IT’S OVER! Happy Sine Die¹ NPAM members! The 2010 Legislative Session of the Maryland General Assembly came to a close at Midnight on Monday, April 12, 2010. Now our life, liberty and property are safe for another nine months. Minus a few bumps and bruises along the way, this was a great Session for you and everyone should be pleased with our accomplishments!! Many thanks go to Susan for her leadership and perseverance, Sandi for her willingness to assist in letter writing, and of course Diana, Julie, and Jane for their knowledge and expertise throughout session and especially for the committee hearings.

Governor O’Malley held the traditional *sine die* bill signing, which resulted in 170 enacted bills. Two additional bill signings are scheduled for May 4th and May 20th, to begin at 10:30am in the Maryland State House.

**GENERAL ISSUES**

During the 2010 Session, members of the House of Delegates and the Senate introduced 2,700 (increase of 28 since 2009!) bills and resolutions. Of that, 810 bills and 4 joint resolutions were successfully passed.

Some of the heavily debated issues for the Session included Maryland’s looming budget deficit, health care, the environment, death penalty, and reregulation of electricity. One topic of interest came about in the final days of Session were the various Sex Offender legislation which narrowly passed within the midnight deadline. Some of those initiatives that will protect the public include: increased penalties for a person 18 years of age or older convicted of second degree rape or second degree sexual assault of a victim younger than the age of 13 with the increase of the minimum sentence from 5 to 15 years imprisonment, the prohibition of diminution of credits, and the alteration of various sex offender registration and notification requirements to conform Maryland law to federal law including a listing of juvenile sex offenders that is maintained separately from the sex offender registry and accessible only by law enforcement personnel.

**BUDGET ISSUES**

Due to the economic crisis that not only Maryland, but the entire U.S. is facing, Maryland House and Senate Leadership issued memorandums to Committee Chairs requesting that all legislation with a fiscal note of more than $1.00 be reviewed by the Chairs and approved by the Budget Committee Chairs before passing favorably out of the policy committees. This edict drastically slowed down and in many cases killed potential legislation this year. In past years of fiscal instability, fiscal notes of more than $250,000 were typically scrutinized, this year the threshold affected everyone.

The General Assembly passed the Budget Bill (SB 140) consisting of $32 billion, the Budget Reconciliation & Financing Act (BRFA) (SB 141), and the Maryland Consolidated Capital Bond Loan of 2010, known as the Capital Budget (SB 142). As enacted, the $32.3 billion Budget Bill decreases spending by $298.1 million from the prior year and includes General Assembly reductions of $919.4 million of which $449.4 million is contingent on the BRFA, leaving a General Fund balance of $195.5 million.

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¹ The term “Sine Die” from the Latin “without a day” means “without any future date being designated for resumption” or ”indefinitely”. It is often used with reference to meetings or when an organized body’s existence terminates.
Other budget highlights include: Medical Assistance (Medicaid) will receive $5.8 billion, a $220 million increase with no reduction in services or eligibility; stem cell research is maintained at $12.4 million but $2 million of this amount may only be transferred to the Maryland Biotechnology Investment Tax Credit Reserve Fund. From the BRFA, a new provision was added establishing the Public Employees’ and Retirees’ Benefit sustainability Commission to study and make recommendations on all aspects of state-funded post-retirement benefits and pensions provided to the State and public education employees. Within the Capital Budget, the capital bond program retained the $7.4 million for the Community Health Facilities Grant Program as well as $77.8 million in Program Open Space funding.

NPAM LEGISLATIVE PRIORITIES

HB 319/SB 484: State Board of Nursing - Nurse Practitioners - Certification Requirements and Authority to Practice (Chapter 77 and 78)

Position: Strong Support

Outcome: Passed with amendments

NPAM joined forces together with the Maryland Coalition of Nurse Practitioners (MCNP) along with priority stakeholders including the Maryland Hospital Association, CareFirst, Community Behavioral Health Centers, and the Maryland Nurses Association to advocate for the repeal of the restrictive and antiquated collaborative agreement which had been stifling professional practice in Maryland for several decades. Despite the association’s limited funding, the election year “curse,” and the threat of larger opponents such as MedChi – NPAM prevailed victoriously with the passage of the bill and the Governor’s signature on April 13th. A true testament to the effectiveness of strong grassroots efforts made by NPs across the state, strategic messaging and strong lobbying efforts, and the ability to work together with adversaries towards a common goal were the winning combination this year.

