

Oregon Health Policy Board

DRAFT Minutes

May 10, 2011

8:30 – 11:30 am

Market Square Building
1515 SW 5th Ave, 9th Floor
Portland, OR 97201

Item

Welcome and Call To Order

Chair Eric Parsons called the Oregon Health Policy Board (OHPB) meeting to order. All Board members were present. Mike Bonetto participated by phone. Bruce Goldberg and Tina Edlund were present from the Oregon Health Authority (OHA).

Consent Agenda:

Minutes from the April 11, 2011 meeting and reports from the Public Health Purchaser Committee and Health Information and Technology Oversight Council were unanimously approved.

Director's Report – Dr. Bruce Goldberg

- The grant for the information systems of the Health Insurance Exchange (HIX) has been approved by the legislature. Oregon is one of six states that will be contracting with the federal government to develop the federal exchange IT requirements.
- Oregon's proposal is unique because we intend to streamline the eligibility determination for federal programs such as Medicaid and food stamps.
- In order to be prepared for the passage of the HIX bill (SB 99) through the legislature, we are putting things in place, such as getting the software developed and working on getting the board together.

This report can be found [here](#), starting on page 15.

PEBB/OEBB Update – Joan Kapowich

- OEBB just completed annual renewals. Rates this year are much better than they've been in the past. Medical homes are being added, weight management benefits are being extended to dependents, and revision are being made to the evidence-based benefits tiers.
- PEBB approved the same rates as last year.
- PEBB is implementing two new programs. One allows members who have uncomplicated back pain to call into rehabilitation centers and be triaged by phone. They then can be approved to start physical therapy within 48 hours.
- The other program is a telemedicine pilot. The pilot consists of a small room on a worksite where people can go to have an on-line visit by camera for minor conditions like colds and rashes. The visit would be charged as an on-line visit instead of a primary care visit and would take less time away from work.



The Board asked for paper copies of the data Joan referenced in her report.

Medicaid Update – Quality Results – Mylia Christensen and Jeanny Phillips

- The Quality Corp Mission is to measure and improve the quality of health care in Oregon through community-wide collaboration.
 - ❖ It is a local, neutral, independent, not for profit organization with a 27-member board whose members work in health policy or for health plans, or are purchasers, consumers or providers
 - ❖ Quality Corp developed and maintains the most comprehensive directory of data from primary care providers in the state and contains approximately 75% of all primary care practitioners actively practicing in Oregon.

This report can be found [here](#).

- The Board was very interested in the changes Quality Corp has seen among the physicians after sharing data.

Workforce Committee Charter – Lisa Angus

- Lisa presented the main focus of the committee's new charter.

- The committee is going to look at pilots and make recommendations to help prepare the workforce for the needed jobs.
- Assuming SB 879 (which standardizes requirements for students) passes, the committee will convene a group to create those standards.
- HB 3466 asks for a strategic plan for primary care provider recruitment. The committee is also going to look at barriers to cooperative recruitments.
- The committee is also looking to clarify implementation barriers for public universities to be able to respond to workforce needs to provide training for different types of providers as societal needs change.

This charter can be found [here](#), starting on page 61.

The Board voted unanimously to approve the charter.

Legislative Update – Amy Fauver

- The bills the Board has put forth are moving along well for the most part, but we must be alert for amendments that would either change a bill significantly, or put it in jeopardy.
- SB 99, the HIX bill moved out of the Senate with a strong vote of support but has been facing some conflict in the House over selective contracting the board membership.

This report can be found [here](#), starting on page 67.

Update on the Joint Special Committee on Health Care Transformation: HB 3650 – Amy Fauver and Tina Edlund

- Amendments have been put forward for HB 3650.
- Work is being organized and assigned in anticipation of the passage of the bill.

This report can be found [here](#), starting on page 70.

Health Insurance Exchange (HIX) Update – Gregory Jolivette

- The Ways and Means Committee approved the IT Innovator grant, which is giving \$48 million to Oregon, Kansas, Wisconsin, Nebraska, Maryland and New York. The next step for Oregon is rate reviews. We recently had an architectural review and we got really good feedback.
- Staff is currently working on the application for the planning grant, which will be submitted in June and will provide funding through the finalization of the business plan.
- Work is being done with consultants on operational plans and developing a financial model for the HIX. There will be a final financial model and operational plan that will be made public.

BREAK

Affordable Care Act (ACA) – Attorney General John Kroger

- The Attorney General spoke to the Board about the ongoing litigation against the ACA and how it might affect Oregon.
- There are a number of different cases currently being argued. The defendant is the federal government and the plaintiffs are different in each case. The different cases are likely to be combined into one case to be heard by the Supreme Court.
- There are 21 states who are arguing the ACA is unconstitutional and 9 who are upholding it. The unconstitutionality argument centers on the mandate that all individuals purchase health insurance. The mandate can be struck from the bill without declaring the entire bill unconstitutional.
- There are four main arguments for the constitutionality of the mandate.
 - ❖ This act was premised on the Commerce Clause – one of the arguments is that refusal to buy insurance is not commerce and cannot be regulated as such. There is a 2005 case that states the Commerce Clause allows government to regulate non-commercial activity to remedy an overall commerce problem. They're very unlikely to overturn *Gonzalez v. Raich*, and ultimately the argument is weak.
 - ❖ Argument based on activity vs. inactivity – The Constitution says nothing about activity, only commerce. The opponents say not buying insurance is not activity, it's inactivity. There are older cases that speak about government regulating activity as well as conditions, like have over 40 million people without insurance. This is more of a semantics argument. The reasons people don't buy health insurance are activities, such as that they won't do it, or their employer doesn't provide it.
 - ❖ Opponents argue that the federal government has never forced anyone to buy something. This is not true. Anyone who runs a business is required to buy things such as safety

equipment. The Founders required every white male to purchase a musket, bayonet, knapsack, pouch and powder box. This indicates that the Founders did not consider federal requirements to purchase items for safety or protection to be unduly oppressive.

- ❖ Due Process –Snyder v. Massachusetts allows the government to require people to be immunized. Opponents argue that there is a constitutional right to freeload on the system by going to the ER and shifting that cost to everyone who has insurance.
- At this point, it is not possible to predict how the Supreme Court will vote, although the Attorney General feels the arguments in favor are stronger than those against. They will most likely hear oral arguments in the summer of 2012 and hand down the written decision that fall.
- In the meantime, Oregon will continue to plan for and work toward implementing the HIX.

Adjourn 11:15 am

Next meeting:

June 23, 2011

10:00 am-11:00 pm

Conference Call