

Chiropractic Fellowship of PA Summary of Legislation September 2017

State Board of Chiropractic September 21 Meeting Highlights

The State Board of Chiropractic met on **September 21 in Harrisburg**. Here are the highlights.

- **Board Chair John McCarrin, DC, welcomed the members and guests.**
- **Lead Board Prosecutor Anita Shekletski** had no cases to present. The Board also held a hearing on a license reinstatement case.
- **BPOA Commissioner Ian Harlow** reported that the PALS licensure system upgrade is on time, and even being expanded. The Governor has imposed an out of state travel ban for Board members, until the budget funding is complete.
- **Board Counsel Kerry Maloney** discussed the status of cases before the Board. There will be two hearings of licensee matters later in the meeting.
- **Regulatory Counsel Tom Blackburn** was unable attend to give a report on the status of regulations before the Board.
- During the public comment period, **PCA ED Ed Neilsen** and **Ted Mowatt of CFoP** gave a report on **HB 1737**, which would allow chiropractic students to gain clinical experience in chiropractic offices.

Next meeting is November 9.

2018 meeting dates (subject to change): January 18, March 22, May 17, July 19, September 20, November 8

House Health Committee Advances Bills

The committee met September 13 to consider several bills of interest.

HB 358 Baker, Matt - (PN 376) The **Volunteer Health Care Practitioner Act** provides for a volunteer health care practitioner certification; and imposes powers and duties on the Department of Health. The bill states that a health care practitioner who is certified as a volunteer health care practitioner is immune from civil liability in accordance with the act so long as they provide 48 hours of uncompensated, voluntary care at a free health clinic within the Commonwealth every quarter. Effective in 90 days. - The bill was reported as committed with Democrats voting in the negative.

Chairman Matt Baker (R-Tioga) noted the legislation is supported by the Free Clinics Association of Pennsylvania. He also explained federal law provides full immunity to physicians and health care professionals volunteering at a non-profit free clinic.

Rep. Paul Schemel (R-Franklin) wondered if an applicant can aggregate their year if they do not work every quarter. Committee staff said no as 48 hours per quarter is required.

Rep. Gerald Mullery (D-Luzerne) then asked a line of questioning receiving clarification from committee staff that immunity will carry over to acts and treatment at the physician or health care professional's full time job outside of the free clinic, exclusive remedy is already available through federal law for work done at a Federally Qualified Health Center (FQHC) or FQHC lookalike, and a doctor who qualifies for immunity treating and injuring a patient at a full time setting will now have immunity to the commonwealth in a civil lawsuit. Whitney Krosse, executive director of the committee, explained intent is to move people into voluntary care by extending immunity to all services provided while raising the standard from negligence to gross negligence or intentional misconduct. Rep. Mullery also asked if immunity will be extended even if a lapse in required free clinic hours occurs, to which committee staff said that would be up to Department of Health (DOH) regulations.

Rep. Pamela DeLissio (D-Philadelphia) wondered if the extension of immunity is contingent on a volunteer capacity outside of the free clinic. Krosse said it is not and immunity would be extended to all areas whether volunteer or paid. Rep. DeLissio also asked for clarification on the difference between a volunteer and employee at a free clinic. Committee staff clarified all references should be changed to volunteer instead of employee and any inconsistencies would be a drafting error. Lastly, Rep. DeLissio wondered if language in the bill would allow for

retroactive immunity for a quarter if required hours were completed by the end of that quarter. Krosse said that would be unconstitutional and the intent was to encourage free clinic service, particularly from specialists, by offering immunity once the required hours were served.

Rep. Stephen Kinsey (D-Philadelphia) wondered if there would be any additional costs to DOH to license qualifying doctors, to which committee staff said no and DOH is neutral on the bill.

Rep. Mike Schlossberg (D-Lehigh) indicated Minority Chairman Florindo Fabrizio (D-Erie) has voiced opposition to the bill and asked for a no vote.

Chairman Baker concluded by saying the bill is intended to incentivize free clinic participation especially in underserved populations.

Rep. Mullery clarified he supports such incentive but foresees health care companies requiring all employees to serve the requirement in an effort to cut health insurance premiums through immunity, which he said is not the true intent of the legislation.

HB 1613 Cutler, Bryan - (PN 2136) Amends Title 35 (Health and Safety) adding the Health Care Cost Containment Act providing for the Health Care Cost Containment Council, for its powers and duties, for health care cost containment through the collection and dissemination of data, for public accountability of health care costs and for health care for the indigent and creating incentives for hospitals and managed care organizations to improve health care outcomes and to reduce unnecessary and inappropriate services in the Commonwealth's medical assistance program. The Health Care Cost Containment Council is established as an independent council. Effective immediately. - The bill was unanimously reported as amended.

A03338 by Baker, removes the health care outcomes section. The amendment was unanimously adopted.

Rep. Schlossberg indicated the amendment is agreed to.

