

Chiropractic Fellowship of PA Summary of Legislation May 2019

Spring Session Advances with Higher Than Expected Revenues & Alternative Plans

Budget negotiations have yet to formalize, but due to an expected surplus could go quickly when the Legislature returns in June. Regardless of a quick resolution, Governor Tom Wolf's [Restore PA](#) plan for infrastructure initiatives, further liquor law changes and an increase to the minimum wage will likely also be part of the negotiations.

General Fund collections through April were \$828.5 million above estimate and with two more months remaining in the current fiscal year the state's Independent Fiscal Office is [estimating](#) over \$850 million more in revenue this fiscal year than initially projected. While the IFO cautioned that many of the factors that led to this year's surplus are temporary, the expected surplus will definitely impact these year's budget negotiations.

The Republican-led legislature has pledged to spend less than the Governor's proposed budget of \$34.1 billion from February and many legislators from both sides of the aisle, as well as the Governor, have called for surplus funds to go into the Rainy Day Fund. The Administration is also requesting supplemental funding for Human Services for \$500 million.

Indications from many fronts indicate the budget will be done well before the June 30 FY end, but as always, something could happen to upset the applecart, and prolong the process. It often does.

House Insurance Committee Holds Hearing on State-based Health Insurance Exchange

The committee held a public hearing May 7 on the impact of a state-based exchange and reinsurance program for the residents of Pennsylvania. **Committee Chair Tina Pickett (R-Bradford)** stated that the **1332 State Relief and Empowerment Waiver** allows states to design and implement new health care programs. She explained that President Donald Trump issued an executive order to provide greater flexibility by allowing states to implement health care programs. Chairman Pickett stated that currently, the Centers for Medicare and Medicaid Services (CMS) approved eight waivers. She opined that reinsurance waivers provide an important tool to reduce premiums. Chairman Pickett stated that Pennsylvania is in discussions about seeking a waiver for a state exchange waiver program.

Minority Chairman DeLuca expressed interest in allowing the state to be in charge of the health insurance market, and providing Pennsylvania with the tools to create additional special enrollments to increase the affordability and decrease premiums without placing additional financial burdens on the commonwealth.

Pennsylvania Insurance Commissioner **Jessica Altman** explained the process of Pennsylvania transitioning to a state-based exchange (SBE) with the pursuit of a 1332 State Relief and Empowerment Waiver. She asserted that for those not insured through their employer or through Medicare or Medicaid, they may need to purchase insurance on the exchange. Altman stated that this group of people includes those who are self-employed or early retirees. She stated that over 400,000 people purchase insurance through the exchange. Altman stated that currently in Pennsylvania the federal government provides tax credits for lowering premiums. She noted that 80 percent of people in the exchange receive financial assistance through the exchange, and that 30 of 67 counties have more insurers than in prior years. She opined that affordability on the exchange is a challenge. Altman explained that over a dozen states operate a state-based exchange, while four are transitioning to operate an SBE.

Altman opined that the state could save an estimated \$50 million by running its own exchange, and could multiply the savings. She stated that last October, the Trump administration issued new guidance, which would empower states to pursue innovative programs to tailor options to take federal dollars and reallocate funds to state specific initiatives.

Altman asserted that currently **seven states have implemented 1332 waivers**, whereby premiums have decreased. If Pennsylvania transitioned to a SBE, she estimated that the total value of the reinsurance program, after federal funds were contributed, would be between \$150 and \$250 million, and would lower insurance premiums for consumers between five to ten percent without investing any additional dollars.

Altman asserted that to allow savings as fast as possible, legislation to provide for an SBE would need to be secured by June 2019. She stated that her department would be ready to meet with staff at their convenience, and added it has a county by county breakdown of exchange enrollment relationships with health insurers and agents, brokers, and consumer advocates available. She also said that her department worked through the details and considered the transition with the least amount of disruption. She said the department included an FAQ document, a diagram of the cash flow, and how the legislation has contemplated the sunset provision. She opined that her department is eager to effectively move to drive down the cost for consumers while not requiring state-appropriated dollars.