The legislation establishes the following:

- Codifies the NP score of practice as stated in COMAR 10.27.07.02,
- Establishes documentation requirements for the Board of Nursing,
- Repeals all references to the collaborative agreement,
- Replaces collaborative agreement with formal “attestation” of collaboration and consulting between an NP and Physician.
- The attestation will include the name of a physician(s) that the NP will collaborate, consult, and refer to in a professional relationship.
- The physician is not required to be part of the practice where an NP will be employed; the attestation will be approved solely through the Board of Nursing and will no longer require the Joint Committee on Nurse Practitioners.
- The attestation will be available to the Board of Physicians upon request should that Board need to verify the physician.
- A physician signature will not be required as part of the attestation.
- The legislation will go into effect on October 1, 2010 and in conjunction with the implementation of the legislation, the Board of Nursing will promulgate clarifying regulations over the next several months to ensure a streamlined transition into this new policy and statute.

HB 929/SB 855: Patient Centered Medical Home (Chapter 5&6)

Position: Strong Support

Outcome: Passed with amendments

As part of the Governor’s 2010 legislative package, HB 929/SB 855 brought the need for qualified nurse practitioners to the forefront of the health care debate. HB 929/SB 855 is an Administration bill aimed at improving health care quality and driving down medical costs. Under this program, providers will receive incentives for spending more time with each patient, coordinating patients’ care, and provide improved quality using evidence-based medicine. The PCMH program will be budget neutral to the State as initial funding will come from carriers that participate. Over time the program will offset costs of higher payments to providers for coordinated, comprehensive care to their patients. Similar programs have been established in 20 states including surrounding states of PA, WV, and NY.

The legislation will allow the Maryland Health Care Commission (MHCC) to create a limited program (50 practices, 200 providers, 200,000 patients) that will improve how primary care is delivered in this State. The start up program will last 3 years in length, practices will apply for participation in the fall of 2010 and begin offering service under the program in 2011.
Interested providers will apply to MHCC to be a program participant. The Commission must select providers from geographically diverse areas across the state.

A crucial piece of this legislation is the language that provides for PCMHs to be led by nurse practitioners as primary care providers. Our firm teamed with the Lt. Governor’s office and made the rounds to the Senate and House members educating them on the importance of NPs in bringing the PCMH project to Maryland to the fullest extent of the intent of the legislation. Our efforts were victorious in an immediate vote by both the Senate and House Subcommittees to retain the nurse practitioner language in the legislation. On March 24th both bills passed the full chambers and were signed by the Governor on April 13th.

NPAM was applauded for their efforts in working with the Governor’s office, the General Assembly and the many stakeholders who were in support of the legislation. Making the argument in support of this legislation coupled with the efforts on our proactive bill to repeal the collaborative agreement (HB 319 & SB 484) provided the necessary education and confidence to the elected officials who now possess a strong understanding of NPs most important role in primary care in our State.

SB 279: Maryland False Health Claims Act (Chapter 4)
Position: Strong Opposition
Outcome: Passed with amendments

Leading the list of challenges for the 2010 Session the False Claims Act, an Administration bill that seems to have nine lives. It was jointly assigned in the House to Judiciary and Appropriations, and in the Senate to Judicial Proceedings and B&T. Accompanied by a team of experts including a former Federal Prosecutor, we participated in full hearings in all committees, plus meeting with the Deputy Attorneys General, the DHMH Medicaid Fraud Control Unit, the Speaker, The President of the Senate, the Fiscal Note writer, the fiscal committees’ staff members, and every member of the primary legislative Committees. Our firm helped organize a coalition of over a dozen stakeholder groups and their lobbyists, including the MD Hospital Association, MedChi, and a host of specialty societies and organizations, the MD Community Health Centers, Psychologists, Nurse Practitioners, BIO and the MD Chamber of Commerce. We hosted dinner meetings with the primary Committees, organized grass roots lobbying efforts through the Howard Consulting firm, and left no stone unturned.

