



# 2013 Legislative Session Weekly Update

## LeadingAge Florida

An Organization of Retirement Housing and Long-Term Care Communities

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**Week Four of 2013 Session**

**March 29, 2013**

### 2013 Legislative Budget Update

The list below contains some of the major issues in both the Senate and House chairmen's recommendations.

#### Senate:

- There were no cuts to nursing homes
- 2,415 additional Long –term Care Diversion Waiver slots
- Provides funding for the Medicaid Electronic Health Records Incentive Program
- 100 new PACE slots in Hillsborough County
- Affordable Housing: The Senate has \$70 million for SHIP

#### House:

- There are no cuts to nursing homes. The Chair's recommends maintaining Medicaid reimbursement for nursing home care at current funding levels
- 200 additional slots in the Assisted Living Facility Waiver
- 1880 additional Long –Term Care Diversion Waiver slots
- Funding for an additional 100 PACE slots in Lee County
- Provides funding for the Medicaid Electronic Health Records Incentive Program
- Affordable Housing: The House has no money allocated at this time

You can participate in LeadingAge Florida's grassroots advocacy campaign by doing the following:

- Participate in the **Weekly Legislative Update Conference Calls** with LeadingAge Florida's staff and legislative consultants (10 – 11 a.m. on Fridays, through April 26) to learn about what's happening during the 2013 Legislative Session.
- Make plans to attend the **LeadingAge Florida's Annual Legislative & Regulatory Conference** on April 15 & 16. [Register now!](#) The early registration deadline is April 1.
- Read the "End-of-Week" *Legislative Update* for the latest on LeadingAge Florida priority legislation.
- Respond to LeadingAge Florida's calls to action during the legislative session.
- Call or email your legislators when you are concerned about an issue affecting your organization.
- Invite your legislators for tours and town hall meetings after session so they can meet with your residents or clients and their families.

### ***Affordable Housing Bills***

#### **SB 310 Housing** — By Sen. Oscar Braynon II (D-Miami Gardens)

The bill would allow an aggrieved person to file a civil action without first filing an administrative complaint for a discriminatory housing practice. It would require that, if the Florida Commission on Human Relations or local agency has obtained a conciliation agreement with the consent of

the aggrieved person, the filing of a civil action is prohibited, except to enforce the terms of the agreement. The House companion is **HB 523** by Rep. Barbara Watson (D-Miami Gardens).

**SB 740 Relating to Affordable Housing Tax Exemptions** — By Sen. Wilton Simpson (R-New Port Richey)

The bill deletes an ad valorem tax exemption for property owned by certain Florida-based limited partnerships to be used for affordable housing for certain income-qualified persons. The effective date will be upon becoming a law and shall first apply to the 2013 ad valorem tax rolls. The House companion is **HB 921** by Rep. Ronald Renuart (R-Ponte Vedra Beach), which this week passed out of the Economic Affairs Committee 14-0 and now goes to the House Calendar.

**HM 753 Memorial Supportive Housing for the Elderly Program** — By Mark S. Pafford (D-West Palm Beach)

The bill urges Congress to adequately restore funding to Supportive Housing for the Elderly Program. The Memorial states that funding for low-cost housing has drastically decreased from the \$650 million appropriated in 2005 to \$78 million in 2011 and \$0 in 2012. This lack of funding leaves thousands of low-income seniors on waiting lists for as long as 2 or 3 years or more. Currently there is a desperate need for low-cost housing in the State. It has been referred to the Local and Federal Affairs Committee. This week, LeadingAge Florida staff spoke with Rep. Pafford, who said the HM should come up in the committee next week. The Senate companion is **SB 912** by Sen. Joseph Abruzzo (D-Wellington). It was referred to Children, Families and Elder Affairs.

**HB 755 Affordable Housing** — By Rep. Darryl Rouson (D-St. Petersburg)

The bill revises provisions for terminating certain rental agreements and would provide that access to essential commercial goods and services for persons of low income served by housing authorities is public use; prohibits use of eminent domain for certain purposes; expands certain powers of housing authorities to include certain commercial projects providing essential goods and services. The companion is **SB 1120** by Sen. Geraldine Thompson (D-Orlando).