Chairman Pickett commented that “the devil is in the technology details,” and thanked the commissioner for the good feedback from other states. Altman responded that other states have succeeded in significant savings which has bolstered confidence in the process. Chairman DeLuca asked why Pennsylvania did not go into exchange when it was initially available. Altman stated that she was not in her current position at the time, but believes that the issue was the burden of the cost. She stated that because of differences now, the information technology (IT) infrastructure that is currently available can be used and does not need to be constructed.

Rep. Tina Davis (D- Bucks) asked whether the governing structure of the SBE will be a separate authority. Altman responded that as drafted, the legislation would have four people appointed by each caucus of the legislature, and she indicated that the remainder of the board would be appointed by the Insurance Department and stakeholders and consumers. She explained that the board would be modeled on other states.

Rep. Eric Nelson (R-Westmoreland) stated that it is positive to hear that the Insurance Department is building its model by looking at successful models. He expressed concern at the board’s authority as indicated by Rep. Tina Davis. He asked Altman to explain the overall cost savings and the need for additional insurance carriers. Altman explained that intent of the proposal is to have three percent user fees, which is the same under the federal exchange and not to charge a greater fee. She opined that the proposal is about having the funds to run under a state exchange and to reallocate to use them better.

Nelson asked if there would be additional fees with the three percent, or if there would be a cap. Altman answered that the Insurance Department would be very open to including a safe harbor with legislation.

Rep. Seth Grove (R- York) stated that the SBE is a very interesting concept and several conservative states, including Wisconsin, run state-based exchanges. Altman stated that the states using SBEs are Wisconsin, Alaska, Oregon, Minnesota, Maine, Maryland, and New Jersey. Rep. Grove asked for data provided by a health care consulting firm. Altman agreed to provide that data. Rep. Grove asked about the conservative estimate of the cost of an exchange. Altman answered that the consultant came in with a range of 20 to 35 percent. Rep. Grove asked if there was a risk assessment completed. Altman answered that the Insurance Department thought through potential risks modeled around different scenarios. She asserted that if Rep. Grove would want the Insurance Department to consider a specific risk, that the Insurance Department would consider it. Rep. Grove asked about the risk of increasing fees to support the SBE. Altman responded that the Insurance Department does not contemplate any need for the general fund to contribute, and stated that would be a legislative decision. She explained that the SBE is structured to be independent. Altman opined that while health care is always uncertain, she is confident that as long as the state has the exchange, Pennsylvania can run it better than the federal government. Rep. Grove asked what happens if Congress stops funding the waiver. Altman responded that there is a sunset provision with some time to help consumers.

Rep. Wendi Thomas (R-Bucks) asked if the insurance is specific or aggregate reinsurance. Altman responded that there would be claims where the government would pay a certain portion of the amount up to a certain cap. Rep. Thomas asked if there would be an aggregate group. Altman answered that it would be a claim or claimant. Rep. Thomas asked if the state would be self-insuring the reinsurance. Altman responded yes, the state would be self-insuring. Rep. Thomas asked if the risk is all on the state. Altman answered that the funding is from the state funds from the SBE, and the federal funds contributed through the 1332 waiver. Rep. Thomas asked which state is modeled close to Pennsylvania. Altman responded Nevada, which will be launching an SBE in 2020. She explained that specific to state-based exchanges, the Insurance Department has a lot of questions about the procurement process and is cognizant of the relative size and looking at procurement and relative costs. She stated that the three other states moving to an SBE are New Mexico, Oregon, and New Jersey. Rep. Thomas asked how the start-up will be funded. Altman responded that there will be strategic contracting, where the vendor will not charge until the commonwealth is collecting the user fee. She explained that the federal government would then only charge the 2.5 percent user fee instead of the normal 3.5 percent that they usually charge. Altman stated that the state would

continue to charge three percent. Rep. Thomas asked if additional people would need to be hired. Altman indicated there would be a need for additional staff.

