

Gold Dome



March 14, 2019

Gold Dome Report - March 14, 2019

Legislators wrapped up work today and headed home in advance of St. Patrick's Day, but lawmakers have seen green all week. From recognitions of the St. Patrick's Day Parade Committee from Savannah on Monday to leprechauns lurking the hallways yesterday, Irish pride has been flowing under the Gold Dome.

The General Assembly finished the week with a flourish. The House took up and passed the Interstate Medical Licensure Compact and Direct Primary Care Act on a same-day Rules Calendar set this morning. Then, this afternoon, both chambers retreated once again into committee meetings to clean up and pass more propositions that could move to the floor next week ahead of adjournment Sine Die on April 2. A recap of the details from today and a look ahead at Monday's expected floor action in the Senate in today's [#GoldDomeReport](#).

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House Approves Interstate Medical Licensure Compact, Direct Primary Care Act

After starting the day without a Rules Calendar, the House proceeded to set one this morning and quickly took up two significant healthcare bills:

- **SB 16**, authored by Senator Kay Kirkpatrick (R-Marietta), amends Title 43 to enter into the “Interstate Medical Licensure Compact Act”. The bill will authorize the Georgia Composite Medical Board to administer fingerprint records checks on any health care professional applicant. SB 16 also allows the Board to grant expedited licenses to any licensee of other states. The House approved the bill by a 164-1 vote, which constitutes final passage. The bill now goes to Governor Kemp for signature.
- **SB 18**, authored by Senator Kay Kirkpatrick (R-Marietta), amends Title 33 to provide that a direct primary care agreement between a physician and individual patient is not insurance for purposes of regulation under the state’s insurance laws. The bill also sets forth requirements for such agreements and provides conditions under which a physician can decline to enter or discontinue a direct primary care agreement. The House approved the bill by a 155-4 vote, which constitutes final passage. The bill now goes to Governor Kemp for signature.

House Agrees to Senate Changes to Voting Machine Bill

The House also agreed to the Senate Substitute for **HB 316**, the voting rights legislation. Rep. Barry Fleming (R-Evans) outlined the changes the Senate made to the bill which include adding language to state law that the voting process have the federal certification requirements; requiring signage to be posted at the precinct notifying voters to verify their printed ballot before casting their vote; requiring a sign notifying voters that a sample ballot is available; adding language on the voting screen that the ballot is Republican, Democrat or Libertarian; deleting language regarding a pilot program on determining how the Secretary of State distributes ballots to voters; and providing for random audit provisions to be done by the November 2020 election. One of the major points of disagreement which the Democrats brought up was that the legislation had no fiscal note; Rep. Fleming countered that the bill would be funded with an appropriation of a specified amount of funds. There was also a lot of discussion around the audit process following an election and using random county samples to determine if their computer records matched the paper ballot information. These machines to be purchased will use a vendor which will be required to go through the State procurement process. Funding for these machines will be \$150 million. The House agreed to the revisions by a vote of 101-69, and the bill goes to Governor Kemp for signature.

Committee Updates

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 to consider several bills today:

