



Chair:

Jeanne Elaine Helton
Smith Hulsey & Busey
225 Water St., Suite 1800
Jacksonville, FL 32202-5182
(904) 359-7700/FAX: (904) 359-7712
E-mail: jhelton@smithhulsey.com

Chair-elect:

Troy A. Kishbaugh
GrayRobinson, P.A.
301 East Pine Street, Suite 1400
Orlando, FL 32801
407.244.5626 / FAX: 407.244.5690
troy.kishbaugh@gray-robinson.com
www.gray-robinson.com

Treasurer:

Lester J. Perling
Broad and Cassel
1 Financial Plaza, Suite 2700
Ft. Lauderdale, FL 33394
(954) 745-5261/FAX: (954) 713-0968
E-mail: lperling@broadandcassel.com

Secretary:

Cynthia A. Mikos
Allen Dell P.A.
202 South Rome Avenue, Suite 100
Tampa, FL 33606
(813) 223-5351/FAX: (813) 229-6682

Board Liaison:

Carl B. Schwait
201 N.E. 1st Street
Gainesville, FL 32602-0850
(352) 372-4381
E-mail: cschwait@dellgraham.com

Immediate Past Chair:

Laurie J. Levin
Baker & Hostetler LLP
P.O. Box 112
Orlando, FL 32802
(407) 649-4076/FAX: (407) 841-0168
E-mail: llevin@bakerlaw.com

EXECUTIVE COUNCIL

Terms Expiring 2009:

Charmaine Chiu
Jacksonville
Lewis W. Fishman
Miami
Spencer D. Levine
Ft. Lauderdale
Cynthia A. Mikos
Tampa
Bernabe Icaza
Ft. Lauderdale

Terms Expiring 2010:

Mildred Beam
Winter Park
Sandra P. Greenblatt
Miami
Rodney M. Johnson
Pensacola
Jodi L. Laurence
Plantation

Terms Expiring 2011:

Walter Carfora
St. Petersburg
William Dillon
Tallahassee
George F. Indest, III
Altamonte Springs
Monica Rodriguez
Miami

Program Administrator:

Christina Sykes
The Florida Bar
651 E. Jefferson St.
Tallahassee, FL 32399-2300
(850) 561-5624 FAX: (850) 561-5825
E-mail: csykes@flabar.org

Health Law Section Executive Council Meeting Agenda

Thursday, June 25, 2009

4:00 p.m. – 6:00 p.m.

Royal Palm Ballroom IX – Orlando World Marriott

- I. Call to Order – Jeanne Helton, Chair
- II. Opening Remarks – Jeanne Helton, Chair
- III. Approval of Previous Meeting Minutes – Cynthia Mikos (Exhibit A)
- IV. Election of Chair-Elect, Treasurer, Secretary and Executive Council Members: Nominating Committee – [Harold Kaplan](#) (Exhibit B)
- V. Financial Report – Lester Perling (Exhibit C)
- VI. Council of Sections Update – Troy Kishbaugh
- VII. Committee Reports
 - a. Education, Training & Information – Charmaine Chiu
 - b. Section Effectiveness – Lew Fishman
 - c. Communications & Technology – Bernabe Icaza
 - i. Website – Chet Barclay
 - ii. Health Law Journal- Chet Barclay
 - iii. Newsletter – Tom Clark
 - d. HIPAA- William Dillon
 - e. Public Health Committee – Walter Carfora, Rodney Johnson
 - f. Legislature Committee Report – Steve Grigas – 2009 Legislative Update (Exhibit D)
- VIII. Old Business
 - a. Health Law Handbook 2009 – Jeanne Helton, John Buchanan
 - b. Approval of FUNdamentals of Healthcare Program (Sept. 18, 2009) - Chet Barclay

VIII. New Business

- a. By-Law Amendments
- b. Discussion of Website Sponsors
- c. The Florida Bar CLE Committee – Financial Hardship – Waiver-
Jeanne Helton
- d. FIPCA Liasion Committee – Nathaniel Lacktman
- e. Discussion of Merger of Mid-year and General Meetings; effective
September, 2010
- f. Cooley Service to Soldiers Program- Troy Kishbaugh (Exhibit E)
- g. Public Health CLE – Rodney Johnson
- h. Appreciation Certificates

IX. Chair – Elect Comments – Troy Kishbaugh

X. Next Executive Council Meeting – September 10, 2009, the
Florida Bar General Meeting, Tampa Airport Marriott

**EXECUTIVE COUNCIL
THE FLORIDA BAR HEALTH LAW SECTION
January 15, 2009**

I. Call to Order – Jeanne Helton, Chair

The meeting of the Executive Council of The Florida Bar Health Law Section was called to order by Jeanne E. Helton at the Hyatt Regency, Brickell Center in Miami at 3:30 p.m. Members present in person were Jeanne Helton, Troy Kishbaugh, Laurie Levin, George Indest, Cynthia Mikos, Jodi Laurence, Craig Mimiegar, John Buchanan, Nicholas Romanello, Walter Carfora, Rod Johnson, Bernabe Icaza, Lester Perling, Sandra Greenblatt, Monica Rodriguez. Members present by phone were Chet Barclay, Steve Griges, Charmaine Chiu and Bill Dillon. Also in attendance were Harold E. Kaplan, Richard Siehl and Bar staff, Valerie Yarbrough.

II. Opening Remarks – Jeanne Helton, Chair

Ms. Helton welcomed the attendees. She introduced Al Robinson and Charlotte Kohler from Navigant Consulting who are sponsoring the section's reception and thanked them for their ongoing support of the section.

III. Approval of Previous Meeting Minutes – Cynthia Mikos, Secretary

The September, 2008 section meeting minutes were approved without corrections.

IV. Financial Report – Lester Perling, Treasurer

Lester Perling presented the financial report. Revenue and expenses are in line with expectations. Financial report accepted.

V. Council of Sections Update – Troy Kishbaugh

There is a Council of Sections meeting scheduled this Saturday at 9:00 a.m. Troy will attend.

VI. Committee Reports.

A. Education, Training and Information – Charmaine Chiu.

Charmaine Chiu was unable to attend in person. She thanked Lester Perling for his assistance in the Representing the Physician 2009 program and Chet Barclay and Sandra Greenblatt for their work on the upcoming certification program. Chet and Sandra reported having nearly all the speakers and materials in place for the certification review course. The June program at the annual meeting will include Bill Bell, Florida Hospital Association, one of the attorneys involved in Wyeth product liability litigation, Jeanne Tate or a substitute will address technology, fertility and other cross walks between family law and health care, and David Cutler from Kennedy School of Government on President Obama's transition team is invited to address the new administration's health care policy. Dr. Cutler should respond by early February.

The issue of economic downturn and possible effects on CLE programs was discussed. The Bar is seeing decreased enrollment in CLE programs. The section will need to take special care re hotel costs, speaker fees, etc. The section had considered a new CLE seminar in September. Chet Barclay is planning a one day program on fundamentals for Friday, Sept 11, 2009 at a location where both audio and visual are available. He has lined up 11 speakers. He hopes that audio sales would help offset expenses. However, there is no room for the program at the Tampa Marriott on 9/11/09 because of the Bar meeting. Chet will explore holding the fundamentals course at the Tampa Marriott at another time. He will submit a budget and list of speakers, topics and the Bar charges for webinar capability in next 2-3 weeks followed by a telephone meeting of the Executive Council to make a decision about moving forward with this program. Jeanne thanked to Chet for his hard work on this potential program.

The section is also considering a teleseminar series on representing the hospital. In this economy, members agree that a telephonic series may be a better alternative than the in person fundamentals program in September. Harold Kaplan reminds the section that the Florida Hospital Association has a hospital attorney group – wants to ensure that we don't conflict with this.

Sandy Greenblatt is co-chairing this year's advanced level of certification course for the final year. The goal is to provide only board-certified speakers for the certification course which would merit 16.5 credits and includes ethics. A suggestion was to send out an e-blast for next year's speakers.

