

**Florida Academy of Family Physicians  
2021 Legislative Session  
Final Capital Update – WEEK NINE  
April 30, 2021**

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The Florida Legislature concluded its work in the early afternoon of the Session's final day, with the smooth, on-time, conclusion being indicative of the general tone of the Session. The presiding officers steered clear of any public disagreements and avoided the tit-for-tat exchanges that can cause a session to get mired in acrimony. The Legislature also handled the mechanics of managing a legislative session during a pandemic. While public access was limited, the Legislature did its best to allow remote testimony, socially distanced meetings and many, many Zoom calls with constituents. Also, during the 60-day Session the Legislature successfully pivoted from building a budget based on billions of dollars in spending cuts to, within days, building a budget with billions of dollars in federal stimulus, most of which could only be spent in "non-recurring" budget items.

A successful session, however, does not mean everyone is happy with the result. In typical fashion the Session featured spirited debate on many partisan issues, perhaps another sign of a return to normalcy in Florida.

**Doctor of the Day**

FAFP President Dr. John Gross (left) served as Doctor of the Day this week, being sponsored by Representative Ben Diamond, and FAFP Past President Dr. Dennis Saver served for a second time this session via sponsorship by Senator Debbie Mayfield. The FAFP thanks all family physicians for going the extra mile this year to serve, particularly under the circumstances surrounding COVID and lack of access to the Capital.



**Legislation Important to Florida's Family Physicians – FAFP Positions Noted**

**COVID-19 Liability Protections for Businesses & Health Care Providers – **Support – SIGNED INTO LAW****

Legislative leaders announced that an agreement had been reached on COVID-19 liability protections for businesses and health-care providers. The agreement was placed on SB 72 by Senator Jeff Brandes (R-St. Petersburg). The agreement provides procedures for COVID-19-related civil actions. **SB 72** took effect on March 29 when the Governor signed the bill and applies retroactively; however, the bill does not apply in a civil action against a particular defendant if the suit is filed before the bill's effective date.

**SB 72 passed the Senate on March 18 by a vote of 24-15 and passed the House on March 26 by a vote of 83-31. The bill was immediately enrolled and sent to the Governor who signed**

the bill into law on March 29. FAFP worked with other health care organizations in support of the legislation.

<http://laws.flrules.org/2021/1>

### **“Parents’ Bill of Rights” – Oppose – PASSED**

**HB 241** by Rep. Erin Grall (R-Vero Beach) creates the “Parents’ Bill of Rights” enumerating parental rights with respect to his or her minor child for education, health care, and criminal justice procedures. The legislation prohibits the state, its political subdivision, any other governmental entity or any other institution from infringing upon the fundamental right of a parent to direct the upbringing, education, health care, and mental health of his or her minor child. The legislation requires school districts to adopt policies that govern the plans and procedures by which each school district must promote parental involvement. School districts must also adopt notification procedures for specific parental rights. The legislation establishes parental consent requirements for, among other things, the collection of certain identifying information for a minor child and requires parental notification when a state actor suspects a child is the victim of a criminal offense but provides exceptions including when a suspected offense has been reported to law enforcement or the Department of Children and Families. Finally, the legislation requires a health care practitioner, or his or her employees, to obtain parental consent before performing health care services on a minor child and subject health care practitioners and health care facilities to disciplinary action for violation of these parental consent requirements in certain instances.

The FAFP and organized medicine objected strenuously to this bill, but in the end it was a legislative priority in the Senate. More information is to come as to the expected impact it will have on the practice of medicine.

On April 1, HB 241 passed the House by a vote of 78-37 and on April 22, the House bill passed the Senate by a vote of 24-15.

Link to Enrolled Version of HB 241:

<https://www.flsenate.gov/Session/Bill/2021/241/BillText/er>

### **PA Independent Practice – Oppose – PASSED**

**HB 431** by Rep. Bob Rommel (R-Naples), as originally filed, broadened the scope of practice for physician assistants (PAs) by allowing licensed PAs to practice autonomously. FAFP worked to remove the autonomous practice provisions in the original bill and worked to craft language to ensure that the appropriate supervision remains in place for physician assistants. Regrettably, this bill passed but the concession is the fact that the bill does not include independent practice – physician supervision is still required.

