



FAIFA Session Dispatch (3/16/07)

2007 LEGISLATIVE SESSION

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2007 FAIFA "DAY OF THE HILL" A GREAT SUCCESS!

Thanks to all of the many FAIFA members who came to Tallahassee last week and created a strong and impressive presence for our industry. We had an extremely high turn out—175 strong! We were able to meet with members of the Senate and the House of Representatives, and shared with them many of our concerns. As a result of our activities at the Capitol, when I or FAIFA members visit with legislators either in Tallahassee or in their district offices, between now and May 4, they will have some familiarity with our agenda and awareness of our interests. Congratulations on building positive momentum in advancing FAIFA's agenda for this Session!

LEGISLATIVE ACTION – WEEK #2

Senate Bill 274 – CYSTIC FIBROSIS MANDATE ADOPTED BY COMMITTEE

Senate Bill 274 (HB 1105), a bill mandating coverage for treatment of cystic fibrosis, received favorable consideration from the Senate Health Policy Committee last week. It passed out of the committee with no amendments. Previously, I reported that the Senate Banking and Insurance Committee had passed the bill. It is now in the Senate Health and Human Services Appropriations Committee awaiting consideration.

To recap, the bill mandates that group health insurance policies issued or delivered in Florida and group health maintenance organization (HMO) contracts cover medically-necessary services for the treatment of cystic fibrosis. If it becomes law, all large employer group insurance policies or large employer group HMO contracts issued or renewed on or after October 1, 2007, must cover the specified services for the treatment of cystic fibrosis when certified as provided in the bill. The related House bill, HB 1105, has not received a committee hearing. FAIFA opposes this and all new health mandates.

Senate Bill 366 – INFANT EYE CARE MANDATE ADVANCES

Senate Bill 366 (HB 833) mandates eye examinations prior to discharge for all newborns delivered in a hospital. The examination must be performed using an ophthalmoscope and dilation of the pupils for detection of pediatric congenital and developmental abnormalities. The bill specifies that failure to comply with this requirement does not make a person guilty of a second-degree misdemeanor, which is the penalty for failure to comply with the requirement to instill a prophylactic in the eyes of a newborn. The bill requires health insurance policies and HMO contracts to provide coverage for such an eye examination at birth, at 6 to 8 weeks of age, and at 6 to 9 months of age. I will reiterate again, FAIFA opposes this and all new health mandates.

Senate Bill 930 – KIDCARE PROGRAM RESTRUCTURING BILL MOVES FORWARD

The Committee Substitute for Senate Bill 930 passed out of the Senate Health Policy Committee. The bill re-structures the Florida Kidcare Program by consolidating it under the Department of Health effective July 1, 2008. It makes several substantial changes to law that will impact the health insurance market in Florida. For example, for the first time the term "health" is defined to include physical, mental and dental health, for purposes of the Florida Commission on Children's Health that is created by the bill. The bill establishes the Commission in the Executive Office of the

Governor; specifying the commission shall have 12 members with the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives each appointing three members; specifying terms of office; and prohibiting employees of the Florida Kidcare partner agencies, the Florida Healthy Kids Corporation, or other state agencies from serving on the commission as voting members. Furthermore, the bill renames the Department of Health's Children's Medical Services the "Division of Children's Medical Services Network and Specialty Programs;" and creates the Division of Children's Health Insurance and the Office of Child Health Coordination.

This bill is very controversial because it is dismantling the private-sector Florida Healthy Kids Corporation's operations and re-constituting it under state operation and because it is anticipated to have a huge fiscal impact. To date, no related House bill has been filed. The bill next goes to the Senate Health and Human Services Appropriations Committee.

Senate Bill 590 & House Bill 1001 – HMO SUBSCRIBERS' RIGHTS ENLARGED

The House Healthy Seniors Committee passed HB 1001 (SB 590), which expands the right of a subscriber covered under an HMO contract who is a resident of a continuing care facility in a continuing care retirement community, to be referred to that facility's or community's skilled nursing unit or assisted living facility once the subscriber's primary care physician determines that such a referral is medically necessary and with the agreement of the facility. The bill preserves the arrangements of seniors residing in such facilities and who are HMO subscribers to receive their lifetime care in the facilities they have chosen, by allowing them to request that medically-necessary rehabilitative care be delivered in their home communities.

