Indirect Medical Education Costs

The House Health Care Appropriations Subcommittee heard a proposal in the Governor’s budget recommendations creating a new Indirect Medical Education program similar to the Medicare indirect payments for the Medicaid program as a new funding source for qualifying hospitals.

COVID-19 Liability Protections

There are four bills addressing COVID-19 liability emerging from the pandemic in the House and Senate. Two bills (CS/HB 7- Bell & SB 72-Brandes) address business liability protections and two bills (CS/HB 7005- Burton & SB 74-Brandes) are specific to health care liability. These bills are on a fast track.

Foreign Influence on Research

The House Public Integrity & Elections Committee introduced a proposed committee bill, PCB PIE 21-01, which passed unanimously Thursday. The bill requires disclosure of foreign support, grant applications and review of foreign applicants.

The 2021 Florida Legislative Session Begins in Tallahassee

“We have long been known as the Sunshine State – but given the unprecedented lockdowns we have witnessed in other states, I think the Florida sun now serves as a beacon of light to those who yearn for freedom.”

~ Governor Ron DeSantis

This week the legislature convened for the 60-day Legislative Session. Budget and policy issues, such as education, health care and the state’s environmental challenges are of primary concern to all of Florida’s political leaders. Tuesday, they presented their legislative priorities.

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Quote of the Week: “Because no matter how small an act of kindness or generosity or simple positivity you put out into the world, it will make a difference.” ~ Wonder Woman
Week 1

Medicaid Indirect Medical Costs

The House Health Care Appropriations Subcommittee heard a proposal in the Governor’s budget recommendations creating a new Indirect Medical Education program similar to the Medicare indirect payments for the Medicaid program as a new funding source for qualifying hospitals.

Beth Kidder, Deputy Secretary for Medicaid, gave a brief presentation about Indirect Medical Education, which is a new supplemental funding source that was in Governor DeSantis’ proposed budget. This would support hospitals with residents in Graduate Medical Education (GME) who are in training to become physicians. The intent of a Medicaid Indirect Medical Education (IME) program is to provide additional funding to hospitals to support these residents. The goal is to have a supply of well-trained physicians in Florida that will ultimately benefit the Medicaid program. This is modeled after the Medicare Indirect Medical Care program, which is an add-on payment for hospital care. If approved, this would be in addition to existing Medicaid hospital supplemental payment programs such as Medicaid GME, Low Income Pool (LIP), Disproportionate Share Hospital payments (DSH), and a proposed Directed Payment Program (DPP).

Florida currently funds direct Graduate Medical Education (GME) through a series of 8 different programs with total funding of over $280 million. Current funding is for Direct GME programs for immediate medical care such as physician salaries, resident stipends, and GME program administrative costs.

The new Indirect Medical Education Program would be established to provide funding to offset the expenses of operating physician training programs such as compensating teaching hospitals for higher operating costs that could be associated with additional tests ordered by residents as part of the learning process and reduced patient care productivity by all staff members who are training residents. The Medicaid IME program could generate as much as $300 million for Florida hospitals. The state share would be generated through Intergovernmental Transfers (IGTs). These are funds from city or county governments, local health care taxing districts, or providers operated by state or local governments. IGTs are used for most supplemental payment programs; that state share draws down the federal matching funds to pay for the program. Eligible hospitals would include statutory teaching hospitals, public hospitals, and children’s hospitals. AHCA estimates that about 30 hospitals would qualify for IME. The formula is similar to the Medicare formula for IME using the hospital’s ratio of residents to beds and the Medicaid inpatient payment, with some modifications. The hospitals would receive quarterly payments. Approval for the program from the Centers for Medicare and Medicaid Services (CMS) through a State Plan Amendment (SPA) would be necessary, in addition to legislative approval of necessary budget authority for the IGT’s. In response to Rep. Brown’s question about the timeline, Kidder said that it usually takes about 90 days for federal approval of a SPA; it can be made retroactively effective back to the quarter in which they were submitted.

(Opening Day Continued)

On Tuesday, Governor Ron DeSantis addressed a joint session of the Florida Legislature listing his 2021 legislative priorities. In the “State of the State” speech, DeSantis insisted, “the budget outlook is positive.” He championed water resources, education and infrastructure funding. He asked the legislature to pass bills on anti-rioting, “to protect Floridians from the power of Big Tech… Silicon Valley oligarchs,” election ballot changes, COVID-19 liability, and “cracking down on the Chinese Communist Party and other foreign influence.”

