



## FMA 2017 LEGISLATIVE AGENDA

### Legislation to Seek

#### **Board of Medicine Governance of Non-Physician Health Professionals**

Seek legislation placing any rights or privileges of all non-physician health care professionals engaged in the independent, unsupervised, or indirectly supervised delivery of health care under the governance of the Board of Medicine or the Board of Osteopathic Medicine (in the event legislation is introduced in Florida to allow for non-MD/DO health professionals to practice independently).

#### **Determination of Medical Benefits**

Seek legislation that would require managed care organizations to provide “real time” eligibility for their subscribers and reimburse physicians for any patient services rendered whereby subscriber eligibility has been confirmed prior to the delivery of care.

#### **Nerve Conduction / EMG**

Seek legislation that would limit the performance of nerve conduction studies and needle EMGs in outpatient facilities to situations where the licensed allopathic or osteopathic physician who is interpreting the study is onsite at the time the study is performed.

#### **Appropriate Payments for Vaccines/Vaccine Administration**

Seek legislation to ensure commercial insurance payment for all vaccines is not less than 25% above the vaccine cost on the CDC Vaccine Price List and that payment for each billed age-specific and non-age specific vaccine administration CPT code is not less than Medicare rates.

#### **Truth in Medical Education**

Seek legislation to make it unlawful for a nurse to represent him or herself as a physician (MD/DO), and include such activity under the definition of the unlicensed practice of medicine with felony-level penalties for such representation.

#### **Limits of Provider Responsibility**

Seek legislation which automatically terminates the active provider-patient relationship 3 years from the date of the last provision of care; and further stating that the provider is not responsible for the provision of services to any patient that no longer has an active relationship with their provider.

#### **Pain Clinics**

Seek legislation that allows state law regarding the standards of practice and registration of pain clinics to supersede any local ordinances and explicitly prohibits counties and municipalities from passing such laws.



## **Benefits Management**

Seek legislation that would require the following: any physician who makes health insurance coverage recommendations regarding approval or disapproval of any patient care decisions be licensed in the state of Florida and be a member of the same specialty as the ordering physician; all benefits managers to be considered as “practicing medicine” when taking action to approve or disapprove a benefit for a patient; benefits managers to disclose, upon request, the guidelines used to make a negative recommendation; and that ordering physicians be compensated for their time at market value when interacting with benefits managers hired or engaged by any third party.

## **Appropriate Payments by Ahca for Vaccines / Administration**

Work with the Agency for Healthcare Administration (AHCA) or seek legislation to increase vaccine payments to at least 25% above the vaccine cost, as listed on the CDC Vaccine Price List, for patients with MediKids or Healthy Kids insurance; encourage AHCA to update its vaccine fee schedule for MediKids and Healthy Kids patients on the first day of every quarter on their website; and work with AHCA or seek legislation to increase vaccine administration payments for all patients covered by Florida KidCare (Medicaid, MediKids, Healthy Kids, Children’s Medical Services) to the Maximum Regional Charges for Florida (\$24.01) as established by the US Department of Health and Human Services.

## **Refusal of Pharmacy Chains to Fill Legitimate Prescriptions**

Seek legislation or administrative rule to prevent interference in the practice of medicine by pharmacy benefit managers and pharmacists through their information requests on prescriptions and other actions that allow third party interference in the practice of medicine.

## **Electronic Medical Records / Electronic Health Records**

Seek legislation that would require all electronic medical record (EMR) vendors that sell products to Florida physicians to maintain and provide access to all patient medical records and abide by the same legal requirements of Florida physicians.

Seek legislation to prohibit electronic health record (EHR) companies from charging fees to physicians for the transferring of health records between EHR companies.

## **Health Insurance Reform**

Seek legislation to reform Florida’s health insurance laws and improve upon four major hassle factors physicians face on a daily basis: prior authorization; fail first protocols; retroactive denials; bait and switch.



