

Chiropractic Fellowship of PA
Summary of Legislation
July 2016

Governor Allows GA Bill to Become Law Without Signature, Revenue Package Signed

As we reported in the previous report, at the end of June the House and Senate passed a spending plan, but not the mechanisms to pay for it. After giving the General Assembly 10 more days to come up with a way to fully fund the spending plan they passed “on time,” only to see that plan not also be sent to him, Gov. Tom Wolf set yet another precedent in PA budget politics, by allowing the 2016-17 General Appropriations (GA) bill, [SB1073](#) , to become law without his signature. The Governor also let last year’s budget be enacted without his signature, but the legislature had passed the connected legislation outlining how that money would be spent. This year those vehicles had not passed with regard to the newly commenced Fiscal Year, causing concern among many observers, including in the General Assembly, as to the constitutionality of his action, given a requirement that he only approve a budget that is certifiably balanced. Estimates are that the spending plan passed by the General Assembly will be more than \$1 Billion more than available revenues would support, but passage of SB 1073, at least allowed for money to flow to the various agencies and programs, up until it runs out, later in the fiscal year. Faced with essentially a Hobson’s choice, legislative leaders and the Governor, crafted a package of revenue “enhancements”, such as tobacco taxes, and other new revenue, along with shifts of non-general Fund monies to cover the remaining portion of the spending, and amended the package into several bills that were in position for quick passage. Governor Wolf, and many legislators and interest groups, had campaigned against one-time, non-sustainable revenue shifts, but in the end, the votes for more sustainable, broad-based taxes were not there, particularly in the House. The package, along with other issues of importance to various legislators, were spread over other bills, amending the Tax Code ([HB 1198](#)), the Fiscal Code ([HB 1605](#)), and the Public School Code ([HB 1606](#)). A Public Welfare Code bill had also been passed the previous month along with the spending plan. The leaders were able to cobble together the votes to pass these bills, and adjourned for the summer. A very limited number of session days are scheduled for the fall, and little of major import is expected to be done before the election in November, though the budget does call for additional revenue from internet casino gaming, to the tune of \$100 million, so the leadership must find those votes before they return in the latter part of September.

Governor's Office Publishes Regulatory Agenda

Executive Order 1996-1 requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. These agendas represent the agencies’ current intentions regarding future regulations. The agendas are generally published on the first Saturdays in February and July. The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. The following agency agendas were published in the July 9, 2016, issue of the *Pennsylvania Bulletin*. When they actually are published we will report on that publication, with instructions on how and when to comment.

Regulation Being Considered	Proposed Date of Promulgation	Need and Legal Basis for Action	Agency Contact
State Board of Education 22 Pa. Code Chapter 11	Winter 2016, as Final	These regulations concurrently address proposed regulatory changes of the Department of Health related to school immunization requirements. The proposed revisions would scale back the current period for provisional admission to school from eight months to five school days and ensure that provisions addressing the admission of non-immunized students are consistent with the immunization requirements set forth by the Department of Health. The regulation is promulgated under the authority of the Public School Code of 1949 (24 P.S. §§ 26-2603-B, 26-2604-B).	Karen Molchanow (717) 787-3787

Department of Health (DOH)

Communicable and Non-Communicable Diseases 28 Pa. Code Chapter 27	July 2017, as Proposed	These existing regulations are being revised to improve the Department's ability to prevent and control the spread of communicable and non-communicable diseases. The Department's authority to promulgate these regulations is found in the Disease Prevention Control Law of 1955, 35 P.S. §§ 21.1 et seq. (the Act). Section 16(a) of the (Act 35 P.S. § 521.16 (a)) gives the Board authority to issue rules and regulations on a variety of matters related to communicable and non-communicable diseases. Section 16(b) of the Act (35 P.S. § 521.16(b)) gives the Secretary of Health the authority to review existing regulations and make recommendations to the Board for changes that the Secretary considers to be desirable. There is also a legislative authority for specific provisions of the regulations. Administrative Code of 1929 (71 P.S. §§ 51 et seq.) (Code) Section 20102(g) of the Code (71 P.S. § 532(g)) provides general authority for the Department to promulgate regulations.	Samantha Jallah (717) 783-2500
Photo Identification Tag Regulations 28 Pa. Code Chapters 54 and 55	July 2016, as Proposed	The Health Care Facilities Act (35 P.S. § 448.101 et seq.) was amended by the passage of Act 2010-110 on November 23, 2010. This new section of the Act (35 P.S. § 448.809.2) requires persons working in health care facilities and physician practices to wear photo identification badges that also contain other information including the person's name, title and name of the health care facility.	Karin Simpson (717) 783-2500
School Immunization Requirements 28 Pa. Code §§ 23.83, 23.85 and 23.86	December 2016, as Final	The amendments to existing regulations will revise immunization requirements for school entry and attendance, revise the school reporting requirements to require electronic reporting at a later date in the school year, and eliminate the provisional period for school attendance. Pursuant to the Disease Prevention and Control Law of 1955 35 P.S. §§ 521.1 et seq.; the Administrative Code of 1921 (71 P.S. § 541(c.1)) and the Public School Code of 1949 (24 P.S. § 13-1303a).	Yvette M. Kostelac (717) 783-2500

