



# FSU College of Medicine Legislative Report

Week 7

February 21 – 25, 2022

## Step-Therapy Protocols



Insured patients and their physicians have often encountered delays and difficulty in accessing necessary prescription drugs or treatments due to step-therapy cost containment strategies used by insurers & HMOs.

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## Mental Health & Substance Abuse



This week **CS/SB 282** (Rouson) unanimously passed the House and is on its way to the Governor. The bill supports peer specialists and allows them to be part of the state’s alcohol and drug abuse delivery system.

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## State Employee Health Insurance



In two years, the state employee health insurance program that current and retired university employees participate in may be changed.

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*Quote of the Week: “The true measure of any society can be found in how it treats its most vulnerable members.”*  
~ Mahatma Gandhi



## Telehealth Changes Pass the House of Representatives

The House unanimously amended and passed the telehealth bill this week. The bill authorizes health care practitioners’ expanded use of telehealth for prescribing Schedule III, IV, and V controlled substances. The Senate bill (SB 312) would have allowed for telephone audio only calls to be considered telehealth; however, the House amended the bill to remove the authorization for audio-only calls.

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## Mental Health & Substance Abuse Legislation Passes the House & Senate Unanimously

For those having substance, alcohol abuse, or behavioral health issues, social support has proven to be beneficial in recovery. Programs using peer specialists have proven helpful as part of a system of care. Peer specialists are persons who have recovered from a substance use disorder or mental illness for at least 2 years who support a person with a current substance use disorder or mental illness.

**CS/SB 282** by Senator Rouson (**CS/HB 795 - Fetterhoff**) passed the House this week and is headed to the Governor. The bill expands the scope of recovery support as a part of the state's behavioral health coordinated system of care to include the contributions of peer specialists to assist an individual's recovery from substance use disorder or mental illness. When the bill was heard in committees, there was extensive testimony from those who have been helped by peer counselors.

The bill also requires the Department of Children & Families to designate a Managing Entity with a certified recovery peer specialist training program to provide training for persons seeking certification as peer specialists. The bill also revises background screening requirements and creates a separate process for background screening peer specialists outside the requirements.

## Telehealth Bill Bounced Back to Senate from the House of Representatives

The House stripped **SB 312** (Diaz) of the provision allowing the use of audio-only calls as telehealth service and sent the bill back to the Senate. Otherwise, the House and Senate bills are similar.

**Background.** During the beginning of the pandemic, physicians were temporarily authorized to prescribe controlled substances through telehealth and it was a big success. 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, email messages, or facsimile transmission under Florida law. Currently, telehealth providers are not allowed to prescribe controlled substances through telehealth unless the prescription is for the treatment of a psychiatric disorder, inpatient treatment at a hospital, the treatment of a patient receiving hospice services, or the treatment of a resident in a nursing home facility. Current law prohibits health care providers from prescribing a Schedule I drug under any circumstances. An in-person physical examination is required prior to prescribing a controlled substance for the treatment of chronic nonmalignant pain. All prescribers and dispensers of controlled substances must consult and report prescriptions to the Prescription Drug Monitoring Program database.

**Senate Bill 312 & HB 17.** Prior to the House amendment, **SB 312** (Diaz) allowed audio-only telephone calls. The bill also allows a telehealth provider to issue a renewal prescription for a controlled substance listed in Schedule III, IV, or V of the controlled substances statute, through telehealth, within the practitioner's scope of practice. The prohibition on the prescribing of only Schedule II controlled substances through telehealth, is narrowed to specific circumstances.

These are the controlled substance schedules as follows:

**Schedule II** substances have a high potential for abuse and have a currently accepted but severely restricted medical use in treatment because abuse of the substance may lead to severe psychological or physical dependence. These substances include more than 42 substances, including raw Opium, Fentanyl, Morphine, Oxycodone, Methaqualone, Hydrocodone, cocaine, Methadone, Pentobarbital, Amphetamine and Codeine.

**Schedule III** substances have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. These substances include over 100 substances, including Anabolic steroids, Ketamine, Dronabinol (synthetic THC), and other stimulants.

**Schedule IV** substances have a low potential for abuse leading to limited physical or psychological dependence relative to the substances in Schedule III. These substances include over 85 substances, including benzodiazepines, Carisoprodol, Diazepam, barbiturates and other stimulants.

**Schedule V** substances have a low potential for abuse and may lead to limited physical or psychological dependence relative to the substances in Schedule IV. These substances include mixtures that contain very small quantities of opiates, narcotics, or stimulants.

At the federal level, legislation (**H.R.3447, Rep. Jason Smith, MO**) has been filed to expand coverage of telehealth services to include audio-only services.

