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Subj: Capitol Update #7

ONLY TWO weeks remaining in the 2019 Legislative Session as the House and Senate have completed up the 7th week and head home this weekend for the holiday. Legislators will return to Tallahassee late Monday and Tuesday morning. The House and Senate will now head to conference committee next week to start dealing with the \$423 million dollar budget difference. The two chambers will now focus on the budget and vote on bills that have made it to the floor. Besides the health care legislation we are tracking, just a few issues that the two chambers will have to negotiate include: school-safety and the teacher “guardian” program, ban on texting and driving, so-called “sanctuary” cities, and the implementation of the constitutional amendment that restores voting rights for felons.

FOMA Member alert: On Tuesday, FOMA Member, **John Bailey, DO**, testified in the Senate Health Care Appropriations Committee on an amendment that would allow for written prescriptions if the practitioner or patient determine that it is in the best interest of the patient to compare prescription drug prices among area pharmacies, and such determination is documented in the patient’s medical record.

Also worth noting, FOMA Member, **Jason Pirozollo, DO**, was confirmed by the Senate Ethics and Elections Committee to serve on the Greater Orlando Aviation Authority. Dr. Pirozollo previously served on the Greater Orlando Aviation Authority from 2010-2014.

AHCA Secretary Update: Mary Mayhew passed her third and final committee confirmation hearing by the Senate Ethics and Elections Committee. Her final confirmation hearing will be by the entire Senate chamber.

Prescription Drug Importation

As mentioned last week, HB 19 by Rep. Tom Leek passed the House 93-22. SB 1528 by Sen. Aaron Bean passed its third and final committee, Senate Appropriations 14-4. The Senate bill is expected to pass when heard on the Senate floor. The CS/CS/SB 1528 can be found here: <http://flsenate.gov/Session/Bill/2019/1528/BillText/c2/PDF>

A bill tracking list is attached for all the bills we are following.

To view the legislation below and all other bills the FOMA Legislative Team is tracking please visit foma.org, click the “Legislative” tab at the top, then the first bullet labeled “FOMA Bill Tracking.”

Some more legislation of interest to the FOMA we are following:

FOMA’s position on bills: M – Monitor; S – Support; O – Oppose in current form

S - Department of Health/ACGME – No movement

SB 188 by Sen. Gayle Harrell and HB 7031 by the Health Quality Subcommittee and Rep. Ana Maria Rodriguez are the Department of Health’s bills and includes the FOMA’s ACGME language of revising licensure requirements for a person seeking licensure or certification as an osteopathic physician. The bill also revises licensure requirements for other health care professionals such as dental hygienists, as well as athletic trainers, massage therapists, etc.

- *SB 188 passed the Senate 39-0.*
- *HB 7031 passed its committees and is awaiting a full chamber vote.*

O - Prescription Drug Importation Program – HB 19 passed House; SB 1528 passes Appropriations, headed to Senate floor

HB 19 by Rep. Tom Leek and SB 1528 by Sen. Aaron Bean create a Canadian Prescription Drug Importation Program for Florida within the Agency for Health Care Administration (AHCA). The legislation provides eligibility criteria for prescription drugs, for Canadian suppliers, and for importers under the program and requires the AHCA to request federal approval of the program. Further, the bills require the Department of Business and Professional Regulation to establish the International Prescription Drug Importation Program. The program implements the initiative supported by Governor DeSantis and House Speaker Jose Oliva. **The FOMA continues to oppose importation in its current form.**

- *HB 19 passed the House 93-22.*
- *SB 1528 passed its 3rd committee 14-4 and is awaiting a full chamber vote.*

M – Senate Health Care Package – Passes Appropriations, headed to Senate floor

SB 7078 by the Health Policy Committee and Sen. Gayle Harrell is a comprehensive health care bill that includes the following provisions:

- Requires that hospitals provide non-emergency patients with information on the rate of hospital-acquired infections, the overall rating of the Hospital Consumer Assessment of Healthcare Providers and Systems survey, and the 15-day readmission rate.
- Requires that a hospital inform the patient’s primary care provider within 24 hours after the patient’s admission to the hospital.
- Requires that a hospital notify a patient of observation status.
- Expands direct primary care agreements to include direct health care agreements.
- Prohibits step therapy for a new health care plan when the patient had been approved for the medication in the last 90 days.

