

CAPITOL Update

Florida Academy
of Family Physicians

FLORIDA ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR FLORIDA

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Florida Academy of Family Physicians Capitol Update Week Four March 27, 2009

Week 4 of the Legislative Session saw continued budget posturing this week as House and Senate leaders began very divergent paths to deal with Florida's projected \$3 billion deficit. The House maintains its position to reduce the size of government to deal with the shortfall by continuing to identify "wasteful" programs where state dollars are used, while the Senate contemplates new fees, including an increase in the cigarette tax, an increase of some liquor taxes, the expansion of gambling, a temporary sales tax increase and an increase of a range of fees.

Following is the status of FAFP's priority issues.

Childhood Vaccines - SOME MOVEMENT THIS WEEK

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

At the urging of all of organized medicine, HB 33 was amended and unanimously approved by the House Health Care Regulation Policy Committee. The amendment requires that a parent, legal guardian or legal representative give his or her consent to the child's vaccination by signing a statement that they received the information about the risks, benefits and alternatives. The signed statement will stay in the minor's permanent medical record. The bill has four more committee hearings before it receives a vote by the full House. SB 308 has not received a committee hearing to date.

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. Neither bill has received committee hearing to date.

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 hearing to date.

Controlled Substances - SOME MOVEMENT THIS WEEK (SB 462/HB 1015)

SB 462 by Senator Mike Fasano (R-New Port Richey) authorizes the Department of Health (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 the Agency for Health Care Administration (AHCA).

This week SB 462 was unanimously approved by the Senate Judiciary Committee. FAFP, along with several physicians, a representative from the Board of Medicine, FOMA, physician assistants and Bill Janes, Director of the Governors Office of Drug Control waived in support of the bill. The only opponent to the bill testified on behalf of the American Civil Liberties Union. SB 462 has two more committee hearings before it will receive a vote by the full Senate.

HB 897 by Representative Marcelo Llorente (R-Miami) requires AHCA to design and implement a prescription drug-monitoring database to monitor dispensing of Schedule II, III and IV controlled substances. The bill was unanimously approved by the House Public Safety and Domestic Security Policy Committee this week. Bill Janes, Director of the Governors Office of Drug Control spoke in favor of the bill. The bill has two more committee hearings before it receives a vote by the full House.

Other bills filed to monitor the dispensing of controlled substances are SB 614 by Senator Dave Aronberg (D-Greenacres), HB 1015 by Representative Kurt Kelly (R-Ocala), HB 143 by Representative Carl Domino (R-Juno Beach) and HB 583 by Representative Kelly Skidmore (D-Boca Raton).

We expect all of the bills to eventually align.

Health Care Funding & Medicaid

The Florida Senate released its preliminary budget proposal for health and human services this week. Hospitals, county health departments, nursing homes and hospice would face a 3% reduction in the fee they are paid for treating Medicaid patients. Those cuts are actually minor compared to what hospitals and other health care providers faced over the last couple of years. The Senate still recommends spending \$15.7 billion on Medicaid.

Specifically, hospitals would face \$89 million in cuts, nursing homes would see their reimbursements cut by \$81 million and managed care organizations would get a reduction of \$59.4 million in payments. The proposal also shows a reduction in the prescribed drug line item of \$73.7 million that is due to lower estimates of usage coming from the recent

Social Services Estimating Conference. Related to the constitutionally-mandated Tobacco Prevention and Control Program, the Senate provides \$2.3 million more for the campaign, which is the adjustment required by the constitution.

In an important step, the Senate plan puts money back in the budget to fund two Medicaid programs that had been targeted for elimination -- the Medically Needy and MEDS AD programs which cover medical costs for the critically ill and poor seniors. Both must be continued for Florida to qualify for some \$4 billion in federal economic stimulus money through Medicaid over the next couple of years. The Senate is betting on \$1 billion more in gambling taxes by approving a comprehensive Seminole Indian gaming compact. Senators also hope to raise the state's cigarette tax and increase a range of other fees and eliminate some tax exemptions in order to balance the budget with an estimated \$3.1 billion shortfall.

Senator Durell Peaden, Chairman of the Health and Human Services Appropriations Committee also announced that **in the Senate's plan there would be \$5 million for graduate medical education programs** provided through funds from the Low Income Pool.

The House of Representatives did not release their proposals this week. The proposal is expected to be unveiled sometime next week.

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 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.

SB 344 is awaiting approval by the Senate Judiciary Committee and HB 1 is awaiting approval by the House Economic Development and Community Affairs Policy Council.

Direct Payment of Benefits - SOME 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.

HB 855 was approved by the Insurance, Business, and Financial Affairs Policy Committee this week, despite strong opposition from insurance companies. The bill will receive three more committee hearings before a vote by the full House.

SB 1122 was referred to the Committees on Banking and Insurance, Health Regulation and General Government Appropriations. The bill has not received a committee hearing to date.

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

State economists have determined that a \$1.00 increase in the cigarette tax will generate as much as \$870 million for Florida. In drafting the budget, the Senate is discussing several budget-balancing options, including a cigarette tax increase, although the House is far less interested in the idea. Governor Crist remains lukewarm to the idea and has not committed to supporting a cigarette tax increase this year.

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, yet the Senate is expected to address the issue as early as next week.

Tobacco Education and Use Prevention Program - SOME MOVEMENT THIS WEEK

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 usage.

HB 1471 was unanimously approved by the House Health Care Services Policy Committee this week. The bill has three more committee hearings before a vote by the full House. SB 2614 was referred to five committees. The bill has not received a committee hearing to date.

This week the Senate unveiled its budget conforming bills in the Senate Health and Human Services Appropriations Committee. SB 1664 removes the two-year limitation for Area Health Education Centers' smoking cessation initiative and the requirement to apply for competitive grants.

Prescription Drug Purchase - ON THE SENATE CALENDAR(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 and Human Services Appropriations Committee this week. The bill is on the calendar to receive a vote by the full Senate.

ARNPs Prescribing Controlled Substances - NO MOVEMENT THIS WEEK (SB 426/HB 1259)

Legislation filed by Senator Mike Bennett (R-Sarasota) and Representative Juan Zapata (R-Miami) extends authority to Florida-licensed Advanced Registered Nurse Practitioners (ARNPs) who are certified in a nursing specialty from a nationally recognized certifying entity to prescribe controlled substances 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.

Physician Assistants (PA) - SOME 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 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 unanimously approved by the House Policy Council this week. The bill is now awaiting a vote by the full House. SB 720 has not 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 contact 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.

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 informed as this issue progresses and a proposal is introduced.

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