Sandy commented on having presented at a teleconference last year on dispensing. Our section is selling the dispensing program as no cost. Valerie is checking on who sets the price and how this happened.

B. Section Effectiveness – Lew Fishman.

Bylaws under review – will have a proposed revision for consideration at June meeting.

C. Law School Outreach.

Jeanne and Charmaine visited Coastal College of Law where 62 students attended to hear 8 local lawyers describe various health law practice areas. Section members were encouraged to reach out to local schools. The Bar will reimburse for pizza and sodas for lunch. Steve Grigas was invited to speak to students at FSU on health law. Lots of questions and students as well. Jody will try to reach out to Nova. Sandy Greenblatt will contact Lew Fishman re outreach to University of Miami.

D. Communications & Technology – Bernabe Icaza.

1. Website – Chet Barclay.

This section is seeing increased responses to its website communications. For example, Chet received responses to his inquiry re health law journal. Articles for the Journal were

offered by Dick Jacobs and Chet. Chet will report back in June with additional information on a journal possibility. He anticipates it would cost around \$2,000 to produce and the journal would be a benefit of section membership. The goal of the journal is to present academically oriented law review type articles. The section will consider affiliation with a law school law review program for assistance with the journal. The 2009-10 budget did not include this expense, but it was amended to cover it.

2. Newsletter – Bernabe Icaza.

The section's December newsletter was distributed. Bernabe is looking for a replacement as editor on the newsletter. Goal is two newsletters each year. Bernabe thanked all those who contributed to the newsletter and Harold Kaplan and others who assisted him. Harold volunteered to work with section on a e-blast to section members regarding a co-editor and article submission. Chet will post on web site an announcement regarding the newsletter editor position.

E. HIPAA – William Dillon.

No report at this time. AHCA still planning on filing legislation this session re transmission of electronic material.

F. Public Health Committee – Walter Carfora and Rodney Johnson.

The Public Health Committee holds bi-monthly conference calls open to all who are interested. Details of calls are posted on the section website. See report prepared by Walter Carfora.

VII. Old Business

Florida Health Law Handbook – The editors received the last chapter today. The section will aim to distribute the book at the certification course. The handbook has expanded to two volumes this year with new topics and revised materials. Thanks to Jeanne Helton and John Buchanan for spearheading this project. The section will distribute a free handbook to 8-9 law school professors who teach health law and a second version to the law school libraries. Publication sales prices were set at \$175 for section members and \$195 for non-members. Authors will get a free copy. The section will evaluate the cost of including CDs with the handbook. There was strong support for including the CD.

VIII. New Business

A. New Health Law Section.

Broward County Bar is organizing a health law section. Its first meeting will be 2/12/09 at 5:30 pm at the Broward County Bar building.

B. Proposed Section Budget for 2009-2010.

Two modifications - Reduce CLE course revenue by 25% or \$1,000 and allocate \$2,000 in expenses for journal. Amended budget passed after discussion.

C. Administrator Expense.

The Health law section was asked to pay \$75 per month for the administrator's Blackberry. This expense was approved.

D. FSU Professorship

Chet Barclay has accepted a position at the FSU Law School as a health law professor effective January 2009. They are hiring a new full time professor in September 2009 and keeping a second professor (Chet). The law school dean clarified that the section has sponsored a professorship rather than a chair. The section's \$100,000 was matched by a \$50,000 donation from the legislature. Harold, Jeanne and Bill Dillon volunteered to participate on a panel at FSU to generate interest in health law and address current topics.

E. By-law Amendments.

Deferred until June.

F. Section survey

The section has 1500 members and wants to reach out to learn more about them. Lew Fishman developed an online survey for consideration. If a respondent wants anonymity, they can print it and return it by mail. The goal is to distribute in the next few months with a follow-up in April for data compilation by June meeting. We can assess whether the Bar will send the survey, assess its expense, and compare its implementation to that of other mechanisms such as Survey Monkey.

G. Discussion of Website Sponsors

Discussion regarding the possible sale of ads on the section website will be continued in June.

H. Discussion of Section Meeting Sponsors

The section will accept sponsorships as approved by Executive Council. Approved sponsors must cover the cost of the entire break, meal, etc. that they sponsor.

I. Memoriams

A proposal was made to dedicate the first journal of health law to Barbara Pankau who died this month and was one of the Council's founding members. An announcement about her

death is on the website. A motion to donate \$250 in Barbara's name to the American Society for the Prevention of Cruelty to Animals was made and passed.

J. Section Dues for Law Students

A motion was passed to provide free section membership to law students.

K. NCCUSL Emergency Responder Law – Nick Romanello

Nick Romanello, the representative to the National Conference of Commissioners on Uniform State Laws, addressed the model state law Uniform Emergency Volunteer Health Practitioner Act. The goal of the act is to bridge the gaps in state licensure laws to assist health care practitioner volunteers willing to respond to an emergency in a state where they are not licensed. Under the Act, health care practitioners can pre-register to be available in time of emergency or catastrophe, so long as they have a current, unencumbered state license to practice in any state prior to registration. Arkansas and Iowa have passed the Act. Elaine Schwartz from Hollywood is sponsoring this bill, HB 117 in the upcoming session in Florida. For more information, see www.uevhpa.org.

L. Rick Siehl

Laurie Levin introduced Rick Siehl, a partner with Baker Hostetler who is working from both their Ohio and Florida offices. Laurie has accepted a new position with Florida Hospital.

M. Next Meeting

The next meeting of the Health Law Section Executive Council will be June 25 at Orlando World Marriott, not on June 26th at Orlando Gaylord Palms as previously published.

IX. Chair-elect Comments – Troy Kishbaugh.

Troy looks forward to continuing his service on behalf of the section and thanked Jeanne Helton for her support.

X. Adjournment.

The meeting was adjourned at 5:45 p.m.

**The Florida Bar
Health Law Section
Nominating Committee Report**

Members of the Committee:

Monica Rodriguez, Esq., Chair
Michael Bittman, Esq.
Allen Grossman, Esq.
Rodney Johnson, Esq.
Harold Kaplan, Esq.

The Committee held a telephonic conference on April 16, 2009. The meeting was called to order at 1:33 by Monica Rodriguez, and all of the above named members were in attendance. A discussion ensued regarding various members of the Health Law Section who expressed an interest in serving on the Executive Council, or have been active members of the Health Law Section and who are interested in further serving on the Section's Executive Council or as an officer. After due consideration, the following nominations were made for the 2009-2010 year:

Harold Kaplan moved to appoint Bernabe Icaza as Secretary, and to elevate all of the current officers one position, and Allen Grossman seconded. This motion was approved unanimously.

Rodney Johnson moved to nominate Charmaine Chiu, Lew Fishman, Nick Romanello, Jennifer Smith, and Jay Wolfson for the Executive Council. This motion was seconded by Michael Bittman. This motion was approved unanimously.

Having concluded its assigned tasks, the meeting adjourned at 2:12 PM.

Respectfully submitted by Monica L. Rodriguez, Esq. Chair.

Health Law Section
Nominations for 2009-2010

The Health Law Section's Nominating Committee has nominated Lester Perling of Fort Lauderdale for the position of Chair-elect 2009-2010.

The Committee has also nominated Cynthia Mikos of Tampa for Treasurer and Bernabe Icaza of Tampa for Secretary for the 2009-2010 term.

With regard to the five executive council seats with terms that expire June 30, 2008, the Committee nominates Charmaine Chiu, Jacksonville, Lewis Fishman, Miami, Nicholas Romanello, West Palm Beach, Jennifer Smith, Orlando, and Jay Wolfson, Tampa.

The Health Law Section will meet to elect its 2009-2010 officers and executive council members on Thursday, June 19, 2008 from 3:00 p.m. - 6:00 p.m. during the Florida Bar's Annual Meeting at the Boca Raton Resort & Club. All members of the Health Law Section are encouraged to attend this meeting and the section reception which will immediately follow.

