



2016 Legislative Session – Legislative Bulletin

Week Seven – February 26, 2016

2016 Legislative Session – Stay Informed!

Today we hosted our week seven **Legislative Session Weekly Briefing** conference call which will continue every Friday at 10:00 a.m. EST through the end of Session. To participate:

Call in number: 1-866-200-9760
Participant Pin: 7020321#

This is our weekly Legislative Update/Recap report that will continue through the end of Session. Included with this report is the latest copy of the [LeadingAge Florida Legislative Bill Tracking Report](#).

Activity on LeadingAge Florida Priority Bills

Continuing Care Communities

LeadingAge Florida's top priority for the 2016 Session passed the Legislature on February 11th. It passed both houses unanimously and will be headed to the Governor's desk for his action.

CS/HB 127 by Rep. Cummings (R-Orange Park) modifies the Gold Seal Nursing Home Financial Criteria for Nursing Homes that are Part of Continuing Care Retirement Communities. The legislation, filed on behalf of LeadingAge Florida, allows a non-accredited Continuing Care Retirement Community (CCRC) applying for the Gold Seal nursing home designation to submit financial statements prepared by an independent CPA for the community in its entirety as proof of compliance with the financial criteria established by AHCA. A nursing home that is part of a CCRC accredited by a national accreditation organization and that meets the minimum liquid reserve requirements in Ch. 651 would still be deemed to meet the financial criteria for the Gold Seal designation.

The bill also allows a corporate entity that operates nursing homes, assisted living facilities, or independent living facilities or a combination thereof to submit a consolidated financial statement for the entire corporation as proof of meeting the financial standards for the Gold Seal. This change will benefit retirement communities that are not regulated as CCRCs as well as other multi-facility corporate entities.

Expand the ordering/prescribing authority for Advanced Registered Nurse Practitioners (ARNPs)

Several bills have been filed expanding the ordering/prescribing authority for ARNPs.

HB 1241 by Rep. Plasencia (R-Orlando) includes language advocated for by LeadingAge Florida authorizing an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, mobile surgical facility or nursing home within the framework of an established protocol. **The bill has been placed on House Special Order Calendar for March 1st.**

The companion to HB 1241, SB 946 by Sen. Grimsley (R-Sebring) passed its second committee of reference this week and has one more committee to go, however, this week the provisions of SB 946

were amended onto SB 152 by Sen. Grimsley. As amended, CS/SB 152 authorizes an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, mobile surgical facility or nursing home within the framework of an established protocol. The bill further provides express authority for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, mobile surgical facility or nursing home.

HB 977 and CS/SB 1250 by Sen. Latvala (R-Clearwater) relating to behavioral health workforce allow advanced registered nurse practitioners to prescribe controlled substances; however the bills require the Board of Nursing to adopt a formulary to restrict the amounts and types of controlled substances that may be prescribed by ARNPs. Additional restrictions and oversight requirements relating to the prescribing authority of ARNPs are provided in the bills. **HB 977 is on the House Special Order Calendar for March 1st. CS/SB 1250 passed its second committee of reference this week and is scheduled to be heard in its final committee of reference on March 1st.**

HB 423 by House Health Quality Chairman Cary Pigman (R-Avon Park) expands drug-prescribing powers for advanced registered nurse practitioners and physician assistants and allows ARNPs to prescribe, dispense, order, and administer controlled substances, to the extent authorized under their supervising physician's protocol. Florida is the only state that doesn't allow nurse practitioners to prescribe controlled substances. **HB 423 is on the House Special Order Calendar for consideration by the full House on March 1st.**

A similar bill, SB 676 by Senator Grimsley (R-Sebring) expands physician assistants' (PA) and advanced registered nurse practitioners' (ARNP) ability to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs beginning January 1, 2017. The authorization comes with limitations, such as prescribing privileges for controlled substances listed on Schedule II are limited to a 7-day supply and an ARNP or PA may not prescribe controlled substances in a pain management clinic. The bill requires PAs and ARNPs to complete 3 hours of continuing education biennially on controlled substances. **CS/SB 676 passed its final committee of reference this week and has been placed on the Senate Calendar.**

Activity on LeadingAge Florida Monitored Bills

Prescription Drug Monitoring Program

CS/HB 313 by Rep. Pilon (R-Sarasota) provides for additional reporting exemptions from the Prescription Drug Monitoring Program (PDMP) for a rehabilitative hospital, an assisted living facility or a nursing home dispensing a controlled substance, as needed, to a patient as ordered by the patient's treating physician. This bill would benefit LeadingAge Florida members. As explained by Rep. Pilon, this allows a doctor to treat his/her patient by leaving an order for pain medicine at the nursing home or ALF and exempting them from the reporting requirement.

