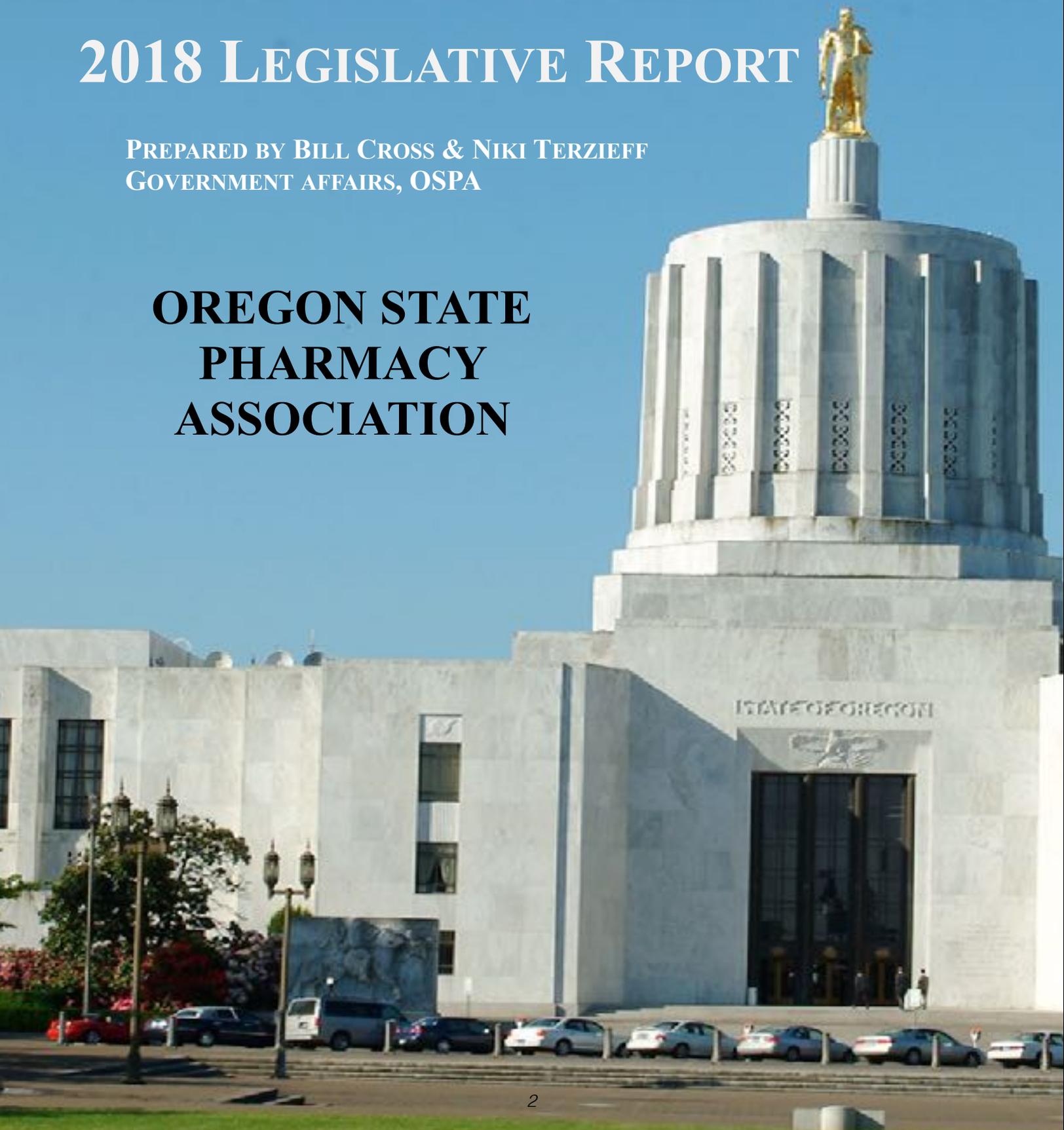


2018 LEGISLATIVE REPORT

PREPARED BY BILL CROSS & NIKI TERZIEFF
GOVERNMENT AFFAIRS, OSPA

OREGON STATE PHARMACY ASSOCIATION





“NOT A BAD SESSION...ALL THINGS CONSIDERED”

The Oregon Legislature adjourned on March 3... a week earlier than required by the state constitution. In even-numbered years, the Legislature holds a “short” session which cannot exceed more than 35 days. When the Legislature first enacted annual sessions, the “short” session was intended to address budget adjustments, small tweaks to legislation that was passed during the longer sessions every other year and any emergency issues. However, these “short” sessions have evolved into full-blown sessions with a wide range of policy issues being considered in a very short timeframe.