**SB 928 Relating to Community Development** – By Sen. Wilton Simpson (R-New Port Richey)

The bill deletes an ad valorem tax exemption for property owned by certain Florida-based limited partnerships and used for affordable housing for certain income-qualified persons; extending the expiration date applicable to the granting of community contribution tax credits against the sales and use tax, corporate income tax, and insurance premium tax for contributions to eligible sponsors of community projects approved by the Department of Economic Opportunity; revising the powers of the Florida Housing Finance Corporation, etc. Effective Date: Upon becoming a law and shall first apply to the 2013 ad valorem tax rolls. It is on the agenda for the Appropriations Subcommittee on Finance and Tax; Appropriations. The House companion is **HB 437** by Rep. Daniel Davis (R-Jacksonville), which passed the House Finance & Tax Committee 16-0 and now goes to Economic Affairs Committee.

### ***Nursing Home Bills***

**HB 1159 - Relating to Skilled Nursing Facilities** — By Rep. H. Marlene O'Toole (R-Lady Lake)

The bill would provide exemptions from certificate-of-need requirements for construction of licensed skilled nursing facilities in the vicinity of The Villages. HB 1159 was amended on Thursday so that a formula would be used to calculate bed need; total beds in a new facility would be capped at 240; criteria would be set forth for retirement communities; and all nursing home beds would be dually certified as Medicaid and Medicare. HB 1159 was reported favorably by the House Health Innovation Subcommittee (7 Yeas, 5 Nays). The companion is

**SB 1482** by Sen. Alan Hays (R-Umatilla) and it is scheduled to be heard on Tuesday. Effective Date: July 1, 2013.

**SB 1384 Relating to Nursing Home Litigation** — By Sen. Bill Galvano (R-Bradenton)

This bill affects nursing home litigation and it will do the following:

- Limit liability of individual managers consistent with the business judgment rule.
- Provide that the legal remedies provided by the nursing home law are the exclusive legal remedies that can be brought by a nursing home resident against the nursing home.
- Allow a defendant nursing home to challenge a preliminary proffer of evidence related to a claim for punitive damages.
- Provide that punitive damages are generally only assessable against the person who committed the action (or inaction) that led to the injury.

This bill provides an effective date of July 1, 2013, and applies to all causes of action on or after that date. SB 1384 is scheduled to be heard next week on Monday in the Senate Judiciary committee. The companion bill is HB 869 by Rep. Bill Hager (R-Boca Raton) and will be heard next in the House Health Innovation Subcommittee.

**SB 1748 Relating to Medicaid Nursing Home Eligibility** — — By Sen. Greg Evers (R-Crestview)

This bill limits and places sanctions on persons transferring assets in order to become eligible for Medicaid nursing facility services. The Senate Bill has not been heard in its first committee of reference. It is referred to Children, Families, and Elder Affairs; and the Appropriations Subcommittee on Health and Human Services; and Appropriations. The House companion is **HB 1323** by Rep. Jeanette Nunez (R-Miami) and it will be heard next in the Health Care Appropriations Subcommittee.

**Assisted Living Facility Bills**

**HB 187 Relating to Assisted Living** — By Rep. Mike Fasano (R-New Port Richey)

This bill is almost identical to the bill filed last year by Sen. Storm and the Senate Children, Families and Elders committee. It makes a number of changes to the assisted living regulations including requiring licensure of assisted living facility operators. There is no Senate companion to the bill. This bill has not been heard in committee.

**SB 616 Relating to ALF Certification of Administrators** — By Sen. Aaron Bean (R-Jacksonville)

This bill will require assisted living facility administrators to meet certain training and education requirements established by a third-party credentialing entity. It will also allow the Department of Elderly Affairs to require additional training or education of any personal care staff in the facility --except an administrator. The House companion is **HB 865** Rep. Dennis Baxley (R-Ocala). Neither bill has been heard in committee.

**SB 646 Relating to Enforcement of ALF** — By Senate Children, Families and Elder Affairs Committee

This bill strengthens the enforcement of current regulations for Assisted Living Facilities (ALF) by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for facilities with significant violations. Specifically, the bill would:

- Clarify who is responsible for assuring that mental health residents in an ALF receive necessary services.
- Clarify the duties of the state Long-Term Care Ombudsman Program.