CS/HB 313 has been placed on the House Special Order Calendar for March 1st. A floor amendment relating to impaired practitioner consultants has been filed by the sponsor of the bill. The Senate companion, SB 964 by Sen. Grimsley passed its second committee of reference this week and has been scheduled for a hearing in the final committee of reference on February 29th.

Missing Persons with Special Needs

CS/SB 230 by Sen. Dean (R-Inverness) passed the Florida Legislature this week.

The bill creates the "Project Leo" pilot project in five North Florida counties – Alachua, Baker, Columbia, Hamilton, and Suwannee – and separate pilot projects in Palm Beach and Hillsborough counties. The pilot projects are to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. While the bill does not define special needs, the staff analysis specifically describes elopement and wandering of children with autism and individuals with Alzheimer's disease and other forms of dementia as individuals with special needs.

The pilot projects will be developed and administered by the Center for Autism and Related Disabilities at the

University of Florida for the North Florida counties. The Center for Autism and Related Disabilities at Florida Atlantic University will develop and administer the Palm Beach County project and the Center for Autism and Related Disabilities at the University of South Florida will develop the criteria for the Hillsborough County project. The bill appropriates \$100,000 in nonrecurring funds for each CARD center. Each center is to submit a report to the Governor and Legislature on the implementation and operation of its pilot project by December 15, 2017.

Guardianship

CS/CS/SB 232 by Sen. Detert (R-Venice) passed the Florida Legislature this week.

The bill provides for the regulation of professional guardians, currently not regulated in Florida, by the Office of Public and Professional Guardians (previously named Statewide Public Guardianship Office) within the Department of Elder Affairs. The bill requires annual registration of professional guardians and gives the Office of Public and Professional Guardians disciplinary and enforcement powers.

Nurse Licensure Compact

HB 1061 by Rep. Pigman (R-Sebring) allows nurses who receive their certification in a participating state to also practice in Florida without having to go through additional training. The bill includes a structure for a revamped compact, which would supersede the current compact and need approval from participating states. Florida nurses would be able to request multi-state licenses, and nurses from other states who hold multi-state licenses would be able to practice in Florida. The aim is to recruit more nurses and, according to Rep. Pigman, "It would allow Florida to have access to what's going on in 25 other states, potentially 30 states, whereas now we're just aware of what's going on in our own state with regards to investigations of licensure." The bill would let Florida offer the multi-state license option. The move is part of ongoing state efforts to lower healthcare costs while increasing patient access to physicians.

HB 1061 has been placed on the House Special Order Calendar for March 1 along with a linked bill providing a public records exemption, HB 1063. The Senate companion, SB 1316 by Sen. Grimsley is on the agenda for its last committee of reference on March 1st. The Senate companion to the public records bills, SB 1306 is on the Rules Committee agenda for February 29th.

Involuntary Examinations under the Baker Act

HB 325 by Rep. Campbell (D-Miami Shores) and SB 572 by Sen. Altman (R-Cape Canaveral) authorize physician assistants and ARNPs to initiate involuntary examinations under the Baker Act of persons believed to have mental illnesses.

HB 325 passed the House and has been referred to committees in the Senate. SB 572 passed its final committee of reference this week.

Residential Facilities

HB 885 by Rep. Avila (R-Hialeah) and SB 1174 by Sen. Diaz de la Portilla (R-Miami) clarify siting requirements for community residential homes and provide a grandfathering provision for existing community residential homes lawfully permitted and operational as of the effective date of the act. The law currently addresses distance requirements for siting of community residential homes. Homes with 7 – 14 residents may not be constructed within 1,200 feet of another such home; a home of 6 or fewer residents may not be constructed within 1,000 feet of another such home. Currently, there is no requirement for the distance between a 7-14 residents home and a 6 residents or fewer home. The bill sets that distance requirement at 1,200 feet. This legislation is intended to address an issue occurring primarily in Miami-Dade.

HB 885 has been placed on the House Special Order Calendar for March 1st. The Senate companion, SB 1174 has passed the Senate and has also been placed on the House Special Order Calendar for March 1st.

Uniform Firesafety Provisions for Assisted Living Facilities

HB 965 by Rep. Harrison (R-Tampa) and SB 1164 by Sen. Legg (R-Lutz) require the State Fire Marshal to adopt uniform firesafety standards for ALFs and provide firesafety requirements be based on the current editions of the National Fire Protection Association, Life Safety Code, NFPA 101 and 101A. Evacuation

capability determination and firesafety requirements currently in law are deleted. The NFPA documents are revised on a three year cycle to incorporate new technologies and lessons learned from actual fire experiences. This change will allow for the adoption of the current edition of the NFPA Life Safety Code for ALFs. The legislation would not require existing facilities to retrofit, however, the new standards, if adopted, would enable facilities to take advantage of elements in the newer codes designed to reduce costs for renovations and modifications to existing buildings.