- **SB 56**, authored by Sen. Chuck Hufstetler (R-Rome), aims to provide transparency, a payment system for out-of-network emergency care, and a dispute resolution provision. Rep. Renitta Shannon (D-Decatur) asked about the current Legislative Counsel opinion on whether tying reimbursement to the Fair Health database is unconstitutional, to which Sen. Hufstetler stated he has not received a letter opinion from Legislative Counsel yet. Allan Hayes of America's Health Insurance Plans spoke in opposition to the bill, specifically focusing on the reimbursement calculation method and calling for tying reimbursement to an already-recognized method like a federal benchmark that does not rely on billed charges. Rep. Lee Hawkins (R-Gainesville) asked several questions about how federal benchmarks like the Medicare rate are set and how frequently they are reviewed. He noted that physician colleagues have told him they cannot survive on Medicare rates. Dr. Brett Cannon, an emergency medicine physician, spoke in support of the bill but called for special focus on the emergency room reimbursement provisions. Bethany Sherrer of the Medical Association of Georgia spoke in favor of the bill and noted that MAG has secured an outside legal opinion stating that the use of Fair Health is not unconstitutional. Jesse Weathington of the Georgia Association of Health Plans spoke in opposition to the bill with focus on the issues with the blended rate calculation. He provided several examples of billing codes that will have a blended rate that is substantially higher than the average contracted rates. Shea Ross Smith of Kaiser Permanente spoke in opposition to the bill and echoed concerns about the reimbursement calculation method. She also expressed concern about the definition for usual and customary rate and how an insurer can provide an estimate of an out-of-network provider's billed charges. Wayne Drummond of the Georgia Professional Human Services Association spoke in favor of the bill. Jet Toney of the Georgia Society of Anesthesiologists spoke in favor of the bill. Rep. Mark Newton (R-Augusta), who is not a member of the Subcommittee, attended and spoke in favor of the bill. Chuck Clay spoke on behalf of the Georgia State Retirees Association in favor of the bill. No action was taken on the bill today.
- **SB 142**, authored by Sen. Larry Walker III (R-Perry), amends Title 33 to require that a statement indicating that a subscribers health policy is fully insured is included on a subscriber's health insurance identification card. Sen. Walker presented a substitute to the bill that would change the disclosure from "fully insured" to simply that the policy is subject to regulation by the Department of Insurance. The bill is supported by the Georgia Dental Association. No action was taken on the bill today.
- **SB 184**, authored by Sen. Greg Kirk (R-Americus), allows participants in the SHBP to use Federally Qualified Health Centers and provides that the FQHCs will be reimbursed at Medicare rates. The Subcommittee recommended the bill DO PASS and be sent to the full Committee.
- **SB 188**, authored by Sen. Larry Walker III (R-Perry), addresses reinsurance of risks in O.C.G.A. 33-7-14 and provides for the incorporation of the National Association of Insurance Commissioners reinsurance model law into the Georgia Insurance Code. He noted that we expected the NAIC to vote to approve the model law this month, but the vote has been delayed until April. As such, Sen. Walker asked the Subcommittee to TABLE the bill.

- **SB 195**, authored by Sen. Chuck Hufstetler (R-Rome), provides for “clarity and transparency” in the disclosure of prescription drug formularies. Sen. Hufstetler noted that he has included a delayed implementation date of January 1, 2020, in the latest version of the bill. Rep. Viola Davis (D-Stone Mountain) asked if the bill is an unfunded mandate. Rep. Lee Hawkins (R-Gainesville) asked why a PBM would carry one drug that another PBM does not. Rep. Bruce Williamson (R-Monroe) asked about the 4-day turnaround window for a PBM or insurer to inform a consumer of a prior authorization decision and whether it is feasible. Allan Hayes of America’s Health Insurance Plans spoke to the bill, noting that it is redundant with information reporting required by the federal government. Rep. Hawkins questioned that, if the bill is redundant, wouldn’t the cost of submitting the information again be low? Jesse Weathington of the Georgia Association of Health Plans and the Georgia Quality Healthcare Association spoke in opposition to the bill, pointing to a working group at the Department of Insurance that has just convened and is well-positioned to work on a uniform prior authorization regime. Chairman Taylor asked Sen. Hufstetler to consider whether the 4-day period would be too short if it includes a weekend and provide flexibility for the Insurance Commissioner in assessing penalties (the bill currently requires a \$1,000 penalty rather than allowing up to \$1,000). Rep. Hawkins asked if the author wanted to get a bill through this year or continue work, to which Sen. Hufstetler said he wished to have something done this year even if it means giving the Insurance Commissioner more flexibility for implementation. No action was taken on the bill today.

House Juvenile Justice

Chairman Mandi Ballinger (R-Canton) and her Committee held hearings on two bills today (thus no votes were taken):

