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Legislature Wraps Up very Busy First Six Months; Kasich Declares for Presidency

On June 30, the Ohio Legislature wrapped up its business for the first six months of 2015 by passing a flurry of bills, most notably House bill 64, the state's \$71.5 billion biennial budget bill (a recap of the budget bill contents are listed below). Governor Kasich signed the budget bill but not before issuing a record 44 line item vetoes. The House and Senate are anticipated not to return to Columbus for official business until mid-September (at the earliest) and then have scattered weeks of sessions and committee meetings (no more than 10 legislative session days) during the remaining months of 2015.

On July 21, Governor Kasich declared his candidacy for the Republican presidential nomination in an announcement ceremony at The Ohio State University. Many members of the Ohio General Assembly were at the event and many Kasich state policy staffers will be taking leaves of absence to work on the Governor's presidential campaign.

HOUSE BILL 64 (BUDGET BILL)

TAX POLICY

- Ohioans will receive about a 6.3% across-the-board income tax cut, which will lower Ohio's top income tax rate to under 5% for the first time since 1982;
- Small businesses will continue to receive a 75% state income tax cut on the first \$250,000 in revenue and that tax will totally be eliminated by fiscal year 2017. Taxes above that amount will be subjected to a simply 3% flat tax;
- A \$0.35 per pack tax increase on each pack of cigarettes while taxes on other tobacco products will remain the same;
- Creates the 2020 State Tax Study Commission that, among other items, will examine the state's current severance tax and examine ways that the top income tax level could be reduced to a 3.5%-3.75% flat tax;
- The legislature rejected Governor Kasich's call to raise the overall state sales tax, raise the commercial activities tax (CAT) on businesses, other tobacco taxes and the current level of the state's severance tax.

HEALTH CARE

- Medicaid expansion will continue in Ohio. One of the items vetoed by Governor Kasich was language inserted by the legislature that would weaken the role of the State Controlling Board

(the body in which Medicaid expansion was done last session) in this area in an attempt to avoid this policy from being run through the Board at a certain future date;

- Mandates the submission of a federal waiver by Medicaid to incorporate a health savings account into the Medicaid program;
- Will institute most of the Medicaid plan approved by the Ohio Senate; including action on certain eligibility groups (authority will be maintained by the Medicaid Director and not the legislature as originally requested) as well as the creation of a new Health Services Providers Cost Estimates Study Committee within the Office of Health Transformation (OHT). This new study committee replaces language placed into the budget bill regarding the Ohio All Payer Health Data Committee and other language regarding hospital assessments and cost estimates;
- Language very similar to HB 127 regarding the operations and activities of Pharmacy Benefit Managers (PBM's) in Ohio. The conference committee adopted the House-version of this language (favored by the pharmacists) rather than the "softer" language adopted by the Senate (favored by the PBM's). The PBM's have strongly formed a working group (PhRMA is not part of this group) that will ask Governor Kasich to veto this language;
- Mandates that the Ohio Superintendent of Insurance apply for a waiver to CMS for "the purpose of establishing a system that provides access to affordable health insurance coverage" and also apply for a waiver of the federal employer and individual mandate under the ACA. This language was passed before the US Supreme Court decision on King v. Burwell so we shall see if the legislature insists this provision be carried out;
- The conference report removed language (in different forms) put in by the House and Senate regarding health insurers and required information disclosures concerning plans sold on the health care exchange;
- Under the Ohio Department of Health, creates the Legislative Committee on Public Health Futures which will review previous reports and fiscal reviews of programs and make legislative and fiscal recommendations of its own to the General Assembly no later than January 31, 2016;
- In the budget of the State Board of Pharmacy, the conference committee did adopt language passed by the Senate that would change from two to three years the timeframe of which information in OARRS would need to be retained.

One additional item that was added to the budget bill of the Ohio Bureau of Workers' Compensation (HB 52) at the request of Senator Dave Burke was language to ORC Section 5162.80 (Medicaid) that would require (beginning on January 1, 2017) health care providers to provide in writing an "estimate" of certain costs and out-of-pocket costs to patients for certain services or procedures that the provider might administer to the patients. This amendment also will create the Health Services Providers Cost Estimates Disclosure Study Committee under OHT to study the feasibility of carrying out the requirements listed in ORC Section 5162.80. A report is due to the General Assembly no later than December 31, 2015. Provider groups are voicing their displeasure with this language to House and Senate members and this could be a "corrective item" dealt with this fall or in the next budget "clean up" bill.

