

**Florida Academy of Family Physicians
2021 Legislative Session
Capital Update - WEEK EIGHT
April 23, 2021**

The Legislature completed week eight of its scheduled nine-week legislative session. Budget negotiations have been bumpy and there's talk of the Legislature possibly not concluding on time, although the presiding officers are still optimistic. Dozens of high-profile bills are still being negotiated, but many bills are dying as indicated below. All in all, a fairly typical prelude to the last week of the legislative session, but every legislative session also has a unique twist and this year it may be a gaming Compact. Governor DeSantis and the Seminole Tribe of Florida announced agreement on a new thirty-year gaming Compact. In order to take effect, the new Compact must be ratified by the Legislature. Legislative leaders recently announced that the Legislature will convene a Special Session during the week of May 17th to review the Compact and related issues. As usual, many moving parts as the legislative session nears the finish line.

Doctor of the Day



FAFP Government Relations Committee member Dr. Karen Bartley served as Doctor of the Day on Friday April 23 via sponsor Senator Lorraine Ausley. Remarkably, stealing a baseball reference, she actually went 2 for 2 on the day! When the Senate cancelled their planned session on the chamber floor, she quickly reached out to her local House member Representative Jason Shoaf's office and ended up spending the afternoon in the House chamber serving as doctor of the day. Yet another example of the resiliency and adaptability of family physicians in action - well done Dr. Bartley!

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. <https://www.flsenate.gov/Session/Bill/2021/72/BillText/er>

“Parents’ Bill of Rights” – Oppose – PASSED

SB 582 by Senator Ray Rodrigues (R-Estero) and **HB 241** by Rep. Erin Grall (R-Vero Beach) create 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 bills prohibit 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 bills require 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 bills establish parental consent requirements for, among other things, the collection of certain identifying information for a minor child. The bills require 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. The bills also require 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.

On April 1, HB 241 passed the House by a vote of 78-37 and on April 22 passed the Senate by a vote of 24-15. The bill will now be sent to the Governor for final action. The FAFP and organized medicine have significant concerns with this bill but this 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.

Link to Enrolled Version of HB 241:

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

APRN Scope of Practice Expansion – Oppose

HB 111 by Rep. Randy Maggard (R-Dade City), **SB 424** by Senator Jeff Brandes (R-St. Petersburg) allow advanced practice registered nurses (APRN) to engage in full independent practice by removing the current restriction to primary care practice.

FAFP is actively opposing these bills and neither bill has been heard by any House or Senate committees so the bill is dead.

Link to HB 111: <https://www.flsenate.gov/Session/Bill/2021/111>

Link to SB 424: <https://www.flsenate.gov/Session/Bill/2021/424>

PA Independent Practice – Oppose

HB 431 by Rep. Bob Rommel (R-Naples) and **SB 894** by Senator Manny Diaz (R-Hialeah) broaden 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 bill and worked to craft language adopted this week in the House to ensure that the appropriate supervision remains in place for physician assistants.

HB 431 was amended by the House to include the following provisions:

- Authorizes PAs to prescribe 14-day supplies of Schedule II psychiatric controlled substances for minors under 18 years of age under the supervision of a family practice physician, a pediatrician, an internal medicine physician, or a psychiatrist.
- Authorizes physicians to supervise up to 10 physician assistants at a time. Current law limits the number of physician assistants a doctor can supervise to four.

- Allows physician assistants to sign Baker Act orders, death certificates, do-not-resuscitate orders, medical evaluations for workers' compensation, school physical examinations, and orders for physical therapy and occupational therapy.

On April 14, HB 431 passed the House by a vote of 106-5 and was referred to the Senate Appropriations Committee. On April 21, SB 894 passed the Appropriations Committee by a vote of 17-3 and the bill is on the calendar of bills that the full Senate will consider on April 26. Regrettably, this bill is likely to pass but the concession is that fact that it does not include independent practice – physician supervision is still required.