Senate President Wilton Simpson said that past spending should be reexamined. He said if the state receives up to $8 billion from the federal relief bill, the funds should fund shovel ready road projects, water infrastructure, the unemployment trust fund, and reserve funds. Simpson listed several legislative priorities, including COVID-19 liability, improving the unemployment system, child welfare, school choice, and workforce development. Additionally, he said tackling the $36 million in unfunded liability in the pension fund is necessary. The proposal would close the defined benefit pension plan to new employees in 2022; they would be placed in a new a 401(k)-like defined contribution investment retirement plan. Simpson also proposes moving immediately to increase the minimum wage to $15 per hour for the lowest-paid state workers, rather than implementing the constitutional amendment over several years.

House Speaker Chris Sprowls referred House members to the legislative priorities he listed at organizational session and expressed gratitude for the legislation filed to address many different issues. Referring to higher education, Sprowls said: “Thank you for being willing to blow up a workforce system that has forgotten how to get people work and for taking on a higher education establishment that seems more worried about social justice than about social mobility.” The Speaker’s legislative priorities include initiatives in literacy, job training, occupational licensing reform, virtual education, broadband expansion into rural areas, in-state tuition for the grandchildren of Florida residents, more advance planning for hurricane recovery, improvements to the child welfare system, reduced or free tuition for virtual higher education classes, COVID-19 liability reforms, preventing foreign influence in universities and natural resources protection.
Foreign Influence Legislation

A few years ago, federal and state legislative committees were created in response to a problem with China’s open recruitment of U.S.-based researchers, scientists, and experts in the public and private sector providing knowledge and intellectual capital in exchange for monetary gain and other benefits. A House Select Committee on the Integrity of Research Institutions was created, which conducted extensive investigations.

At that time, the CEO of H. Lee Moffitt Cancer Center and Research Institute and three other officers or research scientists failed to disclose support from relationships with the China talent and research programs. Subsequently, the University of Florida disclosed to the House Select Committee that three of its research staff members were under similar investigations. There were also additional investigations, some of which remain confidential due to active law enforcement investigations.

Following the work of the House Select Committee, the House Public Integrity & Elections Committee introduced a proposed committee bill, PCB PIE 21-01, which passed unanimously Thursday. The bill requires increased disclosure of foreign support, enhanced examination of grant applicants with certain foreign connections, thorough scrutiny of foreign applicants for research positions and of foreign travel and activities of employees of major research institutions. Seven “foreign countries of concern” include: China, Russia, North Korea, Iran, Venezuelan Maduro Regime, and Syria. The bill specifically requires:

1. Disclosure of all foreign donations and grants of $50,000 or more to the Department of Financial Services (DFS)
2. Reporting of financial connections to the listed countries by grant applicants
3. Universities and colleges, including Direct Support Organizations (DSOs) and other affiliates, must disclose all foreign donations and grants of $50,000 or more to either the Board of Governors of the State University System (BOG) or the Florida Department of Education.
4. Screening of foreign applicants for research positions and foreign travel and activities of employees for every higher education institution and related research institutes having a research budget of $10 million or more.

Rep. Davis raised several questions and indicated concern about possible barriers or “unintended consequences.” Rep. Byrd said the bill notifies universities that they are being held accountable and that the legislature is not going to allow tax-funded universities to be used by foreign enemies. Two other bills (SB 1110-Diaz & HB 1047-Fabrico) addressing similar concerns have been referred to legislative committees but not considered yet.

COVID-19 Liability Legislation for Businesses and Health Care Entities and Providers

There are four bills addressing COVID-19 liability emerging from the pandemic in the House and Senate. Two bills (CS/HB 7- Bell & SB 72-Brandes) address business liability protections and two bills (CS/HB 7005- Burton & SB 74-Brandes) are specific to health care liability. These bills are on a fast track.

This week the House passed CS/HB 7. The remaining three bills have only one committee of reference remaining. There has been vigorous debate and the bills have largely passed by votes along party-lines. Proponents of the bills are usually comprised of health care providers and business interests while opponents include consumer groups and unions.

