



Office of the Majority Leader - Dane Eagle

2020 FLOOR PACKET

WEEK 7



INTRODUCTION

This Floor Packet contains policy briefs created by the Florida House Majority Office. The briefs are intended to offer a high-level, one-page overview of the bill and why it is important. Please refer to the bill text and analysis for additional information.

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POLICY BRIEF | HB 711 HOSPITAL, HOSPITAL SYSTEM, OR PROVIDER ORGANIZATION TRANSACTIONS

If hospital mergers and acquisitions go unchecked, they will result in an anticompetitive market that drives up overall health care spending. **HB 711** offers a policy solution to help avoid unnecessary inflation in health care costs for Floridians.

HB 711 (Burton) HOSPITAL, HOSPITAL SYSTEM, OR PROVIDER ORGANIZATION TRANSACTIONS: requires a review of hospital acquisitions of physician practices for anticompetitive behavior by Attorney General's Office. Any hospital planning to acquire a physician practice must report it to the Attorney General at least 90 days prior to completion.

- Hospital mergers or hospital acquisition of physician practices are often thought to streamline care and cut costs, but they can actually have the opposite effect when these acquisitions result in a coercive monopoly.
- Hospital conglomeration is rife with anticompetitive practices that can lead to higher health spending. When a hospital has a monopoly, self-referral or patient-steering policies and significant markups in prices can occur.
- On average, prices increase by 14.1% when a hospital acquires a physician practice. For specialty physician practice acquisitions, prices increase 15% to 33.5%.¹
- Attorney General review of mergers and acquisitions will facilitate free and fair markets.
- **HB 711** authorizes the Attorney General's Anti-Trust Division to look out for anticompetitive behavior and act accordingly to prevent harmful monopolies.
- When one entity becomes too strong, it can stifle competition, leading to higher prices and harm to consumers
- Monopolies are not healthy markets. **HB 711** is a positive step toward ensuring that hospitals and doctors compete with each other to provide high-quality health care services at low prices.

¹ Capps, C., et al., The Effect of Hospital Acquisitions of Physician Practices on Prices and Spending, January 12, 2017, available at <https://economics.mit.edu/files/12747>



POLICY BRIEF | HB 1103 ELECTRONIC PRESCRIBING

Most Floridians conduct business electronically — it's instant, efficient and secure. It's time now for the health care industry to catch up by eliminating paper prescriptions and moving to an electronic format, which could help combat fraud, medical errors and the opioid crisis.

HB 1103 (Mariano) **ELECTRONIC PRESCRIBING**: requires all prescriptions to be electronically or telephonically transmitted by July 1, 2021, with some exceptions.

- Written prescriptions exacerbate the opioid crisis because they can be altered and prescription pads may be lost or stolen and used illegally.
- Written prescriptions can also cause medical errors, when handwriting is misread.
- Electronic prescribing is the solution; instead of old-school paper pads, doctors and nurses could send a prescription directly to a pharmacy through a secure, electronic system – reducing any chance of the prescription being altered or a blank pad or sheet ending up in the wrong hands.
- **HB 1103** provides exceptions for written prescriptions provided to patients receiving services in a free clinic, in a hospital's emergency department, from a health care practitioner providing free services, or when there is a temporary electrical or technological failure that prevents electronic prescribing.
- Many providers already e-prescribe medications. The current e-prescribing rate is more than 75%. That means that of all prescriptions that can be transmitted electronically, more than 7 in every 10 of them are.²
- At least 15 other states require e-prescribing in some manner,³ and it will be required for all controlled substances under federal law beginning January 1, 2021.⁴

FREQUENTLY ASKED QUESTIONS ABOUT E-PRESCRIBING:

Q: What does e-prescribing software that meets the DEA's two-factor authentication requirement cost?

A: *It depends on the electronic health record (EHR) system. In some systems, the e-prescribing capability is already there – if not, it can be added for no cost to about \$250 per provider per year. Anyone without an EHR system can use a stand-alone e-prescribing program – at least one vendor offers this option for \$650 a year.*

Q: What if patients want to shop around for their medication?

