

FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION
2544 Blairstone Pines Drive
Tallahassee, FL 32301
850-878-7364
FAX: 850-942-7538

From: Paul Seltzer, DO, Legislative Chairman
Stephen R. Winn, Executive Director
Jason D. Winn, Esq., General Counsel
William B. Hightower, Director of Governmental Relations
Ryan Kimmey, Assist. Director of Governmental Relations

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The Florida Legislature wrapped up its 8th week of the 9-week regular session. Budget conferences met this week to settle the differences between the two chambers. Any unresolved issues will be bumped to budget chairs Rep. Trujillo and Sen. Bradley. After that, any differences remaining will be settled by Speaker of the House Richard Corcoran and Senate President Joe Negron.

Gun and School Safety

On Friday, Senate President Joe Negron ordered a rare Saturday floor session to discuss the Senate’s gun and school safety proposals.

Although not a health care issue, many are interested in the legislation being moved in the aftermath of the Parkland shooting. The Senate’s proposal is SB 7026 and the House’s proposal is HB 7101. The two chambers passed their respective bills through committees and are expected to debate and vote on the bills next week. For more information please see the following:

Senate bill: <http://www.flsenate.gov/Session/Bill/2018/7026/BillText/c1/PDF>

Senate analysis: <http://www.flsenate.gov/Session/Bill/2018/7026/Analyses/2018s07026.ap.PDF>

House bill: <http://www.flsenate.gov/Session/Bill/2018/7101/BillText/Filed/PDF>

House analysis: <http://www.flsenate.gov/Session/Bill/2018/7101/Analyses/h7101.APC.PDF>

Tuesday

PASSED/MONITOR **HB 429 – Donation and Transfer of Human Tissue by Pigman**

HB 429 requires DOH to develop and publish on its website an educational pamphlet on the risks and benefits of human cells, tissue, and cellular and tissue-based product transplants. At a minimum, the pamphlet must include:

- An overview of the risk of infectious disease transmission;
- An overview of the standards for donor testing and screening;
- An overview of processing methods intended to reduce the risk of disease or bacterial transmission in donated human cells, tissue, or cellular or tissue-based products;
- The importance of providing limited recipient transplant information to the supplier of the human cells, tissue, or cellular or tissue-based product; and
- Information about the generosity of the human donor who provided the human cells, tissue, or cellular or tissue-based product.

DOH must electronically notify physicians of the availability of this pamphlet.

Action: Received by Senate, substituted for SB 514 and passed full Senate (36-0), awaiting Governor's action

Link: <http://www.flsenate.gov/Session/Bill/2018/429>

Companion: SB 514 – Transplant of Human Tissue by Young

PASSED/SUPPORT **SB 80 – Direct Primary Care by Lee**

SB 80 amends the Florida Insurance Code (code) to provide that a direct primary care agreement is not insurance and is not subject to regulation under the code. Direct primary care (DPC) is a primary care medical practice model that eliminates third party payers from the primary care provider-patient relationship. Through a contractual agreement, a patient pays a monthly fee, usually between \$50 and \$100 per individual, to the primary care provider for defined primary care services. The bill also defines DPC agreements and requires them to meet statutory requirements, including consumer disclosures. A contract that does not meet these requirements is not a DPC agreement and is not exempt from the code.

As of September 2017, 23 states have adopted DPC laws that define DPC as a medical service outside the scope of state insurance regulation.

Action: Passed Appropriations (20-0), on Senate floor awaiting full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/80>

Companion: HB 37 – Direct Primary Care by Burgess; passed full House

PASSED/SUPPORT SB 138 – Perinatal Mental Health by Book

SB 138 directs the Department of Health (DOH) to establish two toll-free perinatal mental health care hotlines by January 1, 2019 – one accessible to the public and one for health care providers. The public hotline must provide basic information on postpartum depression and perinatal care and may refer the caller to a local qualified provider. The health care provider hotline must provide information to assist a provider in addressing the mental health of pregnant or postpartum patients. The DOH must encourage obstetrical and mental health providers to attend continuing education on perinatal mental health care. The DOH must create public service announcements on perinatal mental health care that include the telephone number of the perinatal mental health care public hotline.

The bill expands the statutory responsibilities of birth centers and hospitals to require additional infant and maternal postpartum evaluations and follow-up, including a maternal mental health assessment, information on postpartum depression, and the telephone number of the DOH public perinatal mental health care hotline.

