

# CAPITOL Update

Florida Academy  
of Family Physicians

FLORIDA ACADEMY OF  
FAMILY PHYSICIANS  
STRONG MEDICINE FOR FLORIDA

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March 23, 2009

## Florida Academy of Family Physicians Capitol Update Week Three March 20, 2009

The Legislature completed its third week of session. "Harried" is the best way to describe the week. Hundreds of bills were heard in committee as legislators scramble to move priority bills through the process. Concurrently, dozens of advocacy groups visited the Capitol this week or held news conferences to fight for a particular issue or budget priority. This week was also a preview of the difficult financial choices legislators will start to make next week. On Thursday afternoon Governor Charlie Crist notified all of his state agencies that he is withholding 15 percent of agency funds for the last quarter of the fiscal year because of budget uncertainty. This action allows the Governor to better manage cash flow and monitor revenue collections going into the final quarter of the fiscal year.

Following is the status of FAFP's priority issues.

### Health Care Funding & Medicaid

This week the Senate Health and Human Services Appropriations Committee received proposals from all of the health-related agencies to further reduce agency budgets to deal with the state's growing budget deficit. Officials from the Agency for Health Care Administration (AHCA) outlined \$338 million in general revenue cuts as part of an "exercise" to cut 10 percent from their overall Medicaid budget for the upcoming fiscal year. Hospitals and nursing homes would take the hardest hit.

In addition, reimbursements to certain facilities would be cut by 12.1 percent, amounting to \$141 million in cuts for hospital inpatient care and another \$115 million in nursing home reimbursements. Hospital outpatient care would also be cut by \$39 million. State health care officials said they have little choice but to cut direct reimbursements to health care providers who already complain that rates are too low. Combined with trust fund matches, the total proposed cut is more than \$1 billion; however, the proposed cuts do not take into account potential federal stimulus dollars. The committee is scheduled to release

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its proposed budget next Friday.

Most health officials stated they are limited in what they can cut. The federal stimulus legislation requires states to retain eligibility for most optional programs like Medically Needy in order to qualify for funds. However, states are not required to fully fund those optional programs. For example, eliminating some Medically Needy services for adults would help reduce the overall cuts to hospitals and nursing homes. Other suggested cuts included Medicaid spending on chiropractic services, podiatrists and vision and hearing services that save about \$12 million in general revenue funds.

The House did not receive agency proposals this week and is unlikely to release its budget recommendations next week.

### **Optometrists Prescribing Oral Ocular Medications - SB 326 FAILED (SB 326/HB 507)**

On Wednesday SB 326 by Senator Charlie Dean (R-Inverness) was defeated in the Senate Health Regulation Committee by a 3-5 vote. SB 326 extended the authority to administer and prescribe oral ocular pharmaceutical agents to certified optometrists. The bill also amended the Florida Comprehensive Drug Abuse Prevention and Control Act to expand the definition of "practitioner" to include optometrists.

At the committee meeting, FAFP, along with other medical specialty societies, voiced opposition to the bill. Additionally, the immediate past president of the Florida Medical Association (FMA) spoke in opposition to the bill as did the president-elect of the American Medical Association (AMA).

Since the bill was defeated in committee it can no longer be considered by the Senate, meaning the issue is no longer on the table this year. It is unlikely that HB 507 by Representative Juan Zapata (R-Miami), the House companion bill, will receive a committee hearing, as the Senate bill was not approved in committee. This is a very big win for organized medicine and it was reassuring to see all of organized medicine join together to fight this scope battle.

### **Physician Assistants (PA) - SOME MOVEMENT THIS WEEK (SB 720/HB 249)**

Legislation filed by Senator Durell Peadar (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 physician assistant (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.

HB 249 was approved by the House Health and Family Services Policy Council this week. Next week the bill will receive a hearing in the House Policy Council, its last committee hearing before a vote by the full House. SB 720 has not received a committee hearing to date.

## **Cigarette Tax Increase - NO MOVEMENT (SB 1840/HB 887/HB 11)**

The State Revenue Estimating Conference met last Saturday to determine the revenue impact of a proposed \$1.00 increase to the cigarette tax. State economists determined that the increase will generate as much as \$871 million for Florida. This figure is approximately \$240 million more than originally thought. Cigarette tax advocates met this week to discuss the latest revenue projections of the proposed cigarette tax increase and to develop strategies to encourage its passage.

The Senate appears to be more favorable to a cigarette tax increase than the House, and this issue will take center stage in the coming weeks as the Legislature confronts the worst fiscal crisis in years. Governor Crist is very lukewarm to the idea of a cigarette tax increase at this point. Moreover, Governor Crist's position of the issue is critically important.

Senator Ted 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. Representative Juan 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 Jim Waldman's bill (HB 11) raises the tax by a \$1.00 per pack and disperses the revenue to myriad health care programs. To date, these bills have not received a committee hearing.

## **Continuity of Care - NO MOVEMENT (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.

### **Safety Belt Law Enforcement - NO MOVEMENT (SB 344/HB 1)**

Legislation filed by Senator Nan Rich (D-Sunrise) and Representative Rich Glorioso (R-Plant City) amends the Florida Safety Belt Law to provide for primary enforcement of seatbelt violations. The bills allow enforcement officers to stop motorists and issue a citation for not using their seatbelt.

Both SB 344 and HB 1 will receive two more committee hearings before a final vote by their respective chamber.

### **Tobacco Education and Use Prevention Program - NO MOVEMENT**

Department of Health (DOH) backed bills filed by Senator Don Gaetz (R-Ft. Walton Beach) and Representative Sandy Adams (R-Oviedo), provide 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 use.

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**

FAFP is working with our colleagues at the Florida Pediatric Society, the 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. FAFP met with legislators and staff this week to explain the importance of childhood vaccinations 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) 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 has received a committee hearing to date.

### **ARNPs Prescribing Narcotics - NO MOVEMENT (SB 426/HB 1259)**

The FMA is reporting that 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 narcotics under protocols within the scope of practice of their specialty.

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.

### **Direct Payment of Benefits - NO MOVEMENT (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 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 (SB 462/HB 1015)**

The regulation and monitoring 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 the first week of Session. 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).

### **DOH and AHCA Merger - NO MOVEMENT**

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

### **Prescription Drug Purchase - NO MOVEMENT (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.

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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.