A: *Patients can use myfloridarx.com or www.goodrx.com to find the prices for the 300 most commonly prescribed drugs in the state, including the retail price charged by each pharmacy. They can also call or visit pharmacies to ask about drug prices.*

² Agency for Health Care Administration, Florida Center for Health Information and Transparency, "2019 Florida Electronic Prescribing Quarterly Summary," available at <https://ahca.myflorida.com/SCHS/ePrescribing/docs/2019eprescribmetrics3Q.pdf>

³ DrFirst, E-Prescribing Mandate Map, available at <https://www.drfirst.com/resources/e-prescribing-mandate-map/> (last visited May 7, 2019), and SureScripts, Electronic Prescribing for Controlled Substances, available at <https://surescripts.com/enhance-prescribing/eprescribing/e-prescribing-for-controlled-substances/>

⁴ 41 U.S.C. s. 1395w-104(e)(7).



POLICY BRIEF | HB 1147 PATIENT ACCESS TO RECORDS

Patients should have full access to their medical records.

HB 1147 ensures that Floridians gain that access in a standardized, timely manner.

HB 1147 (Payne) PATIENT ACCESS TO RECORDS: standardizes the timeframe that health care providers and facilities must produce or allow inspection of records and empowers patients to control their own records in the form most convenient for them.

- A patient will receive treatment from many health care providers throughout their life, and each provider will create and maintain a record of that treatment. It is crucial that each of the patient's current and future providers have prior treatment records for the patient to receive the best care.
- Requesting records should be a straightforward process. For patients, the process is often inconsistent and confusing. This bill would address this problem by ensuring that, regardless of provider type, each practitioner and facility must:
 - Produce all requested records in their possession within 14 working days.
 - Allow inspection of all records in their possession within 10 working days.
- Providers and facilities must produce the records in the form the patient selects, including paper and electronic format and, if the provider has an electronic health records system, with access through a web-based portal or direct submission to a patient's electronic personal health record.

FREQUENTLY ASKED QUESTIONS ABOUT PATIENT ACCESS TO MEDICAL RECORDS:

Q: The bill requires health care providers and facilities to allow inspection within 10 days and to produce copies within 14 days of a request, do you think that these timeframes are fair to the providers and facilities?

A: Yes, the majority of health care providers and facilities use electronic health records that can be produced instantaneously. Two weeks is plenty of time, even for those who only have paper records. What is unfair is making a patient needlessly wait a month or longer for their records, especially if those records are needed for treatment reasons.

Q: HIPAA requires production of records within 30 days— does the bill violate HIPAA by requiring records to be produced in 14 days?

A: No, HIPAA establishes the outer limit. States are allowed to set a shorter time period.

Q: Can a health care provider or facility comply with the requirements of your bill if they do not have an electronic health records system?

A: Yes, only providers and facilities with electronic health record systems are required to comply with the bill's electronic production of records requirements.



POLICY BRIEF | HB 1149 LOCAL GOVERNMENT FISCAL TRANSPARENCY

Governments should be accountable to the taxpayers they represent. **HB 1149** ensures that local governments are responsible and transparent stewards of taxpayer dollars.

HB 1149 (DiCeglie) **LOCAL GOVERNMENT FISCAL TRANSPARENCY**: requires additional fiscal transparency from local governments.

- Floridians should have access to information about their local governments' fiscal decisions so they can hold their elected officials accountable.
- **HB 1149** enhances local government fiscal transparency by requiring:
 - easy public access to local government governing boards' voting records related to tax increases and issuance of tax-supported debt (phased in over four years).
 - easy online access to property tax Truth-in-Millage notices and a four-year history of property tax rates and amounts at the parcel level (phased in over three years).
 - additional public meetings and expands public notice requirements for local option tax increases, other than property taxes, and new long-term, tax-supported debt issuances.
 - local governments to conduct and consider a debt affordability analysis prior to approving the issuance of new, long-term tax-supported debt.
 - the chair of the local governing body to sign an affidavit of compliance.
- Under current law, most local governments are required to have an annual financial audit. **HB 1149** requires the auditor to report whether the local government is in compliance with the provisions of the new act created by the bill.
 - The Auditor General must request evidence of corrective action from local governments found not to be in compliance with the Act.
 - Local governments must provide evidence that corrective action has been initiated within 45 days and completed within 180 days.
 - The Auditor General must report local governments that do not take corrective action to the Legislative Auditing Committee.
- These requirements will ensure that Floridians have open, easy access to the information they need to be more engaged with their local governments.



