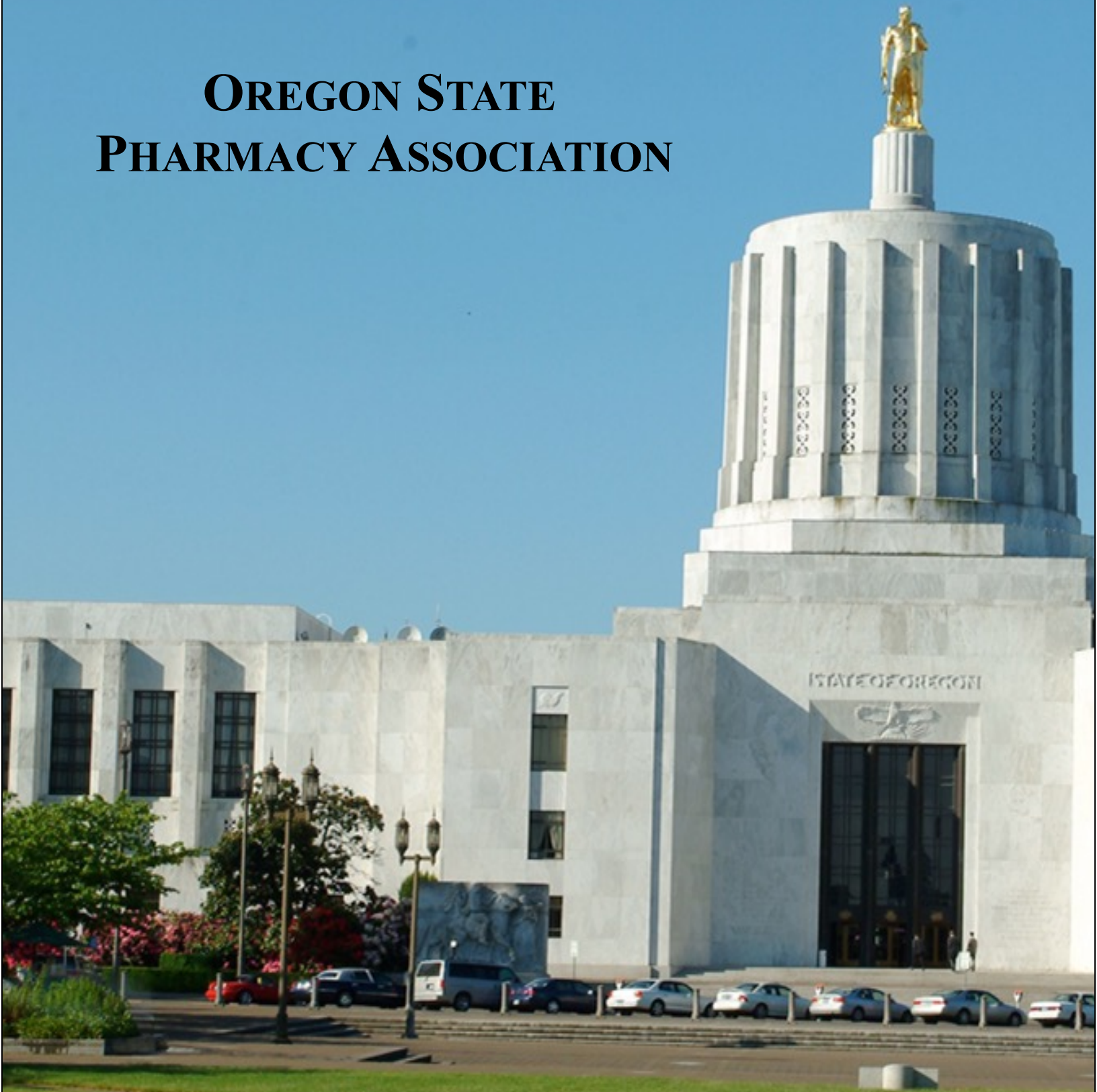


2016 LEGISLATIVE REPORT

OREGON STATE PHARMACY ASSOCIATION



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GENERAL SUMMARY

Never before has the short legislative session been so acrimonious. The 2016 Legislative Session adjourned Sine Die at 1:07 p.m. on Thursday, March 3rd. Interestingly, by the time the end was in sight, you would have had a hard time telling that for the 32 days prior rancor and mistrust prevailed. Complete with the passage of a minimum wage increase, a limitation on the use of coal power, affordable housing solutions and a re-balance for the budget, it is no wonder that Republicans felt that they were merely along for the ride. Upset with the Majority Democrats expansive agenda for the short session, the Republicans resorted to stall tactics that included requiring the bills to be read in full on the chamber floor and refusing to show up for evening or weekend floor sessions.