Link to HB 431: <https://www.flsenate.gov/Session/Bill/2021/431>

Link to SB 894: <https://www.flsenate.gov/Session/Bill/2021/894>

Psychologist Prescribing – Oppose

SB 160 by Senator Jeff Brandes (R-St. Petersburg) and **HB 687** by Representative Ramon Alexander (D-Tallahassee) allow certified, licensed psychologists to prescribe, administer, discontinue, and distribute prescription drugs, including controlled substances.

With neither bill receiving a committee hearing, the bills are dead but expected to come back next year.

Link to SB 160: <https://www.flsenate.gov/Session/Bill/2021/160>

Link to HB 687: <https://www.flsenate.gov/Session/Bill/2021/687>

Optometry – Oppose

SB 876 by Senator Manny Diaz (R-Hialeah) and **HB 631** expand the scope of practice for certified optometrists to perform laser and non-laser ophthalmic procedures and therapies under certain circumstances.

HB 631 is in the Health and Human Services Committee, the final committee hearing. SB 876 has two hearings remaining – Appropriations Subcommittee on Health and Human Services and Appropriations. It is unlikely the bills will pass.

Link to SB 876: <https://www.flsenate.gov/Session/Bill/2021/876>

Link to HB 631: <https://www.flsenate.gov/Session/Bill/2021/631>

Administration of Vaccines – Oppose

SB 768 by Senator Dennis Baxley (R-Ocala) and **HB 1063** by Rep. Juan Fernandez-Barquin (R-Miami) expand the scope of authority for Florida-licensed pharmacists to administer immunizations and vaccines. The bills authorize 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 bills also repeal 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 bills authorize pharmacists to provide influenza vaccines to individuals age 7 and older within the framework of an established protocol under a supervising physician. **HB 1063 is on the calendar of bills ready to be considered by the full House. On April 21, SB 768 passed the Senate by a vote of 29-11.**

Link to SB 768: <https://www.flsenate.gov/Session/Bill/2021/768>

Link to HB 1063: <https://www.flsenate.gov/Session/Bill/2021/1063>

Step-therapy Protocol Exemptions – Support

SB 1290 by Senator Ed Hooper (R-Clearwater) and **HB 1001** by Rep. Matt Willhite (D-Wellington) require health insurers to publish on their website, and provide in writing to the insurer, procedures to request step therapy protocol exemptions. The procedure must include:

- The manner in which an insured patient or health care provider may request a protocol exemption;
- The manner and timeframe in which the health insurer or HMO is required to authorize or deny a protocol exemption request; and,
- The manner and timeframe in which an insured patient may appeal the denial of a request.

An insurer or HMO denying a protocol exemption request must provide a written explanation of the denial, including the clinical rationale supporting the denial. The written explanation must also describe the procedure for appealing the determination by the insurer or HMO.

HB 1001 is on the calendar of bills available for consideration by the full House, but SB 1290 has not been heard by any Senate committees so the legislation is unlikely to pass.

Link to SB 1290: <https://www.flsenate.gov/Session/Bill/2021/1290>

Link to HB 1001: <https://www.flsenate.gov/Session/Bill/2021/1001>

Access to Health Care Practitioner Services – Oppose

HB 803 by Rep. Mike Caruso (R-Delray Beach) and **SB 1680** by Senator Ana Maria Rodriguez (R-Doral) exempt physicians and osteopathic physicians who provide pro bono services from continuing education requirements, allows the board to issue a limited number of restricted licenses to physicians not licensed in Florida to practice for 36 months in certain settings. The bills also increase the federal poverty level from 200 to 400 for the Access to Health Care Act.

SB 1680 is in the Appropriations Subcommittee on Health and Human Services. HB 803 is on the calendar of bills ready for House floor consideration, after being postponed on the House floor on April 20. The FAFP opposes the out of state physician component but the legislation is likely to pass.

