

## GSRM: Healthcare from the Hill

January 29, 2010

by Matthew Scanlan

The General Assembly finished its first week of regular session last week, in which most legislators and lobbyists rushed to meet the January 28 filing deadline in the Senate for all bills. Calendars begin in earnest this week with both the House and Senate moving legislation quickly toward an early completion of the legislative session.

This week's report contains both bills that are on next week's calendar and bills introduced last week.

Hospitals should take particular note of Senate Bill SB 2890, which permits certain law enforcement officers to carry issued but blank subpoenas during course of official duties. The bill would permit the officer to complete and serve the subpoena at the scene of a crime or during the course of an investigation. This bill may have the effect of requiring medical personal to take blood from a non-consenting patient, something that many hospitals have refused to do.

### BILLS ON CALENDAR

#### SB 0153\* Ketron

#### HB 2059 Lynn

**CRIMINAL LAW: Electronic tracking of human beings.** Creates a Class A misdemeanor offense for unauthorized implantation of an electronic identification, tracking device or mark implanted, permanently or semi-permanently, into or on the body, skin, teeth, hair, or fingernails of a human being.

**Senate Status:** Referred to Senate Judiciary.

**House Status:** Set for House Judiciary Criminal Practice & Procedure Subcommittee 02/03/2010.

#### SB 1664 Harper

#### HB 0776\* Turner M.

**LABOR LAW: Pay Equity in the Workplace Act.** Prohibits an employer from discriminating between employees on the basis of sex by paying any employee salary or wage rates less than the rates the employer pays to any employee of the opposite sex for comparable work. Authorizes the commissioner of labor and workforce development to endeavor to eliminate such pay practices by informal means of conference, conciliation, and persuasion. Also authorizes the commissioner to supervise the payment of wages owing to an employee who has been discriminated against. Requires commissioner to develop guidelines to enable employers to evaluate job categories based on objective criteria.

**Senate Status:** Taken off notice in Senate Commerce, Labor & Agriculture 03/03/2009.

**House Status:** Set for House Employee Affairs Subcommittee 02/03/2010.



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**SB 1674\* Johnson J.**

**HB 1916 Lynn**

**LABOR LAW: Secret Ballot Protection Act of 2009.** Enacts the Secret Ballot Protection Act of 2009 to ensure employees' right to free choice in deciding employment-related matters. Creates a Class C misdemeanor for any person to directly or indirectly violate such provisions.

**Senate Status:** Re-referred to Senate Calendar Committee 01/12/2010.

**House Status:** Set for House Employee Affairs Subcommittee 02/03/2010.

**SB 1294\* Crowe**

**HB 2687 Harrison**

**TORT LIABILITY: Pre-screening agents for mental health.** Clarifies that regular employer, whether public or private, of an employee serving as a mandatory pre-screening agent as part of the mental health community-based screening process will not be held liable for civil damages arising out of actions while the employee is performing such duties.

**Senate Status:** Set for Senate General Welfare Committee 02/03/2010.

**House Status:** House companion bill introduced. (H: Harrison)

## NEWLY INTRODUCED BILLS

**SB 2824 Johnson J.**

**HB 2906\* Harwell**

**TAXES BUSINESS: Job tax credit applied against franchise & excise liability.** Mandates that the commissioner of revenue designs a small business developmental tax credit program to apply against the franchise tax and excise tax. Requires applicants to create and fill one or more eligible positions over the base employment, invest \$5,000 or more in qualified tangible property, and be granted approval for the tax credit by the commissioner of revenue.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/27/2010

**SB 2833 Berke**

**HB 2808\* McDonald**

**HEALTH CARE: Medical services offered by nonprofits.** Expands the scope of medical services for certain individuals who are eligible for medical assistance to include services provided by nonprofits created specifically to care for related individuals with disabilities.

**Senate Status:** Senate companion bill introduced. (S: Berke)

**House Status:** Introduced 1/25/2010

**SB 2863\* Stewart**

**HB 3002 McDaniel**

**INSURANCE HEALTH: Life and health insurance guaranty association.** Implements and describes certain coverage limitations and benefits provided by the life and health insurance guaranty association. (24 pp.)