The amended Senate bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to research and analyze the Interstate Medical Licensure Compact and the relevant requirements and provisions of general law and the State Constitution and develop a report and recommendations addressing this state's prospective entrance into the compact as a member state while remaining consistent with those requirements and provisions. OPPAGA is required to submit its report and recommendations to the Governor, the Senate President, and House Speaker no later than October 1, 2019.

- *SB 7078 passed its 3rd and final committee 19-0 and is awaiting a full chamber vote.*
- *There is currently no House companion. However, there are many House bills that include SB 7078's language.*

S – Prescription Drug Utilization Management – no movement

HB 559 by Rep. Ralph Massullo, MD, would require health insurers to provide access on its website to process for step therapy protocol exception determination requests made by insureds & health care providers; require health insurers to expeditiously grant step therapy override determination requests under certain circumstances; require health insurers to authorize coverage for prescription drug prescribed by insured's health care provider under certain circumstances.

- *HB 559 passed its 1st committee 14-0 and must pass 2 more committees.*
- *SB 7078 includes step therapy language, amongst other things.*

S - Bait and Switch – scheduled for Rules Committee Tuesday, 4/23

SB 1180 by Sen. Debbie Mayfield requires at least 60 days' notice before the effective date of any changes to a prescription drug formulary during a policy year for health insurance policies and health maintenance organization contracts. A treating physician may seek continuation of a prescription drug taken off a formulary by certifying its medical necessity and submitting a form to the insurer at least 30 days prior to the formulary change. The bill also generally prohibits an insurer or HMO from reclassifying a drug to a more restrictive tier, increasing the cost sharing of an insured, or reclassifying a drug to higher cost-sharing tier during the policy year.

The companion bill, HB 1363 by Rep. Jayer Williamson, prohibits a health insurer or HMO from removing a covered drug from its formulary during the policy year except where the safety of a drug has been called into question by the FDA or where a drug may be discontinued in the near future will an insurer or HMO be permitted to remove coverage during the plan year. The bill also prohibits an insurer or HMO from reclassifying a drug to a more restrictive drug tier; increasing the amount that an insured must pay out-of-pocket for a copayment, coinsurance, or deductible for prescription drugs; or reclassifying a drug to a higher cost-sharing tier during the policy year. The prohibitions outlined in the bill apply only if an insurer or HMO secures an acquisition price for a drug that will be in effect for the entire plan year. The bill does not prohibit the addition of prescription drugs to an insurer's formulary during the plan year, and it does not alter the ability of a pharmacist to dispense certain substitute drugs as provided in the Pharmacy Code. The bill does not apply to health plans holding grandfathered status under the Patient Protection and Affordable Care Act, nor does it apply to Medicaid managed care plans.

- *SB 1180 passed its 2nd committee 8-1 and must pass 1 more committee.*
- *HB 1363 passed its 1st committee 13-1 and must pass 2 more committees.*

S - Prior Authorization/Fail-First Protocols – no movement

SB 650 – Health Insurer Authorization by Sen. Debbie Mayfield would redefine the term “health insurer” and define the term “urgent care situation”; require health insurers and pharmacy benefits managers on behalf of health insurers to provide, by specified means, certain information relating to prior authorization; require health insurers to publish on their websites and provide to insureds in writing a procedure for insureds and health care providers to request protocol exceptions.

- *SB 650 has been referred to 3 committees and is currently waiting to be heard by the Banking and Insurance Committee.*
- *No House companion has been filed.*

SB 906 and HB 271 – Prescribed Drug Services and Audits by Sen. Tom Wright and Rep. David Santiago partly deal with the prior authorization process and fail-first protocols as well as many other provisions including PBM’s.