### **Medicaid Payment Increase to Medicare Rates**

Seek legislation that mandates a fine, beginning in 2016, on Medicaid HMOs that do not pay at least Medicare rates to physicians after two years of continuous operation. The fine shall equal at least 10% of the payment (Medicare rates or above) due to the physician; be levied and accrue on a monthly basis beginning 30 days after the initial infraction if appropriate payment (Medicare rate or above) is not received by the physician; and that the physician be paid the sum of the payment owed (Medicare rate or above) and all fines levied against the Medicaid HMO.

### **Medical School Loan Forgiveness**

Seek legislation to fund a medical student loan forgiveness program such as the Medical Education Reimbursement and Loan Repayment Program established in F.S. 1009.65 for physicians practicing in underserved specialties or geographic locations in Florida.

### **Use of the Term “Physician”**

Seek legislation that would prohibit the use of the term “physician” by any person other than an M.D. or D.O. Seek legislation mandating that all persons other than M.D.s, D.O.s, dentists and chiropractors holding themselves out as “doctors” wear a conspicuous name tag or signage which has letters no smaller than 4mm per letter and which fully spells out the exact name of their formal degree (Doctor of Nursing Practice, etc.) and that they further be required to orally state that they are not physicians with each and every encounter.

### **Immunization Coverage for Vaccine Preventable Diseases**

Seek legislation to ensure physician and other entities to be covered 100% for all vaccination related costs as preventative care without co-pay and or deductibles at levels properly above costs of storage, administration and other E&M codes and CPT codes associated with immunization.

### **Physician Payment for Patient Phone Calls**

Seek legislation for appropriate payments by health insurance companies to Florida-licensed physicians for providing medical care/advice as documented in the electronic medical records to patients by telephone, e-mail and other electronic communications methods.

### **De-Linkage of Medical Staff Privileges From Hospital Employment Contracts**

Pursue state legislation to statutorily de-link/uncouple medical staff privileges from physician employment contracts and purchase service agreements.

### **Maintenance of Certification**

Seek legislation to improve the efficiency of the health care markets and eliminate unnecessary administrative and regulatory requirements, health care providers shall not be required, by any public or private entity to comply with maintenance of certification requirements after achieving initial board certification, other than the continuing medical education (CME) requirements set by the health care provider’s licensing board.



## LEGISLATION TO SUPPORT

### INSURANCE/HMO REFORM

#### Preauthorization for Medical Testing

Support legislation making it unlawful for an insurance company or other third party payer to interfere with a licensed MD/DO's valid order for a medical test or procedure, provide for the mandatory use of a standardized form by all insurance companies and managed care plans that require any type of prior authorization, and place strict limitations on the use of fail first protocols.

#### HMO'S Bait and Switch

Support legislation that would require HMOs to allow any policyholder to continue to utilize the services of any physician who was on the list of preferred providers as of the date of the policyholder's enrollment for no less than one year from the date of enrollment.

#### Transparency in Health Insurance CPT Reimbursement Schedules

Support legislation that would require all health insurance companies licensed in Florida to give all physicians access, on the company's website, to the participating physician's current complete fee schedule.

#### Ensuring Payment for Newborn Care

Support legislation that would require all health insurance companies, including all Florida licensed Medicaid HMOs, to cover the medical care of any newborn child under the mother's policy with no additional out-of-pocket costs for the policyholder during the first 30 days following the birth of the child, and provide that all physicians providing services to a newborn child of a Medicaid enrollee during this 30 day period are paid for their services regardless of the physician's contracting status with the Medicaid HMO.

#### Payment for Preventative Services

Seek or support legislation so that comprehensive preventive medicine CPT codes (99381-99387, 99391-99397) are paid at least at "Medicare" rates, as calculated by using RVU's obtained from the Centers of Medicare and Medicaid Services (CMS); and also seek or support legislation so that vision screening, hearing screening, VEP (visual evoked potential), and recommended age-appropriate laboratory procedures and tests are required to be paid independently when performed along with a comprehensive preventive medicine CPT code (99381-99387, 99391-99397).

#### Appropriate Payment for Vaccine Price Increases

Seek or support legislation so that health insurance companies increase vaccine payments by an amount at least equal to the manufacturer vaccine price increase(s) beginning on the day the price increase(s) goes into effect.



