South Carolina ACA-Related Legislative Update

The Honorable Murrell Smith, Jr.

Chairman, Health Care Subcommittee of the House Ways and Means Committee

Mr. Tim Rogers

Senior Budget Research Analyst, Health Care Subcommittee of the House Ways and Means Committee

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AFFORDABLE CARE ACT

Overview

- South Carolina legislators have introduced legislation that would make null and void the federal Patient Protection and Affordable Care Act in South Carolina. Not only does the proposal declare the ACA unenforceable, but also make implementation of "Obamacare" criminal.
- Governor Nikki Haley has supported the legislature in rebuking the ACA, saying she will not create a South Carolina health care exchange. She also opposes expanding the federal-state Medicaid program in South Carolina.

House Budget

H.3710, Part 1B, Section 33.34

Health and Human Services

- Healthy Outcomes Initiative
- Disproportionate Share (DSH) Payment Accountability
- Rural Hospital DSH Payment
- Primary Care Safety Net
- Rural Provider Capacity
- Community Residential Care Optional State Supplement

H.3710, Part 1B, Section 34

DHEC

- Health Licensing Fee (34.15)
- SCHIDS – South Carolina Health Integrated Data Services (34.39)

House Budget Cont.

H.3710, Part 1B, Section 117

General Provisions

- Federal Funds (117.10)
- SC Health & Human Services Data Warehouse (117.13)
- TEFRA-Tax Equality and Fiscal Responsibility Act (117.25)
- Healthcare Employees Recruitment and Retention (117.72)
- Information Technology in Healthcare (117.86)
- **Opt Out of Federal Patient Protection and Affordable Care Act (117.98)**
- Means Test (117.99)

H.3710, Part 1B, Section 118

Statewide Revenue

- Health Care Maintenance of Effort Funding (118.8)
- Tax Relief Reserve Fund (118.15)
- Non-recurring Revenue (118.17)

Health Insurance Exchange

- It is anticipated that South Carolina will defer to the federal government to run an exchange. Governor Haley and Tony Keck, director of the state Department of Health and Human Services, have vocally opposed a state-run exchange.
- H.3101 (S.0147) Freedom of Health Care Protection Act
  - A bill to render null and void certain unconstitutional laws enacted by the congress of the United States taking control over the health insurance industry and mandating that individuals purchase health insurance under threat of penalty
  - Passed third reading in House and sent to Senate, 5/1/13.

ACA-Related Legislation

- H.3473 American Health Benefit Exchange
  - A bill to prohibit the state and other entities from establishing, operating, or purchasing insurance from an American health benefit exchange and to make such health insurance contracts void
  - Currently in House Committee on Judiciary, 1/31/13
- H.3096 State Health Care Freedom Act
  - A bill to enact the "State Health Care Freedom Act" so as to not elect to establish or operate an American health benefit exchange as provided for in the federal "Patient Protection And Affordable Care Act"
  - Currently in Senate Committee on Banking and Insurance , 1/29/13
- S.102 Freedom of Choice in Health Care Act
  - A bill to provide that the General Assembly declares the federal Patient Protection And Affordable Care Act exceeds the power granted to Congress under the United States constitution and therefore is not law, but is altogether void and of no force
  - Currently in Senate Committee on Banking and Insurance, 1/8/13

MEDICAID

Medicaid Legislation

- H.3355 DHHS Prohibition - Medicaid Expansion
  - A bill to prohibit the South Carolina Department Of Health And Human Services from establishing, facilitating, implementing, or participating in the expansion of Medicaid eligibility under the federal Patient Protection And Affordable Care Act of 2010.
  - Currently in House Committee on Ways and Means, 1/17/13.
- H.3413 Medical Coverage - 180% poverty level and 130% poverty level
  - A bill to require the Department Of Health And Human Services to provide Medicaid coverage to certain individuals from January 1, 2014 through December 31, 2016.
  - Currently in House Committee on Ways and Means, 1/23/13.
- H.3166 Medicaid Eligibility
  - A bill to provide that beginning January 1, 2014, an adult sixty-five years of age or younger whose income is at or below one hundred thirty-eight percent of the federal poverty level is eligible for Medicaid as provided for in the Patient Protection And Affordable Care Act, and amendments to that act.
  - Currently in House Committee on Ways and Means, 1/8/13.

Medicaid Legislation Cont.

- H.3431 Medicaid Abuse/Fraud reporting hotlines
  - A bill to provide that in cases of Medicaid abuse or Medicaid fraud reported to the financial fraud or abuse hotline operated by the Department Of Social Services, when the call results in the recovery of state source funds as a result of the report, those agencies shall issue a monetary reward to the person reporting in an amount equal to ten percent of state funds received, not to exceed ten thousand dollars in total with respect to the report.
  - Currently in House Committee on Medical, Military, Public and Municipal Affairs, 1/24/13
- H.3167 Resolution - Medicaid Expansion and Economic Impact
  - A concurrent resolution declaring participation by the state of South Carolina in Medicaid expansion pursuant to the federal Patient Protection And Affordable Care Act to be necessary to the state's economic growth and welfare and to the health, wellbeing, and livelihood of hundreds of thousands of South Carolinians.
  - Currently in House Committee on Ways and Means, 1/8/13.

