



## FMA 2017 Legislative Session Report

The 2017 Florida Legislative Session concluded on Monday, May 8, with passage of the state budget. This year's session will be remembered as much for the legislation that didn't pass as for the legislation that did. This was the least active session in terms of the number of bills passed since the Republicans gained control of the statehouse in the mid-1990s. While 3,131 bills were introduced this year, only a handful were approved by both the House and Senate.

For the third year in a row, most of the substantive health care legislation got caught up in the political dynamics of the two legislative chambers. Your FMA team of lobbyists tracked 241 bills and numerous amendments that either directly or indirectly affected the practice of medicine in Florida.

Following is a summary of some of the key legislative issues that the FMA worked on this session on behalf of our members.

### Legislation That Passed

#### Catastrophic Fund Exemption for Medical Malpractice

In 2016, the FMA succeeded in extending the expiration date for the medical malpractice premiums exemption from the Florida Hurricane Catastrophe Fund from emergency assessments. This year, SB 454 by Sen. Jeff Brandes and HB 359 by Rep. David Santiago repealed the sunset provision and permanently exempted medical malpractice premiums from emergency assessments.

#### Board of Medicine Rule Ratification

Over the past several years, the Florida Board of Medicine has worked on updating the office surgery rule. The FMA proposed language that would allow physicians to administer controlled substances in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain in a Level I Office Surgery setting. The language also required that if an office administered benzodiazepines or opiates, then Flumazenil and Nalaxone must be stocked on the crash cart, respectively. As a result of the added crash cart requirements, legislative ratification was needed before the rule could go into effect. The rule was ratified unanimously by the House and Senate.

#### Foundation for Healthy Floridians

The Conference Committee for the fiscal year of 2017-18, General Appropriations Act, provided \$750,000 to the Foundation for Healthy Floridians in specific appropriations 539A. In an effort to curtail escalating health care costs, this program seeks to

leverage the state's network of primary care physicians to distribute high-quality nutrition education resources to hundreds of thousands of Floridians. A significant percentage of Florida's population is obese, and obesity-related diseases drive up health care costs each year. Enabling physicians to assist patients in taking responsibility for their own health could help Floridians avoid or modify behaviors that increase health care costs.

## Legislation the FMA Defeated

### ARNP Independent Practice

During the 2016 Legislative Session, the FMA struck a compromise to allow ARNPs to prescribe controlled substances under several limitations and safeguards, with the understanding that all parties could focus on issues outside of independent practice moving forward. Nevertheless, Rep. Cary Pigman, M.D., sponsored HB 7011, a 185-page bill aimed at granting independent practice to Advanced Registered Nurse Practitioners. A Senate companion was never filed, but the FMA continued to fight HB 7011 as it moved through the House committees.

### Optometry

HB 1037 by Rep. Manny Diaz and SB 1168 by Sen. Jack Latvala reignited the "Eyeball Wars." HB 1037 would have allowed optometrists to perform laser and non-laser ophthalmic surgery, despite the fact that these practitioners do not have nearly as much training and expertise as ophthalmologists. In addition to surgical privileges, optometrists would have had full power to prescribe controlled substances – including Schedule II drugs. This would have allowed almost 3,000 additional practitioners to prescribe addictive narcotics in Florida. Because of the FMA's strong opposition, SB 1168 was never heard in committee. HB 1037 barely passed its first committee with an 8-7 vote, was removed from its second committee, and was temporarily postponed in its last stop because it did not have the votes to pass.

### Scope Expansion for Pharmacists

The FMA was also successful in stopping SB 1180 by Sen. Jose Javier Rodriguez, which would have expanded the scope of practice for pharmacists. The bill would have allowed pharmacists to order and evaluate laboratory and clinical tests; administer medications; initiate, modify or discontinue medications; and diagnose and treat influenza. The FMA spent a considerable amount of time trying to work on a compromise, but unfortunately, the pharmacy groups would not budge on the above-mentioned expansions. A companion bill was never filed, and SB 1180 died in its first committee.