Stephanie Watkins, vice president of state legislative advocacy for the **Hospital and Healthcare Association of Pennsylvania (HAP)**, stated that her organization believes that the framework established under the Affordable Care Act (ACA) is a viable framework and remains stable. She explained that all but ten of the Pennsylvania counties have more than one insurer offering plans under the ACA. She explained that HAP employs efforts to ensure coverage by promoting insurance enrollment to educate and get individuals signed up, and works closely with congressional delegations by supporting efforts to continue a viable and stable insurance market. She asserted that HAP supports a state-run exchange, and stated that HAP understands that there is necessary legislation to fund a state-based exchange.

A panel of representatives of the health insurers then made presentations. **Jennifer Tyler**, director of government relations for **Geisinger Health**, indicated that Geisinger supports the concept of establishing a state-based exchange which would be a positive development and would need little IT development. She opined that an effective reinsurance program would provide lower premiums. **Doug Furness**, senior director of government and regulatory affairs for **Capital Blue Cross**, explained that his organization supports the state-based exchange, but believes that significant details need to be fleshed out before they can substantively comment. He suggested that the following items should be examined: the ease of transition from federal to state and how that compares with transitioning to the ACA, security of the short-term and long-term funding, and knowledge of how the program will work from start to finish. **Michael Yantis**, vice president of state government affairs for **Highmark**, indicated that they provide insurance in Delaware, Pennsylvania, and West Virginia. He explained that they believe that the SBE does make sense. He indicated that the SBE should not have the ability to assess fees if the federal funding ends. He explained that legislation should be very specific to prevent that.

Kim Kockler, vice president of government affairs for **Independence Blue Cross**, explained that they have been on the exchange and are the only carrier in southeastern Pennsylvania, with 200,000 members on the exchange. She explained that that the IT transition needs to be as seamless as possible. Kockler stressed that if the ACA is repealed or struck down by the courts, they need to ensure that carriers, customers, and the commonwealth are all protected. **Caleb Wallace**, senior director of health policy and assistant counsel for **UPMC**, stated that UPMC is one of the largest carriers on the exchange. He explained that CMS has been an important partner and that he agrees with the Insurance Department, and said that its approach will improve the flexibility and savings which will be directed in Pennsylvania. He asserted that reinsurance is promising and opined that UPMC is supporting a state-based market and believes it to be a thoughtful pathway reinsurance program with no additional costs to the commonwealth. Wallace opined that the number of open questions appears to be small, and said he sees these questions not as a deficiency but as an opportunity to lower premiums and provide better services.

Sam Marshall, president of the **Insurance Federation of Pennsylvania**, stated that he agreed with the comments that have been made though he opined that an eleven person board with an eight person advisory council may not be the most efficient way to run an advisory board. He appreciated the commissioner's comment where she indicated that the SBE would not set fees.

Jessica Waltman, principal for **Forward Health Consulting**, stated that her company represents 500 independent agents. She indicated appreciation for the efforts of the Insurance Department to expand access to coverage for all Pennsylvanians and explained that the agents and brokers she represents serve hundreds of thousands of people. She asserted that the federal exchange is working well now, but that the improvements that were asked to be made five years ago are still being made. Waltman said that small business subsidies are not being verified up front as they should be and added she believes that Pennsylvania state-based exchanges could be doing this better, although it remains an unknown at this time. She opined that the waiver could have enormous benefits, is essential for the health of the individual benefits, could protect people with pre-existing conditions, and needs to be a means to assess and spread the risk. Waltman asserted that as insurers can predict that the risk is stable, the costs will decrease and will help improve the small group market. She opined that funding stability with the 1332 waiver is a matter of caution and would create a dedicated fund. She offered support and encouraged the proposal advocated by the Insurance Department.

Chairman DeLuca explained that stakeholders would work together not to get a perfect deal, but to work on behalf of the commonwealth and move this legislation, which he opined would be very beneficial.

It is expected that legislation to implement this concept will be introduced shortly, due to the short timeframe indicated by the Commissioner.

State Board of Chiropractic May 16 Meeting Highlights

The State Board of Chiropractic met on **May 16 in Harrisburg**. Here are the highlights.

