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March 09, 2009

## Florida Academy of Family Physicians Capitol Update Week One March 6, 2009

The Legislature formally opened its Session on Tuesday, March 3. Unlike opening day of baseball season (April 6), where there is hope and optimism, the Legislature's opening day was muted by the difficult times confronting our state. Senate President Jeff Atwater (R-North Palm Beach) provided each of his Senate colleagues with a sextant, a symbol of the assistance they will need to guide the state. Newly-elected Speaker Larry Cretul (R-Ocala) provided similar guidance to his members and both chambers received Governor Charlie's Crist's third State of the State Speech on Tuesday evening. The simple message: work together to get the state through the toughest economic times the state has confronted in decades and focus on helping working Floridians.

In addition to the formal opening of the Legislature, the House Republican Caucus designated Representative Dean Cannon (R-Winter Park) as its Speaker-Designate for 2010-2012 and the House Democrats chose Representative Ron Saunders (D-Tavernier) as the Democratic Leader-Designate. The Senate Democrats chose Senator Nan Rich (D-Weston) as the future Democratic Leader.

Legislative committees immediately began meeting to receive information about the Governor's proposed budget and review numerous legislative proposals. Following is the status of FAFP's priority issues.

## Health Care Funding & Medicaid

Governor Crist formally released his 2009-2010 budget package that totaled more than \$66.5 billion and included \$25.23 billion for health and human services. That amount is almost 38% of the total budget proposal and is the single largest category of spending. The budget is supported by 8% in additional funds provided by the federal government's American Recovery and Reinvestment Act (ARRA).

The new money provided by the ARRA changes the amount of state general revenue needed to qualify for matching Medicaid funding from the federal government. For the next two and a half years, Florida will only need to provide 33¢ (it was 45¢) for every \$1.00 of Medicaid spending as the federal matching percentage grew to 67%. This infusion of federal money is projected to help free up nearly \$2.4 billion in the state's commitment of general revenue for the Medicaid program. Even after using these funds to meet the expected increasing Medicaid

caseload for next year, the state will still have \$646 million in additional general revenue funds.

With the infusion of federal monies, there were only minor reductions to the overall health care budget and no reductions in Medicaid services or eligibility groups. In order to use the federal dollars for what is considered to be vital Medicaid service programs such as the Medically Needy and MEDS AD (individuals who are disabled or over 65 years old with incomes at or below 88% of the federal poverty level), Governor Crist proposed putting the available general revenue to meet that requirement at a cost of nearly \$300 million. Governor Crist proposed increased reimbursement fees for dentists, dermatologists, neurosurgeons, neurologists, and orthopedists to almost 75% of the Medicare fee schedule. According to the governor's staff, these groups were targeted due to the extraordinary challenge of Medicaid recipients getting access to the specialists. However, his staff did not oppose expanding this group to primary care physicians if enough general revenue was available.

Governor Crist's budget included price level increases (as determined by the federal government) for the prescribed medicine budget, which amounted to more than \$124.1 million in additional general revenue. The projected payment for Medicare Part D back to the federal government is \$471.9 million in general revenue. There were no restrictions, special directives or new formularies proposed in the Governor's budget on drug prescribing. Additionally, Governor Crist recommended an increase of \$91 million for the rates paid to Medicaid managed care organizations.

### **DOH and AHCA Merger**

Governor Crist is expected to recommend a merger of the two largest state health agencies. Governor Crist's proposal will likely fold the Agency for Health Care Administration (AHCA) into the Department of Health (DOH) to create a larger Department of Health charged with administering public health initiatives, implementing numerous regulatory functions and the state Medicaid Program. As part of a long-term transition, the head of a newly-formed Department will be a physician.

Health and Human Services Appropriations Chair and family physician Durell Peaden (R-Crestview) and other legislative leaders voiced their opposition to the merger and insisted that it would not produce real savings for the state. No legislation regarding the possible merger is available at this time.

We will keep you posted as this issue progresses and a proposal is introduced.

### **Cigarette Tax Increase - (SB 1840/HB 887/HB 11)**

For the first time in many years, the Legislature is contemplating possible fee increases and studying the potential impact of an increase in the cigarette tax.

Legislation proposing a cigarette tax increase by Senator Ted Deutch (D- Delray Beach), Representative Juan Zapata (R-Miami) and Representative Jim Waldman (D-Coconut Creek) was filed this year. Senator Deutch and Representative Waldman both championed this issue last year.

Senator Deutch's bill (SB 1840) raises the cigarette tax by \$1.00 per

pack and allocates the revenue generated to the Lawton Chiles Endowment Fund as well as other critical health care initiatives, including physician fee increases, residency training and hospital reimbursements. Representative Zapata's bill (HB 887) raises the levy by 65.1-cents per pack and earmarks proposed new revenue from the increased tax for numerous health care and research initiatives. Representative Waldman's bill (HB 11) raises the tax by a \$1.00 per pack and disperses the revenue to myriad health care programs.