A03370 by Kaufer, removes the all claims payer database and removes three definitions only needed for the database. The amendment was unanimously adopted.

Rep. Schlossberg stated the amendment is also agreed to.

On the bill, Chairman Baker explained it reauthorizes and modernizes the Pennsylvania Health Care Cost Containment Council (PHC4) which "sunsetted three years ago."

Rep. Bryan Cutler (R-Lancaster) thanked the committee for their work on the bill saying it would restore the independence and mission of PHC4 which has been operating under executive order since its expiration.

HB 1739 – sponsored by Rep. Matt Baker, The **Medical Service Agreement Act** provides for direct primary care, medical service agreements and insurance, for medical service agreement requirements, for use of health savings accounts or flexible spending accounts and for use of other health care practitioners. The bill establishes that in order to be considered a medical service agreement under this act, the medical service agreement shall: be in writing; be signed by the patient or patient's legal representative or guardian; be signed by the physician; allow either party to terminate the medical service agreement upon written notice to the other party; describe the specific health care services that are included in the medical service agreement; specify the fee for the medical service agreement; specify the period of time under the medical service agreement; and include the following statement: This agreement does not provide comprehensive health insurance coverage. The agreement only provides for the health care services specifically described. Effective in 60 days. - The bill was unanimously reported as committed.

Krosse indicated the issue addressed by the bill is currently not regulated by the Insurance Department and is not considered an insurance product, but "it is a gray area on whether it should be considered an insurance product." She added 23 states have similar legislation allowing for medical services agreement and it is supported by the Pennsylvania Academy of Family Physicians, with no comment yet from the department.

Chairman Baker added the Pennsylvania Academy of Family Physicians strongly supports the bill and letters in support have been received from doctors.

Rep. DeLissio wondered if there was a reason for distinguishing physicians and health care practitioners. Krosse indicated placing physicians over health care practitioners was deliberate and there is a later reference permitting physicians to work with other health care practitioners but the contract must be between the physician and the patient based on practitioner limits on scope of practice. Rep. DeLissio described the idea as "fairly preemptive" and wondered if legislation to give full practice responsibilities to nurse practitioners would be stunted by the change

and if the idea would need to then be revisited if such legislation was passed. Krosse indicated it would need to be revisited if a law was passed and by nature the services allowed by such a law for some individuals could be limited. She added there is nothing prohibiting the underlying bill currently, and it is already happening in some areas, but as a gray area it needed to be clarified. Rep. DeLissio wondered if there is a dollar amount limit, to which Krosse said no.

Rep. Schlossberg asked for a yes vote on behalf of Chairman Fabrizio.

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 358](#) RE: Volunteer Health Care Practitioner Act (by Rep. Matt Baker, et al)

Provides for a volunteer health care practitioner certification; and imposes powers and duties on the Department of Health. The bill states that a health care practitioner who is certified as a volunteer health care practitioner is immune from civil liability in accordance with the act so long as they provide 48 hours of uncompensated, voluntary care at a free health clinic within the Commonwealth every quarter.

Reported as committed from House Health Committee, read first time, and laid on the table, 9/13/2017
Removed from the table, 9/25/2017

[HB 1737](#) RE: Chiropractic Students (by Rep. Adam Ravenstahl, et al)

Amends the Chiropractic Practice Act, in licensure and regulation, further providing for license required. The bill establishes that this section does not apply to a student enrolled in a chiropractic education program who is conducting chiropractic activities under the supervision of: instructors or supervisors who meet the licensing criteria of the Department of Education or the board; and enrolled in a program approved by the board at a regionally accredited college or university or Pennsylvania private licensed school or its equivalent as determined by the board.

Reported as committed from House Professional Licensure Committee, read first time and laid on the table, 9/27/2017

[SB 892](#) RE: Chiropractic Students (by Sen. Guy Reschenthaler, et al)

Amends the Chiropractic Practice Act, in licensure and regulation, further providing for license required. The bill establishes that this section does not apply to a student enrolled in a chiropractic education program who is conducting chiropractic activities under the supervision of: instructors or supervisors who meet the licensing criteria of the Department of Education or the board; and enrolled in a program approved by the board at a regionally accredited college or university or Pennsylvania private licensed school or its equivalent as determined by the board.

Introduced and referred to Senate Consumer Protection & Prof. Licensure Committee, 9/25/2017

Budget-Related Bills

NONE

Child Abuse Reporting

NONE

Health Care Bills

[HB 1613](#) RE: HC4 Reinstatement (by Rep. Bryan Cutler, et al)

Amends Title 35 (Health and Safety) adding the Health Care Cost Containment Act; providing for the Health Care Cost Containment Council, for its powers and duties, for health care cost containment through the collection and dissemination of data, for public accountability of health care costs and for health care for the indigent. The Health Care Cost Containment Council is re-established as an independent council. Effective immediately.