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In addition to fighting the bills regarding ARNP independent practice, optometry and pharmacy, the FMA opposed bills that would have allowed ARNPs and PAs to qualify as medical directors (SB 96/HB 129) and that would have created a backdoor route for CRNAs to obtain independent practice by allowing their protocols to be "in collaboration" with a physician instead of under a physician's supervision (SB 394). Another bill would have changed the composition of the PA Council by removing two physician members and replacing them with PAs (SB 732/HB 1307). Because of the FMA's vigilance, none of these measures were successful.

## Liability for Termination of Pregnancy

Florida's medical malpractice reform statutes have been carefully crafted over four decades and are specifically designed to ensure that Florida citizens have access to high-quality medical care. SB 1140 by Sen. Keilli Stargel and HB 19 by Rep. Erin Grall sought to unravel this system by targeting one specific medical procedure for disparate treatment.

While the FMA does not typically engage in legislation surrounding the termination of pregnancies, SB 1140/HB 19 would have unfairly subjected any physician who performed this procedure to be sued outside of the medical malpractice system. The bill would have increased the statute of limitations period, and defendant physicians would have been responsible for plaintiffs' attorney fees – something no other medical professionals face. SB 1140 was never heard, and HB 19 died in committee. This legislation would have created a pathway to chip away at the protections built into the medical malpractice system.

## Limitations in Medical Payments

Once again, legislation was filed to dictate what evidence a jury could consider to determine the amount of medical damages in all personal injury and wrongful death actions. SB 146 by Sen. Kathleen Passidomo and HB 583 by Rep. Jay Fant would have made the amount of a health care provider's charges inadmissible in evidence. This legislation would have created a major access-to-care issue for injured victims by unfairly eliminating their ability to receive the best medical care after being injured by the wrongdoing of others. With fewer health care providers willing to treat people injured by the wrongdoing of others, the victims would have had no choice but to be treated in the emergency rooms of hospitals that (under federal law) cannot turn them away. Therefore, taxpayers would have ended up subsidizing medical care for injuries that the wrongdoers caused. The FMA opposed this legislation, which died in committee.

# Legislation That Did Not Pass

## Health Insurance Legislation

The FMA supported legislation that would have prevented retroactive denials, allowed physicians to override fail first protocols, and provided for simpler prior authorization procedures. The FMA was successful in passing this key legislation through the Senate, and we achieved more momentum on these policies in the House than ever before. These policies greatly affect patients and physicians alike, and lawmakers' increasing interest brings this legislation closer to becoming law.

## Direct Primary Care

Direct Primary Care (DPC) is a primary care medical practice model that eliminates third-party payers from the primary care physician-patient relationship. The FMA supported legislation by Sen. Tom Lee (SB 240) and Rep. Danny Burgess (HB 161) to establish that DPC agreements are not insurance and therefore not subject to regulation under the Florida Insurance Code. Unfortunately, SB 240 became trade bait and did not pass. The FMA will continue fighting for the DPC model as a way to improve access and quality of care.



## Maintenance of Certification

While Maintenance of Certification (MOC) once ensured continuous physician education, it has become prohibitively expensive, unnecessarily time-consuming and burdensome – ultimately taking physicians away from their patients and their own specialty-specific studies. The FMA pushed for legislation that would have alleviated the burdens of the MOC process and placed education back in the hands of Florida physicians. While the FMA made significant strides in promoting SB 1354 by Sen. Dana Young and HB 723 by Rep. Julio Gonzalez, M.D., the MOC issue was unknown to legislators. The FMA will continue educating members of the Legislature about the shortfalls of MOC in preparation for the 2018 Session.

## How You Can Make Medicine Stronger

The FMA is the strongest advocate for you in defeating legislation that would negatively affect your practice and the way you practice medicine. Legislative committee weeks for the 2018 Legislative Session begin in four short months, but we need your help now so that we can achieve our goals on your behalf.

Make your profession stronger by **donating to the FMA PAC**. The FMA PAC supports pro-medicine legislative candidates who will fight to eliminate unnecessary administrative and regulatory requirements so that you can focus on patient care.

**[Click here to make a donation to the FMA PAC today.](#)** Thank you for your support.