

OHA End of Legislative Session Report 2022

Below are highlights of the 2022 session of the Oregon Legislature relating to bills and budget items expected to most significantly impact the health of Oregonians and the work of Oregon Health Authority (OHA). These bills and budget items are sorted by topic (though these topics are interrelated, and many items could be listed under more than one):

- Increasing and Maintaining Access to Health Care
- Transforming the Behavioral Health System
- Strengthening Oregon's Health Care Workforce
- Building Healthier Communities

As it implements these legislative bills and budgets, as in all its work, OHA seeks to eliminate health inequities in Oregon by 2030. The vision of health equity that OHA and the Oregon Health Policy Board are working to achieve is:

Oregon will have established a health system that creates health equity when all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances. Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments, to address the equitable distribution or redistribution of resources and power; and recognizing, reconciling and rectifying historical and contemporary injustices.

OHA's legislative implementation is also guided by collaboration with community partners, especially those individuals and communities most harmed by health inequities stemming from contemporary and historical racism, oppression, discrimination, bigotry and bias.

Increasing and Maintaining Access to Health Care

Coverage of and access to health care is a critical factor in the health outcomes of individuals and communities. After passage of the federal Affordable Care Act, the percentage of Oregonians with health care coverage increased to about 94%. Last year, the Legislature began investing in the Healthier Oregon ("Cover All People") program, as well as taking other actions toward 100% coverage.

OHA continues to focus on increasing the number of Oregonians who have health coverage. It also recognizes the importance of ensuring Oregonians can actually access health care, as there are clear regional and community disparities in access. The legislature's actions in 2022 will improve both health care coverage and access in several ways.

[HB 4035](#): Maintaining Health Care Coverage Gains

Many Oregonians will face a challenge in maintaining their health care coverage when the official Public Health Emergency related to COVID-19 ends. Because of "continuous coverage" provisions during the emergency, people enrolled in the Oregon Health Plan (OHP) have been able to keep their coverage even when their income changes. This has increased the percentage of Oregonians with health care coverage to above 95%. The concern is that many people could suddenly lose coverage after the emergency, when those provisions will no longer apply.

Prior to the emergency, people could lose OHP because of a small or temporary income change. Historically, about one-third of people leaving OHP return within 12 months. This “churn” on and off OHP can leave people uninsured, disrupt ongoing treatment, and unnecessarily increase health care costs for people who cannot afford higher out-of-pocket costs.

With a \$120 million General Fund investment, HB 4035 maximizes the opportunity for community- and partner-designed and developed outreach, enrollment, assistance, navigation and education strategies to meet people on OHP where they are and help them figure out what’s next for their health coverage. Through this legislation – and in negotiations with federal partners – Oregon has an opportunity to reduce unnecessary coverage transitions while preserving existing coverage options for people who are best served through marketplace or employer-sponsored plans. This approach can help close the gaps in the system that currently cause too many people to be uninsured for all or part of the year.

The bill provides for legislative and community involvement in developing a “bridge plan” to keep people covered by their Coordinated Care Organization (CCO) during temporary income fluctuations, instead of having them churn on and off OHP. This plan would enable people who will no longer qualify for OHP, but who earn less than 200% of the Federal Poverty Level, to remain with their CCO and for Oregon to receive full federal funding for this coverage. The bill also seeks to leverage federal funding that is available in the Marketplace for people who are on the edge of Medicaid eligibility, as well as the development of coverage options which use federal funds to allow individuals just above Medicaid eligibility to have continuous coverage through their CCO.

[HB 4052](#): Mobile Health Units

Even when people have health care coverage, that is not the same as actually having access to health care. HB 4052 aims to improve access, starting with communities most affected by health inequities.

The bill requires OHA to provide grants, funded with \$1.6 million General Funds (\$1.9 million Total Funds), to operate two culturally and linguistically specific mobile health units as pilot programs to improve health outcomes of Oregonians impacted by racism. This effort will be guided by an advisory committee with individuals from priority populations in addition to health professionals. OHA is also directed to study the feasibility of expanding mobile health units throughout the state, including engaging with CCOs, other health care providers, OHP members, and other community members from priority populations.

