

## Gold Dome



March 11, 2019

### **Gold Dome Report - March 11, 2019**

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Action under the Gold Dome was light today as members of the General Assembly (and lobbyists) adjusted to Daylight Savings Time. While the House convened at their normal start time, the absence of a Rules Calendar expedited floor proceedings. Although the Senate delayed convening until 1PM, its short Rules Calendar allowed them to take care of their business in just over an hour. A light afternoon committee schedule was anchored by Senate Appropriations Subcommittee meetings as Senators mulled over the details of the FY 2020 Budget. Action should pick up a bit on Wednesday as the Senate takes up [HB 316](#), Rep. Barry Fleming's (R-Harlem) voting machine measure that should draw considerable debate. But the House is expected to remain idle, ticking off another Legislative Day without any bills on the floor. Of course, everything is subject to change this time of year, so keep track of the developments in our daily publication and on Twitter by following [#GoldDomeReport](#).

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#### **Committee Updates**

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### Senate Insurance and Labor Committee

The Senate Insurance and Labor Committee, chaired today by Sen. P.K. Martin IV (R-Lawrenceville), met to consider three bills:

- [HB 63](#), authored by Rep. Sharon Cooper (R-Marietta), amends Title 33 to require health benefit plans to establish step therapy protocol that establish the specific sequence in which prescription drugs for a specified medical condition are deemed medically appropriate for a particular patient. The bill also requires plans to establish an exception procedure by which a specific drug prescribed by a practitioner is immediately covered by a plan. Sen. Kay Kirkpatrick (R-Marietta) will carry the bill in the Senate. Chairman Martin noted that he expects a vote on the bill later this week.
- [HB 99](#), authored by Rep. Richard Smith (R-Columbus), modernizes Chapter 40 through the end of Insurance Code (Title 33). Chairman Smith noted that the first 39 chapters of Title 33 are being updated through [SB 132](#) and [SB 133](#), and Sen. Marty Harbin (R-Tyrone) will carry the bill in the Senate. Chairman Martin stated that there is an interest in attaching the Senate's captive insurance bill to HB 99, and the bill will be voted out of Committee later this week once a substitute achieving this purpose is available.
- [HB 368](#), authored by Rep. Darlene Taylor (R-Thomasville), amends Title 33 to provide for plans of division allowing domestic insurers to divide into two or more entities. Chairman Martin noted that the Committee had heard and voted the bill out last year. He also spoke to a Substitute that would add the content of [SB 124](#) to the bill at Section Five (revising requirements for notices of reduction in coverage for auto and property insurance). The Committee recommended the bill DO PASS by Committee Substitute and be sent to the Rules Committee. Chairman Martin will carry the bill in the Senate.

### Senate Health and Human Services Committee

The Senate Health and Human Services Committee, chaired by Sen. Ben Watson (R-Savannah), met to consider two propositions today:

- [HB 300](#), by Rep. Vance Smith (R-Pine Mountain), deals with “continuing care retirement communities” in Titles 31 and 33. Rep. Smith asked to change the name of such entities to “life plan communities.” An amendment, late arriving, will be addressed on Wednesday. Thus, today was HEARING ONLY. Rep. Smith presented the legislation outlining the “name change” to “life plan communities.” The Amendment was presented by Tom Bauer (on behalf of Leading Age Georgia), relating to [HB 198](#). An individual lives independently in the independent living portion of the facility then they will move to a skilled facility on site when they need that level of care. The admissions to the skilled beds in these facilities are addressed in the Amendment with changes to the percentages over a five-year period with no more than 25 percent of the beds or max of 10 where individuals would go directly into nursing home beds and not be required to be admitted through independent living. There is a new continuing care retirement community being constructed now in Athens underway which will not meet these new thresholds according to Mr. Bauer. Sen. Cowser asked questions about moving bills in the Senate which did not pass through the House. Sen. Kirkpatrick asked why to change the name and also inquired about payments for nursing homes (as she understood that for Medicare to pay that the individual had to go through a hospital). Nursing home component of the life plan communities are regulated by Department of Community Health; the overall is overseen by the Department of Insurance. Jennie Helms, with Leading Age Georgia, indicated that there is a physician clearance to go into a nursing home; this would be an option for care. To be paid for by Medicare, the individual must go through the hospital. Sen. Steve Henson (D-Stone Mountain) asked some questions about numbers of nursing home beds. The proposal is loosening up the numbers of beds to change the phase in of nursing home beds. Sen. Renee Unterman (R-Buford) indicated the bill has come up previously. She feels like there is a proliferation of facilities wanting to come in; she has problems with the matching of local zoning laws. The change is about “certificate of need.” The cohort of baby boomers in high dollar areas – so there are developers building these. Russel Carlson, with the Georgia Health Care Association, indicated they have overlapping members with CCRCs and skilled units; this Amendment is new and delving into an area which is substantive to his Association and will impact the number of beds. He supports the underlying bill; the Amendment is under review and noted he is working well with the stakeholders. Kevin Isakson is responsible for the Amendment; they develop CCRCs (Stone Mountain and Atlanta are current facilities). There are 17 licensed CCRCs in Georgia. This change would apply to 15 of those facilities. They got their skilled nursing beds through a letter of determination from the Department of Community Health. The Amendment would allow direct patients to move to skilled or long-term care beds to offset startup costs before their own folks can fill the beds. None of the beds are Medicaid-eligible in a CCRC; all are private pay. The 25 percent or 10 beds maximum would be for those living in the community and not within the CCRC (independent living or assisted living). Sen. Unterman asked about Delmar Gardens but it is not an Isakson property. This would not be new beds; this would be already licensed beds. Sen. Henson indicated that the Amendment should be a standalone proposal. Sen. Watson indicated that he has an understanding of the bill; it will be distributed and back before the Committee on Wednesday.