- **Board Chair Gerald Halloran, DC, welcomed the members and guests.**
- **Board Prosecutor Daid Shertz** had four cases to present, to be deliberated in Executive Session.
- **BPOA Acting Commissioner Kalonji Johnson** did not attend, and sent no report.
- **New Board Counsel Ken Suter** reminded the members of the Sunshine Act provisions, and the “do’s and don’ts of communications regarding Board business, as well as the recusal guidelines. Suter also reported that he has been informed that Dr. Bennett will not appeal the Commonwealth Court opinion in his case.
- **Board Chair Gerald Halloran, DC** reminded the Board members of some housekeeping issues, and reported on his attendance at the National Board meeting. At that meeting it was discussed that medical cannabis is NOT recommended for use by chiropractors, as it is still illegal on the federal level, regardless of state laws, as an opioid treatment alternative. Counsel recommended the Board not take a position. With regard to preceptorships, Halloran suggested the Board develop guidelines for licensees to follow.
- **Board Administrator Liz Wecker** was not in attendance, as she had her baby on April 14.
- **Under OLD Business: 1.** Dr. McCarrin asked Suter about status of the delegation regulation that former counsel had been working on. He did not have an update. Dr. Halloran distributed a letter to be sent to the Veterinary Board, proposing a joint meeting to discuss animal chiropractic standards. He asked that licensees not put Board members in a position of having to discipline chiropractors for improper procedures.

Next meeting is July 18, 2019. Future 2019 meeting dates: September 19, November 21. 2020 dates: January 16, March 19, May 14, July 18, September 17, November 19, 2020

Republicans Retain Two other Senate Seats, and one House Seat in May Special Elections; Keller Wins Congressional Seat

Republicans, at least temporarily, reversed their recent string of electoral losses on May 21, winning all three state legislature special elections, and one for an open Congressional seat, on a day noted mostly for horrendous turnout in the municipal primary elections. In the 33rd state Senate district in central PA, retired Army colonel **Doug Mastriano** easily defeated Democrat **Sarah Hammond**, director of community development for the Borough of Spring Grove, by a wide margin, to succeed former GOP state Sen. Rich Alloway, who retired in February. Over in Indiana, PA, **Joe Pittman**, who served for many years as chief of staff for former state **Sen. Don White (R-Indiana)**, also overcame a challenge from **Democrat Susan Boser**, a professor at Indiana University of Pennsylvania, to take the 41st. Mastriano ran on a conservative campaign, advocating for lowering taxes and cutting spending, term limits, cutting regulations, and opposing same sex marriage and abortion. He patterned his campaign after President Donald Trump. Pittman talked about continuing the work of his boss and cited focusing on the “God-given natural gas and coal resources” of the region, focusing on workforce development, while boasting about being a lifelong member of the NRA during his campaign.

In the state House, **Marci Mustello**, a staffer for **US Rep. Mike Kelly (R-Butler)**, easily topped **Democrat Sam Doctor** in the 11th state House District in Butler County. Mustello will be taking over for state **Rep. Brian Ellis (R-Butler)**, who resigned from office in the midst of an ongoing sexual assault investigation. Interestingly, both Mustello and Doctor had sought the House seat in prior elections. Mustello lost to Ellis in the 2004 primary in, while Doctor ran as an Independent against Ellis in 2018. Mustello ran on the need for lowering taxes, supporting the 2nd Amendment and advocating for pro-life policies. Once these three are sworn in in June, Republicans will have a 28-22 margin in the state Senate and a 110-93 lead in the state House, though another seat in the House will become open as well. Read on.

Keller Wins Special Election to Succeed Marino

As was predicted by polls and registration, **State Rep. Fred Keller (R-Snyder)** won a May 21 special election for the 12th Congressional District, defeating Democrat **Marc Friedenberg**. Keller will succeed five term **Rep. Tom Marino (R-Lycoming)** who resigned in January citing health issues. The 12th District is one of the most GOP friendly in the state, and Marino's most recent reelection bid was a 32 point victory over Friedenberg. The district voted for President Donald Trump over Sec. Hillary Clinton by over 35 points. Trump made an appearance in Montoursville in the district on the night before the election, holding a rally in an effort to boost turnout for Keller, a precursor for Trump's effort to again win PA in 2020. Pennsylvania's Congressional delegation will again be split, with 9 Democrats and 9 Republicans. The current, controversial maps will again be used for the 2020 elections, then the General Assembly will redraw the districts again after the 2020 census, probably with one less seat to redraw. Keller's victory means yet another special election to fill the vacancy for his House District, which has been set by PA House Speaker Mike Turzai, R-Allegheny, for Tuesday, **Aug. 20**. Keller informed House Speaker Turzai, of his resignation from the state House effective May 24. Candidates for the office will be selected by a process designated by their respective political parties, and the winner of the special election will take office after the results are certified.