Finally, the bill requires OHA – guided by task forces consisting of leaders of Black and indigenous communities, people of color, and members of the nine federally recognized tribes in Oregon, and convened by the Oregon Advocacy Commissions Office – to develop recommendations on how to fund robust culturally and linguistically appropriate intervention programs across all relevant state agencies focused on aspects of social determinants of health. This includes housing, access to food, neighborhood safety, education, transportation, and involvement with the criminal justice system.

[HB 4095](#): Veterans Dental Care

HB 4095 creates the Veterans Dental Program to provide oral health care for veterans who have income at or below 400% of the federal poverty level but do not qualify for Medicaid, funding with \$1 million Total Funds. OHA will contract with dental care organizations to provide these services, which must be equivalent to the oral health care benefits covered by Medicaid, without copays, cost-sharing, or deductibles.

[SB 1538](#): COFA Dental Care

SB 1538 establishes the COFA Dental Program within OHA to provide dental care to low-income citizens of Pacific Islands in the Compact of Free Association who reside in Oregon, including \$300,000 General Funds (\$1.5 million Total Funds). OHA is directed to contract with dental care organizations throughout the state and with

individual oral health care providers in areas of the state that are not served by dental organizations. OHA will also provide culturally and linguistically appropriate assistance, and conduct outreach.

Budget: Expanded Citizenship Waived Medical

The Citizenship Waived Medical (CWM) program, formerly known as Citizen-Alien Waived Emergent Medical (CAWEM), covers emergency care for adults who would qualify for Medicaid if they met the U.S. citizenship or residency requirements. Previously, emergency coverage was based on the final diagnosis. Unfortunately, this could result in considerable expense for individuals if they go to an emergency room in good faith, but the diagnosis determines there was no serious cause for alarm. The policy could also discourage people with an actual emergency from seeking care, for fear of unexpected charges. The budget includes \$5.4 million General Funds (\$14.2 million Total Funds) to cover admission to an emergency room when a person presents symptoms a prudent layperson would consider an emergency, even if the final diagnosis turns out to be not serious.

[HB 4134](#): Covering Out of Network Labor and Delivery

HB 4134 requires, if a person in labor is diverted from an in-network facility to an out-of-network facility due to the public health emergency, health insurers must cover the labor and delivery services, including transportation to the out-of-network facility. This will prevent people in labor from being charged for out-of-network services through no fault of their own.

Budget: Extended Postpartum Eligibility

There are severe racial disparities in maternal mortality among Oregonians, with studies showing American Indian/Alaska Native and Black people at a significantly higher risk of dying from a pregnancy related cause. The state Maternal Mortality and Morbidity Review Committee identified “inadequate access and missed opportunities to health care and medical services” and “inadequate access to wrap-around services” as contributing factors to maternal mortality. The budget includes \$2.4 million General Funds (\$8.8 million Total Funds) to provide additional months of postpartum health care. This will help ensure the potentially complex health needs following pregnancy can be attended to, resulting in improved health outcomes for all Oregonians.

Transforming the Behavioral Health System

Oregon and OHA are in the midst of long-term transformation of our state’s behavioral health system. This involves crafting a behavioral health system that is simple, responsive, and meaningful for the people it serves. OHA aims do this with active involvement of the people and communities who have faced behavioral health challenges and inequities.

In 2021, upon the recommendations of Governor Brown’s Behavioral Health Advisory Council, the Legislature invested heavily in behavioral health, including for residential facilities and housing for people with behavioral health needs, training for a diverse behavioral health workforce, and increased community services. It also passed measures to better integrate treatment for co-occurring disorders (substance addiction and mental health disorders together); reduce administrative burdens in behavioral health documentation; analyze pay and equity disparities affecting the behavioral health workforce; and create structures and incentives for OHA, payors, and providers to engage with people they serve and work together to make the behavioral health system function better as a whole.

