

**Florida Academy of Family Physicians
2021 Legislative Session
Capital Update – WEEK SIX
April 9, 2021**

This week the legislature set the stage to develop a final spending plan for the next fiscal year. Both chambers passed their respective budgets off of the floor and are poised to iron out their differences in a budget conference. The state's economists met this week and delivered some news that may help. State revenue projections include a \$2-billion increase in state revenue - \$1.475 billion for the current fiscal year and \$550 million for the fiscal year beginning July 1. And while state expenses have increased during the pandemic – particularly in the public health arena – the economic upturn is sure to help in crafting the final budget. Meanwhile, policy committees continue to wind down their work. Expect packed committee agendas over the next few days.

Following is an update on the Florida Academy of Family Physicians' priorities.

Doctor of the Day

Not to be forgotten, FAFP member Dr. Marc Berger served as Doctor of the Day last week on April 1 being sponsored by Representative Traci Koster (R- Safety Harbor). Again, many thanks to the near dozen FAFP members who have served or plan on still traveling to Tallahassee to support the health and wellbeing of Florida legislators and their staff during the 2021 session.



Legislation Important to Florida's Family Physicians – FAFP Positions Noted

**COVID-19 Liability Protections for Businesses & Health Care Providers – Support –
SIGNED INTO LAW**

Legislative leaders announced that an agreement had been reached on COVID-19 liability protections for businesses and health-care providers. The agreement was placed on SB 72 by Senator Jeff Brandes (R-St. Petersburg). The agreement provides procedures for COVID-19-related civil actions. **SB 72** took effect on March 29 when the Governor signed the bill and applies retroactively; however, the bill does not apply in a civil action against a particular defendant if the suit is filed before the bill's effective date.

SB 72 passed the Senate on March 18 by a vote of 24-15 and passed the House on March 26 by a vote of 83-31. The bill was immediately enrolled and sent to the Governor who signed the bill into law on March 29. FAFP worked with other health care organizations in support of the legislation.

Link to Enrolled Version of SB 72:

<https://www.flsenate.gov/Session/Bill/2021/72/BillText/er>

APRN Scope of Practice Expansion – Oppose

HB 111 by Rep. Randy Maggard (R-Dade City), **SB 424** by Senator Jeff Brandes (R-St. Petersburg) allow advanced practice registered nurses (APRN) to engage in full independent practice by removing the current restriction to primary care practice.

FAFP is actively opposing these bills and neither bill has been heard by any House or Senate committees.

Link to HB 111: <https://www.flsenate.gov/Session/Bill/2021/111>

Link to SB 424: <https://www.flsenate.gov/Session/Bill/2021/424>

PA Independent Practice – Oppose

HB 431 by Rep. Bob Rommel (R-Naples) and **SB 894** by Senator Manny Diaz (R-Hialeah), allow licensed physician assistants (PAs) to practice autonomously. FAFP worked to remove the autonomous practice provisions in the bill and continues to work to ensure the appropriate supervision is in place for physician assistants.

HB 431 and SB 894 contain the following provisions:

- Specify which PA education and training programs are approved for PA licensure and amend PA licensure and licensure renewal requirements;
- Authorize PAs to authenticate any document with their signature, certification, stamp, verification, affidavit, or endorsement if the document may also be authenticated by a physician’s signature, certification, stamp, verification, affidavit or endorsement;
- Remove the prohibition on PAs prescribing psychiatric medications for those under 18 years of age;
- Remove the restriction on the number of licensed PAs a physician may supervise at any one time;
- Remove the requirement that a PA notify a patient that he or she has the right to see a physician prior to the PA prescribing or dispensing a prescription;
- Authorize PAs to procure medications and medical devices, with exceptions;
- Authorize PAs to supervise allopathic and osteopathic medical assistants;
- Authorize PAs to directly bill and receive payment from third-party payors for the services they deliver;
- Repeal the authorization for DOH to issue prescriber numbers;
- Remove the requirement for a licensed PA to notify the DOH in writing within 30 days of employment or after any change in his or her supervising physician; and
- Remove the requirement that PA licensure applicants seeking prescribing authority provide course transcripts.

