



**Florida Renal Coalition
2019 Legislative Review
July 18-20, 2019
Delray Beach Florida**

Defense Wins Championships!!

Status Quo should always be considered a victory in any legislative session.

“No man’s life, liberty or property are safe when the legislature is in session.”

- The **2019 session** had many unknowns and challenges but can only be considered a **complete success for the FRA/FRC!** We helped pass some good bills, altered others and stopped some bad ones from becoming law.
- The FRA has supported **Telehealth** and **Medicaid Nonemergency Transportation Services (Uber/Lyft)** for many years. Persistence pays off as 2019 was finally the year both of them became law!

2019 Kidney Day on the Hill



February 5th and 6th



2019 Kidney Day on the Hill

Thank you for attending the 15th Annual Florida Kidney Day this week in Tallahassee. We will be meeting with Medicaid staff at AHCA on Tuesday afternoon and will be offering free Kidney Screenings and meetings with legislators on Wednesday at the Capitol. Event details:

Tuesday, Feb 5th:

- 2-2:20 Meet at the Agency for Health Care Administration (AHCA) Building 3 lobby. (2727 Mahan Dr, 32308 - Building 3, first on left)
- 2:30-4 AHCA/ESRD Advisory Task Force Panel mtg - **Call-in # for those who cannot attend (850-412-3521,,999-647-851#)**
- 4-6 Check into Hilton Garden Inn Tallahassee Central hotel (1330 Blairstone Rd, 32301)
- 6-9 Cocktails and food @ BJ's Brewhouse(Across parking lot from hotel - 1749 Apalachee Parkway, 32301)

Wednesday, Feb 6th:

- 8-9 Set up screening tables (3rd floor of the Rotunda/Capitol)
- 9-2 Kidney Screenings (3rd floor of the Rotunda/Capitol)
- 8-4 Meetings with key health care legislators and committees
- 12-1 Box/Hot Lunch (3rd floor of the Rotunda/Capitol) or on own
- 2-3 Strike screening tables

2019 Kidney Day on the Hill

- Florida Kidney Day kicked off on Tuesday with participants traveling to the annual **ESRD/AHCA (Agency for Healthcare Administration) Advisory Task Force Panel at AHCA headquarters**. This annual meeting was yet another opportunity to network with key Medicaid staff, giving us the ability to share patient and industry concerns.



Kidney Day on the Hill

Topics AHCA/ESRD Advisory Task Force Panel

- ☐ Medicaid Managed Care Re-procurement Update
- ☐ Telemedicine contract improvements?
- ☐ Transportation upgrades?
- ☐ Network adequacy issues?
- ☐ Continuity of care provisions?
- ☐ Complaint portal changes?
- ☐ Protein supplements / 25\$ monthly cash expenditures?

- ☐ Medicaid retroactive payment change from 90 to 30 days (Legislatively required and recently federally approved) Impact on dialysis patients and providers

- ☐ Medicaid home dialysis budget proviso language and another potential FRA educational presentation for Florida Health plans

- ☐ Hurricane Critical Caregiver Designations

- ☐ Encounter Notification Services – A brief explanation on ENS and the many potential benefits to the dialysis community of real time tracking of specific patient population hospital admissions

Kidney Day on the Hill



Kidney Day on the Hill

- Tuesday evening we attended a casual dinner and drinks at BJ Brew House, which was located across the parking lot from the hotel. We also discussed and planned our many legislative meetings as well as the new screenings procedures we would conduct the next morning at the capital.