A host of amendments were debated over the course of the 90 days, many of which were accepted by the Administration and softening the negative impact of this legislation to the providers in the State. Finally, a compromise deal was struck – leaving no party satisfied – and the bill passed on April 9th. We will carefully monitor the implementation of this legislation and possibly return in 2011 with further changes to the legislation should the need arise.

The bill as enacted with amendments establishes the following:

- Prohibits a person from making false or fraudulent claims for payment or approval by the State or DHMH under a State health plan or program,
- Authorizes the State to file a civil action against a person who makes a false health claim,
- Permits a private citizen to file a civil action on behalf of the State against a person who has made a false health claim,
- Provides for civil penalties of not more than 3 times the damages of $10,000 for each violation who has been found to have violated this law,
- Requires the court to award between 15-25% of the proceeds of the action to the private citizen initiating the action,
- Prohibits retaliatory actions by a person against an employee, contractor, or grantee for disclosing a false claim or engaging in other false claims-related activities.

OTHER BILLS OF INTEREST

HB 114: Health Occupations Boards – Revisions
Position: Monitor
Outcome: Passed with amendments

This bill sets standardized guidelines for all health occupations boards regarding the disciplinary process and sanctioning of licensees; board vacancies, membership, and training; the appointment of an executive director; information that must be posted on a board’s web site; data collection; and the role of the assistant Attorneys General in the disciplinary process. The bill also requires the Secretary of Health and Mental Hygiene to establish goals for the timeliness of complaint resolution for all of the boards, a group of boards, or a specific board by October 1, 2012. When established by the Secretary, the goals are nonbinding
and cannot be used as grounds for any hearing or appeal of any board action. Finally, the bill includes related reporting requirements for each board and the Secretary.

Each board has to establish a disciplinary subcommittee, but only after consultation with the Secretary and to the extent permitted by existing resources. The bill requires boards that use a system of peer review in standard of care cases to provide a licensee or certificate holder under investigation with an opportunity to review the final peer review report and provide the board with a written response. The board must consider both the report and the licensee’s response before taking action.

With certain exceptions, a board may not bring charges against a licensee or certificate holder based solely on events contained in a complaint that was made more than six years after an incident occurred or could have been discovered.

The bill takes effect July 1, 2010, and applies only prospectively to complaints received on or after that date.

**HB 147: Health Insurance - Assignment of Benefits and Reimbursement of Nonpreferred Providers**
Position: Monitor
Outcome: Passed with amendments

*Note: NPAM was specifically interested in HB 594/SB 756 which would have applied to all health care providers with provider neutral language. That bill did not pass. HB 147 is Physician specific but still relevant to NPAM as the State will pilot this legislation and perhaps include all providers in the future.*

This bill prohibits carriers from refusing to honor an assignment of benefits to a health care provider. The bill also imposes specific billing, disclosure, and payment rate requirements for On-call and non-hospital based physicians in cases where they are considered out-of-network by a health insurance carrier. Penalties apply in some cases. In addition, the bill requires the Maryland Health Care Commission (MHCC), in consultation with the Maryland Insurance Administration (MIA) and Office of the Attorney General (OAG), to study the impact of the bill on carrier network adequacy, physician reimbursement and access, and balance billing. MHCC must submit a final report to the General Assembly by October 1, 2014.

The bill’s provisions take effect and apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2011, with the exception of the study requirement, which takes effect October 1, 2010.

**HB 435: Health Insurance - Reimbursement of Physicians - Services Outside of Office Hours, by Telephone, or Online**
Position: Monitor
Outcome: Passed with amendments

Original language would require health insurance carriers to reimburse physicians a bonus payment for services provided in the office at times outside of regularly scheduled office hours or on days when the office is normally closed.

