



FSU College of Medicine Legislative Committee Meetings Summary

Week of Apr. 3- 7,
2017



*Legislative Budget
Committees
released their
appropriations
bills this week.*

FSU DAY

Medical Marijuana Bills Begin to Move

“Researchers have discovered that chocolate produces some of the same reactions in the brain as marijuana. The researchers also discovered other similarities between the two but can’t remember what they are.” ~ Matt Lauer

The Medical Marijuana Constitutional amendment (Article X, Section 28) passed by 71% approval last November. The amendment defined “debilitating medical condition” to mean “cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.” The Constitutional amendment provided other definitions and requirements for the Department of Health (DOH) to promulgate rules. In response to the voters (71%) that approved the amendment, the Senate and House are developing vastly different bills.

CS/SB 406 (Bradley) relating to Compassionate Use of Low-THC Cannabis and Marijuana passed the Senate Health Policy Committee unanimously this week. After three meetings with a discussion of the five bills filed to implement the new Constitutional amendment authorizing medical marijuana, various provisions were cobbled together into a comprehensive bill.

CS/SB 406 permits allopathic and osteopathic physicians to certify the medical use of marijuana for patients with debilitating medical conditions and other specified patients, including certain patients from other states who meet Florida requirements. The bill requires that a physician must take a required course prior to certifying patients.

HB 1397 (Rodrigues) passed the House Health Quality Subcommittee, 14-1. The longer regulatory bill sets requirements for MMTCs, processing, testing, packaging, labeling, dispensing, transporting and advertising of medical marijuana. It institutes requirements for physicians to certify patients for medical use. The bill also specifies criteria for qualified patients and caregivers to meet in order to use and administer marijuana.

DOH must establish requirements for the licensure and certification of independent testing laboratories (ITL), a marijuana quality control program, and a seed-to-sale tracking program for marijuana. Existing dispensing organizations are grandfathered in as medical marijuana treatment centers (MMTCs) and five new centers are added by October 3, 2017. The bill also creates s. 1004.4351, F.S., to establish the “Medical Marijuana Research and Education Act” and the Coalition for Medical Marijuana Research and Education within the H. Lee Moffitt Cancer Center and Research Institute, Inc.

Senate Health Policy Committee members debated whether to add the five new licenses to the seven existing MMTCs, and more if based on

an increasing population formula (once the pool of patients reached 250,000, four more would be authorized for every 75,000 patients registered to use medical marijuana in the state).

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A three-month relationship between patients and doctors is required before they could order the marijuana treatment. The bill gives DOH regulatory oversight and requires them to create a registry and identification card system for patients and caregivers. DOH is to grant MMTC licenses to five additional applicants when the patient population reaches 200,000 and three additional MMTC licenses for every additional 100,000 patients.

The bill prohibits certain forms of marijuana for medical use, such as smoking and vaping, unless patients are terminally ill. The bill also prohibits edibles, which are defined as commercially produced food items made with cannabis or cannabis oil. In public testimony, medical Cannabis advocates indicated that they favor the Senate bill over the House bill, which they see as being too restrictive. Both bills have two committees of reference remaining.

Inside This Report

- 2 **FSU Day at the Capitol.** Tuesday there were exhibits and three floors of the Capitol, performances, and remarks from Coach Jimbo Fisher and President John Thrasher.
- 3 **Certificate-of Need Repeal.** A House Committee amended the CON repeal bill to exclude nursing homes, ICF/DDs and hospices from repeal.

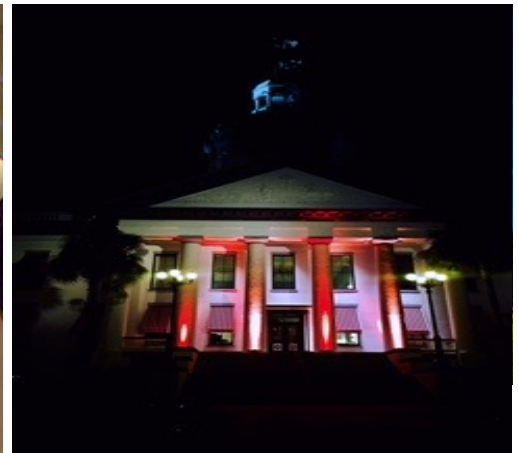






Certificate-of-Need Repeal Modified in House Committee

The House Health & Human Services Committee passed **CS/CS/HB 7**, repealing the Certificate-of-Need (CON) requirement for facilities by a vote of 12-5. The bill eliminates the entire CON review program in Florida. Entities or persons desiring wishing to build or replace a hospital, skilled nursing facility, hospice, or ICF/DD; establish new nursing home or ICF/DD beds; increase the number of complex medical rehabilitation beds; or establish tertiary services in a hospital, including inpatient complex medical rehabilitation beds will only need to be licensed by AHCA. There are 14 states that have no CON requirements. An amendment was adopted which exempts (leaves in place CON for) skilled nursing facilities (a.k.a. nursing homes), intermediate care facilities for the developmentally disabled (ICF/DDs), and hospices. A similar bill, **SB 676** (Bradley) has not yet been heard in committee and has three committee references.



Health-Related Bills Moving

CS/HB 1269 (Harrell) relating to child protection teams unanimously passed the House Health and Human Services Committee. The bill revises statutes relating to child protection teams (CPTs), medically directed, multidisciplinary teams that help the child protective investigation efforts of the Department of Children and Families (DCF) and local sheriffs' offices in cases of child abuse and neglect. They provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions. To broaden the pool of CPT medical directors the bill expands the required board certifications for CPT medical directors to include **family medicine**, as well as pediatrics, and changes the timeframe in which a CPT medical director must obtain certification from 4 years to 2 years. The Senate companion, CS/SB 1318 & 1454 (Garcia & Broxson) passed the first committee of reference and has two committees remaining.