The Nominating Committee members include: Michael Bittman, Orlando, Allen Grossman, Tallahassee, Rodney Johnson, Pensacola, Harold Kaplan, Coral Springs, and Monica Rodriguez, Miami.

Section 7.4 of the Health Law Section Bylaws allows for other nominations to be made by petition of at least 15 voting members of the Section. The petition must be filed with the Chair not later than 30 days prior to the date of the annual meeting.

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
Total Health Law CLE				

31436 Course Section Diff	-50	-2,575	0	*
32001 Registrations	0	45,568	0	*
32010 Legal Span On-line	0	5,737	0	*
32201 Audio Tapes	0	370	0	*
32205 Compact Disc	1,400	41,435	0	*
32207 DVD	0	2,050	0	*
32301 Course Materials	0	1,270	0	*

Total Revenues	1,350	93,855	0	*

51101 Employee Travel	0	1,073	0	*
83431 Time CLE Courses	0	3,871	0	*
86421 C L E Administration	16	3,779	0	*
86543 Graphics & Art	0	121	0	*
86623 Registrars	209	4,620	0	*

Total The Florida Bar Staf	225	13,464	0	*

41201 Contract Salaries	0	338	0	*

Total Other Staff	0	338	0	*

84256 Audio Taping/Tech	0	1,565	0	*
86432 Time Taping Editing	0	7,085	0	*
88281 A/V Ctr Dup/Prod	31	1,612	0	*

Total Cost of AV Media	31	10,262	0	*

86001 Administrative Exp	-35	9,034	0	*

Total General and Administ	-35	9,034	0	*

81411 Promotional Printing	0	773	0	*
81412 Promotional Mailing	0	1,435	0	*
86532 Advertising News	0	3,853	0	*

Total Promotion	0	6,061	0	*

88241 Outline Prt-Inhouse	0	7,464	0	*

Total Printed Course Mater	0	7,464	0	*

88221 Speaker Workshops	0	300	0	*
88231 Speakers Travel	0	5,008	0	*
88232 Speakers Meals	0	720	0	*
88233 Speakers Hotel	0	3,799	0	*
88239 Speakers Other Exp	0	1,043	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget

Total Health Law CLE				

Total Speaker Expense	0	10,870	0	*

61201 Equipment Rental	0	3,477	0	*
84257 Teleconf/Web Service	0	506	0	*
88252 Course Credit Fee	0	300	0	*
88261 Meeting Room Rent	0	1,100	0	*
88262 Meeting Meals	0	7,056	0	*
88263 Meeting Hospitality	0	1,792	0	*
88265 Refreshment Breaks	0	4,296	0	*

Total Presentation Expense	0	18,527	0	*

36998 Credit Card Fees	0	1,311	0	*
75102 1st Class & Misc Mai	0	44	0	*
75401 Express Mail	45	1,224	0	*

Other Expense	45	2,579	0	*

Total Expenses	266	78,599	0	*

Total Net General Ledger	1,084	15,256	0	*

32291 Section Fee	-448	-12,203	0	*

Net Operations	636	3,053	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0487 2007 HL Cert Review ~~~~~				
32010 Legal Span On-line	0	358	0	*
-----	-----	-----	-----	-----
Total Revenues	0	358	0	*
-----	-----	-----	-----	-----
Total Net General Ledger	0	358	0	*
-----	-----	-----	-----	-----
32291 Section Fee	0	-286	0	*
-----	-----	-----	-----	-----
Net Operations	0	72	0	*
-----	-----	-----	-----	-----

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0574 2008 Rep Physicians				
31436 Course Section Diff	-25	-775	0	*
32001 Registrations	0	25	0	*
32010 Legal Span On-line	0	951	0	*
32201 Audio Tapes	0	370	0	*
32205 Compact Disc	185	7,470	0	*
32207 DVD	0	1,025	0	*
Total Revenues	160	9,066	0	*
86421 C L E Administration	0	70	0	*
86623 Registrars	11	550	0	*
Total The Florida Bar Staf	11	620	0	*
88281 A/V Ctr Dup/Prod	0	342	0	*
Total Cost of AV Media	0	342	0	*
86001 Administrative Exp	-1	167	0	*
Total General and Administ	-1	167	0	*
88241 Outline Prt-Inhouse	0	47	0	*
Total Printed Course Mater	0	47	0	*
36998 Credit Card Fees	0	154	0	*
75102 1st Class & Misc Mai	0	4	0	*
75401 Express Mail	2	119	0	*
Other Expense	2	277	0	*
Total Expenses	12	1,453	0	*
Total Net General Ledger	148	7,613	0	*
32291 Section Fee	-111	-6,090	0	*
Net Operations	37	1,523	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0611 2008 HL Cert Review				
31436 Course Section Diff	0	-325	0	*
32010 Legal Span On-line	0	3,227	0	*
32205 Compact Disc	560	8,725	0	*
32301 Course Materials	0	70	0	*
Total Revenues	560	11,697	0	*
86421 C L E Administration	2	83	0	*
86623 Registrars	33	385	0	*
Total The Florida Bar Staf	35	468	0	*
88281 A/V Ctr Dup/Prod	23	213	0	*
Total Cost of AV Media	23	213	0	*
86001 Administrative Exp	5	199	0	*
Total General and Administ	5	199	0	*
241 Outline Prt-Inhouse	0	594	0	*
Total Printed Course Mater	0	594	0	*
36998 Credit Card Fees	0	153	0	*
75401 Express Mail	10	107	0	*
Other Expense	10	260	0	*
Total Expenses	73	1,734	0	*
Total Net General Ledger	487	9,963	0	*
32291 Section Fee	-679	-7,970	0	*
Net Operations	-192	1,993	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0740 2009 Rep Physicians				
31436 Course Section Diff	-25	-950	0	*
32001 Registrations	0	24,362	0	*
32010 Legal Span On-line	0	832	0	*
32205 Compact Disc	655	13,815	0	*
32207 DVD	0	1,025	0	*
32301 Course Materials	0	500	0	*
Total Revenues	630	39,584	0	*
51101 Employee Travel	0	388	0	*
83431 Time CLE Courses	0	2,690	0	*
86421 C L E Administration	-23	1,919	0	*
86543 Graphics & Art	0	85	0	*
86623 Registrars	88	2,299	0	*
Total The Florida Bar Staf	65	7,381	0	*
41201 Contract Salaries	0	338	0	*
Total Other Staff	0	338	0	*
432 Time Taping Editing	0	5,085	0	*
88281 A/V Ctr Dup/Prod	0	593	0	*
Total Cost of AV Media	0	5,678	0	*
86001 Administrative Exp	-95	4,584	0	*
Total General and Administ	-95	4,584	0	*
81411 Promotional Printing	0	531	0	*
81412 Promotional Mailing	0	993	0	*
86532 Advertising News	0	1,141	0	*
Total Promotion	0	2,665	0	*
88241 Outline Prt-Inhouse	0	3,939	0	*
Total Printed Course Mater	0	3,939	0	*
88221 Speaker Workshops	0	300	0	*
88231 Speakers Travel	0	2,747	0	*
88232 Speakers Meals	0	185	0	*
88233 Speakers Hotel	0	1,642	0	*
88239 Speakers Other Exp	0	443	0	*
Total Speaker Expense	0	5,317	0	*
61201 Equipment Rental	0	1,757	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0740 2009 Rep Physicians				
88252 Course Credit Fee	0	150	0	*
88261 Meeting Room Rent	0	1,100	0	*
88262 Meeting Meals	0	3,630	0	*
88265 Refreshment Breaks	0	2,121	0	*