In 2022, the legislature continued this transformation, with further crucial short- and long-term investments and initiatives.

[HB 4004](#): Behavioral Health Staffing Support

The behavioral health sector in Oregon is experiencing a significant workforce crisis. As an immediate response, HB 4004 provides a \$132.3 million General Fund investment for OHA to distribute grants to behavioral health

treatment providers for staff compensation and workforce retention and recruitment, no later than May 31, 2022. Providers must use at least 75% of the grant on direct compensation to staff as wages, benefits, and bonuses. The remainder may be spent on programs or other non-compensatory means to increase workforce retention or recruitment. Providers are responsible for reporting back to OHA on how the grants were spent and whether the expenditures resulted in improved compensation for staff.

During the pandemic, residential behavioral health providers approached the Governor and OHA seeking immediate staffing resources for both the children and adult residential system. At that time, OHA contracted with a temporary nurse staffing agency to provide staff paid for by the state to bolster the workforce in residential facilities. This nursing staff was provided at no cost to the providers and paid for by OHA. Now, HB 4004 directs OHA to continue to contract with nurses and behavioral health specialists to provide care in residential behavioral health programs that are short-staffed due to the COVID-19 pandemic, and to seek federal funding for these efforts, including for funds already expended by OHA.

The bill also requires the Oregon Youth Authority to provide similar grants to service providers that meet the treatment and care needs of youths adjudicated to the custody of that agency.

Budget: Behavioral Health Rate Increases

Behavioral health providers have shared that the reimbursement rates they are paid have failed to stay competitive in relation to the national standards even prior to the pandemic, and fell further behind due to the challenges of the last two years. Also, communities have expressed concerns that low rates present a major barrier to increasing or maintaining current capacity in the behavioral health system, as some programs no longer can support operations.

The budget provides \$42.5 million General Funds to support an increase in fee-for-service payment rates for behavioral health services, raising rates by an average of 30%, contingent on federal approval. Also, OHA is instructed to propose strategies to measure the extent to which CCOs pass the rate increases through to behavioral health providers, and to measure the impact of the rate increase on provider stability and capacity.

Separately, OHA already implemented a temporary 10% rate increase for residential behavioral health providers earlier in the COVID-19 pandemic. This was first approved in the 2019-21 budget, then extended due to the Omicron surge. The budget provides OHA with \$3 million General Funds (\$12 million Total Funds) to retroactively cover this extension.

Budget: OSH Staffing

Oregon State Hospital (OSH) has been challenged over the years to provide appropriate staffing levels to achieve a high level of quality care while achieving patient and staff safety. This is primarily due to enhanced patient needs from a dramatic shift of the population OSH serves, and a lack of budgeted position authority necessary to ensure adequate clinical and operational staffing levels. This instability negatively affects the consistency of service delivery, cohesion across care providers, and sense of responsibility to team and to the overall hospital.

Under legislative direction, OSH worked with its union partners, AFSCME and SEIU, to find a sustainable staffing plan for OSH's future stability and the shift in population over the last two years and predicted into the future. Further, OSH has worked with managers in clinical services and in operations to determine the critical needs in those departments, resulting in a need for additional resources above and beyond those "direct care" positions that were discussed with the unions. The budget includes \$10.8 million General Funds, as well as 228 positions (188 FTE), to meet these needs at OSH.

Budget: 9-8-8 Crisis Services System

The National Suicide Hotline Act of 2020 established 9-8-8 as the National Suicide Prevention Hotline (similar to 9-1-1 for emergencies) effective July 16, 2022. In 2021, HB 2417 required OHA to begin the creation of a statewide coordinated crisis system, and it funded call centers and enhanced mobile crisis services as part of that system. In January 2022, OHA offered additional recommendations for consideration by the legislature, including adoption of the Crisis Now Model led by the National Association of State Mental Health Program Directors. This model includes a 24/7 service array which includes call centers able to receive calls, texts, and chats, community-based mobile crisis intervention services, and dedicated facility-based crisis service centers designed to prevent or ameliorate a behavioral health crisis and reduce acute symptoms of mental illness by providing support to people who need specialized care in a safe environment but who do not require inpatient hospital services.