### **Timely and Appropriate Payments for New CPT Codes**

Seek or support legislation to ensure that, beginning January 1st of each year, health insurance companies recognize and pay physicians for all current-year CPT codes billed.

### **Prohibit Artificial Price Controls of Non-Covered Services**

Support legislation that would prohibit Florida insurance companies from forcing contract provisions on health care providers for services not covered by the plan.

### **Physician Representation in Exchanges**

Support legislation which ensures that the governing body of any Health Insurance Exchange contains adequate physician representation and which prohibits restrictions on the ability of a physician to bill patients directly for the costs of care not fully covered by their insurance policy, and which does not weaken any existing physician protections in chapters 641 or 627, F.S.

### **Ensuring Availability Of Medical Professional Services And Safety Of Office-Based Surgery**

Support legislation requiring all insurance companies to recognize that higher costs exist for professional medical services performed in an office and further to negotiate in good faith with any provider of office based services to contract higher levels of payment to provide those services in the office.

### **Beers List**

Support legislation/administrative rules that prevent insurance companies from denying medications or coverage of medications on the “Beers List” when prescribed by physicians for their patients and that prevents physicians from being penalized through HEDIS MEASURES or Five Star Performance Ratings for prescribing such medications based on the physician’s best clinical judgment.

### **Expert Witness Fees in Workers Compensation**

Support legislation that will amend Florida Statutes to increase the statutory expert witness fee and enable insurance carriers to negotiate reasonable fees with physicians to ensure adequate access to medical experts and specialists in the workers compensation system.

### **Insurer Compliance with Authorization Requests in Workers Compensation**

Support legislation that will amend Florida Statutes to require an insurance carrier to approve or deny a treatment authorization within the time frame already established in Florida law.

### **Medicare Annual Physical Examinations**

Advocate that Annual Wellness Visits (AWV) only be performed by a patient’s primary care physician or their designee.





## MEDICAID ISSUES

### Medicaid to Medicare

Increase the reimbursement rate for Medicaid to that of Medicare. At the very least seek to ensure that physicians have the opportunity to control the disbursement of Medicaid funds in any type of capitated system.

### Implementation of PPACA Medicaid Reimbursement

Support state implementation of a rate increase to Medicaid primary care providers pursuant to the Affordable Care Act in a manner that implements the increase uniformly and which ensures that primary care physicians receive the full increase, and continue to support an increase for all physicians.

### Ensuring Medicaid Payment Rate Increase

Support legislation and help guide discussions in the 2014 legislative session between the Governor, the Senate, and the House to ensure that Medicaid payment rates, including Title XIX, Title XXI (MediKids and Healthy Kids), and Children's Medical Services, are increased to not less than Medicare levels in 2015 and beyond for all Florida physicians.

### Medicaid Expansion

Support the statewide expansion of Medicaid only if this expansion safeguards patient access to care while increasing Medicaid payment rates to Medicare levels for all physicians.

### Medicaid Managed Care Program

Support legislation that would require all plans in the statewide Medicaid managed care program to reimburse all physicians at Medicare levels.

## PUBLIC HEALTH & SAFETY

### Prohibiting the Sale of Tobacco Products in Retail Pharmacies

Support legislation amending current Pharmacy laws to prohibit the sale of tobacco products (including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation), in establishments housing licensed pharmacies.

### Raising Cigarette Taxes in the State of Florida

Support legislation to further raise the excise tax on cigarettes to at or above \$2/pack in order to further tobacco control efforts within the State of Florida.

### Penalties for Caretakers Who Withhold Information

Support legislation that would make it a crime for caretakers to purposely withhold information and/or provide false or misleading information to treating physicians/health care professionals regarding the true nature of a child's injury or condition.



## **Graduated Driver Licensing Systems – Teen Safe Driving**

Support legislation to strengthen Florida’s existing graduated driver licensing systems to meet current recommendations by the National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, and the American Academy of Pediatrics.

## **Tanning Beds**

Support legislation that would prohibit minors from using tanning beds.

## **Natural Gas Fracking**

Support legislation that requires full disclosure of specific chemicals released into the environment during oil and gas extraction; that requires the state to monitor this data and share information with physicians and the public; and that supports research into the health impacts of oil and gas exploration and extraction in Florida.