Link to HB 803: <https://www.flsenate.gov/Session/Bill/2021/803>

Link to SB 1680: <https://www.flsenate.gov/Session/Bill/2021/1680>

Nonopioid Alternatives – Support

SB 530 by Senator Keith Perry (R-Gainesville) and **HB 725** by Rep. Scott Plakon (R-Longwood) modify 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.

SB 530 also prohibited health insurance policies from requiring that treatment with an opioid analgesic drug product or abuse-deterrent opioid analgesic drug product be attempted and have failed before authorizing the use of a nonopioid-based analgesic drug product. An amendment to SB 530 was adopted to remove this provision and make the bills identical.

On March 18, SB 530 passed the Senate by a vote of 39-0 and on April 23, SB 530 was amended and passed the House by a vote of 108-0. The bill was sent back to the Senate for final consideration and is expected to pass.

Link to SB 530: <https://www.flsenate.gov/Session/Bill/2021/530>

Informed Consent for Pelvic Examinations – Support

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) and **HB 361** by Rep. Evan Jenne (D-Dania Beach) amend and narrow the definition of “pelvic examination” and amend the current law requiring written consent for all pelvic examinations performed by health care practitioners and trainees.

HB 361 revises the definition of pelvic examination to mean a manual examination of the organs of the female reproductive system. The bill also 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 House bill 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 HB 361 is on the calendar of bills ready for consideration on the House floor. The bill is expected to pass, a victory for making burdensome legislation more reasonable.

Link to SB 716: <https://www.flsenate.gov/Session/Bill/2021/716>

Link to HB 361: <https://www.flsenate.gov/Session/Bill/2021/361>

Medicaid Eligibility – Support

A budget conforming bill, **HB 5201** by the Health Care 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. The bill is supported by House Speaker Chris Sprowls (R-Palm Harbor) and the bipartisan Florida Woman’s Legislative Caucus.

House and Senate budget conference negotiations are still ongoing; however, on April 23, the House Appropriations Chair Jay Trumbull held at their original offer of 12 months of extended coverage for post-partum women. This will come down to a last week decision.

Link to HB 5201: <https://www.flsenate.gov/Session/Bill/2021/5201>

Emergency Preparedness & Response Fund – Support

HB 7047 by the House Pandemics & Public Emergencies Committee and Chair Tom Leek (R-Ormond Beach) and **SB 2006** by Senator Danny Burgess (R-Zephyrhills) and the Senate Select Committee on Pandemic Preparedness and Response amend the State Emergency Management Act to better address the threat posed by a pandemic or other public health emergency. Among the provisions, the legislation specifies that the State Emergency Management Act applies to pandemics and other public health emergencies, requires the Department of Health to create a state public health emergency management plan, and requires the Division of Emergency Management to acquire and stockpile an inventory of state-owned personal protective equipment. Additionally, the bills limit state emergency orders, proclamations, and rules to 60-day durations that can be renewed as long as the emergency conditions persist.

The legislation was amended this week to limit local emergency orders and make permanent the Governor’s executive order barring COVID-19 passports indicating that people have been vaccinated. The bills also include rules that would prevent government agencies from issuing COVID-19 passports and bar Florida businesses from requiring customers to show documentation that they have been vaccinated or have recovered from COVID-19. Under the proposal, businesses, government agencies and educational institutions requiring people to show proof of vaccination for entry or service could be fined up to \$5,000 by the Department of Health. The legislation also requires local emergency orders to be narrowly drawn to reduce “infringement on individual liberty” and to be extended in seven-day increments for a total duration of 42 days. The bills also allow the Governor, Lieutenant Governor, Director of the Division of Emergency Management, Surgeon General, Senate President and House Speaker to issue public-service announcements during a declared state of emergency. SB 2006 also limits local government orders to 10 days without approval by a majority vote of the political subdivision's governing body.

On April 19, HB 7047 passed the Health and Human Services Committee by a vote of 14-7 and the bill is ready to be considered by the full House. SB 2006 has already passed the Senate by a vote of 27-9 (April 22).