- Create a provisional Extended Congregate Care (ECC) license for new ALFs and specify when the Agency for Health Care Administration's (AHCA) may deny or revoke a facility's ECC license.
- Reduce by half the number of monitoring visits the AHCA must conduct for ALFs with Limited Nursing Services (LNS) licenses and ECC licenses.
  - Require that facilities with one or more, rather than three or more, state supported mental health residents obtain a limited mental health (LMH) license.
- Allow the AHCA to revoke the license of a facility with a controlling interest that has or had a 25 percent or greater financial or ownership interest in a second facility which closed due to financial inability to operate or was the subject of other specified administrative sanctions.
- Clarify the criteria under which the AHCA must revoke or deny a facility's license.
- Specify circumstances under which the AHCA must impose an immediate moratorium on a facility.
- Set fines for all classes of violations to a fixed amount at the midpoint of the current range and multiply these new fine amounts for facilities licensed for 100 or more beds by 1.5 times.
- Allow the AHCA to impose a fine for a class I violation even if it is corrected before the AHCA inspects a facility.
- Double fines for repeated serious violations.
- Require that fines be imposed for repeat minor violations regardless of correction.
- Double the fines for minor violations if a facility is cited for the same minor violation three or more times over the course of three licensure inspections.
- Specify a fine amount of \$500 for ALFs that are not in compliance with background screening requirements.
- Add certain responsible parties and agency personnel to the list of people who must report abuse or neglect to the Department of Children and Families' (the DCF) central abuse hotline.
- Require an additional inspection, within 6 months, of a facility cited for specified serious violations.
- Require new facility staff, who have not previously completed core training, to attend a 2 hour pre-service orientation before interacting with residents.
- Require that the AHCA conduct a study of inter-surveyor reliability in order to determine the consistency with which regulations are applied to facilities and report its findings and recommendations by November 1, 2013.
- Require that the AHCA propose a plan for an ALF rating system by November 1, 2013.
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  - Require that the AHCA conduct a study of inter-surveyor reliability in order to determine the consistency with which regulations are applied to facilities and report its findings and recommendations by November 1, 2013.
  - Require that the AHCA propose a plan for an ALF rating system by November 1, 2013.
- It was voted favorable with CS by Health Policy Committee and is expected to be heard in the Senate Judiciary Committee during the first week of April.

**HB 1369 Relating to ALF** — By Rep. Eddy Gonzalez (R-Hialeah Gardens)

Revises responsibilities of DCF relating to coordination of services provided by Medicaid prepaid mental health plans; revises time period during which involuntary examination may be initiated; provides penalties; authorizes AHCA to impose moratorium on or suspension of license of facility under certain conditions; grants extended congregate care license for an assisted living facility; establishes requirements for qualification as administrator of ALF; specifies requirements for facilities that provide care for clients with Alzheimer's disease & other related disorders; increases fines for certain violations of pt. I of ch. 429, F.S.; requires facility licensed for flexible beds to retain certain information regarding residents; provides guidelines for administration of over-the-counter medications; increases amount of funds that facility may keep on behalf of resident; authorizes agency to conduct periodic unannounced inspections & surveys of facilities; provides conditions under which agency must impose moratorium; authorizes development of electronic communication systems to transmit information & require submission of reports; provides fine for failure to timely report. Effective Date: July 1, 2013. It was recently approved by the House Health Innovation Subcommittee. This will likely be the companion to **SB 646** by the Senate Children, Families, and Elder Affairs Committee.

**SB 1638 Relating to ALF** — By Sen. Miguel Diaz de la Portilla (R-Miami)

This bill provides that the owner or administrator of a facility is responsible for arranging medical evaluations and reevaluations of individuals admitted to or residing in the facility to assess appropriateness of admission or continued residence; requiring that the medical examination be conducted by a physician, physician assistant, or nurse practitioner and that the subsequent report be submitted within a specified timeframe. This bill has not been heard in committee.

<b><i>Home and Community Based Services Bills</i></b>
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**HB 125 Relating to Program of All-Inclusive Care for the Elderly** — By Rep. Jimmie Smith (R-Lecanto)

This bill will allow the Agency for Health Care Administration (AHCA) to contract as a Program All Inclusive Care for the Elderly (PACE) services with one not-for-profit organization hospice that has more than 30 years' experience as a licensed hospice and is currently a licensed hospice serving individuals and families in Citrus, Hernando and Pasco counties. It was voted favorable with CS by Health Innovation Subcommittee last week and its next stop is the House Health Care Appropriations Committee.

**SB 440 Relating to Program of All-Inclusive Care for the Elderly** — By Sen. Wilton Simpson (R-New Port Richey)

This bill will allow the Agency for Health Care Administration (AHCA) to contract as a PACE services with one not-for-profit organization hospice that has more than 30 years' experience as a licensed hospice and is currently a licensed hospice serving individuals and families in Citrus, Hernando and Pasco counties. It has not been heard by its first committee of reference. The companion bill is **HB 125** by Rep. Jimmie Smith.

