

Ohio Foot and Ankle Medical Association
Legislative Update
August 3, 2017

BUDGET UPDATE (HB 49)

Following a very busy and often contentious six-month period, Ohio's two-year biennial budget was signed into law by Governor Kasich on June 28th, just before the constitutionally mandated July 1st deadline. Faced with continually declining revenue numbers, the House and Senate made sweeping cuts to various programs and scrapped the Governor's as-introduced tax cuts in the process. While both the House and Senate majority party leaders maintained their agreed-upon version of the bill was structurally balanced, the Governor disagreed and issued 47 line-item vetoes (most of them dealing with Medicaid-related items) before signing the bill.

In an historical move, the House returned in a July 6th session to override 11 of Kasich's 47 line-item vetoes. Notably, this was the first time the House has voted to override multiple vetoes from a governor in 40 years, thereby highlighting the acrimonious relationship between the legislature and the administration. At the end of the override portion of the House session, a motion was adopted to keep the remaining vetoes issued by the Governor "as pending", meaning they could come back at any time during this General Assembly and take up additional veto override motions.

Further, the Ohio Senate has not yet met to override any of the vetoed items although the chamber has "if needed" session dates scheduled for August 16th and 23rd and we have been told they will likely pursue overrides during one of those meetings. (Copies of both the Governor's veto message, as well as the full override list are attached.) Notably absent from the override list is the Governor's elimination of a provision that would freeze new enrollment in the Medicaid expansion group on July 1, 2018. With many groups in support of the Governor's veto on Medicaid expansion, it is rumored the House didn't have sufficient votes to override this provision.

Further highlighting the differences of opinion between the legislature and the administration, Office of Budget and Management Director Tim Keen contends that Medicaid is being funded at roughly \$1.4 billion below what is needed to cover the cost of the program. He has publicly said the House's veto overrides limit the program's flexibility. As such, he contends that Medicaid rates for certain providers may have to be cut in order to account for the changes. Though we do know that the Ohio Hospital Association and several long-term care groups have been told by Medicaid that they should prepare for cuts, there is no confirmation they would be targeting any other provider groups.

***The legislature is on summer recess until next month with the exception of the possible
"as-needed" Senate sessions scheduled for later this month***

The following are other issues of interest that were contained in the as-passed budget:

TAXES

- As noted previously, most of the tax reform language initially proposed by Governor Kasich was eliminated in the final version of the budget though the legislature did adopt a plan to condense the number of individual tax brackets in Ohio's tax code.
- Also approved was language that would require the Kasich administration to seek a federal waiver to increase the managed care franchise fee tax (by \$207 million per year through July 1, 2024). You may recall that Ohio can no longer use the "MCO sales tax" it had used for years in Medicaid. Counties and transit authorities loudly complained during the budget process that they would lose large dollar amounts because of the repeal of the MCO sales tax, as they could not issue "piggyback" local sales taxes on to those amounts, thereby raising additional local revenues.

*This issue was vetoed by the Governor, as administration officials have constantly said the tax revenue to locals was meant to be temporary and should not be permanently replaced; however, the House overrode the veto so we will wait to see if the Senate acts on this provision as well.

MEDICAID

- The final proposal did not include any language that would impact the administration's original proposal to utilize a single formulary in Medicaid. You may recall that the Administration said it plans to utilize an administrative rule to implement a single formulary for the five Medicaid Managed Care MCO's.
- Language regarding the policy statement of the General Assembly regarding the passage of health care "mandate" legislation remained in the final version of the bill. In ORC 3901.89, the Senate inserted language that would codify the prohibition on passage of "health care mandate" legislation for the remainder of the 132nd Ohio General Assembly. This issue was addressed as an "intent of the General Assembly" statement in temporary law at the end of last session at the request of certain constituencies who were opposed to the passage of an autism benefit mandate that was inserted into a bill during the "lame duck" session.