On April 6, HB 431 passed the Health & Human Services Committee by a vote of 15-3 and the bill is schedule to be heard by the full House on April 13.

On April 8, SB 894 passed the Appropriations Subcommittee on Health and Human Services by a vote of 9-0.

Link to HB 431: <https://www.flsenate.gov/Session/Bill/2021/431>

Link to SB 894: <https://www.flsenate.gov/Session/Bill/2021/894>

Psychologist Prescribing – Oppose

SB 160 by Senator Jeff Brandes (R-St. Petersburg) and **HB 687** by Representative Ramon Alexander (D-Tallahassee) allow certified, licensed psychologists to prescribe, administer, discontinue, and distribute prescription drugs, including controlled substances.

Neither bill has had a committee hearing.

Link to SB 160: <https://www.flsenate.gov/Session/Bill/2021/160>

Link to HB 687: <https://www.flsenate.gov/Session/Bill/2021/687>

Optometry – Oppose

SB 876 by Senator Manny Diaz (R-Hialeah) and **HB 631** expand the scope of practice for certified optometrists to perform laser and non-laser ophthalmic procedures and therapies under certain circumstances.

HB 631 is in the Health and Human Services Committee, the final committee hearing.

SB 876 has two hearings remaining – Appropriations Subcommittee on Health and Human Services and Appropriations.

Link to SB 876: <https://www.flsenate.gov/Session/Bill/2021/876>

Link to HB 631: <https://www.flsenate.gov/Session/Bill/2021/631>

Administration of Vaccines – Oppose

SB 494 by Senator Danny Burgess (R-Zephyrhills) and **HB 459** by Rep. Fiona McFarland (R-Sarasota) allow pharmacists or registered interns under the supervision of a pharmacist to administer to adults all immunizations or vaccines recommended by the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices.

SB 494 is in the Rules Committee, its last committee reference. **HB 459** has not been heard by any House committees.

SB 768 by Senator Dennis Baxley (R-Ocala) and **HB 1063** by Rep. Juan Fernandez-Barquin (R-Miami) contain the following provisions:

- Authorize qualified pharmacists to administer the influenza vaccine only to individuals age 7 and older;
- Revise the list of immunizations that pharmacists and registered pharmacy interns are permitted to administer to adults;
- Authorize pharmacists to administer those vaccines or immunizations lists in the 2021, as opposed to the 2015, CDC Recommended Immunization Schedule for adults and the CDC's Health Information for International Travel; and
- Permit a pharmacist, or a registered intern under the supervision of a pharmacist, to administer any vaccine that has been licensed or authorized for emergency use by the FDA and allows the BOP to authorize by rule additional vaccines that may be administered as recommended by the CDC.

Additionally, **HB 1063** allows a pharmacist to supervise up to 3 registered interns.

HB 1063 is on the calendar of bills ready to be considered by the full House.

SB 768 is in the Rules Committee, its last committee reference.

Link to SB 494: <https://www.flsenate.gov/Session/Bill/2021/494>

Link to HB 459: <https://www.flsenate.gov/Session/Bill/2021/459>

Link to SB 768: <https://www.flsenate.gov/Session/Bill/2021/768>

Link to HB 1063: <https://www.flsenate.gov/Session/Bill/2021/1063>

Step-therapy Protocol Exemptions – Support

SB 1290 by Senator Ed Hooper (R-Clearwater) and **HB 1001** by Rep. Matt Willhite (D-Wellington) require health insurers to publish on their website, and provide in writing to the insurer, procedures to request step therapy protocol exemptions.

HB 1001 was amended in committee to define “step therapy protocol” as a protocol or program that establishes the specific sequence in which prescription drugs, medical procedures, or courses of treatment must be used to treat a health condition. The bill also requires a process to receive a “protocol exemption”, which is a determination by an insurer or HMO to exempt an insured patient from an existing step therapy protocol. Further, the revised bill requires an insurer or HMO to publish on its website, and provide to an insured in writing, a procedure for an insured patient and health care provider to request a protocol exemption. The procedure must include:

- The manner in which an insured patient or health care provider may request a protocol exemption;
- The manner and timeframe in which the health insurer or HMO is required to authorize or deny a protocol exemption request; and,
- The manner and timeframe in which an insured patient may appeal the denial of a request.

