



Session 2019 Report

Week 9: April 29 - May 4, 2019
Sine Die

Florida legislators finished the 2019 legislative session Saturday by passing a \$91.1 budget for the upcoming fiscal year and important to the life sciences included level funding for biomedical research and a reduction in the sales tax on commercial leases from 5.7 to 5.5%.

During the two-month session, lawmakers considered hundreds of bills and made many spending decisions. The budget appropriators had to deal with the economic impacts of Hurricane Michael and the slow response of the federal government to send disaster relief to citizens in Florida's panhandle.

It also was the first session for Republican Gov. Ron DeSantis and began the two-year terms of Senate President Bill Galvano, R-Bradenton, and House Speaker Jose Oliva, R-Miami Lakes. The communication and cordiality between the three leaders proved a cornerstone for each achieving his respective goals. Governor DeSantis was a huge proponent of his prescription drug importation program passed by the legislature, while also pushing for funding for major water initiatives to stem red tide and algae bloom. DeSantis and Lt. Governor Nunez also led on governmental organizational issues like state agency Information Technology restructuring. Speaker Oliva successfully shepherded major health care reforms like Certificate of Need Repeal and Telehealth legislation to fruition, and President Galvano took the lead on creating new infrastructure corridors throughout the state to address its growing transportation needs and pushing further education accountability initiatives.

Despite a tight fiscal year where Hurricane Michael relief took center stage, Florida's three new leaders changed the spirit of cooperation in Tallahassee and achieved their respective goals for Florida.

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.

Process and Timing

Budget published, Legislature extended for a final vote

Extension - a word that one never wants to hear when describing the legislative session. After months of interim legislative meetings and the long hours of the 60-day regular session, Friday, May 3rd was the scheduled conclusion of the 2019 Legislative Session. However, budget deliberations took longer than anticipated thus extending the legislative session until Saturday, May 4th. The legislature's work on substantive legislation concluded on Friday, and Saturday's work was exclusive to a final vote of the state budget.

The press and various political observers already weighed in on the successes and failures of the 2019 Legislative Session. The stage now turns to Governor DeSantis as he contemplates which bills he will veto and, more importantly, whether he will veto the proposed budget, or any portions thereof. When these actions conclude, legislators will focus on summer fundraising and preparations to start the legislative process all over again. Legislative committee meetings are expected to start in September and the 2020 Legislative Session will begin in January.

Budget Update

Final vote on the budget took place on May 4, 2019

On Tuesday, April 30, the House and Senate completed budget negotiations and published the conference report the following day. Per the Florida Constitution, the Legislature waited the required 72-hour public-review period prior to a final passage vote. The House and Senate extended their regularly-scheduled Session to Saturday afternoon for a final vote: Senate 38-0, House 106-2.

Biomedical Research

Chambers agree on level funding

BioFlorida supports the state's investment to seed research with the potential to lead to breakthrough treatments and expand the industry and Florida's economy. Both the House and Senate, as well as Governor DeSantis, have recommended level funding (same funding as last year) of biomedical research in their proposed budgets. Additionally, there were unspent funds in the King Biomedical Research Program this year, so there is proviso language which would allow the Department of Health to revert the remaining \$7.7 million and award it in addition to the \$10 million base.

Economic Development

Senate and House fully fund Enterprise Florida

BioFlorida supports continued economic development efforts to advance the life sciences industry. Enterprise Florida is the official economic development organization for the State of Florida, and under the leadership of Chairs Representative Jay Trumbull and Senator Travis Hutson, EFI was fully-funded at \$16 million.

Tax Package

A lean proposal agreed to by both chambers

The initial tax package proposal that passed the House chamber, [HB 7123](#), had an overall value of approximately \$102 million and included a proposed reduction of the sales tax on commercial leases from the current 5.7 to 5.35%. After negotiations with the Senate in

the waning days of session, policy and total funding were adjusted. The final tax package is valued at \$121 million and includes a reduction in the sales tax on commercial leases from 5.7 to 5.5%. Other issues included in the tax package are a sales tax holidays for back-to-school and hurricane supplies, tax refunds on agricultural shipments and an exemption from sales tax on items donated by companies to non-profit organizations. The bill bounced back and forth between the chambers and was one of the last pieces of legislation to pass: House 81-25, Senate 23-17.

