

Government Relations Update - July 2021

At Physicians Insurance, we believe effective advocacy is crucial for ensuring that the concerns of our members and their patients are heard by lawmakers at both the state and national level. We work in close cooperation with others to preserve and enhance the healthcare liability system, promote meaningful patient safety, improve quality, and support communication between healthcare professionals, providers, and patients. We have established Physicians Insurance as a leading advocate of healthcare liability policy nationally and in the Pacific Northwest. For the 2022 session and beyond, we will be adding the interests of MedChoice to our legislative advocacy efforts.

LEGISLATIVE REPORT FOR THE 2021 SESSION

FEDERAL: We are working with our national partners to promote the *Coronavirus Protection Act*, which provides reasonable COVID-19 liability protections for healthcare providers and facilities that are leading the efforts to address the pandemic. We are also working to draft federal legislation that provides telemedicine liability protections for healthcare providers and facilities that deliver telemedicine care.

CALIFORNIA: The regular session is scheduled to adjourn around **September 10, 2021**. The expansion of Government Relations in California continues. We have joined with partner organizations to prepare to defeat the 2022 ballot challenge to increase the \$250,000 cap on noneconomic damages recoverable in personal injury and wrongful-death actions in California's Medical Injury Compensation Reform Act. We are working with our partners to defeat **SB 447**, which allows for survivors to collect pain and suffering damages in survival actions. The bill is not limited to personal injury, but is open to all tort claims. In addition, we are cosponsoring the State of Reform conference, *Bridging the Gap between Health Care and Health Policy*, on September 23, 2021, in Los Angeles.

IDAHO: The regular session Senate adjourned May 12, 2021, while the House of Representatives recessed until December 31, 2021. Due to the impact of COVID-19, the legislature limited the number of bills introduced this session. The legislature **passed H0149 (PI support)**, which extends the sunset clause in the Coronavirus Limited Liability Act to July 1, 2022. The bill was signed by Governor Little on March 19, 2021. We will continue to work with the Idaho Liability Reform Coalition to introduce phantom damage legislation in the 2022 session.

OREGON: The regular session adjourned June 26, 2021. The session operated fully remotely, with all public hearings and actions held online. As in Washington, several bills were introduced that impacted Physicians Insurance. To highlight a few:

- **SB 567:** Establishes as an unlawful practice for medical providers to deny treatment based on patients' race, color, national origin, sex, sexual orientation, gender identity, age or disability (**PI neutral—passed**)

- **SB 780:** Limits the liability of healthcare providers, health-maintenance organizations, and hospitals for certain claims arising during the COVID-19 pandemic (*PI supported—defeated*)
- **SB 193:** Clarifies the \$500,000 limitation of noneconomic damages in wrongful-death actions (*PI opposed—passed*)
- **SB 110:** Repeals the sunset on the Early Discussion and Resolution Program for adverse healthcare incidents (*PI neutral—passed*)
- **HB 2207:** Increases the limitation on damages under the Oregon Tort Claims Act (*PI neutral—defeated*)
- **HB 2525:** Provides that limitations on claims for personal injury and death under the Oregon Tort Claims Act do not apply to claims against Oregon Health and Science University (*PI neutral—defeated*)
- **HB 2637:** Provides for the regulation of litigation funding (*PI supported—defeated*)
- **HB 2638:** Limits liability for certain claims for damages arising out of acts or omissions or in reasonable compliance with government guidelines during the COVID-19 pandemic (*PI supported—defeated*)
- **SB 813:** Clarifies that the extension of time to commence an action applies to claims or notices that would have expired on or after March 8, 2020, and through the duration of the COVID-19 pandemic or any subsequent states of emergency due to COVID-19 (*PI neutral—passed*)

Physicians Insurance and our Oregon partners engaged in a robust grassroots campaign for the remaining weeks of the session to promote the passage of **SB 780** and defeat **SB 193**. The primary focus was on the Oregon House of Representatives. The outcome of those bills was determined on the final days of the session.

Several other proposals that expanded liability for both Physicians Insurance and MedChoice were introduced this session, along with proposals that add insurance to the Unlawful Trade Practice Act, legislation with private rights of action, and proposals that expand the types of lawsuits that are brought against insurance companies (known as “bad faith” or “second suit” lawsuits). All five of those legislative proposals were *PI opposed and defeated*.

WASHINGTON: Regular session adjourned April 25, 2021. Due to the pandemic, the session operated fully remotely, with all public hearings and actions held online. There were several bills introduced that impacted Physicians Insurance. To highlight a few:

- **SB 5155:** Increases the amount due for prejudgment interest (*PI opposed—defeated*)
- **SB 5229:** Establishes a health-equity CME requirement once every four years (*PI neutral—passed*)
- **SB 5185:** Provides that a person who is of the age of consent to make a healthcare decision is presumed to have capacity (*PI supported—passed*)
- **SB 5271:** Provides COVID-19 legal protections for healthcare providers and facilities by establishing and recognizing evolving standards of care during the pandemic (*PI supported—passed*)
- **HB 1076:** Allows private citizens to sue on behalf of the government (known as “qui tam”) over alleged labor violations in exchange for a portion of the financial award (*PI opposed—defeated*)
- **SB 5062:** Addresses data privacy and adds a private right of action provision (*PI opposed—defeated*)

On January 15, 2021, the legislature extended several of Governor Inslee's proclamations until the end of the declared public-health emergency. As a result, these proclamations are no longer subject to monthly approval for extension. Several other proposals that expand liability for Physicians Insurance and MedChoice were defeated this session, along with any draft proposals that introduced exemplary damages (known as "punitive damages") in Washington.

OTHER STATES: Several states have passed COVID-19 liability protections during their 2021 sessions. We anticipate that telemedicine liability protections will be the next wave of state legislation under consideration as telemedicine continues to expand.

Every 10 years, following the completion of the US Census, the state Redistricting Commissions form to redraw and balance the district boundaries. The 2020 US Census is complete, and the 2021 process has started. The redistricting plans must be filed before the 2022 elections. Redistricting can have a significant impact on legislative environments in our various states.

Physicians Insurance will continue to serve as a trusted, reliable resource of information for our insureds and lawmakers. We are well positioned to work as a leading advocate on initiatives that impact healthcare nationally and for the 2022 state sessions.

Learn More

To learn more about our Government Relations efforts, contact:
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