



LEGISLATIVE UPDATE

January 28, 2018

The Legislature concluded week three of the nine-week legislative session. Week three is when session gets “real.” The pomp of the first week has concluded and the rhythm of the second week continues into a more harried pace. In addition to the hundreds of bills moving through the process, the House and Senate rolled out the first draft of their respective budgets. This act alone leads to an increased level of session intensity. As you might expect, the initial budgets of each chamber are vastly different in many policy areas, most especially in education and health care funding. Working to resolve these differences will be on the front burner for the remainder of the legislative session.

Following is a summary of key issues important to the Florida Psychiatric Society.

Doctor of the Day Program



As part of our continuing advocacy efforts, FPS was well represented this week by members Dr. Louise Buhrmann from Winter Park and Dr. Kishan Nallapula from Gainesville who were invited by Senator Linda Stewart and Representative Clovis Watson, respectively, to serve as Doctors of the Day on January 23rd. Each week day during the nine-week legislative session, doctors from all over the state and with varying practices are scheduled to take part in the legislature’s Doctor of the Day Program. Last session, FPS had one doctor who served in the program. This year, we have six FPS doctors who have volunteered their time to come to Tallahassee! Continued thanks to FPS’ membership for such strong representation at the Capital which plays a huge role in advancing our advocacy efforts!

Also this week on January 24th in Tallahassee, it was NAMI Florida’s Behavioral Health Day at the Capital. Dr. Rajiv Tandon, NAMI Florida’s past president and FPS’ current president, opened the day by giving a “State of the State” address on mental health to kick-off the organization’s activities. A contingent of nine resident/ fellow members from Gainesville took time out of their busy schedules to attend the event. Many thanks to our FPS resident/fellow members and FPS members, Dr. Louise Buhrmann and Dr. Debra Barnett who participated in our advocacy training workshop, attended and testified at

legislative committee meetings, and met with legislators to advance the cause of the Florida Psychiatric Society!

Legislation of Importance to FPS

Psychologist Prescribing – *Advocacy Efforts Continue*

In a trend moving across the country, psychologists are seeking prescriptive authority and Florida is no exception. FPS is partnering with the APA and has developed a comprehensive grassroots and media plan to supplement MHD's legislative advocacy efforts. Psychiatrists from across the state are participating in the legislature's "Doctor of the Day" Program during the nine-week legislative session. Please contact Patricia Greene with MHD at patricia.greene@MHDfirm.com to learn how you can get involved in FPS' advocacy efforts.

Baker Act Involuntary Examinations – *Both Bills Clear Committees*

SB 112 by Senator Daphne Campbell (D-Miami) and **HB 573** by Rep. Kimberly Daniels (D-Jacksonville) add ARNPs and PAs to the list of healthcare practitioners who may initiate the involuntary examination of a person under the Baker Act. On January 10th, HB 573 passed the Health Quality Subcommittee by a vote of 13 to 0. On January 23rd, the Senate bill passed the Health Policy Committee by a vote of 7 to 1. HB 573 will be heard in the Civil Justice and Claims Subcommittee on January 30th.

HB 985 by Rep. Julio Gonzalez (R-Venice) and **SB 1280** by Senator Greg Steube (R-Sarasota) require the Agency for Persons with Disabilities (APD) to provide certain notice of eligibility determinations, require the court to conduct annual hearings on the continued need for involuntary placement in residential services, provide for participation of a guardian or a guardian advocate in placement determinations, require court to hold competency hearing within specified timeframe when defendant is competent to proceed and provide for the limitation on conditional release for community-based competency training for defendant who is incompetent to proceed. On January 23rd, HB 985 passed the Children, Families and Seniors Subcommittee by a vote of 12 to 0. **FPS is working on clarifying provisions in these bills.**

Link to SB 112: <http://www.flsenate.gov/Session/Bill/2018/112>

Link to HB 573: <http://www.flsenate.gov/Session/Bill/2018/573>

Link to HB 985: <http://www.flsenate.gov/Session/Bill/2018/985>

Link to SB 1280: <http://www.flsenate.gov/Session/Bill/2018/1280>

Involuntary Examination and Involuntary Admission of Minors – *Senate Bill Get First Hearing*

