

Special Needs Lawyers, PA

901 Chestnut Street, Suite C
Clearwater, Florida 33756

Phone: (727) 443-7898
Fax: (727) 631-0970

SpecialNeedsLawyers.com
info@specialneedslawyers.com

Travis D. Finchum, Esq.
Board Certified in Elder Law

Linda R. Chamberlain, Esq.
Board Certified in Elder Law

Charles F. Robinson, Esq.
Board Certified in Elder Law

Kole J. Long, Esq.
Elder Law Attorney

Special Needs Trusts | Elder Law | Long Term Care Planning | Medicaid | Probate | Wills & Trusts
Incapacity Planning | Guardianship | Developmental Disabilities | Veteran's Benefits

2019 Legislative Update Elder and Disability Law Forum, May 23, 2019

Bills that Passed - most are still waiting on Governor

CS/HB 21: Hospital Licensure

Hospital Licensure ; Revising the Agency for Health Care Administration's rulemaking authority with respect to minimum standards for hospitals; requiring hospitals that provide certain services to meet specified licensure requirements; revising duties and responsibilities of the agency relating to issuance of licenses to health care facilities and health service providers, etc.

Effective Date: 7/1/2019

Last Action: 4/29/2019 House - Ordered engrossed, then enrolled -HJ 992

Bill Text: [PDF](#)

CS/HB 19: Prescription Drug Importation Programs

Prescription Drug Importation Programs; Requiring the Agency for Health Care Administration to establish the Canadian Prescription Drug Importation Program; authorizing a Canadian supplier to export drugs into this state under the program under certain circumstances; establishing an international export pharmacy permit for participation in the International Prescription Drug Importation Program; authorizing the department to inspect international export pharmacy permittees; providing that the importation of a prescription drug under the International Prescription Drug Importation Program is not a prohibited act under that chapter; requiring the agency, in collaboration with the Department of Business and Professional Regulation and the Department of Health, to negotiate a federal arrangement to operate a pilot program for importing prescription drugs into this state, etc.

Effective Date: 7/1/2019

Last Action: 4/29/2019 House - Ordered engrossed, then enrolled -HJ 1002

Bill Text: [PDF](#)

CS/CS/HB 23: Telehealth

Telehealth; Establishing standards of practice for telehealth providers; authorizing certain telehealth providers to use telehealth to prescribe certain controlled substances under specified circumstances; providing registration requirements for out-of-state telehealth providers, etc. APPROPRIATION: \$276,409.00

Effective Date: 7/1/2019

Last Action: 4/29/2019 House - Ordered engrossed, then enrolled -HJ 994

Bill Text: [PDF](#)

CS/SB 124: Dependent Children

Dependent Children; Specifying the venue in proceedings for the appointment of a guardian for a child or young adult who has been adjudicated dependent; authorizing a court to receive and consider any information provided by the Guardian Ad Litem Program and the child's attorney ad litem if a child is under the jurisdiction of a dependency court, etc.

Effective Date: 4/26/2019

Last Action: 4/29/2019 - Chapter No. [2019-10](#)

Bill Text: [Web Page](#) | [PDF](#)

DOS to adopt rules by specified date.

Effective Date: 1/1/2020

Last Action: 5/2/2019 House - Ordered enrolled -HJ 1157

Bill Text: [PDF](#)

CS/CS/CS/SB 182: Medical Use of Marijuana

Medical Use of Marijuana; Redefining the term "marijuana delivery device" to provide an exception to the requirement that such devices must be purchased from a medical marijuana treatment center for devices that are intended for the medical use of marijuana by smoking; redefining the term "medical use" to include the possession, use, or administration of marijuana in a form for smoking; restricting the smoking of marijuana in enclosed indoor workplaces; requiring a qualified physician to submit specified documentation to the Board of Medicine and the Board of Osteopathic Medicine upon determining that smoking is an appropriate route of administration for a qualified patient, other than a patient diagnosed with a terminal condition, etc. APPROPRIATION: \$2,596,664.00

Effective Date: 3/18/2019

Last Action: 3/18/2019 - Chapter No. [2019-1](#)

Bill Text: [Web Page](#) | [PDF](#)

CS/SB 184: Aging Programs

Aging Programs; Transferring the powers, duties, and functions of the Department of Elderly Affairs relating to hospices, assisted living facilities, adult family-care homes, and adult day care centers to the Agency for Health Care Administration; establishing that the agency is the lead agency responsible for the regulation of hospices, assisted living facilities, adult day care centers, and adult family-care homes, etc.

Effective Date: 7/1/2019

Last Action: 4/29/2019 - Chapter No. [2019-11](#)

Bill Text: [Web Page](#) | [PDF](#)

CS/CS/HB 409: Electronic Legal Documents

Electronic Legal Documents; Authorizes online notarizations; specifies requirements & standards for performance of such online notarizations; requires DOS to adopt rules by specified date.

