In this issue:

Hearings on bills this week – SB 21, SB 646 & SB 682
Bills passed by committees – HB 740, HB 1471 & HB 1782
House passes SB 1
Schedule for next week
Update on SB 406
Capitol visits – April 10

Committee hearings on bills.

SB 21 – the Senate Economic Development Committee heard Senate Bill 21 (Williams-R-The Woodlands) that requires a drug screening and then a more rigorous drug test if drug use is suspected by either an applicant or recipient of unemployment benefits. Senate Bill 21 was amended to change the phrase “prescribed by a physician” to “prescribed by a health care provider.” CNAP requested the bill be amended to include additional prescribers in addition to physicians and appreciates Senator Williams’s amendment. Anyone in Senator Williams’s senatorial district should be sure to thank him for agreeing to amend SB 21 to recognize other health care providers besides just physicians. The House companion to SB 21, House Bill 1281 (Creighton-R-Conroe), is scheduled for a public hearing on April 10, at 8 a.m., in the House Committee on Economic & Small Business Development in E2.028. (More information below.)

SB 646 - the Senate Health & Human Services Committee (HHS) met on Tuesday this week and heard two bills of interest to CNAP. Senate Bill 646 (Deuell-R-Greenville) and SB 682 (Campbell-R-New Braunfels) were heard but left pending. Dr. Deuell laid out a committee substitute for SB 646 that aligns it with the substitute for House Bill 2212 (Naishhtat-D-Austin) that was heard and left pending in the House Committee on Public Health (HPH) last week. These bills amend the Health and Safety Code relating to court-ordered outpatient mental health services. Under the provisions of the bill, within 24 hours after detention begins, a physician must evaluate the patient regarding the risk of serious harm to the patient or others. The bills set up an “assisted out-patient treatment” (AOT) program so the patient receives more monitoring and coordination to ensure compliance with the court-ordered treatment plan. CNAP has worked with both offices to try to amend the bills to include the term “managing psychiatric provider,” but neither office nor the advocates for these bills have been willing to consider such an amendment.

SB 682 – Senate Bill 682 states that if advanced practice nurses (it uses the old terminology) or physician assistants provide services to Medicaid clients under the direction or supervision of another provider the APN’s or PA’s national provider identifier (NPI) must be included on any reimbursement claims submitted to Medicaid by the provider. The bill also states that the reimbursement rate will be the rate
established for advanced practice nurses and physician assistants, which is currently 92 percent of the provider’s rate. This bill was the result of a recommendation of the Legislative Budget board in their Texas State Government Efficiency and Effectiveness Report, January 2013. A link to the recommendation follows: http://www.lbb.state.tx.us/GEER/Government%20Effectiveness%20and%20Efficiency%20Report%202012.pdf#requireNonPhysicianMedicaid.

Kathy Hutto, CNAP lobbyist, testified “on” the bill telling the Committee that CNAP supports having APRNs and PAs billing under their own NPI but opposes Section 2 of the bill that reduces reimbursement rates. She stated that historically, the rules have allowed APRNs and PAs practicing with a physician to bill Medicaid under the physician’s NPI and receive reimbursement at 100 percent. Additionally, she said that the majority of APRNs and PAs practice with physicians, so SB 682 would cut the revenue of these team practices by eight percent.

Dr. Doug Kerens, a family physician from Athens, testified against the bill on behalf of the Texas Medical Association (TMA) and the Texas Academy of Family Physicians (TAFP). Dr. Kerens agreed that allowing APRNs and PAs to bill under their own NPI would be an improvement to be able to tell who is delivering and providing medical services, but he said the bill directs the Health and Human Services Commission (HHSC) to write rules that reimburse APRNs and PAs at a lower rate. He said the bill runs counter to efforts to get more practitioners to take Medicaid patients so they can have “medical homes” and patient-centered care. He said SB 682 discourages collaboration and reduces access to care.

Ms. Lauren Dobbs, president of the Texas Academy of Physician Assistants, testified against SB 682 and agreed with the previous testimony that it discourages collaboration and people from wanting to take Medicaid patients. She agreed that SB 682 would reduce access to care.

Senator Jane Nelson (R-Flower Mound and chair of HHS) asked how this bill would impact SB 406. The witnesses said it would discourage collaboration between APRNs, PAs and physicians. Dr. Kerens also said that reducing Medicaid reimbursement rates by eight percent in an already tightly funding program would be detrimental. Dr. Deuell asked the witnesses how to fix SB 682, and all of them agreed eliminating Section 2 of the bill that directs HHSC to write rules that reduce Medicaid reimbursement rates for APRNs and PAs would fix the bill. SB 682 was left pending before the Committee.

Bills passed out of committees.

Screening for congenital heart defects - HB 740 (Crownover-R-Lake Dallas). House Bill 740 requires the Department of State Health Services (DSHS) to require that newborns be screened for congenital heart defects. A committee substitute was passed out of the House Committee on Public Health (HPH) on 04/03/2013 and referred to the House’s General Calendar; the bill does not have a Senate companion. The substitute removed the requirement for screening all newborns and directs DSHS to write rules to target the newborn population that should be screened.

