



2009 FDA LEGISLATIVE ISSUES SHEET

The FDA's legislative issues sheet is updated on a weekly basis. Please visit the FDA's website at www.floridadental.org to view the most current issues sheet.

FDA DENTAL BILL HEARD ON HOUSE FLOOR

This week, the House heard **CS/HB 185** by Rep. Matt Hudson (R-Naples) on the house floor. There was no discussion on the bill and it was rolled to third reading. The bill is now available to be voted out of the House next Tuesday, March 31. **CS/SB 702** by Sen. Don Gaetz (R-Ft. Walton Beach) is on the Senate calendar on second reading.



HEALTH CARE CLINIC ESTABLISHMENT PERMIT UPDATE

As mentioned in several previous *Capital Reports*, there are several "glitch" bills moving through the legislature attempting to fix issues within the pedigree papers or the tracking of prescription drugs from manufacturer to end-user.

The FDA is supporting language making it clearer that this permit is optional and not required as a condition of ordering prescription drugs, which should be allowed through licensure status.

SB 1144 by Sen. Durell Peaden (R-Crestview) passed out of the Senate Health Regulation Committee with a strike everything amendment this week. This bill keeps the permit in place and attempts to clarify the optional nature of the permit. The FDA is seeking additional language that states that it does not matter who pays for the prescription drugs if they are ordered under the practitioner's license number. This language was not offered in committee, but Sen. Peaden has said that he will add it in the Health and Human Services Appropriations Committee which he chairs.

CS/SB 574 by Sen. Gaetz passed out of the Senate Health and Human Services Appropriations Committee this week. This bill eliminates the permit and replaces

it with a simple registration, which only costs \$25, instead of the \$255 permit.

The House version, **PCB HCR09-01** maintains the permit and is still quite different than the senate bills. FDA staff continues to discuss this issue with legislators and committee staff in an attempt to get the FDA's clarifying language adopted on the bills.

TRACKING OF CONTROLLED SUBSTANCES



There are bills moving this session that would require the electronic tracking of all controlled substances being dispensed in Florida. This issue has been debated for years in the Florida legislature but has never reached final passage. The House has historically been more suspect of this effort; however, Speaker Pro Tempore Rep. Ron Reagan (R-Sarasota), recently stated his support for this issue. Presently, the two bills moving are different in detail, but similar in approach. They both require all costs associated with the program to be reimbursed through federal grants or private funding.

SB 462 by Sen. Mike Fasano (R-New Port Richey) requires the Department of Health (DOH) to establish a prescription drug validation program by December 1, 2010. It requires the reporting of all controlled substances dispensed by the pharmacy and dispensing practitioners no later than 15 days of the pills being provided to the patient. The minimum information required in the reporting includes name of the prescribing practitioner, drug enforcement administration registration number (DEA), national provider identification number (NPI), the date of the prescription, method of payment by the patient and their name, address and date of birth. It also requires the name of the drug, national drug code, quantity, and strength of the substance dispensed, as well as the name and location of the pharmacy or dispensing practitioner. Advisory reports would be available to practitioners if they chose to utilize them in an attempt to curb doctor shopping. The Senate version creates two separate entities to help secure the funds needed and monitors the implementation of the bill. Additionally, the bill attempts to provide specific regulations of pain management clinics. This bill has passed the Health Regulation and the Judiciary

Committees. It will be heard next in the Governmental Oversight and Accountability Committee followed by the Health and Human Services Appropriations Committee.

HB 897 by Rep. Marcelo Llorente (R-Miami) requires the Agency for Health Care Administration (AHCA) to establish an electronic monitoring system for controlled substances by June 30, 2010. This version does not contain the separate entities to monitor the program, does not provide advisory reports and does not specifically regulate pain management clinics, but is similar in the majority of other areas. This bill passed both the House Health Care Regulation Policy Committee and the Public Safety & Domestic Security Policy Committee this week. The bill will be heard next in the Health & Family Services Policy Council followed by the Full Appropriations Council on General Government & Health Care.

These bills will most likely be merged together at some point during the process. The FDA is monitoring both bills closely.

DIRECT PAYMENT OF BENEFITS TO PROVIDERS



A controversial bill, **HB 855** by Rep. Llorente passed out of the House Insurance, Business & Financial Affairs Policy Committee today. This was the first committee

stop for **HB 855**.

HB 855 requires managed care organizations to accept a valid assignment of benefits which will consequently allow hospitals, licensed ambulance providers, physicians and dentists to receive payment for services rendered directly from the insurer rather than from the patient. This measure will also allow providers to spend less time on paperwork and tracking down payments, and more time on patient care.