Department of State (DOS)

State Board of Chiropractic

Chiropractic Specialties 49 Pa. Code Chapter 5 (#16A-4312)	Fall 2016, as Proposed	The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. The proposed rulemaking would prohibit a chiropractor from advertising that the chiropractor holds certification or otherwise is a specialist in a chiropractic specialty unless the chiropractor holds certification or diplomate status from a specialty board recognized by the American Board of Chiropractic Specialties. These specialty boards all require passing a certification examination after either a full-time residency of at least 3 years or a part-time program of more than 300 hours of education and clinical practice. This proposal protects consumers of chiropractic services who can be misled by advertising of "certifications" that do not truly reflect advanced knowledge, training or skill.	Michelle Roberts (717) 783-7155
Child Abuse Reporting Requirements 49 Pa. Code §§ 5.91—5.96 (#16A-4322)	Fall 2016, as Proposed	This proposed regulation would update the Board's existing regulations relating to mandatory reporting of suspected child abuse under the Child Protective Services Law (CPSL) to conform to recent amendments to the CPSL. Throughout 2014, numerous amendments were made to the CPSL as a result of the report of the Taskforce on Child Protection. This rulemaking implements those changes, including the requirement that all applicants and licensees of the State Board of Chiropractic obtain required	Michelle Roberts (717) 783-7155

		training in child abuse recognition and reporting.	
Distance Education 49 Pa. Code § 5.79 (#16A-4323)	Summer 2016, as Final	Section 507(a) of the Chiropractic Practice Act (act) (63 P.S. § 625.507(a)) requires each licensed chiropractor to complete at least 24 hours of continuing chiropractic education within the immediately preceding 2-year period as a condition of biennial license renewal. This final rulemaking would expressly permit continuing education to be completed through courses offered by distance education, subject to Board approval, but limit it to 50% of the required hours.	Michelle Roberts (717) 783-7155
Radiological Procedures Examination 49 Pa. Code §§ 5.6 and 5.63 (#16A-4324)	Fall 2016, as Final	Section 522(a)(ii) of the act (63 P.S. § 625.522(a)(ii)) prohibits auxiliary personnel from performing radiologic procedures on the premises of a chiropractor unless the person has passed an examination approved by the Board and administered by a third-party testing service. The proposed rulemaking would delete the fee for the radiological procedures examination and reference to the application forms and would require auxiliary personnel to submit applications and pay the fee directly to the testing service rather than applying to the Board. This change is needed to comport to actual practice.	Michelle Roberts (717) 783-7155
Government Employee Liability Coverage 49 Pa. Code §§ 5.17(f) and 5.41 (#16A-4325)	Fall 2016, as Proposed	The Chiropractic Practice Act requires chiropractors to maintain professional liability insurance, including self-insurance. This regulation would permit a licensee who practices exclusively on behalf of the government to meet this requirement by reliance upon the coverage provided under the Federal Tort Claims Act or the Sovereign Immunity Act as administered by the Commonwealth's Employee Liability Self-insurance Program.	Michelle Roberts (717) 783-7155

State Board of Chiropractic July 28 Meeting Highlights

The State Board of Chiropractic met on **July 28** in Harrisburg. Here are the highlights.