The 27-day session was considered fairly productive and a little less vitriolic and partisan than the last two short sessions. Democrats, who hold a majority in both chambers, abandoned some of their more progressive agenda items and focused on more incremental policies. Leadership shelved their top agenda item, a cap and trade proposal to charge the state’s largest polluters for their gas emissions, and instead created a joint legislative committee co-chaired by House Speaker Tina Kotek (D-Portland) and Senate President Peter Courtney (D-Salem) to set it up for passage in 2019. Democrats also fell short on a bill to ask voters to make health care a universal right in Oregon

The early part of the session was overshadowed by whether or not Senator Jeff Kruse would resign his position after an investigation had found that he had displayed a pattern of inappropriate touching of women in the Capitol. He eventually announced his resignation and left the Capitol but it created partisan tension. A number of other issues were driven by partisan interests as the short sessions have become opportunities for establishing campaign messaging and voting records for legislative races.

The short session also served as a shadow boxing venue for Brown, who is seeking re-election this fall, and her most prominent GOP challenger, Rep. Knute Buehler of Bend. During the session, Buehler laid out his planks of his campaign platform, such as additional investments in child welfare and taking stronger measures to curb the opioid epidemic in Oregon. Brown responded by asking for \$14.5 million more for child welfare case workers and pushing her own priority opioid measure.

The legislature enacted new policies including tightening gun restrictions on domestic abusers, updating the state’s advance directives statute, requiring more transparency on drug pricing and securing more money for affordable housing. With largely Democratic votes, the legislature approved a bill that disconnected from the recently adopted federal tax cut to prevent Oregon small businesses from taking advantage of a previous Oregon tax concession and a new lower 20 percent federal tax rate. There are rumblings Governor Kate Brown might veto the state tax measure which drew strong opposition from business groups.

Despite the turbulence and political posturing, this year’s short session was not so bad...all things considered.

Joining the hustle and bustle this session, the Oregon State Pharmacy Association was no slouch. Your association leadership stayed busy pursuing legislation aimed at reining in PBMs and supporting a handful of landmark pieces of legislation, as well. With two of our top three bills of interest the session was not so bad for pharmacy, either!

[HB 4103](#): introduced by House Health Care Committee member, Rep. Teresa Alonso-Leon (D - Woodburn) was designed to take some of the sting out of the PBM contract relationship for pharmacies. With this, we attempted to address the serious roadblocks to patient choice and access to medicine, resulting from the current practice of PBMs mandating that prescriptions must be filled by their mail order “pharmacies.” The bill would have also prevented PBMs from requiring a pharmacy or pharmacist from meeting specialty credentialing requirements designed to restrict access to higher-price drugs. We additionally proposed amendments to HB 4103 to address the failed rule-making at the Department of Consumer and Business Services, which has left MAC pricing and auditing practices still unregulated for all practical purposes.

House Health Care Committee Chair, Rep. Mitch Greenlick, announced at the final committee meeting that Rep. Teresa Alonso Leon had made good progress but that there was simply not enough time to resolve everything satisfactorily. This bill remained in committee upon adjournment, so we will have to come back to the testimony stand another day. *PLEASE NOTE:* The Chair has asked Rep. Alonso Leon to chair a work group in the interim on this issue to develop legislation for the 2019 session. As this workgroup gets underway, your association leaders will be in the room and working to drive the discussion in partnership with the Representative, as well as the OSHP.

[HB 4005](#): introduced by pharmacy champion and Vice-Chair of the House Health Care Committee, Rep. Rob Nosse (D - SE Portland), was built to create transparency and accountability in drug-pricing. While it has been whittled down, like nearly any piece of legislation that moves the needle, the bones of this political victory are strong. The measure establishes the Prescription Drug Price Transparency Act, requiring manufacturers of prescription drugs sold in Oregon to report specified information to the Department of Consumer and Business Services. The bill also requires insurers to include specified information regarding reimbursement of certain drugs along with current filing of health insurance rates. In addition, the bill creates the Task Force on the Fair Pricing of Prescription Drugs charged with developing a strategy to create transparency for drug prices across the supply chain, including pharmacy benefit managers, distributors, as well as wholesale and retail pharmacies.

