

ADAMS ST. ADVOCATES END OF 2019 SESSION REPORT



AT THE INTERSECTION
OF BUSINESS AND GOVERNMENT

FOR

Florida Pharmacy Association



Executive Summary

The 2019 Legislative Session is the first year with the new administration in their current roles. This year the state of Florida elected a new Governor and Cabinet – Attorney General, Chief Financial Officer, Department of Agriculture and Consumer Services Commissioner – all with their own agendas. The Legislature changed leadership as well, with a new Speaker of the House, Senate President, and Committee Chairmen and committee structures. The Legislature also had to train a historic number of freshmen legislators entering Session for the first time. The Florida House of Representatives started with 41 new members this year making the total make up of 120 total members of which 71 are republican and 46 are democrat. The Florida Senate saw 9 new members this year. Out of 40 total members, 23 are republican and 17 are democrat.

The legislative agenda was focused mainly on the priority initiatives for the Governor, Cabinet and Senate President and House Speaker. The Governor DeSantis' priorities for this Session were to expand the environmental budget to for Everglades' restoration and clean water efforts, address the \$5.4 billion in insured losses from Hurricane Michael, and allowing patients access to smoke-able medical marijuana. Senate President Galvano's priority for this Session was a transportation infrastructure project that included creating a multi-use toll road corridor. Speaker Oliva's priority for this Session primarily focused on a major healthcare agenda, stating "All conversations around health care should center on cost, access and equality". The Speaker and Senate President repeatedly agreed that their goal was to pass fewer bills this year than ever before in an effort to limit government and regulation. They accomplished this goal by passing the fewest bills in the last 3 years. The total number of bills filed was 3,491 and only 194 bills passed both chambers and went to the Governor. Interestingly, most of the bills enrolled were designated House bills – 133 – and only 61 were Senate bills.

2017 Legislative Session		2018 Legislative Session		2019 Legislative Session	
Total Bills Filed	3,052	Total Bills Filed	3,192	Total Bills Filed	3,491
Total Bills Passed	249	Total Bills Passed	200	Total Bills Passed	194
Percentage Passed	8%	Percentage Passed	6%	Percentage Passed	5.50%

The two chambers passed the FY 19-20 budget totaling \$91.1Billion. It is \$1.8 billion more than the current year appropriations and \$24.4 billion more than the budget signed by Governor Charlie Crist 10 years ago. While they ultimately agreed on allocations, they did not finish on time and had to extend Session for a day. While the budget was their constitutional responsibility, many issues took up time and energy that directly impacted vulnerable Floridians ranging from massive hurricane recovery efforts, addressing violence and mental health issues in schools, tax cuts, toxic algae blooms, banning local government regulation, preventing sanctuary cities in Florida from providing protection for immigrants, implementing a controversial constitutional amendment restoring voting rights to felons, and the Governor's controversial Canadian Drug Importation bill.



Major Policy/Budget Initiatives Passed This Year

- \$121.5 Million tax cut package
- Revamp teacher bonuses and increase school choice funding
- Massive Hurricane Michael Recovery Funding from both federal and state which led to cuts elsewhere
- Water Quality Improvement and Everglades Restoration received an historic \$656 Million in recurring funding
- Canadian importation program – to reduce prescription drug costs. Florida will be one of the first states in the country to ask for Federal waiver to support this initiative
- Emotionally charged Public safety legislation including Marjory Stoneman Douglas bill addressing the massacre in that Florida high school by allowing teachers to carry guns
- Allowing Smoke-able marijuana
- Major CON (Certificate of Need) application changes
- Controversial Legislation banning Sanctuary cities
- Implementation of Amendment 4 – restoring felons voting rights
- Very first ‘Tele-Health’ legislation – will for the first time allow doctors from other states to provide telemedicine without having a Florida license.