Under the bill, an insurer or HMO granting a protocol exemption must specify the prescription drug, medical procedure, or course of treatment approved. Alternatively, an insurer or HMO denying a protocol exemption request must provide a written explanation of the denial, including the clinical rationale supporting the denial. The written explanation must also describe the procedure for appealing the determination by the insurer or HMO.

HB 1001 is in the Health and Human Services Committee.

SB 1290 has not been heard by any Senate committees.

Link to SB 1290: <https://www.flsenate.gov/Session/Bill/2021/1290>

Link to HB 1001: <https://www.flsenate.gov/Session/Bill/2021/1001>

Pharmacy Benefit Managers – Monitor

The Florida Pharmacy Act establishes a set of protections for licensed pharmacies regarding audits by Pharmacy Benefits Managers (PBMs) and other payers. **HB 1155** by Rep. Jackie Toledo (R-Tampa) and **SB 390** by Senator Tom Wright (R-New Smyrna Beach) transfer the audit provisions of the Florida Pharmacy Act to the Florida Insurance Code. This change gives OIR the authority to enforce these provisions and respond to potential violations.

The House bill expressly authorizes pharmacies to appeal audit findings made by health plans and PBMs using the existing dispute resolution program available through AHCA. The bill establishes a financial penalty for PBMs that fail to register with OIR in accordance with current law. To date, OIR has lacked the authority to actively enforce the registration requirement adopted by the Legislature in 2018. Accordingly, the bill establishes a \$10,000 fine for any PBM failing to register with OIR. The bill also expressly makes a health insurer or HMO responsible for violations of the pharmacy audit provisions, even if a PBM is contracted to manage pharmacy benefits on behalf of the insurer or HMO.

HB 1155 is in the Health and Human Services Committee.

SB 390 is scheduled to be heard in the Appropriations Subcommittee on Agriculture, Environment, and General Government on April 13.

Link to HB 1155: <https://www.flsenate.gov/Session/Bill/2021/1155>

Link to SB 390: <https://www.flsenate.gov/Session/Bill/2021/390>

Access to Health Care Practitioner Services – Oppose

HB 803 by Rep. Mike Caruso (R-Delray Beach) and **SB 1680** by Senator Ana Maria Rodriguez (R-Doral) exempt physicians and osteopathic physicians who provide pro bono services from continuing education requirements, allows the board to issue a limited number of restricted licenses to physicians not licensed in Florida to practice for 36 months in certain settings. The bills also increase the federal poverty level from 200 to 400 for the Access to Health Care Act.

SB 1680 is in its last committee, the Appropriations Subcommittee on Health and Human Services.

On April 6, HB 803 passed the Health & Human Services Committee, its last committee reference, by a vote of 20-0 and is now on the calendar of bills ready for the House floor.

Link to HB 803: <https://www.flsenate.gov/Session/Bill/2021/803>

Link to SB 1680: <https://www.flsenate.gov/Session/Bill/2021/1680>

Nonopioid Alternatives – Support

SB 530 by Senator Keith Perry (R-Gainesville) and **HB 725** by Rep. Scott Plakon (R-Longwood) allow health care practitioners to provide the required nonopioid alternative educational pamphlet in either an electronic format or in a printed format to patients or the patient’s representative. SB 530 also prohibits health insurance policies from requiring that treatment with an opioid analgesic drug product or abuse-deterrent opioid analgesic drug product be attempted and have failed before authorizing the use of a nonopioid-based analgesic drug product.

HB 725 and SB 530 are scheduled to be heard on the House floor on April 13.

Link to SB 530: <https://www.flsenate.gov/Session/Bill/2021/530>

Link to HB 725: <https://www.flsenate.gov/Session/Bill/2021/725>

Informed Consent for Pelvic Examinations – Support

Legislation passed in 2020 requires certain health care practitioners and medical students to obtain written consent from a patient or a patient’s representative before performing a pelvic exam. **SB 716** by Senator Lauren Book (D-Plantation) and **HB 361** by Rep. Evan Jenne (D-Dania Beach) amend and narrow the definition of “pelvic examination” and amend the current law requiring written consent for all pelvic examinations performed by health care practitioners and trainees.