This year, the budget provides \$1.8 million General Funds (\$2.2 million Total Funds) to further support implementation of the statewide coordinated crisis services system consistent with the Crisis Now Model. These funds are primarily for development of standards for statewide mobile crisis teams and crisis stabilization centers, development of Medicaid reimbursement opportunities, business information system and financial management support, and agency operations supporting implementation.

Budget: Behavioral Health Housing

The budget provides \$100 million one-time General Funds to OHA to directly distribute to community mental health programs (CMHPs) via a formula using existing funding mechanisms such as *County Financial Assistance Agreements (CFAA)*. These funds are primarily to repurpose or build new secure behavioral health residential treatment facilities, residential treatment homes, and other types of necessary housing. The funds may be used to support operational and administrative expenses related to managing housing, provide supportive services, pay for planning, coordination, siting, or purchasing buildings or land, provide subsidies for short-term shelter beds, provide long-term rental assistance, and support outreach and engagement.

These funds are intended to be distributed rapidly by OHA, with the express goal of addressing the bottlenecks in the continuum of care in the behavioral health residential system. Such bottlenecks in residential capacity have continued despite prior emergency funding action and additional new facilities being brought online during the pandemic. These residential funds are expressly available only to CMHPs and are not related to the series of residential funding Requests for Proposals currently being solicited by OHA (which were funded in 2021), though there may be opportunities to braid some funds together. OHA and CMHPs are expected to work together to define accountability measures and reporting requirements to track progress for these funds.

[HB 4012](#): Child Services Rates

HB 4012 requires Oregon Department Human Services (ODHS), in collaboration with Oregon Youth Authority and OHA, to review the service provider rate structures of child caring agencies, with a focus on those that serve youth in the care and custody of the state. It also requires OHA to determine appropriate rates for providers of private duty nursing for medically fragile children once per biennium. After that, OHA is to request federal approval to adjust rates for these services accordingly every year. This legislation represents a significant departure from how provider rates are governed historically. Previously, provider rates have been at the control and discretion of the legislature. This bill sets up a situation in which rates adjustments – and OHA requests for increased federal funding to pay for rates adjustments – occur regularly without further legislative action.

[HB 4098](#): Substance Use Addiction, Prevention, Treatment and Recovery

HB 4098 places parts of the Alcohol and Drug Policy Commission Strategic Plan into statute, expands the list of state agencies that must work with the commission to implement that plan, and requires agencies to meet with commission quarterly to review and report on each agency's progress. Also, the bill establishes an Opioid

Settlement Prevention, Treatment and Recovery Fund to receive settlement monies from lawsuits against opioid distributors, manufacturers, and pharmacies, including the Distributor Settlement Agreement, the Janssen Settlement Agreement (Johnson & Johnson), and future settlements. This fund will be guided by a board that includes representatives from state agencies, the Ballot Measure 110 oversight council, city and county officials, a representative of a community mental health program, an individual who has experienced a substance use disorder, and a representative of law enforcement or first responders.

[HB 4070](#): Oregon Consumer Advisory Council

The Oregon Consumer Advisory Council advises OHA on mental health issues. HB 4070 modifies the membership appointment process and adds substance use disorder and addiction services to the council's scope. It also empowers the council, independent of OHA, to create and publish policy recommendations, impacts, advisories, or fiscal benefits estimates regarding proposed policies, and to communicate concerns and needs related to mental health, substance use disorder, and addiction services.

Budget: Measure 110

The budget provides 13 new staff positions for implementing Measure 110, the Drug Addiction Treatment and Recovery Act passed by voters in 2020.

Strengthening Oregon's Health Care Workforce

Even before the COVID-19 pandemic, Oregon faced health care workforce challenges. Many health care sectors saw a shortage of qualified staff, most markedly in rural and lower income communities. The workforce often was unable to provide culturally and linguistically appropriate services for all Oregonians, and did not fully reflect the diversity of Oregon.

