



FSU College of Medicine Legislative Report

Week 1

January 10 – 13, 2022

Governor's Budget Recommendations Hospitals & Workforce Discussed



The Governor's budget recommendations were presented in the Appropriations committees and subcommittees this week. In the health care appropriations subcommittees funding for hospitals and addressing the nursing shortage crisis were discussed with AHCA Secretary Simone Marsteller.

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COVID-19 Liability Protections Extended



Two bills addressing COVID-19 liability during the pandemic are moving forward in the House and Senate. The two bills extend health care liability for hospitals, nursing homes, assisted living facilities and other entities for an additional year to July 1, 2023. These bills are on a fast track.

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Telemedicine Bills Advance in House and Senate

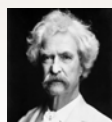


The Senate Rules Committee and House Professions and Public Health Subcommittee unanimously passed telehealth bills this week. The bills authorize health care practitioners' expanded use of telehealth for prescribing Schedule III, IV, and V controlled substances.

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Quote of the Week: *"Whenever you find yourself on the side of the majority, it is time to reform (or pause and reflect)."*

~ Mark Twain



The 2022 Florida Legislative Session Begins in Tallahassee

"Florida is a free state. We reject the biomedical security state that curtails liberty, ruins livelihoods and divides society. And we will protect the rights of individuals to live their lives free from the yoke of restrictions and mandates."

~ 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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COVID-19 Liability Protections Extended

The Legislation is moving in the House and Senate to extend COVID-19 civil liability protections for hospitals, physicians, nursing homes, assisted living facilities and other entities. Last year, the legislature passed COVID-19 liability protections for one year ending March 29, 2022. Section 768.381, F.S., requires a higher standard of proof for plaintiffs, who must prove “by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct.”

The Senate Rules Committee passed **SB 7014** (Burgess) by a vote of 15-4, which will be considered by the full Senate next Wednesday. The House Health and Human Services Committee passed **PCB HHS 22-01** by a vote of 15-5. Both bills extend the heightened civil liability to claims that accrue before June 1, 2023.

Proponents included the following organizations: Florida Hospital Association, Florida Senior Living Association, Florida Chapter of the American College of Physicians, Florida Health Care Association, Leading Age Florida, Florida Medical Association, Florida Chamber of Commerce, Florida Osteopathic Association, Associated Industries Association, Florida Association of Children’s Hospitals, Greater Miami Chamber of Commerce, National Federation of Independent Businesses. The bills were opposed by the trial lawyers’ group Florida Justice Reform Institute and by the AFL-CIO, who expressed concerns that liability protections lower the “standard of care” in health-care facilities.

(Opening Day Continued)

On Tuesday, **Governor Ron DeSantis** addressed a joint session of the Florida Legislature listing his 2022 legislative priorities. In the “State of the State” speech, DeSantis said the budget outlook is very favorable. On higher education, the governor said: “Florida’s public college and university system is ranked number one in the nation yet again,” and added that “Higher education must remain affordable for Florida families. I will not support any tuition increases at Florida’s colleges and universities and I oppose cutting Bright Futures scholarships, which have benefited many Florida families.” He also proposed a \$1 billion gas tax holiday to help reduce prices at the gas pump, funding for water resources, education, foster care and infrastructure.

Senate President Wilton Simpson listed several legislative priorities, including pay raises for law enforcement and correctional officers, raises for bus drivers, for maintenance workers, cafeteria workers, and maintenance workers in public schools, school choice, and workforce development. Additionally, he said the state should increase the minimum wage for state workers and people who perform critical services. Simpson said work to improve Florida’s child welfare system should continue. The college tuition waiver has been an important tool for youth aging out of foster care and should be extended so that more children raised by their foster relatives also have access to this important tool.

House Speaker Chris Sprowls referred House members to the legislative priorities he listed at organizational session press release, including a proposed constitutional amendment to increase homestead exemptions for public employees, and bills on law enforcement recruiting incentives, banning abortions after 15 weeks, and adding privacy protections for biometric data. He expressed concerns about cyber-security infrastructure threats.

Governor's Budget Recommendations Presented in Appropriations Committees

Hospital Funding & Workforce Crisis Discussed in Health Care Appropriations Subcommittees

This is a great budget year! The Appropriations committees and subcommittees heard presentations on the Governor's budget recommendations this week. Despite the robust recommendations and sunny budget forecast, the health care discussions turned toward the thorny problem of the health care workforce shortage dogging hospitals and nursing homes.

Governor's Health Care Budget Recommendations

The Governor's proposed \$99.7 billion budget places \$15.6 billion in reserves and proposes more funding for the environment, child welfare, pay raises for law enforcement and teachers and full funding for affordable housing programs. The budget has been boosted by increased monthly revenue collections and federal CARES Act funds.

In the health care appropriations committees, attention was focused on workforce issues during the question-and-answer discussion with Agency for Health Care Administration (AHCA) Secretary Simone Marstiller.

"Hospitals are Bent, but not Broken"

In AHCA Secretary Simone Marstiller's opening remarks to the **Senate Appropriations Subcommittee on Health and Human Services**, she noted that the budget recommendations fully fund Florida's hospitals and make no cuts to the provider community, all of whom continue to provide quality health care to Florida's residents under some very critical, hard and unprecedented circumstances.

