

Welcome TO FLORIDA'S CAPITOL

FAFP 2023 Florida Legislative Session Bill Summary

The 2023 Florida Legislative Session ended on May 5 with the passing of many pieces of legislation that will impact the practice of medicine in Florida. Unfortunately, as most are aware, this session was particularly partisan, especially on controversial issues dealing with abortion, gun rights, gender affirming care, COVID-19 treatments and more. The FAFP represents diverse view points and personal beliefs regarding these issues, but is universally alarmed by the inclusion of felony charges for physicians who violate the new abortion and gender affirming care laws. This “criminalization of medicine,” particularly when the revocation of one’s medical license is a precursor to these actions, is overreaching and the FAFP intends to continue to voice its opposition to these practices with legislative leaders.

Now, while the outline below highlights some of the more high-profile issues, it is very important that FAFP members read the specific details regarding bills of interest to ensure compliance by the effective dates as indicated.

Budget Victories

- \$16 million for medical loan repayment in 2023 and 2024 for primary care physicians practicing in rural areas
- \$30 million for enhancing GME funding for residency positions
- \$76 million increase in Medicaid funding for Medicaid pediatric care

Legislation Passed - FM Focused

- **SB 164** revises the definition of **controlled substance testing** excluding fentanyl testing strips as “drug paraphernalia”
- **SB 252, COVID-19 Mandates and Treatment Options**, places specific requirements on the treatment of patients with COVID-19
- **HB 1837** includes Family Physicians as one of seven eligible medical specialties to **confirm brain death**.
- **SB 254** addresses new treatment requirements for gender affirming care
- **Pregnancy and Parenting Support, SB 300**, establishes new restrictions on abortion services
- **HB 267** includes “audio-only” in the definition of Telehealth

Budget Victories

The Florida legislature passed a record \$117 billion state budget for FY 2023-2024, which is made possible by higher-than-expected tax revenues. In an effort to address physician shortage issues and workforce development, the legislature provided the following specific appropriations:

- \$16 million for the Florida Reimbursement Assistance for Medical Education program (FRAME) for fiscal year 2023-2024 to encourage physicians to practice in underserved locations. Even better news, an additional \$10 million was added to the FY 2022-23 amount of \$6 million for FRAME applicants this year. What does this mean? The \$20,000 awards for physicians this year will be announced as soon June 2023 to an even larger number of primary care physicians than was expected!
- \$30 million to “Slots for Doctors” Graduate Medical Education program to provide incentives for hospitals and Federally Qualified Health Centers with a statewide supply and demand deficit to increase residency positions. The FAFP will be working with the Florida Department of Health and the FMA to ensure this funding is made available to family medicine residencies with a special emphasis on rural areas.
- \$76 million to increase Medicaid reimbursements for physicians, including family physicians, who provide Medicaid pediatric care.

Legislation that Passed (in alpha order)

Civil Remedies - Tort Reform

Civil Remedies - Tort Reform – [HB 837](#) by Rep. Tommy Gregory (R-Lakewood Ranch) was primarily beneficial for the insurance industry regarding payments and, unfortunately, eliminated “one-way attorney fees” that would allow physicians to sue automobile insurance companies for personal injury payments (PIP) benefits and attorney fees on behalf of their patients, if successful. Organized medicine will continue to pursue this issue next year. **Effective March 24, 2023**

Controlled Substance Testing

Controlled Substance Testing - [SB 164](#) by Sen. Tina Polsky (D-Boca Raton) revised the definition of “drug paraphernalia” to exclude certain narcotic-drug-testing products, particularly fentanyl testing strips. This is a solid win for physicians who use this form of testing in their practices. **Effective July 1, 2023**

COVID-19 Mandates and Treatment Options - It includes three separate sections - 1-3

COVID-19 Mandates and Treatment Options – [SB 252](#) by Sen. Colleen Burton (R-Lakeland)

(Unless otherwise specified, the use of the term “healthcare practitioners” includes physicians (MD/DO) as it is referenced in the recently legislation, which was signed by the governor on May 11, 2023)

1. Discrimination by entities based on health choices

- A business entity, including physicians’ or healthcare practitioners’ practices, may not require any person to provide any documentation verifying any vaccination or proof of recovery from COVID-19, or require a COVID-19 test, to gain access to, entry upon, or service from business operations or be a condition of contracting, hiring, promotion, or continued employment with a business entity.
- A business entity may not discharge or refuse to hire a person; deprive or attempt to deprive a person of employment opportunities; adversely affect a person’s status as an employee or as an applicant for employment; or otherwise discriminate against a person based on knowledge or belief of the person’s status relating to vaccination with any vaccine related to COVID-19/SARS-CoV-2 post-infection recovery, or a person’s failure to take a COVID-19 test.

