A summary of the State Legislature’s impact on Florida’s Healthcare Environment

This year’s legislative session concluded on Friday, April 30. The session ended with a flurry of bills passed at the last minute by both chambers, and with reports of an unusually large amount of “unfinished business” this year. The session was described as “disappointing” by both parties; numerous bills died as a consequence of failed negotiations between the Senate President and the House Speaker and because of general time constraints faced by the legislature.

Soaring healthcare costs and the high number of individuals without insurance should have made healthcare legislation a high priority. Despite the number of healthcare bills this session, few were directed at delivery system reform to decrease costs or improve coverage.

Some of the primary healthcare bills that were passed include:

- **The 2004 Affordable Health Care for Floridians Act** – a major reform bill that attempts to expand access to care, primarily through consumer-driven techniques.

- **Medicaid Funding** – determines budget amounts for Medicaid and other state healthcare subsidy programs. Makes steps towards placing substantial numbers of Medicaid long-term care patients and individuals with mental health conditions in HMOs.

- **KidCare** – a bill that provides funding to reduce the waiting list of KidCare and that tightens eligibility to the program.

- **Long-Term Care Service Delivery System** – specifies long-term care delivery system changes that will be carried out by Agency for Health Care Administration and Department of Elder Affairs.

- **Medicaid Fraud Bill** – increases the state’s authority to punish those who participate in prescription drug abuse in Medicaid.

- **Florida Healthy People 2010 Program** – charges the Department of Health with overseeing steps towards a reduction in existing health disparities among segments of the population.
2004 Affordable Health Care for Floridians Act (C.S. 1629)

This healthcare bill was designed to reduce the cost of care and to expand access to health insurance. The bill does not allocate any new tax dollars for the health care of the poor or uninsured. The bill’s principal provisions:

- Require providers to publish cost and outcome data via the Internet
- Require insurers to provide Health Savings Accounts to small employers
- Expand the Health Flex program to the entire state
- Fund a study for reestablishing the high-risk pool in Florida
- Establish an agency for reducing medical errors

Increased Information for the Public

Hospitals and other healthcare entities are required to provide the public with performance data, outcome data, and financial data. The Agency for Health Care Administration (AHCA) will collect information from various healthcare entities and use it to publish performance and price data for 100 common medical procedures. Hospitals and other healthcare entities must make available on their websites a description of, and link to, the data on the AHCA website.

The lack of access to quality and cost information has long been criticized as a critical problem with our healthcare environment. These measures are an attempt to improve the availability of information and to promote competitive pricing amongst healthcare providers.

Additionally, a comprehensive program will be established to increase public awareness of risk factors associated with chronic conditions.

Health Savings Accounts

The bill requires insurers to provide cheaper, high-deductible plans to small businesses—another consumer-driven approach to cost savings. Health Savings Accounts (HSAs) allow participating individuals and families to set aside pre-tax dollars for their health care that can be rolled over each year.

Under the plans, individuals can save as much as $2,600 per year, and families can save up to $5,150. These funds can be used to purchase health care.

Expansion of Health Flex Plans

In recent years, the legislature has allowed Duval and Miami-Dade counties to experiment with “bare-bones” health insurance plans for low-income workers. These plans attempt to expand access to insurance by removing mandates on benefits packages so insurance companies can provide cheaper plans. Under the bill, such plans will be expanded statewide. A controversial aspect of Health Flex plans is that they provide inadequate insurance for those who participate, since they do not require what some consider necessary services, such as mammography screening and other preventive services.

High-Risk Pool Study

A controversial provision that was not included called for the reestablishment of a high-risk insurance plan for small businesses. Instead, due to uncertainty surrounding the effectiveness and impacts of such a high-risk pool and because of the recent failure of the previous high-risk pool, the legislature decided to spend $250,000 for a study to determine whether the high-risk pool would benefit Florida’s health insurance market. By December 1, 2004, a 9-member Board of Directors for the FHIP must submit an actuarial report outlining the plan’s possible impact on the small group market including premiums paid by insureds.

When established, the high-risk pool, will be known as the Florida Health Insurance Plan (FHIP). It will be designed to provide insurance to those who are uninsurable because of extreme health risks, specifically Floridians who are denied coverage by two or more insurers. The premiums would be capped at 300 percent of a standard plan.

The use of high-risk pools as a means to contain healthcare costs and increased coverage is also being debated at the national level, as a part of democratic presidential candidate John Kerry’s health insurance reform proposals.
Higher emergency room co-payments

A controversial provision in the bill involves allowing insurers to charge higher co-payments for emergency room visits that turn out to be deemed non-emergent.

Small Employer Access Program

This provision calls for the formation of regional purchasing alliances for small businesses. Such alliances are intended to address the growing problem of small businesses’ inability to pay for a healthcare benefit for their employees.

