**2019 Legislative Session Report: Week 7**

**Scope of Practice**

The House passed CS/HB 821, relating to the health care practitioners - 75 Yeas, 37 Nays.

CS/HB 821 authorizes APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol and authorizes PAs to practice primary care without physician supervision.

The bill also authorizes an advisory committee comprised of physicians and APRNs to develop a list of medical acts that an APRN that engaging in autonomous practice may perform.

The bill subjects APRNs engaging in autonomous practice to disciplinary action if they commit specified prohibited acts related to unethical and substandard business practices. Such APRNs must complete 10 hours of continuing education related to pharmacology prior to biennial registration renewal. An APRN or a PA who practices autonomously must report adverse incidents that result in the death of a patient, permanent physical injury to the patient, or a need to transfer a patient to hospital to the Department of Health (DOH). DOH must review each report to determine whether the APRN or PA is subject to disciplinary action.

The bill requires APRNs to apply to the Board for licensure, rather than DOH, to reflect current practice.

The bill also requires the Board of Medicine or the Board of Osteopathic Medicine to approve PA training programs, without the programs first being recommended by the Council.

The bill expands the scope of practice for PAs to authorize them to certify a person for involuntary examination under the Baker Act and file death certificates and certify a cause of death. The bill removes a requirement that a PA must notify a patient that he or she has the right to see a physician prior to prescribing or dispensing a prescription.

The bill also revises the composition of the Council on Physician Assistants so that it has a PA majority.

**Hospitals/Facilities**

The Senate Appropriations Committee amended and passed SB 1712, relating to hospital licensure - 13 Yeas, 7 Nays.

As amended, the bill:

The committee substitute:

* Repeals CON for general hospitals effective July 1, 2021.
* Repeals CON for all hospitals and tertiary services effective July 1, 2024.
* Repeals the prohibition on licensing hospitals that primarily provide cardiac, orthopedic, or cancer-related care effective July 1, 2024.
* Repeal the requirement to obtain a CON prior to establishing a new or replacement general hospital or converting a specialty hospital to a general hospital.
* Eliminates the requirement that a new general hospital must have 100 or more beds, have an emergency department, participate in Medicare and Medicaid, and provide charity care.

**Telehealth**

 The Senate Appropriations Committee amended and passed SB 1526, relating to telemedicine - 14 Yeas, 6 Nays.

The bill authorizes any Florida-licensed health care practitioner, including those licensed under chapter 461, to use telehealth to deliver health care services to Florida patients.  An out-of-state telehealth provider may deliver health care services to Florida patients if they register if they meet certain eligibility requirements. The bill was previously limited only to providers who held a Florida license under chapters 458 (medical doctors) or 459 (osteopathic physicians).

**Electronic Prescribing**

The Senate Appropriations Committee amended and passed SB 1192, relating to electronic prescribing - 19 Yeas, 0 Nays.

SB 1192 requires a prescription that is electronically generated and transmitted to contain an electronic signature from the prescribing practitioner, and requires such practitioner to, under specified conditions except in certain circumstances, exclusively transmit prescriptions electronically for medicinal drugs upon license renewal or by July 1, 2021, whichever is earlier.

The bill was amended to allow a physician to write paper prescriptions if the physician or patient believes it is in the patient’s best interest to compare prescription-drug prices among area pharmacies.

**Drug Importation**

The Senate Appropriations Committee amended and passed SB 1528, relating to drug importation programs -  14 Yeas, 4 Nays.

SB 1528 establishes two programs to safely import federal Food and Drug Administration (FDA) approved prescription drugs into the state. The Canadian Prescription Drug Importation Program (CPDI Program) and the International Prescription Drug Importation Program (IPDI Program) both establish eligibility criteria for the types of prescription drugs which may be imported and the entities that may export or import prescription drugs. The bill also outlines the importation process, safety standards, drug distribution requirements, and penalties for violations of program requirements. The bill requires both programs to seek federal approval or cooperation prior to importing prescription drugs.

**In the News:**

**Certificate Of Need Repeal Headed To Senate Floor**

**By SHAWN MULCAHY**

The Senate is moving forward with certificate of need repeal. But some call the move a dramatic shift that reneges on weeks of work. The plan to scrap hospital regulations points to a bigger picture about the legislative process.

 Certificate of need regulations require hospitals and nursing homes to get state approval before opening new locations or expanding services. It’s intended to keep health care facilities from flooding the market.

But Republican lawmakers have chipped away at CON for years. They argue opening up the market will bring down costs. And House Speaker Jose Oliva (R-Hialeah) has made a full repeal a top priority.

“That is why we must get rid of policies like the certificate of need, which have only served to create local and regional monopolies,” Oliva said during his opening remarks of the legislative session.

