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## MEMORANDUM

**TO:** Chad Marshall, DMD, MD, President  
Hank Holderfield, Executive Director  
Florida Society of Oral and Maxillofacial Surgeons

**FROM:** Mike Huey, Todd Steibly, and Jessica Love

**DATE:** March 20, 2020

**SUBJECT:** 2020 Legislative Session Review

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The Legislature adjourned Sine Die on Thursday, March 19, after voting on the 2020-2021 fiscal year spending plan. In the wake of budget uncertainties and the unknown fiscal impacts of coronavirus, lawmakers were forced to extend the regularly scheduled Session by one additional week in order to give themselves time to craft the budget and provide legislators the mandatory 72-hour review period, as required by the State Constitution. Governor DeSantis wields line-item veto power, meaning he can remove individual appropriations from the budget, and the prospect of major cuts seems more likely as the state continues to suffer blows to its tourism-dependent economy as a result of COVID-19.

Although the fall legislative committee weeks leading up to Session resulted in multiple meeting cancellations and very little progress in terms of policy legislation being heard and passed, the Legislature did tackle multiple recurring issues this session, including scope expansion for advanced practice registered nurses, teacher salary increases, state worker pay raises, comprehensive water quality legislation and full funding for affordable housing trust funds, which historically have been swept to help pay for other areas of the budget. In total, 3,578 bills were filed for consideration during the 2020 Session, but only 210 made it across the finish line – representing just under 6% of all bills filed.

### **BUDGET & TAX PACKAGE**

The \$93.2 billion spending plan lawmakers approved Thursday is the largest budget in state history, and almost \$2 billion more than the prior fiscal year.

Lawmakers agreed to a spending plan that includes \$500 million to help boost starting teacher salaries to \$47,500 and increase annual pay for veteran teachers already making more than

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that amount, and a \$183.62 increase in per-student funding over the current year. The budget also includes \$690 million for improving water quality and protecting Florida's environmental resources, with \$100 million dedicated to beach and spring restoration, \$370 million to fully fund the Sadowski Affordable Housing Trust Fund, and a 3 percent pay raise for all state employees. Additionally, the budget includes \$773,000 for the Dental Student Loan Repayment Program and \$200,000 for Community Water Fluoridation.

The budget includes an additional cash reserve of \$300 million to prepare for the impacts of the coronavirus, boosting the state's rainy-day fund to \$3.9 billion. Additionally, the state has earmarked \$50 million for bridge loans for small businesses impacted by the novel virus.

The Legislature also passed a significantly scaled back tax package which will cut revenue by approximately \$47.4 million this year, all non-recurring. The bill includes a three-day back-to-school sales tax holiday (August 7-9, 2020) and a seven-day hurricane preparedness tax holiday (May 29 – June 4, 2020).

### **HIGH PRIORITY LEGISLATION**

#### **Dental Therapy – FAILED**

*HB 979 by Rep. Rene "Coach P" Plasencia*  
*SB 152 by Sen. Jeff Brandes*

This legislation would have created a new category of licensees, dental therapists, in Florida. Many educational models recommend two years or less of post-high school education for dental therapists. These bills would have authorized the Department of Health (DOH) to issue a dental therapist license to an applicant who possesses a degree or certificate in dental therapy from an accredited program. The bills authorized a licensed dental therapist to perform remediable tasks under the general supervision of a dentist, and authorized Medicaid to reimburse for dental services provided in a mobile dental unit owned by the health access setting. The Senate bill was placed on the Children, Families and Elder Affairs committee agenda on two separate occasions, but the bill was temporarily postponed both times and ultimately never heard. The House bill was never placed on a committee agenda. This was the third consecutive year legislation relating to dental therapists has been filed, so we fully anticipate this topic to be resurrected again in the 2021 Session.

#### **Physician Referrals - FAILED**

*HB 955 by Rep. Jason Shoaf*  
*SB 1884 by Sen. Doug Broxson*

This legislation would have prohibited a health care provider from referring patients to any hospital in which the health care provider holds an investment interest. This eliminated the special exception in the law for hospitals, and an individual or entity that participated in any such referral

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would be subject to penalties under the anti-kickback and felony patient brokering statutes, punishable as a first, second or third degree felony and a mandatory fine. The bills also required health care providers to give a written notice to a patient any time the health care provider refers a patient to a provider not covered by the patient's insurance. While there were differences between the House and Senate bills, HB 955 ultimately passed the House on a 88-25 vote, but died in the Senate. The Senate version never received a committee hearing.

**Prohibited Acts by Health Care Practitioners – FAILED**

*HB 309 by Rep. Ralph Massullo*

*SB 500 by Sen. Gayle Harrell*

This legislation would have prohibited a licensed health care practitioner from using certain protected titles unless he or she was licensed as such under the appropriate statutory authority, and would have allowed health-care licensing boards to take disciplinary action against such providers using monikers implying such. The bills were filed in response to a decision by the Florida Board of Nursing to allow an advanced practice registered nurse (APRN) to identify himself as a “nurse anesthesiologist.” We worked with the bill sponsors and the FDA to successfully include “oral and maxillofacial surgery” as a protected term. The legislation was frequently amended throughout the committee hearing process, however it did not cross the finish line this year, and died in the House.