The pandemic heightened these challenges. It added stress, burnout, and higher risk of infection to the already high burden borne by health care workers. Oregon cannot rely solely on the professionalism and commitment of those workers to meet the challenges alone; they need our help.

In response, Governor Brown and the legislature took large steps this year to support and strengthen Oregon's health care workforce. (Note that several additional bills and budget items related to the behavioral health workforce are listed above.)

[SB 1545](#): Future Ready Oregon

To realize the full potential of Oregon's workforce, meet the needs of Oregon's employers today and into the future, advance Oregon's economic competitiveness, and ensure equitable opportunities for a diverse workforce, Governor Brown proposed Future Ready Oregon. Through SB 1545, this initiative will advance opportunities for historically underserved communities, including adult learners, dislocated workers, and disconnected youth. Investments emphasize recruitment, retention, and career advancement opportunities, while prioritizing key populations, including people of color, women, people with low incomes, rural communities, veterans, and Oregonians who are incarcerated and formerly incarcerated.

The \$200 million in investments will focus on key sectors with high workforce needs: health care, manufacturing, technology, and construction (pre-apprenticeship programs only). These key sectors provide short-term pathways to meaningful employment, higher learning potential, and opportunities for economic mobility. Using a multifaceted approach through inclusive, culturally specific, and linguistically appropriate career-connected learning, employment services, and related initiatives, Future Ready Oregon 2022 will create equitable prosperity.

[SB 1529](#): Volunteer Health Care Providers, and Primary Care Coverage

SB 1529 allows the deployment of volunteer emergency health care providers (through the [SERV-OR](#) program) during a public health emergency. It requires OHA to provide workers' compensation coverage for SERV-OR volunteers injured during training or provision of these healthcare services at the direction of OHA.

The bill also requires that health care coverage reimburse the cost of at least three primary care visits for behavioral or physical health in each plan year, in most cases without copayments, coinsurance, or deductibles, in addition to one annual preventive primary care visit covered without cost-sharing.

[HB 4003](#): Nursing Workforce

HB 4003 directs the Oregon State Board of Nursing (OSBN) to issue a nurse internship license to qualified students in a nursing program, and to support a tax-exempt Oregon nonprofit organization that promotes the well-being of Oregon health professionals through education, coordinated regional counseling, telemedicine services and research. Recognizing the ongoing challenges that the pandemic has placed on the nursing workforce, HB 4003 provides an additional 90-day grace period for nurses operating under an emergency authorization who are seeking licensure from OSBN. It also directs the Health Care Workforce Committee to study the challenges related to staffing shortages in the nursing field.

[SB 1549](#): Temporary Staffing Agencies

SB 1549 establishes standards for license temporary health care staffing agencies. It also directs OHA, in collaboration with stakeholders, to submit recommendations regarding rates charged by temporary staffing agencies.

[SB 1556](#): Home Care Providers

SB 1556 requires the Oregon Department of Human Services to establish a certification process for direct care providers of home or community-based services, implement an online registry of these providers, and explore ways to improve skill level and training of caregivers and improve caregivers' pathways to continued education and advancement.

Building Healthier Communities

Health is not something that happens only in a doctor's office or hospital. Lifelong health and well-being starts in – and depends on – the community, circumstances, and environment where a person lives, works, learns, and plays. Housing, access to food, neighborhood safety, education, transportation, and involvement with the criminal justice system are among the key social determinants of health. Several bills and budget items in 2022 focus on improving the health of Oregonians by building healthier Oregon communities.

[HB 4150](#): Community Information Exchanges

Systemic inequities and regional variations in the availability and delivery of social and medical services have long plagued many people and communities in Oregon. A Community Information Exchange (CIE) helps address this by enabling community-based organizations, state agencies, health systems, county health departments, social service agencies, and technology partners to coordinate efforts to assess and address the social determinants of health.