Last year FPA leadership put together an advocacy plan that included preferred priority projects. The intent was to create a focused campaign addressing the issues that were most important. Weekly briefings were facilitated with the Governmental Affairs Council to provide updates on session initiatives. Our work this session touched on each of the major issues. The major high priority issues of interest included:

- PBM – Network Adequacy Inclusion, Transparency Spread Pricing, Audit protection
- Telehealth/Telepharmacy
- Remote Supervision
- Point of Care / Test and Treat
- Collaborative Practice Agreements – FSHP collaboration
- Patient Access for Pharmacy of Choice: Advocate for patient access to their pharmacy of choice (no closed networks, mail order restriction)

Priority Bills and Session Accomplishments

Practice of Pharmacy

(HB 111 Rep. Placencia & Rep. Sirois / SB 300 Senator Brandes)

- These bills would have allowed a pharmacist to enter into a protocol agreement with a doctor to test and treat patients for influenza and streptococcus and to also enter into a collaborative practice agreement to assist in drug therapy and chronic disease management
- Through their advocacy plan, ASA helped this legislation successfully pass the House bill through all three committees of reference and off the House floor with a final vote of 99 Yeas and 16 Nays



- Unfortunately the Senate never gave either of these bills an opportunity for a hearing and they were withdrawn at the end of the 2019 session

Consultant Pharmacists

(HB 833 Rep. Byrd / SB 1050 Senator Diaz)

- These bills would have allowed a consultant pharmacist to enter into a collaborative practice agreement to assist in drug therapy and chronic disease management
- ASA supported the successful passage HB 833 through all three committees of reference and off the House floor with a final vote of 112 Yeas and 4 Nays
- Unfortunately the Senate never gave either of these bills an opportunity for a hearing and they were withdrawn at the end of the 2019 session

Automated Pharmacy Systems

(HB 687 Rep. Willhite / SB 1170 Senator Brandes)

- These bills would have allowed a pharmacy to use an automated system for outpatient dispensing and deploy a machine that need not be located in a community pharmacy as long as it was under the supervision of a Florida licensed pharmacist – controlled substances would not be allowed in these machines.
- Despite opposing testimony, the bill passed the House but was never heard in the Senate.
- The House tried to amend it on to another bill and it flipped from house to senate multiple times. Largely due to intense lobbying from FPA members and ASA's work with key Senators, the Senate refused to hear the bill as amended and the bill died the last day of session.

Mandatory Electronic Prescribing

(HB 831 Rep. Mariano / SB 1192 Senator Bean)

- These bills would require pharmacists and doctors to electronically generate and transmit prescriptions for medicinal drugs
- ASA and FPA met with both sponsors to discuss the fee issue charged to pharmacies for receiving electronic prescriptions. Also raised were challenges that pharmacists had to deal with when receiving an electronic prescription that could not be filled by the pharmacy and possible steering of patients by PBMs.
- Due to concerns from FPA membership, ASA negotiated with Senator Bean to file an amendment to include a later date for implementation (7/31/2021) and limit to those Doctors' offices that have an EHR systems
- According to reports filed by the Agency for Health Care Administration over 10 million e-prescriptions monthly were processed in Florida by the end of 2018. The number of e-prescribing physicians has increased to over 50,000
- Ultimately HB 831 was adopted by the legislature and signed into law by the Governor

Prescription Drug Monitoring Program

(HB 1253 Rep. Mariano / SB 1700 Senator Lee)

- These bills would allow the Attorney General to access information in the PDMP
- Specifically, this would allow the AG to petition a court for the access to data necessary to support potential fraud or for civil litigation



- Attorney General Moody made this her priority legislation in order to support her opioid lawsuit against several large business interests
- There were strong attempts by the chains to kill this bill but ASA/FPA helped members to understand the privacy protections in place to protect patient information and the bill passed both chambers
- The AG stated that passage of this bill saves the state millions in litigation costs and 2-3 years of lost litigation resolution.
- HB1253 was approved by the House and Senate and signed into law by the Governor

Prescription Drug Monitoring Program

(HB 375 by Representative Pitman)

- Makes changes to Florida statutes 893.055 by allowing for the exchange of PDMP data with the Veterans Administration, Department of Defense and Indian Health Services
- Removes a requirement to check the PDMP when prescribing or dispensing a controlled substance to patient in a licensed hospice
- This bill was passed by the House and Senate and signed into law by the Governor

Pharmacy Benefit Managers

(HB 271 Rep. Santiago / SB 906 Senator Wright)

- These bills would have done many things outside the scope of enforcing PBM regulation, audits, transparency and oversight.
- While neither bill was heard, the issue was raised and therefore brought up in discussions during several committees and on the floor and is now becoming the focus of political agendas
- ASA had many meetings regarding Pharmacy Benefit Managers, including successfully feeding members questions to ask in committee and on the floor
- ASA had several positive meetings with AHCA Secretary Mayhew and her staff about conducting an audit for the Medicaid PBMs
- ASA convinced Senator Broxson – Chair of the Banking and Insurance Committee – to make this issue his committee’s priority next Session
- ASA is assisting in drafting a letter requesting a study from the Banking and Insurance Committee to help guide policy changes

