

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 Five April 3, 2009

The 2009 Florida Legislative Session reached its midpoint this week. As millions of Florida students enjoyed spring break, Florida legislators worked to ensure Florida's economy didn't break. Issues such as tax policy, Seminole Indian gaming revenue, the use of federal stimulus funds, property insurance, college tuition and workers compensation legislation are all pending issues that will dominate the legislative discussions during the remaining four weeks of the Legislative Session.

Following is the status of FAFP's priority issues.

Health Care Funding and Medicaid

This week the House of Representatives released its preliminary state budget outline for 2009-2010. In regard to health and human services funding, the House received a greater share of the state budget for spending purposes than its Senate counterparts. The largest difference between health care spending in the House and Senate is funding for the Agency for Health Care Administration (AHCA).

The House proposal is \$18.09 billion, while the Senate proposal is about two hundred million dollars less. The greater allocation allowed the House to avoid cuts to Medicaid including hospital services and reimbursements for managed care organizations, which make up a large segment of the AHCA budget. This likely means other areas of the state budget within the House's budget recommendation will be smaller, as the House has not incorporated any revenue increases in its proposed budget.

Both the House and Senate plans restore the Medically Needy and the MEDS AD programs by using new federal matching dollars provided through the federal stimulus funds. The House did propose some reductions in other areas, such as nursing home reimbursements, decreased funding for biomedical research by almost three times as much as the Senate, and a reduction in "non-core mission" spending in the Department of Health by nearly \$5 million.

With the infusion of new federal Medicaid dollars, the Legislature was able to avoid dramatic cuts to health care spending. However, the House (and it appears the Senate as well) only used about half of the funds available for Medicaid to help restore those critical programs. Each chamber allowed the remaining funds to be put

back into the overall budget to help mitigate significant cuts in other spending areas such as education and public safety.

The Senate and House proposals are expected to be modified by the respective appropriation committees before the Easter and Passover break early next week.

Childhood Vaccines - (SB 308/HB 33/SB 242) - SB 242 Amended and Approved by the Senate Health Regulation Committee

FAFP continues to work 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 a 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 licensed health care providers to disclose information about childhood vaccinations to a minor's parent or legal guardian before vaccinating the minor.

Last week, 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.

This week SB 242 regarding Autism Spectrum Disorder Screening for Minors by Senator Jeremy Ring was amended and approved in the Senate Health Regulation Committee. SB 242 now resembles a child vaccine safety bill, as opposed to an autism screening bill. As amended, the bill 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 amendment also prohibits the sale, purchase, manufacture, delivery, importation, administration and distribution of vaccines containing organic or inorganic mercury compounds in excess of a certain amount.

Senator Mike Bennett (R-Bradenton) passed two amendments to the bill that were supported by activists in the autism community. The first dealt with an "alternative" vaccination schedule for children, and the second dealt with the use of Thimerosal in vaccines. Pediatricians voiced their concerns with the potential unintended consequences of these amendments. First, they believe a physician should have the right to turn a patient away who doesn't want to be vaccinated, and to send the patient to another physician who has a different opinion on vaccines and the vaccine schedule. Second, they want to ensure that Thimerosal, a preservative in some vaccinations like the influenza vaccine, can still be used in limited circumstances and only for adults. Senator Bennett agreed to work with the pediatricians to address these concerns at the bill's next committee hearing.

SB 242 has three more committee hearings before a vote by the full Senate. SB 242 is now linked to HB 33 by Representative Kevin Ambler (R-Tampa). HB 33 has four more committee hearings before a vote by the full House.

SB 308 will receive a hearing in the Senate Health Regulation Committee on Monday. We believe SB 308 will be amended to include a requirement that a physician refer a minor to an "appropriate specialist" for screening for autism spectrum disorder if the parent, legal guardian or physician believes that the minor exhibits symptoms of autism.

Medicaid Reform/Medical Home Pilot Project - HFPC 09-01 Approved by the House Health and Family Services Policy Council

This week Representative Ed Homan, MD (R-Temple Terrace), Chair of the House Health and Family Services Policy Council, introduced a comprehensive bill that would add a new component to Florida's Medicaid Reform Pilot Project.

The proposed committee bill creates a new pilot based on the Medical Home Concept with federally qualified health centers (FQHCs) coordinating care with medical schools for specialty care and hospitals for inpatient services.

The original bill designated Alachua, Hillsborough, Orange and Miami-Dade counties as pilot locations. However, legislators from Orange and Miami-Dade amended the bill to remove those counties. Another amendment changed the proportion of how many Medicaid recipients are assigned coverage by a Medicaid managed care plan or the medical home coverage concept. This change would move more recipients into the medical home pilot rather than automatic assignment by a managed care plan. The bill was amended to permit HMOs to establish a medical home within their network. Chair Ed Homan offered another amendment that seeks to get encounter data from the medical home project.

Michael Good, MD, Dean of the UF College of Medicine, was the primary speaker in support of the bill and addressed the challenges associated with continuity of care.

The Florida Hospital Association did not take a position on the bill, but is interested in the concept. Their chief concern deals with provisions related to the negotiation and arbitration components of contracts with managed care organizations. Representative Kevin Ambler (R-Tampa) drafted an amendment to repeal that section of the bill and it passed.

