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GOVERNMENT RELATIONS

July 16, 2019

To: COPACT

From: Elizabeth Remley and Rachael Wiggins Emory, Thorn Run Partners

Re: Activity Summary for COPACT - Oregon's 2019 Legislative Session

Dear COPACT,

It is a sincere pleasure to work with you and represent COPACT at Oregon's Capitol. What follows is a summary of COPACT's activity and outcomes in Oregon for the 2019 legislative session, which ran from January 22 to June 30. Thank you for the opportunity to partner with your organization!

Sincerely,

Elizabeth Remley
Partner

Rachael Wiggins Emory
Senior Legislative Associate

General Summary

Oregon's 2019 Legislative Session will be interpreted in a variety of different ways. For some this will be perceived as a well-run disciplined session where legislative leadership, prior to a successful election, identified four distinct and significant priorities—funding the Medicaid gap, raising revenue for schools, passing carbon legislation and passing new housing affordability policies. Indeed, legislative leadership nearly ran the table successfully with only carbon regulation unable to cross the finish line. For others, this session saw the vitriolic and aggressive nature of national politics reach down and plague Oregon's previously sanguine and respectful politic. Heated rhetoric, armed threats by sitting Senators, walk-outs and undisclosed out-of-state hiding spots were hallmarks of the 2019 session and politics at its worst. Still for others, it will be the story of an emboldened urban elite, that with supermajority power, cemented a cultural divide between urban and rural Oregon. This report won't resolve these differences, but it will outline Thorn Run Partners work on your behalf.

The legislature started out slow and somber, first dealing with issues around harassment that have rattled the Capitol for nearly two years. Early legislative action included the passage of SB 608 that instituted controversial and unique tenant protections designed to improve housing affordability. The Joint Carbon Committee conducted a statewide listening session on a proposed carbon "cap-and-trade" bill (HB 2020) and a fight around vaccinations (HB 3063)

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boiled over with the backdrop of a measles outbreak in the Pacific Northwest. Over the course of the session, two memorial services were conducted, as Secretary of State Dennis Richardson and State Senator Jackie Winters died after long battles with cancer.

Mid-session, all eyes turned towards the proposed revenue package to fund K-12 education (HB 3427). The Joint Committee on Student Success passed a corporate activities tax that provides \$2 billion in new revenue for schools. While the measure split the business community, Republicans remained aligned against the bill. The House approved the legislation, but the Senate Republicans refused to come to the floor to vote, denying the Senate a quorum. Senate rules requires 20 members (two-thirds) present to conduct business—Democrats have 18 seats and thus rely on two Republicans for a quorum. In a deal to bring the Republicans back to the table, legislation related to gun safety (SB 978) and mandatory vaccinations (HB 3063) were sacrificed, and an agreement was reached to “reset” carbon legislation. Upon the Republican Senators’ return, the \$2 billion corporate activities tax cleared the Senate and was signed by the Governor.

Late in the session, the carbon bill (HB 2020) picked up steam and after a six-hour debate was approved in the House without any Republican support. When HB 2020 arrived on the Senate floor, Senate Republicans claimed that the previous deal to bring them back for quorum was violated and once again refused to come to the floor to vote—this time fleeing the state to avoid the jurisdiction of the Oregon State Police. This left hundreds of bills stranded with only two weeks before the Constitution required adjournment. After a nine-day absence, Republicans returned to the Senate after assurances that the carbon bill would not proceed. In the final 48 hours of session, the Legislature cleared almost 150 bills including many of the state’s budgets and controversial measures related to housing; a bill to allow driver licenses without legal presence; and an increase in tobacco taxes that will help pay for the State’s Medicaid budget.

COPACT’s Activity

COPACT spent the session tracking and supporting a variety of common-sense mental and behavioral health care policies. Additionally, COPACT continued to build its reputation and Capitol relationships throughout the session. Below is a summary of those efforts. During the session, COPACT representatives attended two updates on SB 860, the bill that directs the Insurance Commissioner to look into the current state of mental health parity. The agency report is due in September, and based on those updates it looks like there will be policy opportunities for the coming sessions.

Bill Summaries

Medicaid Budget

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Provider and Premium Tax: *HB 2010 establishes and continues the provider and premium taxes that raise \$335 million toward the Medicaid budget. **Supported/Passed.***

Full funding for the Medicaid Budget was one of the four pillars of the Democrats' agenda this session. The legislature was facing a \$700 million gap at the beginning of the session. Through HB 2010, the legislature extended and expanded taxes on hospitals and insurance premiums to raise \$334.5 million for Medicaid. After concerns from insurers, the stop-loss insurance tax rate was dropped to 2%, and DCBS provided a letter confirming the premium tax could be factored into rate increases.

Tobacco Tax: Several bills (HB 2123, HB 2158, HB 2159, HB 2169 and HB 2270), which expand and increase the tobacco tax, were combined into one Tobacco Tax omnibus bill—HB 2270. The bill increases the tobacco tax by \$2.00 per pack and expands the type of tobacco products taxed to include e-cigarettes and vape-based products beginning on January 1, 2021. The estimated \$115 million in revenue from this increase will be used to fund the Oregon Health Plan through the Oregon Health Authority, and a small percentage will be allocated to tribal health providers and tribal health programs.