SB 270 by Senator Greg Steube (R-Sarasota) and **HB 947** by Rep. Bobby Payne (R-Palatka) authorize a designated law enforcement agency to decline to transport a minor 14 years of age or younger to a receiving facility for mental health or substance abuse evaluation if the parent or guardian of the minor agrees to transport the minor to the receiving facility and require the examination of a minor 14 years of age or younger to be initiated within 8 hours after the patient's arrival at the receiving facility. On January 29th, SB 270 is scheduled to get its first hearing in the Criminal Justice Committee. HB 947 has not been heard in any committees.

Link to SB 270: <http://www.flsenate.gov/Session/Bill/2018/270>

Link to HB 947: <http://www.flsenate.gov/Session/Bill/2018/947>

Perinatal Mental Health – *Both Bills Get Favorable Consideration*

SB 138 by Senator Lauren Book (D-Plantation) and **HB 937** by House Speaker Pro Tempore Jeanette Nunez (R-Miami) require DOH to provide perinatal mental health information through its Family Health Line and direct birth centers to include a mental health screening and provide information about postpartum depression and the Family Health Line as part of its postpartum evaluation and follow-up care. On January 23rd, HB 937 cleared the Health Innovation Subcommittee by a vote of 13 to 0. On January 24th, the Appropriations Subcommittee on Health and Human Services passed SB 138 by a vote of 7 to 0. **FPS is working diligently to pass this legislation this session.**

Link to SB 138: <http://www.flsenate.gov/Session/Bill/2018/138>

Link to HB 937: <http://www.flsenate.gov/Session/Bill/2018/937>

PA & ARNP Scope of Practice Expansion – *House Bill Scheduled for Floor Consideration*

SB 708 by Senator Jeff Brandes (R-St. Petersburg) and **HB 973** by Rep. Byron Daniels (R-Naples) authorize a PA and an ARNP to sign, certify, stamp, verify, or endorse a document that requires the signature, certification, stamp, verification, or endorsement of a physician within the framework of an established protocol and under supervision. On January 31st, HB 973 is scheduled for debate and consideration by the full House Chamber. The Senate bill has not been heard in committees.

Link to SB 708: <http://www.flsenate.gov/Session/Bill/2018/708>

Link to HB 973: <http://www.flsenate.gov/Session/Bill/2018/973>

Influenza & Strep Testing

SB 524 by Senator Jeff Brandes (R-St. Petersburg) and **HB 431** by Reps. Rene Plasencia (R-Orlando) and Byron Donalds (R-Naples) authorize pharmacists to test and treat for the influenza virus and streptococcal infections within the framework of an established written protocol of a supervising physician. The bills require pharmacists to maintain patient records for a minimum of 5 years. The legislation also requires a pharmacist seeking to test for and treat the influenza virus or strep infections to obtain certification through a certification program approved by the Board of Pharmacy in consultation with the Board of Medicine and the Board of Osteopathic Medicine. HB 431 has one hearing left in Health and Human Services Committee while the Senate bill has not been heard by any committees.

Link to SB 524: <http://www.flsenate.gov/Session/Bill/2018/524>

Link to HB 431: <http://www.flsenate.gov/Session/Bill/2018/431>

Opioid Prescribing – *Both Bills Advance & Final Committee Hearings Remain*

SB 8 by Senator Lizbeth Benacquisto (R-Fort Myers) and **HB 21** by Rep. Jim Boyd (R-Bradenton) are aimed at reducing opioid deaths and addiction in Florida. The legislation restricts Schedule II controlled opioids to a 3-day supply but would allow physicians to prescribe up to a 7-day supply in certain situations. Under the legislation, health care practitioners would also be required to consult the Prescription Drug Monitoring Program (PDMP) before writing prescriptions for controlled substances. Under current law, doctors can access the database but are not required to use it. Lastly, the bills