HB 965 and the companion, SB 1164, were amended to exempt an ALF licensed before July 1, 2016 from any requirement adopted by the State Fire Marshal that exceeds the 1994 requirements except that an ALF that undergoes building rehabilitation must meet the new firesafety codes.

CS/CS/HB 965 passed the House this week. This week CS/CS/HB 965 was amended on the House Floor to provide that an assisted living facility may remain under the 1994 and 1995 Life Safety Code (LSC) by affirmatively notifying the local authority. Additionally, more precise language is used to indicate the threshold of building alteration or rehabilitation that would require compliance with the current edition of the LSC. **SB 1164 is on the agenda for its final committee of reference on February 29th.**

Transparency in Health Care

SB 1496 by Sen. Bradley (R-Orange Park) and HB 1175 by Rep. Chris Sprowls (R-Clearwater) require health care providers to show more transparency about the prices of services provided. The transparency issue is a priority for Gov. Rick Scott.

SB 1496 would require hospitals and ambulatory surgical centers to meet new standards for providing financial information and quality of service measures to patients and to the public. Specifically, in response to requests for information, health care facilities are required to provide a written, good faith estimate of the anticipated facility charges within seven business days after receipt of the request, and to provide an itemized bill or statement within seven days of a patient being discharged. Facilities are required to establish a method of responding to billing questions within seven days after it is received. The Agency for Health Care Administration (AHCA) is required to contract with a vendor to provide a consumer-friendly, Internet-based platform that allows a consumer to research the cost of health care services and procedures by a common-named service bundle to facilitate price comparison of typical health care services provided in hospitals and ambulatory surgery centers (ASC). Quality indicators for services at the facilities will also be made available to the consumer to facilitate health care decision making.

LeadingAge Florida successfully lobbied to remove the provisions in SB 1496 requiring nursing homes, upon request, to provide a written good faith estimate of reasonably anticipated charges for services provided by the nursing home within seven business days after receiving a request and to provide information disclosing payment plans, discounts, other available assistance, and collection procedures.

HB 1175 establishes a Florida-specific All Payer Claims Database, which provides an online, searchable method for patients to compare provider price and quality, and a Florida-specific data set for price and quality research purposes. It also requires hospitals, ambulatory surgical centers, insurers and HMOs to make prices transparent to patients, and make quality data available to them.

This week, the last House committee of reference approved HB 1175 after adopting an amendment that more closely aligns the bill with its Senate counterpart, SB 1496. One of the changes made increased the number of days from three to seven that a hospital has to provide patients with potential cost information about non-emergency services. The seven day allotment mirrors the Senate bill. The House also agreed to cap at \$10,000 the fine hospitals face for not promptly providing the information.

SB 1496 has passed its final committee of reference and now heads to the Senate floor. HB 1175 has been placed on the House Special Order Calendar for March 1st.

Telehealth

The House Select Committee on Affordable Healthcare Access favorably approved introduction of a Committee bill on Telehealth. As filed, HB 7087 would create a legal framework for telehealth, which involves using the

Internet and other technology to provide health services remotely. The bill 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 Department of Health (DOH) or the applicable board, meet certain eligibility requirements, and pay a fee. A registered telehealth provider may use telehealth 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 approach in HB 7087 differs from Telehealth legislation filed in the Senate. SB 1686 by Sen. Aaron Bean (R-Jacksonville) creates a 19-member task force within the Agency for Health Care Administration to examine the use of telehealth. The membership of the task force is to include two representatives of organizations that represent health care facilities. The task force is to submit a report to the Governor and Legislature by June 30, 2017. **SB 1686 passed its final committee of reference this week. In committee the bill was amended to increase the number of task force members to 21 and specifically adds a nursing home representative to the task force.** All task force members are to be appointed by the Secretary of the Agency for Health Care Administration.

HB 7087 has been placed on the House Special Order Calendar for March 1st. Rep. Mia Jones has filed an amendment adding the creation of a task force within AHCA, similar to the Senate bill but with fewer representatives and without specifically providing for a nursing home representative. The purpose of the task force is to make recommendations regarding the surveys and research findings of the agency as described in the bill.

Medical Marijuana

SB 460 by Sen. Rob Bradley (R-Orange Park) allows patients with terminal illnesses to have access to medical marijuana. The bill expands a 2015 law, known as the "Right to Try Act," which allows terminally ill patients to have access to experimental drugs that have not been approved for general use by the U.S. Food and Drug Administration.