**HB 601 Relating to the Department of Elderly Affairs** — By Rep. Matt Hudson (R-Naples)  
This bill directs the Office of Program Policy Analysis and Government Accountability to conduct a review and evaluation of the functions of the Department of Elderly Affairs. It also requires the office to consult with other certain state agencies and stakeholders regarding the review and evaluation. The companion is **SB 804** by Sen. Garrett Richter (R-Naples) and has not been heard in its first committee of reference. HB 601 was voted Favorable with CS by the Children, Families, and Elder Affairs Committee and it is now in the House Health Care Appropriations Subcommittee.

**SB 748 Relating to Program of All-Inclusive Care for the Elderly** — By Sen. Aaron Bean (R-Jacksonville)  
This bill will allow the Agency for Health Care Administration (AHCA) to contract as a PACE services with one not-for-profit organization hospice that has more than 30 years' experience as a licensed hospice and is currently a licensed hospice serving individuals and families in Duval, St. Johns, Baker, and Nassau counties. It passed favorably with CS by Health Policy last week. Its next stop is the House Appropriations Committee. Its companion bill is **HB 779** by Rep. Jones and has not been heard in the first committee of reference.

**SB 1094 Relating to Home Health Agencies** — By Sen. Anitere Flores (R-Miami)  
This bill deletes requirements for the quarterly reporting by a home health agency of certain data submitted to the Agency for Health Care Administration. It is referred to Health Policy, Governmental Oversight and Accountability. **HB 4031** by Rep Jose Felix Diaz is the companion bill. Neither one of these bills have been heard in committee.

<b><i>Bills of Interest – All Members</i></b>
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**HB 9 Relating to Involuntary Examinations under the Baker Act** — By Rep. Daphne Campbell (D-Miami Shores)  
This bill adds Advanced Registered Nurse Practitioners and Physician Assistants to the list of medical professionals who may execute a certificate for involuntary examination of a person. Currently, involuntary examinations may only be initiated by certain medical professionals, namely physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists, and clinical social workers. Currently, involuntary examinations may only be initiated by certain medical professionals, namely physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists, and clinical social workers. The bill provides an effective date of July 1, 2013. The bill passed the full House by a vote of 116-0 and is in Senate messages. The Senate companion, **SB 110** by Sen. Anitere Flores (R-Miami) and has not been heard in its first committee of reference.

**CS/HB 47 - Fire Safety Devices** by Rep. Ed Hooper (R-Clearwater) requires the gradual adoption of tamper-resistant smoke alarms powered by a nonremovable lithium “long life” battery designed to last for 10 years. In jurisdictions that have adopted similar measures, data indicate a significant decline in alarm failures. The bill does not require existing smoke alarms to be immediately replaced. Instead, the provision applies to new installations and applies when existing smoke alarms are replaced. Manufacturer comments generally indicate that smoke alarms should be replaced every 10 years. CS/HB 47 does not apply to new construction, because it exempts any smoke alarm or fire alarm system that is electrically wired or connects

to a panel. Current residential building codes already require smoke alarms to be wired to commercial power. The Senate companion is **SB 264** by Sen. Alan Hays (R- Umatilla). It passed favorably out of Business & Professional Regulation Subcommittee. CS/HB 47 is now in House Regulatory Affairs.

**CS/HB 77 Landlord/Tenant** by Rep. Elizabeth Porter (R-Lake City) modifies several areas of the “Florida Residential Landlord and Tenant Act” which governs the relationship between landlords and tenants under a residential rental agreement. This bill would:

- Provide that attorney's fees may not be awarded for personal injury actions resulting from maintenance issues between landlord and tenant.
- Provide that certain statutory notice and attorney fee provisions may not be waived in a lease.
- Modify the statutory disclosure regarding deposits to provide specific wording.
- Clarify eviction notice requirements for a recurrent noncompliance event within 12 months.
- Allow a landlord to accept partial rent without waiving the right to evict.
- Prohibit a landlord from retaliating against a tenant who lawfully pays a landlord's association dues pursuant to a lawful demand, or a tenant who complains of a fair housing violation.
- Provide that a landlord and a mobile home park owner must be given an opportunity to cure a deficiency in any notice or pleadings prior to dismissal of an eviction action. It passed in the House 78-37. The Senate companion, **SB 490** by Sen. Kelli Stargel (R-Lakeland), is on the Senate Judiciary Committee agenda for April 1.