Action: Passed Appropriations (20-0), on Senate floor awaiting full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/138>

Companion: HB 937 – Perinatal Mental Health by Nunez; passed full House

PASSED/SUPPORT HB 579 – Infectious Disease Elimination Pilot Programs by Jones

Authorizes University of Miami & its affiliates to establish sterile needle and syringe exchange pilot programs in Broward & Palm Beach Counties.

Action: Passed Appropriations (17-1), on House floor awaiting full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/579>

Companion: HB 937 – Perinatal Mental Health by Nunez; passed full House

Wednesday

TP/MONITOR SB 150 – Motor Vehicle Insurance by Lee

SB 150 was temporarily postponed (TP). With one week left in the regular session and SB 150 still having to clear two committees, this legislation is not likely to be heard again.

SB 150 repeals the Florida Motor Vehicle No-Fault Law (No-Fault Law), which requires every owner and registrant of a motor vehicle in this state to maintain \$10,000 Personal Injury Protection (PIP) coverage.

The bill replaces the PIP coverage mandate with a medical payments (Med Pay) coverage mandate of \$5,000. Medical payments coverage under the bill provides reimbursement for 100 percent of covered medical losses, whereas PIP reimburses only 80 percent of covered medical losses.

In the committee meeting, a number of amendments were heard, withdrawn, failed and adopted. The committee rejected a “strike-all” amendment that would have eliminated the MedPay

provisions in the bill and moved it closer to the House version. After the committee voted to reject the underlying bill, a motion was made to reconsider and then was temporarily postponed. Even though the bill was voted down, it is technically still alive but likely won't be heard again.

For a recent article on this bill, please see: <https://www.news4jax.com/news/pip-repeal-hits-wall-in-senate>

Action: TP in Appropriations Subcommittee on Health & Human Services (no vote), remains in current committee

Link: <http://www.flsenate.gov/Session/Bill/2018/150>

Companion: HB 19 – Motor Vehicle Insurance by Grall; passed full House

Thursday

PASSED/SUPPORT SB 1862 – Physician Fee Sharing Task Force by Broxson

A strike-all amendment of Senate version was adopted to match the House version to establish the Physician Fee Sharing Task Force (task force) within the Department of Health (DOH). The bill specifies the make-up of the task force and requires the task force to develop and evaluate policy proposals to address barriers to innovation and modernization of provider payment models created by the federal Ethics in Patient Referrals Act of 1989, the Florida Patient Self-Referral Act of 1992, federal and state anti-kickback laws, and the state patient brokering law, including policy proposals for:

- Implementing and maintaining alternative payment models;
- Increasing or extending existing safe harbor provisions to include physician practice groups; and
- Reforming the liability standard for violations.

The task force must convene its first meeting by June 1, 2018, and must report its findings, conclusions, and recommendations to the Governor and the Legislature by December 1, 2018.

Action: Passed Rules (13-0), on Senate floor awaiting full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/1862>

Companion: HB 425 – Physician Fee Sharing Task Force by Plasencia; on the House floor awaiting full vote

PASSED/MONITOR HB 21 – Controlled Substances by Boyd

SB 21 addresses the opioid crisis in Florida. The main components of the legislation: establish a 3-day limit for Schedule II prescriptions but would allow a 7-day limit if deemed medically necessary. *An amendment was adopted that excludes pain related to cancer, terminal illness, palliative care and serious traumatic injury from these prescribing limits.*

The bill requires health care practitioners to check the Prescription Drug Monitoring Program (PDMP) before writing prescriptions for controlled substances which expands to Schedule V substances. HB 21 also requires physicians to complete a mandatory 2-hour training course to prescribe controlled substances as part of biennial renewal.

The House version proposes just under \$1 million to implement required upgrades to the PDMP.

For a recent article on this bill, please see: <http://www.palmbeachpost.com/news/state--regional-govt--politics/florida-house-approves-prescription-limits-opioid-fight/yRCTNDJ1KMfn7QRhUrAQM/>

Action: Passed full House (117-0), awaiting action from Senate companion

Link: <http://www.flsenate.gov/Session/Bill/2018/21>

Companion: HB 8 – Controlled Substance by Benacquisto; on Senate floor awaiting full vote

PASSED/MONITOR HB 1337 – Nursing by Pigman

HB 1337 repeals the separate certification for a clinical nurse specialist (CNS) and includes CNS as a category of ARNP. A person who is currently certified as a CNS would have to meet all the same licensure requirements as an ARNP, including maintaining professional liability coverage. The bill retains the current scope of practice of a CNS, but requires a CNS to practice pursuant to a written protocol with a physician.