- **SB 167**, by Sen. Matt Brass (R-Newnan), seeks to allow a judge more discretion so as to place a foster care child with the individuals who are in the child’s best interest. Specifically, if the court finds that within six months from the placement of the child that reasonable, diligent efforts have been made by the Division of Family and Children’s Services to find relatives or fictive kin who are willing to provide a stable home environment, then the court may determine that the foster care placement is in the best interest of the child. DFCS Director Tom Rawlings spoke to the bill. Reps. Wes Cantrell and Mary Margaret Oliver noted their support for the idea. There were several foster parents who testified about their experiences. They encouraged lawmakers to strengthen the “best interest” laws of children.
- **SB 225**, by Sen. Larry Walker, III (R-Perry), seeks to bring Georgia’s laws in line with federal provisions passed in 2018 enacting the “Family First Prevention Services Act.” The changes will allow Georgia to draw more federal funding for the child welfare system. It does include updates to the Indian Child Welfare law, defines a “qualified residential treatment placement,” the procedures to place a child in a “QRTP,” assessment of a child for a QRTP, and notification and records keeping and what records DFCS will provide to a youth when they leave the child welfare system or age out of the system. An amendment is being sought by Director Rawlings (which was not voted on today) to address immunity from civil and criminal liability issues so as to extend such applicability to individuals who are not only mandated reporters but also persons who may report abuse or neglect issues and information concerning a child. That same language is also being requested to be made a part of the bill carried by Chairman Ballinger to amend the Child Abuse Registry.

Senate Insurance and Labor Committee

The Senate Insurance and Labor Committee, chaired today by Sen. Greg Kirk (R-Americus), met to consider several 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. The Committee recommended the bill DO PASS and be sent to the Rules Committee.

- [HB 99](#), authored by Rep. Richard Smith (R-Columbus), modernizes Chapter 40 through the end of Insurance Code (Title 33). The Committee recommended the bill DO PASS and be sent to the Rules Committee.
- [HB 128](#), authored by Rep. Deborah Silcox (R-Sandy Springs), amends Title 33 to delete the requirement for insurers to notify the Georgia Composite Medical Board of agreements to settle claims of medical malpractice when the settlement results in a low payment under a high/low agreement. Senators had a number of questions as to whether a low payment under such an agreement was actually akin to settlement, which is reportable to the GCMB. Ultimately, however, the Committee recommended the bill DO PASS and be sent to the Rules Committee.
- [HB 367](#), authored by Rep. Darlene Taylor (R-Thomasville), amends Title 33 to enact the "Corporate Governance Annual Disclosure Act". The bill requires insurers and insurance groups to annually report their corporate governance to the Insurance Commissioner. The Committee recommended the bill DO PASS and be sent to the Rules Committee.
- [HB 491](#), authored by Rep. Darlene Taylor (R-Thomasville), amends Title 33 to update the regulation of insurance company holding systems. The Committee recommended the bill DO PASS and be sent to the Rules Committee.
- [HB 167](#), Rep. Taylor's bill relating to adjustment of property insurance claims under \$1,000, was also on the agenda but not heard today.

Senate Judiciary Committee

The Senate Judiciary Committee, chaired by Sen. Jesse Stone (R-Waynesboro), met to consider several bills yesterday. After our deadline, the Committee considered the following:

- [HB 311](#), authored by Rep. Andy Welch (R-McDonough), provides for the waiver of sovereign immunity by the State and local governments to allow citizens to sue the same for declaratory or injunctive relief. The waiver is limited to actions challenging the constitutionality of a government action or asserting that a government violated state statute. Such waiver was previously implied in Georgia, but, in recent years, the Georgia Supreme Court has held that, if the State intends to waive sovereign immunity, it must expressly do so. There have been a number of attempts to pass such a bill, but each has failed to become law, either because they were too narrow or too broad. Rep. Welch noted that he hopes this provision is the "Goldilocks" waiver that everyone thinks is "just right." Notably, although the bill does cover state and local governments and their actors, it excludes local school districts. The Georgia Municipal Association, ACCG, and the Georgia Trial Lawyers Association have all been involved in the drafting of the bill and are either neutral or supportive. A representative of the Southern Center for Human Rights spoke of a number of concerns on the bill. The Committee deferred action on the bill but expect to take it up, again.