- **New Board Chair George Khoury, DC, welcomed the members and guests.**
- **Lead Board Prosecutor Anita Shekletski** presented one case for Board consideration in Executive Session.
- **BPOA financial staff made a presentation.** They anticipate the need for a **35% increase in fees for the 2016- 2018 cycle- applications for license, renewals, etc. There have been no fee increases since 1996.** Board directed financial staff to work with a **35% increase and return to September meeting with projections based on 35% fee increase**
- **Board Counsel Jacqueline Wolfgang** discussed a few of the cases for deliberation in Executive Session.
- **Regulatory Counsel Blackburn presented an “Exposure draft” regarding when a doctor-patient relationship “terminates” (in context of sexual misconduct- when could a doctor have a personal relationship with a former patient? Six months recommended) The Board discussed and approved the draft for for circulation, including to CFoP**
- **Jackie Lutz, Director presented a briefing to the Board on role and resources of the “state hearing examiner’s office”-**
- **The Board received a briefing by Dr. Michael Schneider on University of Pitt’s intention to create a Department of Chiropractic within Pitt’s School of Allied Health and Rehab Sciences and need for statement from the Commonwealth that notes that the intent of Act 188 was to allow for internships/ externship/ preceptorships of Chiropractic students in the Commonwealth.**

Next meeting is September 22, in Harrisburg. Remaining 2016 date: December 1.

Legislative Activity

The following bills of interest to CFoP were acted on by the General Assembly this past month.

Scope of Practice/Licensure Bills

[HB 1619](#) RE: The Interstate Medical Licensure Compact Act (by Rep. Jesse Topper, et al)
Authorizes the Commonwealth to join the Interstate Medical Licensure Compact. Provides for the form of the compact. Further provides for the Interstate Medical Licensure Compact Commission and for its powers and duties. Also provides for the power and duties of the Governor and the Secretary of the Commonwealth under the act.
Referred to Senate Appropriations Committee, 7/11/2016

Budget-Related Bills

[HB 1062](#) RE: Welfare Code Amendments (by Rep./Sen. Tom Killion, et al)
Amends the Public Welfare Code providing for the phase out of the obligation of counties operating public nursing facilities to pay an annual fee to the Department of Human Services. Extends the Nursing Facility Budget Adjustment Factor for three years and the Medical Assistance day-one incentive payment for one year. Also extends child welfare provider submissions for one year and the nursing facility assessment for three years along with the Intermediate Care Facilities for Persons with an Intellectual Disability assessment. The bill also eliminates the requirement that the department dedicate staff solely to the licensure and enforcement associated with assisted living residences. Transfers the eHealth Partnership Authority to the Department of Human Services. Effective immediately.

Approved by the Governor, 7/8/2016 (Act No. 76 of 2016)

[HB 1198](#) RE: 2016-17 Revenue Package (by Sponsor withdrew)
Amends the Tax Reform Code, in sales and use tax: further providing for definitions, for exclusions, for discount and for crimes. In personal income tax: further providing for definitions, for classes of income and for tax withheld; providing for contributions for tuition account programs; and further providing for requirement of withholding tax, for information statement, for time for filing employers' returns, for payment of taxes withheld, for employer's liability for withheld taxes, for employer's failure to withhold, for declarations of estimated tax and for citation authority. In corporate net income tax: further providing for reports and payment of tax; providing for amended reports; and further providing for enforcement, rules and regulations and inquisitorial powers of the department. In bank and trust company shares tax: further providing for imposition, for ascertainment of taxable amount and exclusion of United States obligations, for apportionment and for definitions. In gross receipts tax: further providing for imposition. In realty transfer tax: further providing for definitions, for exempt parties and for excluded transactions. In cigarette tax: further providing for incidence and rate, for floor tax, for stamp as evidence, for commissions on sales and for disposition of certain funds. **Imposing a tobacco products tax.** In research and development tax credit: further providing for time limitations. In film production tax credit: making editorial changes; further providing for definitions and for limitations; providing for reissuance of film production tax credits, for concert rehearsal and tour; and providing for video game production. **Establishing the coal refuse energy and reclamation tax credit. Establishing the waterfront development tax credit.** In tax credit for new jobs: further providing for definitions and for tax credits. **In city revitalization and improvement zones:** further providing for definitions and for establishment of contracting authority; providing for contracting authority duties; further providing for approval, for functions of contracting authorities, for qualified businesses, for funds, for reports, for calculation of baseline, for certification, for transfers, for restrictions, for transfer of property, for Commonwealth pledges and for guidelines; and providing for review. **Establishing the Manufacturing and Investment Tax Credit.** In neighborhood assistance tax credit: further providing for definitions, for tax credit and for grant of tax credit. In neighborhood improvement zones: further providing for definitions and for funds; and providing for taxes, for property assessment and for exceptions. In Keystone Special Development Zone Program: further providing for tax credit. Providing for keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones. Providing for mixed-use development tax credit, the Mixed-use Development Program and Mixed-use Development Program Fund. Providing for Keystone Innovation Zones. In malt beverage tax: further providing for limited tax credits. In inheritance tax: further providing for definitions, for transfers not subject to tax and for deductions not allowed. In procedure and administration: further providing for petition procedure. Providing for table game taxes. Establishing the computer data center equipment incentive program.

