

2022 Session
Week 4
Health Care Update

**LARGE
STRATEGIES**

MAXIMIZE YOUR LEGISLATIVE VOICE

SUPPORT

Emergency Medical Care and Treatment to Minors Without Parental Consent

HB 817: Rep. Massullo, MD

SB 1114: Senator Bradley

The bill authorizes physicians licensed under chapters 458 or 459, F.S., to provide emergency medical care or treatment to a minor without parental consent. This allows physicians to provide such care in prehospital settings, similar to EMTs and paramedics, or in hospital settings.

Committee Stops:

1. Professions & Public Health Subcommittee 
2. Health & Human Services Committee 
- . **Ready for a vote on the House floor**

Committee Stops:

1. Judiciary 
2. Health Policy 
3. Rules

Section 1. Section 743.064, Florida Statutes, is amended to read:

743.064 Emergency medical care or treatment to minors without parental consent.-

(1) The absence of parental consent notwithstanding, a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 may render emergency medical care or treatment to any minor who has been injured in an accident or who is suffering from an acute illness, disease, or condition if, within a reasonable degree of medical certainty, delay in initiation or provision of emergency medical care or treatment would endanger the health or physical well-being of the minor, ~~and provided such emergency medical care or treatment is administered in a hospital licensed by the state under chapter 395 or in a college health service.~~ Emergency medical care or treatment may also be rendered ~~in the prehospital setting~~ by paramedics, emergency medical technicians, and other emergency medical services personnel, provided that such care is rendered

consistent with ~~the provisions of~~ chapter 401. These persons shall follow the general guidelines and notification provisions of this section.

(2) This section shall apply only when parental consent cannot be immediately obtained for one of the following reasons:

(a) The minor's condition has rendered him or her unable to reveal the identity of his or her parents, guardian, or legal custodian, and such information is unknown to any person who accompanied the minor ~~to the hospital.~~

(b) The parents, guardian, or legal custodian cannot be immediately located by telephone at their place of residence or business.

(3) Notification shall be accomplished as soon as possible after the emergency medical care or treatment is administered. The patient ~~hospital~~ records shall reflect the reason such consent was not initially obtained and shall contain a statement by the attending physician that immediate emergency medical care or treatment was necessary for the patient's health or physical well-being. The patient ~~hospital~~ records shall be open for inspection by the person legally responsible for the minor.

SUPPORT

Extension of COVID-19 Liability Protections

HB 7021: Rep. Burton

SB 7014: Senate Judiciary

Extends the duration of liability protections enacted during the 2021 Session for COVID-related claims through June 1, 2023.

Committee Stops:

1. Judiciary Committee 

On Special Order Calendar Feb 9

Committee Stops:

1. Judiciary 

2. Rules 

On Special Order Calendar Feb 9

New mutations of the COVID-19 virus continue to prolong the duration of the current pandemic. Scientific knowledge of COVID-19 continues to grow exponentially due to the novel and ever-evolving nature of the disease. Likewise, guidance to health care providers and long-term care facilities for treatment and infection prevention has rapidly changed as understanding of the disease has evolved.

In response, the Legislature passed CS/SB 72 in 2021, which, among other things, created s. 768.381, F.S., establishing certain liability protections for health care providers.

Specifically, this section provides heightened civil liability protections to certain health care providers for claims brought by patients related to:

- The diagnosis or treatment of, or failure to diagnose or treat, a person for COVID-19;
- The provision of a novel or experimental COVID-19 treatment;
- The transmission of COVID-19;
- The delay or cancellation of a surgery or a medical procedure, test, or appointment in certain situations;
- An act or omission with respect to an emergency medical condition in certain situations; or
- The treatment of a patient with COVID-19 whose injuries were directly related to an exacerbation of preexisting conditions by COVID-19.

Current law requires a plaintiff who brings a COVID-19-related claim against a health care provider to prove by the greater weight of the evidence that the defendant was grossly negligent or committed intentional misconduct. The law also enumerates certain affirmative defenses available to defendants against such claims. The health care provider liability protections apply to COVID-19-related claims that accrued before CS/SB 72’s effective date and within 1 year after the bill’s effective date. CS/SB 72 became law on March 29, 2021. Thus, these liability protections will not apply to any claim that accrues after March 29, 2022. **HB 7021 extends the heightened civil liability protections for health care providers established in s. 768.381, F.S., to COVID-19-related claims accruing before June 1, 2023.**

OPPOSE

Medical Malpractice: Recovery of Damages by Parents of Adult Children

SB 262: Senator A Rodriguez

HB 6011: Rep. Roach

The bills allow a parent to recover damages for mental pain and suffering in a lawsuit against a health care provider whose medical negligence causes the death of an adult child due to medical negligence, provided that the adult child does not have a spouse or a child under 25 years of age. Under existing law, the damages that a parent may recover in these situations are limited to economic damages such as medical and funeral expenses, lost earnings, and the value of lost support and services. Damages for pain and suffering authorized by the bill tend to be unpredictable, but they will likely be much greater than the economic damages available under existing law.

