



Session 2020

Week 5: February 10-14, 2020

Following is a summary of the priority issues impacting BioFlorida. This update accompanies the detailed BioFlorida legislative tracking report that includes over 100 bills impacting the life sciences industry.

Legislators began filing their priority bills in late summer, and the deadline for filing member bills was the first day of the legislative session, Tuesday, January 14, 2020. The following summarizes the priority issues impacting BioFlorida to date. Throughout the next 60 days we will continue to keep you updated on these important issues.

Budget Update

This week marks the halfway point of Session and the legislature is currently running on time to complete the budget process. On Wednesday of this week, both the House and Senate considered their proposed budgets on the chamber floor, final votes took place on Thursday. The next step is for the two presiding officers to agree on allocations and then activate the conference process, which will begin again at the budget subcommittee level, to negotiate one Fiscal Year 2020-2021 budget. We will continue to keep BioFlorida members updated on the priorities as the budget process moves forward.

Biomedical Research

Legislature recommends level funding

BioFlorida supports the state's investment in biomedical research that can lead to breakthrough treatments and expand the industry and Florida's economy. Governor DeSantis has recommended level funding of these priorities. Both chambers of the legislature have voted their budgets off the chamber floor which include investments in biomedical research. More information on individual budget priorities can be found in the budget tracking chart.

Tax Package

House draft released, Senate expected next week

On Tuesday, Ways and Means Chair Bryan Avila released the [first draft](#) of the House's tax package. This "robustly restrained tax package" has a total fiscal impact of \$100.3 million. The draft bill has several provisions related to sales tax including a reduction in the tax rate for commercial property rentals from 5.5 to 5.4%. Florida is the only state with a tax on commercial leases, and this is another attempt by the legislature to roll back that tax, which has a fiscal impact of \$15.8 million. Other concepts include the back-to-school and hurricane preparedness tax holidays, a reduction in the communications services tax, and some changes in property taxes. On the House side, the research and development tax credit

would be maintained at the base \$9 million. The Senate has not yet published a comprehensive tax package and is still moving individual proposals through the committee process.

Research and Development Tax Credit

No movement this week

[SB 576](#) by Senator Joe Gruters increases the annual limit for research and development (R&D) tax credits on corporate income taxes to \$50 million from \$9 million, and provides that the first \$10 million must be allocated to qualified businesses in the cleantech industry. The bill also expands the types of businesses eligible to receive the tax credit. It passed Commerce and Tourism unanimously and awaits a hearing in Finance and Tax.

Policy Issues

Qualified Targeted Industry Tax Refund

Senate bill passed second committee of reference

The QTI Tax Refund Program was created to encourage the creation and retention of high-quality, high-wage jobs by providing state tax refunds to eligible businesses creating jobs in certain targeted industries. These targeted industries include life sciences, manufacturing, defense and homeland security, aviation/aerospace, information technology, financial and professional services, logistics and distribution, research and development, cleantech and corporate headquarters. Under current law, the tax refund program will expire on June 30, 2020. [SB 922](#) by Senator Joe Gruters removes the scheduled repeal date and makes changes to the QTI Program by providing that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased tax refund. This bill passed the first committee of reference unanimously and was heard and passed in the Appropriations Subcommittee on Health and Human Services on Thursday of this week. The companion measure, [HB 779](#) by Representative Spencer Roach, has not yet been heard in committee.

Prescription Drug Benefits and Pharmacy Benefit Managers

House bill movement

Committee legislation by the House Health Market Reform Subcommittee ([HB 7045](#)) requires drug manufacturers to provide notification of upcoming price increases to every health insurer that covers the drug at least 60 days prior to the effective date of any manufacturer drug price increase. In addition, the drug manufacturer must submit a report to the Department of Business and Professional Regulation (DBPR) and the Office of Insurance Regulation (OIR) on each manufacturer drug price increase made during the previous calendar year. The committee bill also has several requirements around pharmacy audits and contracts between a health insurer and a pharmacy benefit manager (PBM). The committee bill requires a health insurer to submit a report to OIR information by its contracted PBM. Finally, the committee bill requires OIR to publish the reports on its internet website and publish an analysis of the reported information. On February 11th, the bill passed the Appropriations Committee by a vote of 27-0 and is now in the Health and Human Services Committee, its final committee of reference.