The Senate, however, has not been as eager. Lawmakers spent weeks carefully crafting legislation, trying to ease the impact for hospitals that would potentially face much more competition.

The measure would have only applied to hospitals, not specialty health care centers. new hospitals would be forced to accept Medicaid and Medicare, have at least 100 beds in addition to the emergency room and provide charity care.

But an amendment in the Appropriations Committee brings the Senate language much closer to the House’s. It fully repeals certificate of need in two years and scraps provisions such as the Medicaid and Medicare requirements.

"This is much more similar to the House proposal, although we do have very specific delays in implementation," said Sen. Gayle Harrell (R-Stuart), the bill's sponsor. "Theirs is a total out-and-out repeal of CON.”

The flip-flop left many lawmakers on the Senate Appropriations Committee stunned.

“You’ve taken all that work – all the protections, all of the nuances that we worked hard to craft that gentle balance of a bill that I thought was a very positive bill, and we have really just thrown that away," said Sen. Aaron Bean (R-Fernandina Beach). "So my first question is: what happened?”

Harrell sidestepped questions as she pushed through a measure that would make sweeping changes to the state’s health care system. The measure delays CON repeal for two years, which would give lawmakers time to refine issues raised, Harrell said.

That left the panel divided. Some, like Sen. Rob Bradley (R-Fleming Island), welcomes the changes. Bradley says current law restricts health care access.

“There’s an entity that wants to build a hospital literally a mile from my house," said Bradley. "And because the laws being what they are, and their competition litigating it and arguing against it, that hospital’s not going to be built.”

Meanwhile, Sen. Tom Lee (R-Brandon), who voted for the bill, lambasted his colleagues for making what he calls a “mockery of the entire committee process.”

“I tell you, I apologize to people who might be surprised I voted for that amendment, but I knew it was going to pass," said Lee. "I knew this committee had been worked, and I knew the votes were there.”

The shift may be a bargaining chip. Senate President Bill Galvano (R-Bradenton) is championing a major infrastructure package. But that effort has struggled to pick up momentum in the House.

Lee said he doesn't have many issues with the content of the bill, "but I have to say the process stinks to high heaven.”

Harrell dodged the implications, but offered little explanation for the new language. She admits she doesn’t know how the bill will affect the industry. But she wants the legislature's Office of Program Policy Analysis and Government Accountability to conduct a study.

Bean says he knows what will happen. He thinks smaller, specialty hospitals will profit at the expense of rural and inner-city hospitals that provide the bulk of charity care.

“Your previous bill protected them," said Bean. "Your previous bill protected the taxpayers from having a hospital in every neighborhood that fills up with Medicaid patients that we are on the hook for.”

The measure is now ready for a floor vote. The House’s version has already been approved.

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**Senate Positions Health Care Priorities For Passage**

**By CHRISTINE SEXTON - NEWS SERVICE OF FLORIDA • APR 19, 2019**

In a sign that top Republicans have reached agreement on significant health-care legislation, a Senate panel on Thursday revised three high-profile proposals to more closely mirror House bills.

The Senate Appropriations Committee changed proposals on the “certificate of need” regulatory process, telehealth and prescription-drug importation programs --- all issues that are priorities of House Speaker Jose Oliva.  Some of the changes surprised Republican senators, who complained about the sudden revisions.

The moves came after Oliva, R-Miami Lakes, told reporters late Wednesday night that his health-care priorities would pass this session.

“I’ve been very encouraged by the movement that there’s been over there (in the Senate). I’ve been encouraged by the kind of support we’ve got here in the House,” Oliva said.

“This is an idea whose time has come. People understand what’s happening to them and their health care bills,” he added. “This is a comprehensive approach, and I’m confident we’ll get it done.”

While the chambers aren’t completely aligned on the issues, the Senate Appropriations Committee revamped bills to get closer to the House.

For instance, senators changed a bill (SB 1712) to repeal the certificate of need process for new general hospitals beginning July 1, 2021. Certificate of need for all hospitals and “tertiary care” services would be eliminated on July 1, 2024 under the amendment.

The revised bill would maintain the certificate of need process for nursing homes, hospices and intermediate care facilities for the developmentally disabled.

The House passed a bill last month that would eliminate certificate of need programs for hospitals, nursing homes and hospices effective July 1.

Known in the industry as CON, the certificate of need process requires hospitals, nursing homes and hospices to get approval from the state before they can build facilities or add certain services.

Oliva and other House leaders argue getting rid of the regulatory process would reduce costs and expand access to care. But opponents of the move contend, in part, it would lead to new hospitals and other facilities popping up in affluent areas, leaving older facilities to serve lower-income and uninsured patients.