Legislative Activity

The following bills and co-sponsorship memos for bills to be introduced of interest to CFoP were acted on by the General Assembly this past month.

Scope of Practice/Licensure Bills

HB 1172 RE: [License Portability for Professional Licensees Entering Pennsylvania](#) (by Rep. Dave Hickernell, et al) Amends an act entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," providing for licensure by endorsement. The bill establishes that a licensing board or commission shall issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth if, upon application to the licensing board, the applicant satisfies all of the following conditions: holds a current license, certificate, registration or permit from another state, territory or country and the licensing board or commission determines that state's, territory's or country's requirements are substantially equivalent to or exceed the requirements established in this Commonwealth; demonstrates competency in the profession through methods determined by the licensing board; has not committed any act that would have constituted grounds for refusal, suspension or revocation of a license; is in good standing; and pays any fees.

Reported as amended from House Professional Licensure Committee, read first time, and laid on the table, 5/8/2019

Removed from the table, 5/13/2019

Read second time, and rereferred to House Appropriations Committee, 5/14/2019

Reported as committed from House Appropriations Committee, read third time, and passed House, 5/15/2019 (188-0)

Received in the Senate and referred to Senate Consumer Protection & Prof. Licensure Committee, 5/24/2019

HB 1477 RE: [Occupational Licensure Reform Legislation](#) (by Rep. Sheryl Delozier, et al)

Amends Title 18 (Crimes and Offenses), in criminal history record information, establishing that criminal convictions shall not automatically preclude the issuance of a license, certificate, registration or permit by a licensing agency. The legislation establishes that licensing bodies may refuse, suspend or revoke any license on the basis that the crime directly relates to the occupation for which certification is sought, or that an individualized assessment of the relation of the conviction to the applicant's overall suitability to engage in the profession for which the permit is sought. The legislation provides exceptions for applicants if the individual can establish sufficient mitigation or rehabilitation and fitness to perform the duties of the trade for which the license is sought. Where the criminal conduct is related directly to the certification sought, the licensing body shall consider relevant proof of any factors that would rebut an adverse presumption or show rehabilitation.

Introduced and referred to House Judiciary Committee, 5/22/2019

[HR 350](#) RE: Licensure for Active Duty Military and Veterans (by Rep. Harry Readshaw, et al)

A Resolution urging the licensing boards and commissions under the Department of State to review how military education and training may partially or completely fulfill licensure requirements and to develop suggested pathways to licensure for active duty military and veterans.

Introduced and referred to House Professional Licensure Committee, 5/22/2019

[SB 640](#) RE: Physical Therapy Licensure Compact Act (by Sen. Lisa Boscola, et al)

Authorizes the commonwealth of Pennsylvania to join the Physical Therapy Licensure Compact; and provides for the form of the compact.

Introduced and referred to Senate Consumer Protection & Professional Licensure Committee, 5/10/2019

Budget-Related Bills

NONE

Child Abuse Reporting

NONE

Health Care Bills

[HB 1214](#) RE: Registration of Pain Management Clinics (by Rep. Jim Struzzi, et al)

Amends the Health Care Facilities Act adding a chapter providing for registration of pain management clinics; providing for duties of the department; and imposing penalties. Each pain management clinic, with the exception of private physician offices, shall register and maintain a valid registration with the department. Among the requirements the bill outlines prescriber and recordkeeping rules for pain management clinics.