*Working with Senate to narrowly tailor the bill and deal with hospital collections in cases of malpractice.

Committee Stops:

1. Judiciary 
2. Banking and Insurance
3. Rules

Committee Stops:

1. Civil Justice & Property Rights Subcommittee 
2. Judiciary Committee 

- Under current Florida law, in the case of the death of a parent due to medical negligence, a child who is 25 or older may not seek noneconomic damages; and, in the case of the death of a child who is 25 or older due to medical negligence, a surviving parent may not seek noneconomic damages.
- Florida's prudent and narrow limitation on noneconomic damages in medical malpractice cases is consistent with the national standards as over half the states have similar provisions.
- HB 6011 and SB 262 would allow recovery for noneconomic damages in the circumstances stated above to the detriment of Florida's healthcare system.
- Florida medical malpractice insurance rates are already the highest in the country and HB 6011/SB 262 would continue to strain an already tenuous system, threatening the accessibility of medical care to Florida patients.
- Further, these bills will not increase physician accountability. Oversight mechanisms are already in place to hold physicians accountable in the unfortunate event of a patient death. Any adverse incident which results in a patient death must be reported to the Department of Health within 15 days. The adverse incident is then automatically reviewed by the Department to determine whether disciplinary action against the physician must be taken.
- This type of policy is based on the offensive premise that certain patients would receive a lower standard of care. This flies in the face of the oath of ethics that all physicians swear to uphold after years of training before treating patients.
- Oppose HB 6011/SB 262 which does not improve physician accountability, but only threatens the accessibility and affordability of healthcare.

SUPPORT

Medical Specialty Designation Transparency

SB 1192: Senator (A) Rodriguez HB 861: Rep. Massullo, MD

Discipline of Health Care Practitioners

The bill makes using a term designating a medical specialty accredited or recognized by the ACGME or the AOA by a practitioner grounds for discipline unless the practitioner has completed a residency or fellowship program accredited or recognized by the ACGME or the AOA in such specialty.

The bill requires DOH to discipline a practitioner who violates the bill's provisions and grants DOH the same enforcement authority as the applicable board.

Committee Stops:

1. Health Policy 
2. Education
3. Rules

Committee Stops:

1. Professions & Public Health Subcommittee 
2. Health & Human Services Committee 

(tt) Using a term designating a medical specialty for which the Accreditation Council for Graduate Medical Education or the American Osteopathic Association accredits or recognizes as a residency or fellowship program unless the licensee has completed such residency or fellowship program or unless otherwise expressly authorized by law. The department shall enforce this paragraph and has the same enforcement authority as an applicable board. The department may adopt rules to implement

SUPPORT

Telemedicine

SB 312: Senator Diaz

HB 17: Rep. Fabricio

Allow a telehealth provider to issue a renewal prescription for a controlled substance listed in Schedule III, IV, or V of s. 893.03, F.S., through telehealth, within the practitioner's scope of practice.

Currently, telehealth providers are prohibited from prescribing controlled substances through telehealth unless the prescription is for the treatment of a psychiatric disorder, inpatient treatment at a hospital, the treatment of a patient receiving hospice services, or the treatment of a resident in a nursing home facility. The bill narrows this prohibition to the prescribing of only Schedule II controlled substances through telehealth, except under those specific circumstances.

Committee Stops:

1. Health Policy 
2. Banking & Insurance 
3. Rules 

PASSED FULL Senate

Committee Stops:

1. Professions & Public Health Subcommittee 
2. Health & Human Services Committee 

ON SPECIAL ORDER Feb 9

SUPPORT

Step Therapy

SB 730: Senator Harrell HB 459: Rep. Willhite

- The bill requires an insurer or HMO to publish on its website, and provide to an insured in writing, a procedure for an insured patient and health care provider to request a protocol exemption.

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.

Committee Stops:

1. Banking & Insurance 
2. Health Policy 
3. Rules

Committee Stops:

1. Finance & Facilities Subcommittee 
2. Health & Human Services Committee 

Ready for Full vote of House

Florida Insurance Code has largely been silent on the use of step therapy by insurers and HMOs. The only current law addressing step therapy relates to repetition of step therapy protocols, in certain circumstances.

The bill defines “step therapy protocol” as a protocol or program that establishes the specific sequence in which prescription drugs, medical procedures, or courses of treatment must be used to treat a health condition.