HB 4150 instructs OHA's Health Information Technology Council to convene the Community Information Exchange Workgroup to accelerate, support, and improve a secure and confidential statewide Community Information Exchange. The workgroup, with diverse representation and in coordination with the OHA, will help

inform a path toward a system that will effectively and equitably improve delivery of coordinated community services while increasing transparency and accountability for the investments made.

[HB 4002](#): Farm Worker Overtime Pay

Farm workers have long been excluded from receiving overtime pay, a policy with its roots in racism in the 1930s. Until now, farm workers in Oregon who work in excess of 40 hours per week were ineligible for the overtime pay that is expected and received by most other workers. HB 4002 requires overtime pay for agricultural workers, phased in over the next four years. Farm workers as a community experience significant health inequities (lower life expectancy, higher rates of heart disease, pesticide exposure, depression, anxiety) related to the manner and circumstances of their work and their social and economic status. As one social determinant of health, overtime pay is expected, among other things, to result in better health outcomes for agricultural workers.

[SB 1536](#): Extreme Heat Emergencies

Recent summer temperatures highlighted how extreme heat can make people and communities susceptible to illness and death. SB 1536 includes several measures to help Oregonians better prepare for future heat emergencies. These include directing OHA to provide portable, standup air conditioners and/or air purifiers to eligible OHP members who have underlying conditions making them more vulnerable to extreme heat. OHA will manage the distribution of these units through community partner organizations.

[SB 1554](#): Reviewing the Public Health Response to COVID-19

As the COVID-19 pandemic seems to be nearing its end, it is important to examine how we responded to it, to help us learn for the future. SB 1554 directs a study of the public health system response to COVID-19 pandemic. This study, to be conducted by a third party, will look at all levels of government and community partners to understand the challenges and successes in response to the COVID-19 pandemic, with a lens on improving public health and addressing public health modernization.

Budget: Healthy Homes

The Health Homes Program assists low income households and households impacted by environmental justice factors to make health and safety improvements. Such improvements include elimination of lead paint hazards and mold, wood stove smoke, allergens, and other asthma triggers, weatherization and HVAC improvements that protect against wildfire smoke and extreme heat, and disabled access improvements. The budget included \$5 million General Funds for healthy homes.

Budget: Reproductive Health Equity

The budget includes \$15 million General Funds for contracting with qualified service organizations to support reproductive health equity in Oregon.

[HB 4045](#): Community Violence Prevention

HB 4045 funds grants to organizations for community violence prevention and intervention measures. It also provides funds to OHA to expand hospital-based violence prevention programs.

[HB 4077](#): Environmental Justice

HB 4077 enhances the Environmental Justice Task Force into the Environmental Justice Council within the Office of the Governor. Among other things, the bill directs the council to collaborate with several state entities, including OHA, to develop an environmental justice mapping tool.

[HB 4034](#): Technical Fixes

HB 4034 is a technical fix bill that amends various health-related statutes. This includes allowing pharmacy interns to dispense pseudoephedrine or ephedrine; extending the sunset on the release of COVID-19 data collected by OHA; changing the requirements for recording dispensation of a biological product by a pharmacy or pharmacist; permitting OHA to implement reproductive health services and education programs; further defining “telemedicine” and permitting the use of telemedicine by physicians or physician assistants; addressing restrictions related to remote access of a pharmacy’s electronic database, final verification of prescriptions, and telepharmacy; and redistributing grant funds administered by OHA for school-based health programs.

Looking Ahead to 2023

As OHA prepares for the 2023 legislative session, the agency is committed to advancing the goal of eliminating health inequities in Oregon by 2030. It also commits to thoroughly and meaningfully engaging with communities, especially those experiencing health inequities, on policies that impact them.

OHA is focused on systemic and transformational change. This includes continuing to reduce the number of Oregonians who are uninsured, underinsured, or lack access to health care; creating a behavioral health care system that is simple, responsive, and meaningful in meeting the needs of all Oregonians; continuing to modernize the public health system; and addressing the widest range of social determinants of health.