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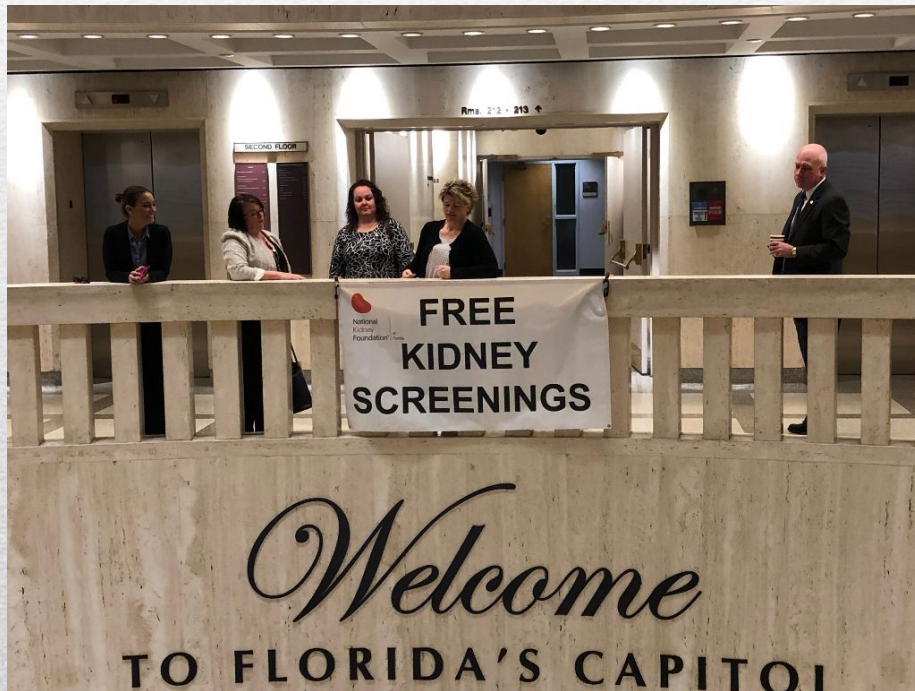
Kidney Day on the Hill

- Early Wednesday morning FRA and NKF set up a Kidney Screening table on the 3rd floor of the capitol, which is a high traffic zone!



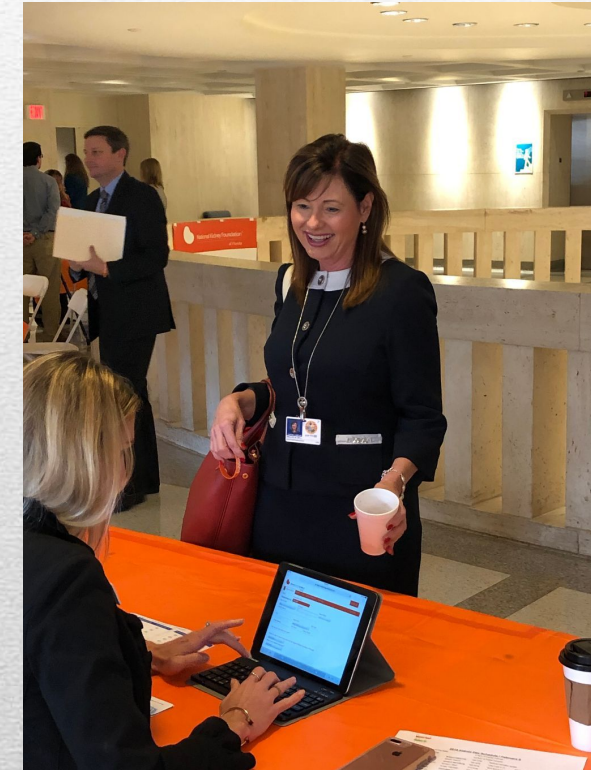
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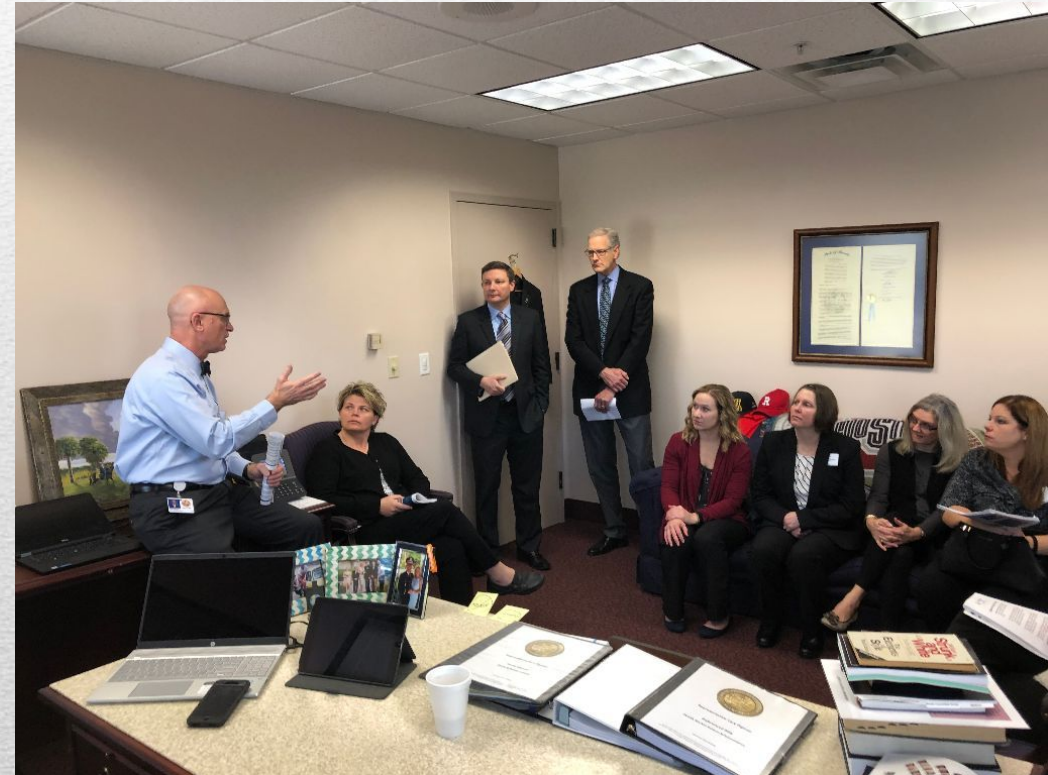
Kidney Day on the Hill