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/27/2010

**SB 2887 Crowe**

**HB 2985\* Mumpower**

**HEALTH CARE: Penalty for practicing medicine without a license, forgery.** Increases to a Class A misdemeanor, from a Class B misdemeanor, the offense of practicing medicine or surgery without a license. Increases to a Class D felony, from a Class E felony, the offense of filing or attempting to file as one own a diploma or license of another or a forged affidavit of identification. Broadly captioned.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/27/2010

**SB 2890\* Gresham**

**HB 3040 Dennis**

**CRIMINAL LAW: Carrying and serving of subpoenas by law enforcement.** Permits a full-time POST-certified law enforcement officer to carry issued but blank subpoenas during course of official duties. Permits the officer to complete and serve the subpoena at the scene of a crime or during the course of an investigation.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 2927\* Johnson J.**

**HB 3210 Casada**

**HEALTH CARE: Department of health policies on children and head lice.** Requires the policies and rules of the department of health excluding children from school for head lice to be consistent with the recommendations of the federal centers for disease control.

**Senate Status:** Introduced 1/26/2010

**House Status:** Introduced 1/28/2010

**SB 2931 Johnson J.**

**HB 2831\* Lundberg**

**INSURANCE HEALTH: Creates system of independent review for denial of claims.** Creates a procedure for independent review of the total or partial denial of a previously allowed claim by a person or entity whose purpose is a business contract with health care providers for delivery of health care services. Establishes the process for notification in such claims and the allotted time each written or electronic notice must be made. Requires the health care provider to file a request for independent review within 365 calendar days of the date the health care provider received the initial submitted claim denial. Requires the prevailing party to be entitled to an award of reasonable attorney's fees and expenses from the non-prevailing party, if the dispute between the parties is not fully resolved prior to the entry of a final decision by the court initially hearing the dispute.

**Senate Status:** Senate companion bill introduced. (S: J. Johnson)

**House Status:** Introduced 1/27/2010

**SB 2959\* Watson B.**

**HB 3049 Favors**

**HEALTH CARE: Fees for medical records.** Sets the maximum charge for medical records request at \$20 for the first five pages and then fifty cents for each additional page. Places the maximum charge for medical records delivered electronically at \$50.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 2972\* Black**

**PROFESSIONS & LICENSURE: Professional nursing.** Includes nurse aides in the definition of those practicing the profession of nursing.

**Senate Status:** Introduced 1/28/2010

**SB 3027\* Southerland**

**HB 3221 Hawk**

**CRIMINAL LAW: Possession of prescription drug acquired out of state.** Establishes it is a Class D felony to purchase prescription drugs outside of the state of Tennessee and then transport them into the state with the intent to sale.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3075\* Herron**

**HB 3126 Shepard**

**HEALTH CARE: Medicare supplement policy issuers: restrictions.** Prevents any Medicare supplement policy issuer to deny or condition issuing any Medicare supplement policy because of the applicant's health status or claims experience if the policy application was submitted when the applicant qualified for Medicare or within 30 days of an annual policy anniversary date in which the applicant is currently enrolled.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3092\* Burchett**

**HB 3251 Armstrong**

**HEALTH CARE: Board of medical examiners: agree to enforce certain laws.** Requires the board of medical examiners to agree to enforce certain applicable federal immigration laws and evidenced by a written agreement with the federal department of homeland security.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3095\* Stewart E.**

**HB 3317 Matheny**

**INSURANCE HEALTH: Coverage for autism spectrum disorders.** Extends the conditions under which insurance companies are required to cover autism spectrum disorders in people 16 and below if the person was diagnosed at age eight or younger. Subjects behavioral therapy to a \$50,000 per year limit and can be adjusted annually according to the Consumer Price Index.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 2/1/2010

**SB 3107\* Marrero**

**HB 3318 Richardson**

**HEALTH CARE: TN Advisory Commission on Autism Spectrum Disorders.** Creates the Tennessee Advisory Commission on Autism Spectrum Disorders, consisting of 22 members. Requires the commission to develop a comprehensive state plan for creating an integrated system of training, treatments, and services for individuals of all ages with an ASD.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 2/1/2010

**SB 3108 Marrero**

**HB 2803\* Cooper B.**

**HEALTH CARE: Metropolitan Hospital Authorities chapter.** Declares that the Metropolitan Hospital Authorities chapter shall be liberally construed. Changes the report date concerning tort liability of public hospitals from March 30 to June 30. (Broadly captioned.)