**SB 0082 Relating to Early Voting** by Sen. Gwen Margolis (D-Miami) would expand the list of available sites at which early voting may be held to include specified facilities or any other location designated by a supervisor of elections as meeting the requirements of state law. It deletes a requirement that an early voting site be designated and used as such for at least 1 year before an election. It requires a specified number of preprinted ballots to be provided to each early voting site; revising the hours of early voting to 12 hours per weekday and 12 hours in the aggregate each weekend at each site during the applicable periods, etc. The House companion is **HB 25** by Rep. Darryl Rouson (D-St. Petersburg) and it has not been heard in committee. The Senate bill was workshopped in committee.

**CS/SB 100 Employment Practices** by Sen. Nancy Detert (R-Venice) prohibits the use of an applicant's credit report or credit history for employment purposes except as provided by law. The employer may request and consider an applicant's credit report or history if employer has a bona fide purpose for requesting the information that is substantially related to the job, notifies the applicant of the ability to request the information, and obtains permission from the applicant to request the information. The bill defines positions for which an employer has a bona fide purpose to request an applicant's credit history or report. There is no House companion at this time. It is now in the Senate Judiciary Committee.

**HB 115 Relating to Professional Licensure of Military Veterans by Department of Health**  
— By Rep. David Santiago (R-Deltona)

This bill requires the Department of Health (DOH) to waive initial professional licensure and certificate fees for military veterans who apply for a fee waiver using a DOH form and who provide supporting documentation required by DOH. A military veteran is only eligible for the fee waiver if the veteran has been honorably discharged from any branch of the United States Armed Forces within 24 months from the application. Current law does not allow the DOH or its regulatory boards to distinguish applicants for initial licensure based on military service. The bill passed favorably out of the Health Care Appropriations Subcommittee and was on Friday's

Health & Human Services Committee agenda. The Senate companion is **SB 160** by Sen. Garrett Richter (R-Naples), which was placed on the Senate calendar.

**HB 195 Relating to EMS** — By Rep. Keith Perry (R-Gainesville)

HB 195 amends part III of Ch. 401, F.S. and updates the definitions and training standards to reflect the new EMT-Paramedic National Standard Curriculum or the National EMS Education Standards. The bill removes outdated competencies and makes conforming changes throughout the bill. The bill increases the timeframe within which EMTs and paramedics can take the state examination following successful completion of an approved training program from 1 to 2 years. The bill amends s. 381.0034, F.S., to delete the requirement that EMTs and paramedics obtain HIV/AIDS continuing education instruction. The bill amends the timeline that the state emergency medical services plan is updated from biennially to every five years. It was on Friday's Health and Human Services Committee agenda. The Senate companion, **SB 520** by Sen. Rob Bradley (R-Orange Park), passed 38-0 after third reading. The House bill was placed on the calendar for second reading.

**SB 228 Relating to Pre-Suit Discovery in Medical Negligence Actions** — By Sen. Anitere Flores (R-Miami)

This bill clarifies authorization for pre-suit discovery. Providers are to furnish copies of written and electronic and not by verbal methods. This authorization may not be construed to allow a health care provider to have any other communications, discussions, or conversations regarding the patient's health information. It was referred to Health Policy, Judiciary and Rules committees, but has not moved. House companion is **HB 1387** by Rep. Eddy Gonzalez (R-Hialeah Gardens). It is now in the House Civil Justice Committee.

**HB 305 Relating to Certified Registered Nurse Anesthetists** — By Rep. Erik Fresen (R-Miami)

This bill authorizes certified registered nurse anesthetists to practice within protocol established in collaboration with, rather than with approval of, physicians & medical staff of facility in which anesthetic service is performed. Effective Date: July 1, 2013. The bill is now in House Health Quality Subcommittee. Senate companion, **SB 1450** by Sen. Chris Smith (D-Fort Lauderdale), was referred to Health Policy Committee but has not heard at this date.

**SB 308 Relating to Abusive Workplace** — By Sen. Oscar Braynon (D-Miami Gardens)

This bill creates the "Abusive Workplace Environment Act." It prohibits a public employer from subjecting his or her employee to an abusive workplace environment; requiring that a civil action filed under the act must be commenced no later than 1 year after the date of the last incident that is part of the alleged unlawful employment practice. It provides that if a person is found to have committed an unlawful employment practice that culminated in an adverse employment action, the court may enjoin the person from engaging in the unlawful employment practice and may order any other relief that it deems appropriate, including punitive damages and attorney fees, etc. Effective Date: July 1, 2013. Referred to Community Affairs, Governmental Oversight and Accountability; Appropriations and Appropriations Subcommittee on General Government, but has not moved. Related to **HB 149** by Rep. Daphne Campbell, which is now in the House Government Operations Subcommittee.