Total Presentation Expense	0	8,758	0	*

36998 Credit Card Fees	0	518	0	*
75102 1st Class & Misc Mai	0	26	0	*
75401 Express Mail	7	652	0	*

Other Expense	7	1,196	0	*

Total Expenses	-23	39,856	0	*

Total Net General Ledger	653	-272	0	*

32291 Section Fee	-503	218	0	*

Net Operations	150	-54	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0754 2009 HL Cert Review				
31436 Course Section Diff	0	-325	0	*
32001 Registrations	0	21,181	0	*
32205 Compact Disc	0	10,250	0	*
32301 Course Materials	0	700	0	*
Total Revenues	0	31,806	0	*
51101 Employee Travel	0	685	0	*
83431 Time CLE Courses	0	1,181	0	*
86421 C L E Administration	38	1,659	0	*
86543 Graphics & Art	0	24	0	*
86623 Registrars	66	1,210	0	*
Total The Florida Bar Staf	104	4,759	0	*
84256 Audio Taping/Tech	0	1,565	0	*
86432 Time Taping Editing	0	2,000	0	*
88281 A/V Ctr Dup/Prod	8	388	0	*
Total Cost of AV Media	8	3,953	0	*
8001 Administrative Exp	57	3,968	0	*
Total General and Administ	57	3,968	0	*
81411 Promotional Printing	0	242	0	*
81412 Promotional Mailing	0	442	0	*
86532 Advertising News	0	2,712	0	*
Total Promotion	0	3,396	0	*
88241 Outline Prt-Inhouse	0	2,884	0	*
Total Printed Course Mater	0	2,884	0	*
88231 Speakers Travel	0	2,261	0	*
88232 Speakers Meals	0	535	0	*
88233 Speakers Hotel	0	2,157	0	*
88239 Speakers Other Exp	0	600	0	*
Total Speaker Expense	0	5,553	0	*
61201 Equipment Rental	0	1,720	0	*
88252 Course Credit Fee	0	150	0	*
88262 Meeting Meals	0	3,426	0	*
88263 Meeting Hospitality	0	1,792	0	*
88265 Refreshment Breaks	0	2,175	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0754 2009 HL Cert Review				
Total Presentation Expense	0	9,263	0	*
36998 Credit Card Fees	0	466	0	*
75102 1st Class & Misc Mai	0	14	0	*
75401 Express Mail	26	314	0	*
Other Expense	26	794	0	*
Total Expenses	195	34,570	0	*
Total Net General Ledger	-195	-2,764	0	*
32291 Section Fee	837	2,211	0	*
Net Operations	642	-553	0	*

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
C0794 An RX for Compliance ~~~~~				
31436 Course Section Diff	0	-75	0	*
32205 Compact Disc	0	450	0	*
-----	-----	-----	-----	-----
Total Revenues	0	375	0	*
-----	-----	-----	-----	-----
86421 C L E Administration	0	8	0	*
86623 Registrars	11	77	0	*
-----	-----	-----	-----	-----
Total The Florida Bar Staf	11	85	0	*
-----	-----	-----	-----	-----
88281 A/V Ctr Dup/Prod	0	38	0	*
-----	-----	-----	-----	-----
Total Cost of AV Media	0	38	0	*
-----	-----	-----	-----	-----
86001 Administrative Exp	1	20	0	*
-----	-----	-----	-----	-----
Total General and Administ	1	20	0	*
-----	-----	-----	-----	-----
36998 Credit Card Fees	0	10	0	*
75401 Express Mail	0	9	0	*
-----	-----	-----	-----	-----
Other Expense	0	19	0	*
-----	-----	-----	-----	-----
Total Expenses	12	162	0	*
-----	-----	-----	-----	-----
Total Net General Ledger	-12	213	0	*
-----	-----	-----	-----	-----
32291 Section Fee	10	-170	0	*
-----	-----	-----	-----	-----
Net Operations	-2	43	0	*
-----	-----	-----	-----	-----

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
<u>C0795 Melding/Quality Care</u>				
31436 Course Section Diff	0	-125	0	*
32010 Legal Span On-line	0	369	0	*
32205 Compact Disc	0	725	0	*
-----	-----	-----	-----	-----
Total Revenues	0	969	0	*
-----	-----	-----	-----	-----
86421 C L E Administration	-1	40	0	*
86543 Graphics & Art	0	12	0	*
86623 Registrars	0	99	0	*
-----	-----	-----	-----	-----
Total The Florida Bar Staf	-1	151	0	*
-----	-----	-----	-----	-----
88281 A/V Ctr Dup/Prod	0	38	0	*
-----	-----	-----	-----	-----
Total Cost of AV Media	0	38	0	*
-----	-----	-----	-----	-----
86001 Administrative Exp	-2	96	0	*
-----	-----	-----	-----	-----
Total General and Administ	-2	96	0	*
-----	-----	-----	-----	-----
257 Teleconf/Web Service	0	506	0	*
-----	-----	-----	-----	-----
Total Presentation Expense	0	506	0	*
-----	-----	-----	-----	-----
36998 Credit Card Fees	0	10	0	*
75401 Express Mail	0	23	0	*
-----	-----	-----	-----	-----
Other Expense	0	33	0	*
-----	-----	-----	-----	-----
Total Expenses	-3	824	0	*
-----	-----	-----	-----	-----
Total Net General Ledger	3	145	0	*
-----	-----	-----	-----	-----
32291 Section Fee	-2	-116	0	*
-----	-----	-----	-----	-----
Net Operations	1	29	0	*
-----	-----	-----	-----	-----

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
Total Health Law				
31431 Section Dues	30	39,540	40,500	97.63
31432 Affiliate Dues	0	1,050	550	190.91
31433 Admin Fee to TFB	(18)	(23,488)	(23,625)	99.42
	-----	-----	-----	-----
Total Dues Income-Net	12	17,102	17,425	98.15
	-----	-----	-----	-----
32191 CLE Courses	448	12,201	12,500	97.61
32293 Section Differential	25	1,738	2,500	69.52
35201 Sponsorships	0	2,000	1,200	166.67
36506 Section Handbook	0	750	7,500	10.00
38499 Investment Allocatio	0	(10,876)	5,679	(191.51)
	-----	-----	-----	-----
Other Income	473	5,813	29,379	19.79
	-----	-----	-----	-----
	-----	-----	-----	-----
Total Revenues	485	22,915	46,804	48.96
	-----	-----	-----	-----
36998 Credit Card Fees	0	37	0	*
51101 Employee Travel	0	1,331	1,007	132.17
71001 Telephone/Direct	63	63	900	7.00
84001 Postage	0	204	880	23.18
84002 Printing	0	36	750	4.80
84003 Officers Office Expe	0	0	100	0.00
84009 Supplies	39	138	50	276.00
84010 Photocopying	0	139	300	46.33
84051 Officers Travel Expe	0	0	3,000	0.00
84052 Meeting Travel Expen	0	0	1,250	0.00
84054 CLE Speaker Expense	0	3,293	2,500	131.72
84101 Committee Expenses	0	193	750	25.73
84200 General Meeting	0	1,122	750	149.60
84201 Board Or Council Mee	0	1,106	1,500	73.73
84202 Annual Meeting	0	1,500	10,000	15.00
84204 Midyear Meeting	0	1,917	4,000	47.93
84301 Awards	0	162	500	32.40
84416 Handbook	5	29	3,350	0.87
84422 Website	0	330	4,500	7.33
84701 Council Of Sections	0	0	300	0.00
84998 Operating Reserve	0	0	4,766	0.00
84999 Miscellaneous	0	555	250	222.00
88252 Course Credit Fee	0	0	300	0.00
	-----	-----	-----	-----
Total Operating Expenses	107	12,155	41,703	29.15
	-----	-----	-----	-----
86431 Meetings Administrat	0	0	160	0.00
86543 Graphics & Art	97	2,323	4,309	53.91
	-----	-----	-----	-----
Total TFB Support Services	97	2,323	4,469	51.98
	-----	-----	-----	-----

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
Total Health Law	-----	-----	-----	-----
Total Expenses	204	14,478	46,172	31.36
Net Operations	281	8,437	632	1,334.97
21001 Fund Balance	0	91,590	82,027	111.66
Total Current Fund Balance	281	100,027	82,659	121.01

	May 2009 Actuals	YTD 08-09 Actuals	Budget	Percent Budget
Health Admin Exp				
31433 Admin Fee to TFB	18	23,488	23,625	99.42
Total Revenues	18	23,488	23,625	99.42
Total Direct Charges	0	0	0	*
83721 Time-Health Law	2,200	10,469	12,843	81.52
83738 Time-Health Law Cert	0	1,126	0	*
Total Time Allocations	2,200	11,595	12,843	90.28
Staff & Office	2,200	11,595	12,843	90.28
Travel	0	0	0	*
Other Expense	0	0	0	*
5001 Administrative Exp	205	2,470	7,963	31.02
Internal Services	205	2,470	7,963	31.02
Total Expenses	2,405	14,065	20,806	67.60
Net Operations	(2,387)	9,423	2,819	334.27

FLORIDA HEALTH LAW 2009 LEGISLATIVE SUMMARY

Steven A. Grigas
Akerman Senterfitt
June 14, 2009

The following is a summary of healthcare related legislation that has been passed by the 2009 Florida legislature. As of the writing of this summary, some of the bills listed may remain open to veto by the Governor.