- Throughout the day we met with select legislators in separate groups to discuss our kidney patients and our legislative priorities.



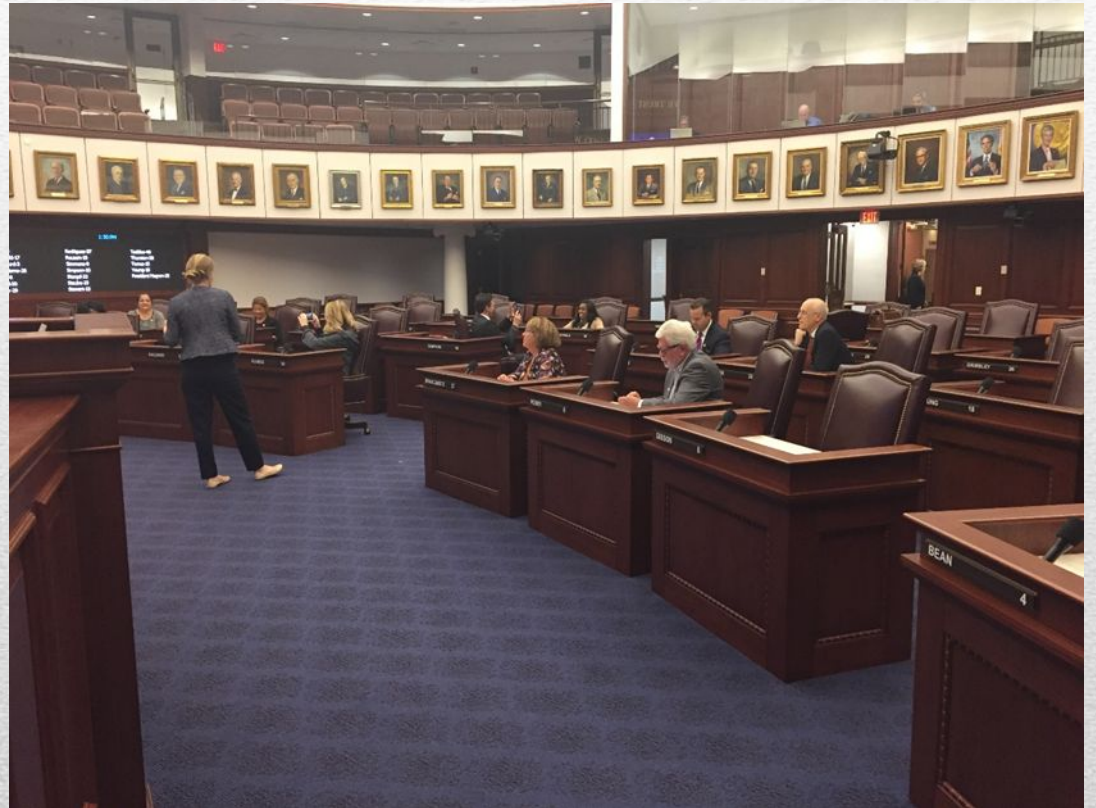
Kidney Day on the Hill

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Kidney Day on the Hill

- In 2018, we also had a special VIP tour of the Senate floor that included a history lesson.



