

**Florida Academy of Family Physicians**  
**2022 Legislative Session Interim Legislative Update**  
November 5, 2021

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Legislators continued their work preparing for the January 11<sup>th</sup> start of the 2022 Legislative Session. Legislative leaders were also busy preparing for the November 15-19 special session which was announced by Governor Ron DeSantis in a [proclamation](#) late last week.

The Governor has called on legislators to, among other things, ensure employees improperly denied employment due to their COVID-19 vaccination status are eligible for reemployment benefits and ensure employees injured by the vaccination because of a company policy are covered by workers' compensation.

On November 4<sup>th</sup>, the Biden Administration released two policies designed to increase the number of vaccinated Americans. U.S. Department of Labor [Occupational Safety and Health Administration \(OSHA\) Emergency Temporary Standard \(ETs\)](#) requires employers 100 or more employees, by January 4<sup>th</sup>, to ensure their employees are fully vaccinated or submit to weekly testing. It also requires employers to provide paid time for employees to receive the vaccination and ensure all unvaccinated employees wear masks in the workplace.

Also released was the [Centers for Medicare and Medicaid Services \(CMS\) vaccine requirements](#) which calls for employees at health care facilities participating in Medicaid and Medicaid to be fully vaccinated. The State of Florida has joined several other states in a lawsuit against the federal contractor mandate.

**Results of Congressional District 20 Special Election** | On November 2<sup>nd</sup>, the primary election was held to fill the seat for a South Florida Congressional seat vacated by the recent death of Democratic Congressman Alcee Hastings. Three sitting Florida state legislators – Representatives Bobby DuBose and Omari Hardy and Senator Perry Thurston resigned their seats to enter the race. When the dust settled, Dale Holness held an 11-vote lead over Sheila Cherfilus-McCormick in the Democratic primary. That margin of victory is within the .5% threshold triggering a machine recount.

**Discussions on Mental Health and Substance Abuse** | Several legislative committees have discussed mental health and substance abuse issues over the last couple of weeks. Reports from the Department of Veterans Affairs have outlined available mental health and suicide prevention services. Further, the Senate Appropriations Subcommittee on Health and Human Services heard from the Department of Children and Families (DCF) about increases in mental health and substance abuse funding. The Senate Children, Families and Elder Affairs received presentations from the DCF on the state's behavioral health system and the Statewide Office of Suicide Prevention. An update on the implementation of [SB 7012](#) from the 2020 session was given, along with the status of the Mental Health and Substance Abuse Commission established in 2020. Further, a stakeholder panel discussion was held on the behavioral health system, the Baker Act, the Marchman Act, and suicide prevention for first responders.

Below are the videos and the meeting materials from three committees that addressed mental health and substance abuse issues:

- Senate Children, Families & Elder Affairs Committee [video](#) and [meeting packet](#)
- Senate Appropriations Subcommittee on Health & Human Services [video](#) and [meeting packet](#)
- Senate Military Affairs, Space & Domestic Affairs [video](#) and [meeting packet](#)

**2022 Doctor of the Day Program** | The application for the Legislature's Doctor of the Day Program has been released and now is the time for FAFP members to express their desire to volunteer for this program. A physician is designated for each day of the nine-week session and plays an important role in the FAFP's advocacy efforts. For further information, please contact FAFP Executive Vice President Jay Millson at [jmillson@fafp.org](mailto:jmillson@fafp.org).

### **[Legislation Moving During the Recent Committee Week \(alphabetically\)](#)**

#### **Medicaid Modernization |**

[SB 330](#) by Sen. Jason Brodeur (R-Sanford) authorizes the Agency for Health Care Administration (AHCA) to reimburse for remote patient monitoring and store-and-forward services as optional services in the Florida Medicaid program.

#### **Newborn Screening |**

[SB 292](#) by Sen. Tina Polsky (D-Boca Raton) requires each newborn be tested for cytomegalovirus before three weeks of age. The bill also adds physicians to the list of practitioners to whom a parent may be referred to obtain the required newborn hearing screening after a home birth.

#### **Telehealth Expansion |**

[SB 312](#) by Sen. Manny Diaz (R-Hialeah) removes a provision in the definition of telehealth that excludes audio-only telephone calls. The bill also allows a telehealth provider to issue a renewal prescription for a Schedule III, IV or V controlled substance through telehealth, within the scope of his or her practice. The House companion is [HB 17](#) by Rep. Tom Fabricio (R-Miramar).

### **[Newly Filed Legislation \(alphabetically\)](#)**

#### **Alzheimer's Disease and Dementia-related Disorders Awareness |**

[SB 806](#) by Sen. Keith Perry (R-Gainesville) requires the Department of Health (DOH), in collaboration with the Department of Elderly Affairs (DOEA) and the Alzheimer's Association, to develop and disseminate information on Alzheimer's disease and dementia-related disorders to health care practitioners. The bill also requires DOH to encourage health care providers to display the information in their facilities and discuss the information with patients 60 years of age or older. The House companion is [HB 475](#) by Rep. Michelle Salzman (R-Pensacola).

### **Clinician-Administered Drugs |**

[SB 748](#) by Sen. Manny Diaz (R-Hialeah) prohibits specified insurer practices related to reimbursements, payment, access, dispensing, or coverage of clinician-administered drugs.

### **Medication Technicians |**

[SB 836](#) by Sen. Jason Brodeur (R-Sanford) defines the term “medication technician” and establishes minimum requirements and training. The bill also allows medication technicians to assist a resident with self-administration of medications.

### **Step Therapy Protocols |**

[SB 730](#) by Sen. Gayle Harrell (R-Stuart) requires health insurers to publish on their websites and provide to their insureds with step therapy protocol exemption procedures. A companion measure – [HB 459](#) – has been filed by Rep. Matt Willhite (D-Wellington).