## **Motorcycle Riders**

Support legislation that requires unhelmeted motorcyclists to procure at least \$40,000 of personal injury protection (PIP) insurance.

Support legislation that reinstates the motorcycle helmet law for all riders, regardless of age.

## **Tightening Childhood Immunization Laws**

Support legislation to ban personal and religious exemptions and require biennial renewal of medical immunization exemptions.

Support legislation to improve and provide information given to parents regarding immunizations and the dangers of not immunizing.

## **Free and Charitable Clinics and Physician Volunteer Networks**

Support funding to the Florida Association of Free and Charitable Clinics to provide grants to qualified free and charitable clinics.

## **Preschool Vision Screening**

Support legislation that requires the State of Florida to develop guidelines regarding vision screening for children prior to them entering kindergarten.

## **Sunscreen Use**

Support legislation to permit the use of sunscreen in school districts and private schools in Florida



## Other Issues to Support

### Graduate Medical Education

Increase state funding for graduate medical education programs in order to preserve access to care in Florida.

Support legislation that would enable counties to invest revenue generated from local Tourist Development Taxes to fund Graduate Medical Education and Residency Programs within their communities in order to decrease the physician shortfalls projected in the future and satisfy the desire of the State of Florida to enhance its reputation as a Medical Tourism destination.

### Tort Reform

Support legislation that will increase the burden of proof for negligence in cases involving supplemental diagnostic testing in order to reduce costly and unnecessary testing for defensive purposes.

### Identify Interventional Pain Medicine as the Practice of Medicine

Support legislation that identifies interventional pain medicine as the practice of medicine by medical and osteopathic physicians and specifies that only physicians licensed under Chapter 458 or Chapter 459 may perform interventional pain medicine techniques.

### Guardianship Reform

Support legislation to effectively improve protections of incapacitated persons in Florida's guardianship statutes and processes.

### CPR Training in School

Support legislation to request high school students be properly trained in CPR.

### Ban on Creating Cryopreserved Human Embryo Banks

Support legislation that ensures human embryos shall not be created by fertilizing donor oocytes with donor sperm except at the specific request of a patient or patients who intend to use such embryos for his/her/their own treatment.

### Freedom for Referral Choice

Support legislation that prohibits hospitals and groups that employ physicians and providers from forcing referrals to specific specialties and services.





## **Florida Consumer Collection Practices Act (FCCPA) Reform**

Support legislation that would require debtors to use certified mail to notify creditors and debt collectors that he or she has hired an attorney to represent them and provide a timeframe for creditors and debt collectors to comply with a properly received notification.

## **Board Certification**

Support legislation which would allow physicians to submit any board certification accepted by the Florida Board of Medicine (BOM) and Florida Board of Osteopathic Medicine (BOOM), that has educational requirements that meet or exceed current requirements for state licensure as an alternative pathway for compliance with MD/DO Florida licensure and re-licensure continuing medical education requirements with the exception of that required by statute.

## **Mandatory Reporting of Adverse Events Related to out of Hospital Births**

Support efforts to amend Florida statutes to require that the individual conducting the attempted planned out of hospital birth report to the Florida Department of Health (DOH) or the Florida Board of Medicine (BOM), all adverse events or outcomes, including all that result in an emergency antepartum and intrapartum referral to a hospital emergency room or birthing facility.

## **Advocacy for Metabolic Bariatric Surgery for Severely Obese Patients Suffering with Type 2 Diabetes**

Support legislation to promote access to Metabolic Bariatric surgery among severely obese (BMI>35) patients with type 2 diabetes.

## **Hair Restoration Surgery**

Support legislative efforts to prohibit the use of unlicensed personnel and/or medical assistants to perform hair restoration evaluation, diagnosis, and/or critical-to-quality steps of hair restoration surgery, such as diagnosis of hair loss etiology, hair re-distribution planning, donor harvesting of follicular units via FUE or strip methods, and creation of recipient sites.

## **Physicians Access to Safe Medications When Treating Chronic Pain**

Support requiring insurance companies in the State of Florida to have multiple long-acting opioids with abuse deterrent technology on both their tier one and tier two level pharmacy benefits.