CS/CS/HB 557 (Duran) relating to controlled substance prescribing passed the House 93-22 this week. The bill reduces the amount of time a dispenser has to report the dispensing of a controlled substance to the PDMP database to the close of the next business day after the controlled substance is dispensed. The bill limits an initial prescription of opioids to alleviate acute pain to a 5-day supply, codifying the CDC guideline for the treatment of acute pain. The bill defines "acute pain" as "the normal, predicted, physiological and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness." Opponents argued that the bill impinged on the role of physicians in prescribing pain medicine for suffering patients. The Senate companion, CS/SB 840 (Clemens), unanimously passed the Health Policy Committee this week and has three committees of reference remaining.

CS/HB 993 (Magar) relating to the State Employees Group Insurance (SGI) Prescription Drug Program passed the House Health Care Committee unanimously. The bill passed the House Health and Human Services Committee unanimously. The program is considered an optional benefit for all state employees. It typically makes benefits changes on a plan year basis, January 1 through December 31. The Appropriations Act governs benefit changes. CVS/Caremark, a pharmacy benefits manager (PBM), administers the Prescription Drug Plan, which does not employ prescription drug formulary management or any other management protocols. The bill implements cost-saving measures through a prescription drug formulary. The bill provides certain exceptions and appeals processes and requires SGI to make any necessary adjustments to the Prescription Drug Plan to balance program funding within appropriations made by the Legislature. Based on a January 1, 2018 projected implementation date, the provisions in the bill result in a cost savings to the state of \$15.9 million in General Revenue and \$13.3 million in trust funds in Fiscal Year 2017-2018. The Senate companion (SB 2508) is part of the Appropriations conforming bills and is on the Senate Calendar for next week.

“Clash of the Titans:” Medicaid Prospective Payment Plan

Florida Health Care Association (FHCA) and Leading Age Florida (LAF) & Florida Life Care Residents Association (FLiCRA) have squared off for and against the Medicaid Nursing Home Prospective Payment System budget policy proposal.

The 2016 Legislature required that the Agency for Health Care Administration (AHCA) contract with an independent consultant to develop a plan to convert Medicaid payments for nursing home services from a cost based reimbursement methodology to a prospective payment system. Navigant Consulting, Inc. submitted recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2017. The report recommended: 1) Standardization of payment for the cost of operations. Rates for direct nursing care, indirect care, and operation components would be tied to median values rather than each facility’s individual costs. Facilities that operate and provide care most efficiently, consistent with the Federal requirements described above will be rewarded and the higher costs associated with providers operating in South Florida will be included. 2) Establishing a quality incentive component intended to direct increased payments to high-performing facilities, and provide reasonable and achievable incentives for lower-performing facilities to improve quality. 3) Establishing payments for property-related investments based on a Fair Rental Value System (FRVS) model. The FRVS model pays providers a reasonable rate of return for their capital investments, and acknowledges the value of facilities that are maintained.

The House Health Care Appropriations Subcommittee rejected the plan but the Senate Appropriations Subcommittee on Health and Human Services adopted the prospective payment plan so that it would be part of the conference committee process. Senate Bills 2500, 2502, 2514, the Appropriations bills, also include funds for a 3-year transition for implementation of the new payment system.

The Senate aligns with FHCA’s funding proposal that relies on a guarantee of \$57 million in new Medicaid funding each year for the next three years. The FCHA argues that the new payment system would have a positive impact on resident quality of life though the Direct Care reimbursement component and the Indirect Care reimbursement component rather than simple cost reimbursement associated with operating their nursing facilities. They contend that for years their facilities been investing extensive resources to upgrade the centers and improve the quality of life for their residents. They have made investments beyond what the state requires and reimburses in order to improve services that enrich the lives of residents.

Leading Age and FLiCRA support a transition to a Prospective Payment System for nursing homes; however, not the system proposed because of out-year concerns. They argue that when the transition funding is gone, 152 nursing homes with 4 or 5-star ratings will lose funding, while 97 nursing homes with 1 and 2-star ratings will gain funding. Further, if the prospective payment proposal were to pass as currently fashioned, good performing continuing care retirement community (CCRC) nursing homes with large Medicaid populations could be hit with shortfalls. Financial losses for Medicaid would affect the CCRC overall and thus hurt contract residents in the CCRC from a cost standpoint. They also claim that the payment plan removes \$44 million that may be spent on property rather than care of residents. At the Senate Appropriations Committee meeting this week both sides testified, including residents from Westminster Oaks in Tallahassee, which has a FLiCRA Chapter, who opposed the prospective payment proposal. Ultimately, the budget conference will decide the issue.



FSU DAY Photos: On page 1 FSU day at the Capitol; on pages 2 & 3 a collage of FSU Day photos- the good ones taken by Bill Lax, FSU photographer; on page 3 the Old Capitol with FSU garnet & gold colors; and on page 4 “Indie, Eagle and Montana,” thanks to Andrea Leech, Daytona Beach Campus Administrator. Sources included articles from Brandon Larrabee, Jim Saunders, Michael Auslen, Gary Fineout, Peter Schorsch, Ryan Benk, as well as AHCA website, the Florida Channel and House & Senate bill analyses.

Additional Resources:

Advocate for Florida State:

<http://www.advocateforfloridastate.fsu.edu/site/PageServer?pagename=deploymenthome>

FSU Governmental Relations: <http://govrel.fsu.edu/>

The Florida Channel: <http://thefloridachannel.org/>

Florida Senate: <http://www.flsenate.gov/>

Florida House of Representatives:

<http://www.myfloridahouse.gov/>

Florida Governor’s Office: <http://www.flgov.com/>

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Eagle, Indie and Montana Leech