- *SB 906 has been referred to 3 committees and is currently waiting to be heard by the Banking and Insurance Committee.*
- *HB 271 has been referred to 3 committees and is currently waiting to be heard by the Health Market Reform Subcommittee.*

S - Prescription Drug Monitoring Program – HB 375 placed on Special Order Calendar Tuesday, 4/23

SB 592 by Sen. Ben Albritton and HB 375 by Rep. Cary Pigman, MD, would expand the exceptions of the requirement that a prescriber or dispenser must consult the PDMP to review a patient’s controlled substance dispensing history before prescribing or dispensing a controlled substance for a patient receiving palliative care for the relief of symptoms related to an incurable, progressive illness or injury.

- *SB 592 passed its committees and is awaiting a full chamber vote*
- *HB 375 passed its committees and is awaiting a full chamber vote.*

O - Repeal of PIP – no movement

Sen. Jeff Brandes filed SB 896 – Motor Vehicle Insurance which would eliminate Florida’s no-fault law insurance law and the requirement that motorists carry \$10,000 in personal-injury protection (PIP). Rep. Erin Grall filed a similar bill, HB 733. Sen. Tom Lee has also filed his version of motor vehicle insurance legislation, SB 1052.

- *SB 896 has been referred to 3 committees and is currently waiting to be heard by the Infrastructure and Security Committee.*
- *SB 1052 passed its 1st committee 8-0 and is must pass 2 more committees.*
- *HB 733 has been referred to 3 committees and is currently waiting to be heard by the Insurance and Banking Subcommittee.*

O - Telehealth – HB 23 passed House; SB 1526 amended and passes HHS Appropriations on 4/16 and Appropriations on 4/18

HB 23 by Rep. Clay Yarborough authorizes Florida licensed health care professionals to use telehealth to deliver health care services within their respective scopes of practice. The bill also authorizes out-of-state health care professionals to use telehealth to deliver health care services to Florida patients if they register with the DOH or the applicable board, meet certain eligibility requirements, and pay a fee. A registered telehealth provider may use telehealth, within the

relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients, but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida. The bill also establishes standards of practice for services provided using telehealth, including patient examination, record-keeping, and prohibition on prescribing controlled substances for chronic malignant pain. Additionally, the House bill creates a tax credit for health insurers and health maintenance organizations (HMOs) that cover services provided by telehealth and was amended to add clinical labs to the list of providers who could provide telehealth services.

HB 7067 by the Health Quality Subcommittee requires DOH or the applicable regulatory board to charge a \$150 registration fee for out-of-state health care professionals seeking to provide health care services using telehealth to Florida residents. The bill also creates a biennial registration renewal fee of \$150 for those providers. HB 7067 will be heard in the Senate Rules Committee on April 23rd.

On April 16th, SB 1526 by Senator Gayle Harrell was substantially amended in the Appropriations Subcommittee on Health and Human Service with language that brought the Senate closer to the House position on the issue of telehealth. SB 1526 now:

- Authorizes a telehealth provider to use telehealth to perform a patient evaluation if an in-person physical examination is not required and if a patient evaluation is sufficient to diagnose and treat the patient.
- Clarifies that a nonphysician telehealth provider using telehealth and acting within the applicable scope of practice, as established under Florida law, may not be interpreted as practicing medicine without a license.
- Prohibits controlled substances from being prescribed by a telehealth provider, with limited exceptions.
- Authorizes any Florida-licensed health care practitioner, within the relative scope of practice established by Florida law and rule, to use telehealth to deliver health care services to Florida patients; and authorizes an out-of-state telehealth provider to deliver health care services to Florida patients if they register with the applicable board, or the DOH if there is no board, and meet certain eligibility requirements.
- Requires the DOH to use the National Practitioner Data Bank to verify information submitted by an out-of-state telehealth provider and to publish on its website the name and specific background information of each registered out-of-state telehealth provider.
- Requires a provider to maintain professional liability coverage to the same degree that Florida-licensed practitioners must be covered under Florida law.
- Prohibits an out-of-state telehealth provider from opening an office in Florida and from providing in-person health care services to patients located in Florida.
- Authorizes the board or the DOH if there is no board, to revoke an out-of-state telehealth providers' registration under certain circumstances.