## **Maintenance of Certification**

Support legislation to protect against physicians being dropped from hospital medical staffs based solely on maintenance of certification (MOC).



## LEGISLATION TO OPPOSE

### SCOPE OF PRACTICE

#### Scope of Practice Expansions

Continue to oppose all scope of practice expansions including naturopaths, ARNPs, pharmacists, optometrists, psychologists, podiatrists, direct access to physical therapists, audiologists and speech language pathologists.

#### Physician Supervision Issues

Protect advances we have made relating to physician supervision of nurses and PAs.

#### Autonomy in Medical Decision Making

Oppose any legislation that would infringe on physician practice autonomy and the doctor/patient relationship.

### LICENSURE/REGULATORY ISSUES

#### Telemedicine

Oppose any legislative proposals that would allow a health care provider without a Florida medical license to provide telemedicine and telehealth services to Floridians.

#### Prescription Drug Monitoring Database

Oppose mandates on physicians to check Florida's prescription drug monitoring database before issuing a prescription

#### Mandatory Participation In Health Networks

Oppose legislation that requires the linkage of physician licensure to the acceptance of any government or private insurance, public health care system, forced public service initiatives or mandatory ER coverage.

#### Mandatory Participation in Health Networks

Oppose legislation that would tie physician licensure to mandated participation in any health care network, insurance plan or public health care system, forced public service initiatives, mandated emergency room coverage, or affiliation with any public or private third party payor organization.

#### FSMB Maintenance of Licensure (MOL) Program Adoption

Oppose any efforts by the Florida Board of Medicine and the Florida Board of Osteopathic Medicine to require the Federation of State Medical Boards, Inc., (FSMB) "maintenance of licensure (MOL)" program, "maintenance of certification (MOC)", or recertification by a specialty medical board as a condition of licensure in the State of Florida.



## **MEDICAID REFORM**

Oppose any effort to mandate Medicaid participation as a condition of physician licensure.

## **INSURANCE / PAYMENT**

### **Protection of Fee-For-Service as an Appropriate Method of Physician Reimbursement**

Oppose legislation which seeks to limit physicians' ability to contract for services with patients, or which coerces a physician to be a party to a contract which the physician has not agreed to.

## **UNFUNDED MANDATES**

Oppose any legislation that imposes additional costs on physicians or their practices without remuneration or other mechanisms to offset the additional costs.

### **CMS Verbal Order Authentication Requirement**

Collaborate with the Florida Hospital Association and the Florida Society of Hospital Physician Executives to effect legislative change to FS 395.3025(12) as follows, "Verbal or telephone orders for hospital services must be authenticated within 30 days from the date of patient discharge. The hospital must maintain the written authentication or documentation of the efforts made to obtain such authentication as part of the medical record."

### **Protection of Physician Payment – Florida Personal Injury Protection (Pip) Reform**

Oppose legislation which would remove the \$5,000 allowable for treating physicians of motor-vehicle accident victims; and that any legislation passed include a section for a prompt and defined payment period by the insurance company to ensure timely delivery of physician payment.

## **MEDICAL LIABILITY**

### **Protect Ability to Self Insure**

Oppose legislation that will take away a physician's ability to self insure or that will make it more difficult for a physician to meet the financial responsibility requirements for licensure.

## **Arbitration**

Oppose any changes to the statutes/rules governing arbitration that would jeopardize the effectiveness of the FMA created physician-patient arbitration form.

## **Wrongful Death**

Oppose any expansion of Florida's Wrongful Death Act.



## **Fabre Changes**

Oppose any legislation changing current law relating to the Fabre doctrine.

## **Other Issues to Oppose**

### **Vaccinations**

Oppose any vaccine legislation that would deviate from evidence-based recommendations and guidelines of the Centers for Disease Control and Prevention, the Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics.

### **Limits on Physician / Patient Conversations**

Oppose any legislation that would seek to interfere with the scope of conversations a physician can have with their patients or patient's guardian.

### **Marijuana for Medical Conditions**

Oppose Amendment 2, the constitutional amendment to legalize marijuana for medical conditions.

