



## Session 2020

### Week 9: March 9-13, 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.

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#### Budget Update

The budget conference began on March 7 and ran through March 14. The Appropriations Subcommittee chairs negotiated funding amounts for their respective silos and all unresolved issues were bumped to the full Appropriations chairs on Monday, March 9. The Senate and House spent the final week of session debating policy on the chamber floor and negotiating one final budget. On Saturday, March 14, the final documents of the budget were published and the legislature is officially extended until Friday, March 20 to make a final budget vote.

The budget evolved significantly over the last week, the House and Senate carved out significant appropriations in response to COVID-19. The tax package has been reduced by over half of the original plan; they still maintain the smaller tax breaks like back-to-school sales tax holiday but the current language has removed significant components such as the reduction on commercial leases. Major budget cuts have been made across the board as the legislature prioritizes public health funding and anticipates the impact on the economy. More information on individual budget priorities can be found in the budget tracking chart.

#### 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 include level-funding investments in biomedical research.

#### Tax Package

Condensed tax package focuses on supplies

[HB 7097](#) is the Legislature's 2020-21 tax package with a total fiscal impact of \$36.6 million. The tax package was significantly trimmed in the final week of session as the legislature prioritized policy and funding in areas of public health and response to the COVID-19 outbreak. As one of the final bills passed in Friday's late night floor session, the tax package establishes the 2020 back-to-school and disaster preparedness tax holidays. There was also language in the tax package that impacts not-for-profit hospitals' tax exempt status. Finally, the state's research and development tax credit would be maintained at the base \$9 million.

## Policy Issues

### Qualified Targeted Industry Tax Refund

Renewal language did not pass

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 passed all of its committees of reference, the bill removes the scheduled repeal date of the Qualified Targeted Industry program 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. The companion measure, [HB 779](#) by Representative Spencer Roach, was not heard committee. During tax package negotiations in the final week of session, the QTI language was included in an initial version, however, in the final hours of the session, the tax package was cut significantly and the final product did not include the QTI language. The QTI program will expire on June 30, 2020 except for current contracts.

### Select Committee on the Integrity of Research Institutions

University language passed, committee will continue to meet

Chair Sprowls and his committee met on March 2 and heard a presentation from Chancellor Marshall Criser on the State University System (SUS) of Florida's response to the Select Committee. Next steps for the SUS are:

- **Shared initiatives:** Shared initiatives assessment of electronic reporting & evaluation of dual employment & conflicts,
- **Safeguards:** Assessment of safeguards for collaboration with other individuals or institutions,
- **Training:** Annual training to educate faculty and staff, and
- **Best Practices:** Implement best practices within the System.

Chair Sprowls closed the meeting by recapping the work of the select committee thus far. He said the committee had lots of questions as to what happened at the various state research institutions and the committee must determine how they can rectify the problem.

Representative Erin Grall shared draft language defining conflict of interest disclosure which was included in [SB 72](#), the higher education package. The new language creates 1012.977, Florida Statutes, entitled: Disclosure of contracts that affect the integrity of state universities or entities.

## Organ Donation

Nondiscrimination in organ transplants enrolled to the Governor

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 committees of reference unanimously and was brought up on the Senate floor, [HB 1179](#) by Representative Jason Fischer, was substituted. The bill passed the House and Senate unanimously and will be enrolled to the Governor.

[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 all committees of reference and the full Senate 38-1, but ultimately died in messages to the House. The companion measure, [HB 563](#) by Representative Dan Daley, has passed all committees of reference unanimously but died on the House floor.

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 all committees of reference, and on the chamber floor was laid on the table. The bill was substituted by [HB 1187](#) by Representative Chris Latvala, amended and passed the Senate 39-0. Ultimately, HB 1187 died in messages back to the House.

## Genetic Information for Insurance Purposes

HB 1189 enrolled to the Governor

[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 was sent to the Senate. The companion bill, [SB 1564](#) by Senator Kelli Stargel, was laid on the table and HB 1189 was substituted. The final bill was amended and passed the Senate 35-3 and sent back over the House for a final vote of 110-0.

## Prescription Drug Benefits and Pharmacy Benefit Managers

Bills did not pass

[HB 7045](#) by the House Health Market Reform Subcommittee 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. Other provisions contained in HB 7045 include pharmacy audit provisions and PBM reporting requirements. Additionally, the bill requires AHCA to contract for an independent analysis by June 30, 2020, of pharmacy benefit management practices under the Statewide Medicaid Managed Care Program and to conduct an analysis by June 30, 2020 of managed care plan pharmacy networks to ensure that enrollees have sufficient choice of pharmacies within established geographic parameters. HB 7045 passed the House unanimously and died in messages to the Senate.

[SB 1338](#) by Senator Tom Wright (R-New Smyrna Beach) gives the Florida Office of Insurance Regulation (OIR) the authority to examine and audit Pharmacy Benefit Management companies (PBMs) to provide more accountability and transparency in the manner in which drugs are priced and dispensed in Florida. The legislature had previously granted this authority to OIR; however, the bill clarifies the authority and imposes the cost of the examination on the PBM consistent with other regulated entities. SB 1338 also requires health insurers and health maintenance organizations (HMOs) to annually report specified pricing information to OIR. The legislature previously imposed pharmacy audit guidelines to provide fairness in the audit process. The bill moves the audit authority from the Board of Pharmacy to OIR for consistency and clarifies that managed care organizations and HMOs contracting with PBMs must ensure that the statutory provisions imposed are followed by the PBM. SB 1338 passed the first two committees of reference, but was not heard and died in the final committee: Appropriations.

### Stem Cell Treatments

Bill dies in House messages

[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 but was never heard in the Health & Human Services Committee. SB 512 passed all committees of reference and the Senate floor unanimously, the bill died in messages to the House.

### Prior Authorization

Bills died in committee

[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.

### Bait & Switch

Bills died in committee

[SB 696](#) by Senator Debbie Mayfield (R-Vero Beach) and [HB 561](#) by Rep. Thad Altman (R-Indian River) 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.

## Confirmation

In April 2019, Governor Ron DeSantis appointed Dr. Scott Rivkees as State Surgeon General. The Florida Department of Health is responsible for protecting the public health and safety of residents and visitors of the state. It is a cabinet level agency of the state government, headed by the Surgeon General who is appointed and reports to the Governor. Dr. Rivkees served as chair of the department of pediatrics at the University of Florida College of Medicine and physician-in-chief of UF Health Shands Children's Hospital, he also served as academic chair of pediatrics at Orlando Health and the University of Florida College of Medicine pediatric chair at Studer Family Children's Hospital at Sacred Heart in Pensacola. During the 2020 session, three Senate committees have considered and voted on Dr. Rivkee's appointment and he was confirmed as the Surgeon General in the final week of session.

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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](mailto: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](mailto:Allison.LibySchoonover@mhdfirm.com).