



## HCMA 2022 Legislative Priorities

### **1. HB 17 and SB 312 regarding telehealth**

- This legislation amends current statutes on telehealth so certain controlled substances can be prescribed via a telehealth encounter. This would narrow the prohibition to include only those controlled substances which are schedule II. Medications in schedules III, IV, and V would therefore be allowed.
- The senate bill also includes a change to the definition of telehealth to include audio-only telephone calls, which are currently excluded.
- Continued access to healthcare via telehealth is necessary for our patients. The need for payment parity for virtual visits at the same rate as in-person visits is crucial for the viability of telehealth.

### **2. Covid liability protections**

- Civil Liability for Damages Relating to COVID-19 (SB 72) – This legislation enacts specific provisions for COVID-19 related claims against healthcare providers that arise from the diagnosis or treatment of COVID-19, the failure to diagnose or treat a patient for COVID-19, transmission of COVID-19, or delay or cancellation of procedures or surgery due to government-issued health standards. The bill also established affirmative defenses for healthcare providers and a shorter statute of limitations. This bill was signed by Governor DeSantis at the end of March 2021.
- This needs to be extended to continue protection for physicians.

### **3. Protecting DNA privacy act (HB 833 from 2021)**

- Purpose of legislation is to protect a person's DNA from being collected or analyzed without their consent.
- The law establishes new criminal offenses applicable to persons who, without express consent, collect or retain another person's DNA sample with the intent to analyze such sample, disclose another person's DNA sample to a third party, or sell or otherwise transfer another person's DNA sample results to a third party.
- This requires a written consent after explanation of how the DNA sample will be collected, used, retained, and maintained, and how the results of the DNA analysis will be used.
- Subsection 5 states "it is unlawful for a person to willfully, and without express consent, sell or otherwise transfer another person's DNA sample or the results of another person's DNA analysis to a third party, regardless of whether the DNA sample was originally collected, retained, or analyzed with express consent". This is problematic as the term DNA sample is defined as "any human biological specimen from which DNA can be extracted." With this definition, it is now a crime (second degree felony) to transfer any human biological specimen from which DNA can be extracted to a third party without consent – (ex: medical waste disposal, laundry with blood/urine/skin cells to outside services).
- Also of concern are tests completed as secondary tests, like in pathology, where it is not known if "DNA" testing or analysis is necessary.



#### 4. Parental consent law (HB 241 from 2021)

- First legislation that specifically makes it a crime (first degree misdemeanor) to provide medical treatment to a minor child without written parental consent.
- Section 7 is concerning as it states, “except as otherwise provide by law, a health care practitioner may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining written parental consent.”
- The Department of Health was not granted rulemaking authority in this bill, and therefore cannot define these terms - provide/solicit care - would this include referrals to specialists, transfer of care, requesting second opinion?
- Does not apply to abortion, pregnancy, or STD testing/care, emancipated minors (would need certified copy of the removal of disabilities of nonage), married minors, or clinical laboratories unless services are delivered through a direct encounter as these are excluded by other laws. Cannot provide family planning/contraception unless patient is married, is a parent, or is currently pregnant.
- Questionable if it protects emergency medical care: clear statute that states parental consent not required for emergency medical care or treatment if the absence of such would endanger the health or physical well-being of the minor; however, this specifically states within a hospital or college health service and does NOT include physicians specifically in the pre-hospital care setting (only paramedics, EMTs, and EMS personnel are listed).
- Does not include Good Samaritan Act or the volunteer team physician statute that merely confer civil immunity from liability for providing health care services.
- Does not specify if there are 2 consents required, one for care and one for any Rx or if one would suffice.

#### 5. SB 262, HB 6011, HB 6039 regarding recovery of damages in medical negligence and wrongful death

- The first 2 bills delete a provision prohibiting parents of an adult child from recovering damages for mental pain and suffering in a medical negligence suit.
- The 3<sup>rd</sup> bill authorizes adult children of certain decedents to recover specified damages in a wrongful death suit but retains the provision against parents of an adult child from recovering damages.
- These bills will increase both the number of lawsuits and the cost of insurance premiums for providers in our state, which are already disproportionately high compared to other states.
- With a physician shortage issue in Florida, this will further compound that problem as practicing in this state would not be financially feasible, especially in light of proposed Medicare rate cuts.

#### 6. Scope of practice

- Promote quality of healthcare by requiring medical school training and licensure to practice medicine in FL.
- Clinical training hours:
  - Nurse Practitioner = 500
  - Physician Assistant = 2,000
  - Medical Student at end of year 4 = 6,000
  - Physicians w/ 3yr residency = 15,000



- Reducing physician oversight is not in the best interest of Floridians; we need to have clear boundaries on the scope of practice for physicians, ARNPs, PAs, & CRNAs as well as areas such as psychology, optometry, & pharmacy.
- Proposed PA name change of physician assistant to physician associate is misleading and confusing for patients.

#### **7. HB 167 regarding abortions**

- Requires the physician to conduct a test for, and inform a woman seeking abortion of, the presence of detectable fetal heartbeat.
- Prohibits the physician from performing or inducing an abortion if a fetal heartbeat is detected or if the physician fails to conduct a test to detect a fetal heartbeat.
- Provides exceptions (medical emergency only), but not in cases of rape, incest, etc.
- Authorizes private civil cause of action for certain violations; provides for civil remedies and damages – this is a very dangerous precedent to set in healthcare.
- 6-year statute of limitations and states anyone who aides or abets the patient can also be listed in a civil suit (someone who drives the patient to appointment, lends money to them, etc; what if patient shares this in their medical history – is the new physician required to report them?).

#### **The HCMA also supports:**

- Funding for Stop the Bleed kits (to control hemorrhage).
- SB440 overpayment of claims.
- Prior authorization legislation being crafted.
- Access to cancer medications (increased availability without need for prior authorization; tackling “white bagging” where the insurance company requires the medication be sent from their contracted pharmacy to the hospital or infusion center); FMA working w/ FL Hosp Assoc on legislation.

#### **The HCMA has concerns regarding:**

- HB 131/SB 466 Military Medics and Corpsmen of FL Program (while the program itself would be supported, specifically “perform activities that constitute the practice of medicine or nursing under direct supervision of a licensed physician/nurse” is concerning).
- HB 193/SB 348 Using Alternative Therapies to Treat Mental Health and other Medical Conditions (MDMA, psilocybin, ketamine for depression, anxiety, PTSD, bipolar, chronic pain, migraines).