Joe Anne Hart, FDA Director of Governmental Affairs, was one of many health care provider representatives that waved their time in support of the bill. An equal number of health insurance representatives expressed their opposition to the bill arguing that the bill will dismantle their ability to negotiate with providers to participate in managed care networks. To make matters more interesting, the house bill sponsor, Rep. Llorente, is a leader in the House as chair of the Full Appropriations Council on General Government & Health Care. Rep. Alan Hays (R-Umatilla), an FDA member dentist and vice chair on the voting committee, was a strong supporter of the bill.

HB 855 has three more committee stops before it reaches the house floor. The senate companion bill, **SB 1122** by Sen. Gaetz, has not been heard in any committee. The FDA will continue to monitor these bills.

ELECTRONIC HEALTH RECORDS

Several bills have been filed this year to be “shovel ready” in anticipation of the federal stimulus dollars allocated for electronic health records. There seems to be more questions than answers when it comes to the strings attached to the federal funds, but Florida is trying to posture itself to receive these funds and legislation needs to be in place to do so.

HB 1097 by Rep. Denise Grimsley (R-Sebring) and **CS/SB 162** by Sen. Jeremy Ring (D-Margate) create the Florida Electronic Health Records Exchange Act in order to facilitate the exchange of data between health care entities. It creates universal patient release forms and establishes guidelines for their use. They also require the AHCA to operate an electronic medical records adoption loan program, which is specifically subject to available funds provided by the federal government.

As filed, these bills only allowed medical and osteopathic physicians to apply for the loans, but through an amendment supported by the FDA, it now allows health care practitioners, including dentists, to apply for these dollars. Florida, as well as other states, is still waiting on the federal government to draft rules with more specifics which might include having to treat up to 30% of your patients in Medicaid to be eligible for the loans.

HB 1097 passed out of the House Health Care Regulation Committee. It will head next to the Civil Justice and Courts Policy Committee with a strike-everything amendment. **CS/SB 162** has already passed out of The Senate Health Regulation Committee. It is scheduled to be heard in the Governmental Oversight and Accountability Committee next Tuesday, March 31. FDA will continue to monitor these bills throughout session

REDUCING MEDICAID FRAUD AND ABUSE

SB 1986 by Sen. Gaetz passed out of the Senate Health Regulation Committee. The bill has two more committee stops before it reaches the senate floor. **SB 1986** aims at reducing Medicaid fraud and abuse. The bill requires AHCA to implement their authority to curtail fraud and abuse, rather than just giving them the option to exercise its authority. Many of these requirements affect Medicaid providers; some examples include:

- Requires AHCA to establish Medicaid service utilization norms that are risk-adjusted for patient acuity.
- Requires AHCA to track Medicaid provider prescribing and treatment patterns and develop Medicaid treatment norms.
- Requiring AHCA to immediately terminate a provider from participating in the Medicaid program if the provider has been convicted of

a criminal offense under federal law or the law of any state relating to the practice of the provider's profession after all appeals.

- Requires AHCA to withhold Medicaid payments if the Medicaid goods and services were furnished or supervised by a person who has been terminated from any state Medicaid program or federal Medicare program.
- Requires AHCA to post a list of all Medicaid providers, including controlling interests that have been sanctioned or terminated from the Medicaid program.

With all of the new requirements for the Medicaid program, this bill, if passed, could potentially create an additional barrier to health care providers signing up to participate in the Florida Medicaid program. The FDA will continue to monitor this bill.

HOUSE AND SENATE PREPARES BUDGET USING STIMULUS

The House and Senate Health and Human Services Appropriations Committees held budget hearings this week to prepare their budget proposal for fiscal year 2009-2010. Both houses are taking into consideration the use of the federal stimulus dollars within their budget recommendations. The Medically Needy program and the Medicaid Aged and Disabled (MEDS AD) program have been fully restored with non-recurring funds in both the House and Senate. At this early stage in the budget process, neither chamber recommends eliminating the adult dental Medicaid program. The Senate does recommend provider rate reductions for hospitals, nursing homes, county health departments and health maintenance organizations (HMOs). Additionally, there has been no discussion on increasing rates for any Medicaid providers.

By using the federal stimulus dollars, the House and Senate will free up about \$788 million in the health and human services area of the budget. These dollars will be transferred into the state's general revenue pool of funds unallocated. The House discussed its desire to direct these dollars to fund the deficits in the education budget, while members in the Senate want to use these dollars to fund more services and programs within the health care agencies.