AHCA Major Issues Funded Amount

- Health Provider Rate Increase: \$166.4 million
- Nursing Homes \$119.5 million
- Private Duty Nursing \$14.7 million
- Intermediate Care Facilities for DD \$9.2 million
- Durable Medical Equipment \$6.7 million
- Specialized Mental Health Counseling \$5.0 million
- Prescription Drug Price Transparency \$3.9 million
- Florida Health Care Connections \$120.1 million
- Medicaid Price Level and Workload Need (Fully funds Medicaid Need based on August 2021 Social Services Estimating Conference) \$1.4 billion

Secretary Marstiller indicated that since March 2020, the agency now cares 1.3 million for Medicaid recipients and they are now serving \$5 million people. After an overview of the budget recommendations, Senator Lauren Book expressed concern about the nursing shortage and its financial impact on hospitals. She said it really hit Memorial Hospital hard (\$21 million per month) and the situation of traveling nurses is almost a price-gouging situation.

Book asked for ideas for "what could be done in this dangerous situation?" Marstiller said the Governor is aware of the situation and that is why there are no cuts in hospital funding. She said "speaking personally" the situation is one that will take time to get there. "It is not a legislative fix, throwing money at the problem; it's a conversation that has to be had about the way health care delivery in Florida needs to transform." There need to be more people at the table than AHCA, including hospitals, nursing homes, nursing schools, universities to really and truly develop a new model that makes sense. Book gave an example of a nurse who left Memorial Hospital only to return as a traveling nurse, making five times the salary. Marstiller responded that concern is well placed; all are concerned; but she offered assurance that Florida's hospitals

have not been broken by this; "they might have been bent – the entire health care system has suffered and undergone significant strain – but hospitals are still serving" Floridians. It requires all of the stakeholders at the table to discuss the long-term idea of transforming the model. There is not one legislative fix. Chair Aaron Bean responded that he is also concerned and will examine ways to create more nurses and examine workforce issues. Senator Harrell recommended bringing all stakeholders together to discuss the workforce issue.

"Why do Hospitals, Given their Record Profits, Need Rate Enhancements?"

In the **House Health Care Appropriations Subcommittee**, Chair Bryan Ávila began noting the Governor's recommended restoration of the hospital rate enhancements. He asked that given that last year hospitals received almost \$3 billion in CARES Act funding, new supplemental programs (Hospital Directed Payment Program and Indirect Medical Education), which will provide an additional \$1.8 billion, along with the fact that they had "record profits last year:" "What is the rationale for restoring those automatic rate enhancements?"

Marstiller responded that we are two years into an unprecedented situation across the entire health care spectrum, particularly in hospitals. Staffing issues are critical. Medicaid now serves over 5 million souls and the costs of health care continue to rise. The Governor recognizes that these are challenges for the hospitals and consequently does not recommend any rate decreases. The supplemental payment programs are designed to ensure that hospitals can cover the costs of providing charity care and care to Medicaid subscribers as well as make sure that our medical schools can train new physicians and new health care professionals. The cost is quite substantial.

Ávila asked: "Wouldn't those hospital rate enhancement funds be better tacking an issue like staffing?" Marstiller indicated that she intends to work with the hospitals on the issue of health care workforce issues across the spectrum.

Ávila tried to make it an either-or proposition "given that [there were] record hospital profits last year" what is the greater need—the nursing shortage or hospital rate enhancements? Marstiller said that she would not want to choose on over the other since they are all critical issues for hospitals. The CARES Act funding they received was nonrecurring. Marstiller encouraged the legislature to work with the hospitals moving forward long term because the workforce and cost issues will continue unless they are addressed.

After some discussion about the nursing home rate increase recommendation, Ávila said: "Ultimately, a dollar that goes somewhere, that probably it shouldn't go, is preventing it from going to someone who really needs it, particularly in health care; so every single dollar matters." Further, he commented that if the hospital and nursing home industries keep coming back asking for more money, "it prevents us from being able to make those investments in APD or child welfare or some of the other critical needs in health care." He urged AHCA to "stay on top of them because this can't go on."

It is important to note that the presiding officers determine allocations to subcommittees and may increase the amount of funding available (over a decade ago an HHS subcommittee chair and members wrote the presiding officer asking for more funds in their allocation) and there are dozens of special projects funded in the subcommittees each year that could go into statewide funding needs.



Telemedicine Bills Advance

During the beginning of the pandemic, physicians were temporarily authorized to prescribe controlled substances through telehealth and it was a big success. Telehealth bills are making early progress in the House and Senate this year. Under current law, health care practitioners have the ability to prescribe drugs via telehealth, but state and federal law limits the ability of practitioners to dispense controlled substances using telehealth. Federal law requires a health care practitioner to perform at least one in-person medical evaluation before only telephone calls, e-mail messages, or facsimile transmission under Florida law.

HB 17 (Fabricio) passed the House Professions and Public Health Subcommittee unanimously. The bill authorizes health care practitioners to prescribe Schedule III, IV, and V controlled substances using telehealth services without limitation and retains current law restrictions on prescribing Schedule II controlled substances through telehealth.

SB 312 (Diaz) passed the Senate Rules Committee unanimously and is on the Senate Calendar. The bill allows audio-only telephone calls. It also allows a telehealth provider to issue a renewal prescription for a controlled substance listed in Schedule III, IV, or V of s. 893.03, F.S., through telehealth, within the scope of his or her practice, and in accordance with other state and federal laws. The prohibition on the prescribing of only Schedule II controlled substances through telehealth, is narrowed to specific circumstances.

On page 1, the COVID justice photo is from Getty Images; the research photo is from The Chronicle of Higher Education; opening day photos from Tallahassee Democrat excellent photographer Alicia Devine. Other photos are by Laura E. Brock. Sources included articles from Christine Jordan Sexton, Jim Turner, Jim Saunders, Dara Kam, Jim Roscia, James Call, and Renzo Downey, as well as 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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Dog of the Week – Caesar