612

Imposes moratorium on enactment of health insurance mandates.

OPA Position: Oppose

History and Status:

OPA worked to ensure that the bill received no public hearing. In committee upon adjournment

SB 1000

Granting civil unions to same sex couples. Prohibiting discrimination based on sexual orientation.

OPA Position: Support

History and Status:

As a follow up to the 2004 ballot measure campaign to define marriage in the Oregon constitution, gay rights proponents introduced this legislation. Consistent with our position during the election, and previous positions to oppose discrimination based on sexual orientation or gender identity, OPA supported this legislation. OPA provided letters of support in committee and during the vote of the full Senate. This legislation passed the Senate by significant margin but the Speaker of the House Karen Minnis vowed to never allow a vote by the House of Representatives on the issue. The bill was in committee upon adjournment.