

CAPITOL Update

Florida Academy
of Family Physicians

FLORIDA ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR FLORIDA

6720 Atlantic Boulevard, Jacksonville, FL 32211-8730

800-223-3237 • www.fafp.org

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Florida Academy of Family Physicians Capitol Update Week Two March 13, 2009

Spring reached Tallahassee this week as warm sunshine and flowers in bloom surrounded Florida's Capitol complex. However, our beautiful weather did little to improve the mood inside. State appropriations experts met on Friday, March 13 (Black Friday?) to forecast lower than expected revenues for both the current fiscal year and the upcoming fiscal year that begins July 1st. Legislators also continued to spend time dissecting the ramifications of Federal stimulus dollars and the potential impact of these dollars on Florida's budget. Moreover, dozens of substantive bills began to move through the process, receiving their first committee hearing this past week. Already, long time political pundits are questioning how many substantive bills will actually pass because the fiscal issues are taking so much legislative attention.

Following is the status of FAFP's priority issues.

Health Care Funding & Medicaid

The Senate and House committees dealing with health care spending received reports from the Agency for Health Care Administration (AHCA) on the latest estimates for Kidcare and the funds available from the recurring tobacco settlement. While the current caseload for this budget year is down about 3%, the caseload for Kidcare is expected to increase by 9% or more than 20,000 new children who are eligible for coverage. To provide that coverage, it will require an additional \$33.2 million, but those dollars should be attainable with the additional stimulus funds provided from the federal government. The tobacco settlement funds are projected to decline by \$61.7 million below the current projected balance. This is due to using those funds to plug the current deficits.

At this time, it is likely the General Revenue Estimating Conference will see state tax collections for the last four months of the current fiscal year drop between \$900 million and \$1.1 billion. For 2009-2010, general revenue is expected to fall between \$2.1 billion and \$2.5 billion below earlier estimates. Governor Crist plans to use \$1.3 billion in federal Medicaid stimulus money over the next four months to assist with

balancing the budget, with more than \$4.7 billion in overall stimulus money for the next year. It is expected that the Legislature will potentially use \$3 billion in federal stimulus dollars for the next fiscal year.

The Legislature held several budget workshops this week on Florida's most recent fiscal outlook. The issues ranged from the recently released estimate for the Kidcare Program, the Medicaid Impact Estimating Conference, the impact of the Federal stimulus funds and the process of Medicaid rate-setting procedures. There was no action taken on the budget, as legislators looked to Friday's general revenue estimate to provide a clearer fiscal picture regarding how many dollars they have to work with for 2009-2010 budget.

The Medicaid Impact Conference produced a wide variety of potential policy changes to current Medicaid spending to produce savings for the state. Some of the ideas include modifying hospital and managed care reimbursement rates and policies, increasing recoupment from home health care fraud, implementing managed care in developmentally disabled programs and modifying the variety of optional services that are currently provided by Medicaid.

Statewide Tobacco Education and Use Prevention Program

This week the House Human Services Appropriations Committee received a presentation by the Department of Health (DOH) on the Tobacco Education and Use Prevention Program. Following the presentation, several committee members voiced concerns regarding the Program's advertising contracts and funding. DOH fielded questions regarding the use of tobacco in the prison system and why Florida's Area Health Education Centers (AHECs) have not received a recent Department evaluation. AHECs were under fire last year and it seems likely, as a result of the state's budget crisis, they will be scrutinized again this year.

On the legislative front, DOH-backed bills 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 bills include efforts to further educate youth and their parents about the dangers of tobacco usage.

SB 2614 was referred to the Senate Committees on Health Regulation, Governmental Oversight and Accountability, Ethics and Elections, Health and Human Services Appropriations and Policy and Steering Committee on Ways and Means. HB 1417 was referred to the Health Care Services Policy Committee, the Health and Family Services Policy Council, the Human Services Appropriations Committee and the Full Appropriations Council on General Government and Health Care. Neither bill has received a committee hearing to date.

Childhood Vaccines - NO MOVEMENT THIS WEEK

FAFP is working with our colleagues at the Florida Pediatric Society, the Florida Medical Association (FMA), Florida Osteopathic Medical Association (FOMA) and numerous public health advocates to educate legislators about the importance of vaccination and its value to public health. This week the coalition met with legislators and staff to discuss

the issues. 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) creates 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.

None of the bills have received a committee hearing to date.

ARNPs Prescribing Narcotics (SB 426/HB 1259)

We believe the Legislature will likely consider expanding prescribing privileges for Florida-licensed Advanced Registered Nurse Practitioners (ARNPs) this year. Legislation filed by Senator Mike Bennett (R-Sarasota) and Representative Juan Zapata (R-Miami) extends authority to 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 narcotics 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 narcotics will result in prescription drug abuse and diversion of prescription drugs from legal distribution systems. Additionally there is no indication that access to controlled substances is a problem. HB 426 was referred to the Committees on Health Regulation and Criminal Justice.

HB 1259 was referred to the Health Care Regulation Policy Committee, the Public Safety and Domestic Security Policy Committee, the Health and Family Services Policy Council and the Full Appropriations Council on General Government and Health Care. Neither bill has received a committee

hearing 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 received a hearing in the Senate Children, Family and Elder Affairs Committee this week. As defined in the bill, "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.

