

May 4, 2019

Just a little extra time. After a 2019 Legislative Session marked by cooperation and cordiality, the legislature needed a few extra hours to finish the details of its \$90-billion budget. While the action on policy bills concluded on Friday, the legislature returned Saturday afternoon to vote on final passage of the budget. Legislators now return to their districts, and more importantly, to their families for the short break prior to the process starting all over again in September.

Following is a brief summary of the key issues impacting the Florida Psychiatric Society.

Budget Negotiations Resolved

On April 30th, Senate and House budget conference chairs, Senator Rob Bradley (R-Fleming Island) and Rep. Travis Cummings (R-Fleming Island) announced that conference negotiations had been resolved between the chambers. The Appropriations chairs agreed to a \$91.1 billion budget deal; however, because the agreement was not resolved by the deadline, it necessitated a one-day extension to meet the mandatory 72-hour "cooling off" period before lawmakers could take an official vote on the budget. The 2019 Legislative Session was slated to end Friday, May 3rd, but extended until Saturday, in order for members to vote on the finalized budget and implementing bills. Overall, the negotiated budget conference report prioritizes education with a \$783 million increase in K-12 education funding, \$682.6 million in funding for water quality and protection, and \$1.85 billion in funding for Hurricane Michael recovery. The budget deal also leaves \$3.4 billion in total reserves. The budget conference report also includes \$90 million for a tax relief package which includes sales taxes "holiday" periods on back-to-school items and for hurricane season supplies. A reduction in the sales tax on commercial leases from the current rate of 5.7% down to a rate of 5.5% was also part of the tax package.

Link to Budget Conference Report:

<http://www.flsenate.gov/Session/Bill/2019/2500/Amendment/379320>

Link to Budget Implementing Bill Conference Report:

<http://www.flsenate.gov/Session/Bill/2019/2502/Amendment/326660>

2019 Doctor of the Day Program



On Wednesday, May 1st, FPS Dr. Kishan Nallapula, sponsored by Rep. Clovis Watson (Gainesville), served as the House Doctor of the Day. This is the second time Dr. Nallapula has participated in the program. He was able to see the legislative process up close and personal this year by watching legislation being debated and passed in the House chamber throughout the day. This closes out FPS's participation in the legislative program for the 2019 Legislative Session. Thank you to those members who took time out of their schedules to be a part of this important program which supplements FPS's advocacy efforts! The 2020 session starts in January next year so if you are interested in serving in the Doctor of the Day program, please contact Margo Adams (margo@floridapsych.org).

Legislation of Importance to FPS

Psychologist Prescribing - FAILED

SB 304 by Senator Jeff Brandes (R-St. Petersburg) and **HB 373** by Rep. Cary Pigman (R-Avon Park) allow certified, licensed psychologists to prescribe, administer, discontinue, and distribute prescription drugs, including controlled substances. FPS continued its strong advocacy efforts in opposition to this legislation, and was able to prevent the bill from being heard in the Senate.

Link to SB 304: <http://www.flsenate.gov/Session/Bill/2019/304>

Link to HB 373: <http://www.flsenate.gov/Session/Bill/2019/373>

APRN Scope of Practice Expansion - FAILED

HB 821 by Rep. Cary Pigman (R-Avon Park) and **SB 972** by Senator Jeff Brandes (R-St. Petersburg) allow advanced practice registered nurses to engage in independent practice. The House bill was amended to also allow certain physician assistants to practice independently and to authorize an autonomous physician assistant, a physician assistant, or an advanced practice registered nurse to examine and report on a ward's medical

and mental health conditions in the annual guardianship plan submitted to the court. A linked committee bill, **HB 7079**, deals with the registration and biennial renewal fees for licensing advanced practice registered nurses.