HB 431 includes the following provisions:

- Expands the number of PAs that a physician can supervise to 10.
- Reverts back to current law and clarifies that PA charts do not need to be reviewed or co-signed by the supervising physician.
- Reverts back to current law that requires the supervising physician’s name on PA prescriptions.
- Authorizes PAs to prescribe a 14-day supply of Schedule II psychiatric mental health

controlled substances for minors under 18 provided the PA is under the supervision of a pediatrician, family practice physician, internal medicine physician, or psychiatrist.

- Excludes medical use marijuana certifications from the list of documents that a PA can authenticate with their signature, certification, stamp, verification, affidavits, or endorsement.
- Clarifies that PAs may authenticate medical examinations for workers' compensation claims, except for the medical examination(s) required for the evaluation and assignment of the claimant's date of MMI and impairment rating, if any.
- Adds the American Osteopathic Association as an approved continuing medical education provider for the controlled substance course required of PAs for licensure renewal.

On April 27, HB 431 passed the Senate by a vote of 38-2 and on April 29, the House passed the House bill by a vote of 111-1.

Link to Enrolled Version of HB 431:

<https://www.flsenate.gov/Session/Bill/2021/431/BillText/er>

### **Administration of Vaccines – Oppose – PASSED**

**SB 768** by Senator Dennis Baxley (R-Ocala) expands the scope of authority for Florida-licensed pharmacists to administer immunizations and vaccines. The legislation authorizes pharmacists and registered pharmacy interns to administer any immunization or vaccine to an adult that is:

- Listed in the federal Centers for Disease Control and Prevention's (CDC) recommended vaccine or vaccine licensed in the United States by the U.S. Food and Drug Administration (FDA).
- Listed in the CDC's Health Information for International Travel;
- Authorized vaccine for emergency use by the FDA.

The legislation also repeals the specific statutory limitation to the 2015 CDC-recommended vaccines, effectively updating the reference to the CDC's Recommended Immunization Schedule as of April 30, 2021. The Board of Pharmacy (BOP) may authorize additional adult immunizations and vaccines that may be administered by pharmacists and pharmacy interns as they are added to the lists of approved immunizations and vaccines noted above. Finally, the legislation authorizes pharmacists to provide influenza vaccines to individuals age 7 and older within the framework of an established protocol under a supervising physician.

On April 21, SB 768 passed the Senate by a vote of 29-11 and on April 28, the Senate bill passed the House by a vote of 112-4.

Link to Enrolled Version of SB 768:

<https://www.flsenate.gov/Session/Bill/2021/768/BillText/er>

### **Nonopioid Alternatives – Support – PASSED**

**SB 530** by Senator Keith Perry (R-Gainesville) modifies the existing requirements regarding the non-opioid alternative pamphlets by allowing practitioners to provide each patient with an electronically transmitted copy of the DOH pamphlet as an alternative to a printed pamphlet.

On April 23, SB 530 was amended and passed the House by a vote of 108-0 and on April 27, the Senate bill passed the Senate by a vote of 40-0.

Link to Enrolled Version of SB 530:

<https://www.flsenate.gov/Session/Bill/2021/530/BillText/er>

### **Informed Consent for Pelvic Examinations – Support – PASSED**

Legislation passed in 2020 requires certain health care practitioners and medical students to obtain written consent from a patient or a patient’s representative before performing a pelvic exam. **SB 716** by Senator Lauren Book (D-Plantation) amends and narrows the definition of “pelvic examination” and amend the current law requiring written consent for all pelvic examinations performed by health care practitioners and trainees.

The legislation revises the definition of pelvic examination to mean a manual examination of the organs of the female reproductive system and revises the emergency exception to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without the written consent of the patient if the pelvic examination is necessary for the provision of emergency services and care or the patient has an emergency medical condition. The legislation adds two exceptions to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without the written parental consent if the pelvic examination is administered to conduct a:

- Child protective investigation; or a
- Criminal investigation involving child abuse or neglect.

On April 21, SB 716 passed the Senate by a vote of 40-0 and on April 27, the Senate bill passed the House by a vote of 116-0. Passage of the legislation was a victory for making burdensome legislation more reasonable.

