



Oregon Dental Association End of 2019 Legislative Session Report

By Jen Lewis-Goff, Government Affairs Director and George Okulitch, Contract Lobbyist

On June 30th, the Oregon Legislature adjourned (*sine die*), finalizing a long and difficult session, much more contentious than in years past. With a super majority in both the Senate and the House, Democrats passed a list of priority legislation including: creation of a new business tax to raise a billion dollars for public schools (Student Success Act), establishing a paid family and medical leave program, raising Oregon's earned income tax credit, adopting new affordable housing and tenant regulations, and sending an increase of the tobacco tax to voters. Many of these proposals passed in the final weeks of session, upon Senate Republicans returning to the Capitol after leaving the building (and the state) to prevent the Senate from obtaining a quorum. They did so in return for Democrats agreeing to stop the cap-and-trade (climate change bill), from moving forward.

For ODA members, 2019 was a legislative success. While tracking over 129 applicable bills this legislative session, member-led advocacy efforts were successful at:

- **Increasing scope of practice for dentists**
- **Strengthening liability protection for dentists**
- **Paving the way for licensure reform and modernization in Oregon**

A key part of the success was an effective lobby day in February with dentists and dental students attending from all areas of the state. Legislators commented on how impactful it was for them to meet and hear directly from member dentists and students to discuss issues affecting dentistry. ODA's legislative success was dependent on member involvement at all stages during the legislative process: from lobby day, individual testimony on ODA bills, to email and other correspondence with legislators. A special thank you to all members who participated in any of these important activities—you made a difference.

Our Legislative Task Force directed ODA's work during session. Made up of generalists and specialists practicing in a variety of settings around the state, this group reviewed each of the bills ODA followed, developed recommendations, and provided direction on action for each bill.

2019 ODA Legislative Agenda: Oregon Action for Dental Health, Dentists Making a Difference

ODA introduced key pieces of legislation

[HB 2220: Dentists and Vaccines: Integrating Dentistry into Primary Care](#)

HB 2220 allows dentists to administer vaccines, with no limit on age of the patient or type of vaccine. The law requires providers to take a Board of Dentistry approved course prior to administering vaccines and follow all storage and reporting requirements as defined by the Oregon Health Authority. Oregon becomes the first state in the country to pass legislation as expansive as HB 2220 and ODA received numerous inquiries from local and national media and other state dental associations on the issue.



Of note, ODA passed our vaccine bill during the heated controversy surrounding HB 3063 (removing the religious exemption from vaccine requirements), that caused an earlier walk out by Senate Republicans. Second to the climate change bill, this exemption removal vaccine bill was one of the most controversial bills of the session. For many legislators opposed to HB 3063, being able to support HB 2220 was a difficult policy choice. ODA successfully argued that allowing dentists to administer vaccines was about access, and for rural Oregon, many dentists are the primary provider for those citizens.

Status: The bill was signed into law. The Board of Dentistry is currently undergoing rulemaking to ensure practitioners can begin this new scope in 2020. OHSU is working on developing CE courses and integrating vaccine related education into dental school curriculum.

[SB 824: Licensure Reform](#)

SB 824 clarifies that the Oregon Board of Dentistry may accept alternative examinations (such as the OSCE: objective structured clinic examination) as minimum requirements for licensure for dentists and hygienists. The language will allow the OBD to consider new tests, like the OSCE as they are developed, with the goal to move away from live patient exams that present ethical issues and are not necessarily the best test of competency.

ODA employed a new member engagement system which facilitated 225 individuals writing 307 letters to their legislators encouraging passage of this bill. ODA will continue to use this system in future sessions for membership engagement.

Status: SB 824 was signed into law by the Governor and becomes effective on January 1, 2020. Oregon awaits finalization of an OSCE-like test, expected in the next few years.

[SB 834: Improving Patient and Provider Transparency](#)

To ensure transparency and communication between patients and providers, SB 834 extends current provisions afforded to licensees under the Oregon Medical Board, allowing any expression of regret or error from a dentist or hygienist to their patient without the threat of that disclosure being used in litigation. In simple terms, SB 834 allows an Oregon Board of Dentistry licensee to explain an error to a patient without the threat of that conversation being used against them in court. Apology laws do not limit the patient's rights to pursue legal action against the provider. However, data from other states suggest that similar legislation has prevented many civil cases from being filed by allowing a dentist and a patient to find an acceptable solution outside the courthouse.

Status: SB 834 was signed into law and becomes effective on January 1, 2020.