Senate Health and Human Services Appropriations Chairman Aaron Bean, R-Fernandina Beach, opposed the amendment approved Thursday and said a prior Senate CON bill had protections needed to ensure existing hospitals wouldn’t be hurt by investors who want to open specialty, boutique facilities..

“We have really just thrown that away,” Bean said. “So my first question is, what happened?”

Senate Health Policy Chairwoman Gayle Harrell, a Stuart Republican sponsoring the bill, said the changes would mean CON wouldn’t be eliminated for another two years for hospitals and that she would work to ensure the Agency for Health Care Administration addresses some of the concerns through rules.

While Bean was dismayed with the CON changes, he championed an amendment to the Senate’s version of a proposal (SB 1528) that could allow Florida to begin importing drugs from Canada.  With the amendment, the Senate’s bill nearly mirrors the House plan.

Pointing to the possibility of lower costs, Gov. Ron DeSantis announced his support of drug importation programs at the start of the legislative session while making an appearance at The Villages. DeSantis was flanked by Oliva and Agency for Health Care Administration Secretary Mary Mayhew when he made the announcement.

In addition to needing to pass the Legislature, the Canadian drug importation programs would need approval from the U.S. Department of Health and Human Services, and part of the proposal would require a change in federal law. The pharmaceutical industry has been lobbying heavily against allowing importation.

Nevertheless, Bean predicted that importation programs could be up and running in two years.

The Senate committee Thursday also gave the nod to a telehealth bill (SB 1526) that has drawn criticism from health-care providers and the insurance industry.

Doctors and other providers are irked that the bill would allow insurance companies and HMOs to use out-of-state providers who register with the state for telehealth purposes.

Also, insurers do not like part of the bill dealing with what is known as payment “parity,” which would prevent them from paying less to providers for telehealth services than if the services were delivered in person.

Audrey Brown Bridges, president and chief executive officer of the Florida Association of Health Plans, said inclusion of payment parity in the bill is problematic.

“The inclusion of the payment parity provision in the latest version of SB 1526 is good for 9 a.m. to 5 p.m. doctors and emergency departments who fear competition,” she said in a statement. “This provision interferes with a health plan’s ability to negotiate and contract, which only adds to the cost of health care for Florida families and employers and ultimately undermines the goal of real-time patient access and availability of quality telehealth services.”

**Thousands Could Lose Coverage Under Proposed Medicaid Work Requirements - By JULIO OCHOA • APR 17, 2019**

More than 100,000 low-income parents could lose health care coverage under a Medicaid work-requirement bill being considered in the Florida Legislature, experts estimate.

Georgetown’s Center for Children and Families based its Florida prediction on the impact of similar policies in other states that resulted in roughly 20 percent of Medicaid participants losing coverage.

The state estimates that about 500,000 Floridians would fall under the work-requirement rule being debated.

And unlike other states, the bill being considered by the Florida House would not make exceptions for parents.

“This is either an extraordinarily ill-informed or extremely cynical attempt to cut off low income, mostly mothers from the Medicaid program,” said Joan Alker, director of the Georgetown center.

Because Florida did not expand Medicaid under the Affordable Care Act, those who qualify for the health care program are limited to pregnant women, disabled people, seniors in nursing homes and very poor parents.

The parents would be most affected by the work-requirement rule. To be eligible for Medicaid in Florida, they have to earn below 33 percent of the federal poverty level, or about $7,000 a year for a family of three.

Under [**HB 955**](https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=65542&), which is awaiting approval by the full House, parents with children younger than 3 months would be excluded from the requirements. But if their children are between 3 months and 6-years-old, the parent would have to work at least 20 hours a week. If parents have children older than 6, they would have to work at least 30 hours a week.

Legislators based the requirement on [**similar rules**](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0414/Sections/0414.0252.html) for families that receive temporary cash assistance from the state.

If it passes, it would put families in a catch 22, Alker said. If the parent doesn’t work, they would lose their health insurance. But if the parent does work, they would make too much to qualify for Medicaid, she said.

People who work 20 hours a week at minimum wage in Florida could earn $677 a month. That is above the 33 percent of the poverty level level required for Medicaid recipients.

Furthermore, Alker said the bill doesn’t address barriers that traditionally keep low-income families from working, such as transportation, affordable child care and job training.

“It's clear that this will result in dramatic coverage losses for these poor families,” she said. “It's also clear this will not help the perfectly legitimate goal of trying to secure employment for this population.”

The bill does not have a companion in the Senate. Katie Betta, a spokeswoman for Senate President Bill Galvano, R-Bradenton, said in an email to the News Service of Florida that Galvano is "open to work requirements for able-bodied adults." She also said his past support for such requirements has come with aid for on-the-job training, job-placement activities and pursuit of educational opportunities.

Legislators are considering the bill even as similar work requirements in Kentucky and Arkansas were recently struck down by a judge.

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