- **HB 478**, authored by Rep. Mandi Ballinger (R-Canton), seeks to make changes so as to make changes to the Child Abuse Registry. It strikes juveniles from the registry (it is a registry for those who have a substantiated abuse against them - separate from criminal prosecution); clarifies language; changes the format and allows notification before placement on the registry and an appeal and delineates what must be sent to the individual; permits a stay in a criminal prosecution in concert with case for substantiated abuse; and outlines requirements before an Administrative Law Judge. In Section 5, there is an amendment which would become this Section. Substantiation of abuse case O.C.G.A. 19-7-5 so it allows emotional abuse be included. Kaitlyn Barnes, Barton Law Clinic, spoke to the legislation and served as a part of the working group (PAC, Child Advocacy Centers, DFCS, Department of Administrative Services, and other advocates). The primary motive for the change was to address constitutional and procedural issues since Registry was created in 2016. There is no way to remove one's name to remove their name from the Registry; Supreme Court challenges have occurred and the Court found that they could not resolve constitutional issues and this bill would help with alleviating some of those. This only allows adults and protects minors from being placed; it also permits expungement. Sen. William Ligon, Jr. (R-Brunswick) raised questions. Section 5, proposed, was a bill from former Rep. Chad Nimmer (R-Blackshear) and relates to mandated reporter issue (adding emotional abuse). For abuse, Rep. Ballinger indicated that it needed to have an "intentional" act of abuse. Sen. Cowsert indicated he had some concerns about the amendment and not as a standalone piece of legislation. Barton Law Clinic had drafted Rep. Nimmer's bill in 2018. Jill Travis spoke on behalf of the Georgia Association of Criminal Defense Lawyers stated that all folks worked together on the legislation and fully supports HB 478; she could not speak to the proposed change. Ms. Travis did draft this Section 5 language in 2018 when she was with Legislative Counsel. Ms. Travis stressed that all that worked on HB 478 tried to look at all the kinks. Sen. Cowsert asked about the "Hidden Predator Act" and asked if this would help with the reporting of those rather than covering them up; Ms. Travis said at one level that this bill would help. Hidden Predator Act was a civil process. Chairman Stone asked that Rep. Ballinger work with Sens. Strickland, Cowsert and Jones on the bill; no other action was taken today.

Today, the Judiciary Committee addressed the following bills:

- **HB 64**, authored by Rep. Brian Prince (D-Augusta), is written to protect military children who are suspected to be subject to child abuse. If the child is determined to be a victim of such, DFCS is notify the family advocacy center for that military installation. Sen. Rhett noted he was a retired Air Force Veteran and this is an important piece for family readiness for military deployment. There is reciprocation of information from the military to DFCS. There was no public testimony. The bill received a unanimous DO PASS recommendation. Sen. Elena Parent (D-Atlanta) will carry the bill forward in the Senate.
- **HB 70**, authored by Rep. Chuck Efstrotation (R-Dacula), addresses guardian and ward law. Rusty Sewell presented the legislation on behalf of the State Bar of Georgia. Kyle King and Professor Mary Radford who are fiduciary law expert spoke to the legislation which is a 'housekeeping' bill. Mr. King outlined the bill which makes changes such as: guardianships and their bonding requirements and how those will paid from estate from minor; makes error corrections; adds language back in that was omitted in 2018; makes clarifications on bond payments; marries the Georgia law with the uniform law passed in 2016; addresses emergency guardians; guardian appointments' time lengths for 60 days (home state of Georgia); repeals section on cost; addresses orders from other states and how they are registered; corrects an erroneous code reference; adds language relating to probate court enforcement of orders; addresses foreign conservators who register their orders in Georgia; and etc. Professor Radford said this was a major improvement. Mark Middleton on behalf of the Probate Judges indicated that they were pleased to be part of the process. No vote was taken today on the legislation.

- [HB 307](#), authored by Rep. Alan Powell (R-Hartwell), seeks to address abandoned motor vehicles. There are due process deficiencies in the existing law. A new Substitute was before the Committee for consideration and presented by attorney Les Schneider. This addresses situation about abandoned cars - towing companies do non-consensual towing as a condition of their licensure. They attempt to locate and contact the owner about the vehicle. The issue is when the owners do not respond to the towing entities so that cars may be sold at auction to pay for towing, repair, sale at auction; etc. Current law has an abandoned vehicle language now. Notice now is legally cumbersome. It is an attempt to have an orderly process. Towing entities are having issue of space of the abandoned vehicles; they do not want to take title as they will be required to pay the TAVT. Insurer could make a settlement on a claim, giving up the title to the car - they need methodology showing payment for a total loss and a process for obtaining title. This bill addresses that title issue to simplify that process. Law enforcement responsibilities are also outlined in this legislation. There are consumer protections in the legislation; it also addresses items in the vehicle which may have been left in a vehicle and those items are enumerated and time requirements to retrieve those items. It outlines a process for towing entities to follow to notify the owner with timing requirements and how to file with the magistrate court and when a judgment and order for auction is issued with damages. There will be another substitute on this legislation with more amendments.