The Small Business Health Plan will provide to small employers the option to buy healthcare benefits for their employees at an affordable cost through the establishment of purchasing pools for employers with up to 25 employees. Hospitals, nursing homes, counties, and school districts located in rural areas will also be allowed to join the purchasing pool.

The Office of Insurance Regulation (OIR) through competitive bidding will select insurers to provide coverage for the purchasing alliances within an established geographical area within the state.

Medicaid Funding (C.S. 1843)

This is the conforming bill by which the Appropriations committee lays out the funding for Medicaid in the upcoming year. It has a significant impact on the program by:

- Making changes to Medicaid spending for the upcoming fiscal year
- Establishing the groundwork for placing Medicaid long-term care and mentally ill participants in HMOs

Medicaid Mental Health Care

This session, lawmakers used the appropriations bill to clarify the language from a bill that was passed last year (S. 2404) that required AHCA to contract with a “single entity” for its mental health population. As a consequence of this year’s clarification, Medicaid will likely contract with managed care entities, such as HMOs, for the coverage of the mentally ill in the program.

The state currently spends around $320 million a year on individuals who are mentally ill. The potential changes would mean a shift of over $100 million in payments from community-based health centers to HMOs. Consequently, the changes were strongly opposed by many community health centers. The changes could affect as many as 600,000 mental health patients. Although community health centers will be allowed to participate in the bidding process for the contracts, the likely and intended result of the law will be the shifting of the mentally ill into managed care systems.

Medicaid Long-Term Care

The bill establishes the framework for switching most of Florida’s Medicaid long-term care population to HMOs. Lawmakers have instituted the requirement that AHCA develop a plan for piloting these changes in a variety of Florida counties. This would free the government from direct decision-making for the care of the many elderly patients. The elderly consume a large portion of Medicaid’s budget, particularly through nursing homes. Nursing home, hospital, and home health services for the elderly are all potentially going to be affected by the changes.

From the outset, this legislation was highly controversial. Seniors told the legislature that they feared that the changes would encourage a decrease in quality of services.

This long-term care provision was particularly troublesome to certain lawmakers because of the way in which it was inserted into the budget. At first, the language that was inserted specified which counties would take part in the reform and that the reform would be effective this year. However, several of the representatives from the specified counties were strongly opposed to the idea.

Subsequently, an amendment was passed that negated this proposal. Instead of the changes going into effect in the formerly specified counties, the final language of the bill created a $250,000 feasibility study.
for the proposal, and removes the names of the previously specified counties for the potential changes.

**Spending changes**

This year, Medicaid will consume approximately one-quarter of the $58 billion state budget. By 2015, the Medicaid budget is expected to grow to $53 billion. However, one of the loudest complaints regarding this session is that no new money is being directly allocated to expand access or reduce costs.

Medicaid costs have been growing at an escalating rate in recent years. Lawmakers have implemented several cuts in the program. These cuts will include a 5 percent reduction in spending for nursing homes and a reduction in reimbursement rates for hospitals by nearly 5 percent.

**Medically Needy**

The Medically Needy Program—a source of funding for 27,000 of Florida's extremely sick and costly patients—will receive funding once again this year. However, the use of non-recurring funds continues to threaten the existence of the program.

Lawmakers have included language in this year's budget that presumes to all but eliminate the program in the future. Plans are in place to reduce benefits to only cover prescription drugs after this fiscal year. For the program to be permitted to survive in its current form, next year the legislature will have to go against the wording in this year's bill and provide the program with sufficient funding.

**Other spending**

Other major spending includes $40 million towards reducing a portion of the developmentally disabled who are awaiting services and providing $130 million in additional funding to the KidCare program to include an additional 35,000 members.

**Vetoed Spending**

Governor Bush eliminated $349 million from this year's budget. Significant healthcare-related cuts include:

- $12 million for the creation of an Alzheimer's Research Center — a project of House Speaker Johnnie Byrd
- $21 million for the state's 21 level-1 Trauma centers
- $3 million for a biomedical research program at Florida State University
- $2 million for a cancer research program through the Mayo Clinic

**KidCare (C.S. 2000)**

KidCare is a health program for over 400,000 Florida children of the working poor. The legislature began the session by responding to the public outcry against the 90,000 children who were placed on a waitlist, due to insufficient funds. Immediate action was taken in early March by funding $25 million to the program in order to enroll 70,000 children who were on the waiting list.

However, controversy continues to surround the program. The tightened eligibility requirements, as well as the legislature's decision not to include any additional children in the program by the end of session, has drawn criticism. The stricter eligibility requirements include a designated open-enrollment period, required proof of income, and the requirement that healthcare costs for the child must exceed 5% of income. The result is that as many as 20,000 of the children who were already in the program will be losing eligibility.