The proposal will likely be referred to the House Health Care Appropriations Committee for a fiscal review. Currently there is no Senate companion bill, but the FAFP is discussing the role of family medicine in the medical home model with legislative leaders.

Controlled Substances Validation - (SB 462/HB 897) - HB 897 Approved by the House Health and Family Services Policy Council

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). SB 462 was unanimously approved by the Governmental Oversight and Accountability Committee this week. The bill is awaiting a hearing by Health and Human Services Appropriations before 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. HB 897 was unanimously approved by the House Health and Family Services Policy Council this week. The bill is awaiting a hearing by the Full Appropriations Council on General Government and Health Care

before a vote by the full House.

We expect SB 462 and HB 897 to eventually align. These bills are strongly supported by organized medicine.

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).

Direct Payment of Benefits - (SB 1122/HB 855) - HB 855 Approved by the House General Government Policy Council

Senator Don Gaetz (R-Ft. Walton Beach) and Representative Marcello Llorente (R-Miami) filed legislation requiring insurers 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.

Last week HB 855 was unanimously approved by the House General Government Policy Council this week, despite strong opposition from insurance companies. SB 1122 will receive a hearing by the Senate Banking and Insurance Committee on Monday.

Cigarette Tax Increase - (SB 1840/HB 887/HB 11) - SB 1840 Unanimously Approved by the Senate Finance and Tax Committee

This week the Senate Finance and Tax Committee unanimously approved SB 1840 by Senator Ted Deutch (D-Delray Beach). The bill, as amended, increases the cigarette tax by \$1.00 per pack and imposes a \$1.00 per ounce tax on other tobacco products. The bill refers to the increase as a surcharge because it only impacts customers who purchase tobacco products. Generated revenue from the surcharge will be deposited in the Health Care Trust Fund to help fund the Medicaid Program, as well as offset other health care budget cuts inflicted on the state due to decreased revenues.

The American Lung Association, the American Cancer Society, the American Heart Association, the Florida Hospital Association, the League of Cities, the Association of Counties, AARP, as well as other health care and community advocates testified in support of the bill. Opponents spoke of cigarette and tobacco product smuggling and the negative financial impact on Florida's retailers. Cigar companies spoke in strong opposition to imposing a surcharge on cigars. Representatives from the tobacco industry also testified against the bill. SB 1840 has four more committee hearings before it receives a vote by the full Senate. **The bill is scheduled to be heard in the Senate Policy and Steering Committee on Ways and Means on Tuesday, April 7th at 1:30 p.m.**

This week a group of religious leaders and health advocates gathered at First Baptist Church of Orlando to urge the Legislature to increase Florida's tobacco taxes. Among the supporters was former state House Representative, Dennis Baxley, executive director of the Christian Coalition of Florida.

Although the proposed tobacco tax is moving in the Senate, the increase has yet to gain traction in the House. This is certainly an issue that will be part of the budget discussions between the House and the Senate in the coming weeks. Legislation filed by Representative Juan Zapata (HB 887) raises the cigarette tax by 65.1-cents per pack and legislation by Representative Jim Waldman (HB 11) raises the cigarette tax by a \$1.00 per pack. Both bills disperse the generated revenue to myriad health care programs. Neither bill has received a committee hearing to date.

Tobacco Education and Use Prevention Program - (SB 2614/HB 1417) - HB 1471 Approved by the Health and Family Services Policy Council

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 usage.

HB 1471 was unanimously approved by the House Health and Family Services Policy Council this week. The bill has two more committee hearings before a vote by the full House. SB 2614 will receive its first committee hearing on Monday by the Senate Health Regulation Committee.

Last week the Senate Health and Human Services Appropriations Committee unveiled SB 1664, which removes the two-year limitation for Area Health Education Centers' (AHECs) smoking cessation initiative and the competitive grant requirement. The Senate Health and Human Services Appropriations Committee unanimously approved SB 1664 this week. The bill has three more committee hearings before a vote by the full Senate. The House does not have a similar proposal at this time.

Safety Belt Law Primary Enforcement - (SB 344/HB 1) - No Movement This Week

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.

Prescription Drug Purchase - (SB 574/HB 7095) - SB 574 Read a Second Time by the Full Senate

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 bill further streamlines the prescription drug purchasing process and reduces the cost.

HB 7095 by the House Health Care Regulation Policy Committee expands the

definition of manufacturer to recognize. The bill also expands the types of business entities that may qualify for the HCCE permit to include any form of corporation, partnership, association, cooperative, joint venture, business trust or sole proprietorship that provides health care or veterinary services and employs a qualifying practitioner.

SB 574 is awaiting a final vote by the full Senate. HB 7095 is on the House calendar awaiting consideration. To date the bills do not align.

Physician Assistants (PA) - (SB 720/HB 249) - HB 249 Awaiting Consideration by the Full House

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 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.

ARNPs Prescribing Controlled Substances - (SB 426/HB 1259) - No Movement to Date

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.

Continuity of Care - (SB 558/HB 263) - No Movement to Date

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.

**Health Care Management - (SB 416/HB 243)
- No Movement to Date**

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.

Neither bill has received a committee hearing to date.

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