Action: Passed full House (114-0); awaiting further action

Link: <http://www.flsenate.gov/Session/Bill/2018/1337>

Companion: SB 1594 – Nursing by Brandes; in Rules

PASSED/SUPPORT HB 937 – Perinatal Mental Health by Nunez

The bill requires the Department of Health (DOH) to provide perinatal mental health information through its Family Health Line toll-free hotline. The bill requires the hotline to provide basic information on postpartum depression, and authorizes hotline operators to recommend that a caller be further evaluated by a qualified health care provider, or refer a caller to an appropriate health care provider in the caller's local area. The bill revises components that are included in postpartum evaluation and follow-up care provided by birth centers to include a mental health screening, provision of information on postpartum depression, and the telephone number of the Family Health Line.

Action: Passed full House (113-0), awaiting further action

Link: <http://www.flsenate.gov/Session/Bill/2018/937>

Companion: SB 138 – Perinatal Mental Health by Book; on Senate floor awaiting full vote

PASSED/CURRENTLY OPPOSE HB 689 – Pharmacy by Byrd

HB 689 expands a consultant pharmacist's scope of practice by authorizing a consultant pharmacist to enter into a collaborative practice agreement with a health care facility medical director or an individual health care practitioner to:

- Order and evaluate laboratory and clinical testing;
- Conduct patient assessments;
- Administer medications; and
- Initiate, modify, or discontinue medicinal drugs pursuant to a patient-specific order or treatment protocol; however, a consultant pharmacist may not modify or discontinue a medicinal drug if he or she does not have a collaborative practice agreement with the prescribing health care practitioner.

The bill authorizes a consultant pharmacist to provide these services in any setting, rather than limiting such services to nursing home or home health patients. The bill also authorizes a pharmacist to make recommendations regarding the patient's health care status with the patient's prescribing health care practitioner or others specifically authorized by the patient.

The bill requires both the consultant pharmacist and health care practitioner to maintain a copy of the collaborative agreement and make it available upon request or during an inspection. The bill requires the consultant pharmacist to maintain all drug, patient care, and quality assurance records.

Action: Passed full House (113-0), awaiting further action

Link: <http://www.flsenate.gov/Session/Bill/2018/689>

Companion: SB 914 – Practice of Pharmacy by Garcia; referred to Health Policy; Regulated Industries; Rules

PASSED/SUPPORT HB 351 – Prescription Drug Pricing Transparency by Santiago

HB 351 requires PBMs that conduct business in Florida to register with the Office of Insurance Regulation (OIR) by providing identifying organizational information, submitting an application for registration, and submitting an annual registration fee. An expanded definition of the term “pharmacy benefit manager” is included in the bill.

The bill requires that a contract between a PBM and a health plan include prohibitions on certain practices that limit patient access to pricing information. The bill specifies that a contract must require the PBM to update maximum allowable cost pricing information at least once every seven days. This requirement was previously in the Pharmacy Practice Act; the bill moves this language to the Insurance Code, which gives OIR enforcement authority. The bill also requires a contract to limit patient cost sharing for a drug to the lesser of the applicable cost sharing amount, the total submitted charges, or the retail price.

The bill creates an affirmative duty for a pharmacist to communicate to a patient the availability of a lower cost, generically equivalent drug if one exists and whether the patient's cost sharing obligation exceeds the retail price of a drug in the absence of prescription drug coverage.

Action: Passed full House (113-0), awaiting further action

Link: <http://www.flsenate.gov/Session/Bill/2018/351>

Companion: SB 1494 – Prescription Drug Pricing Transparency by Montford; on Senate floor for full vote

Friday

PASSED/MONITOR SB 1486 – Department of Health by Grimsley

A strike-all amendment by the sponsor was adopted that deletes all provisions of the bill and addresses just the authorization of rulemaking for the selection of physicians under the Conrad 30 Waiver Program.

Action: Passed Appropriations (17-0), now in Rules

Link: <http://www.flsenate.gov/Session/Bill/2018/1486>

Companion: HB 1047 – Department of Health by Gonzalez; on House floor for full vote

PASSED/SUPPORT SB 1494 – Prescription Drug Pricing Transparency by Montford

SB 1494 requires a pharmacist or his or her authorized employee to inform customers of potential lower cost generically equivalent alternatives for their prescriptions and whether a prescription's cost sharing amount exceeds the retail price in the absence of insurance coverage. The bill also requires pharmacy benefit managers (PBMs) to register with the Office of Insurance Regulation (OIR) and pay a biennial registration fee not to exceed \$500. A PBM is a person or entity doing business in this state, which contracts to administer or manage prescription drug benefits on behalf of a health insurer or a health maintenance organization (HMO) to residents of this state.