Legislation was heavily amended to the following:
- Insurance carriers – including carriers with “group model HMO” contracts or policies that provide hospital, medical, or surgical benefits to 5 individuals or groups on an expense-incurring basis.
- Language changes physicians to “PRIMARY CARE PROVIDERS” for services provided in the office after 6:00pm and before 8:00am on weekends and national holidays.

**HB 814: Health Insurance - Individual Health Benefit Plans - Frequency of Premium Increases**
Position: Monitor
Outcome: Passed with amendments

Original language would prohibit insurance carriers from increasing the premium on an individual health benefit plan more frequently than once every 6 months.

Final language changed 6 months to **12 months** and granted an exception that would allow for a change in premium in less than 12 months if the increase is due solely to the enrollment of a new family member to the individual health benefit plan of the individual.
HB 1015: Health Insurance - Purchasing Out of State - Feasibility Study
Position: Monitor
Outcome: Failed
Requiring the Maryland Insurance Administration to study the feasibility and desirability of allowing State residents to purchase health insurance out of state and of establishing an Interstate Health Insurance Compact.

Legislation passed the House with amendments to change the language to a “Study” but failed in the Senate.

HB 1357: Professional Boards – Transfer of Funds – Repayment
Position: Support
Outcome: Failed
This bill would prohibit the Governor and General Assembly from taking monies from the Health Occupations Boards to add to the General Fund. Currently, the Governor is taking $537,000 from the Board of Physicians, $305,000 from the Board of Nursing, $23,000 from the Board of Examiners of Psychologists, and $13,000 from the Audiologists Board to fill budget gaps in the General Fund.

The bill was strongly supported by many professions and health associations, however, due to the fiscal climate the budget gaps had already been filled by the monies from the professional funds, so the bill failed. However, the Appropriations Committee was very interested in the protection of the professional boards and will most likely seek legislation in future years.

SB 625: Health Insurance - Payment and Fee Disclosure
Position: Support
Outcome: Failed
This bill would have required, by July 1, 2012, insurers, nonprofit health service plans, and HMOs to provide an enrollee or health care provider with a reasonably accurate estimate of the amount the carrier will pay for a covered service and the amount the enrollee will be required to pay for the covered service prior to the rendering of that covered service. The bill would also require carriers that use provider panels to provide further information, some only upon request, if the health care provider rendering a service does not participate in the carrier’s provider panel.

The Maryland Insurance Administration (MIA) stated that, in Maryland, insurers promise to pay the allowed amount as determined by the insurer. There is no disclosure of how the determination is made or any promise that this will be the market rate. MIA recently looked at the benefit outlines of all insurers and HMOs offering preferred provider organizations or point of service policies in the small group market and found that some did not accurately describe the arrangement to potential policy holders. MIA advises that it receives numerous complaints from consumers who receive care and are later surprised at their liability for rendered services. This is particularly common for out-of-network services. MIA provided information to the committee that some consumers have requested advance estimates of the amounts payable out-of-network, which some carriers have refused to provide. According to MIA, the bill will result in a decrease in consumer complaints in this area.

Unfortunately, the bill was not “ready for prime time” this year and will take more research and education in the future. This bill was supported by numerous provider groups.
NPAM’s input is very valuable to the legislators and they want to hear from you, the experts, when considering health care legislation. As your lobbyists, we will be your eyes, ears, and advocates on the ground in Annapolis, but nothing compares to your experience as health care providers. So we encourage all of you to come to Annapolis and contact your legislators and tell them how you feel about issues that are important to NP’s and health care in Maryland.

Please contact me or Bill, if we can assist you in any legal or lobbying matters. I have been honored to represent your organization for the past three legislative sessions and I look forward to the future of representing this association in many different capacities and possible new legislation in coming years. We are looking forward to an exciting new year in Maryland!

Take Care,
Julia

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