Research and Development Tax Credit

Final package includes level funding at \$9 million

Senator Joe Gruters sponsored [SB 750](#) Research and Development Tax which would have increased the base funding of the R & D tax credit to \$35 million. The bill did have one committee hearing, but due to the very small tax package allocation, this provision (among others) was not included.

Policy Update

Prescription Drug Importation Program

HB 19 Passes the Legislature (Senate 27-13, House 93-20) and HB 7073 passes the Legislature (House 103-11, Senate 35-0)

[HB 19](#) by Rep. Tom Leek (R-Ormond Beach) establishes two programs to import FDA-approved prescription drugs into the state: the Canadian Drug Importation Program and the International Drug Importation Program. For both programs, the bill establishes eligibility criteria for the types of prescriptions 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. Both programs require federal approval or cooperation before prescription drug importation under either program can begin. For the Canadian Drug Importation Program, HB 19 requires the Agency for Health Care Administration (AHCA) to seek federal approval by July 1, 2020 and for Florida to begin operating the importation program within 6 months after receiving approval. HB 19 requires an AHCA contracted vendor to develop a wholesale prescription drug importation list identifying the prescription drugs that have the highest potential for cost savings to the state by December 1, 2019. HB 19 also requires the Department of Business and Professional Regulation to establish an International Drug Importation Program. This program would allow importation of certain prescription drugs by a wholesale distributor, a pharmacy and a pharmacist from any country.

[HB 7073](#) introduced by the House Health Quality Subcommittee is linked to HB 19, and authorizes the Board of Pharmacy and DBPR to charge fees relating to the new permits.

Telehealth

HB 23 passes Legislature (Senate 30-9, House 113-0) and HB 7067 passes Legislature (House 113-3, Senate 38-0)

[HB 23](#) by Rep. Clay Yarborough (R-Jacksonville) 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 certain prohibitions on controlled substances prescribing.

[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.

Bait & Switch

Passed the full Senate, the House did not take up the bill and it died

[SB 1180](#) by Senator Debbie Mayfield (R-Vero Beach) and [HB 1363](#) by Rep. Jay Williamson (R-Pace) amend the Florida Insurance Code to provide additional consumer protections by prohibiting a health insurer or a health maintenance organization (HMO) from removing a covered prescription drug from its formulary except during open enrollment with some limited exceptions. The legislation also prohibits an insurer or HMO from reclassifying a drug to a more restrictive tier, increasing the out-of-pocket costs (e.g., copayment, coinsurance, or deductible) of an insured, or reclassifying a drug to higher-cost sharing tier during the policy year. The bill passed the full Senate April 26 and was sent over to the House, they never took up the bill so it died in messages.

Immunization Registry

HB 213 passes Legislature (Senate 38-0, House 111-2)

[HB 213](#) by eliminates unnecessary paperwork for physicians' offices by making it more convenient for parents to comply with school immunization rules. The bill requires health care providers to report into the DOH SHOTS database any immunizations administered to children and college or university students, 18 to 23 years of age, at a college or university student health care facility. Automated data uploaded from existing automated systems is an acceptable method for updating immunization information in the immunization registry. Schools would verify required vaccinations via the SHOTS registry, rather than requiring the Form 680. The bill also requires that the consent to treatment form contain a notice of the right to opt out of the registry.

Prior Authorization

Original Bill is dead this session. [HB 843](#), a health care package including several House and Senate health care priority issues, passed with a limited amendment on step-therapy prohibiting insurers, HMOs, or Medicaid managed care plans from requiring step-therapy protocol under the policy, contract, or plan for covered prescription drugs if the patient has been approved previously to receive the drug through the completion of a step-therapy protocol.

[HB 559](#) by Rep. Ralph Massullo, MD (R-Beverly Hills) requires a health insurers to provide access on its website to the plan's current prior authorization requirements,

restrictions, and forms. The bill requires a health insurer to expeditiously grant step therapy override determination requests under certain circumstances and requires health insurer to authorize coverage for prescription drugs if certain conditions are met.

Confirmations

Several executive branch appointments made by the Governor are subject to confirmation by the Senate. Mary Mayhew, Secretary for the Agency for Health Care Administration was confirmed on Wednesday along with Kenneth Lawson, Executive Director of the Department of Economic Opportunity.

In addition to these issues and budget items, BioFlorida has monitored approximately 100 pieces of legislation on behalf of its members. The 2019 BioFlorida Government Affairs Priorities can be [found here](#), and a complete [Legislative Tracking List here](#).

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 also 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.