Link to HB 7047: <https://www.flsenate.gov/Session/Bill/2021/7047>

Link to SB 2006: <https://www.flsenate.gov/Session/Bill/2021/2006>

Dispensing Medicinal Drugs – Support

HB 29 by Rep. Matt Willhite (D-Wellington) and **SB 262** by Senator Gayle Harrell (R-Stuart) authorize 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.

HB 29 is on the calendar of bills ready for House floor consideration.

On April 22, SB 262 passed the Senate by a vote of 40-0.

Link to HB 29: <https://www.flsenate.gov/Session/Bill/2021/29>

Link to SB 262: <https://www.flsenate.gov/Session/Bill/2021/262>

Telehealth – Support

HB 247 by Rep. Tom Fabricio (R-Miramar) allows practitioners to prescribe schedule III, IV, and V controlled substances using telehealth services and retains current law restrictions on prescribing Schedule II controlled substances through telehealth.

SB 700 by Senator Ana Maria Rodriguez (R-Doral) was amended in committee and now contains the following provisions:

- Authorizes AHCA to reimburse for telehealth under the Medicaid program.
- Allowing out-of-state providers who are registered and enrolled in Florida Medicaid as an out-of-state provider to be reimbursed for telehealth services provided to recipients in this state.
- Expands the definition of “telehealth” in s. 456.47, F.S., to include:
 - A telehealth provider’s supervision of health care services through the use of synchronous and asynchronous telecommunications technology.
 - Telephone calls, emails, fax transmissions, and other nonpublic-facing telecommunications.
- Authorizing a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule III, IV, and V controlled substances through telehealth and may use telehealth to prescribe Schedule II controlled substances if they are prescribed for the treatment of certain conditions, including the treatment of a psychiatric disorder.
- A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule I of s. 893.03 or to issue a physician certification for marijuana for medical use under s. 381.986.
- Providing additional long-acting medications by injection that pharmacists may administer to include an extended-release medication to treat opioid use disorder, alcohol use disorder, or other substance use disorder or dependency, including buprenorphine, naltrexone, or other medications that have been approved by the FDA. The pharmacist seeking to administer these medication must complete an 8-hour continuing education course.
- Revising an exemption from the telehealth registration requirements when performed in consultation with a health care professional licensed in Florida who has authority over the diagnosis and care of the patient.

On April 22, HB 247 passed the House by a vote of 118-0 and SB 700 is in the Appropriations Committee, its final committee reference, but is expected to pass.

Link to HB 247: <https://www.flsenate.gov/Session/Bill/2021/247>

Link to SB 700: <https://www.flsenate.gov/Session/Bill/2021/700>

Prohibited Acts by Health Care Practitioners – Support

HB 721 by Rep. Ralph Massullo and **SB 1142** by Senator Ray Rodrigues (R-Estero) prohibit health care practitioners from using certain specialty designations. The term "anesthesiologist" may only be used by licensed physicians and licensed dentists and the term "dermatologist" may only be used by licensed physicians. SB 1142 also adds the making of misleading, deceptive, or fraudulent representations related to a practitioner’s specialty designation as grounds for discipline. HB 721 was amended this week to require DOH to issue a notice to cease and desist to a practitioner who violates the bill’s provisions.

On April 19, HB 721 passed the Health & Human Services Committee by a vote of 20-0 and on April 23, the bill passed the House by a vote of 97-11. SB 1142 is in the Appropriations

Committee, its final reference. A [proposed committee substitute](#) has been drafted to the bill which is expected to pass.

Link to HB 721: <https://www.flsenate.gov/Session/Bill/2021/721>

Link to SB 1142: <https://www.flsenate.gov/Session/Bill/2021/1142>

Health Care Practitioner Discipline – Support

SB 1934 by Senator Lauren Book (D-Plantation) and **HB 1579** by Rep. Vance Aloupis (R-Miami) add 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 bills also add homicide, as well as certain offenses involving minors, to the list of offenses that require DOH to issue an Emergency Suspension Order (ESO). The bills also direct 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, HB 1579 was postponed by the House in order to wait for the Senate bill.