Further, the bill requires that contracts of PBMs with insurers or HMOs must require the PBM to update the maximum allowable cost (MAC) information every seven calendar days and include specific terms to prohibit PBMs from limiting a pharmacist's ability to disclose to customers when cost sharing may exceed the retail price of a drug or the availability of a more affordable alternative drug. The bill also prohibits any contract between a PBM and a health insurer or HMO from requiring a customer to pay an amount that exceeds the applicable cost-sharing amount or the retail price of the drug in the absence of prescription drug coverage.

Action: Passed Appropriations (18-0), on Senate floor for full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/1494>

Companion: HB 351 – Prescription Drug Pricing Transparency by Santiago; passed full House, awaiting Senate companion

TP/SUPPORT SB 162 – Payment of Health Care Claims by Steube

SB 162 was temporarily postponed (TP) on the Senate floor. This bill remains on the floor.

SB 162 prohibits health insurers and health maintenance organizations (HMOs) from retroactively denying a claim at any time if the insurer or HMO verified the eligibility of an insured or subscriber at the time of treatment and provided an authorization number. The provisions of the bill apply to policies or contracts issued or renewed on or after January 1, 2019. Medicaid managed care plans are exempt from the provisions of the bill. Currently, a health insurer or HMO may retroactively deny a claim because of an insured's ineligibility up to 1 year after the payment of the claim. Under existing law, the patient is responsible for those claims, which potentially exposes the physician to financial risk if the patient does not pay the claims

Action: TP on Senate floor (no vote), remains on Senate floor for full vote

Link: <http://www.flsenate.gov/Session/Bill/2018/162>

Companion: HB 217 – Payment of Health Care Claims by Hager; in Health & Human Services

PASSED/SUPPORT SB 800 – Infectious Disease Elimination Pilot Programs by Braynon

Authorizes University of Miami & its affiliates to establish sterile needle and syringe exchange pilot programs in Broward & Palm Beach Counties.

Action: Passed on Senate floor (34-1); awaiting House companion

Link: <http://www.flsenate.gov/Session/Bill/2018/800>

Companion: HB 579 – Infectious Disease Elimination Pilot Programs by Jones; on House floor for full vote

PASSED/MONITOR SB 280 – Telehealth by Bean

SB 280 establishes practice standards for telehealth health care services, addresses the prescribing of controlled substances and issuance of a physician certification for medical marijuana through telehealth, and prescribes recordkeeping and patient consent. Telehealth is the delivery of health care services using telecommunication technologies, which allows licensed practitioners in one location to diagnose and treat patients at a different location. The bill will remove regulatory ambiguity regarding the provision of health care services using this technology because it is not currently addressed in Florida Statutes.

Action: Passed on Senate floor (36-0)

Link: <http://www.flsenate.gov/Session/Bill/2018/280>

Companion: HB 793 – Telehealth by Massullo; in Health Quality Subcommittee

PASSED/MONITOR SB 710 – Prescription Drug Donation Program by Book

SB 710 creates the Prescription Drug Donation Repository Program (Program) within the Department of Health (DOH) to facilitate the donation and distribution of prescription drugs and supplies to eligible patients in the state. The Program:

- Permits Florida residents with valid prescriptions who are indigent, uninsured, or underinsured to receive donated prescription drugs and supplies under the Program.
- Limits entities that may donate prescription drugs to those that can ensure the drugs have been maintained entirely by licensed or permitted professionals and not by patients.
- Limits dispensing of prescription drugs under the Program to persons who are licensed, registered, or otherwise permitted by state law.
- Establishes eligibility criteria for prescription drugs donated to the Program.
- Provides procedures for inventorying, storing, dispensing, recalling, and destroying prescription drugs under the Program.
- Provides recordkeeping and reporting requirements for participating facilities.
- Requires DOH to maintain and publish on its website registries of all participating facilities and available donated drugs and supplies.
- Creates a direct-support organization (DSO) to provide funding for the Program.
- Requires DOH to adopt rules necessary to implement the Program.

Action: Passed on Senate floor (37-0)

Link: <http://www.flsenate.gov/Session/Bill/2018/710>

Companion: HB 291 – Prescription Drug Donation Repository Program by Yarborough; in Health Care Appropriations Subcommittee

**Please note that position on legislation is current of this publication and could change with amendments throughout the legislative process.