Providing for a tax amnesty program. Making related repeals. Further providing for preemption of local government tax. Directing the Office of Attorney General to attempt to obtain the consent of participating manufacturers under the Master Settlement Agreement for amendments.

Senate insisted on its amendments non-concurred in the House, and Senate appointed conference committee: Corman, Brown & Hughes, 7/13/2016

House insists on its non-concurrence in the amendments of the Senate, and House appointed conference committee: Reed, Adolph, Dermody, 7/13/2016

Conference report presented in the House, and House adopted conference committee report, 7/13/2016 (116-75)

Conference report presented in the Senate, and Senate adopted conference report, 7/13/2016 (28-22)

Signed in the House and Senate, 7/13/2016

Approved by the Governor, 7/13/2016. Act No. 84 of 2016

[SB 1073](#) RE: General Appropriation Act of 2016 (By Sen. Pat Browne, et al)

Provides from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2016, to June 30, 2017, for certain institutions and organizations and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2016; to provide appropriations from the State Lottery Fund, the Tobacco Settlement Fund, the Aviation Restricted Account, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Account Guaranteed Savings Program Fund, the Banking Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund, the Home Improvement Account, the Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund, the Insurance Regulation and Oversight Fund, the Pennsylvania Racehorse Development Restricted Receipt Account, the Justice Reinvestment Fund, the Multimodal Transportation Fund, the State Racing Fund and the ABLE Savings Program Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2016, to June 30, 2017; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2016, to June 30, 2017, for the proper operation of several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund money; to provide for the appropriation of Federal funds to the Executive and Judicial Departments of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2016; and to provide for the additional appropriation of Federal and State funds from the General Fund, the State Lottery Fund and the Tobacco Settlement Fund for the Executive and Legislative Departments of the Commonwealth for the fiscal year July 1, 2015, to June 30, 2016, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015. Effective July 1, 2016, or immediately, whichever is later.

Became law without Governor's signature 7/12/2016 (Act: 16A of 2016)

Child Abuse Reporting

NONE

Health Care Bills

NONE

Health Care Work Force Development

NONE

Health Insurance Bills

NONE

Medical Assistance/DHS

[HB 2211](#) RE: Human Services Code (by Rep. Matt Baker, et al)

Amends the Human Services Code, in public assistance, further providing for medical assistance payments for institutional care; in children and youth, further providing for provider submissions; in nursing facility assessments,

further providing for definitions and for time periods; in intermediate care facilities for persons with an intellectual disability assessments, further providing for definitions and for time periods; in hospital assessments, further providing for definitions and for time period; in departmental powers and duties as to licensing, further providing for regulations; establishing the Pennsylvania eHealth Partnership Program; providing for the Pennsylvania eHealth Partnership Fund; abrogating a related regulation; and making a related repeal.

Received in the Senate and referred to Senate Public Health and Welfare Committee, 7/5/2016

Sales Tax Expansion

NONE

WORKER'S COMP

NONE

Upcoming meetings of Interest

Some House Committee meetings and session can be viewed online at: <http://www.pahousegop.com/>

Senate Committee meetings and session can be streamed at: <http://www.pasenategop.com/>

THURSDAY - 8/18/16

Independent Regulatory Review Commission

10:00 a.m., 14th Floor Conference Room, 333 Market Street, Harrisburg

To consider the following regulations:

- Reg. No. 3092 Pennsylvania Gaming Control Board #125-187: Fortune Asia Poker; Table Game Rules of Play
- Reg. No. 3068 State Board of Chiropractic #16A-4323: Distance Education**

TUESDAY - 9/13/16

House Labor and Industry

10:00 a.m., Room G-50, Irvis Office Building

Public hearing on: [HB 1141](#) (Saylor) - Amends Workers' Compensation Act, in interpretation and defs., providing for defs., in liability & compensation, providing for schedule of compensation; &, for compensation with or without agreement & reporting injuries.

2016 SENATE SESSION SCHEDULE

September 26, 27, 28
October 17, 18, 19, 24, 25, 26
November 16

2016 House Fall Legislative Schedule

August 18 (Non-Voting)
September 19, 20, 21, 26, 27, 28
October 17, 18, 19, 24, 25, 26
November 14, 15

Copies of bills described above can be obtained through the CFOP office, or on-line at:
<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>