Link to HB 821: <http://www.flsenate.gov/Session/Bill/2019/821>

Link to SB 972: <http://www.flsenate.gov/Session/Bill/2019/972>

Link to HB 7079: <https://www.flsenate.gov/Session/Bill/2019/7079>

Consultant Pharmacists - FAILED

HB 833 by Rep. Cord Byrd (R-Neptune Beach) and **SB 1050** by Senator Manny Diaz (R-Hialeah) allow consultant pharmacists to provide medication management services, order and evaluate laboratory or clinical tests, conduct patient assessments, and administer drugs within the framework of a collaborative practice agreement between the pharmacist and a physician, podiatrist or dentist.

Link to HB 833: <http://www.flsenate.gov/Session/Bill/2019/833>

Link to SB 1050: <http://www.flsenate.gov/Session/Bill/2019/1050>

Influenza & Strep Testing - FAILED

HB 111 by Rep. Rene Plasencia (R-Orlando) and **SB 300** by Senator Jeff Brandes (R-St. Petersburg) authorize pharmacists to test and treat for the influenza virus and

streptococcal infections within the framework of an established written protocol of a supervising physician. The House bill also:

- Authorizes pharmacists who meet certain educational and experience criteria and who maintain at least \$250,000 personal liability coverage to enter into a collaborative pharmacy practice agreement with a physician to manage the chronic health conditions of that physician's patients and treat minor non-chronic health conditions.
- Authorizes pharmacists to test for and treat influenza and streptococcus.
- Requires the board to adopt a formulary of drugs a pharmacist may prescribe for minor, nonchronic illnesses.
- Prohibits a pharmacist from initiating or prescribing a controlled substance.

Link to HB 111: <http://www.flsenate.gov/Session/Bill/2019/111>

Link to SB 300: <http://www.flsenate.gov/Session/Bill/2019/300>

Electronic Prescribing – HB 831 PASSES LEGISLATURE (39-0) (104-8)

HB 831 by Rep. Amber Mariano (R-Hudson) requires health care practitioners to electronically generate and transmit prescriptions for medicinal drugs upon their license renewal or by July 1, 2021, whichever is earlier. The bill also provides an exception to mandatory e-prescribing for those prescribers who do not have access to an EHR system and creates seven exceptions to the requirement consistent with federal-law exceptions to the e-prescribing requirement for the Medicare program. The bill also authorizes the DOH to adopt rules in consultation with the appropriate boards and provides an exemption if the practitioner determines it is in the best interest of the patient, or the patient determines that it is in their best interest, to compare prescription prices among area pharmacies.

Link to Enrolled Version of HB 831:

<http://www.flsenate.gov/Session/Bill/2019/831/BillText/er>

Prescription Drug Importation Program – HB 19 PASSES LEGISLATURE (27-13) (93-20)/HB 7073 PASSES LEGISLATURE (103-11) (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 prescription 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 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 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.

Link to Enrolled Version of HB 19:

<http://www.flsenate.gov/Session/Bill/2019/19/BillText/er>

Link to Enrolled Version of HB 7073:

<http://www.flsenate.gov/Session/Bill/2019/7073/BillText/er>

Admission to Mental Health Facilities – *SB 1418 & SB 838 PASS LEGISLATURE (38-0) (113-0)*

SB 1418 by Senator Bobby Powell (D-West Palm Beach) implements recommendations of a Department of Children and Families (DCF) task force which has been studying the issue of Baker Act cases involving minors. The legislation addresses the increased risk of suicide in youth by enhancing the voluntary Suicide Prevention Certified Schools Program and encouraging school districts to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of an involuntary examination. In addition, the bill requires receiving facilities to include information on the final disposition of an involuntary admission in reports to DCF and requires DCF to analyze data collected on involuntary admissions of minors and report its findings and recommendations to the Governor and legislature every two years. Finally, the bill requires psychiatrists and other mental health professionals to report to law enforcement when a patient communicates an imminent specific threat of serious bodily injury or death to an identified person.

Linked bill, **SB 838**, also by Senator Powell, creates new exemptions from the public records inspection and access requirements and make confidential and exempt pleadings, orders, and personal identifying information on a docket relating to Baker Act proceedings.