[SB 1444](#) by Senator Gayle Harrell and [HB 961](#) by Reps. Jackie Toledo and Randy Fine prohibit PBMs from doing a variety of things including conducting spread pricing in this state, denying a pharmacy or pharmacist the opportunity to participate in a pharmacy network at the preferred participation status, charging a fee to a pharmacist for adjudicating a claim, imposing certain additional registration or permit requirements for a pharmacy, prohibiting a pharmacy or pharmacist from providing information

regarding drug pricing, contract terms, or drug reimbursement rates to a member of the Legislature, and engaging in the practice of medicine, osteopathic medicine or pharmacy. The bills also prohibit any contract language between a PBM and a payor that would limit the fiduciary duty of a PBM to the covered individuals. Both bills have been introduced but not heard.

[SB 1682](#) by Senator Jose Javier Rodriguez creates the “Prescription Drug Price Transparency Act,” and prohibits pharmacy benefit managers (PBMs) from doing a variety of things, including participating in spread pricing in this state, charging a pharmacist or pharmacy a fee related to adjudication of a claim, prohibiting a pharmacy or pharmacist from providing to a covered individual or a covered individual’s caregiver information regarding the pricing of a prescription drug, denying a pharmacy or pharmacist the opportunity to participate in a pharmacy network at the preferred participation status and imposing certain additional registration or permit requirements for a pharmacy. The bill has been filed but not heard.

[SB 1338](#) by Senator Tom Wright revises provisions of the Florida Insurance Code relating to the oversight of pharmacy benefit managers by the Office of Insurance Regulation (OIR). Specifically the bill clarifies that OIR has the authority to conduct market conduct examinations of PBMs to determine compliance with the provisions of the code, requires insurers and their PBMs to comply with the pharmacy audit provisions, provides that a pharmacy may appeal audit findings, relating to the payment of a claim or the amount of a claim payment, through the Statewide Provider and Health Plan Claim dispute Resolution Program, clarifies that an insurer remains responsible for any violations of the prompt pay law by a PBM acting on its behalf, clarifies the OIR’s authority to review contracts that an insurer has with a PBM, requires PBMs to pass through generic rebates to an insurer, requires the submission of an annual report to the OIR regarding rebates and other information, revises definition of the term, “maximum allowable cost;” and creates definitions of the terms, “brand drug,” and “generic drug.” The bill passed the first committee of reference, Banking and Insurance, unanimously, but has not been heard in the second committee of reference.

Prior Authorization

No movement this week

[SB 820](#) by Senator Gayle Harrell and [HB 373](#) by Rep. Ralph Massullo, MD prohibit insurance companies from excluding coverage for certain cancer treatment drugs and provides additional requirements and procedures around step-therapy protocols. SB 820 also prohibits health insurers from retroactively denying a claim if the insurance company verified the subscriber’s eligibility at the time of treatment or provided an authorization number. Because both bills have not yet been heard in their committees of reference, they are most likely dead this session.

Bait & Switch

No movement this week

[SB 696](#) by Senator Debbie Mayfield (R-Vero Beach) and [HB 561](#) by Rep. Thad Altman (R-Indianapolis) requires individual and group health insurers and HMOs to provide notice of prescription drug formulary changes to current and prospective insureds and the insureds’ or subscribers’ treating physicians and specifies the requirements for a notice of medical necessity submitted by the treating physician. The legislation also requires insurers to apply certain reductions in out-of-pocket expenses for prescription drugs toward an insured’s cost-sharing obligation. Because both bills have not yet been heard in their committees of reference, they are most likely dead this session.

Stem Cell Treatments

No movement this week

[HB 313](#) by Representative Byron Donalds and [SB 512](#) by Senator Travis Hutson authorize the administration of nonembryonic stem cells and the use of such cells in health care products; authorizes the importation of any sterile compound, drug, or other treatment containing nonembryonic stem cells under certain circumstances; and requires a stem cell bank to obtain or otherwise carry professional liability insurance. HB 313 has passed two of three committees of reference unanimously and is waiting to be heard in the Health & Human Services Committee. SB 512 passed Health Policy unanimously and is waiting to be heard in the second committee of reference, Appropriations.

