

The State of Medicine in Florida
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 President, Florida Medical Association


FMDA/AMDA: Best Care Practices in the Post-Acute & Long-Term Care Continuum Nov 3 - 5, 2022

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 **DISCLOSURE**

- No financial or other material interests to disclose
- Not representative of any employer or organization

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 **HOW DID WE GET HERE?**

- Soup du jour
- "I'm just a bill" – Schoolhouse Rock
- Advocacy
- Legislative composition
- Rules promulgation
- Implementation

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WHERE ARE WE NOW?


- Legislation that passed
- Legislation that did not pass
- FMA policy

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COVID-19 Liability Protection Extension PASSED

SB 7014 by Sen. Burgess and HB 7021 by Rep. Burton



- "COVID-19-related claim": civil liability claim against HCP arising from:
 - Diagnosis (dx)/Treatment (tx) of, or failure to dx/tx, a person for COVID-19;
 - Provision of novel or experimental COVID-19 tx;
 - Transmission of COVID-19;
 - Delay/cancellation of surgery/procedure/test/appt based on a HCP's interpretation/application of gov't-issued health standards/authoritative guidance specifically relating to the COVID-19 PHE;
 - Act/omission with respect to an emergency medical condition (s. 395.002) result of a lack of resources caused by the COVID-19 pandemic; or
 - Provision of tx to a patient diagnosed with COVID-19 whose injuries were directly related to an exacerbation of preexisting conditions by COVID-19.

<http://www.floridamedical.org/news/2021/11/04/384>

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➤ Affirmative defenses: compliance with government-issued health standards relating to COVID-19...

- (a) Inc. those of preservation/prioritization of supplies/materials/equipment;
- (b) Or to infectious diseases in the absence of those applicable to COVID-19;
- (c) Was not possible due to supplies/materials/equipment/personnel shortages;
- (d) Was not possible if the applicable standards were in conflict; or
- (e) Was not possible due to insufficient implementation time.


➤ One-year extension, to June 1, 2023.

<https://www.floridamedical.org/news/2022/02/17/643>

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Drug-related Overdose Prevention PASSED



SB 544 by Sen. Boyd and HB 731 by Rep. Caruso


- Naloxone ordering and dispensing by pharmacist
- ROA: auto-injection or intranasal spray
- Civil and criminal liability protections

<https://www.floridabar.org/Newsroom/News/2022/04/28/News/20220428-01>

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Department of Health PASSED



SB 768 by Sen. Rodriguez and HB 693 by Rep. Drake


- Multiple licensure requirements
- Nomenclature changes
- NICA

<https://www.floridabar.org/Newsroom/News/2022/04/28/News/20220428-01>

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Administration of Vaccines PASSED



SB 1892 by Sen. Burgess and HB 1209 by Rep. Tuck


- Pharmacy tech-administered vaccines and immunizations
- Adults only
- Pharmacist supervision
- Updated CDC Adult Immunization Schedule

<https://www.floridabar.org/Newsroom/News/2022/04/28/News/20220428-01>

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**Expansion of Telehealth
PASSED**



HB 17 by Rep. Fabricio and SB 312 by Sen. Diaz


- Historical prohibition on CS prescribing
- 7/1/22: Schedule III, IV, and V (Schedule II)
- Payment parity

https://www.floridamedical.org/newsroom/2022/03/22/telehealth/174

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**Emergency Medical Care for Minors
PASSED**



HB 817 by Rep. Masullo and SB 1114 by Sen. Bradley


- "Parental Bill of Rights", 2021 session
- Treating minors w/o written parental consent, specifically in an emergency setting
- Effective 7/1/22, able to provide emergency medical treatment to minors

https://www.floridamedical.org/newsroom/2022/03/22/emergency/114

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**Medical Education Loan Forgiveness
PASSED**




- Medical Education Reimbursement and Loan Repayment Program (F.S. 1009.65)
- \$6M medical education student loan repayment
- Already in statute, never funded
- Physician and non-physician HCPs
- Up to \$20K/yr

https://www.floridamedical.org/newsroom/2022/03/22/medical-education-loan-forgiveness/100965

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Step-Therapy Protocol PASSED



HB 459 by Rep. Willhite and SB 730 by Sen. Harrell


- Increased ability against step therapy protocols
- Publish step therapy protocol exemption

<https://www.floridapam.org/newsroom/2022/07/26/step-therapy/>

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Uterine Fibroid Research and Education PASSED



HB 543 by Rep. Omphroy and SB 1010 by Sen. Gibson

- Centralized database, collecting info on fibroids
- Implementing rules forthcoming

<https://www.floridapam.org/newsroom/2022/08/09/uterine-fibroid-research-and-education/>

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Wrongful Death Bill KILLED

SB 262 by Sen. A. Rodriguez and HB 6011 by Rep. Roach

- Increased med mal rates, increased healthcare costs
- Recovery of noneconomic damages in med mal wrongful death claim
- Claim: certain patients would receive a lower standard of care

<https://www.floridapam.org/newsroom/2022/02/24/wrongful-death-bill/>

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FMA Policy Supports:
P 285.015, Medical Directors in Post-Acute Care Facilities

- **Medical directors of post-acute care facilities, including but not limited to adult living facilities, nursing homes, rehabilitation facilities, skilled nursing units, and subacute care units, should be physicians licensed under Florida Statutes 458 and 459; and further opposes any attempts to abolish mandates that only physicians licensed under F.S. 458 and F.S. 459 be medical directors at post-acute care facilities.**

- Res 96-12, A-1996, Reaffirmed HOD 2006, 2014, 2022

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Pending FMA Policy:
Resolution 22-105, Minimal Credentialing in Post-Acute and Long-Term Care Medicine

- **House Action: Referred to the Board of Governors for study and report back**

- **RESOLVED**, That the Florida Medical Association promotes a professional standard that all health care providers practicing in the Post-Acute and Long-Term Care (PALTC) setting will present, at a minimum, proof of identification, i.e., a current government issued photo identification (e.g., driver's license), a current state issued professional license, and, as appropriate, a current DEA certificate.