HB 4005 was passed out of House Health Care Committee earlier in February to the Ways and Means Joint Committee. DCBS projected the cost of complying with the provisions of this bill to be \$425,022 a year. Funding for this program would be derived from fees, to be paid to DCBS by manufacturers. Such fees will be set via rule-making and are yet to be determined. The OSPA, along with other healthcare stakeholders, are a part of the Oregonians for Affordable Drug Prices Now Coalition - which will continue to advocate for stronger provisions in 2019.

Finally, this bill convenes the Task Force on the Fair Pricing of Prescription Drugs that will be required to report back to the Legislature findings of how to take this policy to the next level.

The Governor has now signed this bill into law, cementing the task force and ongoing discussions. Truly, this is the tip of the iceberg in the close examination of the cost of health care that will last well into the next several years. *PLEASE NOTE:* There are two seats to be appointed by the Governor's Office for pharmacies; one independent and one large retail representative. The discussions and outcomes will be housed at the Department of Consumer and Business Services, giving way to yet another avenue to strengthening the state's PBM laws and regulations. *CONTACT US for information about applying to serve on this Task Force, deadline March 31st!*

HB 4143: resulted from another task force, this one housed in the Governor's Office. The Opioid Epidemic Task Force included one of our own, Kevin Russell, immediate past president at OSPA and a broad range of public safety and public health stakeholders. Similarly situated to a bill that the Pharmacy Coalition supported in the 2017 Session, HB 4143 requires DCBS and the Oregon Health Authority (OHA) to study barriers to effective treatment for and recovery from substance use disorders, including addictions to opioids and opiates. That study is to be presented back to the Legislature before June 30, 2018.

The bill also directs the Oregon Health Authority (OHA) to implement a pilot project to determine effectiveness of establishing immediate access to appropriate evidence-based treatments for persons who suffer opioid and opiate overdoses, requiring a report back no later than December 31, and for the next three years. The pilot project will have one staff person and \$2M available to execute in four key counties: Coos, Josephine, Marion and Multnomah.

Most interestingly, the final provision to highlight on this bill is the one which requires practitioners to register with prescription monitoring program not later than July 1, 2018. Widely applauded as the right first step to setting prescribers up to use the PDMP as a standard (or possibly requirement), expanding the pool of registrants and the ability to push information out to them is a win. You can bet that there will be some additional policy adjustments as these discussions progress over the next few years - and OSPA will be tuned in and engaged! The Governor has not yet signed this bill into law but has another couple of weeks to do so, and you can also bet that she will sign it with aplomb.

HJR 203: OSPA was also in coalition with other healthcare providers in support of House Joint Resolution 203, the "HOPE Amendment." The resolution appeared to guarantee health care as a right under the state's constitution, if the voters approve it. A longtime goal of Rep. Mitch Greenlick, the House approved referring the issue to the voters on a party line vote of 35 to 25. By the time HJR 203 was in the Senate Health Care Committee it was quite late in session. Politically, there was enough dust kicked up that perhaps in spite of the multiple committee hearings where rooms were packed with supporters, this bill was specifically not going to leave that committee desk. Towards the end of session, it was not just Ds and Rs that were a force to reckon with, it was also the chamber dynamic between the House and the Senate. This resolution will be reintroduced in the House in 2019 - Chair Greenlick has promised it.

What do you think? Proponents believe that without a health care right, many people suffer as timely access to proper care is denied or delayed. Opponents argue the amendment would be

costly and open up the state to constitutional lawsuits. “It is the obligation of the state to ensure that every resident of Oregon has access to cost-effective, medically appropriate and affordable health care as a fundamental right.”

Looking ahead, there is no time to rest. While your association leadership commits to keeping busy with work groups, task forces and other association work, we need your assistance. We need you to send your complaints and appeals in to the Insurance Division! If you recall, we are lacking some working definitions in the enforcement regulations to rein in PBMs, so it’s time to pump up the volume. Fill out [the form found here](#) for each and every denied claim and appeal.

Please stay active with OSPA ~ pharmacy issues are under a brightening spotlight in Salem!

This report has been prepared by OSPA’s government affairs advocates Bill Cross and Niki Terzieff. Please feel free to contact Bill Cross at bill@wvcross.com or Niki Terzieff at niki@leadingedgepublicaffairs.com.