Link to Enrolled Version of SB 716:

<https://www.flsenate.gov/Session/Bill/2021/716/BillText/er>

### **Medicaid Eligibility – Support – PASSED DURING BUDGET CONFERENCE**

A budget conforming bill, **SB 2518** by the Appropriations Committee, extends postpartum Medicaid eligibility for pregnant women to 12 months and continues the policy of retroactive Medicaid eligibility for non-pregnant adults to the first day of the month in which an application for Medicaid is submitted. Most of the funding for the \$240 extension will come from pass-through funds from the federal government with the state committing about \$92 million. Currently, pregnant women are covered for only two months after the birth of a child. According to AHCA, the additional months of eligibility under the House’s conforming bill will apply to about 97,600 Florida women each year.

Link to Budget Conference Report for SB 2518:

<https://www.flsenate.gov/Session/Bill/2021/2518/Amendment/523362>

### **Emergency Preparedness & Response Fund – Support – PASSED**

**SB 2006** by Senator Danny Burgess (R-Zephyrhills) and the Senate Select Committee on Pandemic Preparedness and Response amends the State Emergency Management Act to better address the threat posed by a pandemic or other public health emergency. The legislation:

- Authorizes the Governor, the presiding officers of the Legislature, the Lieutenant Governor, the Surgeon General, and the Director of the Division of Emergency Management to disseminate public service announcements during an emergency.
- Requires the Division of Emergency Management to acquire and maintain a supply of personal protective equipment.
- Creates a resumption that K-12 public schools should remain open during an extended public health emergency so long as the health and safety of students and school personnel can be maintained.

- Requires emergency orders by subdivision that infringe rights or liberties, be narrowly tailored to serve a “compelling public health or safety purpose” and limits those emergency orders to 7 days.
- Authorizes the Governor to invalidate an order that unnecessarily restricts individual rights or liberties.
- Prohibits governmental, educational, and business entities to require proof of COVID-19 vaccination or recovery to receive services.

On April 29, SB 2006 passed the Senate by a vote of 23-15 and the Senate bill passed the House by a vote of 78-36.

**SB 1892** by Senator Manny Diaz (R-Hialeah) creates the Emergency Preparedness and Response Fund within the Executive Office of the Governor. Moneys specifically appropriated to the fund are available as a primary funding source for the Governor for purposes of preparing or responding to a disaster declared by the Governor as a state of emergency that exceeds regularly appropriated funding sources. In accordance the Florida Constitution, the fund terminates on July 1, 2025 and before it terminates the Division of Emergency Management and the Governor must recommend to the Legislature whether to recreate the fund or allow it to terminate.

On April 22, SB 1892 passed the Senate by a vote of 37-0 and on April 28, the Senate bill passed the House by a vote of 113-1.

Link to Enrolled Version of SB 2006:

<https://www.flsenate.gov/Session/Bill/2021/2006/BillText/er>

Link to Enrolled Version of SB 1892:

<https://www.flsenate.gov/Session/Bill/2021/1892/BillText/er>

### **Dispensing Medicinal Drugs – Support – PASSED**

**SB 262** by Senator Gayle Harrell (R-Stuart) authorizes hospitals to dispense 48-hour supply of medicinal drugs to the patient of an emergency room of the hospital or a patient discharged from a hospital.

On April 22, SB 262 passed the Senate by a vote of 40-0 and on April 28, the Senate bill passed the House by a vote of 117-0.

Link to Enrolled Version of SB 262:

<https://www.flsenate.gov/Session/Bill/2021/262/BillText/er>

### **Health Care Practitioner Discipline – Support – PASSED**

**SB 1934** by Senator Lauren Book (D-Plantation) adds to the list of offenses that are grounds for disciplinary action against the license of any health care practitioner regulated by the Department of Health (DOH), for:

- Being convicted, found guilty, pleading guilty, or pleading nolo contendere, regardless of adjudication, to any of the crimes listed in s. 456.074(5), F.S., as amended; or
- Attempting, soliciting, or conspiring to commit an act that would constitute a crime listed in s. 456.074(5), F.S., or similar crime in another jurisdiction.