CNAP Legislative Update #11
04/05/2013
Newborn hearing screenings – HB 1471 (Laubenberg-R-Parker) corrects an unintended consequence from the 82nd Legislature (2011) when it passed House Bill 411 (2011) that required a birthing facility to perform, either directly or through a transfer agreement, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged unless the parent declines the screening, the newborn or infant is transferred to another facility before the screening is performed, or the screening has previously been completed. House Bill 1471 substitutes “referral” for the term “transfer agreement” to make it easier for birthing centers operated by midwives to comply with the required newborn hearing screening. The bill passed the Committee on a 10-0 vote and has been referred to the House Local & Consent Calendar.

Photo IDs for hospital health care practitioners – HB 1782 (Davis, S.-R-Houston) requires health care practitioners to wear photo identification badges. The original bill was very directive about the specifications of the badge, and the committee substitute just directs hospitals to adopt policies requiring health care practitioners to wear photo identification badges. The bill passed on a 10-0 vote and was referred to the House’s General Calendar.

State budget – SB 1 - The House of Representatives took up SB 1 on Thursday, April 4, and waded through 267 amendments in record time: about 12 hours. One hundred eighty one amendments were added to the bill. Now that the House has passed its version of the budget, the work moves to the all-important 10-member Conference Committee chaired by Senator Tommy Williams (R-The Woodlands) and co-chaired by Representative Jim Pitts (R-Waxahachie). As of today, the remaining conferees have not yet been named.

Bills with committee hearings next week – The following CNAP-tracked bills are scheduled to have public hearings next week:

Tuesday, Senate HHS:
SB 34 (Zaffirini-D-Laredo) relating to the administration of psychoactive medications to persons receiving services in certain facilities; and,
SB 316 (Uresti-D-San Antonio) relating to the substitution by a pharmacist of certain opioid analgesic drugs.

Wednesday, House Economic & Small Business Development:
HB 1281 (Creighton-R-Conroe) —will be substituted to include the same “health care provider” language included this week in SB 21.
HB 1583 (Riddle-R-Houston) relating to drug use by and drug testing for applicants and recipients of unemployment compensation benefits; providing a criminal penalty. CNAP has talked to Rep. Riddle’s staff about amending this bill in a similar manner as was made in SB 21 and will be made in HB 1281. As of today, her staff is still waiting on word from the representative if she agrees to make such a change.

Update on SB 406. Good news! SB 406 was finally referred to House Public Health. I say finally because we have been anxiously awaiting this since March 14th when the bill CNAP Legislative Update #11
04/05/2013
arrived in the House, but actually it was one of the first Senate bills to be referred to a committee. Kathy Hutto and Roland Leal, one of TANA’s lobbyists had met with Speaker Straus’ staff to ask that SB 406 be referred to committee as soon as possible so we could have a hearing before the crunch time hits. We hoped that we might get a hearing on April 10th, but it looks like it will be the 17th. Chair Kolkhorst only scheduled House Bills for next week’s hearing.

This afternoon Kathy met with Jim Willmann (TNA’s General Counsel and Director of Governmental Affairs), Janis Carter (one of TNP’s lobbyists), David Williams (TNP’s Public Policy Director), Jaime Capelo (lobbyist for the Texas Academy of Physician Assistants), Dan Finch (TMA lobbyist), Tom Banning (Executive Director for the Texas Academy of Family Physicians), Jose Camacho (Executive Director for the Texas Association of Community Health Centers), Shannon Ghangurde (Senate HHS Committee Director), Sharen Ludher (Senate HHS Committee Policy Analyst), Han Nguyen (House Public Health Committee Director), and several representatives from the Health and Human Services Commission and the Texas Department of Insurance. The purpose of the meeting was to go over the last few issues that needed to be discussed so the House Committee Substitute can be requested. It took about an hour and a half, but was productive. If everyone does their homework over the weekend, it should all be to the Legislative Council by noon on Monday.

The meeting did reconfirm that several physician members of the legislature, as well as other members of the House, continue to have concerns about allowing physicians to delegate Schedule II drugs to APRNs and PAs even in the limited situations allowed in SB 406, i.e. hospitals and hospice. The physician associations are standing with us and it is great to have an “agreed to bill,” but this is not done yet. We want it to pass and we want it to have the Schedule II language in it. Please do your part to help. Join us on April 10th for Capitol visits. If you can’t come to Austin, call or write your State Representative and ask for their support.

April 10th – next Capitol visits. There are more Capitol visits planned for Wednesday, April 10th. Please e-mail Trish Conradt, CNAP Public Policy Director, at trish@cnaptexas.org if interested in visiting elected officials at the Capitol. Activities at the Capitol will be in high gear as members push to get their bills passed before mid-May deadlines start to kick-in and bills start dying at every turn. Your presence and voice are needed! Make plans now to come advocate in Austin.