**Senate Status:** Senate companion bill introduced. (S: Marrero)

**House Status:** Introduced 1/25/2010

**SB 3142 Black**

**HB 3173\* Hill**

**HEALTH CARE: Abortions performed during viability of fetus.** Requires abortions and attempts to procure a miscarriage performed during stages of viability of the fetus to take place in a hospital.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3143 Black**

**HB 3174\* Maggart**

**HEALTH CARE: Parental consent required - newborn testing.** State Summary: Children - As introduced, requires parental or legal guardian consent for further testing or storage of blood or biological samples taken from a newborn for purposes other than the required test to be performed on the newborn. - Amends TCA Title 63 and Title 68, Chapter 5.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3144\* Black**

**HB 3368 Maggart**

**HEALTH CARE: Use of medication aides by nurses.** Clarifies that a registered nurse or licensed practical nurse can work with medication aides.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 2/1/2010

**SB 3153 Overbey**

**HB 3144\* Cobb J.**

**PROFESSIONS & LICENSURE: Radiologist assistant to work under radiologist.** Requires a radiologist assistant to work in the employment or direction of a radiologist.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3154 Overbey**

**HB 3177\* Dean**

**HEALTH CARE: Genetic counselors' licensing act - rules promulgated.** State Summary: Health Care - As introduced, authorizes board of medical examiners to promulgate rules to implement the genetic counselors' licensing act. - Amends TCA Title 63.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 1/28/2010

**SB 3162\* Johnson J.**

**WORKERS COMPENSATION: Rental and Assignment of PPO Network Rights.** Enacts the Rental and Assignment of PPO Network Rights. Requires contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted medical providers and their contractual reimbursement rates, upon entering or renewing a medical provider contract to disclose to the medical provider whether the list of contracted medical providers may be sold, leased, transferred, or conveyed to other payors or agents, to disclose whether workers' compensation payors to whom the list of contracted medical providers may be sold, leased, transferred, or conveyed may be permitted to pay a medical provider's contracted rate if less than the workers' compensation fee schedule, to allow medical providers, upon the initial signing or renewal of a medical provider contract, to decline to participate in networks solely to serve workers' compensation payors that are sold, leased, transferred, or conveyed to workers' compensation payors, and to maintain a web page that contains a complete listing of customers to whom the network is sold, leased, transferred, or conveyed, as well as to maintain a toll-free telephone number whereby medical providers may access workers' compensation payor summary information and a list of lessees of the network. Sets forth what information must be delineated in the explanation of payment or explanation of review transmitted to the medical provider. Requires workers' compensation payor to demonstrate that it is entitled to pay a contracted rate within 30 days of receipt of a written request from a medical provider who has received a claim payment from the workers' compensation payor.

**Senate Status:** Introduced 1/27/2010

**SB 3166\* Burchett**

**HB 3322 Hackworth**

**INSURANCE HEALTH: Coverage for chemotherapy for cancer.** Requires any insurance provider that covers intravenous or injected methods of chemotherapy to cover oral methods of chemotherapy in a way no less favorable than other chemotherapy methods and without increasing the out of pocket costs for the patient.

**Senate Status:** Introduced 1/27/2010

**House Status:** Introduced 2/1/2010

**SB 3177 Kelsey**

**HB 2417\* Ramsey B.**

**INSURANCE HEALTH: Health-Care Choice Act.** Allows foreign health insurers to offer and provide individual and employer health benefits plans to residents in this state if such insurers meet certain criteria. Defines foreign individual health insurers as out-of-state insurers. Requires such insurers to offer the same individual and small employer health benefits plans in its permanent residence state and to be in compliance with all applicable laws, regulations, and other requirements of its state. Also requires the insurer to obtain a certificate of authority, using a form proscribed by the commissioner of commerce and insurance, to do business as a foreign health insurer in Tennessee. Requires the insurer to participate in the Tennessee life and health insurance guaranty association. Requires the insurer to submit a complete application and application fee to the commissioner, provided that the commissioner will not issue a certificate if: the insurer will not comply with the provisions set forth in this legislation; does not meet minimum capital, surplus, and reserve requirements; is not subject to measures of regulator oversight equal to or exceeding those of this state; or has not adopted procedures to ensure compliance with all federal laws. Establishes that the certificate is valid for two years from the date of issuance. Establishes procedure for obtaining and renewing a certificate of authority. Allows the commissioner to deny, revoke, or suspend a certificate of authority to a foreign health insurer who no longer is in compliance with any of the conditions set forth in this legislation. Requires the commissioner to establish grievance and independent claims review procedures. Requires a foreign health insurer to comply with the Unfair Trade Practices and Unfair Claims Settlement Act of 2009. Prohibits any rule promulgated by the commissioner from directly or indirectly requiring the following: a foreign health insurer to modify coverage or benefit requirements, or restrict underwriting requirements; regulatory requirements that are more stringent than those applicable to domestic carriers; or a foreign health insurer to be countersigned by an insurance agent or broker residing in this state.