Select Committee on the Integrity of Research Institutions

Comprehensive presentations this week

Chair Sprowls and his committee met on Monday, February 10, [materials](#) were provided by the University of Florida and Moffitt Cancer Center. Additional background materials provided to the committee included a National Institutes of Health Advisory Committee to the Director report from the Working Group for Foreign Influences on Research Integrity. At the conclusion of the meeting, Chair Sprowls said the committee will continue to investigate potentially improper activities involving Florida's research universities and that the committee is awaiting information from private colleges and universities. The next committee is scheduled for February 18, 2020.

Organ Donation

House and Senate bills await final committee hearings

[SB 798 Procurement of Human Organs and Tissue](#) by Senator Darryl Rouson prohibits for-profit entities from procuring certain human organs and tissue, with certain exceptions. The bill passed Criminal Justice unanimously and awaits a hearing in Rules, its final stop. The companion measure, [HB 563](#) by Representative Dan Daley, has passed the first two committees of reference unanimously and awaits a hearing in Health & Human Services.

Senator Gayle Harrell has filed [SB 1516 Organ Transplant Technical Advisory Council](#) which requires the Agency for Health Care Administration to establish the Organ Transplant Technical Advisory Council for a specified purpose; requires the council to submit a report to the Governor, the Legislature, and the Secretary of Health Care Administration, and the State Surgeon General by a specified date; extends sovereign immunity to council members under certain circumstances; requires the agency to amend or adopt specified rules based on the council's recommendations. The bill passed the unanimously out of Judiciary and awaits a final hearing in Rules. The companion measure, [HB 1187](#) by Representative Chris Latvala, passed out of the Health Market Reform Subcommittee unanimously and awaits a final hearing in Health & Human Services.

Senator Aaron Bean has filed [SB 1556 Nondiscrimination in Organ Transplants](#) which prohibits certain entities from making certain determination or engaging in certain actions related to organ transplants solely on the basis of an individual's disability; specifies an instance where certain entities may consider an individual's disability, with an exception; requires certain entities to take certain necessary steps to ensure an individual with a disability is not denied services, with exceptions; prohibits insurers, nonprofit health care service plans, and health maintenance organization that provide coverage for organ transplants from denying coverage solely on the basis of an individual's disability under certain

circumstances. The bill passed the first and second committees of reference unanimously, and needs to clear a final committee: Appropriations. The companion measure, [HB 1179](#) by Representative Jason Fischer, passed both committees of references unanimously and is headed to the chamber floor.

Genetic Information for Insurance Purposes

Senate bill awaits final bill hearing

[HB 1189](#) by Speaker Designate Sprowls prohibits life insurers and long-term care insurers from cancelling, limiting, or denying coverage, or establishing differentials in premium rates based on genetic information. It prohibits such insurers from taking certain actions relating to genetic information for any insurance purpose. The bill passed the House floor, 117-1 and is now in the Senate. The companion bill, [SB 1564](#) by Senator Kelli Stargel, passed the first two committees of reference and waits a final hearing in Rules. The bills are slightly different, the Senate version provides conditions under which life insurers, long-term care insurers, and disability income insurers may use genetic information, including direct-to-consumer genetic testing, in underwriting. SB 1564 also requires companies that provide direct-to-consumer genetic testing must obtain written consent from the consumer prior to sharing genetic information or personally identifiable information about a consumer with a life insurer or health insurer. Finally, the Senate bill clarifies that the bill does not prevent life insurers from accessing an applicant's medical record as part of an application exam nor does it prevent life insurers from considering medical diagnoses included in the medical record.

In addition to these issues and budget items, BioFlorida is monitoring approximately 100 pieces of legislation on behalf of its members. More information will be forthcoming on budget-related issues as the budgeting process begins in the few weeks. The 2020 BioFlorida Government Affairs Priorities can [be found here](#), and a complete legislative tracking list is attached.

If there is anyone who is interested in joining the BioFlorida Government Relations Committee please email admin@bioflorida.com. The Government Relations Committee helps address the legislative priorities and goals of BioFlorida and formulates advocacy positions in support or opposition of proposed legislation.

We hope this brief legislative update is helpful. If you have any questions about specific bills or the budget process, please email Alli Liby-Schoonover at Allison.LibySchoonover@mhdfirm.com.