HB 361 was amended in committee to revise the definition of pelvic examination to mean a manual examination of the organs of the female reproductive system. The bill also revises the emergency exception to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without the written consent of the patient if the pelvic examination is necessary for the provision of emergency services and care or the patient has an emergency medical condition.

SB 716 is in the Rules Committee and HB 361 is in the Health and Human Services Committee.

Link to SB 716: <https://www.flsenate.gov/Session/Bill/2021/716>

Link to HB 361: <https://www.flsenate.gov/Session/Bill/2021/361>

Medicaid Eligibility

A budget conforming bill, **HB 5201** by the Health Care Appropriations Committee, extends postpartum Medicaid eligibility for pregnant women to 12 months and continues the policy of retroactive Medicaid eligibility for non-pregnant adults to the first day of the month in which an application for Medicaid is submitted. Most of the funding for the \$240 extension will come from pass-through funds from the federal government with the state committing about \$92 million. Currently, pregnant women are covered for only two months after the birth of a child. According to AHCA, the additional months of eligibility under the House's conforming bill will apply to about 97,600 Florida women each year. The bill is supported by House Speaker Chris Sprowls (R-Palm Harbor) and the bipartisan Florida Woman's Legislative Caucus.

On April 8, HB 5201 passed the full House and is now postured in the Senate for budget conference negotiations between the two chambers.

Link to HB 5201: <https://www.flsenate.gov/Session/Bill/2021/5201>

Personal Protective Equipment – Support

Florida's Division of Emergency Management (FDEM) is tasked with managing the state's response to the COVID-19 pandemic, including acquiring and distributing personal protective equipment (PPE) to local governments and health care providers. Currently, FDEM is required to develop and maintain logistics contracts with suppliers who can supply resources and commodities, such as generators, and other commonly needed supplies during a natural disaster. The division also operates and manages the State Logistics Response Center which stores the state's stockpile of resources. Prior to the COVID-19 Pandemic, PPE was not acquired to the extent needed for supporting a pandemic response.

SB 1760 by Senator Ben Albritton (R-Wauchula) and **HB 1353** by Rep. Clay Yarborough (R-Jacksonville) require FDEM to maintain an inventory of PPE in reserve for declared emergencies caused by an infectious or communicable disease. The bills also require FDEM to plan for and procure PPE or have sufficient contracts in place for ensuring PPE availability in the event of a declared emergency and must make PPE available for purchase by healthcare practitioners or their employers at the cost procured or negotiated by the division, and may not sell such PPE at a price exceeding the purchase price.

SB 1760 is in the Appropriations Committee.

HB 1353 is in the Infrastructure & Tourism Appropriations Subcommittee.

Link to SB 1760: <https://www.flsenate.gov/Session/Bill/2021/1760>

Link to HB 1353: <https://www.flsenate.gov/Session/Bill/2021/1353>

Emergency Preparedness & Response Fund – Support?

HB 7047 by the House Pandemics & Public Emergencies Committee and **SB 2006** by Senator Danny Burgess (R-Zephyrhills) and the Senate Select Committee on Pandemic Preparedness and Response amend the State Emergency Management Act to better address the threat posed by a pandemic or other public health emergency. Among the provisions, the legislation specifies that the State Emergency Management Act applies to pandemics and other public health emergencies, requires the Department of Health to create a state public health emergency management plan, and requires the Division of Emergency Management to acquire and maintain an inventory of state-owned personal protective equipment. Additionally, the bills limit state emergency orders, proclamations,

and rules to 60-day durations that can be renewed as long as the emergency conditions persist.

HB 7047 is now in the Health and Human Services Committee.

On April 6, SB 2006 passed the Rules Committee by a vote of 12-5.