Reported as amended from House Health Committee, read first time, and laid on the table, 5/14/2019

[SB 626](#) RE: Exemptions from Immunizations (by Sen. Judy Schwank, et al)

Amends the Public School Code, in pupils and attendance, providing that requiring immunization does not apply in the case of any child whose parent or guardian submits in lieu of a certificate of vaccination a written objection of religious belief or moral or ethical conviction. The objection shall be on a form developed by the Department of Health.

Introduced and referred to Senate Education Committee, 5/10/2019

[SB 633](#) RE: Public Health Emergency Act (by Sen. Jay Costa, et al)

Provides for the declaration of a public health emergency, for duties of the Department of Health, for temporary regulations and for immunity from liability. The Secretary of Health may declare a public health emergency by disseminating the declaration promptly by means calculated to bring its contents to the attention of the general public and shall file it with the Legislative Reference Bureau for publication.

Introduced and referred to Senate Health and Human Services Committee, 5/10/2019

Reported as amended from Senate Health and Human Services Committee, and read first time, 6/4/2019

[SB 653](#) RE: Immunizations (by Sen. Daylin Leach, et al)

Amends the Public School Code, in pupils and attendance, repealing immunization exemptions for parental written objections based on religious grounds and providing that a strong moral or ethical conviction similar to a religious belief may not qualify as an exemption from immunization requirements.

Introduced and referred to Senate Education Committee, 5/15/2019

Health Care Work Force Bills

NONE

Health Insurance Bills

[HB 3](#) RE: Health Insurance Exchange (by Rep. Bryan Cutler, et al)

Amends Title 40 (Insurance), providing for health insurance markets oversight; and establishing the Pennsylvania Health Insurance Exchange Fund. The legislation establishes a reinsurance program as authorized under the Affordable Care Act.

Introduced and referred to House Insurance Committee, 6/4/2019

Reported as committed from House Insurance Committee, read first time, and rereferred to House Rules Committee, 6/5/2019

Liability

[HB 1063](#) RE: [Personal Jurisdiction in Medical Professional Liability Actions](#) (by Rep. Donna Oberlander, et al)

Amends Title 42 (Judiciary), in bases of jurisdiction and interstate and international procedure, providing that in addition to the requirements relating to persons, the tribunals of the commonwealth may exercise general personal jurisdiction over a health care provider in a medical professional liability action for a medical professional liability claim only in the county in which the cause of action arose.

Introduced and referred to House Judiciary Committee, 5/13/2019

Medical Assistance/DHS

NONE

Opioid Reduction

NONE

Sales Tax Expansion

NONE

Worker's Comp

NONE

Other Bills of Interest

[SB 671](#) RE: Small Business Fee Exemption Act (by Sen. Vincent Hughes, et al)

Provides for small business fee exemption. The bill establishes that in addition to the exemption provided to a veteran-owned or reservist-owned small business, the following shall be exempt from the payment of a business fee: a woman-owned small business; a service-disabled veteran-owned small business; a minority-owned small business; a disadvantaged small business; and a microbusiness.

Introduced and referred to Senate State Government Committee, 5/24/2019

Copies of bills described above can be obtained on-line at:

<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>

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/>

UPDATED 2019 SENATE SESSION SCHEDULE

June	3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28
September	23, 24, 25
October	21, 22, 23, 28, 29, 30
November	18, 19, 20
December	16, 17, 18

UPDATED 2019 HOUSE SESSION SCHEDULE

June 3, 4, 5, 10, 11, 12, 17, 18, 19, 20, 24, 25, 26, 27, 28
September 17, 18, 19, 23, 24, 25
October 21, 22, 23, 28, 29, 30
November 12, 13, 14, 18, 19, 20
December 9, 10, 11, 16, 17, 18

State Board of Chiropractic Board Meeting Schedule

Remaining 2019 dates: July 18, September 19, November 21

2020 dates: March 19, May 14, July 18, September 17, November 19, 2020

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 2019 meeting dates: June 27, July 25, No August meeting, September 26, October 24, No November meeting, December 12

For more information check the DHS MAAC website:

<http://www.dhs.pa.gov/communitypartners/informationforadvocatesandstakeholders/medicalassistanceadvisorycommitteemaac/>