



Session 2020

Week 3: January 27- 31, 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, House and Senate appropriations subcommittees released their initial budget drafts. This follows the budget milestones that occurred last fall: the agencies released their legislative budget requests in September and the Governor released his "[Bolder, Brighter, Better Future](#)" budget recommendations in December. Both chambers will continue to build independent budgets that incorporate the subcommittee drafts into a General Appropriations Act that will be heard in the respective Appropriations Committees and then on the chamber floors for final passage. The chambers will then move to the budget conference process later in session. Please review the attached budget for all appropriations priorities that BioFlorida is monitoring.

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 submitted their first budget drafts which include investments in biomedical research. Please see the budget tracking chart attached to this report.

Tax Package

Individual concepts under legislative review

Single-subject tax relief concepts have been considered in both chambers, but it is too early for definitive decisions about tax package totals or components. While the appropriations process began

this week with both chambers rolling out subcommittee budget recommendations, the total allocation for the tax package has yet to be released.

Commercial Lease Tax Reduction

No movement this week

Florida is the only state with a tax on commercial leases, the current rate is 5.5% of and on the total rent or license fee for such real property. Over the last several years, the legislature has made an effort to reduce that tax burden. This year, this approach is more narrowly focused because of fiscal constraints. [SB 1778 Taxation of Real Property](#) by Senator Joe Gruters and [HB 1141](#) by Representative Mike Caruso would exempt from sales and use tax certain property that is rented, leased, subleased or licensed to a small business, which is defined as a business that employs nine or fewer total employees. The bills have been filed but not yet heard.

Research and Development Tax Credit

No movement this week

[SB 576 Research and Development Tax Credit](#) by Senator Joe Gruters increases the annual limit on research and development tax credits on corporate income taxes to \$50 million from the base \$9 million as well as allocates the first \$10 million to businesses in the cleantech industry. The bill passed the first committee of reference, Commerce and Tourism, unanimously.

Qualified Targeted Industry Tax Refund

No movement this week

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. The companion measure, [HB 779](#) by Representative Spencer Roach, has not yet been heard in committee.

Policy Issues

Prescription Drug Benefits and Pharmacy Benefit Managers

Some 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. Once introduced, HB 7045 by the Health Market Reform Subcommittee was referred to the Appropriations and Health and Human Services Committees.

[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.

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. Both bills have been introduced but not heard.

Bait & Switch

No movement this week

[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.

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. Both bills were filed during the fall committee weeks but have not yet been heard.

Select Committee on the Integrity of Research Institutions

No meeting this week

Chaired by Speaker Designate Chris Sprowls, the Select Committee had their first meeting on January 21, 2020. All [meeting materials can be reviewed here](#), the meeting began with a review of charge to the committee to conduct an investigation into research activities and international relationships of research institutions established by state law or supported with state funds. Chair Sprowls stated that this will be a risk assessment process and involves intellectual property, therefore, confidential documents will be reviewed by the members of the Select Committee and cannot be shared with third parties. Finally, letters were sent to public universities with a January 31 response due date. The next scheduled meeting is February 5, 2020.

Organ Donation

Presentation and bill movement

On Tuesday, Chair Harrell and the Senate Health Policy committee heard a [presentation on Florida's Organ Donation and Transplantation System](#) by the Legislature's Office of Program Policy Analysis and Government Accountability. Additionally, there are a few bills that address issues relating to procurement and donation of organs and tissue.

[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 the first committee of reference unanimously. The companion measure, [HB 563](#) by Representative Dan Daley, has not yet been heard.

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 first committee of reference unanimously. The companion measure, [HB 1187](#) by Representative Chris Latvala, has been referenced to committee but not heard.

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 committee of reference unanimously. The companion measure, [HB 1179](#) by Representative Jason Fischer, passed the first committee of reference unanimously.

Genetic Information for Insurance Purposes

Final passage in the House complete

[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 headed to the Senate. The companion bill, [SB 1564](#) by Senator Kelli Stargel, passed the first committee of reference this week 5-1. 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.

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.