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**Pending FMA Policy:
Resolution 22-106, Requirements for Minimum
Education Standards for Medical Directors**

- **House Action: Referred to the Board of Governors for study and report back**
- **RESOLVED** That the Florida Medical Association support and encourage all initiatives (Federal, State and Local) to promote minimum education standards for physicians serving in the role of Medical Director in Post-Acute and Long-Term Care, to include the completion of a specified number of initial and maintenance education credits within a defined time period.

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WHERE ARE WE GOING?

- State
- Federal

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**Looking Ahead:
2023 Legislative Session**



2023 Legislative Session:

March 7 – May 5, 2023

Committee weeks will begin in December!

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Telehealth reprise:

- Payment Parity
- Allow Insurers to Pay for Audio Only
- Require Fee for Certificate Holders

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Insurance Issues

Eliminate Insurance Company Barriers to Care

- Definitive time frames for prior authorization requests
- Remove prior authorization for low value drugs/services
- Require transparency of prior authorization requirements
- Protections of patient continuity of care
- Automation to improve prior authorization and process efficiency
- Step therapy
- Retroactive denial

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**2023 Potential Legislation:
"Protecting DNA Privacy Act"**

- Protects DNA samples and the results of DNA analysis from unauthorized transfer or disclosure.
- Would be a second-degree felony to transfer blood, hair, urine, etc. to third party for disposal without patient consent.
- Inadvertently affects physicians who transfer "DNA samples" to third parties.
- FMA is working on legislative solution
- Unlawful to do so without express consent of patient.

<https://www.flcourts.gov/CaseLaw/NC2023-00338/001.pdf>

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**2023 Potential Legislation:
"Infused Medications"**

- Mandatory coverage for certain cancer treatment drugs
- Prohibition on "brown-bagging"
- Regulation of "white-bagging"
- Ensure physician control over home infusion

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Federal Legislation

- Impending Medicare Cuts
- No Surprises Act Regulation Challenged Again in Court
- Acute Hospital Care at Home Program




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Impending Medicare Cuts

- Failed Medicare payment system
- Jan 1, 2023: 8.42% cut to Medicare physician payments
- Commercial copypcats
- Florida would be hard hit, comparatively
- HR 8800 - Supporting Medicare Providers Act of 2022
- Rep. Bera, Am [D-CA-7] (Introduced 09/13/2022) – 72 cosponsors



<https://bera.house.gov/media-center/press-releases/bera-and-kaplan-lead-group-supporters-weigh-in-on-medicare>

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No Surprises Act Regulation Challenged Again in Court



- Consolidated Appropriations Act of 2021
- No Surprises Act – Dec 27, 2020
- Addresses surprise medical billing
- Forced arbitration

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- Texas Medical Association lawsuit
- Challenge: arbitration process
- CMS rule revision
- TMA files suit again
- Rates are at issue
- More to come

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Hospital Inpatient Services Modernization Act

- Rep. Wenstrup, Brad R. (R-OH-2)
 - (HR 7053 Introduced 03/09/2022) – 29 cosponsors
- Sen. Carper, Thomas R. (D-DE)
 - (S 3792 Introduced 03/10/2022) – 7 cosponsors
- Acute Hospital Care at Home Program extension during PHE
- Hospital without Walls evaluation



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WHERE ARE WE GOING?

- How can we affect change?

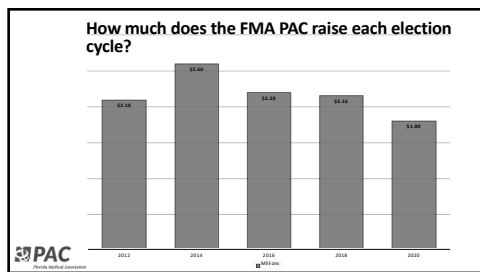
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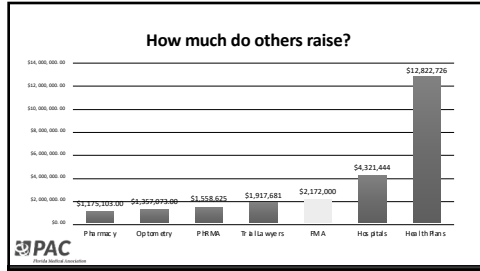
2022 Election Preview

2022: Redistricting
Election for everyone – legislative and executive branches

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- How impactful are we?

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2020 Election Results

98.2%

- 98.2 % FMA PAC endorsed candidates won their elections in 2020
- 114 out of 116 FMA PAC endorsed candidates won their elections

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Thank you!

Without broad physician and medical staff support,
we couldn't do what we do.

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