AHCA RECEIVES FEDERAL STIMULUS FUNDING

Last week, Governor Charlie Crist announced that AHCA initiated its first draw down of more than \$363 million in increased federal stimulus funds allowed under the American Recovery and Reinvestment Act (ARRA) of 2009. This funding represents an increase in the Federal Medical Assistance Percentage (FMAP) – or Medicaid matching funds - earned for the quarter



ending December 31, 2008. The Agency will be making routine weekly funding requests of the federal stimulus funding.

Under the stimulus package, the federal share of Medicaid program expenditures will increase from 55.4 percent to 67.64 percent. This funding formula includes tiered increases in FMAP based on quarterly unemployment rates. AHCA anticipates that Florida's Medicaid program will receive approximately \$4.2 billion from the federal stimulus package over the next 27 months. This increase in federal funding will be used to fund the Medicaid program. Additionally, the federal stimulus funding is subject to appropriation by the legislature.

NEW WEBSITE FOR STIMULUS FUNDING – FLARECOVERY.COM

Governor Crist has created the Florida Office of Economic Recovery to serve as the coordinating office to track Florida's share of the federal stimulus dollars. Don Winstead will serve as the Special Advisor to the governor for the implementation of the federal stimulus funding. Mr. Winstead currently serves as the Deputy Secretary of The Department of Children and Families (DCF). The Office of Economic Recovery can be accessed on-line at www.FlaRecovery.com, where the public will have an opportunity to monitor the timeline and the efforts of the state in accessing and spending the federal stimulus funds throughout the next 27 months.

LEGISLATOR SPOTLIGHT

Sen. Mike Haridopolos, a college professor, (R-Melbourne) was elected to serve District 26 in the Florida Senate in 2003 and re-elected subsequently. Sen. Haridopolos also served as the Majority (Republican) Whip from 2006 to 2008 and served in the House of



Representatives from 2000 to 2003. His district covers parts of Brevard, Indian River, Osceola, and St. Lucie counties. He currently serves as a member on the following senate committees: Policy and Steering Committee on Governmental Operations (Chair), Governmental Oversight and Accountability (Chair), Reapportionment (Chair), Policy and Steering Committee on Energy, Environment, and Land Use, Policy and Steering Committee on Ways and Means, Communications, Energy and Public Utilities, Health and Human Services Appropriations, Judiciary, Transportation, Select Committee on Florida's Economy, Florida Legislative Committee on Intergovernmental Relations, Joint Select Committee on Collective Bargaining (Co-Chair).

Sen. Haridopolos is slated to be the next Senate President after Sen. Jeff Atwater (R-North Palm Beach). Sen. Haridopolos is consistently supportive of the FDA and the Association's legislative agenda. His legislative contact dentists are Drs. Larry Nissen of Merrit Island, James Antoon of Rockledge and Gerald Bird of Cocoa.

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LEGISLATIVE TRACKING CHART
(As of March 27, 2009)

✓ =Passed
 X =Defeated
 Φ=Not Referenced
 H=House of Representatives
 S=Senate
 B=Bill
 TP'D=Temporarily Postponed
 CS=Committee Substitute

PRIORITY INITIATIVES SUPPORTED

ISSUE	COMMITTEE 1 ACTION	COMMITTEE 2 ACTION	COMMITTEE 3 ACTION	FLOOR ACTION	GOV'S ACTION
HB 185 –FDA Dental Bill	✓ CS Health Care Regulation Policy Committee	✓ Insurance, Business and Financial Affairs Policy Committee	✓ Health and Family Services Policy Committee	Rolled to third reading	
SB 702 – FDA Dental Bill	✓ Health Regulation Committee	✓ CS Banking and Insurance Committee	✓ Health and Human Services Appropriations		
SB 574 – Purchase of Prescription Drugs	✓ CS Health Regulation Committee	✓ Health and Human Services Appropriations			
HB 855 – Direct Payment of Benefits	✓ Insurance, Business and Financial Affairs Policy Committee				
SB 1144 – Health Care Clinic Establishment Permit	✓ CS Health Regulation Committee				
PCB HCR 09-01 – Health Care Clinic Establishment Permit	✓ Health Regulation Committee				

PRIORITY INITIATIVES OPPOSED

ISSUE	COMMITTEE 1 ACTION	COMMITTEE 2 ACTION	COMMITTEE 3 ACTION	FLOOR ACTION	GOV'S ACTION