**HB 313 Relating to Medicaid Dental Services** — By Rep. Lori Berman (D-Boynton Beach)

This bill authorizes AHCA to reimburse health access setting operating as Medicaid provider for dental services under certain conditions. Effective Date: July 1, 2013. It is now in Health Innovation Subcommittee. The companion is **SB 488** by Sen. Oscar Braynon (D-Miami Gardens), referred to Health Policy; Children, Families, and Elder Affairs; Appropriations Subcommittee on Health and Human Services; and Appropriations, but it has not moved.

**HB 315 Relating to Senior Services** — By Rep. Elaine Schwartz (D-Hollywood)

This bill authorizes each county to create by ordinance independent special district to provide funding for services for seniors. It also requires elector approval to annually levy ad valorem taxes. Effective Date: July 1, 2013. It is now in Healthy Families Subcommittee. The companion is **SB 976** by Sen. Eleanor Sobel (D-Hollywood), referred to Children, Families, and Elder Affairs; Community Affairs; Appropriations Subcommittee on Finance and Tax; Appropriations.

**CS/SB 316 Internet Taxes** by Sen. Nancy Detert (R-Venice) amends Florida law to require out-of-state retailers that conduct business over the Internet to collect and remit Florida sales tax on sales made to Florida customers. CS/SB 316 was discussed during the Office of EDR's Revenue Estimating Impact Conference on March 16, but no votes were taken. The House companion is **HB 497** by Rep. Jared Moskowitz.

**HB 349 Relating to Treatment Programs for Impaired Professionals** — By Rep. Ronald Renuart (R-Ponte Vedra Beach)

This is a bill proposed during the 2012 Legislative Session. It provides that the professions of emergency medical technicians, paramedics, and radiological personnel may be subject to the treatment program for impaired practitioners at the election of the impaired practitioner consultant. In addition, it amends the requirements for the impaired practitioner consultant. It provides that the consultant may be an entity that employs a registered nurse as its executive director. It provides that the consultant may contract for services if requested by a school or program for students enrolled in a school for licensure as a health care practitioner under Ch. 456, F.S., or as a veterinarian under Ch. 474, F.S. The CS provides that whenever the department receives a legally sufficient complaint alleging that a licensee or applicant, not just licensee, is impaired and no other complaint exists, the appropriate board, the board's designee, or the Department of Health (DOH) shall forward all information in its possession regarding the impaired licensee or applicant to the consultant. It is assumed that additional workload related to this legislation will be absorbed by the existing contract with the current vendor for fiscal year 2012-13. However, the Department of Health estimates the additional costs in fiscal year 2013-14 will be about \$81,000. The bill specifically states that this additional cost cannot be charged to the Medical Quality Assurance Trust Fund. It was voted favorable 14-0 by the Health and Human Services Committee. Its next stop is to be debated by the full House of Representatives.

**HB 365 Relating to Pharmacy** — By Rep. Matt Hudson (R-Naples)

House Bill 365 permits the substitution of biosimilar biological products for prescribed biological products by Florida pharmacists. Substitution is only permitted if the biological product to be substituted appears on a list developed and maintained by the FDA as biosimilar to and interchangeable with the prescribed biological product. The patient and the prescribing health care provider have the ability to reject substitution and request the prescribed biological product. The bill requires a pharmacist to notify the prescribing health care provider of the substitution within a specific time frame and in a specific manner. Both the pharmacist and the prescribing health care provider are required to maintain a written record of the substitution. The bill appears to have an undetermined, positive fiscal impact on state and local governments. It was placed on calendar, on second reading. The bill is related to **SB 732** by Sen. Denise Grimsley (R-Sebring), which is on the Health Policy Committee Agenda for April 2.

**HB 409 Relating to Health Insurance** — By Rep. Dennis Baxley (R-Ocala)

This will require health insurers & HMOs to allow insurers to continue to use services of preferred providers or network providers listed on provider or network panel at time of insured's enrollment for minimum period of time. It requires HMOs to provide subscribers with current list of network providers and make list available for public inspection. It requires health insurers & HMOs to pay certain providers who have been terminated from panel for health services provided to insurers after termination. Effective Date: October 1, 2013. The bill is still in the Health Innovation Subcommittee. The Senate companion is **SB 510** by Sen. John Legg (R-

Lutz), referred to Banking and Insurance; Health Policy; Appropriations Subcommittee on Health and Human Services; and Appropriations.