A bill relating to KidCare that died this session included a 30-day grace period for those who are late in their payments and the opportunity for uninsured parents of the eligible children to be able to join the program.

**Long-Term Care Delivery (C.S. 1226)**

The long-term care system in Florida has been criticized as being fragmented and confusing. A major source of the confusion is the transition by the elderly from being covered by Medicare to being covered by Medicaid for long-term care.

This bill makes important changes to the long-term care delivery system by interpreting
and outlining the role of the state agencies that are involved in long-term care. It is an attempt to better coordinate the care of Florida’s elderly, as well as an attempt to reduce costs paid by Medicaid for the elderly.

AHCA will be given the authority to use the Comprehensive Assessment and Review of Long-Term Care Services (CARES) Program—a federally mandated preadmission screening program for nursing facilities—as a means of reviewing the necessity of nursing home stays greater than 20 days.

The bill also requires AHCA and the Department of Elder Affairs to develop an integrated long-term care service delivery system over the next three years, assigning specific responsibilities to each agency and providing a time frame for the implementation of the changes.

Medicaid Fraud Bill (C.S. 1064)

As a way of combating prescription drug fraud in Medicaid, a law was passed that increases the State’s authority to access information from providers, and increases the punishment for those who participate in any fraud or abuse of the Medicaid program.

AHCA will now have more authority to impose requirements that will facilitate the identification of suspicious drug prescriptions and users. AHCA will also have the authority to remove doctors from Medicaid for inappropriate prescribing.

Florida Healthy People 2010 Program (C.S. 1178)

This bill provides for the Department of Health (DOH) to develop and implement the goals of the Healthy People 2010 Program—a nationwide health promotion and disease prevention program. Although the DOH is currently implementing some of the Program’s objectives, the bill provides for more resources for building reporting systems that will be able to capture all relevant data to the program.

A primary objective of the program is to eliminate health disparities among different segments of the population. The bill prompts the DOH to work with minority physician networks to increase the proportion of healthcare professionals from minority backgrounds. The bill also requires AHCA to contract with minority physician networks that provide services to underserved minority patients. Additionally, the bill prompts the DOH to promote research on ways to reduce health disparities.

Healthcare Providers (H. 1121)

This bill amends the Access to Healthcare Act that was passed in 1992 as a means of encouraging providers to provide more charity care. The act laid out the criteria under which providers can have immunity from malpractice suits (under the doctrine of sovereign immunity) when they have contracted with the state to provide charitable care.

The bill passed this year extends immunity to include “free clinics.” Free clinics are defined as clinics that provide only medical, diagnostic, or nonsurgical services free of charge to low-income recipients. Many of the free clinics participate in the Volunteer Healthcare Provider Program through the Department of Health.

Healthcare Provider Deregulation (C.S. 182)

This bill makes a significant change to the state’s Certificate-of-Need (CON) laws that require state approval for healthcare provider capacity expansion and construction. Hospitals will now be able to add beds and expand their facilities without the permission of the state. And, open-heart surgery can now be provided by hospitals without having to go through the CON process.

Proponents of the bill point to the time efficiencies and cost savings that hospitals will experience by being free of the costly and burdensome regulation. Those opposed point out that the deregulation could result in unnecessary expansions and higher final costs to patients.

Florida is experiencing one of the highest levels of growth in capital spending by hospitals in the country. With a population that is aging and growing, many hospitals are inclined to think that demand will keep pace with their additions.
State Agency for Disabled (C.S. 1823)

The bill creating the Agency for Persons with Disabilities, was passed this session. The developmentally disabled have previously been served by the state’s Department of Children and Families (DCF).

The creation of the new agency is hoped to respond to the problem of the continuous budget shortfalls and growing waiting list numbers that have been experienced by DCF. There are currently around 30,000 developmentally disabled members in the program, and it is expected that a consequence of the new agency’s creation will be a near elimination of the waiting list of more than 10,000 disabled individuals waiting to enter the program.

Other healthcare-related bills:

- Anesthesiology Assistants (C.S. 626) – a controversial bill that establishes the category of anesthesiology assistants, who can assist in anesthetizing patients for surgery. It is supposed to save money for providers, since it will free them from having to pay to hire Registered Nurse Assistants.
- Nursing Home Beds (C.S. 1062) – allows nursing homes the flexibility to use inactive beds for Assisted Living and other purposes without having to go through the rigors of the CON process.

FAILED BILLS

Drug Database (H. 397)

Sponsored by Representatives Gayle Harrell, R-Port St. Lucie, and Carl Domino, R-Palm Beach Gardens, this bill called for the creation of a government-run database for prescription drugs. The database was primarily intended to combat drug overdoses in Florida. A recent study demonstrated that more than 3,000 deaths from drug overdoses occurred in Florida in 2003. The database would have given doctors and pharmacists the ability to view the prescription history of healthcare consumers, giving them more opportunities to catch so-called “prescription shoppers.”