(House Bill 169)--PHYSICAL THERAPY SCOPE EXPANSION BILL

Before recessing for the summer, the Ohio House did not take any action on HB 169, legislation that would create a huge expansion in the scope of physical therapy. HB 169 is currently before the House Commerce & Labor Committee. This legislation will propose to allow physical therapists to offer a medical diagnosis and order certain diagnostic tests for patients. **OHFAMA is strongly opposed to this legislation and is working with a comprehensive coalition of physician groups, such as the OSMA and OOA, to jointly work on opposing this legislation.** OHFAMA has signed on to a joint letter from all the physician groups to Commerce & Labor Committee members and House leadership stating our strong opposition to this bill and our association has offered opposition testimony before the committee on this bill.

The OSMA and OOA jointly met with Commerce & Labor Committee chairman Ron Young late last week as part of the chairman's request to continue discussions over the summer to see if there is any "common ground" that could be agreed to regarding the bill by all parties. The letter presented to the chairman by those groups is enclosed for your review as are two amendments the chairman asked for an opinion on for possible incorporation into the bill. Based on these two amendment proposals, the OSMA and OOA told the chairman they could not support either of these proposals and I believe OHFAMA would concur on that opinion. It appears the House committee will take the bill back up when it returns in the fall.

OTHER BILLS OF INTEREST

- Meetings over the summer will also take place regarding the proposed legislation of Republican Representative Dorothy Pelanda to allow nurses to practice at much more independent level by seeking elimination of current physician/nurse consultation agreements and dissolving of the current state formulary for nurses. This bill was just introduced and has only had a sponsor hearing before the onset of the summer recess.
- The Senate unanimously approved SB 141, legislation sponsored by Senator Dave Burke (a pharmacist) to make changes in the current physician-pharmacist consultation agreements in Ohio law. A companion bill, HB 188, sponsored by Representative Nathan Manning, was unanimously approved by the Ohio House. Both bills slightly expand the parameters of the consult agreements to not require them to be solely patient specific but still leave the physician ultimately in charge of what that physician feels comfortable allowing the pharmacist to perform in relationship to treating a patient. Under the bill, a pharmacist still may not independently prescribe drugs.
- The House also overwhelmingly voted to approve HB 116, legislation that would allow the synchronization of a patient's medication refills. Under the bill, managed care organizations would be required to pay for a "pro-rated" amount of medication for a patient in order to get that patient's medications on a similar refill schedule at the retail pharmacy or through mail order. Language was added to the bill before passage that would not allow certain drugs to be eligible for this process. The bill now moves on to the Ohio Senate for further consideration.

- OHFAMA, Representative Kirk Schuring (at the request of the State Medical Board) and the State Board continue to work on the formulation of legislation that will seek to make changes to certain Revised Code sections concerning the operations of the State Board. The Schuring bill, which was HB 519 last session, also included language that would make minor changes in the language regarding podiatric physicians and surgeons. OHFAMA has been deeply involved in discussions with the State Board on this language and your association expects this bill to be introduced in the near future. One very positive development that has taken place due to the work of your OHFAMA Executive Director concerns the willingness of the State Medical Board to place statutory language in this bill to permit podiatric physicians and surgeons to utilize HBO. Your association is meeting with the Medical Board and Representative Schuring to select the correct language to use in this bill and will keep you updated on this very important subject.
- Senator Randy Gardner informed OHFAMA that SB 129, the legislation that he jointly sponsored with Democratic Senator Capri Cafaro, will once again begin interested parties discussions when the General Assembly returns in the fall.

SENATE BILL 194 (ALTERNATIVE MEDICINE)

Republican Senator Kris Jordan just reintroduced the long-debated “alternative medicine” bill that has been before the General Assembly in many different sessions. This bill would give “alternative practitioners” statutory recognition of the provision of certain alternative forms of treatments and therapies. OHFAMA and the entire licensed health care provider community have long been against this bill and will continue this opposition.

As always, we will keep you updated on meetings, developments with existing bills or new bills introduced over the summer.