- **HB 374**, by Rep. John LaHood (R-Valdosta), addresses conditions that a hospice patient must have so that medication aides may administer hospice medications to those patients. Until 18 months ago, this was done routinely. Department of Community Health indicated that it required too much clinical judgment. The bill requires hospice to administer the first dose and train the medication aide. There is a limited amount of medication which will be on site. It does require a physician order to be in place. Who is responsible for entering medication into the Prescription Drug Monitoring Program (who inputs the medicine into the Monitoring database is Sen. Unterman's concern). Sen. Burke thought hospices were exempt. It is end stage, end of life. The medication aide will become certified after training. Most of the time it is liquid morphine and given through drops under the tongue. Hospice has one-hour to get the medication to the patient for pain relief. Rep. LaHood explained that he is a registered nurse and he owns and operates assisted living communities. Families are doing a 'workaround' and administering the medications to the patients. The medication aide language, per Sen. Orrock (D-Atlanta), and that the law expired in 2011. There is concern about the regulation of these medication aides. Rep. LaHood stated that certification medication aides were created in 2011 or 2012 when assisted living licensure was created so that folks could "age in place." Sen. Greg Kirk (R-Americus) indicated that this was an issue that the developmental disability community went through; the patients are in hospice and there is not a large quantity of drug being retained. Sen. Lester Jackson (D-Savannah) asked who a certified medication aide would be – it is a certified nurse's aide. They go through a 12 week program; a medication aide has 10 additional hours on drug terminology and skills check (done by a pharmacist or nurse) and they take an on-line test. Jennie Helms, Leading Age of Georgia, spoke in support of the bill. The bill received a DO PASS recommendation. Sen. Burke will carry the bill forward.

#### House Insurance Committee -- Life and Health Subcommittee

The Life and Health Subcommittee of the House Insurance Committee, chaired by Rep. Darlene Taylor (R-Thomasville), met today to consider several bills:

- **SB 18**, authored by Sen. Kay Kirkpatrick (R-Marietta), is the "Direct Primary Care Act", which Sen. Kirkpatrick presented as giving patients another option for their healthcare. 24 states have a law allowing such. It is a contract between a patient and a physician, not insurance, but it can be layered with insurance. Fees cannot be paid for with an HSA, although federal law is pending on this issue. This is different than "concierge medicine" which permits a physician to file insurance. Rep. Renitta Shannon (D-Atlanta) asked for clarification about concierge medicine – how much of this is actually doing direct primary care. Physicians would like clarity that such products are not insurance but an arrangement between a patient and a physician. Lines 58-60, regarding a refund, and the question is about any penalty if the physician does not provide money back during that 30 day time frame. Sen. Kirkpatrick indicated that if such did not occur that would be a matter of contract law. Rep. Bruce Williamson (R-Monroe) noted he was fully supportive of the concept but asked whether there is any hesitation from the medical malpractice providers and their coverage. Sen. Kirkpatrick noted that it would be under the physician's current coverage. He also asked what would be a typical fee for a provider for this arrangement, and it can range between \$40-\$100 (national standard) per month. Rep. Williamson indicated it was an affordable path, and further asked if physicians in other states being punished by insurers for doing these types of arrangements; Sen. Kirkpatrick said no. There is a group of about 30-40 physicians who have these types of arrangements with patients. Some physicians charge by age, depending on the physician. Their medical malpractice rates are lower as they do not treat as many patients and incur less risk. Georgia Association of Health Underwriters spoke in support of the bill; it is another piece of the puzzle in the volatile healthcare market. Many individuals do not qualify for an Affordable Care Act plan and this is an option to get them access to a primary care physician. Rep. Williamson asked if it provided an opportunity to buy more affordable high deductible plans; he encourages folks to get a high deductible plan or supplement plan or something of that nature. Rep. Mathiak moved DO PASS; the motion carried.