This summary targets only those bills believed to be of significant impact to the healthcare industry and is offered only as a general overview of these bills. For specific details of the bills, it is strongly advised that you refer to the enrolled text filed.

The background of the slide is a stylized globe of the Earth, rendered in shades of blue and purple. The globe is centered and occupies most of the frame. The colors are vibrant and somewhat ethereal, with a gradient from light blue/purple at the top to darker blue/purple at the bottom. The text 'HEALTH INSURANCE' is superimposed over the center of the globe.

HEALTH INSURANCE

CS/SB1122 – Health Insurance Payment of Benefits/Claims Forms – Effective July 1, 2009

by Gaetz/Llorente, et al.

- Requires insurers to make payments directly to any provider not under contract with the insurer if the insured makes a written assignment of benefits.
- Controversial bill that was opposed by Associated Industries of Florida, BCBS of Florida, and PIRG on various grounds. Despite opposition, Governor has signed this bill into law.
- OPPAGA to report on bill by March 1, 2012. If found to cause physician loss in Preferred Provider Network of State Group Health Plan, provisions of act will be repealed.

CS/CS/HB675 – Medicare Supplement Policies effective October 1, 2009

by Workman, Altman, Fasano, et. Al.

- Requires insurers offering Medicare supplement policies (Medigap) to issue such policies on a guaranteed issue basis to Medicare eligible individuals who are under 65 years of age and disabled, or have a diagnosis of end-stage renal disease (ESRD).
- Allows certain Medigap insurers to make a one time rate schedule change without activating the 5-year lock out period of 627.410(6)(e)2, F.S.

HB741 - Insurance Premium Financing Effective July 1, 2009

by Patterson, Storms

- Provides that provisions of Parts XV, and XVI of Chapter 627, F.S. do not apply to any discount granted a insured if the insured pays the premium for the entire policy term at the term's inception so long as the discount is actuarially justified and approved by the OIR.

CS/CS/SB2252 - Professional Liability Claims

Effective October 1, 2009

by Baker

- Requires insurers offering professional liability coverage to health care providers or members of the Florida Bar to report claims or actions for damages due to injuries alleged to be caused by error, omission, or negligence in the performance of the insured's professional services if the claim results in a settlement, final judgment or disposition of a malpractice claim with no indemnity payment on behalf of the insured.
- Defines "claim" for reporting purposes, and requires claim to be in writing.
- Requires reporting of claims under certain circumstances relating to:
 - Execution of Settlement
 - Entry of Judgment
 - Final Payment of Indemnity
 - Final Disposition

CS/CS/HB845 - Self Insurance Funds Effective July 7, 2009


by Drake, Gaetz

- Requires applications for worker's compensation coverage issued by a group self insurance fund to contain a notice in 10 point boldface type that it is a fully assessable policy and that if the fund is insolvent, policyholders must contribute on a pro rata earned premium basis all money necessary to meet unfulfilled obligations.
- Changes financial data reporting period for administrators of health care provider associations from calendar year to fiscal years and provides reporting deadlines.

CS/CS/HB675 - Medicare Supplement Policies Effective October 1, 2009

by Workman, Altman, Fasano, et al.

- Requires insurers offering Medicare supplement policies (Medigap) to issue such policies on a guaranteed issue basis to Medicare eligible individuals who are under 65 years of age and disabled, or have a diagnosis of end-stage renal disease (ESRD).
- Allows certain Medigap insurers to make a one time rate schedule change without activating the 5-year lock out period of 627.410(6)(e)2, F.S.



WORKER'S COMPENSATION

CS/HB903 - Attorney's Fees in Workers' Compensation Cases Effective July 1, 2009 by Workman, Altman, Fasano, et al.

- Effectively reinstates workers' compensation attorney fee caps previously eliminated as a result of the Florida Supreme Court's decision in *Murray v. Mariner Health and ACE USA*.
- Clarifies that the attorney's fee schedule provisions in Chapter 440, F.S. are to be calculated based solely on the fee schedule except in certain medical-only cases.

CARE OF CHILDREN

CS/SB1018 - Guardian Ad Litem Effective July 1, 2009 by Joyner

- Provides that a person certified by a not-for-profit legal aid organization may serve as a guardian ad litem in dissolution of marriage case but only after the organization has conducted a security background investigation and provided training.

ELDER AFFAIRS

CS/CS/CS/HB935 - Area Agencies on Aging Effective on Becoming Law

by Bogdanoff, Fasano, et al.

- Clarifies Area Agencies on Aging (AAA) are non-governmental, independent, not for profit corporations under 501(c)(3) of the Internal Revenue Code.
- Extends period of lead agency designation to once every six years and requires designation of such by AAA through a competitive procurement process (RFP).
- Requires DOEA by August 1, 2009 to adopt a rule creating standards for resolution of a bid protest. Requires rule to be followed by AAA.



MENTAL HEALTH AND SUBSTANCE ABUSE

CS/CS/SB456 - Mental Illness/Deputy
Anthony Forgione Act
Effective July 1, 2009
by Gaetz.

- Requires law enforcement agencies to develop a MOU with receiving facilities that includes protocols for safe and secure transport of person and custody.
- Specifies that transfer of custody of a Baker Acted individual can only be made to a responsible individual at the receiving facility.
- Permits second opinions supporting a recommendation for use of Baker Act to be made in person or electronically.

HB767 - Mental Health and Substance Abuse Services

Effective July 1, 2009

by Fitzgerald, Bennett, Detert

- Creates 394.4612, F.S. which authorizes AHCA in consultation with DCF to establish integrated mental health crisis stabilization facilities for adults.
- Requires DCF in consultation with AHCA to adopt by rule, standards governing the facilities.

CS/CS/SB2612 - Substance Abuse and Mental Health Services – Effective July 1, 2009

by Wise

- Deletes requirement for contract between DCF and residential treatment facilities for children and adolescents, and instead requires that such facilities be licensed by AHCA.
- Specifies legislative intent to establish services for individuals with co-occurring substance abuse and mental disorders.
- Sets client eligibility for substance abuse and mental health services.
- Revises definitions in Chapter 397, F.S. relating to substance abuse services.

- Changes licensure process for substance abuse programs and requires licenses to be issued by service component rather than by facility (physical location).
- Requires DCF to coordinate licensure inspections with other state agencies.
- Adds physician assistants and advanced registered nurse practitioners with a specialty in psychiatry to list of qualified professionals who may provide substance abuse services.
- Adds physician assistants to group of licensed medical professionals who may provide substance abuse services.
- Authorizes DCF to establish a medical review committee for substance abuse, mental health and forensic programs.

HB767 - Mental Health and Substance Abuse Services

Effective July 1, 2009

by Fitzgerald, Bennett, Detert

- Creates 394.4612, F.S. which authorizes AHCA in consultation with DCF to establish integrated mental health crisis stabilization facilities for adults.
- Requires DCF in consultation with AHCA to adopt by rule, standards governing the facilities.