**Senate Status:** Senate companion bill introduced. (S: Kelsey)

**House Status:** Referred to House Commerce. House Government Operations will review if recommended.

**SB 3184 Watson B.**

**HB 3316\* Matheny**

**HEALTH CARE: Continuing appeals following the first appeal.** State Summary: Hospitals and Health Care Facilities - As introduced, assesses all costs against a person or entity for continuing appeals following the first appeal challenging the decision of the health services and development agency granting a certificate of need to a hospital filing the application. - Amends TCA Title 68, Chapter 11, Part 16.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3189 Kelsey**

**HB 3286 Casada**

**HEALTH CARE: Birth certificates for stillbirth.** State Summary: Vital Records - As introduced, establishes a certificate of birth resulting in stillbirth.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3211\* Finney L.**

**HB 3531 Maddox**

**HEALTH CARE: Rules for specific rights for adult care home residents.** State Summary: Hospitals and Health Care Facilities - As introduced, requires the board for licensing health care facilities to consider the rights enacted for nursing home residents in developing rules for specific rights for adult care home residents. - Amends TCA Title 68, Chapter 11 and Title 56, Chapter 32.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3227 Southerland**

**HB 3419\* Litz**

**HEALTH CARE: Minimizing conflicts with local building codes.** State Summary: Health, Dept. of - As introduced, requires the commissioner to strive to minimize conflicts with local building codes when promulgating rules and to consider compliance with such codes to be a mitigating factor when assessing penalties. - Amends TCA Title 5 and Title 68.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3232\* Stewart**

**HB 3472 Naifeh**

**HEALTH CARE: Judicial review of health services and development agency.** State Summary: Hospitals and Health Care Facilities - As introduced, removes judicial review of health services and development agency. - Amends TCA Title 68, Chapter 11, Part 16.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3245 Tate**

**HB 3459\* Armstrong**

**HEALTH CARE: Equity commission's advice on the state health plan.** State Summary: Health Care - As introduced, adds the governor and the general assembly to the commissioner of finance and administration as recipients of the health equity commission's advice on the state health plan. - Amends TCA Title 3, Chapter 15, Part 4.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3249 Tate**

**HB 3212 Lollar**

**HEALTH CARE: Hours of direct care that nursing homes must provide.** State Summary: Hospitals and Health Care Facilities - As introduced, increases from two to four the minimum number of hours of direct care that nursing homes must provide to each patient every day. - Amends TCA Title 68, Chapter 11.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3298\* Kelsey**

**INSURANCE HEALTH: Affordable Health Insurance for Young Adults Act.** State Summary: Insurance, Health, Accident - As introduced, exempts health insurance entities from including state-mandated health benefits in accident and health policies provided to young adults and employees of small businesses, under certain circumstances. - Amends TCA Title 56, Chapter 7.

**Senate Status:** Introduced 1/28/2010

**SB 3389 Tate**

**HB 3298\* Hardaway**

**TENNCARE: Report on provider taxation involving hospitals.** Requires the comptroller to report to the finance committees of the house and senate and the joint TennCare committee concerning provider taxation involving hospitals by February 1, 2011. Broadly captioned.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3417 Crowe**  
**HB 3256 Armstrong**

**HEALTH CARE: Report on provider tax involving hospitals.** State Summary: Hospitals and Health Care Facilities - As introduced, directs the commissioner of health to report to the senate general welfare, health and human resources committee and the house health and human resources committee on or before February 15, 2011, concerning the issues surrounding and the impact and history of a provider tax involving hospitals. - Amends TCA Title 67; Title 68 and Title 71.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3418 Crowe**  
**HB 3257 Armstrong**

**HEALTH CARE: Health and sanitation rules for health care providers.** State Summary: Hospitals and Health Care Facilities - As introduced, provides for health and sanitation rules governing offices, clinics, and centers of certain health care providers. - Amends TCA Title 4; Title 63 and Title 68.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3514 Yager**  
**HB 2987\* Brooks, Harry**

**HEALTH CARE: Task force on residential/day provider agency regulations.** Creates 11-person task force to review the regulations of the residential and day provider agencies contracted by the TN Division of Intellectual Disabilities Services and make recommendations with regard to relieving expensive and unnecessary regulations on such providers by January 11, 2011.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/27/2010

**SB 3528 Overbey**  
**HB 3310\* Armstrong**

**HEALTH CARE: Patient safety organization: requirements.** Allows certain organizations to apply to become patient safety organizations. Broadly captioned.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**SB 3530 Overbey**  
**HB 3059\* Niceley**