require physicians to complete a board-approved 2-hour mandatory education course on prescribing controlled substances as part of biennial renewal of their licenses. On January 22nd, HB 21 is passed the House Appropriations Committee by a vote of 19 to 0. The House bill has one final hearing remaining in the Health and Human Services Committee. On January 24th, the Senate bill passed the Appropriations Committee by a vote of 19 to 0 and is now in its final committee stop, the Rules Committee. The Senate bill also contains language that restricts Medicaid managed care plans and health insurers from requiring prior authorization or step therapy or imposing any other conditions as a prerequisite to receiving medication assisted treatment (MAT) services.

Link to SB 8: <http://www.flsenate.gov/Session/Bill/2018/8>

Link to HB 21: <http://www.flsenate.gov/Session/Bill/2018/21>

Step Therapy – *Bill Poised to Pass Senate Chamber*

SB 98 by Senator Greg Stuebe (R-Sarasota) and **HB 199** by Rep. Shawn Harrison (R-Tampa) require a health insurer to make current prior authorization requirements, restrictions, and forms accessible. The legislation specifies the requirements for a health insurer that implements a new prior authorization requirement or that amends an existing requirement or restriction and requires a plan to publish on the plan's website and provide to an insured a written procedure for requesting a protocol exception. The bills also provide timeframes for when an insurance company must deny or authorize the prior authorization request and define an "urgent care situation" to clarify that, not just a treating physician, but a PA or ARNP, could also determine whether a health situation is urgent. HB 199 was amended to only prohibit step therapy protocols that have been completed previously. On January 24th, SB 98 was heard on the Senate floor with a vote of final passage of the measure likely next week. The Senate agreed to an amendment sponsored by Senator Gary Farmer (D-Fort Lauderdale) that would require insurers to grant exceptions to any "step therapy" requirements if the medical treatment being recommended is an opioid and the request for an exception is for a non-opioid prescription drug or for treatment with a likelihood of similar or better results. The House companion bill has two committee hearings remaining.

Link to SB 98: <http://www.flsenate.gov/Session/Bill/2018/98>

Link to HB 199: <http://www.flsenate.gov/Session/Bill/2018/199>

Payment of Health Care Claims – *Senate Bill Scheduled for Second Hearing*

SB 162 by Senator Greg Stuebe (R-Sarasota) and **HB 217** by Rep. Bill Hager (R-Delray Beach) prohibit a health insurer and an HMO from retroactively denying a health insurance claim, if they verified the eligibility of an insured at the time of treatment and provided an authorization number. On January 23rd, SB 162 passed the Health Policy Committee by a vote of 8 to 0 and has one final committee hearing in the Rules Committee remaining. The House companion measure has not been heard in any committees.

Link to SB 162: <http://www.flsenate.gov/Session/Bill/2018/162>

Link to HB 217: <http://www.flsenate.gov/Session/Bill/2018/217>

Workers' Compensation Coverage for First Responders – *Senate Revised Bill Advances & House Bill Gets First Hearing*

HB 227 by Reps Matt Willhite (D-Wellington) and John Cortes (D-Kissimmee) and **SB 376** by Senator Lauren Book (D-Plantation) delete certain limitations relating to

workers' compensation benefits for first responders such as law enforcement officers, firefighters, emergency medical technicians, and paramedics, and provide that these first responders are entitled to workers' compensation benefits for mental or nervous injuries regardless of whether such injuries are accompanied by physical injuries. The Senate bill was amended to lower the evidentiary standard for compensability of mental nervous injuries of first responders from clear and convincing evidence to preponderance of evidence. The bill also revises compensability requirements of law enforcement officer, firefighter, emergency medical technician, and paramedics for PTSD under ch. 440, F.S. On January 16th, SB 376 passed the Commerce and Tourism Committee by a vote of 8 to 0. The Senate committee amended the bill by lowering the evidentiary standard for compensability of mental nervous injuries of first responders, defined in s. 112.1815, F.S., from clear and convincing evidence to a preponderance of evidence. The rewrite also revises compensability requirements of law enforcement officers, firefighters, emergency medical technicians, and paramedics for PTSD under ch. 440, F.S., by:

- Requiring that such an employee must have been acting within the course of employment and the person witnessed, or arrived at the scene of, a murder, suicide, fatal injury, child death, or mass casualty incident.
- Eliminating the requirement that such an employee must initiate mental health treatment within 15 days after the incident.
- Requiring that the mental nervous injury of such an employee must be demonstrated by a preponderance of evidence, rather than clear and convincing evidence, by a licensed psychiatrist to meet the criteria for PTSD as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association.