Statewide Taskforce on Opioid Drug Abuse

(HB 875 Rep. Sirois / SB 1658 Senator Simpson)

- These bills would have created an Opioid Task Force, however the bill was ultimately withdrawn when the Governor signed an Executive Order creating it. While the original bill had the Attorney General appointing a majority of the members, the Executive Order now has the Governor appointing a majority of the members. The task force has 21 (including the chair) and includes 2 at large members appointed by the Governor and 3 at large members appointed by the Attorney General, among other agency personnel

Canadian Drug Importation Program

(HB 19 Rep. Leek / SB 1528 Senator Bean)



- These bills allowed for the importation of prescription drugs from Canada. This issue was the Governor's priority in an effort to reduce prescription drug costs. Florida will be one of the first states in the country to ask for Federal waiver to support this initiative.
- The House version was a much broader program allowing for importation from not only Canada but other countries as well
- We were able to get the Senate to agree to a more restricted version of importation through Canada only however the broader House version that allowed for international entities to ship drugs into Florida as well was adopted by the legislature.
- The Agency for Health Care Administration will contract with a vendor who will be responsible for ensuring that imported drugs are safe and in compliance with federal laws.
- Drugs that are to be imported are those expected to generate cost savings. Controlled substances, biological products, drugs inhaled during surgery and injectable drugs are excluded from the importation program
- Pharmacies that participate in the Canadian and international import program are required to file reports with the state and are limited to who these medications can be dispensed to.
- The program will not begin until permission is granted by the Federal government
- HB19 was ultimately approved by the House and Senate and has been signed into law by Governor Scott

Telehealth

(HB 23 Rep. Yarborough / SB 1526 Senator Harrell)

- These bills defined the practice of telehealth in the state of Florida and allows doctors licensed in other states provide telemedicine without needing a Florida license.
- It will allow pharmacists in other states to provide telehealth services but only through a Florida licensed pharmacy
- HB23 passed both chambers and has been signed into law by the Governor

Prescription Drug Formulary Consumer Protection

(HB 1362 Rep. Williamson / SB 1180 Senator Mayfield)

- This "bait-and-switch" bill would prohibit PBMs and health plans from switching the drug formulary from name-brand drugs to cheaper, generic drugs midyear causing patient distress.
- This bill passed the Senate but stalled in the House.

Continuing Education of Health Care Practitioners on Human Trafficking (HB 851 Rep Fitzenhagen and others)

- Requires health care licensees (including pharmacists) to complete continuing education on human trafficking.
- Continuing education is required to be completed by January 1, 2021 and must be 1 hour
- Course content must include sex trafficking and labor trafficking, how to identify individuals who may be victims of human trafficking, how to report cases of human trafficking and resources available to victims
- Requires Department of Health licenses or certificate holders to post in their place of work assessable to employees a sign in English and Spanish the following information:
"If you or someone you know is being forced to engage in an activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work,



or any other activity, call the National Human Trafficking Resource Center at 888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law."

This bill was passed by the House and Senate and signed into law by the Governor

Continuing Education for Healthcare Professionals

- Representative Sirois filed an amendment to his HB 549 to remove the requirement that FMA must be the exclusive provider of pharmacy education for pharmacists wishing to maintain their vaccination credential. As a freshman member of the legislature, Representative Sirois quickly stood out as a champion for pharmacy issues and took it upon himself to look for ways to benefit the profession, including ways that weren't originally part of our advocacy plan.
- The amendment did not pass, but began a discussion to be addressed next session.

State Hemp Program

SB1020 Senator Bradley

- This legislation would allow for the retail sale of hemp and hemp products under the Department of Agriculture
- Revises the definition of cannabis under F.S. 893 to exclude hemp and industrial hemp
- SB1020 passed both the House and Senate with only one dissenting vote in the House. This legislation was signed into law by the Governor

ASA monitored an additional 92 pharmacy related bills throughout the 2019 Session that ultimately didn't pass. Committee weeks for the 2020 Session will likely start as early as September, as the 2020 Session will begin early January and end early March.