Link to HB 7047: <https://www.flsenate.gov/Session/Bill/2021/7047>

Link to SB 2006: <https://www.flsenate.gov/Session/Bill/2021/2006>

Dispensing Medicinal Drugs – Support

HB 29 by Rep. Matt Willhite (D-Wellington) and **SB 262** by Senator Gayle Harrell (R-Stuart) authorize hospitals to dispense 48-hour supply of medicinal drugs to the patient of an emergency room of the hospital or a patient discharged from a hospital. The Senate bill was amended to provide that the new conditions that authorize the prescribing of a controlled substance are subject to ss. 456.44 and 465.0276, F.S., which regulate the prescribing of controlled substances.

HB 29 is on the calendar of bills ready for House floor consideration.

SB 262 is in the Appropriations Committee, its last stop.

Link to HB 29: <https://www.flsenate.gov/Session/Bill/2021/29>

Link to SB 262: <https://www.flsenate.gov/Session/Bill/2021/262>

Telehealth – Support

HB 247 by Rep. Tom Fabricio (R-Miramar) allows practitioners to prescribe schedule III, IV, and V controlled substances using telehealth services and retains current law restrictions on prescribing Schedule II controlled substances through telehealth.

This week, **SB 700** by Senator Ana Maria Rodriguez (R-Doral) was amended in committee and now contains the following provisions:

- Authorizes AHCA, subject to limitations in the General Appropriations Act, to reimburse for telehealth, including services provided in real time, services provide using store-and-forward technologies, and remote patient monitoring services under the Medicaid program.
- Requiring providers to include documentation regarding the use of telehealth in the patient’s medical record or progress notes.
- Requiring providers using telehealth modalities to ensure that the treatment services are medically necessary and performed within the provider’s scope of practice and supervision requirements.
- Allowing out-of-state providers who are registered and enrolled in Florida Medicaid as an out-of-state provider to be reimbursed for telehealth services provided to recipients in this state. This reimbursement does not cover the purchase of any general telecommunications equipment that is not specific to or used solely for the provision of telehealth, including computers, tablets, cell phones, smartphones, or any other similar equipment or device.
- Expands the definition of “telehealth” in s. 456.47, F.S., to include:
 - A telehealth provider’s supervision of health care services through the use of synchronous and asynchronous telecommunications technology.
 - Telephone calls, emails, fax transmissions, and other nonpublic-facing telecommunications. The term includes audio-only telephone calls, personal e-mail messages, facsimile transmissions, and any other nonpublic-facing telecommunications technology.

- Authorizing a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule III, IV, and V controlled substances through telehealth and may use telehealth to prescribe Schedule II controlled substances if they are prescribed for the treatment of certain conditions.
- A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule I of s. 893.03 or to issue a physician certification for marijuana for medical use under s. 381.986.
- Providing additional long-acting medications by injection that pharmacists may administer to include an extended-release medication to treat opioid use disorder, alcohol use disorder, or other substance use disorder or dependency, including buprenorphine, naltrexone, or other medications that have been approved by the FDA. The pharmacist seeking to administer these medication must complete an 8-hour continuing education course.
- Revising an exemption from the telehealth registration requirements when performed in consultation with a health care professional licensed in Florida who has authority over the diagnosis and care of the patient.

HB 247 is now in the Health and Human Services Committee, its last committee reference. On April 8, SB 700, as amended, passed the Appropriations Subcommittee on Health and Human Services by a vote of 9-0.

Link to HB 247: <https://www.flsenate.gov/Session/Bill/2021/247>

Link to SB 700: <https://www.flsenate.gov/Session/Bill/2021/700>

Prohibited Acts by Health Care Practitioners – Support

HB 721 by Rep. Ralph Massullo and **SB 1142** by Senator Ray Rodrigues (R-Estero) prohibit health care practitioners from using certain specialty designations. The term "anesthesiologist" may only be used by licensed physicians and licensed dentists and the term "dermatologist" may only be used by licensed physicians.

SB 1142 also adds the making of misleading, deceptive, or fraudulent representations related to a practitioner's specialty designation as grounds for discipline. The bill requires that when DOH finds that a person has violated s. 456.072(1)(a), F.S., the department must issue an emergency cease and desist order and take disciplinary action if the person fails to comply with the order. The bill also provides for disciplinary action based on a licensed health care practitioner's failure to identify his or her specialty designation and requiring the DOH, not a practitioner regulatory board, to enforce s. 456.072(1)(t), F.S.