## State Employee Health Insurance Changes May be on the Horizon

**The good news:** The House and Senate appropriations bills do not make any changes to the state group health insurance plans for the next benefit year starting Jan. 1. Employee and retiree premiums will remain at their current levels. **The bad news:** Changes may be made in two years. In January, the estimating conference indicated that the State Employees Group Health Insurance Fund is now expected to remain solvent only through FY 2022-23. A major contributing factor is lowered health plan enrollments in the short term with higher expenses for per enrollee. The forecast for subsequent years shows that expenses are expected to exceed revenues by amounts that generate negative cash balances of \$61.8 million in FY 2023-24, \$724.2 million in FY 2024-25, \$986.6 million in FY 2025-26, and \$1,282.5 million in FY 2026-27.

**SB 2500** and **SB 2502** include language directing the Florida Department of Management Services (DMS) to begin the process to competitively bid the \$3.1 billion state employee health insurance program for preferred provider organization plans, health maintenance organization services, and pharmacy benefits manager services to be effective January 1, 2024. Such competitive procurements and resultant contracts shall continue the State Group Health Insurance Standard Plans, State Group Health Insurance High Deductible Plans, State Group Health Maintenance Organization Standard Plans, and State Group Health Maintenance Organization High Deductible Plans within the State Group Insurance Program.

**HB 5001** includes language authorizing DMS to contract with an independent benefits consultant to conduct a comprehensive cost containment analysis of state employee and retiree health benefits provided through health maintenance organizations, preferred provider organizations, and prescription drug programs. DMS is to recommend any changes to statutes and budget resources that will be necessary to implement cost-containment measures in the study. The analysis and the recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 16, 2023. The differences will be resolved in the Appropriations Conference Committee next week.

## Legislation Creating Standards for Step-Therapy Protocols Moves Forward

Many patients and their physicians have encountered difficulties getting insurance companies and health maintenance organizations (HMOs) to pay for certain drugs and treatments without exhausting less expensive drugs and treatments. This is euphemistically called “step-therapy.” These insurers contain costs of drugs and treatments by requiring prior authorization before payment is provided for prescriptions and diagnostic or therapeutic treatments. For example, an insured person is required to use a step-therapy protocol, making them try a less expensive drug or medical procedure for treatment first to treat the medical condition before the insurer or HMO will authorize coverage for a different drug, procedure, or treatment for that condition.

The Florida Insurance Code has largely been silent on the use of step-therapy. The only current law addressing step therapy relates to repetition of step therapy protocols, in certain circumstances.

According to the staff analysis, health insurance plans use step-therapy in 5% of decisions for cancer treatments and 36% of decisions for non-cancer patients. About 13% of decisions for drugs treating rare conditions, and 33% for drugs used to treat more commonly occurring conditions use step-therapy.

**SB 730** (Harrell) passed the Senate Rules Committee this week and is on the Senate Calendar. The bill establishes standards for processing step-therapy protocol exemptions. It defines “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 requires an insurer or HMO to prescribe the manner, form, and timeframe in which an insured or subscriber may request a protocol exemption. It also requires the insurer or HMO to authorize or deny a protocol exemption in a reasonable amount of time. If the insurer or HMO denies the protocol exemption, they must provide the insured with a written response and the procedure for appealing a denial. The written explanation must also describe the procedure for appealing the determination by the insurer or HMO.

The House companion, **HB 459** (Willhite) unanimously passed the House today.



## Emergency 911 Operators with CPR Training

**HB 593** (Trabulsy) unanimously passed the House this week. The popular bill requires a 911 public safety telecommunicators who make telephone calls and provide dispatch functions for emergency medical conditions complete telecommunicator cardiopulmonary resuscitation (CPR) training and continuing education. The bill also authorizes certain public safety agencies to enter into a reciprocal agreement with another public safety agency to provide telephonic assistance in administering CPR, including a fire department, law enforcement department, or other emergency medical service that receives or dispatches calls for emergency medical conditions. **SB 890** (Burgess) is on the Senate Calendar.

*On page 1 side photos are from health intelligence, Wikipedia, benefits pro, websites and main photo is by the author. On page 3, the photos are from the psychiatry advisor and everyday health websites. On page 4 is the author's photo. Sources included articles from Christine Jordan Sexton, Jim Turner, Jim Saunders, James Call, and Renzo Downey, as well as the Florida Channel and House & Senate bill analyses.*

### Additional Resources:

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/>

### For more information:

Laura E. Brock, Ph.D.

FSU College of Medicine

1115 West Call Street

Tallahassee, FL 32306-4300

Email: [lbrock@fsu.edu](mailto:lbrock@fsu.edu)

Office: 850.645.9429

Mobile: 850.566.1002



### Dogs of the Week

**Sarge and Roxy Snyder** - son and daughter of Dawn Snyder, FSU COM Director, Finance and Administration  
 Chief Financial Officer, Florida Medical Practice Plan, Inc.