BOARD CONSOLIDATION

The final version of the bill included language to consolidate or eliminate several licensing boards. Though much less encompassing than the Governor's original proposal, the following boards were affected:

- The Board of Orthotics, Prosthetics, & Pedorthics will be transferred to the Occupational Therapist, Physical Therapist and Athletic Trainers Board
- The Board of Speech Language Pathology & Audiology was combined with the Hearing Aid Dealers & Fitters Licensing Board to create the State Speech & Hearing Professionals Board
- Both the Board of Dietetics and the Respiratory Care Board are folded in to the State Medical Board
- The Manufactured Homes Commission will be folded into the Department of Commerce

- The Board of Optometry will be combined with the Optical Dispensers Board to form the State Vision Professionals Board
- The State Board of Cosmetology will combine with the Barber Board to become the State Cosmetology & Barber Board

OTHER LEGISLATION

HB 131 PHYSICAL THERAPY (GAVARONE, T., REINEKE, B.)

(To modify the laws governing the practice of physical therapy)

- HB 131 is still being considered in the House Health Committee. As previously mentioned, Chairman Huffman is not favorable to passage of the bill and we have remained in close contact with him regarding his plans for proceeding on the legislation.
- OHFAMA offered opposition testimony on the bill on June 20th, 2017.

HB 167 OPIOID MEDICATIONS (EDWARDS, J.)/***SB 119 OPIOID MEDICATIONS*** (HACKETT, R., HOTTINGER, J.)

(Regarding addiction treatment and opioid prescribing by physicians and dentists)

- Both HB 167 and SB 119 (companion legislation) have each received one hearing in their respective committees.

HB 145 CONFIDENTIAL TREATMENT (HUFFMAN, S., SPRAGUE, R.)

(To provide for the establishment of a confidential program for the treatment of certain impaired practitioners)

- HB 145 (one-bite) passed the House in late June and will be considered in the Senate when the chamber returns from summer break.
- OHFAMA offered proponent testimony on the bill on May 29, 2017.

HB 273 MAINTENANCE OF CERTIFICATION (GAVARONE, T., JOHNSON, T.)

(To prohibit a physician from being required to secure a maintenance of certification as a condition of obtaining licensure, reimbursement, or employment or obtaining admitting privileges or surgical privileges at a hospital or health care facility)

- HB 273 has been referred to House Health Committee but has not received any hearings.

HB 289 OCCUPATIONAL LICENSING AND REGISTRATION (HOOD, R., MCCOLLEY, R.)

(To establish a statewide policy on occupational regulation, to require standing committees of the General Assembly to periodically review occupational licensing boards regarding their sunset, to require the Common Sense Initiative Office to review certain actions taken by occupational licensing boards, and to require the Legislative Service Commission to perform assessments of occupational licensing bills and state regulation of occupations)

- HB 289 has been introduced but has not yet been referred to a committee

Veto Overridden

1 HB49 ITEM 3: CONTROLLING BOARD AUTHORITY. VOTE: 65-30

2 HB49 ITEM 23: MEDICAID COVERAGE OF OPTIONAL ELIGIBILITY GROUPS. VOTE: 65-30

3 HB49 ITEM 25: LEGISLATIVE OVERSIGHT OF RULES INCREASING MEDICAID RATES. VOTE: 66-30

4 HB49 ITEM 26: MEDICAID RATES FOR NEONATAL AND NEWBORN SERVICES. VOTE: 96-0

5 HB49 ITEM 27: MEDICAID RATES FOR NURSING FACILITIES. VOTE: 96-1 (DUFFEY)

6 HB49 ITEM 30: LONG-TERM SERVICES ADDED TO MEDICAID MANAGED CARE. VOTE: 95-2 (DUFFEY & SWEENEY)

7 HB49 ITEM 31: BEHAVIORAL HEALTH REDESIGN. VOTE: 95-2 (PATMON & WIGGAM)

8 HB49 ITEM 33: HEALTH INSURING CORPORATION FRANCHISE FEE. VOTE: 87-10

9 HB49 ITEM 34: CONTROLLING BOARD AUTHORIZATION REGARDING MEDICAID EXPENDITURES. VOTE: 66-31

10 HB49 ITEM 36: WAIVER REGARDING HEALTHY OHIO PROGRAM. VOTE: 66-31

11 HB49 ITEM 37: OIL AND GAS LEASING COMMISSION APPOINTMENTS. VOTE: 67-29