On April 21, SB 1934 passed the Senate by a vote of 40-0.

Link to SB 1934: <https://www.flsenate.gov/Session/Bill/2021/1934>

Link to HB 1579: <https://www.flsenate.gov/Session/Bill/2021/1579>

PIP - Motor Vehicle Insurance Reforms – Monitor

SB 54 by Senator Danny Burgess (R-Zephyrhills) and **HB 719** by Rep. Erin Grall (R-Vero Beach) repeal 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. SB 54 and HB 719 replace 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. Both bills have provisions dealing with medical payments coverage (MedPay) to cover medical expenses of the insured. While the Senate bill requires MedPay coverage, the House bill was amended to allow individuals to opt-out. The bills also specify that insurers must reserve the first \$5,000 of Med Pay benefits for 30 days to pay physicians and dentists for emergency services or hospital inpatient care.

On April 14, SB 54 passed the Senate by a vote of 38-1 and on April 23, the Senate bill was considered by the full House. A final vote by the House on SB 54 is expected on April 26.

While a priority bill for certain specialties, family medicine should not be significantly impacted.

Link to SB 54: <https://www.flsenate.gov/Session/Bill/2021/54>

Consumer Protection Against Fraud During a Pandemic – Monitor

HB 9 by Rep. Ardian Zika (R-Land O' Lakes) and **SB 1608** by Senator Aaron Bean (R-Fernandina Beach) establish 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.

HB 9 is on the Senate calendar of bills ready to be considered by the full Senate.

SB 1608 is in the Rules Committee, its last committee reference.

Link to HB 9: <https://www.flsenate.gov/Session/Bill/2021/9>

Link to SB 1608: <https://www.flsenate.gov/Session/Bill/2021/1608>

Department of Health Package – Support

SB 1568 filed by Senator Ana Maria Rodriguez (R-Doral) and **HB 1565** by Rep. Brad Drake (R-Eucheeanna) are the Department of Health’s legislative package this session. The bills make numerous changes to programs under the Department of Health (DOH) and health care professions regulated by the Division of Medical Quality Assurance (MQA) within DOH. Specifically, SB 1568:

- Requires DOH to educate pregnant women who have HIV with information on the need for antiretroviral medication for their newborn, their medication options, and how they can access the medication after they are discharged from the hospital.
- Updates institutional accreditation references for chiropractic medicine, clinical laboratory personnel, and mental clinical social workers and marriage and family therapists;
- Authorizes DOH to deny a nursing application or discipline a nurse under certain circumstances;
- Removes obsolete references to DOH-issued licensure examinations for clinical social workers and marriage and family therapists;
- Revises education, training, and temporary certification requirement for midwives;
- Removes obsolete form and fee requirements for fingerprinting of orthotists and prosthetists;
- Revises educational requirements for psychologists applying for licensure by endorsement;
- Requires 911 public safety telecommunicators to receive telecommunicators cardiopulmonary resuscitation training every two years;
- Allows DOH to continue to issue licenses to marriage and family therapy graduates until July 1, 2026, while such programs seek accreditation; and
- Provides additional long-acting medications by injection that pharmacists may administer to include an extended-release medication to treat opioid use disorder, alcohol use disorder, or other substance use disorder or dependency, including buprenorphine, naltrexone, or other medications that have been approved by the FDA; and
- Allows health care providers to use telehealth to prescribe a controlled substance listed in Schedule III, Schedule IV, or Schedule V. No changes were made to controlled II substances.

On April 15, HB 1565 was scheduled to be considered by the full House; however, the bill was postponed.

Link to SB 1568: <https://www.flsenate.gov/Session/Bill/2021/1568>

Link to HB 1565: <https://www.flsenate.gov/Session/Bill/2021/1565>