SB 460 amends the Right to Try Act to include "cannabis" sold and manufactured by an approved dispensing organization in the definition of "investigational drug, biological product, or device." This will include the use of non-smokable marijuana of all strengths and doses in the Right to Try Act.

In 2015, the Legislature adopted the Right to Try Act (RTTA). The RTTA authorizes an eligible patient with a "terminal condition," meaning that the patient will die within one year if the condition runs its normal course, to receive an "investigational drug, biological product, or device," meaning a drug, product, or device that has successfully completed phase 1 of a clinical trial, but that has not been approved for general use by the United States Food and Drug Administration.

The bill further specifies that, notwithstanding the state's laws criminalizing the nonmedical use of cannabis, eligible patients under the RTTA or their legal representatives may purchase and possess cannabis for the patient's medical use and dispensing organizations may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of cannabis.

SB 460 has been voted out of all three committees of reference and was scheduled for Special Order Calendar this week; however, a series of amendments were filed to the bill which prompted the Rules Committee chairman to pull the bill into the Rules Committee. The bill is scheduled to be heard in the Rules Committee on February 29th.

The companion, HB 307 by Rep. Matt Gaetz (R-Shalimar) was combined with HB 1313 by Rep. Brodeur (R-Sanford). The newly combined bill tracks the previous bills but has an added provision: the Florida Department of Health is authorized to add three new additional dispensing organizations if 250,000 patients across the state seek medical marijuana. **The bill is now on House calendar.**

Ambulatory Surgical/Recovery Care Centers

HB 85, sponsored by Rep. Heather Fitzenhagen (R-Fort Myers), allows patients to stay overnight at ambulatory

surgical centers. Under the proposal, patients could stay up to 24 hours (right now the limit is 23 hours). The bill also allows the creation in Florida of recovery care centers, where patients could stay up to 72 hours after surgeries and being discharged from an ambulatory surgical center or hospital. **HB 85 has been placed on House Special Order Calendar for March 1st.**

The Senate companion, CS/SB 212 by Sen. Don Gaetz (R-Destin) allows for ambulatory surgical centers to treat a patient for 24 hours after admittance into the facility. Additionally, the bill requires ambulatory surgical centers, as a condition of licensure, to provide services to Medicare patients, Medicaid patients, and patients who qualify for charity care. The bill defines quality care as uncompensated care provided to uninsured patients having incomes at or below 200 percent of the federal poverty level. Charity care is not subject to collection procedures. In another departure from HB 85, CS/SB 212 removed the provisions providing for the creation of recovery care centers in Florida. The recovery care centers, which would have been authorized to care for patients for up to 72 hours following a surgery or medical procedure, are still authorized to operate under HB 85.

CS/SB 212 has become a train with several Senate bills amended onto the bill in its last committee of reference this week. Amendments added onto CS/SB 212 include provisions relating to the creation of dental accounts funded by state and local governments that would provide financial incentives to dentists willing to locate in underserved areas; authorizing direct primary care contracts; relating to managed care organizations and insurers using step therapy protocols; allowing a free clinic using volunteer health care providers that receive a grant or appropriation to maintain sovereign immunity protections; and providing sovereign immunity for child protection teams.

A Week in Review – News from the Capitol by Leslie Dughi, Director of Government Law & Policy - Greenberg Traurig

Week Seven Overview.

Early in the week, the plans advanced by the House and Senate on economic development incentives and tax cuts remained far apart. On a vote of 79 to 39, the House approved HB 1325 revamping the state's economic incentive process and establishing a fund for the Governor's use to entice companies to Florida. Opposing the measure was an assortment of Republican and Democratic members. Twenty-nine Republicans, including Representatives Richard Corcoran and Jose Oliva, who are slated to lead the House in FY 2017-18 and FY 2019-20 respectively, voted against the measure. Voting in favor were 19 members of the House black caucus who believe the incentives would create jobs in their districts. Governor Scott called for \$250 million for economic development and the Senate set aside that amount in their proposed budget. The House has appeared less willing to approve that amount and instead has offered \$80 million.

The Governor has also asked for tax cuts totaling \$1 billion and although the House approved that amount weeks ago in their tax package, much of it was non-recurring dollars. Recently, the state's economists lowered the estimate for tax revenue coming into the state by \$388 million which caused the House to revisit their support for \$1 billion in cuts. The Senate balked at the \$1 billion figure from the beginning and has proposed \$600 million in cuts.

It appeared as if the disagreement on these two funding issues would derail the budget negotiations between the two chambers. However, late Thursday evening, the House Speaker and Senate President announced that progress on the budget had been made between their Appropriations Chairs. Although details are not available at this time, it appears budget conference meetings may commence over the weekend. If the negotiations do resume, the session could end on its originally scheduled date of March 11th.