HEALTH AND HUMAN SERVICES APPROPRIATIONS

CS/SB1658 - Health Care Effective on Becoming Law

by Peaden

- Amends 395.7017 F.S. and authorizes AHCA to promulgate rules relating to assessments for inpatient/outpatient services and healthcare entities under Chapter 395.F.S.,
- Amends 409.815, F.S. to provide for mental health parity, dental services, and reimbursement for FQHCs and RHCs in the Florida Healthy Kids program effective October 1, 2009.
- Amends 409.818, F.S. to require AHCA to monitor Florida Healthy Kids program compliance with federal and state quality assurance and access standards.
- Amends 409.904 to provide an expiration date of December 31, 2010 for the MEDS – AD and Medically Needy programs.

- Amends 409.905, F.S. and required Medicaid home health services that exceed the statewide rate by 50 percent to undergo prior authorization for non skilled nursing visits. Requires that Medicaid home health services be ordered by a practicing physician.
- Requires AHCA to implement two home pilot projects.
- Amends 409.906, F.S. and provides limitations on Medicaid adult vision services.
- Amends 409.9082, F.S. with respect to certain aspects of quality assessments for nursing home providers discontinuance, exemption and lowering of quality assessment rate. Authorizes use of quality assessments to restore FY 2009-2010 rate reductions.

- Amends 409.9083, F.S. to provide for a quality assessment to be imposed on privately operated ICF-DDs.
- Amends DSH related statutes with respect to funding, eligibility, and associated timeframes.
- Amends 409.912, F.S. to require specific appropriation prior to implementation of Florida Senior Care initiative.
- Amends 409.912, F.S. regarding payments to certain EPOs in rural areas of the state.
- Amends 409.91211, F.S. to extend for an additional 2 years the time in which PSNs must convert from a FFS model to a capitated model of reimbursement.

- Amends 409.9122, F.S. and removes language requiring MediPass recipients in counties with 2 or more managed care plans to be assigned to a plan if no timely choice is made by recipient.
- Amends 430.707, F.S. and requires AHCA in consult with DOEA to accept an application for expansion of a PACE pilot project from an entity providing certain PACE benefits. Requires AHCA to seek federal approval for an application to be a PACE site and upon approval to contract with a hospice organization in Hillsborough county to serve up to 100 elderly individuals.

CS/SB1660 - Agency for Persons with Disabilities Effective on Becoming Law

by Peadar

- Requires APD to categorize and prioritize clients on wait list.
- Removes provision allowing for all services covered under the waiver to be available to all clients in all categories of need.
- Removes provision that limits an increase in services under certain circumstances.
- Eliminates medication review as a waiver service.
- Requires APD to develop a plan for elimination of duplication and redundancy in home support services, companion services, personal care services, and supported living coaching.

- Directs APD to develop a plan for reduction of supported employment services under specified circumstances.
- Removes provision reducing geographical differential for residential habilitation services in Dade, Broward, Palm Beach and Monroe Counties effective July 1, 2009.
- Establishes a study group to determine feasibility of creating a pre-paid service plan for disabled children modeled after the Florida pre-paid college plan. Report due to legislature on January 29, 2010.

CS/SB1662 - Department of Health
Effective July 1, 2009
by Peadar

- Requires DOH to establish and maintain laboratories for microbiological and chemical analysis, a pharmacy services program, and an Office of Vital Statistics.

CS/SB1664 - Health Care

Effective July 1, 2009

by Peadar

- Extends distribution of cigarette tax funds to Moffitt Cancer Center from June 2016 to June 2020.
- Awards a \$10mm grant or contract to Area Health Education Center (AHEC) Network to expand smoking cessation initiative Statewide in 2009-2010. Authorizes AHEC to apply for a competitive contract or grant after FY 2009-2010.

HB767 - Mental Health and Substance Abuse Services Effective July 1, 2009

by Fitzgerald, Bennett, Detert

- Creates 394.4612, F.S. which authorizes AHCA in consultation with DCF to establish integrated mental health crisis stabilization facilities for adults.
- Requires DCF in consultation with AHCA to adopt by rule, standards governing the facilities.

HEALTH REGULATION

HB109 – Clinical Counseling and Psychotherapy Services

Effective July 1, 2009

by Bembry, Baker

- Provides qualified immunity for a psychotherapist's release of confidential communications regarding a patient or client when clinically determined that there is clear probability of physical harm absent disclosure.

CS/HB185 - Access to Health Care Effective July 1, 2009

by Hudson, Gaetz

- Adds representative from dental community to FHKC board.
- Prohibits prepaid limited health service organization (PLHSO) contracts from restricting a provider's contracting with other PLHSOs.
- Prohibits PLHSOs from requiring providers to accept the terms of other contracts with the PLHSO as a condition of contract renewal.

CS/SB720 - Physician Practice Effective July 1, 2009

by Peaden, Oelrich, Sobel

- Prohibits a physician from holding self out as a board certified specialist in dermatology unless specialty agency is reviewed and reauthorized by BOM every three years.
- Provides that a physician may not be required to review and cosign charts of a physician assistant (PA) under the physician's supervision.
- Deletes requirement that a supervising physician review and sign prescriptions and dispensing records by a PA that the physician supervises.
- Clarifies exemption to physician supervision requirement in offices where hair removal is done by ARNP or PA.
- Exempts from physician supervision requirement offices where exclusive service is hair removal done by ARNP or PA.

CS/CS/SB1868 - Practice of Pharmacy

Effective July 1, 2009

by Peadar

- Updates definition of "standard reference compendium" as it relates to insurance drugs for cancer treatment.
- Deletes requirement for quantity of medicinal drugs prescribed to be both in both textual and numeric format and dated with the month written out in textual format.
- Requires a written prescription for a controlled substance to have the quantity prescribed in both textual and numeric format and dated with the abbreviated month written on the face of the prescription.

- Under specified circumstances allows for the dispensing of a controlled substance by a pharmacist when the prescriber is unavailable for verification.
- Under certain circumstances allows for the dispensing of a controlled substance by a pharmacist on a prescription that does not meet certain annotation or verification requirements.

CS/CS/SB162 - Electronic Health Records Effective on Becoming Law

by Ring

- Creates Florida Electronic Health Records Exchange Act.
- Requires AHCA to develop a universal patient authorization form for release of identifiable health records. Provides immunity for access and release of such records through this form. Provides penalties for fraudulent use of such form.
- Provides for emergency release of identifiable health record without consent for use in treatment of patient in emergency condition. Provides immunity for access and release of such records under such circumstance.
- Provides for release of patient records by hospitals, ambulatory surgical centers, and mobile surgical units without prior patient consent to providers currently involved in the care and treatment of a patient.

- Provides for release of patient test results by clinical laboratories without prior patient consent to practitioners and providers currently involved in the care and treatment of a patient.

CS/SB620 – Health Facilities Effective on Becoming Law by Oelrich

- Expands definition of health facility for purposes of eligibility to access financing through debt issued by a health facilities organization.

CS/CS/HB873 – Inactive Licenses and Certificates of Need Effective on Becoming Law

by Williams

- Under certain circumstances extends period in which a CON is valid from 18 months to 3 years if an applicant has not commenced construction. CS/CS/CS/1986 modifies this extension to apply only to CONs issued prior to April 1, 2009.
- Under certain circumstances authorizes a second renewal of an inactive license for a statutory rural hospital.
- Extends maximum renewal period for an inactive license of a statutory rural hospital from 24 months to 36 months

CS/CS/CS/SB1986 – Health Care (Fraud)

Effective July 1, 2009

by Gaetz, Peaden, Lynn

- Addresses systemic health care fraud with particular focus on home health services.
- Requires Medicaid home health services to be medically necessary, and ordered by a physician by written prescription.
- Requires Medicaid recipients to receive annually, information on how to report Medicaid fraud.
- Requires AHCA to post listing of all providers sanctioned or terminated for cause from the Medicaid program on its website.
- Requires AHCA to use technology to address fraud.