The 2016 Legislative short session produced more far reaching policies on the economy and the environment than the 2015 long session. Session highlights included:

- Multi-year increase in the state's minimum wage which will top out at \$14.75 an hour in the Portland area, \$13.50 in midsize counties such as Marion and Lane and \$12.50 in rural areas by July, 2022. This makes Oregon's minimum wage the highest nationally.
- Eliminating the use of coal power in the state by 2040 and requiring the state to get at least 50% of its power from renewable energy.
- Affordable housing package that included protections for renters, removing the ban on inclusionary zoning and construction excise taxes and additional funds for affordable housing and homelessness relief programs.
- State budget adjustments of \$300 million.

OSPA PRIORITIES

With only five weeks to move a bill through both chambers, the Coalition's Joint Legislative Committee and Advocacy Team worked to stay ahead of the deadlines - essentially one at the end of each week! While there were less than 300 bills introduced (compared with nearly 3,000 during the longer session), we continued our vigilance regarding pharmacy issues and health care developments.

Here are the highlights of the 2016 Legislative Session:

HB 4105-B, Biological Products:

House Majority Leader Jennifer Williamson (D- SW Pdx) tasked the Health Care Committee Vice Chair, Rep. Rob Nosse (D- Inner SE Pdx), with convening a conversation - and passing a bill - related to substitution of biological products in dispensing. Heading into the short session it became clear from Rep Nosse that there was going to be a piece of legislation and he hoped Pharmacists would be able to get to neutral, if not outright supportive. The initial draft of legislation included a prescriber notification provision that was onerous and prohibitive, setting pharmacists across the state up to be out of compliance inadvertently.

While we initially argued this provision was not necessary at all because of the strong DNS law in Oregon, and further there was not going to be an approved substitute on the market for several years, Rep. Nosse pushed us to provide different solutions. The Coalition resignedly concurred that a sunset on the notification section of the bill would suffice. We asked for two years, proponents asked for ten - Rep. Nosse settled on six. Therefore, January 2 of 2022 the requirement of prescriber notification is no longer in effect. This change enabled the pharmacy coalition to take a neutral stance.

There were some concerns that the definitional shift from bio-similar to biological products in statute could adversely affect a pharmacist's ability to substitute and/or dispense insulins; as well possibly increase the cost of access to treatment. Bill and I asked the OHA to look into the possible cost issue, as a large budget note from the public health authority would be problematic to the bill. At the direction of the Coalition, we also conferred with Rep. Nosse about these concerns. Given the strength of which he was sticking to ensuring passage of this now-negotiated bill, we placed more value of our relationship with the future Chair of House Health Care than coming back in strong opposition in the Senate.

There was, in the Senate, an additional, small change we sought in the definition of long-term care facility and the strange list that was drafted into the A-engrossed version. With the work of Josh Free, we were able to update that definition to match the BoP definition(s) of these facilities.

This bill passed near unanimously and HB 4105-B was signed by the Governor on March 14th.

SB 1505-A, PBM Enforcement:

Our beleaguered Senate Health Care Committee bill, SB 1505-A (read: as amended with most of the stuff that we liked), laying enforcement authority squarely in the statutes governing the Insurance Division within the Department of Consumer & Business Services (DCBS) was whipped around all session long in one committee or another since leaving its original committee on a 4-1 vote of approval.

Initially referred to the Ways & Means Sub on Human Services, your advocacy team was surprised to learn late on a Friday afternoon that instead it had landed in the Ways & Means Sub on Transportation & Economic Development. No later than the following Monday, SB 1505-A was re-referred to the Human Services Sub once again. Running hard and fast against a deadline to be posted for a vote in this committee, we had up until Thursday morning at 7:30a (Feb. 25) to make it over the finish line. The outlook (and the vote-count) was good; we even had the amendment addressing prior authorization on contraceptives lined up through the House Majority office, and actively supported by Planned Parenthood. The Tuesday night before, however, foreshadowed the outcome.