The bill received little support however, due to concern that it would infringe upon individuals’ constitutional rights to privacy.

Price Cap for Emergency Services (S. 2350)

Sponsored by Senator Mike Fasano, R-New Port Richey, this bill would have imposed a price cap on emergency services, as a way of reducing the high amounts paid by ER patients when there is no existing contract between that individual’s HMO and the hospital. Lobbyists representing hospitals across the state exerted a great deal of pressure against the bill. It was later withdrawn.

Small Employer Health Insurance Plan (S. 2328)

Sponsored by Senator Ron Klien, D-Delray Beach, this was a failed attempt to reduce the insurance costs for small businesses by allowing their employees to join the state health insurance plan.

Small Employer Tax Credits (S. 598)

The bill, sponsored by Senators Rod Smith, D-Gainesville, and Frederica Wilson, D-Miami, called for a tax credit of $1,000 for each employee with insurance in a business of fewer than 50 employees and $1,500 if the business is located in an economically depressed area.

Patient Safety (H. 1885)

Lawmakers failed to follow through on an attempt to create a safety authority that would study the potential return on investment of computer physician order entry systems in all of the state’s hospitals. The aim of

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the safety authority would be to improve patient safety and reduce costs associated with malpractice. The bill was sponsored by Representative Frank Farkas, R-St. Petersburg.

**KidCare Expansion (S. 210)**
Sponsored by Senator Debbie Wasserman Schultz, D-Pembroke Pines, Senator Gary Siplin, D-Orlando, and Senator Larcenia Bulliard, D-Miami, this bill would have allowed a 30-day grace period for late payments by participating members and would have expanded eligibility to uninsured parents of children in the program.

**Self-pay Patients (H. 715)**
Sponsored by Representative Marcelo Llorente, R-Miami, this bill would have required all Florida hospitals to provide a payment discount program for indigent and uninsured patients. It was thought to be a response to recent pressure by consumer groups to change the inflated rates that self-pay patients are commonly charged. Under the bill, hospitals would have been required to inform patients whose incomes are less than 300% of the federal poverty level that they qualify for the discount.

**CONCLUSION**

Approximately 2.8 million Floridians are without insurance. Yet, despite the growing uninsured population in Florida, there were few bills directed at delivery system reform to decrease costs, or market reform to produce more coverage.

The Affordable Healthcare Act and the changes to Medicaid are unlikely to impact the number of uninsured. The legislature’s decision to expand the geographic scope of Health Flex, the introduction of health savings accounts, and the possible return of a high-risk insurance pool will potentially have some impact on the affordability of insurance for certain employees of small businesses. However, many argue that it will only impact access to care to a minor degree.

"The introduction of health savings accounts and the possible return of the high-risk pool may have some small impact on the affordability of coverage for some employees. However, more reforms are needed to solve the continued crisis of the uninsured."

The session demonstrated two different approaches to reform. One approach emphasizes the use of a consumer-based approach such as Health Savings Accounts.

HSAs rely upon consumer decisions to create more cost effective health care. However, they tend to offer consumers limited resources for use in a highly priced market. The difference between consumer resources and actual cost makes most experts believe this method, even if widely adopted, will have little impact upon pricing or quality. Importantly, HSAs shift the burden of cost from employers to employees. This shift leaves more consumers unable to afford comprehensive health services, thereby increasing the number of underinsured.

Another approach emphasizes the need for directly addressing the costs of insurance for those who cannot afford it. They are more likely to push for expansion of Medicaid as a priority in increasing access and reducing the numbers of uninsured. Critics of this approach emphasize the increasing costs of Medicaid.

Reform at the Federal level will be a large part of the debates surrounding the upcoming national elections. The potential reforms at the national level will continue to be watched closely by our state legislature, but the danger is that the national reforms being discussed may overshadow some of the state reforms that will be on the table in the coming years. History has taught us that national healthcare reform is difficult to accomplish, so the more direct line of responsibility rests with our state leadership.
Established in 2000, the Florida Center for Medicaid and the Uninsured is dedicated to the improvement of health care in Florida through multidisciplinary collaboration of academic and policy-making experts. The Center is located at the University of Florida within the College of Public Health and Health Professions.

The primary mission of the Center is to foster and develop research and analysis on issues related to access to quality health care for Florida's low-income populations. Center faculty and staff study issues related to the Medicaid program and other delivery systems for vulnerable populations. Critical to the Center's mission is the timely dissemination of information to policy makers, providers, and health care advocates.

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