2. Requirements regarding facial coverings

1. A healthcare practitioner’s office is prohibited from the following requirements unless they comply with rules that will be jointly published by the Agency for Healthcare Administration (AHCA) and the Department of Health (DOH) by **July 1, 2023**:

- requiring a person to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose.
- denying any person access to, entry upon, service from, or admission to the office or otherwise discriminate against a person based on such person’s refusal to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose.

2. Physicians and healthcare practitioners who require any person to wear a mask for any reason must create a written masking policy that is posted on the practice’s website or prominently displayed in the lobby. Such policy must be in compliance with the AHCA and DOH rules by **August 1, 2023**.

3. Required communication of COVID-19 treatment alternatives

A physician or health care practitioner treating a patient diagnosed with COVID-19 shall obtain the informed consent of the patient or the patient's legal representative before prescribing any medication for the treatment of COVID-19. Informed consent must include an explanation of alternative medications and include the advantages, disadvantages and risks associated with making a prudent decision regarding treatment.

Alternative medications must include those currently authorized or approved by the United States Food and Drug Administration for the treatment of COVID-19, as well as any alternative medications the healthcare practitioner believes could reasonably be expected to benefit the patient.

Healthcare practitioners are required to document compliance with obtaining informed consent and alternatives as described above in the medical record. Lastly, hospitals are prohibited from interfering with a patient's right to choose an appropriate COVID-19 treatment as recommended by their healthcare practitioner. **Effective June 1, unless otherwise indicated above**

Department of Health

Department of Health – [HB 1387](#) by Rep. Juan Carlos Porras (R-Miami) is the annual Department of Health legislative package that included a significant victory for family medicine. FAFP's lobbying team was instrumental in having "family medicine physicians" added to the existing six medical specialists who are already authorized by statute to confirm brain death based upon a treating physician's diagnosis. Special thanks to FAFP's lobbying team at Metz, Husband, & Daughton for getting this legislation approved despite significant obstacles. **Effective July 1, 2023**

Gender Clinical Interventions

Gender Clinical Interventions – [SB 254](#) by Sen. Clay Yarborough (R-Jacksonville) prohibits the expenditure of state funds by specified entities for sex-reassignment prescriptions or procedures, prohibits sex-reassignment prescriptions (e.g., hormone blockers) or procedures (e.g., sex reassignment surgeries) for minors (<18 years old) and creates requirements for voluntary, informed consent that must be met in order for adults (18 or older) to be treated with sex-reassignment prescriptions or procedures. Physicians found in violation of the law will be subject to serious civil liability and charged

with a third-degree felony (up to five years in prison). The treatment of adult patients requires an in-person visit and written informed consent for each time a clinical intervention is provided. The Florida Boards of Medicine (MD/DO) are charged with developing the informed consent form that, if not used, will subject the treating physician to a first-degree misdemeanor which is punishable up to one year in prison. Revocation of a physician's medical license will be applied to violations of the law, whether for adults or minors. **Effective upon becoming law, once the governor signs**

Health Care Practitioner Titles and Abbreviations

Health Care Practitioner Titles and Abbreviations – [SB 230](#) by Sen. Gayle Harrell (R-Stuart) specifies which titles and abbreviations health care practitioners may use in their advertisements and communications to the public. The FAFP advocated to ensure and protect the use of the term "family physician." It requires all physicians and healthcare practitioners to wear a nametag with their name and profession during patient encounters unless the visit is within their own practice. **This bill was vetoed by Governor DeSantis on July 2 with no explanation given but it is suspected due to heavy opposition from non-MD/DO practitioners**

Medicaid Coverage of Continuous Glucose Monitors

Medicaid Coverage of Continuous Glucose Monitors [HB 967](#) by Rep. Melanie Bell (R-Fort Meade) requires the Agency for Health Care Administration to provide coverage for continuous glucose monitors under the Medicaid pharmacy benefit to treat Medicaid recipients diagnosed with diabetes who meet certain criteria and requirements, subject to the availability of funds and any limitations or directions provided in the General Appropriations Act. **Effective October 1, 2023**

Medical Use of Marijuana

Medical Use of Marijuana – [HB 387](#) by Rep. Spencer Roach (R-North Fort Myers) requires qualified physicians to perform in-person physical patient examinations before issuing initial physician certifications for the medical use of marijuana and authorizes such qualified physicians to perform patient examinations and evaluations through telehealth for renewals of physician certifications for the medical use of marijuana. The bill also authorizes the Department of Health to suspend the registration of a qualified physician in the medical marijuana use registry under certain circumstances. **Effective July 1, 2023**