SB 1840 was referred to the Senate Committees on Finance and Tax, Health Regulation, Higher Education, Health and Human Services Appropriations and Ways and Means. HB 887 and HB 11 have not received committee references to date.

A number of health advocacy groups are meeting with legislators to explain the benefits of raising the cigarette tax, both from a public health and fiscal perspective.

## **Childhood Vaccines**

There are numerous proposals pertaining to vaccines for children. Some of the proposals result from legislator concerns about a vaccine's connection to autism. Some proposals result from concerns over vaccines containing thimerosal. Still others promote the ability for a parent to raise "philosophical objections" to avoid vaccinating a child.

FAFP is working with our colleagues at the Florida Pediatric Society, the FMA, FOMA and numerous public health advocates to educate legislators about the importance of vaccination and its value to public health.

Following is a short summary of the bills:

SB 308 by Senator Jeremy Ring (D-Margate) and HB 33 by Representative Kevin Ambler (R-Tampa) require health care providers disclose information about childhood vaccinations to a minor's parent or legal guardian before vaccinating the minor.

SB 200 by Senator Mike Bennett (R-Bradenton) and HB 39 by Representative Michael Scionti (D-Tampa) create the "Vaccine Safety Act," which prohibits the sale, purchase, manufacture, delivery, importation, administration and distribution of vaccines containing organic or inorganic mercury compounds in excess of a certain amount.

SB 2674 by Senator Mike Bennett (R-Bradenton) and HB 1455 by Representative Ron Reagan (R-Sarasota) revise the list of required childhood immunizations and provide a set of recommended vaccination requirements and allow "philosophical exemptions" to be raised by parents. Neither bill has received committee references to date.

To date, none of the bills has received a committee hearing.

## **Controlled Substances (SB 462/HB 1015)**

The regulation of controlled substances has long been a subject of legislative interest for several years. The obstacles to the enactment of various prescription drug database requirements have always been technical and privacy related. There are numerous bills on the topic

again this year. The bills supported by Governor Crist and his Office of Drug Control are starting to move through the process.

SB 462 by Senator Mike Fasano (R-New Port Richey) and HB 1015 by Representative Kurt Kelly (R-Ocala) authorize DOH to establish a prescription drug validation program. This program is a comprehensive electronic system of which will monitor the prescribing and dispensing of controlled substances in Schedules II, III, and IV. Each time a controlled substance is dispensed it must be reported to AHCA.

SB 462 was unanimously approved by the Senate Health Regulation Committee this week. The Committee amended Senator Fasano's bill (SB 462) to mirror HB 1015. SB 462 has three more committee hearings before it will receive a vote by the full Senate. HB 1015 was referred to the Health Care Regulation Policy Committee, the Public Safety and Domestic Security Policy Committee, the Health the Family Services Policy Council and the Full Appropriations Council on General Government and Health Care. HB 1015 has not received a committee hearing to date.

Other bills filed to monitor the dispensing of controlled substances are SB 614 by Senator Dave Aronberg (D-Greenacres), HB 143 by Representative Carl Domino (R-Juno Beach), HB 583 by Representative Kelly Skidmore and HB 897 by Representative Marcelo Llorente (R-Miami).

### **Continuity of Care (SB 558/HB 263)**

Legislation filed by Senator Mike Fasano (R-New Port Richey) and Representative Alan Hays (R-Umatilla) promotes patient safety and continuity of care. The bills prohibit health insurance policies or medical service plan contracts from limiting, reducing or denying coverage for prescription drugs if the insured person is currently using the drug, if the insured person is covered under their policy/contract or if the prescription drug was covered under the policy or contract.

SB 558 was referred to the Committees on Banking and Insurance, Health and Human Services Appropriations and Ways and Means. HB 263 was referred to the Insurance, Business and Financial Affairs Policy Committee, the Health Care Regulation Policy Committee, the General Government Policy Council and the Full Appropriations Council on General Government and Health Care. Neither bill has received a committee hearing to date.

### **Biomedical Research**

Florida's Biomedical Research Programs, the James and Esther King Biomedical Research Program and the Bankhead-Coley Cancer Research Program, are administered by DOH and the Office of Public Health Research.

During the recent Special Legislative Session to reduce the state's current year budget, legislators approved a \$2.3 billion reduction to the overall budget, and Florida's Biomedical Research Programs received a reduction of \$3.75 million. Advocates swarmed the Capitol and informed legislators about the importance of biomedical funding, not only in advancing biomedical research and healthcare, but also in stimulating Florida's economy by promoting research and development and creating high-wage jobs.

During the Special Session, the Biomedical Research statutes were

changed and the annual appropriation from General Revenue (GR) to the Biomedical Research Trust Fund for the James and Esther King Biomedical Research Program was reduced from \$6 million to \$4.5 million. The Bankhead-Coley Cancer Research Program faced a similar reduction from \$9 million to \$6.75 million. All funds transferred to the trust fund, in excess of the statutorily appropriated amounts, will be reverted by to state GR. These cuts were much less severe than initially proposed and the advocacy efforts proved successful.