COVID-19 Business Liability Protection
CS/HB 7 (McClure) provides several COVID-19-related liability protections for businesses, educational institutions (including universities), government entities, religious organizations, and other entities. If an entity covered by the bill makes a good faith effort to substantially comply with COVID-19 guidance, it is immune from civil liability from a COVID-19-related civil action. After spirited debate concerning business protections and consumer interests, the final vote on the bill was 83-31.

SB 72 (Brandes) creates liability protection for individuals, businesses, governmental entities, and other organizations against COVID-19-related lawsuits. The bill reestablishes preliminary requirements that include a physician’s affidavit that the defendant caused, through acts or omissions, the plaintiff’s damages, injury, or death and whether the defendant made a good faith effort to substantially comply with authoritative or controlling health standards when the action occurred. If the case proceeds, the plaintiff must prove that the defendant did not make a “good faith effort” and was “grossly negligent” by the clear and convincing evidence standard.

COVID-19 Health Care Liability Protection
Thirty-four states have recently enacted COVID-19 liability protections for health care entities and professionals.

CS/HB 7005 (Burton) provides enhanced liability protections to health care entities. The bill separately addresses COVID-19-related medical claims and COVID-19-related negligence claims. First, the bill shields providers against claims for negligence for injuries by requiring a plaintiff to prove by a “preponderance of the evidence” that a defendant was grossly negligent, reckless, or committed intentional misconduct.” The bill also protects defendants who complied with applicable government-issued COVID-19 guidance. Second, the bill also creates a bifurcated proceeding for COVID-19-related negligence claims. Evidence must address whether the defendant made a “good faith effort” to comply with government-issued health care standards and that the defendant was “grossly negligent” by “clear and convincing evidence.” The bill includes a retroactive application that excludes civil actions against a particular named health care provider which were begun before the bill’s effective date.

SB 74 (Brandes) requires proof that a health care provider was grossly negligent or engaged in intentional misconduct in failing to substantially comply with government health standards or guidance, in interpreting or applying the standards or guidance, or in the provision of a novel or experimental treatment. A COVID-19-related claim against a health care provider must be filed within one year of the event. Additionally, a health care provider is immune from civil liability under the bill if supplies or personnel were not readily available to comply with the standards or guidance. The bill also includes a retroactive application provision.
**Other Bills of Possible Interest**

**SB 1888** (Book) and **HB 1447** (Hunschofsky) create a Commission on Mental Health & Substance Abuse in response to recommendations from the 20th Statewide Grand Jury to review the mental health and substance abuse systems and services in DCF, AHCA and other state agencies offering such services. The bills have been referred to committees.

**HB 1455** (Roach) and **SB 1958** (Rodrigues) put a 10% THC cap on smokable marijuana and limit THC levels to 16% in other medical-marijuana products, excluding edibles. Advertising restrictions are placed on physicians who order cannabis for their patients. The bills have been referred to committees.

**SB 1268** (Baxley) and **HB 373** (Brannan) require health insurers and health-maintenance organizations to provide coverage for hearing aids for children. The Senate bill unanimously passed the Senate Banking and Insurance Committee and the House bill has been referred to committees.

**HB 701** (Stevenson) and **SB 1024** (Brodeur) require health insurers and HMOs to provide written notice to covered individuals outlining the federal and state requirements for coverage of behavioral health services. The bills also establish a system to track and monitor complaints related to behavioral health care services submitted by insured individuals to the Division of Consumer Services. The House bill passed the House Finance and Facilities Subcommittee by a vote of 17-1 and the Senate bill has been referred to committees.

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**Additional Resources:**

Advocate for Florida State:  
[http://www.advocateforfloridastate.fsu.edu/site/PageServer?pagename=deploymenthome](http://www.advocateforfloridastate.fsu.edu/site/PageServer?pagename=deploymenthome)

FSU Governmental Relations:  
[http://govrel.fsu.edu/](http://govrel.fsu.edu/)

The Florida Channel:  
[http://thefloridachannel.org/](http://thefloridachannel.org/)

Florida Senate:  

Florida House of Representatives:  

Florida Governor's Office:  

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**Dog of the Week**