As provided in the bill, an HMO must provide a written disclosure of these rights to new subscribers who live in these facilities, including the right to use a specified grievance process if their request to be referred is not honored. The Senate companion bill, SB 590, has been adopted by the Senate Banking and Insurance Committee and the Senate Governmental Operations Committee. It is now in the Senate Health Regulation Committee.

Senate Bill 1884 – INSURANCE CONSUMER ADVOCATE GIVEN MORE POWER

Chief Financial Officer Alex Sink, a Democrat, appointed former Florida Comptroller, General Bob Milligan, a Republican and one of her campaign mentors, as Florida's new Consumer Advocate. In her announcement of General Milligan's appointment, CFO Sink pledged to pursue legislation that would substantially enhance the power of the Consumer Advocate. The Committee Substitute for Senate Bill 1884 (no related House bill has been filed) proposes to do just that. It expands the powers of the Consumer Advocate to appear in appellate actions of proceedings or actions before the Department of Financial Services (DFS) or the Office of Insurance Regulation (OIR); intervene as a party in proceedings before the Division of Administrative Hearings or an arbitration panel relating to insurer (except medical malpractice) rate filing; have access to and use of any public model for hurricane loss projections developed in accordance with Florida law; conduct investigations of insurance practices relating to unfair trade practices, unfair claims-handling practices, deceptive or misleading sales practices, or coercion or intimidation of insurance consumers.

The bill further delegates to the Consumer Advocate power to subpoena witnesses and evidence and as well as other powers; failure to comply with a Consumer Advocate subpoena subjects a violator to disciplinary action under the Insurance Code. Additionally, the bill empowers the Consumer Advocate to refer investigations to OIR or DFS when he believes further regulatory action should be taken. If the office or department determines that no regulatory action is warranted, the Consumer Advocate must be informed in writing of the basis for that determination. The Consumer Advocate may seek review, under Florida's Administrative Procedure Act, of any proposed agency action, agency determination, finding, or order of OIR, DFS, or Financial Services Commission (FSC) in any proceeding in which the Consumer Advocate has participated as a party.. Furthermore, the Consumer Advocate is empowered to research and analyze insurance issues from the perspective of consumers and prepare and disseminate such information as he considers appropriate to inform or assist consumers, DFS, OIR, and FSC.

PENDING LEGISLATION TO NOTE

Senate Bill 1742 – SURPLUS LINES AGENTS AND HOMEOWNER’S INSURANCE

Senator Mike Fasano has filed and introduced Senate Bill 1742, relating to surplus lines agents selling homeowner’s insurance. The bill creates new law to require a surplus lines agent selling such policies to first provide eligible customers with premium rate quotes for Citizens Property Insurance Corporation before quoting surplus lines policy premium rates. The bill has been referred to only one committee, Senate Banking and Insurance. At this time, there is no related House bill.

House Bill 1267 – LEGISLATION MAKING CITIZENS MORE COMPETITIVE WITH THE PRIVATE MARKET

House Bill 1267 allows Citizens Property Insurance Corporation (CPIC) to be more competitive, and was filed by Representative Julio Robiana from Miami-Dade County (Senator Rudy Garcia, also from Miami-Dade County, is sponsoring Senate Bill 2498). This bill authorizes CPIC to sell multi-peril coverage, wind-only coverage, or both types of coverage in high-risk accounts and authorizes policyholders to choose coverage from CPIC regardless of availability of other coverage. Additionally, the bill: 1) deletes limitations on eligibility for policies issued by CPIC; 2) revises requirements for CPIC in determining whether individual risk is eligible for coverage; 3) deletes provisions providing that a policyholder is no longer eligible for coverage if an authorized insurer offers coverage at an approved rate; 4) effective January 1, 2008, prohibits issuance of a new certificate of authority to a subsidiary insurer that is wholly owned by an insurer authorized to do business in any other state; 5) provides for expiration of existing certificates of authority of such insurers at the end of their respective periods of validation; 6) prohibits the Office of Insurance Regulation and the Financial Services Commission from renewing or reissuing existing certificates of authority of any insurer authorized to do business in any other state; and; 7) requires rate filings of an insurer that is a wholly owned subsidiary of an insurer (parent) authorized to do business in any other state to include the parent company’s profits information.

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