[SB 836: Patient Protections in Dental Pilot Projects](#)

ODA believes patients served within Dental Workforce Pilot Projects deserve the same standard and quality of care that Oregonians would receive from any other dental practitioner in the state. To ensure this safety, ODA introduced SB 836 which would allow the Oregon Board of Dentistry (OBOD), who regulates dental professionals and promotes high-quality oral health care, to review patient charts within a pilot project and share any concerns with the Oregon Health Authority (OHA), who maintains complete statutory authority over the projects. As the only regulatory and investigative body in dentistry, the OBOD should monitor dentists and any dental auxiliaries created by the legislature.



Status: The bill died in committee. While the bill did not progress, ODA believes the introduction of the legislation helped push policy makers to consider the chart review process more seriously. As a result, OHA retained a third-party chart reviewer and engaged the Board of Dentistry in a more deliberative role within pilot projects. While still not a perfect solution, ODA remains committed to ensuring any new workforce model envisioned through the pilot projects maintain a high level of quality patient care and transparency.

Oral Health School Screenings

ODA sought a budget note in 2019 to improve and clarify current statute requiring oral health school screenings for students entering public school for the first time. Increased data collection will allow oral health stakeholders and policy makers to better direct limited resources to areas most in need of dental care. While the budget note was unsuccessful due to session time constraints, ODA initiated a legislative directive to the Oregon Department of Education ensuring they continue forward movement in improving oral health school screenings, data collection and analysis.

Along with our budget note request, ODA spent time this legislative session with the Oregon School Boards Association, educating them about the need for comprehensive oral health screenings in schools. As public schools struggle to identify strategies to address major problems with chronic absenteeism, data suggests that oral pain and cavities are a frequent reason for missed school days. ODA will continue to advocate for improved oral health for kids so they can be successful in school.

Other Key Bills of Interest

Bills that Passed into Law:

[SB 249](#) Prior Authorization: Specifies requirements for insurer determinations regarding requests for prior authorization for coverage of health care items, services, procedures and settings.

The bill was introduced by the Department of Consumer Business Services (DCBS), at the request of Governor Brown, to address changes in prior authorization and consumer protection. Although the bill specifically involves medical procedures, ODA expressed to DCBS the need to ensure the same protections for patients covered under dental insurance. After several meetings, DCBS agreed to apply the same provisions for dental. ODA will be following the rulemaking work on this bill carefully.

[SB 835](#) Advertising as a Specialist: In order to advertise as a specialist a dentist must meet one of three criteria: (a) Have completed a post-doctoral residency program that is at least two years in length and is accredited by the Commission on Dental Accreditation, or its successor organization, and approved by the board by rule; (b) Be a specialist as defined by the National Commission on Recognition of Dental Specialties and Certifying Boards, or its successor organization, and adopted by the board by rule; **or** (c) Have completed an advanced dental education program that is at least two years in length and is recognized by the United States Department of Education, and approved by the board by rule.

While not an ODA bill specifically, SB 835 was brought forward by several specialty groups in dentistry. The Oregon Society of the Oral and Maxillofacial Surgeons, the Oregon Society of



Periodontists, the Oregon Society of Orthodontists, the Oregon Academy of Pediatric Dentists, and the Oregon Association of Endodontists, all worked in partnership to lobby and advocate for the bill. While the bill does not change the scope of practice for any dentist, it does specify that a person must complete at least an additional two years in a recognized program to be able to advertise that they are a “specialist.”

SB 854 Federally Issued ID in lieu of SSN: Directs professional licensing boards, in certain circumstances, to accept individual taxpayer identification number or other federally issued identification number in lieu of a Social Security Number on applications for issuance or renewal of authorization to practice an occupation or profession.

Note: The OBOD already accepts an individual taxpayer ID# and other federally issued ID number in lieu of a social security number.

SB 855 Foreign trained professionals: Directs professional licensing boards to study manner in which persons who are immigrants or refugees become authorized to practice an occupation or profession.

HB 2005 Family Medical Leave Act: Creates insurance program to provide employees with portion of wages while on family, medical, or safety-related leave. Authorizes maximum of 12 weeks of insurance benefits, with total paid and unpaid leave capped at 18 weeks. Requires collection of contributions beginning January 1, 2022, with benefits payable beginning January 1, 2023. Exempts employers with fewer than 25 employees from obligation to pay contributions.

A strangely bi-partisan bill this session (Democrats introduced similar legislation in years past to no avail), many businesses and non-profits openly supported the bill, and Republican Senators conditioned its passage as a requirement for them to return after the walkout. Small companies found they could be more competitive with the bill's passage with larger employers who already offer similar benefits.

HB 2011 Cultural Competency: Requires professional licensing boards, including the Board of Dentistry, to include Cultural Competency requirements into CE requirements for license renewal. Proposed Board of Dentistry rule making includes at least 1 CE hour dedicated to cultural competency.