**INSURANCE HEALTH: Coverage of prosthetic devices.** Requires insurance companies, except for TennCare, to include coverage of prosthetics at a minimum of 75 percent of their cost.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3580 Ketron**  
**HB 3017\* Sargent**

**HEALTH CARE: Hospital liens.** Specifies that medical payments coverage is not subject to hospital liens. Limits a hospital's recovery of damages for lien impairment to the amount of the policy coverage.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/27/2010

**SB 3628\* Overbey**

**HEALTH CARE: Testing of oxygen saturation levels of newborn.** State Summary: Public Health - As introduced, requires attending physicians in a hospital to test the oxygen saturation level of a newborn prior to discharge. - Amends TCA Title 68, Chapter 1, Part 8.

**Senate Status:** Introduced 1/28/2010

**SB 3629\* Beavers**

**INSURANCE HEALTH: Interstate Health-Care Choice Act.** State Summary: Insurance, Health, Accident - As introduced, enacts the "Interstate Health-Care Choice Act". - Amends TCA Title 56.

**Senate Status:** Introduced 1/28/2010

**SB 3641\* Norris**

**HEALTH CARE: Centers of excellence for medical simulation programs.** State Summary: Physicians and Surgeons - As introduced, authorizes the board of medical examiners to set standards for and recognize centers of excellence for medical simulation programs. - Amends TCA Title 63 and Title 68.

**Senate Status:** Introduced 1/28/2010

**SB 3645\* Ketron**

**INSURANCE HEALTH: Study of recent trends in health insurance and medicine.** State Summary: Insurance Companies, Agents, Brokers, Policies - As introduced, requires the commissioner of commerce and insurance to convene a working group of representatives from the insurance industry and the medical professions to study recent trends concerning various issues affecting the health insurance industry and the medical professions. - Amends TCA Title 7, Chapter 57; Title 56 and Title 68.

**Senate Status:** Introduced 1/28/2010

**SB 3739 Bunch**

**HB 3063\* Campfield**

**CRIMINAL LAW: Physicians on sexual offender registry.** Prohibits physicians that are convicted sexual offenders from practicing on children under the age of eighteen unless it is for emergency care.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 1/28/2010

**SB 3748 Bunch**

**HB 2725\* Campfield**

**INSURANCE HEALTH: Health insurance: health benefit purchasing cooperatives.** Enables individuals and small businesses to create health benefit purchasing cooperatives. Allows healthcare cooperatives to become nonprofit corporations, pool together members' insurance risks for coverage, and create three-year contracts for health insurance coverage. Directs the healthcare cooperatives to provide reports to certain parties. (15 pp.)

**Senate Status:** Senate companion bill introduced. (S: Bunch)

**House Status:** Referred to House Commerce. House Government Operations will review if recommended.

**SB 3751 Bunch**

**HB 2717\* Campfield**

**TORT LIABILITY: Punitive damages: limits to \$300,000 with exceptions.** Decreases the punitive damages awards in all civil actions to \$300,000 dollars, unless the action is expressly excluded or the action deals with removal of hazardous substances. Broadly captioned.

**Senate Status:** Senate companion bill introduced. (S: Bunch)

**House Status:** Referred to House Judiciary Civil Practice Subcommittee.

**SB 3812 Johnson**

**HB 3301\* Lynn**

**HEALTH CARE: Abortions: notices to clients.** Requires places where abortions are performed to post a notice stating that no one can coerce another to have an abortion and informing the person that law enforcement can be contacted. Requires pregnant minors to receive and sign certain notice documents and the documents must be kept by the attending doctor for a certain period of time. Provides civil penalties for not complying with these requirements.

**Senate Status:** Introduced 1/28/2010

**House Status:** Introduced 2/1/2010

**HB 2531\* Casada**

**HEALTH CARE: Meeting on transportation services for mentally ill persons.** Requires the department of mental health and developmental disabilities to file a report with the general assembly following each meeting on transportation service for persons with developmental disabilities, mental illness, and serious emotional disturbance to detail discussions, proposals and agreements reached during the meeting.

**House Status:** Caption bill held on House clerk's desk.

If you need additional information or have questions about the legislation discussed in this edition of **GSRM: Healthcare from the Hill**, please contact Matthew Scanlan at 615.244.4994 or [mscanlan@garm.com](mailto:mscanlan@garm.com). More information can be found at [www.garm.com](http://www.garm.com).

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