The bill also requires a process to receive a “protocol exemption”, which is a determination by an insurer or HMO to exempt an insured patient from an existing step therapy protocol.

The bill requires an insurer or HMO to publish on its website, and provide to an insured in writing, a procedure for an insured patient and health care provider to request a protocol exemption.

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.

The bill requires an insurer or HMO granting a protocol exemption to specify the prescription drug, medical procedure, or course of treatment approved. Alternatively, 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.

SUPPORT

Pharmacies & Pharmacy Benefit Managers

SB 1476: Senator Wright HB 357: Rep. Toledo

- . Revises provisions of the Florida Insurance Code (code) relating to the oversight of pharmacy benefit managers (PBMs) by the Office of Insurance Regulation (OIR). Specifically, the bill:
 - Authorizes OIR to conduct market conduct examinations of PBMs to determine compliance with applicable provisions of the code;
 - Requires a health insurer or health maintenance organizations (HMO), and any entity acting on their behalf, including a PBM, to comply with the pharmacy audit provisions;
 - Authorizes an audited pharmacy to appeal certain final audit findings made by health insurers or HMO, or PBM acting on their behalf; and
 - Provides that a person who fails to register with OIR while operating as a PBM is subject to a \$10,000 fine for each violation.

Committee Stops:

1. Banking & Insurance 
2. Appro Subcommittee on AG, Env, GG 
3. Appro

Committee Stops:

1. Finance & Facilities Subcommittee 
2. State Administration 
3. Health & Human Services 

Ready for Full House Vote

PIP Repeal/Mandatory Bodily Injury

HB 1525: Rep. Grall

SB 150: Senator Burgess

Repeals Florida's no-fault auto insurance law and replaces it with mandatory Bodily Injury insurance. The legislation does retain the "physician set-aside," with \$5k set aside for emergency care, Med Pay, similar to current law.

Unfortunately, this year's bills removes the opt-out in writing for the Med-Pay, and is replaced with a mandatory offer of Med Pay (based on other states, low up take without opt-out in writing).

Large cost-shift to doctors if more people are able to drive without Med Pay, especially with the large number of uninsured in Florida.

Concern with long delay in payment with a move to BI; Fault has to be determined in court before payment flows to physicians without Med Pay. Need clear language that for auto-injuries for patients with commercial insurance, that commercial insurance will pay first while legal procedures creep slowly through the court system, especially knowing the backup of the courts with covid delays.

Committee Stops:

1. Civil Justice & Property Rights 
Subcommittee- on agenda Feb 7
2. Judiciary Committee

Committee Stops:

1. Banking & Insurance 
2. Judiciary 
3. Rules

(2) Upon receiving notice of an accident that is potentially covered by medical payments coverage benefits, the insurer must reserve \$5,000 of medical payments coverage benefits for payment to physicians licensed under chapter 458 or chapter 459 or dentists licensed under chapter 466 who provide emergency services and care, as defined in s. 395.002(9), or who provide hospital inpatient care. The amount required to be held in reserve may be used only to pay claims from such physicians or dentists until 30 days after the date the insurer receives notice of the accident. After the 30-day period, any amount of the reserve for which the insurer has not received notice of such claims may be used by the insurer to pay other claims. This subsection does not require an insurer to establish a claim reserve for insurance accounting purposes.

SUPPORT

Peer Specialists

SB 282: Senator Rouson

HB 795: Rep. Fetterhoff

Revises background screening requirements for certain peer specialists and authorizes the Department of Children & Families to train and certify peer specialists.

Committee Stops:

1. Children, Families, and Elder Affairs 
2. Appropriations Subcommittee on Health and Human Services 
3. Appropriations 

PASSED for Senate and in Messages to House

Committee Stops:

1. Children, Families & Seniors Subcommittee 
2. Health Care Appropriations Subcommittee 
3. Health & Human Services Committee 

Ready for full House vote

SUPPORT

Drug-related Overdose Prevention

SB 544: Senator Boyd

HB 731: Rep. Caruso

Drugs that can quickly reverse the effects of an opioid overdose could become more widely available under legislation, SB 544, passed unanimously this week in the Senate. The bill allows pharmacists to stock the antidote drugs, such as naloxone, and adds law enforcement personnel to the list of people authorized to carry and use the antidotes. The Senate voted to add an amendment by Sen. Jason Pizzo that would allow public schools to buy and keep on hand a supply of naloxone and provide legal immunity related to its use.

Committee Stops:

1. Health Policy 
2. Appropriations Subcommittee on Health and Human Services 
3. Appropriations 

PASSED Senate and in Messages to House

Committee Stops:

1. Professions & Public Health Subcommittee 
2. Health Care Appropriations Subcommittee 
3. Health & Human Services Committee 

Ready for full House vote