OTHER HEALTH CARE LEGISLATION

DHEC (Title 44)

- S.341 – Emerson Rose Act
  - A bill to require each birthing facility licensed by the Department Of Health And Environmental Control to perform a pulse oximetry screening on every newborn in its care, when the baby is twenty-four to forty-eight hours of age.
  - Currently in House Committee on Medical, Military, Public and Municipal Affairs, 4/17/13.
- S.117 (H.3366) – Adult Healthcare Consent Act
  - A bill to require a health care provider to give a patient an opportunity to allow disclosure of certain information
  - Passed Senate, 4/11/13. Recalled from House Committee on Judiciary, 4/11/13. Currently in House Committee on Medical, Military, Public and Municipal Affairs, 4/23/13; H. 3366 passed the House, 5/1/13, and referred to Senate Medical Affairs, 5/2/13.
- H.3827 – Department of Health and Environmental Control
  - Final review of a decision of the Department Of Health And Environmental Control decisions before requesting a contested case hearing before the administrative law court.
  - Received favorable report from House Committee on Agriculture, Natural Resources and Environmental Affairs, 4/18/13. Requests for debate, 4/24/13.

DHEC Cont.

- S.568 Certificate of Need
  - A bill to amend code of laws of South Carolina, relating to the definition of terms used in the State Certificate Of Need And Health Facility Licensure Act
  - Received favorable report from Senate Committee on Medical Affairs, 4/18/13.
- H.3567 Children and Adolescent Mental Health
  - A bill to amend code of laws of South Carolina, relating to the definition of terms used in the State Certificate Of Need And Health Facility Licensure Act regarding children and adolescent mental health treatment.
  - Passed the House, 5/1/13. Read first time in Senate and referred to Committee on Medical Affairs, 5/2/13.
- H.3236 Cervical Cancer Prevention Act
  - A bill to provide that beginning with the 2013-2014 school year, the Department Of Health And Environmental Control may offer the cervical cancer vaccination series to adolescent students enrolling in the seventh grade of any public or private school in this state
  - Favorable report from House Medical, Military, Public and Municipal Affairs Committee, 3/21/13. Requests for Debate in the House, 4/10/13. Debate adjourned until, 4/30/13.

DHEC Cont.

- S.428 South Carolina Immunization Registry
  - A joint resolution to approve regulations of the Department Of Health And Environmental Control, relating to South Carolina Immunization Registry
  - Passed Senate 2/28/13. Currently in House Committee on Medical, Military , Public and Municipal Affairs, 3/5/13.
- H.3902 Health Care Practitioners
  - A bill relating to the definition of terms used in the Lewis Blackman Hospital Patient Safety Act, so as to add definitions for "health care practitioner" and "health care facility"; and to require health care practitioners to wear identification badges displaying certain information.
  - Currently in House Committee on Medical, Military, Public and Municipal Affairs, 4/9/13.

Insurance (Title 38)

- H.3818 (S.530) Closed Panel Health Plans
  - A bill to amend Code Of Laws of South Carolina, relating to closed panel health plans, so as to remove the requirement that certain employers that offer only closed panel health plans to its employees also offer a point-of-service option to its employees
  - Favorable report from House Committee on Labor, Commerce and Industry, 4/11/13. Requests for debate, 4/23/13. S. 530 passed the Senate and referred to House Committee on Labor, Commerce and Industry, 4/30/13.

Insurance Cont.

- S.56 Long Term Care Tax Credit
  - A bill to allow a state individual income tax credit of fifteen percent of the total amount of premiums paid by a taxpayer pursuant to a long-term care insurance contract
  - Currently in Senate Committee on Finance, 1/8/13.
- H.3320 Nursing Home Liability Insurance - $100K
  - A bill to require a nursing home to carry a minimum of a one hundred thousand dollar liability insurance policy
  - Currently in House Committee on Military, Public and Municipal Affairs, 1/15/13.

LLR – Professional Licensing (Title 40)

- H.3489 Medical Laboratory Personnel Act
  - A bill to provide for the regulation of certain medical laboratory personnel by the Department Of Labor, Licensing And Regulation
  - Currently in House Committee on Labor, Commerce and Industry, 2/5/13.
- S.448 (H.3618) Physician Assistant
  - Bill provides that a licensed physician who accepts the responsibility to supervise a physician assistant's activities, must enter into a supervisory relationship with a physician assistant. In addition, the bill provides no more than three full-time physician assistants can be supervised by a supervising physician, a physician assistant may perform any functions performed by the supervising physician if the physician assistant is also qualified to perform those functions, and may authorize prescriptions for an orally administered Schedule II controlled substance under certain requirements.
  - Bill was passed by the House and ordered enrolled, 5/2/13

Other Legislation

- H.3061 Student Athletes
  - A bill to require the Department Of Education to develop and distribute model policies concerning the nature and risk of concussions sustained by student athletes
  - Passed House 3/21/13. Currently in Senate Committee on Education, 3/21/13.
- H.3725 (S.596) Safe Access to Vital Epinephrine (SAVE) Act
  - A bill to allow school district and private school governing authorities to obtain supplies of epinephrine auto-injectors for schools to use in certain circumstances
  - Passed House, 4/25/13. Read first time in Senate and referred to Committee on Education, 4/30/13. Favorable report as amended by Senate Education Committee, 5/9/13.

Other Legislation

- H. 3983 – SC Rural County Access to Emergency Health Care Act
  - a hospital located in a rural county that has closed and relinquished its license to operate within three years from the date of closure may reopen the hospital for purposes of converting to a freestanding emergency facility without having to obtain a Certificate of Need.
  - Currently on the House Calendar.
- H.3522 Sales Tax Exemptions Reform Bill – Includes Various Prescriptions and Supplies
  - Currently in House Committee on Ways and Means, 2/7/13.
- H.4009 Free Health Care Study Committee
  - Joint resolution to create the 'Free Health Care Study Committee' to study the extent to which medical professionals volunteer at free medical clinics and the variety and extent of medical services provided by medical professionals.
  - Currently in House Committee on Medical, Military, Public and Municipal Affairs, 4/23/13.

Questions?