Kidney Day on the Hill



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Kidney Day on the Hill

2019 Kidney Day Schedule / February 6

8-9	Set-up Kidney Screening tables		3 rd floor of Capitol Rotunda		
9-2	Free Kidney Screenings		3 rd floor of Capitol Rotunda		
8-10	House Health Quality	<u>Subcommittee mtg</u>	306 HOB	Medical Cannabis update	
8:30	Sen. Dennis Baxley (R)	Debbie Dennis	320 SOB	Lady Lake S-12	Health Policy
8:30	Rep. Erin Grall (R)	Edward Barenborg	209 HOB	Vero Bch H-54	HC Apr
9:15	Rep. Cary Pigman MD (R)	Brandon Miller	214 HOB	Sebring H-55	HHS- VC, HC Apr VC, Market sub Chair
9:30	Sen. Kevin Rader (D)	Ashley Cacicedo	222 SOB	Boca Raton S-29	HC Apr
10-12	Senate Appropriations	<u>Committee mtg</u>	412 Knott	Governor's Budget proposal	
10	Rep. Michael Grant (R)	Jim Browne	322 Cap	Port Charlotte H-75	HHS, Market Reform sub
10:30	House Health Market Reform	<u>Subcommittee mtg</u>	306 HOB	CON and Am Surg	
10:45	Rep. Joy Goff-Marcia (D)	Hailey Ahearn	1302 Cap	Maitland H-30	HHS
11	Rep. Tom Leek (R)	Stephanie Benedict	402 HOB	Daytona Bch H-25	HHS, Market Reform sub
11:30	Rep. John Cortes (D)	Joshua Adair	400 HOB	Kissimmee H-43	HHS
11:30	Sen. Janet Cruz (D)	Jena Kingery	218 SOB	Tampa S-18	Health Policy
11:45	Sen. Ed Hooper (R)	Charles Smith	326 SOB	Palm Harbor S-16	Health Policy, HC Apr
12	Rep. Amy Mercado (D)	Rosana Fonseca	406 HOB	Orlando H-48	FRA Leg of year 2018
12-1	Lunch	Sharkeys	3 rd floor of Capitol Rotunda		Box or hot lunch pre-ordered
12:30	Rep. Clovis Watson (D)	Michelle Sherfield	200 HOB	Gainesville H-20	HB 299 Organ donor license sticker

Kidney Day on the Hill

1	Rep. Emily Slosberg (D)	Kristopher Justs	400 HOB	Boca Raton H-91	HHS
1:30	Rep. Cyndi Stevenson (R)	Kaley Slattery	303 HOB	St. Augustine H-17	HHS
1:30	Senate HC Approps	<u>Subcommittee mtg</u>	412 Knott	Gov budget by Agency (DOH, AHCA, etc)	
1:45	Rep. Ralph Massullo MD (R)	Dorothy Dilworth	308 HOB	Beverly Hills H-34	Market Reform sub
2	Rep. Carlos Guillermo Smith (D)	Kristelly Estanga	1003 Cap	Orlando H-49	Quality sub
2:30	Rep. Ana Maria Rodriguez (R)	Lia Duran	1401 Cap	Doral H-105	Quality sub
2:45	Rep. Nicholas Duran (D)	Rob Alvarez	406 HOB	Miami H-112	HHS Rank, HC Apr Rank, Market sub
4	Rep. Colleen Burton (R)	Lara Medley	214 HOB	Lakeland H-40	HHS, Quality sub Chair