Reported as committed from House Health Committee, read first time, and laid on the table, 9/13/2017
Removed from the table, 9/25/2017
Amended on House floor, 9/26/2017

[HR 501](#) RE: Chiropractic Health and Wellness Month (by Rep. Jim Marshall, et al)
A Resolution designating the month of October 2017 as "Chiropractic Health and Wellness Month" in Pennsylvania.
Introduced as noncontroversial resolution, 9/18/2017

[SR 182](#) RE: Vertebral Subluxation Awareness Month (by Sen. Lisa Boscola, et al)
A Resolution recognizing the month of September 2017 as "Vertebral Subluxation Awareness Month" in Pennsylvania.
Introduced and adopted, 9/19/2017

Health Care Work Force Bills

NONE

Health Insurance Bills

[HB 1739](#) RE: Medical Service Agreement Act (by Rep. Matt Baker, et al)
Provides for direct primary care, medical service agreements and insurance, for medical service agreement requirements, for use of health savings accounts or flexible spending accounts and for use of other health care practitioners. The bill establishes that in order to be considered a medical service agreement under this act, the medical service agreement shall: be in writing; be signed by the patient or patient's legal representative or guardian; be signed by the physician; allow either party to terminate the medical service agreement upon written notice to the other party; describe the specific health care services that are included in the medical service agreement; specify the fee for the medical service agreement; specify the period of time under the medical service agreement; and include the following statement: This agreement does not provide comprehensive health insurance coverage. The agreement only provides for the health care services specifically described.

Reported as committed from House Health Committee, read first time, and laid on the table, 9/13/2017

Removed from the table, 9/25/2017

Rereferred to House Appropriations Committee, 9/26/2017

Reported as committed from House Appropriations Committee, read third time, and passed House, 9/27/2017 (189-0)

[SB 876](#) RE: CHIP Reauthorization (by Sen. Don White, et al)
Amends the Insurance Company Law adding language extending the Pennsylvania's Children's Health Insurance Program (CHIP) from December 31, 2017 to December 31, 2019.

Introduced and referred to Senate Banking and Insurance Committee, 9/7/2017

Medical Assistance/DHS

NONE

Opioid Reduction

[SB 655](#) RE: Opioid Prescribing Guidelines (by Sen. Gene Yaw, et al)
Amends the Controlled Substance, Drug, Device and Cosmetic Act requiring the secretary to promulgate in accordance with the Commonwealth Documents Law regulations relating to the prescription of opioids, including: (1) Opioids for treatment of chronic non-cancer pain; (2) Emergency department pain treatment guidelines; (3) Opioids in dental practice; (4) Opioid dispensing guidelines; (5) Obstetrics and gynecology pain treatment; (6) Geriatric pain - opioid use and safe prescribing; (7) Use of addiction treatment medications in the treatment of pregnant patients with opioid use disorders; (8) Safe prescribing of benzodiazepines for acute treatment of anxiety and insomnia; and (9) Safe prescribing of opioids in orthopedics and sports medicine. The bill also creates a 25-member advisory council to meet at least semiannually to mirror the task force which promulgated the original guidelines, requires the department to adopt the existing voluntary guidelines already developed by the task force, and requires the advisory council to make recommendations regarding future opioid dispensing guidelines which the department is required to adopt.

Removed from the table, 9/18/2017

Read second time, and rereferred to Senate Appropriations Committee, 9/20/2017

[SB 845](#) RE: Gifts to Prescribers (by Sen. Lawrence Farnese, et al)

Amends The Controlled Substance, Drug, Device and Cosmetic Act further providing for prohibited acts and penalties by prohibiting the offering or giving by any manufacturer or distributor, or any agent thereof, of any gift to a prescriber. Any person who knowingly and intentionally commits a violation it is guilty of a misdemeanor and upon conviction shall be sentenced to imprisonment of up to a year or to pay a fine of up to \$5,000 for each transaction, occurrence or event, or both.

Introduced and referred to Senate Consumer Protection & Prof. Licensure Committee, 9/11/2017

Partnerships/Liability

NONE

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/>

2017 Senate Fall Session Schedule

October 16, 17, 18, 23, 24, 25

November 13, 14, 15

December 11, 12, 13, 18, 19, 20

2017 House Fall Session Schedule

October 2, 3, 4, 16, 17, 18, 23, 24, 25

November 13, 14, 15, 20, 21, 22

December 4, 5, 6, 11, 12, 13, 18, 19, 20

State Board of Chiropractic Board Meeting Schedule

2017 Meeting Dates (Subject to Change)

November 9

All Board meetings are held at Penn Center, 2601 N. 3rd Street, Harrisburg, PA, at 9 AM

DHS Medical Assistance Advisory Committee (MAAC)

ALL MEETINGS ARE SCHEDULED FROM 10:00 A.M. TO 12 NOON

Lecture Hall 246/248

Temple University Harrisburg

234 Strawberry Square

Harrisburg, PA

Remaining 2017 Meeting Dates

October 26, December 14

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>