- Requires AHCA to track and evaluate Medicaid prescribing and billing patterns and include such information in MPI/MFCU annual report.
- Requires MPI to take action against a provider that violates 409.913 F.S. Previously this authority was permissive.
- Authorizes AHCA to enroll a Medicaid provider located no more than 50 miles from the state line, or upon determination by AHCA that there is a need for that provider type.
- Designates Miami-Dade County as a health care fraud crisis area and directs AHCA to implement two pilot projects in Miami Dade County to prevent over utilization of Medicaid home health services, and to control, verify and monitor Medicaid home health services.

- Requires AHCA to deny a license to any health care facility applicant and DOH to deny a license, certificate, or registration to any health care practitioner applicant, or controlling interest who has:
 - o Been convicted of, pled guilty or no contest to, a felony within the last 15 years;
 - o Been terminated for cause from the Florida Medicaid program unless the applicant has been in good standing with the Florida Medicaid program for the last 5 years; or
 - o Been terminated for cause from the Medicare program or another state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the last five years and the termination occurred at least 20 years prior to the date of the application.
- Requires pharmacy permit applicants to be fingerprinted and pass state and federal background checks.

- Authorizes AHCA to deny, revoke or suspend license of any home health agency that demonstrates a pattern of billing Medicaid for unnecessary services and requires AHCA to impose a fine of \$5,000 for same.
- Increases licensure requirements for home health agencies, home medical equipment providers and health care clinics to include additional financial documentation and a \$500,000 surety bond for non-immigrant aliens.
- Prohibits AHCA from renewing a home health agency license if applicant is located in a county that has at least one home health agency and the county has more than one home health agency per 5000 persons, and the applicant has been administratively sanctioned by AHCA in the last two years.
- Creates a moratorium on new and CHOW home health agency licenses in counties that meet certain criteria until July 1, 2010.

- Authorizes monetary rewards for persons who report Medicaid fraud.
- Provides civil immunity for persons who report suspected Medicaid fraud.
- Removes a disincentive to pursue an action under the Florida False Claims Act.
- Creates a 1st and 2nd degree felony for persons who commit Medicaid provider fraud.
- Authorizes a fine equal to five times the amount stolen from the state or the total amount stolen from the Medicaid program by a provider convicted of Medicaid fraud, whichever is greater.
- Creates a 3rd degree felony for applicants of home health, durable medical equipment, or clinic licensure who knowingly file misleading or false information on the application.

- Decreases financial surplus requirements for entities that contract with AHCA on a prepaid basis – including HMOs, PSNs, and PPMHPs. The surplus requirement will be the same as for commercial HMOs.
- Directs AHCA to develop a plan to implement a medical home pilot project that utilizes primary care case management enhanced by medical home networks to provide coordinated and cost effective care that is reimbursed on a fee for service basis and to compare its performance to existing Medicaid Managed Care models.

MEDICAID / KIDCARE /
LICENSURE

CS/HB285 – Medicaid Low Income Pool Council Effective July 1, 2009

by Gaetz et al.

- Increases membership of LIP council from 17 to 24. Additional members include:
 - Two members appointed by Speaker of House (one a physician).
 - Two members appointed by President of Senate (one a physician)
 - One member representing FQHCs.
 - One member representing DOH.
 - One nonvoting member from AHCA to serve as chair.
- Prohibits individuals who are registered lobbyists from serving as members of the LIP council – with the exception of a full time employee of a public entity.

CS/CS/HB873 – Inactive Licenses and Certificates of Need Effective on Becoming Law

by Williams

- Under certain circumstances extends period in which a CON is valid from 18 months to 3 years if an applicant has not commenced construction.
CS/CS/CS/1986 modifies this extension to apply only to CONs issued prior to April 1, 2009.
- Under certain circumstances authorizes a second renewal of an inactive license for a statutory rural hospital.
- Extends maximum renewal period for an inactive license of a statutory rural hospital from 24 months to 36 months.

CS/CS/SB918 – Florida Kidcare Program Administration Effective July 1, 2009

by Rich, Lynn, et al.

- Decreases period of time that a child is disenrolled from program because of nonpayment of premiums from 60 to 30 days.
- Reduces waiting period from 6 months to 60 days for families that have voluntarily cancelled employer sponsored or private coverage.
- Increases number of "good cause" reasons families can use to voluntarily cancel employer or private insurance and be immediately eligible for kidcare coverage without a waiting period.
- Adds a representative from DCF to the Board of FHKC.

CS/CS/CS/SB1986 – Health Care Licensure Section

Effective July 1, 2009

by Gaetz, Peaden, Lynn

- Eliminates duplicative reporting, certain annual reports, and outdated provisions.
- Revises conditions that qualify as a reportable adverse event by NHs, and ALFs. Abuse, neglect and exploitation are no longer classified as an adverse event. These events are required to be reported immediately to the central abuse hotline and within 5 days to AHCA.
- Eliminates requirement for NH to post policy and procedures regarding resident's personal property. Instead, residents will be provided a copy upon admission.
- Revises provisions related to licensure and accreditation of MRI clinics.

- Revises definition of a "change of ownership" (it is now "an event in which 51% of stock is sold") Begs the question of what is an "event". How would options fit in? Is a transaction an event? What if you break the sale apart into a transaction for 25% and a transaction for 26% - is this one event or two?) for facility licensure.
- Eliminates requirement for submission of statement regarding a voluntary board member's status.
- Requires submission of information on facility's administrator and financial officer.
- Modifies submission timeframes for licensure renewal applications and other applications and requests.

- Authorizes AHCA to send documents electronically and to issue provisional licenses.
- Modifies provisions relating to AHCA's communication of deficiencies, submission of CAPs and classification of violations.
- Provides for emergency management planning and operations.
- Provides for designation of safety liaison to serve as primary contact for emergency operations and inactive licenses.
- Designates additional disqualifying offenses for persons who work with facilities licensed by AHCA.
- Deletes requirement for AHCA to publish certain NH information that is duplicated on a federal website.

- Removes AHCA from participation in certification and regulation of 211 network providers.
- Eliminates requirement for AHCA to do medical assessment of resident in adult living facility if it appears resident needs care beyond licensed capability of the facility.
- Modifies definition of standard reference compendium as it pertains to coverage for use of cancer drugs.
- Modifies provision passed in CS/CS/HB873 to specify that the extension of a CON only applies to CONs issued prior to April 1, 2009.

The background of the slide is a stylized globe of the Earth, rendered in shades of blue and purple. The colors are vibrant and somewhat abstract, with a gradient effect that transitions from a lighter blue/purple on the left to a darker blue/purple on the right. The globe is centered in the frame.

PUBLIC HEALTH

CS/CS/SB440– Public Records Drug Monitoring Program

July 1, 2009

by Fasano, Crist

- Makes confidential and exempt from Public Records Law and Article I of the State Constitution identifying information of a patient, patient's agent, practitioner, dispenser, employee of practitioner, pharmacist, or pharmacy that is contained in records held by the DOH under 893.055, F.S. [Electronic Tracking of Controlled Substance Prescriptions].
- Establishes criminal penalties for violation of this bill and provides a statement of public necessity for this exemption.

CS/CS/CS/CS/SB462 – Prescription Drugs

July 1, 2009

by Fasano, Aronberg, Crist

- Requires DOH to design and establish comprehensive electronic system to monitor prescribing and dispensing of certain controlled substances.
- Requires prescribers and dispensers of certain controlled substances to report specified information to DOH for inclusion in the system.
- Provides immunity from liability for prescribers and dispensers who receive and use information from this system.

- Requires each physician who practices in a privately owned pain management facility that primarily treats pain by prescribing of narcotic medications to register facility with DOH unless it is a Florida licensed hospital, ASC, or Mobile Surgical Unit.
- Creates an exemption to the registration requirements for pain management clinics, under certain circumstances where majority of physicians providing services primarily provide surgical services.