2019 FRA / FRC Legislative Agenda

- **Kidney Donor Insurance Coverage** – FRC supports requiring insurance companies to cover the cost of lifesaving kidney donations. Insurance coverage is often denied as voluntary surgery.
- **Third Party Payer of Insurance Premiums** – FRC supports the continuation of third party payments of insurance premiums for those who qualify for such assistance programs. Any disruption of these programs could increase the enrollment of Medicaid coverage for ESRD services.
- **Prior Authorization** – FRC supports a standardized Prior Authorization process required for all health plans that provide dialysis services for continuity of care for patients with chronic conditions such as ESRD.
- **Telemedicine** – FRC supports telemedicine legislation which would allow a Florida licensed physician to conduct clinic visits electronically for all ESRD patients.
- **Alternative Transportation Services** – FRC supports utilizing alternative transportation network companies, under certain circumstances, to provide much needed transportation services to dialysis patients.
- **Medi-Gap** – FRC supports the continuation of the Medi-gap insurance for the disabled and ESRD population under age 65.
- **Medicaid Program** – FRC supports a Medicaid program that provides Medicaid coverage for those with ESRD who do not qualify for Medicare or commercial insurance.

2019 Legislative Session

- The Session officially started Tuesday March 3rd and came to a close Saturday May 4th, as it was extended one day to finalize the **\$91.1 billion budget**. (Governor vetoed \$131 million)
- A balanced budget is the only bill the Florida legislature is required to pass every year. The below **FRA proviso language** was once again included in the final budget.

*Funds in Specific Appropriation 208 are for **the inclusion of freestanding dialysis clinics in the Medicaid program**. The Agency for Health Care Administration shall limit payment to \$125.00 per visit for each dialysis treatment. Freestanding dialysis facilities may obtain, administer and submit claims directly to the Medicaid program for End-Stage Renal Disease pharmaceuticals subject to coverage and limitations policy. All pharmaceutical claims for this purpose must include National Drug Codes (NDC) to permit the invoicing for federal and/or state supplemental rebates from manufacturers. Claims for drug products that do not include NDC information are not payable by Florida Medicaid unless the drug product is exempt from federal rebate requirements.*

*From the funds in Specific Appropriation 208, the Agency for Health Care Administration shall work with dialysis providers, managed care organizations, and physicians to ensure that all Medicaid patients with End Stage Renal Disease (ESRD) **are educated and assessed by their physician and dialysis provider to determine their suitability for peritoneal dialysis (PD) as a modality choice**. Further, the agency shall consult with the dialysis community concerning suitable voluntary reporting to the state Medicaid program on members' PD suitability.*

2019 Legislative Session

- On another budget note, the FRA worked to mitigate the impact of the recent change in **Medicaid retro-active eligibility from 90 to 30 days**. (Children and pregnant excluded) The Legislature had proposed making this change permanent; fortunately, we succeeded in limiting it to one year as well as requiring the below detailed study of the impact.

(1) By January 10, 2020, the Agency for Health Care Administration, in consultation with the Department of Children and Families, the Florida Hospital Association, the Safety Net Hospital Alliance of Florida, the Florida Health Care Association, and LeadingAge Florida, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the impact of the waiver of Medicaid retroactive eligibility on beneficiaries and providers. The report must include, but is not limited to: (a) The total unduplicated number of nonpregnant adults who applied for Medicaid at a hospital site from February 1, 2019, through December 6, 2019; and, of those applicants, the number whose Medicaid applications were approved, the number whose Medicaid applications were denied, and the reasons for denial ranked by frequency. (b) The total unduplicated number of nonpregnant adults who applied for Medicaid at a nursing home site from February 1, 2019, through December 6, 2019; and, of those applicants, the number whose Medicaid applications were approved, the number whose Medicaid applications were denied, and the reasons for denial ranked by frequency. (c) The estimated impact of medical debt on people for whom a Medicaid application was not submitted in the same month when the individual became an inpatient of a hospital or a resident of a nursing home. (d) Recommendations to improve outreach and Medicaid coverage for nonpregnant adults who would be eligible for Medicaid if they applied before an event that requires hospital or nursing home care.