**Electronic Prescribing – FAILED**

*HB 1103 by Rep. Amber Mariano*

*SB 1830 by Sen. Dennis Baxley*

This bill would have required prescribers to telephonically transmit or electronically generate and transmit all prescriptions. However, a prescriber would have been allowed to provide a written prescription if electronic prescribing is unavailable due to a temporary electrical or technological failure or if the prescription was provided to a patient of a free clinic, hospital emergency department, or health care practitioner providing free services. In such instances, written prescriptions must have met the requirements of current law. The bill just barely passed the House on a 75-40 vote, but it died in the Senate, where its companion never received a hearing.

**Public Records - Emergency Room Health Care Practitioners - FAILED**

*HB 145 by Rep. Michael Grieco*

*SB 878 by Sen. Gayle Harrell*

These bills would have provided a new public records exemption for the home addresses, telephone numbers, dates of birth, photographs, and other identifying information of current and former emergency room health care practitioners and their spouses and children. While the Senate bill cleared one committee of reference, the House companion never received a committee hearing.

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## **LEGISLATION WHICH PASSED**

### **Nonopioid Alternatives - PASSED**

*HB 743 by Rep. Scott Plakon*

*SB 1080 by Sen. Keith Perry*

This bill amends provisions related to the requirement for a health care practitioner to provide a patient with nonopioid alternatives before treating the patient with opioid drugs that are listed as Schedule II controlled substances. The bill provides an exception to the requirement to provide nonopioid alternatives when treating a patient in an emergency room, a critical care unit, or when the patient is receiving hospice services. It also eliminates the requirement to provide such alternatives when dispensing or administering Schedule II opioids, and allows information on the nonopioid alternatives to be provided to the patient's representative in addition to the patient directly. If approved, the bill has an effective date of July 1, 2020.

### **Health Access Dental Licenses - PASSED**

*HB 1461 by Rep. Kamia Brown*

*SB 1296 by Sen. Lori Berman*

The health access dental license was established in 2008 to attract out-of-state dentists to practice in underserved health access settings in this state. Under this statutory authority, the Board of Dentistry, within the Department of Health, could issue a health access dental license to a licensed out-of-state dentist to provide dental care in certain underserved areas and programs. The Board of Dentistry was also authorized to set application, examination, licensure, and licensure renewal fees for health access dental licenses. The health access dental license statute contained a sunset provision, by which the act would be automatically repealed on January 1, 2020, unless reenacted by the Legislature. The Legislature did not reenact the law prior to the sunset date, so the statutory authority for health access dental licenses was automatically repealed on January 1, 2020. This legislation revives and reenacts the authority for health access dental licenses, and repeals the scheduled sunset date of January 1, 2020. The bill also permits the Board of Dentistry's to establish fees retroactively to January 1, 2020. If signed by the Governor, the bill is effective upon becoming law.

### **Direct Care Workers – PASSED**

*HB 607 by Rep. Cary Pigman*

*SB 1676 by Sen. Ben Albritton*

The centerpiece of Speaker Oliva's priorities this year was a measure that would expand the autonomy of advanced practice registered nurses (APRN), certified registered nurse anesthetists (CRNA) and physician assistants (PA), who previously could practice only under a doctor's supervision. Although the House measure never had a corresponding Senate companion,

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Senator Albritton filed a strike-all amendment to SB 1676 which included a scaled back version of scope expansion, one which did not include CRNAs or PAs.

As passed, qualified APRNs who have at least a master's degree or post-graduate program and hold a certification from a recognized specialty board would be allowed to independently operate primary care facilities without a physician's oversight. APRNs with a minimum of 3,000 hours of experience under a physician's supervision in the last 5 years could qualify to provide family medicine, general pediatrics, general internal medicine services, and midwifery. Additionally, they must have completed 3 graduate-level semester hours each in differential diagnosis and pharmacology within the past 5 years. APRNs engaging in autonomous practice will be required to carry minimum professional liability coverage of \$100,000 per claim, with a few exceptions, and are prohibited from performing any surgical procedures other than a subcutaneous procedure.

The bill creates the Council on Advanced Practice Registered Nurse Autonomous Practice, which consists of two physicians appointed by the Board of Medicine, two osteopathic physicians appointed by the Board of Osteopathic Medicine, four APRNs with experience practicing advanced or specialized nursing, and the State Surgeon General or his designee to serve as chair of the council. The council shall recommend standards of practice for APRNs to the board.

This bill was passed by the House and Senate and signed by the Governor all in the same day. The bill will take effect July 1, 2020.