- **SB 118**, authored by Sen. Renee Unterman (R-Buford) is the Georgia Telehealth Act. Georgia has been a leader in getting access to care while lowering the costs of healthcare. Payment and revenue stream is an issue. Reimbursement has been an issue. Rep. Williamson asked if the provider has to be in state; yes. There is a companion bill – **SB 115** – dealing with licensure of providers in other states. It standardizes care and go through the same licensure. If you are accessing through emergency services it would help unclog the emergency rooms. Chairman Taylor asked about “distant site” (line 16) to determine clarification – it would take the place of an office visit. Telemedicine is not for emergencies or dual diagnoses – but to take out the easy things and leave the more complicated cases. Emergency rooms are still the issue. The biggest issue for emergency rooms is mental health services. There are some CPT codes per Chairman Taylor; however, this is an issue. She also asked about security and use of electronic records. Sen. Unterman indicated that would be covered by HIPAA. Both providers will be paid as the legislation requires it. Telehealth versus telemedicine has been an issue as it can be confusing. Julie Windom, with Navicent Health and Atrium Health, spoke in favor. Atrium does 14,000 telehealth visits daily with many of those are telepsych. She also noted their support of SB 115, the companion legislation. Amy Krieg, Georgia Hospital Association, spoke in support of the legislation. Tim Kibler, Georgia Alliance of Community Hospitals, spoke in favor of the legislation. Deb Bailey, Northeast Georgia Health System, supported the legislation. 20-25 med psych patients in their emergency department daily. Tony West, with Americans for Prosperity Georgia, spoke in favor of the bill. Kyle Jackson, with Georgia Chamber of Commerce, asked for the Subcommittee for support. Jesse Wethington, Teledoc Health, has a concern line 69-72 – payment parity. He asked for freedom of contract be preserved for lesser rate if the provider so chose to do so. Sen. Unterman indicated she had not heard of that and indicated that could be an issue concerning “narrow networks.” A motion was made DO PASS; the legislation moves forward to the full Committee and will ask Legislative Counsel about the issue.
- **SB 142**, authored by Sen. Larry Walker (R-Perry), was presented in an effort to clarify what type of insurance plan was covering an individual and whether federal law or state law governs the coverage. Rep. Lee Hawkins (R-Gainesville) discussed using the Ingenix program for reimbursing providers. Out-of-network physicians and dentists ran into difficulties with assignment of benefits. Rep. Hawkins indicated it was about clarity. The effective date of his legislation, to minimize costs to insurers, would be January 1, 2020 to help address insurance cards being printed. “Fully insured” has been a question and he is open to language could be addressed to be added on the insurance card. Chairman Taylor and Rep. Karen Mathiak (R-Griffin) indicated she thought the bill was great. ERISA plans are excluded but could be added into the language according to Chairman Taylor, especially as that is the intent, perhaps by stripping out “fully insured” at line 158 and letting the DOI spell it out. Scott LaFranco with the Georgia Dental Association explained that the Association brought the legislation due to claim rejections and prompt pay issues. Many dentists are frustrated over the requirements – this is just another line to the cards. Surprise billing law has issues because that it too will not apply to all insurance (e.g. ERISA). An amendment was offered: line 58-61 if the subscriber policy is fully insured a statement that the policy is regulated by the DOI and an exclusion for policies covering a group model health maintenance with exclusive medical contract.

Bobby Potter talked with the National Association of Dental Plans and the use of the term “fully insured” which would add confusion. “All benefits payable” may also not mean what it implies. It is also a problem as it relates to how much information is to be added to a card. Aubrey Villines spoke on behalf of a number of organizations in favor of the bill (Georgia Optometric Association, Georgia Chiropractic Association, Georgia Association of APRNs, Georgia Association of Marriage and Family Therapists). The language will be added for a Committee Substitute. This bill was HEARING ONLY.

#### House Judiciary Non-Civil Committee - Setzler Subcommittee

Chairman Ed Setzler called the subcommittee to order and began by hearing [SB 121](#) which was presented by Sen. Larry Walker (R-Perry) and Rep. Mark Newcomb (R-Augusta). The bill would amend Title 16 to increase the length of time that prescription information is retained in Georgia's Prescription Drug Monitoring Program from two years to five years. Sen. Walker explained that more than two years of data, which current statute requires, is needed for proper investigations of fraud or prescription abuse. Chairman Setzler noted that when the PDMP system was originally passed by the General Assembly, language was specifically added to not have large oversight over specific data, in order to preserve privacy of patients. The bill received a motion DO PASS and moves on to the full committee.

### **Rules Calendars for Legislative Day 31**

The House has not adopted a Rules Calendar for Legislative Day 31.

The Senate will take up the following propositions on Wednesday for Legislative Day 31:

- [HB 316](#) -- Elections; definitions; provide for uniform equipment and ballot marking devices

### [View on Website](#)

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