2019 Legislative Session

Telehealth

The bill establishes a **regulatory framework** for telehealth under a new section of law, s. 456.47, F.S., including the following components:

- Establishing **standards of practice** for telehealth providers;
- Creating a **registration process** and requirements for out-of-state telehealth providers;
- Authorizing the prescribing of controlled substances in certain situations by telehealth;
- Providing record-keeping requirements for providers;
- Requiring the Department of Health (DOH) to create and maintain an **informational website** of out-of-state registered telehealth providers;
- Authorizing a **disciplinary process** for registered out-of-state telehealth providers;
- Establishing **venue** requirements for a civil or administrative action initiated by DOH, the appropriate health practitioner regulatory board, or a patient who receives telehealth services from an out-of-state telehealth provider;
- Providing rulemaking authority to administer these new requirements; and
- Creating insurance and health maintenance organization (HMO) contracting requirements relating to the voluntary acceptance of **payment rates** for telehealth services to ensure that telehealth providers are aware of the reimbursement provisions through initialing any specific telehealth payment terms, if different from in-person services, effective January 1, 2020.

2019 Legislative Session

Telehealth

The bill **defines telehealth** as the use of synchronous or asynchronous telecommunication technology to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of a medical data; patient and professional health-related education; public health services; and health administration. The **definition does not include audio-only telephone call, e-mail messages, or facsimile transmissions**. The DOH is required to publish specific information about all out-of-state registrants via a public website.

The **required information includes** the following information for each registrant:

- Name;
- Health care occupation;
- Completed health care training and education, including completion dates and any dates and certificates or degrees obtained;
- Out of state health care license with the license number;
- Florida telehealth provider registration number;
- Specialty;
- Board certification;
- Five-year disciplinary history, including sanctions and board actions;
- Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in this state;
- Name and address of the provider's registered agent designated for service of process in this state.

2019 Legislative Session

Telehealth

The **definition of a telehealth provider includes** any individual who provides health care and related services using telehealth and who is licensed or certified under one of 27 professions or occupations or is a member of a **multi-state health care licensure compact** of which Florida is a member state.

Disciplinary action against an out of state telehealth registrant will be taken by the appropriate board, or the DOH if there is no board. Action may be taken if the registrant:

- Fails to notify the appropriate entity of any adverse actions taken against his or her license;
- Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction;
- Violates any of the requirements of the telehealth provider statutory provisions; or
- Commits any act that constitutes grounds for disciplinary action under s. 456.072(1), F.S., the general provisions for discipline with penalties and enforcement.

The bill creates **mechanisms for discipline** of a telehealth provider registrant which may include a suspension or revocation of his or her registration or issuance of a reprimand or letter of concern. A corrective action plan could also be issued with a suspension which could require successful completion before reinstatement based on the rules that may be adopted by the respective board or the DOH. Florida-licensed providers who deliver medical services through telehealth are still subject to the review and discipline of their respective professional or occupational boards or the DOH through their Florida license.

2019 Legislative Session

Telehealth

- The bill also directs the DOH to conduct an annual review of registration fees collected under the bill and determine the sufficiency of the fees for DOH and the boards to implement s. 456.47, F.S.
- A separate fee bill, HB 7067, imposes an initial out-of-state telehealth provider registration fee of \$150 and a biennial renewal fee of \$150. **(VEOTED by the Governor?!?!?)**
- For state fiscal year 2019-2020, \$261,389 in recurring funds and \$15,000 in non-recurring funds are appropriated from the Medical Quality Assurance Trust Fund and four full-time equivalent positions with an associated salary rate of \$145,870, are authorized for the implementation of the bill.

2019 Legislative Session

Alternative Transportation Services

- The bill amends s. 316.87, F.S., to **authorize a transportation network company**, subject to compliance with state and federal Medicaid requirements, to provide nonemergency medical transportation services to a Medicaid recipient via the following arrangements:
 - Under contract with a Medicaid managed care plan,
 - Under contract with a transportation broker that is under contract with a Medicaid managed care plan,
 - Under contract with a transportation broker that is under contract with the Agency for Health Care Administration (AHCA), or
 - By referral from a transportation broker contracting with Medicaid managed care plans or the AHCA.
- The bill provides that transportation network **company drivers** and prospective drivers must undergo a **Level I background screening** pursuant to s. 435.03, F.S., or functionally equivalent procedures, as determined by the AHCA.
- **By October 1, 2019**, the AHCA is directed to **update any regulations**, policies, and other guidance, including the Non-Emergency Transportation Services Coverage Policy handbook, as necessary, to reflect the bill's authorizations. Requirements for transportation network companies and their drivers under the bill may not exceed the requirements under s. 627.748, F.S., except as necessary to conform to applicable state and federal Medicaid transportation requirements administered by the AHCA.