As of our deadline, [HB 472](#), authored by Rep. Bert Reeves (R-Marietta) had not been addressed by the Committee.

Senate Higher Education Committee

Chairman Lindsey Tippins (R-Marietta) began by calling on Rep. Bert Reeves (R-Marietta) to present [HB 444](#) which would make alterations to dual enrollment in Georgia, including limiting the total number of credit hours for which the State will pay. Rep. Reeves gave an outline of how the dual enrollment system currently works. Additionally he noted that after changes to the program in 2015, program participation has increased by 500%, leading to a large increase in the budgetary impact on the state. Because of this large increase and lack of language in current statute to address these factors, the Governor's office has identified sustainability issues in the program. HB 444 attempts to alleviate these problems by setting a cap on the amount of state-funded dual enrollment credit hours. After a student has reached the 30 hour cap, the student can still participate in dual enrollment, but must use funds from their 127 hour HOPE Scholarship allotment. Caylee Noggle from the Georgia Student Finance Commission joined Rep. Reeves to answer questions from committee members. Chairman Tippins asked about the statutory status of lottery funds for highschool students. Currently, high school students would not be eligible for these funds but this bill will provide the necessary statutory authority for the Commission to allocate those funds. Sen. Brandon Beach (R-Alpharetta) noted that he has received a lot of correspondence from constituents that are worried about parts of the bill that prevent ninth and tenth grade students from participating in dual enrollment. Sen. Sally Harrell (D-Atlanta) asked if the HOPE funds for dual enrollment students would also pay for textbooks and other fees. Ms. Noggle explained that the bill currently outlines the rates at which these fees will be paid through HOPE. Angela Lassiter, a parent of a dual enrollment student, spoke in opposition of the bill. She stated the bill, if enacted, would take away the original intent of dual enrollment to allow students to "move on when ready". Chairman Tippins noted that he would like the committee to work on language to address adequate counseling on their major and educational focus if participating in dual enrollment. He then indicated the bill would receive a HEARING ONLY.

The committee was unable to hear HB 218 because of time constraints.

Rules Calendars for Legislative Day 33

The House Rules Committee will meet on Monday morning to set the Rules Calendar for Legislative Day 33.

The Senate will take up the following propositions on Monday for Legislative Day 33:

- [HB 35](#) -- Sales and use tax; certain poultry diagnostic and disease monitoring services; create exemption (FIN-50th) Watson-172nd

- [HB 168](#) -- Sales and use tax; tangible personal property to certain non-profit health centers; extend exemption for five additional years (FIN-8th) Taylor-173rd
- [HB 185](#) -- Financial institutions; change certain definitions (B&FI-18th) Williamson-115th
- [HB 192](#) -- Professions and businesses; real estate management companies; change certain provisions (RI&U-51st) Powell-32nd
- [HB 212](#) -- Banking and finance; retail brokers of manufactured homes or mobile homes and residential contractors from the requirement to obtain a license as a mortgage loan originator, broker, or lender under certain circumstances; exempt (B&FI-18th) Pirkle-155th
- [HB 223](#) -- Conservation and natural resources; provide for an exception to notification of spills or releases; provide for definitions (NR&E-7th) Dickey-140th
- [HB 368](#) -- Insurance; division of a domestic insurer into two or more resulting domestic insurers; provide (Substitute) (I&L-9th) Taylor-173rd
- [HB 374](#) -- Health; administer medications to residents under hospice care pursuant to a physician's written orders; authorize certified medication aides (H&HS-11th) LaHood-175th
- [HB 419](#) -- Revenue and taxation; Internal Revenue Code and Internal Revenue Code of 1986; define terms and incorporate certain provisions of federal law into Georgia law (FIN-52nd) Knight-130th
- [HB 501](#) -- Game and fish; provide for mariculture development (NR&E-3rd) Petrea-166th

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