**SB 438 Relating to Memory Disorder Clinics** — By Sen. Thad Altman (R Melbourne)

This revises provisions for the establishment of memory disorder clinics in the state. It has not been heard, but was referred to Children, Families, and Elder Affairs; Health Policy; Appropriations Subcommittee on Health and Human Services; and Appropriations. There is no House companion.

**HB 505 Streamlined Sales and Use Tax Agreement** by Rep. Michelle Rehwinkel Vasilinda (D-Tallahassee) would include Florida in the Streamlined Sales and Use Tax Agreement with 24 other states. In states who participated in the agreement the state sales tax laws are standardized to make it easier for multi-state companies to do business. Sales tax administration is improved through tax law simplification, more efficient administrative procedures, and emerging technologies. Sales tax simplification results from: uniform tax definitions; uniform and simpler exemption administration; rate simplification; state-level administration of all sales taxes, uniform sourcing (where the sale is taxable); and state funding of the administrative cost. ) There is no Senate companion bill. It is now in the Finance & Tax Subcommittee.

**CS/SB 530: Dispute Resolution/Arbitration** -- By Sen. John Thrasher (R-St Augustine)

This bill largely adopts the provisions of the 2000 revision of the Uniform Arbitration Act, as approved by the National Conference of Commissioners on Uniform State Laws.<sup>13</sup> The bill significantly amends or repeals each section of the existing Florida Arbitration Code, and amends s. 682.01, F.S., to rename the chapter as the "Revised Florida Arbitration Code." The bill also clarifies that after June 30, 2016, all agreements to arbitrate, regardless of the date executed, will be subject to the Revised Florida Arbitration Code. It has been placed on the Special Order calendar. The bill was discussed on the Senate floor and now is ready for third reading and final vote. The House companion is **CS/HB 693** by Rep. George Moraitis (R-Ft. Lauderdale) is now in Justice Appropriations.

**HB 535 Relating to Medicaid Eligibility** — By Rep. Jimmy Patronis (R-Panama City)

This bill provides conditions for the Department of Children and Families (DCF) to evaluate an applicant's life insurance policy when determining their eligibility for Medicaid services. It authorizes AHCA to use federal or state funds under Medicaid program to pay life insurance premiums of an applicant or recipient. It also provides restrictions on sale, assignation, or transfer of ownership of life insurance policy for which the state is named as beneficiary or which is collaterally assigned to state; provides conditions for owner of life insurance policy to enter into viatical settlement contract with health care services provider for coverage of Medicaid long-term care services. It is still in the Health Innovation Subcommittee. The Senate companion, **SB 794** by Sen. Jeff Brandes (R-St. Petersburg), is now in Banking and Insurance.

**SB 536 Relating to Physical Therapy** — By Sen. Nancy Detert (R-Venice)

It authorizes physical therapists to implement physical therapy treatment plans of a specified duration provided by advanced registered nurse practitioners. It is now in the Senate Banking and Insurance Committee. Its companion, **HB 413** by Rep. Travis Hutson (R- Palm Coast), was debated and passed the full House of Representatives.

**HB 587 Relating to Damages for Medical or Health Care Services** — By Rep. Dave Hood (R-Daytona Beach)

In general, this bill moves the determination of the value of medical services from the trial court judge to the jury. Where the bill has already been paid, the jury is informed of the actual amount and the jury may not award a higher amount. Where the services have not been paid (which may apply to past damages and will always apply to future damages), the bill limits the amount

recoverable to the maximum amount that is customarily accepted in payment for such services by providers in the same geographic area, excluding Medicaid, Medicare and other government entitlement programs.

The bill also prohibits an injured party from being awarded reimbursement for a medical service that was not medically necessary. Medical necessity is from the perspective of the injured person, not based on expert testimony.

Also, the bill only applies to a cause of action that accrues after the effective date of the bill. The bill provides an effective date upon becoming a law. It is in the House Judiciary Committee.

**HB 601 Study of the Department of Elderly Affairs** – By Rep Matt Hudson (R-Naples)

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review and evaluation of the Department of Elderly Affairs (DOEA) and its offices, divisions, programs and functions. The bill requires OPPAGA to examine the specific purpose and funding of each office, division, program, and function, then determine whether each entity within DOEA can be organized in a different manner to maximize efficiency and effectiveness. OPPAGA must address the impact on workload of all entities of DOEA as a result of the expiration of Medicaid waivers on Oct.1, 2013. OPPAGA is also required to determine if any department office, division, program, or function can be performed more effectively and efficiently by another agency in state government and, if so, to recommend restructuring and relocation to the most appropriate agency. One reason for the study is some programs that the DOEA oversees would be largely absorbed into the new Medicaid managed-care program. The bill passed the Government Operations Subcommittee 11-0 and now heads to the Health & Human Services Committee.