Link to Enrolled Version of SB 1418:

<http://www.flsenate.gov/Session/Bill/2019/1418/BillText/er>

Link to Enrolled Version of SB 838:

<http://www.flsenate.gov/Session/Bill/2019/838/BillText/er>

Non-Opioid Directives – *HB 451 PASSES LEGISLATURE (113-1) (40-0)*

HB 451 by Rep. Scott Plakon (R-Longwood) requires DOH to develop and publish on its website and educational pamphlet regarding the use of non-opioid alternatives for the treatment of pain. Additionally, the health care provider, prior to providing anesthesia or a Schedule II opioid, must inform the patient of available non-opioid treatments such as physical therapy, occupational therapy or any other appropriate therapies. These requirements do not apply to emergency care and services.

Link to Enrolled Version of HB 451:

<http://www.flsenate.gov/Session/Bill/2019/451/BillText/er>

Prescription Drug Monitoring Program (PDMP) – *HB 375 PASSES LEGISLATURE (114-0) (39-0)/HB 1253 PASSES LEGISLATURE (111-0) (39-0)*

Legislation passed last session required physicians or their designee to consult the statewide PDMP database before prescribing a controlled substance. **HB 375** by Rep. Cary Pigman (R-Avon Park) exempts prescribers and dispensers from the requirement to consult the PDMP prior to prescribing or dispensing a controlled substance to a patient who has been admitted to hospice. The House bill also authorizes DOH to enter into reciprocal agreements to share prescription drug monitoring information with the United States Department of Veterans Affairs, the United States Department of Defense, and the Indian Health Service.

Link to Enrolled Version of HB 375:

<http://www.flsenate.gov/Session/Bill/2019/375/BillText/e1>

HB 1253 by Rep. Amber Mariano (R-Hudson) expands the Attorney General's indirect access to PDMP data to all cases involving prescribed controlled substances, rather than just Medicaid fraud cases. The bill authorizes the Attorney General to use PDMP records to pursue an investigation and litigation regardless of when they were compiled. The bill also eliminates a prohibition against information in the PDMP database being subject to

discovery and entered as evidence in a civil or administrative action against a dispenser or pharmacy and also authorizes program staff to testify in a proceeding to authenticate PDMP records. The bill also requires that DOH develop a unique identifier for each patient in the PDMP system, clarifies that the Attorney General may only obtain de-identified patient information from the PDMP for active investigations or pending civil or criminal litigation involving controlled substances, for cases other than Medicaid fraud cases.

Link to Enrolled Version of HB 1253:

<http://www.flsenate.gov/Session/Bill/2019/1253/BillText/er>

Telehealth – *HB 23 PASSES LEGISLATURE (30-9) (113-0)/HB 7067 PASSES LEGISLATURE (113-3) (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.

Link to Enrolled Version of HB 23:

<http://www.flsenate.gov/Session/Bill/2019/23/BillText/er>

Link to Enrolled Version of HB 7067:

<http://www.flsenate.gov/Session/Bill/2019/7067/BillText/er>

Senate Health Policy Committee Health Care Package – *HB 843 PASSES LEGISLATURE (39-0) (115-0)*

HB 843 by Rep. Ana Maria Rodriguez (R-Doral) is a comprehensive health care bill that:

- Creates the dental student loan repayment program.
- Creates the Donated Dental Services Program.
- Requires hospital notification to patients of the rate of hospital acquired infections, rating of the Hospital Consumer Assessment of Healthcare Providers and System survey and the 15-day readmission rate.
- Requires hospital notification to patient's primary care provider of admission or discharge from a hospital.
- Allows an ambulatory surgical center to keep patients for 24 hours and allows the Agency to adopt rules that establish minimum standards for pediatric patients.
- Makes changes to the pediatric cardiac technical advisory panel.
- Requires notification to the patient of observation status rather than inpatient status at a hospital.
- Provides that CLIA certified providers are not clinics for purposes of Chapter 400, F.S.
- Contains language dealing with restrictive covenants for physicians.
- Modifies the direct primary care agreements to be direct health care agreements.
- Prohibits step therapy when the insured has previously been approved to receive the prescription drug through the completion of a step therapy protocol and the previous insurance company had paid for it within the last 90 days.