Negotiations for this bill extended all the way to the last day of session, where it almost died on the Senate floor. Ultimately, HB 2270 passed out of both chambers of the legislature on party line votes. Oregonians will have an opportunity to ratify the legislation in the next (2020) general election. **Supported/Passed.**

Provider issues

HB 2011 *Requires health care professional regulatory boards to require licensees to complete cultural competency continuing education. **Supported/Passed***

COPACT supported this priority of House Speaker Tina Kotek (D-Portland), who introduced HB 2011 after she heard from many of her constituents that it was difficult to find a health care provider with cultural competencies. COPACT provided feedback to Speaker Kotek on how best to implement continuing education (CE) and the bill was amended to: (1) require the completion of the CE every other licensing period and (2) allow for boards to determine what qualifies as a cultural competency CE. OSPA testified in support of the bill and submitted a letter in support to the record with the agreement that HB 2011 would be the only mandated CE passed this session. HB 2011 passed out of both chambers with overwhelming support and will go into effect on the 91st day following Sine Die.

SB 808 *Requires certain health care licensees to complete three to six hours of continuing education related to suicide risk assessment, treatment and management every six years. **Opposed/Failed***

Senate Bill 808 was introduced by Sen. Frederick (D-Portland) on behalf of a constituent. While the bill was passed out of Senate Health Care, it died in the Full Committee on Ways and Means as part of the deal to pass only one continuing education mandate bill this session.

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HB 2930 *Prohibits Public Employees' Benefit Board and Oregon Educators Benefit Board from contracting with mental health providers, directly or through third party administrator, for payment or reimbursement of claims for mental health care provided to public employees unless mental health provider accepts patients who receive medical assistance. **Opposed/Failed***

This bill was introduced by some well-meaning legislators who heard from their constituents that it was difficult to access mental health services on Medicaid and made the incorrect presumption that it was because of the unwillingness of providers to take Medicaid patients. COPACT shared their significant concerns with the bill sponsors, specifically noting that not every provider can get an OHP contract and therefore would potentially be precluded from contracting with PEBB and OEBB. The bill died in the House Health Care Committee without a hearing.

SB 546 *Creates crime of unlawful administration of electroconvulsive therapy. **Neutral/Failed***

The bill died in Senate Human Services Committee without receiving a hearing.

HB 2186 *Adds further specification to prohibition on discrimination against health care providers by insurers in participation in or coverage under health benefit plan. **Supported/Failed***

The bill died in the House Health Care Committee without a hearing.

HB 2843 *Requires counties to develop community mental health action plans to identify and address mental health concerns. **Supported/Failed***

The bill died in House Health Care Committee without a hearing.

Education

HB 2941 *Directs Higher Education Coordinating Commission to require each mental health provider preparation program in this state to prepare plan to recruit and graduate diverse mental health providers. **Supported/Failed***

The bill was introduced by Rep. Alonso Leon (D-Woodburn). Several universities, the Oregon Commission on Hispanic Affairs and the Oregon School-Based Health Alliance testified in support of the bill. Unfortunately, the bill failed to move out of the Full Committee on Ways and Means prior to the end of session.

HB 2192 *Directs school districts and public charter schools to require every student in grades 6 through 12 to undergo mental health wellness check once each school year. **Neutral/Failed***

Died in House Education without receiving a hearing.

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HB 2954 *Directs Department of Education to administer pilot program that enables school districts to deliver annual mental health screenings to students in grades 6 through 12. **Supported/Failed***

The bill died in House Education without receiving a hearing.

Reimbursement

HB 3095 *Directs OHA to increase fee-for-service rate for behavioral health providers participating in medical assistance programs. **Supported/Failed***

If passed, this bill would have required the Oregon Health Authority to increase their Medicaid fee-for-service rates by 35% for behavioral health workers. The bill had a large fiscal (\$10M) and failed to move out of the Full Committee on Ways and Means before the end of session.

HB 3279 *Reimbursement parity between mental health providers and substance abuse providers. **Supported/Failed***

If passed, this bill would have required the Oregon Health Authority (OHA) and Coordinated Care Organizations (CCOs) to pay providers of substance use disorder services the same as mental health treatment providers and would have prohibited OHA and CCOs from lowering their payments to mental health providers in order to comply with the bill. House Bill 3279 failed to move out of the Full Committee on Ways and Means before the end of session.

HB 3344 *Requires health care providers to include CPT codes in bills sent to consumers and insurers. **Supported/Failed***

The bill died in the House Health Care Committee. Proponents want CPT codes included on insurance bills so that consumers can see what they're being billed for.

SB 133 *Prohibits provider of substance abuse, problem gambling or mental health services and support from accepting or paying patient referral bonus or falsely advertising individual's need for services or support or individual's eligibility to participate in medical assistance program. **Neutral/Passed***

COPACT was heavily involved when the bill was amended at the last minute to prohibit payment of referral fees/commission for substance abuse and mental health services and to prohibit providers from making false statements or misrepresentations about the need to obtain services out of state. Proponents of the amendment argued that while this behavior isn't currently occurring in Oregon, there have been instances in other states and they want to preemptively make clear that the practice is unlawful. The bill passed out of both chambers with unanimous support and goes into effect on the 91st day following sine die.