The House companion measure will get its first hearing in the Oversight, Transparency and Administration Subcommittee on January 30th.

Link to HB 227: <http://www.flsenate.gov/Session/Bill/2018/227>

Link to SB 376: <http://www.flsenate.gov/Session/Bill/2018/376>

Telehealth Coverage – *Senate Bill Gets Second Committee Hearing*

The amended version of **SB 280** by Senator Aaron Bean (R-Fernandina Beach) establishes practice standards for telehealth health care services, addresses the prescribing of controlled substances and ordering of medical marijuana through telehealth, and prescribes recordkeeping and patient consent. Telehealth is the delivery of health care services using telecommunication technologies, which allows licensed practitioners in one location to diagnose and treat patients at a different location. The Senate version is slated to be heard in the Health Policy Committee on January 30th. The companion measure, **HB 793** by Rep. Ralph Massullo (R-Lecanto), has not been heard by committees.

Link to SB 280: <http://www.flsenate.gov/Session/Bill/2018/280>

Link to HB 793: <http://www.flsenate.gov/Session/Bill/2018/793>

Maintenance of Certification – *No Movement*

HB 81 by Reps. Julio Gonzalez (R-Venice) and Ralph Massullo (R-Lecanto) and **SB 628** by Senator Denise Grimsley (R-Sebring) prohibit the Boards of Medicine and Osteopathic Medicine, the DOH, health care facilities, and health insurers from requiring certain certifications as conditions of licensure, reimbursement, or admitting privileges. Neither bill has been scheduled for a committee hearing.

Link to HB 81: <http://www.flsenate.gov/Session/Bill/2018/81>

Link to SB 628: <http://www.flsenate.gov/Session/Bill/2018/628>

Forensic Mental Health & Substance Abuse – *House Bill on Floor Calendar As Senate Bill Clears Another Committee*

HB 721 by Rep. David Silvers (D-West Palm Beach) and **SB 960** by Senator Dennis Baxley (R-Ocala) require county jails to continue to administer psychotropic medications as were prescribed at mental health treatment facilities upon a facility client's discharge and return to the county jail, unless the jail physician determines that there is a compelling medical reason to change or discontinue the medication for the health and safety of the individual.

The bills also require county jails to send all medical information for individuals in their custody who will be admitted to state mental health treatment facilities. DCF must request this information within two business days of receipt of a completed commitment packet. Upon receipt of such a request, the county jail must provide the requested information within three business days. The bills also repeal the requirement for DCF to develop a certification process by rule for community substance abuse prevention coalitions. On January 31st, HB 721 is scheduled for House Chamber consideration on January 31st. SB 960 passed the Appropriations Subcommittee on Health and Human Services on January 24th by a vote of 7 to 0 and is now in the Appropriations Committee, its last stop.

Link to HB 721: <http://www.flsenate.gov/Session/Bill/2018/721>

Link to SB 960: <http://www.flsenate.gov/Session/Bill/2018/960>

Alternative Treatment Options for Veterans – *House Bill Garners Favorable Consideration*

SB 82 by Senator Greg Stuebe (R-Sarasota) and **HB 303** by Reps. Danny Burgess (R-Zephyrhills) and Frank White (R-Pensacola) authorize the Department of Veterans' Affairs (DVA) to contract with certain individuals and entities to provide alternative treatment options for certain veterans and require the direction and supervision by certain licensed providers, HB 303 goes a step further in creating an Alternative Treatment Options for Veterans Pilot Program within the DVA. On January 23rd, HB 303 passed the Health Innovation Subcommittee by a vote of 13 to 0. The Senate companion measure has not been heard in committees.