The legislation also adds homicide, as well as certain offenses involving minors, to the list of offenses that require DOH to issue an Emergency Suspension Order (ESO). The legislation directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to analyze state laws and rules relating to grounds for health care practitioner

discipline and ESOs of licenses, specifically with respect to criminal offenses, and to report to Executive and Legislative Branch leadership by January 1, 2022.

On April 21, SB 1934 passed the Senate by a vote of 40-0 and the Senate bill passed the House on April 27 by a vote of 116-0.

Link to Enrolled Version of SB 1934:

<https://www.flsenate.gov/Session/Bill/2021/1934/BillText/er>

### **Consumer Protection Against Fraud During a Pandemic – Monitor – PASSED**

**HB 9** by Rep. Ardian Zika (R-Land O' Lakes) establishes criminal penalties and authorizes civil remedies for those knowingly and willfully making a false or misleading statement or disseminating false or misleading information regarding the availability of, or access to, a COVID-19 vaccine.

On March 5, HB 9 passed the House by a vote of 113-0 and on April 27, the House bill passed the Senate by a vote of 40-0.

Link to Enrolled Version of HB 9:

<https://www.flsenate.gov/Session/Bill/2021/9/BillText/er>

### **Sex-specific Student Athletic Teams or Sports – PASSED**

Provisions contained in **SB 2012** by Senator Kelli Stargel (R-Lakeland) and **HB 1475** by Rep. Kaylee Tuck (R-Lake Placid) were amended late in the session by the House to **SB 1028** relating to charter schools. Specifically, the amended bill:

- Creates the Fairness in Women's Sports Act.
- Requires interscholastic, intercollegiate, intramural, or club athletic teams or sports sponsored by a public secondary school or public postsecondary institution to be designated as one of the following based on the biological sex at birth of team members:
  - Males, men, or boys;
  - Females, women, or girls; or
  - Coed or mixed, including both males and females.
- Specifies athletic teams or sports designated for males, men, or boys may be open to students of the female sex.
- Specifies athletic teams or sports designated for females, women, or girls may not be open to students of the male sex.
- Establishes that a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex if the statement was filed at or near the time of the student's birth.
- Provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the bill's provisions. All such civil actions must be brought within two years after the alleged harm occurred.

On April 28, SB 1028 passed the House by a vote of 79-37 and passed the Senate by a vote of 24-16.

Link to Enrolled Version of SB 1028:

<https://www.flsenate.gov/Session/Bill/2021/1028> (Enrolled Pending)

### **PIP - Motor Vehicle Insurance Reforms – Monitor – PASSED**

**SB 54** by Senator Danny Burgess (R-Zephyrhills) repeals Florida's Motor Vehicle No-Fault law which requires every owner and registrant of a motor vehicle in this state to maintain

Personal Injury Protection (PIP) coverage. The legislation replaces the No-Fault law with mandatory bodily injury coverage and create a new framework to govern motor vehicle claim handling and third party bad faith failure to settle actions against motor vehicle insurance carriers. SB 54 requires insurers to offer medical payments coverage (MedPay). The bill also specifies that insurers must reserve the first \$5,000 of MedPay benefits for 30 days to pay physicians and dentists for emergency services or hospital inpatient care. After the 30 days, the insurer can pay other claims.

On April 14, SB 54 passed the Senate by a vote of 38-1 and on April 26, the Senate bill was amended and passed the House by a vote of 99-11.

Link to Enrolled Version of SB 54:

<https://www.flsenate.gov/Session/Bill/2021/54> (Enrolled Pending)

### **Protecting DNA Privacy Act – Monitor – PASSED**

**HB 833** by Representative Josie Tomkow (R-Polk City) amends the statutes dealing with the unlawful use of DNA. Specifically, HB 833 prohibits DNA analysis and disclosure of results of such analysis without authorization and prohibits the transfer of a DNA sample without express consent. DNA sample is defined to mean any human biological specimen from which DNA can be extracted. The bill provides criminal penalties for specified violations. HB 833 provides an exemption for research institutions and data banking. More information will be forthcoming as to the extent of potential problems for family physicians.

On April 29, HB 833 passed the Senate by a vote of 22-18 and the House by a vote of 85-28.

Link to Enrolled Version of HB 833:

<https://www.flsenate.gov/Session/Bill/2021/833/BillText/er>