HB 721 is in the Health & Human Services Committee.

On April 8, SB 1142 passed the Appropriations Subcommittee on Health and Human Services by a vote of 9-0. The bill was amended to provide requirements for the notice of the cease and desist emergency orders and requiring DOH to impose administrative penalties if practitioners do not comply with the order.

Link to HB 721: <https://www.flsenate.gov/Session/Bill/2021/721>

Link to SB 1142: <https://www.flsenate.gov/Session/Bill/2021/1142>

Health Care Practitioner Discipline – Support

SB 1934 by Senator Lauren Book (D-Plantation) and **HB 1579** by Rep. Vance Aloupis (R-Miami) expand DOH's authority to issue an emergency suspension order to all licensed health care practitioners and adds homicide to the list of offenses that DOH must issue an emergency suspension order. The legislation requires DOH to issue an emergency order

suspending the license if a health care practitioner is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of certain offenses in this state or similar offenses in another jurisdiction. The bills also include such offenses as acts that constitute grounds for discipline of a licensed health care practitioner.

The Senate bill also adds to the offenses, for which if committed by a licensed practitioner, that DOH must consider issuing an Emergency Suspension Order (ESO) or an Emergency Restriction Order (ERO) of the license of that practitioner. The Senate bill requires the DOH to issue an ESO suspending the license of an allopathic or osteopathic pediatrician, or physician who treats children, if the physician is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of any one of the listed criminal offenses involving a child or a similar offense in another jurisdiction. The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to analyze state laws and rules relating to grounds for health care practitioner discipline and ESOs of licenses, specifically with respect to criminal offenses, and to report to Executive and Legislative Branch leadership by January 1, 2022.

HB 1579 is in the Health & Human Services Committee, its final committee reference.

SB 1934 is in the Rules Committee, its final committee reference.

Link to SB 1934: <https://www.flsenate.gov/Session/Bill/2021/1934>

Link to HB 1579: <https://www.flsenate.gov/Session/Bill/2021/1579>

PIP - Motor Vehicle Insurance Reforms - Monitor

SB 54 by Senator Danny Burgess (R-Zephyrhills) and **HB 719** by Rep. Erin Grall (R-Vero Beach) repeal Florida's Motor Vehicle No-Fault Law which requires every owner and registrant of a motor vehicle in this state to maintain Personal Injury Protection (PIP) coverage. Beginning January 1, 2022, the bills enact financial responsibility requirements for liability for motor vehicle ownership or operation, as follows:

- For bodily injury (BI) or death of one person in any one crash, \$25,000, and
- Subject to that limit for one person, \$50,000 for BI or death of two or more people in any one crash.
- Existing \$10,000 financial responsibility requirement for property damage is retained.

The bills also require insurers to offer medical payments coverage (MedPay) to cover certain medical expenses and creates a new framework to govern all third-party claims against motor vehicle insurers for bad faith failure to settle a case. A technical amendment was adopted in committee to the House bill which deleted the unnecessary options language from the provision requiring MedPay to be offered without a deductible.

On April 7 and 8, SB 54 was again scheduled to be debated on the Senate floor; however, Senator Burgess postponed the bill again.

Link to SB 54: <https://www.flsenate.gov/Session/Bill/2021/54>

Link to HB 719: <https://www.flsenate.gov/Session/Bill/2021/719>

Consumer Protection Against Fraud During a Pandemic - Monitor

HB 9 by Rep. Ardian Zika (R-Land O' Lakes) and **SB 1608** by Senator Aaron Bean (R-Fernandina Beach) establish criminal penalties and authorizes civil remedies for those

knowingly and willfully making a false or misleading statement or disseminating false or misleading information regarding the availability of, or access to, a COVID-19 vaccine.

HB 9 is on the Senate calendar of bills ready to be heard by the full Senate.

SB 1608 is in the Rules Committee, its last committee reference.

Link to HB 9: <https://www.flsenate.gov/Session/Bill/2021/9>

Link to SB 1608: <https://www.flsenate.gov/Session/Bill/2021/1608>