Link to SB 82: <http://www.flsenate.gov/Session/Bill/2018/82>

Link to HB 303: <http://www.flsenate.gov/Session/Bill/2018/303>

Pro Bono Health Care – *House Bill Scheduled for Chamber Consideration*

HB 313 by Rep. Michael Grant (R-Port Charlotte) offers incentives for physicians to provide free care to low-income individuals. The bill waives the renewal fees of physicians who provide at least 160 hours of pro bono medical services to certain populations within the biennial licensure renewal period. Demonstration of 120 hours gains an exemption from the 40 hours of continuing medical education required for license renewal. The bill also authorizes both the Board of Medicine and the Board of Osteopathic Medicine to issue a limited number of restricted licenses to physicians not licensed in Florida who contract to practice for 36 months solely in the employ of the state, a federally funded community health center, a migrant health center, a free clinic, or a health provider in a health professional shortage area or medically underserved area. The bill also creates a registration process for retired physicians to provide

volunteer health care services if the physician held an active licensed status to practice and maintained such license in good standing in this state or in another jurisdiction of the U. S. or Canada for at least 20 years under certain conditions. Having passed out of all of its committees, the House bill has been scheduled for consideration by the full House on January 31st. No Senate companion measure has been filed.

Link to HB 313: <http://www.flsenate.gov/Session/Bill/2018/313>

Out-of-School and In-School Suspension

HB 563 by Rep. Gayle Harrell (R-Stuart) and **SB 496** by Senator Dennis Baxley (R-Ocala) require school districts to review their out-of-school suspension policies every three years, grant parents the right to give testimony during that review process, and specifies that the rules expire if the board does not conduct its review of these rules in accordance with the provisions and the specified timeframe in the bill. On January 16th, SB 496 was passed unanimously by the Senate Education Committee. The bill has one more stop in the Rules Committee before it goes to the Senate floor. The House companion measure, HB 563 has not yet been heard by any committees.

Link to HB 563: <http://www.flsenate.gov/Session/Bill/2018/563>

Link to SB 496: <http://www.flsenate.gov/Session/Bill/2018/496>

Foreign-Trained Physician Licensure – *House Bill Considered Next Week*

SB 636 by Senator Daphne Campbell (D-Miami) and **HB 657** by Rep. Manny Diaz (R-Hialeah) establish certain criteria for foreign-trained physicians and authorize the Board of Medicine to impose licensure conditions, limitations, or restrictions on certain foreign-trained physicians. HB 657 is slated to get its initial hearing in the Health Quality Subcommittee on January 29th. The Senate companion bill has not been heard in committees.

Link to SB 636: <http://www.flsenate.gov/Session/Bill/2018/636>

Link to HB 657: <http://www.flsenate.gov/Session/Bill/2018/657>

Mental Illness in Law Enforcement Officers – *Senate Bill on Agenda Next Week*

HB 781 by Rep. Bobby DuBose (D-Fort Lauderdale) and **SB 1440** by Senator Bobby Powell (D-West Palm Beach) require the Florida Department of Law Enforcement (FDLE) to establish the continued employment training component relating to mental illness with specific instructions to be included in the training. On January 29th, the Senate bill is scheduled to be heard in the Criminal Justice Committee. The House bill has not been heard in any committees.

Link to HB 781: <https://www.flsenate.gov/Session/Bill/2018/781>

Link to SB 1440: <https://www.flsenate.gov/Session/Bill/2018/1440>

Note to FPS members: FPS has a long tradition of legislative advocacy, with a focus on assuring that Florida's psychiatrists can provide optimal care to persons who need treatment for mental illnesses. This is your organization, please read about the issues, share your information and concerns, ask questions, and help assure that your voice is heard. This Update will be weekly during the legislative session.

Margo Adams, Executive Director, FPS, <mailto:margo@floridapsych.org>



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