HB 601 is in Government Operations Subcommittee. The Senate companion, **SB 804** by Sen. Garrett Richter (R-Naples), is referred to Children, Families, and Elder Affairs; Governmental Oversight and Accountability.

**SB 612 Relating to Medical Doctors** — By Rep. Bill Galvano (R-Bradenton)

This bill requires that when health care practitioners present themselves as "Doctor" or "Dr.", there is certain disclosure and there is no intent to mislead. It provides criminal penalties for violations if there is intent to mislead, etc. Effective Date: October 1, 2013. It is still in Senate Judiciary. The House companion, **HB 805** by Rep. Heather Dawes Fitzenhagen (R-Fort Myers), is now in Health Quality Subcommittee.

**SB 844 Relating to Medicaid Fraud** — By Sen. Denise Grimsley (R-Sebring)

The bill adds an additional provision relating to a change in principal that must be included in a Medicaid provider agreement with the Agency for Health Care Administration, revises provisions specifying grounds for terminating a provider from the program, for seeking certain remedies for violations and for imposing certain sanctions. It also deletes the requirement that the agency place payments withheld from a provider in a suspended account and revising when a provider must reimburse overpayments. Effective Date: July 1, 2013. It is still in Banking and Insurance. The House companion, **HB 939** by Rep. Cary Pigman (R-Sebring), was voted favorable 12-0 by the Health Innovation Subcommittee.

**SB 886 Relating to Damages for Medical or Health Care Services** — By Sen. John Thrasher (R-Jacksonville)

In general, this bill provides circumstance under which patient records may be released without prior written authorization. It is now in the Senate Judiciary Committee. There is no House companion bill.

**HB 1015 Relating to State Ombudsman Program** — By Rep. Kenneth Roberson (R-Port Charlotte)

This bill conforms terminology and programmatic requirements to the Older Americans Act (in part, as directed by the Administration on Aging's Compliance Review).

- State Ombudsman has final authority to make appointments of individuals serving as ombudsmen.
- Clarification of representatives of the office to include the state ombudsman and both staff and volunteers of the program; delineates the activities and duties of the state ombudsman in relation to ombudsmen in general.
- Removes limitations on access to resident records in conformance with s. 712(b) of the Older Americans Act.
- Amends the state council to act as an advisory body to the program, including members that represent the views of area agencies on aging, older individuals, and providers of long-term care as specified in s. 712(e) of the Older Americans Act.
- Revises the confidentiality of resident records section to conform to the limitations on disclosures set forth in s. 712(d) of the Older Americans Act.

It also clarifies the application, background screening, and training requirements needed to become an ombudsman. And it clarifies the operation of the program within districts to allow flexibility to ombudsmen who wish to participate but are constrained by geographical boundaries. Finally, it revises the terminology creating local councils to conform to s. 712(a)(5) of the Older Americans Act and relieves the state of the unnecessary resource burdens when performing state activities. It was voted favorable 12-0 with CS by the Healthy Families Subcommittee on Monday. Its next step is the House Health Care Appropriations Subcommittee. The Senate companion, **SB 1212** by Sen. Darren Soto (D-Kissimmee), is referred to Children, Families, and Elder Affairs; Health Policy; Appropriations Subcommittee on Health and Human Services; and Appropriations. It has not been in heard in the first committee of reference.

**SB 1792 Relating to Medical Negligence Actions** — By Senate Judiciary Committee Medical Negligence Actions; Authorizing a health care practitioner or provider who reasonably expects to be deposed, to be called as a witness, or to receive discovery requests to consult with an attorney on certain matters; authorizing the disclosure of patient information in connection with litigation under certain circumstances; authorizing a medical liability insurer to recommend an attorney to a health care practitioner or provider under certain circumstances; providing that a prospective defendant may conduct an ex parte interview with a claimant's treating health care provider as a tool of informal discovery, etc. This was approved by the Senate Judiciary Committee by a vote 6-3, along party lines. Effective Date: July 1, 2013.

**For a copy of the bills listed in this bulletin, please call Legislative Information at 800-342-1827 or use the Florida "Online Sunshine" website on the Internet at <http://www.leg.state.fl.us>. Hard copies of bills are available through House Documents (850/488-7097) or Senate Documents (850/487-5915).**