



OFFICE OF THE DIRECTOR

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Oregon
Health
Authority

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TO: Senate Healthcare Chair Monnes Anderson and Committee Members

FROM: OHA Director Patrick Allen

SUBJECT: April 3 hearing on SB 1041, questions

Thank you for the opportunity to testify on SB 1041 on April 3, 2019. During the hearing, a variety of concerns were raised from the Coalition for a Healthy Oregon (COHO) related to SB 1041. Below I've summarized the concerns expressed during COHO's testimony and the Oregon Health Authority's response related to the intent of SB 1041. After that, I've included a discussion of how SB 1041 addresses many of the concerns raised on the earlier discussion and presentation about SB 1030.

To recap my testimony, SB 1041 has the following broad objectives:

- **Improve Transparency of Coordinated Care Organization (CCO) Financial Reporting:** Require increased accountability and transparency regarding CCO finances through enhanced financial reporting requirements based on best practices established by the National Association of Insurance Commissioners (NAIC).
- **Evaluate CCOs:** Require an examination at least every five years of each CCO and use of Risk-based Capital (RBC) methodology to evaluate CCO solvency and ensure CCOs hold adequate financial resources to protect against insolvency.
- **Improve Oversight Tools for Dealing with Impaired CCOs:** OHA lacks the tools to intervene when a CCO's financial condition deteriorates. SB 1041 increases the ability of OHA and the Department of Consumer and Business Services (DCBS) to enter into interagency agreements and to exchange confidential information to improve financial oversight. Provides OHA administrative and judicial tools for dealing with a financially impaired CCO (similar to tools available to DCBS for commercial market) to allow OHA to rehabilitate a CCO nearing insolvency.

- **Establish Framework for RBC:** To better assess financial risk and reserve levels of CCOs, require OHA to establish publicly available thresholds for RBC for each CCO and a related framework for CCO action as needed in rule.

SB 1041 is critical to OHA's financial accountability framework and we hope to continue to work with stakeholders to refine the areas of concern in the bill throughout the process.

Response to concerns raised during COHO testimony on SB 1041

Concern that the concept was not transparent, and the language was released only five days ago.

I agree the bill language was not released until recently. However, the legislative concept was vetted through a transparent process. The concept of improving the financial solvency framework and oversight started being discussed with stakeholders June 2018 as part of the Oregon Health Policy Board (OHPB) CCO 2.0 goal-setting. This concept was approved in the final OHPB report in October 2018 and was discussed at the monthly meetings throughout 2018 and early 2019.

In addition, we presented a brief to CCO CEOs with more details about the legislative concept, including statutes that would be cited, in February 2019.

Concern with applying insurance code to CCOs since they are different than insurance companies.

Though CCOs are different than insurance companies, CCOs are like insurance companies in bearing financial risk. They are also like insurance companies in the likelihood of consumer harm in the event of insolvency.

Many current CCOs in Oregon are affiliated with insurance companies either through their ownership structure or their business partnership with risk-accepting health system partners. Furthermore, CCOs in Oregon and Medicaid managed care plans nationally are increasingly resembling commercial health plans in terms of financial profile and risk. As a result, OHA needs appropriate oversight tools that more closely resemble reporting and oversight of similar commercial plans.

To recognize and be responsive to the very real differences between CCOs and insurance companies, OHA only proposes to selectively adopt provisions from the Insurance Code focused on the goal of preventing or ameliorating insolvency events to better protect Oregon Health Plan members, providers and the state.

OHA was carefully selective in proposing which insurance code provisions to apply to CCOs. The extent of the insurance code that would apply to CCOs is much smaller than the full extent that currently applies to health care service contractors under ORS chapter 750. In addition, many of the insurance code provisions would apply to

CCOs only after OHA rule-making, which would provide further opportunities for stakeholder input and for tailoring to the unique circumstances of CCOs.

Concern with the change in deadlines for NAIC, versus previous reporting.

OHA recognizes the 15 day change to the quarterly report submission, and the 29 day change for the annual audit submission may put additional pressure on the CCOs. OHA is open to discussing ways to streamline reporting if possible to improve the ability for CCOs to meet these deadlines set by NAIC. OHA plans to work out accommodations like this through rule-making.