HB 843 also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to research and analyze the Interstate Medical Licensure Compact and the relevant requirements and provisions of general law and the State Constitution and develop a report and recommendations addressing this state's prospective entrance into the compact as a member state while remaining consistent with those requirements and provisions. OPPAGA is required to submit its report and recommendations to the Governor, the Senate President, and House Speaker no later than October 1, 2019.

Link to Enrolled Version of HB 843:

<http://www.flsenate.gov/Session/Bill/2019/843/BillText/er>

Disclosure of Confidential Records – *SB 1418 PASSES LEGISLATURE (38-0) (113-0)/SB 7048 FAILS*

SB 7048 by the Senate Children, Families, and Elder Affairs requires that when a patient communicates a specific threat against an identifiable individual to a mental health service provider, the provider must release information from the clinical record of the patient sufficient to inform the threatened individual. The provider must also inform law enforcement of the threat. The bill provides immunity from civil or criminal liability to the administrator of a mental health facility, psychiatrists, psychologists, social workers, and other treatment providers who disclose information conveyed to them by a patient communicating a threat to a specific, readily identifiable third party.

Another bill, **SB 1418** by Senator Powell, passed this session and requires that when a patient communicates a specific threat against an identifiable individual to a mental health service provider, the provider must release information from the clinical record of the patient sufficient to inform law enforcement of the potential threat.

Link to Enrolled Version of SB 1418:

<http://www.flsenate.gov/Session/Bill/2019/1418/BillText/er>

Child Welfare – *HB 7099 PASSES LEGISLATURE (39-0) (114-0)*

HB 7099 by Rep. Cyndi Stevenson (R-St. Johns) requires the Department of Children & Families (DCF) to reestablish a direct-support organization for the benefit of the Children and Youth Cabinet, requires DCF to accept abuse and neglect calls involving children from out of state and are being evaluated in medical facilities in this state, requires DCF to initiate an investigation of a report from an emergency room physician, and requires child abuse reports involving children from out of state who are currently being evaluated by a medical facility in this state to be referred to a child protection team. Further, the bill allows an advanced practice registered nurse whose specialty is psychiatric nursing and who has prescribing authority under a supervisory protocol established with a physician to perform certain medical, psychiatric, and psychological examinations of and provide treatment to children in child custody services.

Link to Enrolled Version of HB 7099:

<http://www.flsenate.gov/Session/Bill/2019/7099/BillText/er>

Human Trafficking – *HB 851 PASSES LEGISLATURE (108-1) (36-0)*

Among several other policy changes, **HB 851** by Rep. Heather Fitzenhagen (R-Fort Myers) responds to the current human trafficking problem by requiring healthcare professionals including medical physicians and osteopathic physicians to take a one hour educational course on human trafficking by January 2021. The course must address both sex trafficking and labor trafficking, how to identify individuals who may be victims of human trafficking, how to report cases of human trafficking, and resources available to victims. In addition health care providers are required to conspicuously post a sign about the National Human Trafficking Hotline.

Link to Enrolled Version of HB 851 (*when available*):
<http://www.flsenate.gov/Session/Bill/2019/851>

Final Note: FPS has a long tradition of legislative advocacy, with a focus on assuring that Florida's psychiatrists can safely provide optimal care to persons who need treatment for mental illnesses. Thanks to all of you who have assisted by sending emails to legislators as FPS and APA have requested during this session. This is **your** organization and your voices have made a difference. The legislative session begins in January 2020. Issues crucial to your patients and your practice will return. Please stay tuned.

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