2019 Legislative Session

Alternative Transportation Services

- The bill stipulates that its provisions **may not be construed to**:
 - **Expand or limit the existing** transportation benefit provided to Medicaid recipients or to require a Medicaid managed care plan to contract with a transportation network company or a transportation broker.
 - Exempt any person, firm, corporation, association, or governmental entity that engages in **the business or service of basic life support or advanced life support transportation** from licensure requirements provided in s. 401.25, F.S.

2019 Legislative Session

- Bills were filed in 2019 (SB 830 and HB 459) to **require mandatory generators for all dialysis facilities**. The FRA had major concerns about costs and unintended consequences. We successfully educated leadership and even the sponsors to the point that not only did these **bill not pass**, they were never heard by any committee in the House or Senate!
- Due to a rash of South Florida physician **offices elective surgery deaths**, bills were filed to address this problem. The FRA was concerned the original language could negatively impact **vascular access** for our dialysis patients. We worked with several groups to narrow this language to the bad actors it was intended to address. The final version of SB 732 does not impair vascular access!
- A bill passed (HB 1113) named the “**Patient Savings Act**” or shared savings incentive program. Although the bill was amended from a mandatory offer to voluntary offer by insurance plans, it attempts to reward patients for “shopping” for cheaper non-emergency health procedures. A very broad definition of health care provider **includes renal dialysis facilities and defines “shoppable health care service”**. As passed it is unclear how or if these plans will be offered.
- Another insurance bill passing (SB 322) focused on **pre-existing conditions and essential health benefits**, if the ACA goes away. It also deals with short term-limited duration policies.

2019 Legislative Session

- ❑ **Speaker Oliva was successful in passing several of his healthcare priorities**, including telehealth. Some of these issues have been debated for more than 15 years.
 - ❑ Hospitals lost on two fronts when the certificate of need or **CON** for new hospitals was **finally repealed (HB 21) and the Ambulatory Surgical Centers 24 hour overnight stay bill also passed (HB 843)**. Nursing homes, ALFs and hospices escaped having their CON repealed.
 - ❑ However, **Big PharMa also took a major loss with the importation of cheaper Canadian drugs bill passing (HB19)**, which was also a priority of Governor DeSantis. It still must be approved by the Federal Government and has several potential problems.
- ❑ One of the **Speaker's priorities that failed to pass** was the **scope of practice expansion** through independent advanced nurses and physicians assistants.
- ❑ Other **healthcare issues passing included**:
 - ❑ hospital patient safety information,
 - ❑ hospital notice requirements for primary care provider,
 - ❑ pediatric cardiac surgical oversight,
 - ❑ opioid alternative notices,
 - ❑ direct primary care expansion,
 - ❑ watered-down step-therapy restrictions and a study of Florida joining a physician compact.

2019 Legislative Session

- Other **things of interest that passed** included:
 - smoking of medical cannabis,
 - a sanctuary cities ban,
 - human trafficking,
 - antisemitism,
 - 3 new toll roads (President Galvano priority),
 - arming teachers,
 - industrial hemp regulation,
 - automotons vehicles,
 - criminal justice reforms,
 - charter schools and vouchers,
 - felon voting right restoration and petition gathering restrictions.

2019 Legislative Session

- Other **things that failed** in 2019 included:
 - parental consent of abortion,
 - gambling expansion,
 - fracking ban,
 - sunscreen ban,
 - craft distiller regulation,
 - PIP repeal, and
 - changing the smoking age from 18 to 21.
- The **2019 session had a much smoother feeling** as compared to others recently. Senate President Galvano and Speaker Oliva worked well with our new Governor DeSantis to achieve many of their top priorities.
- The **2020 session begins in January** instead of March, so committee meetings start in September of 2019. The FRA is working over the summer to prepare for another successful session with new issues yet to be finalized. Please help shape next year's agenda!

?? 2020 Legislative Agenda ??

- This Annual meeting is a great time to continue the discussion of our 2020 Legislative Agenda!
- Please bring to the FRA/FRC Leadership's attention any problems and/or concerns within our industry that you would like to see addressed.

2020 Kidney Day
November 5th and 6th, 2019
Please join us!!!

- And remember:

**“No man's life, liberty or property are safe
when the legislature is in session.”**