By late Tuesday, the team of lobbyists from PBMs and Insurers had been making rounds and creating mass confusion. They rocked the confidence of the Speakers Office and the House Co-Chair regarding what was said and agreed to in the meeting held by Chair Monnes-Anderson a week prior. Upset that we were able to move the A-engrossed version of the bill, they cast a shadow over the integrity of what had passed. Co-Chairs Nathanson (D- Eugene) and Bates (D-Ashland, Medford) called us all in to another meeting, Wednesday afternoon, and this time included the Legislative Director of the Senate President's office.

The room held some serious tension as the Co-Chairs worked to get down to the bottom of who was offering which amendments and what the agreements actually were (= none), but just at the time the co-chairs felt they were making head way in a consensus amendment, the clock ran out.

SB 1505-A remained in the Ways & Means Human Services Sub-Committee upon adjournment.

SB 5701-A, PBM Budget Note:

Through a little maneuvering and a lot of tenacity, the Co-Chairs of Ways & Means managed to keep the conversation alive. SB 5701-A, the amended, near-final version of The Budget Bill for this session contains a quiet note, carefully crafted by your advocacy team. The language very simply sets forth a fact: DCBS has authority over Pharmacy Benefit Managers. It further instructs the agency to convene a workgroup that will make recommendations as to specific parameters of enforcement, such as fines, fees, complaint notification and investigation processes, inclusive of the authority the agency has with other health care system actors.

The exact budget note can be found here: <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureAnalysisDocument/33519>. SB 5701 is on the Governor's Desk and is awaiting her signature, as of March 15th.

HB 4124-A, Naloxone & PDMP:

Rep. Knute Buehler (R- Bend), who is a surgeon and key member of the House Health Care Committee, has proven himself to be a friend to the pharmacists. He not only supported our Clinical Pharmacy Services lift in the 2015 Legislative Session, but he helped to build upon that foundation by championing a bill to give pharmacists the ability to prescribe self-administered contraceptives. This session, Buehler was back in a big way, by introducing a bill that would then expand that prescribing ability even further. With the passage of HB 4124, an Oregon pharmacist will be able prescribe and dispense one unit, or one dose, of Naloxone.

HB 4124-A had relatively smooth sailing throughout the process, despite a bit of attempted tinkering by House Majority Leader, Jennifer Williamson. Rep. Williamson had drafted an amendment that would have expanded the prescribing authority of pharmacists (granted in 2015 by the Buehler bill) from oral and topical contraceptives to include hormonal injections and the full array of self-administered contraceptives. The Republican Vice-Chair of the House Health Care Committee, Rep. Cedric Hayden (R- Grants Pass) made some noise about voting yes on the bill if the amendment had been approved, and so that was the end of the line for expansion this year.

HB 4124-A unanimously passed its final hurdle this evening (Feb. 29) in the Senate chamber. It was carried by Sen. Elizabeth Steiner-Hayward (D- Bethany, NW Portland) and is on the Governor's Desk and is awaiting her signature, as of March 15th.

SB 1514-A, Charitable Drugs:

This Senate Human Services & Early Childhood Committee bill, ushered by Chair Sara Gelser (D- Corvallis), has kept pace with the Short Session and already awaits signature by the Governor. Enacted upon passage, participants in the Charitable Drug Program who have the ability to package donated drugs will be allowed to transfer these packages to pharmacies that do not. It also layers some record keeping and clarifies eligible participating outlets for the program. SB 1514-A was signed into law by the Governor and became effective March 3rd.

SB 5701-A, Board of Pharmacy Budget (page 32):

The Board of Pharmacy, under the leadership of Marc Watt, was awarded an increase of \$200,825 in Other Funds for continued administration through the remainder of the budget cycle. Your Coalition lobby team is excited to learn that Director Watt has dedicated the bulk of this windfall to our technology and apparel budgets. *Just checking to see if you're still reading!*

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