On April 16th, the telehealth tax credit language passed as an amendment offered by Rep. Yarborough in the Appropriations Committee to the House tax package contained in HB 7123. Also on April 16th, the Senate Finance & Taxation Committee also approved a tax bill, SB 1112 that included a telehealth tax credit, for insurance companies and HMOs that use telehealth. The House bill establishes the tax credits permanently for insurers and HMOs, while the Senate tax

bill offers the tax break for a limited time period. Under SB 1112, the tax break is effective on or after January 1, 2020 until January 1, 2023.

- *SB 1526 passed its 2nd and 3rd committee and must pass 2 more committees.*
- *HB 23 passed the House 102-14.*

S - Physician Orders for Life-Sustaining Treatment (POLST) – no movement

SB 206 by Sen. Jeff Brandes would: establish the Physician Orders for Life-Sustaining Treatment (POLST) Program within the Department of Health; specify which document takes precedence when directives in POLST forms conflict with other advance directives; require the Agency for Health Care Administration to establish and maintain a clearinghouse for compassionate and palliative care plans consisting of a database accessible to health care providers and facilities and other authorized individuals; authorize specified personnel to withhold or withdraw cardiopulmonary resuscitation if presented with a POLST form that contains an order not to resuscitate the patient.

- *SB 206 has been referred to 3 committees and is currently waiting to be heard by the Health Policy Committee.*
- *No House companion has been filed.*

Scope of Practice - O

APRN/PA Independent Practice – HB 821 passes House 75-37

SB 972 and HB 821 by Sen. Jeff Brandes and Rep. Cary Pigman, MD, look to expand the scope of practice of Advanced Practice Registered Nurses and Physician Assistants. Amongst other things, the legislation would allow APRNs and Pas to practice without protocol.

- *SB 972 has been referred to 3 committees and is currently waiting to be heard by the Health Policy Committee.*
- *HB 821 has passed its 3rd and final committee 15-3.*

Practice of Pharmacy – no movement

SB 300 by Sen. Jeff Brandes and HB 111 by Rep. Rene Plasencia would authorize pharmacists to test for & treat influenza & streptococcus within the framework of an established written protocol of a supervising physician. The House bill was amended to: authorize pharmacists who meet certain educational and experience criteria and who maintain at least \$250,000 personal liability coverage to enter into a collaborative pharmacy practice agreement with a physician to manage the chronic health conditions of that physician's patients and treat minor non-chronic health conditions; authorize pharmacists to test for and treat influenza and streptococcus; require the board to adopt a formulary of drugs a pharmacist may prescribe for minor, nonchronic illnesses; prohibit a pharmacist from initiating or prescribing a controlled substance.

- *SB 300 has been referred to 3 committees and is currently waiting to be heard by the Health Policy Committee.*
- *HB 111 passed the House 99-16.*

Psychologists Prescribing – no movement

SB 304 by Sen. Jeff Brandes and HB 373 by Rep. Cary Pigman, MD, would create certification for prescriptive authority for psychologists. Prescriptive authority for psychologists “means the authorization to prescribe, administer, discontinue, or distribute without charge drugs or controlled substances recognized or customarily used in the diagnosis, treatment, or management

of an individual with a psychiatric, mental, cognitive, nervous, emotional, developmental, or behavioral disorder.”

- *SB 304 has been referred to 3 committees and is currently waiting to be heard by the Health Policy Committee.*
- *HB 373 passed its 2nd committee 7-3 and must pass 1 more committee.*

Consultant Pharmacists – no movement

HB 833 by Rep. Cord Byrd and SB 1050 by Sen. Manny Diaz allow consultant pharmacists to provide medication management services, order and evaluate laboratory or clinical tests, conduct patient assessments, and administer drugs within the framework of a collaborative practice agreement between the pharmacist and a physician, podiatrist or dentist.

- *SB 1050 has been referred to 3 committees and is currently waiting to be heard by the Health Policy Committee.*
- *HB 833 passed the House 112-4.*