**Patient Safety Culture Surveys – PASSED**

*HB 763 by Rep. Mike Grant*

*SB 1370 by Sen. Gayle Harrell*

This legislation amends several sections of law to require each hospital and ambulatory surgical center (ASC) to conduct a patient safety culture survey at least biennially. The bill specifies that facilities must use the appropriate hospital or ASC Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality and requires the survey to be anonymous. It allows facilities to contract for the administration of the survey and requires each facility to submit survey data to the Agency for Health Care Administration (AHCA). The legislation also requires the Florida Center for Health Information and Transparency within AHCA to customize the survey with additional questions and to collect, compile, and publish aggregated survey data submitted by hospitals and ASCs.

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**Keep Our Graduates Working Act – PASSED**

*HB 115 by Rep. Nick Duran*

*SB 356 by Sen. Travis Hutson*

This legislation prohibits any state authority, including the Department of Health (DOH), from denying the issuance of, refusing to renew, suspending, or revoking a professional license based solely on the licensee being delinquent on a payment of, or defaulting on, his or her student loans. This legislation applies to any individual who holds a professional license, certificate, registration, or permit granted by a state authority.

**Consultant Pharmacists – PASSED**

*HB 599 by Rep. Ana Maria Rodriguez*

*SB 1094 by Sen. Manny Diaz*

This legislation expands the scope of practice of consultant pharmacists. Under the bill, a pharmacist must complete additional training as required by the Board of Pharmacy to be licensed as a consultant pharmacist. A consultant pharmacist may provide medication management services in a health care facility within the framework of a written collaborative practice agreement between the pharmacist and a health care facility medical director, or a physician, podiatrist, or dentist who is authorized to prescribe medicinal drugs. For the purposes of such authority, the bill defines the term “health care facility” to include ambulatory surgical centers, inpatient hospice facilities, nursing homes, ambulatory care centers, and nursing home components within a continuing care facility. A consultant pharmacist may only provide medication management services, conduct patient assessments, and order and evaluate laboratory or clinical testing for patients of the health care practitioner with whom the consultant pharmacist has a written collaborative practice agreement.

**LEGISLATION WHICH FAILED**

**Licensure Examinations for Dental Practitioners – FAILED**

*HB 1273 by Rep. James Buchanan*

*SB 1032 by Sen. Dennis Baxley*

Currently, all applicants for licensure as a dentist or dental hygienist must pass a practical examination developed by the American Board of Dental Examiners, Inc. (ADEX), in addition to meeting other qualifications. The ADEX examination must be graded by Florida-licensed practitioners. This legislation would have authorized the Board of Dentistry to accept passing scores on the examinations produced by the Western Regional Examining Board (WREB) for licensure as a dentist or dental hygienist, in addition to the ADEX examinations it currently accepts, and would have required the WREB examination to be graded by Florida licensed practitioners. Although the House measure passed through every committee and received a

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unanimous floor vote, the legislation ultimately died in the Senate, where neither bill was ever heard.

**Patient Access to Records – FAILED**

*HB 1147 by Rep. Bobby Payne*

*SB 1882 by Sen. Tom Lee*

These bills would have allowed patients, residents and legal representatives to control how they receive requested records. Health care providers and facilities would have been permitted to produce the requested records in paper or electronic format, upon request. However, health care providers and facilities would have been required to produce the requested records in an electronic format, including access through a web-based patient portal or submission into a patient's electronic personal health record, if the health care provider or facility maintained an electronic health recordkeeping system. The bills also standardized the timeframe that health care providers and facilities must produce records or allow inspection of records. All health care practitioners and facilities would have been required to provide records within 14 days of a request. The bills also required health care facilities and providers to allow inspection of records within 10 days. Although the House bill cleared with floor on a 106-8 vote, the legislation ultimately died in the Senate, where it never received a hearing.

**Legislative Review of Occupational Regulations – FAILED**

*HB 707 by Rep. Paul Renner*

*SB 1124 by Sen. Manny Diaz*

This legislation would have scheduled an automatic repeal of over one-hundred specified professions and occupations over four years, beginning July 1, 2021, and ending July 1, 2024, in order to encourage future legislatures to complete a systematic review of the costs and benefits prior to the scheduled sunset date, and determine whether each program should be allowed to expire, be renewed, or be modified. Some of the professional occupations subject to review included health care professionals such as doctors licensed under ch. 458, osteopathic physicians licensed under ch. 459, nurses, pharmacists, dentists and hygienists, midwives, psychologists, and social workers and therapists. Although this legislation passed the House, it only made it through one Senate committee and ultimately died in committee. However, with future Speaker of the House Paul Renner leading the charge this year, we fully anticipate this issue to be addressed again in the 2021 Session.

**NEXT SESSION**

The 2021 Legislative Session will begin March 2, 2021, and we expect that committee hearings will begin January 2021. We sincerely appreciate the opportunity to represent the Florida Society of Oral and Maxillofacial Surgeons and commend you for your tireless commitment to the

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legislative process each and every Session. Should you have any questions concerning the information provided in this report, please do not hesitate to contact us.