POLICY BRIEF | HB 1185 ETHICS REFORM

Florida state and local governments should be transparent and accountable to the residents they serve, and government officials should be held to the highest ethical standards.

HB 1185 advances this commitment.

HB 1185 (Brannan) **ETHICS REFORM**: enacts reforms to conflict of interest law so government employees and elected officials do not use their positions for private gain.

- Florida's public servants have access to information and opportunities as a result of their service. House Republicans are committed to ensuring that their public service is not used for private gain.
- Some of the reforms related to conflicts of interest in the bill include:
 - Prohibiting state and local officers or employees from soliciting a job from a business or entity that the officer or employee's agency has regulatory power over.
 - Requiring disclosure and reporting on offers of conflicting employment.
 - Requiring state legislators and statewide elected officers to disclose changes in employment and pay raises within 30 days if with an entity that receives state funds directly by appropriation or from any public employer.
 - Revising executive branch lobbying registration requirements.
- The bill also removes outdated restrictions on state employees – such as teachers – lobbying the Legislature.



POLICY BRIEF | HB 1205 PRICE TRANSPARENCY IN HEALTH CARE SERVICES

Floridians deserve to have open and transparent access to information about their health care. Patients have a right to talk with health care providers about price without interference from health insurers and health maintenance organizations (HMOs). **HB 1205** ensures this.

HB 1205 (Rodriguez, A.) **PRICE TRANSPARENCY IN HEALTH CARE SERVICES**: prohibits a health insurer or HMO from limiting the ability of any provider to discuss pricing information with a patient, ensures insured patients do not pay more than an uninsured patient for a health care service, and safeguards a patient's right to open communication with providers regarding costs of care.

- As health care costs continue to rise, most health insurers are asking consumers to take on a greater share of their costs by increasing premiums and out-of-pocket expenses.
- Patients should have the information they need to be able to choose less expensive health care services – or even pay for a service themselves, rather than using insurance if it's less expensive.
- Health care providers have some flexibility in discussing costs with patients, but there may be cases when a provider's contract with an insurer limits communication related to costs of care.
- The bill's provisions apply to all state-regulated health plans, including health insurance policies, small and large group policies, and HMO coverage contracts.
- **HB 1205** prevents an insurer or HMO from requiring an insured patient to pay more than an uninsured patient for a health care service. Insured patients should not be expected to pay more than the cash price for any given service.



POLICY BRIEF | HB 6059 RELATING TO SPECIALTY HOSPITALS

Floridians deserve options when it comes to meeting their health care needs.

HB 6059 opens up more choices for patients who need specialty care.

HB 6059 (Fitzenhagen) **RELATING TO SPECIALTY HOSPITALS**: removes provisions relating to prohibition of licensure for certain hospitals that serve specific populations.

- Florida bans specialty hospitals for cardiac, orthopedic, surgical or oncology specialties if 65% or more of the hospital's discharges are for the diagnostic care and treatment of patients who have conditions in one or more of those four categories.
- This means hospitals can't specialize and become the premier facility in any of those areas.
- The repeal removes outdated regulatory barriers that hinder competition.
- More competition will ultimately lead to more high-quality, cost-effective options for patients.

FREQUENTLY ASKED QUESTIONS ABOUT HOSPITAL LICENSURE:

Q: How do you prevent specialty hospitals from popping up everywhere?

A: Market forces impact both the construction and operation of new health care facilities. Entities will establish new facilities, or expand existing facilities, only if there is a need in the community for such services. In addition, the labor market limits the number of sufficiently trained professionals necessary to open and operate new health care facilities.