We will monitor biomedical research funding as legislators begin to craft their budget for the 2009/2010 fiscal year.

### **Physician Assistants (PA) (SB 720/HB 249)**

Legislation filed by Senator Durell Peaden (R-Crestview) and Representative Jimmy Patronis, both health care chairs, removes the requirement that a supervising physician review and sign each prescription or dispensing medication notation made by a prescribing PA. The bills make changes to the respective practice acts for physicians and doctors of osteopathic medicine to remove this requirement. The bills do not prohibit, in any way, a physician choosing to monitor the charts of a PA in the physician's practice.

The FMA is taking a neutral stance on the bill and the bills are supported by the Florida Osteopathic Medical Association.

HB 249 was unanimously approved in the House Health Care Regulation Committee. The bill has two more committee hearings, the Health and Family Services Policy Council and the Policy Council, before it is considered by the full House. SB 720 was referred to the Committees on Health Regulation and Health and Human Services Appropriations. The bill has not received a hearing to date.

### **Advanced Registered Nurse Practitioners (ARNPs) Prescribing Narcotics (SB 426/HB 1259)**

This fall the Senate Committee on Health Regulation issued a report recommending that the Legislature consider extending authority to Florida-licensed ARNPs who are certified in a nursing specialty from a nationally recognized certifying entity to prescribe controlled substances under protocols and within the scope of practice of their specialty.

Proponents of this scope expansion argue that such authority will increase access to needed health care services in areas of the state where there are underserved populations and physician shortages. They also argue that allowing ARNPs to prescribe controlled substances will increase convenience for patients and physicians and improve quality of care.

Conversely, organized medicine argues that ARNPs are not adequately trained to prescribe controlled substances. Increasing the number of persons prescribing controlled substances will result in prescription drug abuse and diversion of prescription drugs from legal distribution systems. Additionally there is no indication that access to narcotics is a problem.

SB 426 by Senator Mike Bennett (R-Sarasota) and HB 1259 by Representative Juan Zapata (R-Miami) authorize ARNPs to prescribe controlled substances. HB 426 was referred to the Committees on Health Regulation and Criminal Justice. HB 1275 was recently and has not been referred to committees to date.

## **Autism Spectrum Disorder (SB 242/HB 89)**

Legislation requiring a physician to refer a minor to an "appropriate specialist" for screening for autism spectrum disorder if the physician believes that the minor exhibits symptoms of autism was filed by Senator Jeremy Ring (D-Margate) and Representative Steve Precourt (R-Winter Garden). As defined in the bills, "appropriate specialist" includes, but is not limited to, 1) neuropsychologists; 2) board-certified behavior analysts; 3) psychologists; 4) psychiatrists; 5) neurologists; and 6) developmental or behavioral pediatricians who specialize in child neurology. FAFP is working with other organizations to ensure that access to screening and treatment is not impeded by these proposals.

SB 242 was referred to the Committees on Children, Families, and Elder Affairs, Health Regulations, Banking and Insurance, Health and Human Services Appropriations and the Policy and Steering Committee on Ways and Means. HB 89 was referred to the Health Care Services Policy Committee, Insurance, Business and Financial Affairs Policy Committee, Health and Family Services Policy Council, Government Operations Appropriations Committee and the Full Appropriations Council on General Government and Health Care. Neither bill has received a committee hearing to date.

## **Statewide Tobacco Education and Use Prevention Program**

Legislation filed by Senator Don Gaetz (R-Ft. Walton Beach) and Representative Sandy Adams (R-Oviedo) provides technical changes to Florida's Tobacco Education and Use Prevention Program. The technical changes are incorporated in a large health care bill and the Florida Department of Health (DOH) is leading the charge on its passage.

The bills include efforts to further educate youth and their parents about the dangers of tobacco usage.

SB 2614 and HB 1417 have not received committee references to date.

## **2009 HOUSE AND SENATE LEADERSHIP**

### **SENATE:**

President: Senator Jeff Atwater (R)  
 President Pro Tem: Senator Mike Fasano (R)  
 Majority Leader: Senator Alex Diaz de la Portilla (R)  
 Minority Leader: Senator Al Lawson (D)  
 Minority Leader Pro Tem: Senator Charlie Justice (D)

### **HOUSE:**

Speaker: Rep. Larry Cretul  
 Speaker Pro Tem: Rep. Ron Reagen (R)  
 Majority Leader: Rep. Adam Hasner (R)  
 Dep. Maj. Leader: Rep. Anitere Flores (R)  
 Majority Whip: Rep. Carlos Lopez-Cantera (R)  
 Minority Leader: Rep. Franklin Sands (D)  
 Minority Leader Pro Tem: Rep. Geraldine Thompson (D)

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We hope this brief legislative update is helpful. We will keep you informed on these and other developments as the Session progresses.

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