Pregnancy and Parenting Support

Pregnancy and Parenting Support – [SB 300](#) by Sen. Erin Grall (R-Fort Peirce) coming after last year's 15-week ban, this legislation prohibits Florida physicians from knowingly performing an abortion after six weeks of pregnancy, in-person or virtually via telehealth. Unlike the previous legislation, the abortion of pregnancies resulting from rape, incest, or human trafficking are eligible up to 15 weeks of pregnancy so long as proof of the aforementioned crimes is verified. Furthermore, any medications prescribed to induce an abortion must be dispensed in-person by the physician and cannot be dispensed via any form of shipping (e.g., USPS). It is important to note that SB 300 cannot go into effect until existing challenges to the 15-week abortion ban from last year is resolved by the Florida Supreme Court. However, it will go into effect immediately if the 15-week ban is upheld.

Prescription Drugs

Prescription Drugs – [SB 1550](#) by Sen. Jason Brodeur (R-Lake Mary) creates the "Prescription Drug Reform Act" which requires certain drug manufacturers to notify state regulators of reportable drug price increases, requires such manufacturers to submit reports to the state by a specified date annually, provides requirements for certain contracts between a pharmacy benefit managers (PBMs) and pharmacy benefits plans or programs or participating pharmacies, and requires the state to review certain referrals and investigate them under certain circumstances. The bill prohibits PBMs from requiring a covered person to receive a prescription drug by mail.

Effective July 1, 2023

Protections of Medical Conscience

Protections of Medical Conscience – [SB 1580](#) by Sen. Jay Trumbull (R-Panama City) authorizes health care providers and health care payors to opt out of participation in or payment for certain health care services by conscience-based objections without discrimination or threat of adverse actions. The bill requires notification when such health care providers decline to participate in certain health care services and prohibits medical specialty boards (e.g., the American Board of Family Medicine and others under the ABMS) and DOH from taking disciplinary actions under certain circumstances.

Effective July 1, 2023

Referral of Patients by Health Care Providers

Referral of Patients by Health Care Providers – [SB 768](#) by Sen. Jonathan Martin (R-Fort Myers) removes the definition of the terms "direct supervision" & "present in office suite" and revises the definition of the term "referral" to remove direct physician supervision and require compliance with certain Medicare payments and rules. **Effective July 1, 2023**

Sickle Cell Disease Medications, Treatment, and Screening

Sickle Cell Disease Medications, Treatment, and Screening – [SB 1352](#) by Sen. Daryl Rouson (D-St. Petersburg) requires newborn and infant screening providers to notify primary care physicians of newborns and infants of certain screening results and to submit the results to the Department of Health.

Effective July 1, 2023

Telehealth

Telehealth - [HB 267](#) by Rep. Tom Fabricio (R-Hialeah) revises the definition of "telehealth" to include health care services provided through audio-only means, although it does not require payment by health insurers. Existing standard of care requirements for telehealth remain the same. This represents a legislative priority for the FAFP which has been advocating for this change since the telehealth statutes were created.

Effective July 1, 2023

Autonomous Practice by Advanced Practice Registered Nurses – FAFP Opposed

[SB 1058](#) by Sen. Ana Maria Rodriguez (R-Doral) and [HB 1067](#) by Rep. Mike Giallombardo (R-Cape Coral)

Foreign-licensed Physicians – FAFP Opposed

[SB 956](#) by Sen. Ana Maria Rodriguez (R-Doral) and [HB 1145](#) by Rep. John Snyder (R-Palm City)

Interstate-Mobility and Universal-Recognition Occupational Licensing Act – FAFP Opposed

[SB 1364](#) by Sen. Jay Collins (R-Tampa) and [HB 1333](#) by Rep. Traci Koster (R-Tampa)

Invalid Restrictive Covenants in Health Care – FAFP will continue to support!

[SB 1498](#) by Sen. Jason Brodeur (R-Lake Mary)

Medicaid Step Therapy/Mental Illness - FAFP will continue to support!

[SB 112](#) by Sen. Gayle Harrel (R-Port St. Lucie) and [HB 183](#) by Rep. Karen Gonzalez Pittman (R-Tampa)

Physician Assistants' Prescriptive Authority – FAFP Opposed

[HB 481](#) by Rep. Lauren Melo (R-Naples)

Use of Telehealth

Use of Telehealth – [HB 997](#) by Rep. Karen Gonzalez Pittman (R-Tampa) and [SB 1232](#) by Sen. Jason Brodeur (R-Lake Mary)