SB 137 *Prohibits coordinated care organization from contracting with any entity to assume risk of providing behavioral health services or to assume responsibility for utilization management, care coordination, denials of service, grievances or appeals. **Supported/Failed***

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This bill was introduced as priority legislation by the National Alliance on Mental Illness. It failed to move forward following a public hearing in Senate Health Care and died in committee.

SB 139 *Creates new requirements applicable to prior authorization, step therapy and other utilization review policies and procedures on insurers offering health benefit plans and health insurance, medical services contracts, multiple employer welfare arrangements, health care service contracts and pharmacy benefit managers. **Supported/Failed***

This was Oregon Medical Association's (OMA) priority legislation for the 2019 session. OMA engaged in a significant stakeholder process with insurers and patient advocates and worked to include multiple amendments to address concerns that were raised throughout the session. The bill was ultimately waylaid by the \$25 million fiscal impact on Public Employees' Benefit Board (PEBB) and Oregon Educators' Benefit Board (OEBB) members. The OMA was ultimately unable to overcome the large fiscal impact but are planning to bring back the issue in the 2020 session, most likely with an exemption for PEBB and OEBB members.

Behavioral Health Policies

SB 141 *Requires Oregon Health Authority to issue grants to Oregon hospitals to establish and maintain, or contract with third party to provide, process for providing caring contacts to hospital patients who present in emergency department with suicidal ideation or attempted suicide. **Supported/Failed***

If passed, the bill would have required the OHA to issue grants to hospitals to create and maintain emergency department protocols for suicidal patients. The bill had a large fiscal (\$4M) and failed to move out of the Full Committee on Ways and Means before the end of session.

SB 423 *Prohibits law enforcement agencies from employing person as law enforcement officer unless person has completed psychological screening to determine person's fitness to serve as law enforcement officer. **Supported/Passed***

SB 424 *Requires law enforcement agency to establish mental health wellness policy for addressing issues related to mental health wellness of law enforcement officers employed by agency. **Supported/Passed***

Both SB 423 and SB 424 received unanimous support in both chambers. In particular, several legislators with law enforcement backgrounds praised both bills and spoke to the importance of creating mental health plans and regulations for law enforcement officers. The bills were signed by the Governor in early May and go into effect on the 91st day following sine die.

Health Care Reform

SB 770 *Establishes Task Force on Universal Health Care charged with recommending to Legislative Assembly design of Health Care for All Oregon Plan, administered by Health Care for All Oregon Board to provide publicly funded, equitable, affordable, comprehensive and high-quality health care to all Oregonians. **Supported/Passed***

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HB 2012 *Requires Oregon Health Authority to develop plan for Medicaid Buy-In program for public option for Oregon residents who do not have access to health care.*
Supported/Passed

This bill and House Bill 2012 were combined and passed in the last hours of the session.

HB 2447 *Requires the Oregon Health Authority to convene a forum for vertically integrated, nonprofit health care systems to collaborate and envision a health care delivery system of the future.* **Supported/Passed**

This bill was introduced as priority legislation for Rep. Greenlick (D-Tualatin), who viewed it as his legacy bill. Called the “EPCOT Bill” as Rep. Greenlick repeatedly referred to it as implementing the “health care of tomorrow, today”. House Bill 2447 authorizes the OHA to set up a series of meetings with health care organizations in a way that creates safe harbor protections for each organization’s trade secrets, with the goal of creating a fully integrated health care delivery system. While the bill goes into effect on January 1, 2020, it is unclear how much of the bill will be implemented as Rep. Greenlick has stated that this will be his last term as a representative.

Next Steps

The 2020 session will begin on February 3, 2020. In advance of session, there are several deadlines we will need to consider and monitor:

- September: Interim Committee Days take place September 16-18.
- November: Interim Committee Days take place November 18-20. Legislators must deliver request for draft bill to Legislative Counsel by November 22.
- January: Legislative Counsel is required to return draft bills by January 13. Legislators are required to drop their bills for the session by January 17. Interim Committee Days take place January 13-15.

Mental Health Parity – SB 860

COPACT needs to continue to stay engaged with the Department of Consumer and Business Services as they develop the report on SB 860 from the 2017 Legislative Session. As a result of SB 860, DCBS is conducting an investigation of insurance practices related to Oregon’s mental health parity law, specifically focused on access via reimbursement and paneling practices.

DCBS invited COPACT to attend quarterly updates on the progress of the bill, and two of those occurred during the session. While DCBS cannot reveal much detail in advance of the report, staff indicated there will be significant work to do, both administratively and legislatively, as a result of the report. The report is due in September 2019, and we anticipate that it will show there are significant disparities in reimbursements for mental health services. COPACT should continue to track the development of that report, and work with legislative leadership to develop legislation to address that lack of parity for the 2020 Short Session.

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