HB 2270 Cigarette Tax: Refers a cigarette tax increase to the ballot. HB 2270 raises taxes on cigarettes from \$1.33 per pack to \$3.33 per pack, eliminates the .50 cent cap for cigars and subjects e-cigarettes and other vaping products to the 65% wholesale tax currently imposed on other non-cigarette tobacco products. The bill is a key component in Governor Brown's efforts to address a \$830 million Medicaid shortfall for the 2019-2021 budget cycle.

Note: The California Dental Association was a key funder in efforts to increase the tobacco tax in California. However, unlike the Oregon bill, some of the funds raised in California from the tobacco tax were designated for oral health initiatives. ODA tried unsuccessfully to have similar provisions added to HB2270.

HB 2609 PDMP: Allows dental directors to access the Prescription Drug Monitoring Program. A priority bill for one of our member dentists in the Oregon Legislature, Rep. Cedric Hayden (R-Roseburg), the bill allows dental directors to ensure any dentist operating within their practice or organization, is registered with the PDMP.



ODA supported this concept as it allows for a Dental Director or owner of a multi-dentist practice to make sure every provider is registered with the PDMP to ensure compliance with the new statute.

[HB 2706 COFA Dental](#): Directs the Department of Consumer and Business Services to determine feasibility of providing oral health care to low-income citizens of Pacific Islands in Compact of Free Association (COFA) who reside in Oregon and lack access to affordable dental coverage.

ODA continues to advocate for the oral health needs of our patients and community. ODA acknowledged efforts of the COFA population in Oregon to get dental coverage and submitted supportive testimony on the bill.

[HB 3030 Professional licensing of military spouses](#): Allows professional licensing boards to issue nonrenewable temporary authorization to spouse of member of Armed Forces of United States stationed in Oregon and who holds eligible out-of-state authorization to provide occupational or professional service.

[HB 3427 Education Funding; Business tax](#): Businesses pay a tax of .057% on sales inside Oregon above \$1 Million; Businesses can subtract 35% of their labor or capital costs from total sales; .25% points reduction in personal income tax for lowest three of state's four tax brackets. This bill likely will affect some Oregon dentist practices. ODA worked with a local CPA firm to better understand the tax implications for dental practices. **See ODA's website for examples and analysis of how this new tax may affect your practice.**

Bills that Died

Below are key bills that would have affected dentistry but did not advance this session.

[SB 293](#): Establishes Indian Health Scholarship Program to provide free tuition and fees for qualifying Indian health profession students to OHSU programs in exchange for student commitment to work at tribal service site after graduation.

ODA believes that tribal communities need and deserve high quality dental services. ODA also understands that tribes wish for dentists and dental auxiliaries to be members of their own tribe. SB 293 allows tribal members interested in becoming dentists to be able to attend OHSU free of charge with the understanding they will work to benefit tribal members (their own or other tribal members) after graduation.

[HB 2014](#): Increase non-economic damages cap in wrongful death circumstances. ODA is a member of the Oregon Liability Reform Coalition that actively opposes any measure that increases non-economic damage limits or other liability changes that could harm a provider including this bill.

[HB 3106](#) and [HB 3107](#): Requires coordinated care organization that manages its own dental program to have licensed dentist on site at least one day each week. Also, requires coordinated care organization that manages its own dental program to have dental clinical advisory group.

These bills were introduced to address some concerns with Southern Oregon CCO's. ODA was consulted early in the process and had questions about their intent. We were assured they



would not move forward and the bills died. ODA offered to work with any CCO and their dental benefit to ensure it was beneficial for patients.

[HB 3353](#): Creates an exemption in dentist-ownership statute by allowing nonprofit corporation that provides reduced-cost dental services to underserved populations, including individuals 55 years of age or older or individuals who require accessible facilities, to own, operate, conduct or maintain dental practice. The clinic who requested the legislation is a non-profit corporation, serving geriatric patients, and currently operating outside of Oregon ownership statute requirements.

ODA appreciates and values the services provided by geriatric clinics. However, we remain concerned when profit motivates care and other incentives become interchanged in a dentist and patient relationship. ODA reached out to the clinics involved in this legislation and asked them to come to an ODA Regulatory Affairs Council meeting in hope that we can jointly find a solution that allows them to continue serving a population in need of dental services, while maintaining a dentist patient relationship without outsider influence.

For a full list of all the bills ODA tracked this session, visit ODA's website.

2019 ODA Legislative Task Force Members

- *Dr. Scott Hansen (Chair)*
- *Dr. Lisa Bozzetti*
- *Dr. Ken Chung*
- *Dr. Stacy Geisler*
- *Dr. Pat Hagerty*
- *Dr. Phillip Marucha*
- *Dr. James McMahan*

2020 and 2021 Legislative Sessions: Have an idea?

ODA now turns to future Legislative Sessions. If you have ideas on legislative changes or an issue that you would like to see addressed, now is the time to share them! Contact ODA Government Affairs Director, [Jen Lewis-Goff](#).