Concern that the intent to have different control levels for Medicaid is not spelled out.

The intent of moving to risk-based capital (RBC) methodology and statutory reporting is to increase the accuracy and reliability of financial reporting, not to increase the reserve levels or capital standards. That said, this move may change how CCO's assets are counted versus the current method.

OHA, as published in its Request for Applications for CCO 2.0 plans (the RFA), intends to have a lower minimum reserve level (200%) than commercial insurance companies. Commercial insurance companies are held to 300% RBC at a minimum before DCBS can act. OHA's rule making process will refine the control levels and actions that will be specific to the CCO environment.

Concern that the NAIC biographical Affidavit requirements would limit OHP member and community participation on the board.

OHA received this question as part of the RFA. OHA has responded to the question in a formal Q&A under the RFA and decided community members of the board are exempt from this NAIC requirement. The most recent RFA addendum includes this decision and can be found at this link:

<https://www.oregon.gov/oha/OHPB/CCODocuments/CCO-RFA-4690-6-Final.pdf>

(question #9). I believe this serves as a good illustration of our intent and willingness to adapt our application of NAIC standards to the very real differences between CCO and health insurance plans.

Concern about NAIC not having reporting that would accommodate social determinants of health and would require rule making.

While NAIC does not speak to additional value-based payments and social determinants of health, OHA will require CCOs to report on social determinants of health through contract language and will try to meet these goals through the rate setting process. In addition, OHA will continue to require reports specific to Medicaid requirements. NAIC will not replace all financial reporting needed to support the innovative and transformative work done by the CCOs.

Concern about the cost of moving to Statutory Reporting and consulting hours.

OHA has consulted with the Department of Consumer and Business Services (DCBS) and roughly estimates the annual cost of conversion to Statutory Accounting at about \$10,000 in consulting fees. OHA understands that additional costs are always difficult to incur; however, OHA believes this cost is critical to achieving consistency in reporting using this national standard, and is a prudent investment given the billions of dollars annually entrusted to CCOs.

Concern about converting past financials to Statutory Reporting back to 2012.

OHA, in coordination with DCBS, is conducting further research on this topic. Based on the initial review, it does not appear necessary to convert financials back to 2012. OHA is willing to work with CCOs to ensure this transition is as streamlined as possible.

Alignment between SB 1041 and the goals of SB 1030

OHA reviewed SB 1030 and listened carefully to Art Suchorzkeski's presentation to Senate Health Care Committee on April 3, 2019. OHA found a number of points of alignment between Mr. Suchorzkeski's presentation on the purpose and solutions offered by SB 1030, and those of SB 1041. The following are key points of alignment related to OHA's understanding of the intent of SB 1030 as compared with SB 1041 and CCO 2.0.

- **Data consistency and oversight.** On slide two of Mr. Suchorzkeski's presentation, an overview of SB 1030, he raises important questions about data being consistent and comparable, and how the state can effectively have oversight functions once this is improved. These questions are on point and are a tenant of SB 1041 to ensure consistent reporting across CCOs and improved oversight. SB 1041 requires increased accountability and transparency regarding CCO finances through consistent financial reporting requirements based on best practices established by the National Association of Insurance Commissioners (NAIC).
- **Transparency on costs and utilization.** On slides four through seven, Mr. Suchorzkeski emphasized the importance of CCO transparency of costs and utilization. OHA agrees this is critical and solves for this problem through new functions in SB 1041. SB 1041 provide OHA with the same tools used currently by DCBS for commercial insures to hold CCOs accountable to financial requirements and reporting standards; this will provide the right level of data for appropriate public disclosure.
- **Evaluation of risk and reporting.** In slides eight through ten, Mr. Suchorzkeski explained that the CCOs current structure does not clearly allow OHA to evaluate

risk and solvency. OHA needs practical financial tools to increase the accuracy and reliability of financial reporting and evaluation of risk. SB 1041 requires an examination at least every five years of each CCO and use of Risk-based Capital (RBC) methodology to evaluate CCO solvency and ensure CCOs hold adequate financial resources to protect against insolvency. Additionally, SB 1041 requires OHA to establish publicly available thresholds for RBC for each CCO and a related framework for CCO action as needed in rule.

I am happy to discuss any of the above items further with you and the committee.