CS/CS/SB1144– Prescription Drugs

July 1, 2009

by Peadar

- Revises definition of "manufacturer" under Florida Drug and Cosmetic Act to include:
 - o A person registered under the federal Food Drug and Cosmetic Act as a prescription drug manufacturer who has entered into a written agreement with another prescription drug manufacturer to distribute that manufacturer's prescription drugs as the drug's manufacturer, consistent with the Act;
 - o An affiliated group member of a prescription drug manufacturer who distributes prescription drugs manufactured only by other members of the affiliated group; and
 - o A licensed third party logistics provider, while providing warehousing, distribution services, or other services on behalf of the prescription drug's manufacturer.

- Provides that a prescription drug manufacturer is not required to provide a pedigree paper upon the wholesale distribution of the prescription drugs for which it is deemed the manufacturer.
- Conforms the pedigree paper requirements to allow for distribution within a manufacturer's affiliated group and facilitates the subsequent wholesale distributions of the drug.
- Expands the types of business entities that are eligible to apply for a health care clinic establishment permit in order to purchase prescription drugs for use in providing health care or veterinary services.

HB7023– Florida Patient Safety Corporation Effective on Becoming Law

by Lynn

- Repeals provisions of law creating the Florida Patient Safety Corporation (FPSC), the public records exemption and confidentiality provisions for patient safety data or other records held by the FPSC, and the public meetings exemption for portions of meetings held by the FPSC during which confidential and exempt information is discussed.



2009 BUDGET SUMMARY

The 2009 legislative session presented legislators with one of the most difficult budget deficits ever faced. Fortunately for the State, some of the revenue shortfalls were offset by an increase in the Federal Medical Assistance Percentage (FMAP) of Medicaid. The State utilized the moneys projected to result from the increase in FMAP to minimize many of the programmatic cuts that otherwise would have become necessary. FMAP percentages will need to remain elevated in future years if the State intends to continue programmatic funding through this source.

The 2009 -10 budget came in at approximately \$66.5 billion and includes the following:

Hospitals and Medical Centers

- Inpatient rate reduction of \$35.5 million. Exempt IGT funding of \$704.3 million and buy back funding of \$63.5 million.
- Outpatient rate reduction of \$10.4 million. Exempt IGT funding of \$129.1 million and buy back funding of \$63.5 million.
- Special Shands grant of \$9.7 million for use with LIP or buy back; \$10 million for liver transplants; \$6 million for new intestine transplant program.

Low Income Pool (LIP) Funding

- Total LIP funding at \$1.124 billion
- \$250 million in surplus dollars related to IGTs were not needed because of retroactive application of FMAP increase. Half will be used in FY 2009-10. The remaining half will be rolled forward to be used in FY 2010 -11.

Disproportionate Share Hospital (DSH) Funding

- Total DSH funding at \$260.6 million
 - Public DSH at \$155.2 million
 - GME DSH at \$81.3 million
 - PSN and Children's DSH at \$10 million
 - Rural DSH at \$14 million

Medicaid HMOs

- Final budget appropriation of \$2.8 billion. This amounts to a \$19.2 million reduction in funding.
- Rate reduction is attributed to pass-through reductions of Inpatient/Outpatient (\$17.7 million) and clinics (\$1.5 million).

Nursing Homes

- Overall reduction tied to increased diversion slots of \$66.1 million and a rate reduction of \$81.3 million.

Other Line Items. . .

- UPL Physician Program for Teaching Hospital personnel and affiliates (\$51 million).
- Clinic rate reduction of \$3 million.
- MEDS-AD (\$368 million) and Medically Needy Program (\$529 million) funded with non-recurring dollars.
- New Disease Management Pilot in Pensacola area. Preference to hospitals.
- New Disease Management Pilot in Tampa area. Preference to FQHCs.
- NH Diversion Program expansion of 2,200 slots.
- NH Diversion Program administration transferred to DOEA.

Concerns for the future...

- Depleted trust funds leave State with limited reserves.
- Increases to Medicaid population will place significant pressure on healthcare and social services of state.
- Current use of non-recurring dollars to fund existing programs will have to be dealt with in future years.
- Declining revenue base as a result of current economics.
- Rising unemployment likely to hamper States financial recovery.
- Property coverage issues in State. Hurricane threat.

A vibrant, abstract background featuring a nebula-like pattern of swirling blue and purple light. The colors transition from bright cyan and blue on the left to deep indigo and purple on the right, creating a sense of depth and movement. The overall texture is soft and ethereal, resembling a cosmic scene.

THE END

Section Chairs and Chairs-elect,

Please see the below e-mail regarding the Cooley Service to Soldiers Program that provides free legal services to deploying and returning troops through a network of pro bono volunteer lawyers. If your Section would like to participate with this project in some way, please contact John Nussbaumer at e-mail address nussbauj@cooley.edu .

You may be aware through Amy Timmer that we have a thriving Service to Soldiers program that provides free legal services to deploying and returning troops through a network of trained pro bono volunteer lawyers. For example, this Thursday Elias Escobedo, myself, and others will be at Selfridge Air National Guard Base preparing wills and powers of attorney for approximately 100 Air National Guard servicemen and women who are about to deploy overseas.

As part of this project, we recently completed a judges guide to the Servicemembers Civil Relief Act through a grant from the Michigan State Bar Foundation. Two lawyers from Honigman drafted the guide, with research assistance from one of our grads. We have a large alumni group in Florida (over 900 Cooley alums), and are looking to expand the program to other states. For example, we are in discussions with the 927th Air Refueling Wing at MacDill to provide free legal services through about 100 alums we have in the Tampa-St. Pete area.

Question is whether the Florida Bar would like to get involved with us on this. Attached is an e-mail that the director of our program (who works directly under Amy) sent to a member of your staff. She copied me and I thought I would touch base with you to see if this has legs or not.

Hope you are well.

regards,

John

To: Jane Curan
The Florida Bar Foundation

Dear Jane:

I am hoping you can give me some information about grants available through the Florida Bar Foundation, particularly the "Improvements in the Administration of Justice" grant program.

I am completing a judge's guide to the Servicemembers Civil Relief Act (SCRA) in Michigan that was funded through a grant from the Michigan State Bar

Exhibit E

Foundation. I think it might be very helpful for Florida judges, as well. Specifically, we found attorneys from a firm well-known for its expertise in legal writing to create a judge's guide specific to Michigan applications of the SCRA, which is a document that lays out federally mandated protections for deployed military personnel from civilian legal proceedings. The attorneys cited Michigan case law and gave examples of the SCRA working within the Michigan legal environment. They also provided a worksheet for judges to use when SCRA implications exist. We provided the attorneys with a recent law school graduate to assist in the legal research for the project. And to top off what was already a very successful and stream-lined project, we were even able to secure a Foreword from the Chief Justice of the Michigan Supreme Court, Marilyn Kelly, for the guide.

The State Bar of Michigan then provided us with a mailing list for every judge and Friend of the Court Office in Michigan, and each is being sent a copy of the guide. The guide is also being provided as a resource for a state-wide Friend of the Court conference.

The response to the guide has been incredibly positive, and we are now interested in replicating the project for other states with high concentrations of military personnel. With a high number of students and faculty "coexisting" between Michigan and Florida, we thought Florida would make a wonderful choice for a second version.

Thus, I am wondering whether the Florida Bar Foundation has any grant money for a project of this nature. I am happy to send a copy of the Michigan Guide to the Servicemembers Civil Relief Act for your reference if you like.

Thank you so much for your thoughts on this matter.

Very kindest regards,

Heather Spielmaker
Director-Center for Ethics, Service, and Professionalism
Thomas M. Cooley Law School
300 S. Capitol Avenue
Post Office Box 13038
Lansing, MI 48901
(517) 371-5140, X 4112
(517) 334-5774 Fax
www.cooley.edu/ethics