### **Telehealth Payment |**

[SB 726](#) by Sen. Lorraine Ausley (D-Tallahassee) requires health insurers to reimburse a telehealth provider for the diagnosis, consultation, or treatment of any insured person provided through telehealth on the same basis and at least at the same rate that the health insurer would reimburse if the covered service were delivered through an in-person encounter. It also prohibits health insurers from imposing copayments, coinsurance, deductibles as well as policy year, calendar year or lifetime limits for benefits provided through telehealth. Insurers also may not require a covered benefit to be provided through telehealth. Thus far, a House companion has not been filed.

### **Vaccinations During Public Health Emergencies |**

[HB 6069](#) by Rep. Jason Shoaf (R-Blountstown) removes authority of the State Health Officer to order the vaccination of individuals upon declaration of a public health emergency. A companion measure – [SB 734](#) – has been filed by Sen. Joe Gruters (R-Sarasota).

## **Other Bills of Interest Family Physicians (alphabetically)**

### **Abortion Rights |**

[HB 167](#) by Rep. Webster Barnaby (R-Deltona) requires physicians to conduct a test for, and inform women seeking abortions of, the presence of a detectable fetal heartbeat. The bill also prohibits physicians from performing or inducing an abortion if a fetal heartbeat is detected and authorizes a private civil cause of action for violations of the statutory requirement.

### **Alternative Treatments for Mental Health Treatment |**

[SB 348](#) by Sen. Lauren Book (D-Plantation) and [HB 193](#) by Rep. Michael Grieco (D-Miami Beach) require the Department of Health, in collaboration with the Board of Medicine, to conduct a study regarding the use of alternative therapies, including the use of 3,4-methylenedioxymethamphetamine, psilocybin, and ketamine, in treating mental health.

### **COVID-19 Liability Extension |**

[SB 610](#) by Sen. Jeff Brandes (R-St. Petersburg) extends the timeframe shielding many health care providers from certain liability claims through December 31, 2023.

### **Electrocardiograms for Student Athletes |**

[HB 59](#) by Rep. Fred Hawkins (R-St. Cloud) requires certain high school students to receive an electrocardiogram to participate in interscholastic athletic competitions.

### **Health Insurance Prior Authorization |**

[HB 564](#) by Sen. Gayle Harrell (R-Stuart) prohibits HMOs from excluding coverage for cancer treatment drugs used for the treatment of stage 4 metastatic cancer and its associated conditions, prohibits health insurers from mandating home infusion of cancer medications. The bill also provides that prior authorization forms may only contain information that is necessary for the determination of medical necessity or coverage for the requested medical procedure, course of treatment, or prescription drug benefit. Lastly, the bill requires insurers to publish on their website and provide insureds in writing protocol exception procedures.

### **Medicaid Eligibility |**

[HB 27](#) by Rep. Geraldine Thompson (D-Windermere) expands Medicaid eligibility and coverage to adults who are under 65 who have an income equal to or below 133 percent of the federal poverty level.

### **Medicaid Proposed Constitutional Amendment |**

[SJR 412](#) by Sen. Annette Taddeo (D-Miami) and [HJR 239](#) by Rep. Felicia Robinson (D-Miami Gardens) propose an amendment to the State Constitution to require amending the state Medicaid plan to provide Medicaid coverage to persons under age 65 with income equal to or below 138 percent of the federal poverty level, matching the maximum allowed under the American Healthcare Act (ACA).

### **Overpayment of Claims |**

[SB 440](#) by Sen. Gayle Harrell (R-Stuart) shortens the timeframe for when a health insurer can claim an overpayment by a provider.

### **Pharmacies & Pharmacy Benefit Managers |**

The Florida Pharmacy Act establishes a set of protections for licensed pharmacies regarding audits by Pharmacy Benefits Managers (PBMs) and other payers. [HB 357](#) by Rep. Jackie Toledo (R-Tampa) transfers the audit provisions of the Florida Pharmacy Act to the Florida Insurance Code, giving the Office of Insurance Regulation (OIR) the authority to enforce these provisions and respond to potential violations.

### **Physician Certifications for Medical Marijuana |**

[SB 164](#) by Sen. Jeff Brandes (R-St. Petersburg) authorizes qualified physicians to perform patient examinations and evaluations through telehealth for renewals of physician certifications for the medical use of marijuana. [SB 326](#) also by Sen. Brandes deletes the requirement that qualified physicians be physically present in the same room as their

patients when conducting an examination for physician certification for the medical use of marijuana and authorizes qualified physicians to conduct the examinations through telehealth.

**Psychologist Prescribing – OPPOSE |**

[HB 319](#) by Rep. Ramon Alexander (D-Tallahassee) and [SB 540](#) by Sen. Jeff Brandes (R-St. Petersburg) allow certified, licensed psychologists to prescribe, administer, discontinue, and distribute prescription drugs, including controlled substances. The legislation is identical to legislation filed during the 2021 Legislative Session.

**Recovery of Damages in Medical Negligence Claims |**

[HB 6011](#) by Rep. Spencer Roach (R-North Fort Myers) and [SB 262](#) by Sen. Ana Maria Rodriquez (R-Doral) authorizes parents of adult children to recover damages for mental pain and suffering in medical negligence suits.

[HB 6039](#) by Rep. Yvonne Hinson (D-Gainesville) and [SB 560](#) by Sen. Ana Maria Rodriguez (R-Doral) deletes the current prohibition on adult children of decedents recovering damages in medical negligence claims.

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We hope this summary is helpful. If you have any questions or need additional information, please don't hesitate to contact us.