Effective Date: 1/1/2020

Last Action: 5/2/2019 House - Ordered enrolled -HJ 1157

Bill Text: [PDF](#)

CS/CS/HB 449: Alzheimer's Disease

Alzheimer's Disease; Increases membership of Alzheimer's Disease Advisory Committee; revises representative requirements of committee; requires committee to submit annual report to specified parties that includes certain information & recommendations; requires Department of Elderly Affairs to review & update Alzheimer's disease state plan every 3 years in

collaboration with certain parties; provides requirements for plan; establishes specified memory disorder clinic; provides that certain clinics shall not receive decreased funding for specified reason.

Effective Date: 7/1/2019

Last Action: 4/26/2019 House - Ordered enrolled -HJ 938

CS/CS/SB 1418: Mental Health

Mental Health; Requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause serious bodily injury or death; requiring psychiatrists to disclose certain patient communications for purposes of notifying law enforcement agencies of certain threats; revising responsibilities of the Department of Education and the Statewide Office for Suicide Prevention, etc.

Effective Date: 7/1/2019

Last Action: 5/1/2019 Senate - Ordered enrolled -SJ 766

Bill Text: [Web Page](#) | [PDF](#)

HB 6047: Florida ABLE Program

Florida ABLE Program; Abrogates scheduled reversion of provisions related to distribution of funds in ABLE account upon death of designated beneficiary.

Effective Date: 6/30/2019

Last Action: 5/3/2019 House - Ordered enrolled -HJ 1324

Bill Text: [PDF](#)

Section 11. The text of s. 1009.986(7), Florida Statutes, expires July 1, 2019, and the text of that subsection shall revert to that in existence on June 30, 2016, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

Here is the text of (7)

(7) MEDICAID RECOVERY; PRIORITY OF DISTRIBUTIONS.—

(a) Unless prohibited by federal law, upon the death of a designated beneficiary, funds in the ABLE account must first be distributed for qualified disability expenses then transferred to the estate of the designated beneficiary or an ABLE account of another eligible individual specified by the designated beneficiary or by the estate of the designated beneficiary. ~~Upon the death of the designated beneficiary, the Agency for Health Care Administration and the Medicaid program for another state may file a claim with the Florida ABLE program for the total amount of medical assistance provided for the designated beneficiary under the Medicaid program, less any premiums paid by or on behalf of the designated beneficiary to a Medicaid buy-in program. Funds in the ABLE account of the deceased designated beneficiary must first be distributed for qualified disability expenses followed by distributions for the Medicaid claim authorized under this paragraph. Any remaining amount shall be distributed as provided in the participation agreement.~~

(b) Except as required by federal law, the state Medicaid program may not file a claim for Medicaid recovery of funds in an ABLE account.

(c) ~~(b)~~ Florida ABLE, Inc., shall assist and cooperate with the Agency for Health Care Administration and Medicaid programs in other states by providing the agency and programs with the information needed to accomplish the purpose and objective of this subsection.

RETROACTIVE MEDICAID

SB 192 that would have permanently eliminated retroactive (90 Day) Medicaid failed but they extended the “first of the month” current law another year. The legislature did this within the appropriations implementing bill, SB 2502. The General Appropriations Bill is SB 2500.

Here is an excerpt from HB 2502.

Senate Bill 2502/Enrolled

Chapter 409.904, Florida Statutes. Optional payments for eligible persons.—

The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(12) Effective July 1, 2019, the agency shall make payments to Medicaid-covered services:

(a) For eligible children and pregnant women, retroactive for a period of no more than 90 days before the month in which an application for Medicaid is submitted.

(b) For eligible nonpregnant adults, retroactive to the first day of the month in which an application for Medicaid is submitted.

This subsection expires July 1, 2020.

OTHER BILLS

CS/HB 107: Wireless Communications While Driving

Wireless Communications While Driving; Requiring a law enforcement officer to inform a motor vehicle operator of certain rights; requiring such officer to record the race and ethnicity of a violator when issuing a citation; requiring law enforcement agencies to report such information to the Department of Highway Safety and Motor Vehicles; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; authorizing a law enforcement officer during a specified period to stop motor vehicles to issue warnings to persons who are driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; requiring all law enforcement agencies to maintain such information and report it to the Department of Highway Safety and Motor Vehicles in a form and manner determined by the department, etc.

Effective Date: 7/1/2019

Last Action: 4/29/2019 House - Ordered engrossed, then enrolled -HJ 1010

Bill Text: [PDF](#)

New HUD-ABLE Memo dated April 26, 2019

ABLE accounts do not impact HUD