SB 242 was amended in the Senate Children, Families and Elder Affairs Committee on Wednesday. Specifically, the amendment made the following changes to SB 242:

- Allows any parent or guardian who suspects their child exhibits a symptom of autism to report their observations to a physician who then must refer the child to for screening;
- Adds to the list of "appropriate specialists" anyone deemed appropriate by the Children's Medical Services Early Steps Program and speech pathologists; and
- Mandates that insurance companies allow for insured individuals to have "direct access" to autism screening services, meaning they could access the services without having to first visit a physician

SB 242 by Senator Ring will receive four more committee hearings before a vote by the full Senate. HB 89 by Representative Steve Precourt (R-Orlando) was referred to the Health Care Services Policy Committee, the Insurance, Business and Financial Affairs Policy Committee, the Health and Family Services Policy Council, the Government Operations Appropriations Committee and the Full Appropriations Council on General Government and Health Care. HB 89 has not received a committee hearing to date.

Cigarette Tax Increase (SB 1840/HB 887/HB 11)

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.

The possibility of a cigarette tax increase continues to dominate discussions, however it appears the House bills may be up against a road block. Representative Ellyn Bogdanoff (R-Ft. Lauderdale), Chair of the House Finance and Tax Council (the cigarette tax bills first committee reference), is a staunch opponent of the proposed increase. As Chair, Representative Bogdanoff is responsible for selecting the bills of which her committee will consider. In other words, she can prevent the bills from receiving a committee hearing this year. Senator Thad Altman (R-Melbourne), Chair of the Senate Finance

and Tax Committee appears to be open to possibility of a cigarette tax increase. The Senate Finance and Tax Committee received several presentations this year on the proposed cigarette tax and the inclusion of non-participating cigarette companies in the tobacco settlement.

SB 1840 was referred to the Senate Committees on Finance and Tax, Health Regulation, Higher Education, Health and Human Services Appropriations and the Policy & Steering Committee on Ways and Means. HB 887 was referred to the Finance and Tax Council, the Health and Family Services Policy Council, the Full Appropriations Council on Education and Economic Development and the Full Appropriations Council on General Government and Health Care. HB 11 was referred to the Finance and Tax Council, the Health and Family Services Policy Council, the Full Appropriations Council on Education and Economic Development and the Full Appropriations Council on Education & Economic Development. None of the bills have received committee hearings to date.

Direct Payment of Benefits - NO MOVEMENT THIS WEEK (SB 1122/HB 855)

In an effort to ensure that providers are paid for the services they render, Senator Don Gaetz (R-Ft. Walton Beach) and Representative Marcello Llorente (R-Miami) filed legislation requiring managed care companies to pay a designated provider of services directly whenever an insured, using any health insurance claim form, specifically authorizes that the payment be paid directly to a recognized hospital, licensed ambulance provider, a physician, a dentist or other person who provided the services in accordance with the provisions of the insurance policy. These bills are supported by organized medicine and strongly opposed by the insurance industry.

SB 1122 was referred to the Committees on Banking and Insurance, Health Regulation and General Government Appropriations. HB 855 was referred to the Insurance, Business, and Financial Affairs Policy Committee, the General Government Policy Council, the Government Operations Appropriations Committee and the Full Appropriations Council on General Government and Health Care. Neither bill has received a committee hearing to date.

Health Care Management- NO MOVEMENT THIS WEEK (SB 416/HB 243)

Legislation filed by Senator Mike Fasano (R-New Port Richey) and Representative Jimmy Patronis (R-Panama City) prohibit managed care companies from denying a claim they previously authorized or modifying a policy that would impact the contract terms. These bills are strongly supported by the Florida Hospital Association.

SB 416 was referred to the Committees on Banking and Insurance, Commerce, Health Regulation and Ways and Means. HB 243 was referred to the Insurance, Business and Financial Affairs Policy Committee, the General Government Policy Council, the Government Operations Appropriations Committee and the Full Appropriations Council on General Government & Health Care. Neither bill has received a committee hearing to date.

Controlled Substances - NO MOVEMENT THIS WEEK (SB 462/HB 1015)

The regulation of controlled substances has long been a subject of legislative interest. 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 last 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 - NO MOVEMENT THIS WEEK (SB 558/HB 263)

Legislation filed by Senator Mike Fasano (R-New Port Richey) and Representative Alan Hays (R-Umatilla) promotes patient safety and 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.

Physician Assistants (PA) - NO MOVEMENT THIS WEEK (SB 720/HB 249)

Legislation filed by Senator Durell Peaden (R-Crestview) and Representative Jimmy Patronis, both health care chairmen, 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.

DOH and AHCA Merger - NO MOVEMENT THIS WEEK

Governor Crist is expected to recommend a merger of the two largest state health agencies. Governor Crist's proposal will likely fold the AHCA into 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.

Prescription Drug Purchase - NO MOVEMENT THIS WEEK (SB 574)

Legislation filed by Senator Don Gaetz (R-Ft. Walton Beach) repeals the Health Care Clinic Establishment (HCCE) Permit under the Florida Drug and Cosmetic Act to allow medical and veterinary clinics to purchase prescription drugs directly. Oversight and responsibility of the prescription drug purchase is the responsibility of the clinic's qualifying practitioner.

The current HCCE permit process is very confusing, expensive and unduly restrictive. SB 574 streamlines the prescription drug purchasing process and reduces the cost.

SB 574 was unanimously approved in the Senate Health Regulation Committee last week. SB 574 will receive one more committee hearing in the Senate Health and Human Services Appropriations Committee before it receives a vote by the full Senate.

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