

STAT LAW November 2010

JUDGE ALLOWS LAWSUIT CHALLENGING HEALTH REFORM TO PROCEED

On October 14, 2010, a Federal Judge in Pensacola, Florida ruled that part of the lawsuit challenging the health reform legislation could continue. According to the press release by Florida Attorney General Bill McCollum, the "ruling is a victory for the States, small businesses and the American people." The Judge allowed a number of the claims to continue including the claims that the individual mandate requiring Americans to buy health insurance and the Medicaid expansion are not permitted under the Constitution. The suit filed by Florida Attorney General Bill McCollum is the highest profile of several cases opposing the health reform legislation. A Federal Judge in Detroit recently dismissed a similar suit challenging the health reform legislation.

COURT RULES AGAINST UNCERTIFIED PHYSICIAN

The Third District Court of Appeals ruled that a physician was not entitled to an injunction against a hospital that refused to renew the physician's privileges. The hospital notified the physician that it would not renew the physician's privileges because the physician had not obtained board certification within seven years as required by the hospital bylaws. The Court found that the physician was not entitled to an injunction in part because he could not show irreparable harm. According to the Court, the physician remained licensed as a physician and was able to continue practicing medicine.

Florida Board Still Grappling With Pain Management

The new Florida law for pain management clinics requires the Florida Board of Medicine to establish a rule on the total number of prescriptions for Schedule II, Schedule III and Alprazolam that may be written per day. The Board considered limiting the number of prescriptions to 150 per day for each full time physician. Physicians working part-time would be allowed to write fewer prescriptions based upon the number of hours worked. The law was passed to address the growing abuse of prescription drugs that reportedly causes seven deaths per day in Florida. The Board has been meeting regularly in joint sessions with the Florida Board of Osteopathic Medicine to develop rules for pain management clinics. The training required to practice in a pain clinic has been one of the more hotly debated issues. The Board of Medicine only wants anesthesiologists, neurologists, neurosurgeons, psychiatrists and physicians with specialized training in pain medicine or physical medicine practicing in pain clinics. The Board of Osteopathic Medicine wants to allow general internists and family physicians among others to practice in pain clinics.