



# Session 2019 Report

**Week 7 - April 15-19, 2019**

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, March 4, 2019. 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**

*Chambers intend to begin budget conference next week*

During week five of the Legislative Session, the House and Senate passed their independently-crafted budgets off the chamber floors. The presiding officers continue to negotiate on allocations for each budget silo, and we are seeing evidence that deals are being cut as policy takes shape in amendments as bills move through final committees and on the floor. The budget conference process will likely begin on Monday following the holiday weekend; the conference process will begin again at the budget subcommittee level, then move to full Appropriations Committee chairs, and then to presiding officers to negotiate one Fiscal Year 2019-2020 budget. The Legislature is currently on track for an on-time conclusion of the session, we will continue to keep BioFlorida members updated on the priorities as the budget process moves forward.

## **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 of biomedical research in their proposed budgets. There has been no movement on biomedical research funding in the last two weeks, this will be a budget conference issue.

## **Economic Development**

*Senate funds Enterprise Florida, House eliminates state funding*

The House and Senate have taken different approaches to funding Enterprise Florida, the state's official economic development organization. In the House's proposed budget, Enterprise Florida funding was cut as the chamber leaders have characterized incentives used to lure companies from other states as "corporate welfare." The Senate, however, has funded Enterprise Florida at \$16 million. This is the first step of the legislative budget process, and we anticipate that legislative leaders will find middle ground between these two positions. There has been no

movement on economic development funding in the last two weeks, this will be an issue taken up in budget conference.

## **Tax Package**

*House bill is headed to the floor, Senate bill not in final form*

On Tuesday, Chair Cummings and the full Appropriations Committee passed the House tax package out of its final committee. It is now headed to the House floor. [HB 7123](#) is a relatively lean tax package totaling \$102.6 million, the centerpiece of which is a reduction on the sales tax on commercial leases from the current 5.7% down to 5.35%. This proposed reduction is the largest the legislature has attempted in a single year. The companion bill, [SB 1412](#) Sales Tax Holiday for Disaster Preparedness Supplies, is not yet in final form. The single-scope bill passed the Senate Appropriations Committee 19-0 on Thursday and will be amended on the floor with a strike-all containing the final tax package language. We anticipate the reduction on the sales tax on commercial leases will be included.

## **Research and Development Tax Credit**

*Bill unlikely to pass this session*

Annually, Florida authorizes a research and development tax credit against state corporate income taxes for certain businesses with qualified expenses, this base funding is \$9 million. Senator Joe Gruters has sponsored [SB 750](#) Research and Development Tax Credit which increases the annual limit on research and development tax credits on corporate income taxes from the base \$9 million to \$35 million. The bill passed its first committee of reference, but has not moved since and has no House companion, therefore, it is unlikely to pass this session.

## **Policy Update**

### **Prescription Drug Importation Program**

*Amended Senate bill passes Appropriations on April 18, HB 7073 scheduled in Rules on April 23*

[HB 19](#) by Rep. Tom Leek (R-Ormond Beach) and [SB 1528](#) by Senator Aaron Bean (R-Fernandina Beach) create a Canadian Prescription Drug Importation Program for Florida within the Agency for Health Care Administration. The legislation provides eligibility criteria for prescription drugs, for Canadian suppliers, and for importers under the program and requires the AHCA to request federal approval of the program. Further, the bills require the Department of Business and Professional Regulation to establish the International Prescription Drug Importation Program. The program implements the initiative supported by Governor DeSantis and House Speaker Jose Oliva (R-Miami Lakes).

[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 7067 scheduled in Rules on April 23, SB 1526 passes final committee and heads to the chamber floor*

**HB 23** by Rep. Clay Yarborough (R-Jacksonville) authorizes Florida licensed health care professionals to use telehealth to deliver health care services within their respective scopes of practice. The bill also 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 prohibition on prescribing controlled substances for chronic malignant pain. Additionally, the House bill creates a tax credit for health insurers and health maintenance organizations (HMOs) that cover services provided by telehealth and was amended to add clinical labs to the list of providers who could provide telehealth services.

**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.

**SB 1526** by Senator Gayle Harrell (R-Stuart) was substantially amended in the Appropriations Subcommittee on Health and Human Service with language that brought the Senate closer to the House position on the issue of telehealth. SB 1526 now:

- Authorizes a telehealth provider to use telehealth to perform a patient evaluation if an in-person physical examination is not required and if a patient evaluation is sufficient to diagnose and treat the patient.
- Clarifies that a nonphysician telehealth provider using telehealth and acting within the applicable scope of practice, as established under Florida law, may not be interpreted as practicing medicine without a license.
- Prohibits controlled substances from being prescribed by a telehealth provider, with limited exceptions.
- Authorizes any Florida-licensed health care practitioner, within the relative scope of practice established by Florida law and rule, to use telehealth to deliver health care services to Florida patients; and authorizes an out-of-state telehealth provider to deliver health care services to Florida patients if they register with the applicable board, or the DOH if there is no board, and meet certain eligibility requirements.
- Requires the DOH to use the National Practitioner Data Bank to verify information submitted by an out-of-state telehealth provider and to publish on its website the name and specific background information of each registered out-of-state telehealth provider.

- Requires a provider to maintain professional liability coverage to the same degree that Florida-licensed practitioners must be covered under Florida law.
- Prohibits an out-of-state telehealth provider from opening an office in Florida and from providing in-person health care services to patients located in Florida.
- Authorizes the board, or the DOH if there is no board, to revoke an out-of-state telehealth providers' registration under certain circumstances.

On April 16th, the telehealth tax credit language passed as an amendment offered by Rep. Yarborough in the Appropriations Committee to the House tax package contained in [HB 7123](#). Also on April 16th, the Senate Finance & Taxation Committee also approved a tax bill, [SB 1112](#), that included a telehealth tax credit, for insurance companies and HMOs that use telehealth. The House bill establishes the tax credits permanently for insurers and HMOs, while the Senate tax bill offers the tax break for a limited time period.

## **Bait & Switch**

*Senate bill scheduled for Rules on April 23*

[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.

## **Immunization Registry**

*Senate bill on Special Order April 23, House bill final passage on April 17 (112-2)*

[HB 213](#) by Rep. Ralph Massullo (R-Lecanto) and [SB 354](#) by Senator Bill Montford (D-Tallahassee) eliminate unnecessary paperwork for physicians' offices by making it more convenient for parents to comply with school immunization rules. The bills require 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. The House bill was amended to require a parent or college student to submit a form to the health care practitioner or entity providing the immunization or to DOH to opt-out of the immunization registry, require DOH to remove all records and identifying information of the child or student who has opted out of the registry, and clarify that a parent may request to opt out of the registry for a child from birth through age 17, and a college student, aged 18 to 23, may request to opt out.

## **Prior Authorization**

*No movement*

[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.

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