The Leg.Up
Local, state and national news of interest to the physician community
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Medicaid's "Peculiar" Future

This column by Robert Samuelson highlights some of the underlying problems with Medicaid expansion, particularly what he calls the program's "peculiar" cost structure and what that bodes for the future.

While "abstaining" states like Virginia stand to lose billions of dollars in federal funds if they don't expand under Obamacare, Samuelson notes the demographic problems facing Medicaid for years to come:

"Children and adults under 65 represent three-quarters of beneficiaries but only one-third of the costs. The quarter who are aged and disabled represent two-thirds of costs. They are especially sickly and poor. More than 60 percent of nursing home residents have Medicaid."

Bottom line, he writes: "As the population ages, states'
Medicaid spending will rise inexorably," pinching funding for other services such as schools, police and higher education.

Samuelson refers to a recent 40-page report from the White House, "Missed Opportunities," that asserts that Virginia and 23 other states "are hurting the poor and themselves. It's an easy case to make," Samuelson opines, "but it's incomplete and misleading.

"The further truth is that Medicaid also threatens to crowd out spending for many traditional state and local functions: schools, police, roads, libraries and more."

The trend isn't new, with states' general funds devoted to Medicaid more than doubling (to 19 percent) between 1989 and 2013. "Under the present law," he writes, "the squeeze will worsen."

For another point of view, read this Washington Post editorial chiding Virginia Republicans for creating a "charade" on the Medicaid issue.

With state GOP leaders calling for a special session in September to discuss expansion, the Post says the Republican leadership is "transforming the General Assembly into a state for Kabuki theater" that will only spotlight "their glaring failure to propose any alternative to expanding Medicaid."

TD columnist Jeff Schapiro summed it up this way: "While the governor's away, the legislature will play." And the Virginia Supreme Court eventually may rule the day.

Help Shape MSV's Legislative Agenda

Do you have suggestions for new health care policy in the Commonwealth? Are there rules, laws, studies or other fair business practice issues that you would like to see the Medical Society of Virginia address?

If so, RAM invites you to offer resolutions for the consideration of our 38 delegates who will represent Richmond area physicians at the MSV Annual Meeting, October 24-26, 2014. These resolutions may end up as proposed legislation for the 2016 Virginia General Assembly or as a part of the MSV legislative package for 2016.
Please describe the problem, define the issue and propose a possible solution. Submit your work by fax to 788-9987 or by e-mail to lknowles@ramdocs.org. All resolutions must be received by THURSDAY, AUGUST 28, 2014 to be considered.

Please consider serving as a delegate to the MSV Annual Meeting. If interested, contact Lara Knowles at 643-6631 or lknowles@ramdocs.org.

Order in the Court: Can Docs Sue Insurers for Underpaid Claims?

A U.S. Court of Appeals in Philadelphia is considering a physician's right to bring a lawsuit against an insurer that fails to pay correctly for medically necessary services provided to a covered patient, reports AMA Wire.

"In North Jersey Brain and Spine Center v. Aetna, a physician practice that received assignments of benefits from patients with employer-sponsored health plans sued the insurer for denying and underpaying medically necessary surgeries for three different patients," AMA Wire reports. "The claims were brought to court only after the practice exhausted internal appeals processes with the insurer."

The AMA's Litigation Center and two New Jersey medical groups said in a friend-of-the court brief: "Physicians are willing to provide medical care without demanding... up-front payments because they are confident that, if necessary, they can pursue remedies under ERISA [the Employee Retirement Income Security Act] for improperly denied insurance benefits."

McAuliffe's "Contact Sport"

Say what you will about Gov. Terry McAuliffe, the man has some high-level business contacts, according to this report in The Washington Post.
From Mumbai to Hollywood to China, McAuliffe has been making good on "his promises to bring his Rolodex and deal-making charms to Richmond" to help the Virginia's economy. While he was ridiculed by Republican foes, "McAuliffe's legendary power to strike a deal seems as potent as ever in the arena of economic development, where he has been tapping a vast collection of old friends and associates.

"From Washington to Hollywood to Doha to Beijing, McAuliffe has someone on speed dial... His connections have helped draw Air China service to Dulles International Airport, land a movie directed by Meg Ryan, lure Carnival Cruise Lines back to Norfolk and ship $20 million a year in chicken and turkey to China."

His biggest deal to date: Landing a $2 billion paper plant that will create 2,000 jobs in the Richmond suburbs.

The Price of Prevention: Vaccine Costs Soaring

"Vaccination prices have gone from single digits to sometimes triple digits in the last two decades," reports The New York Times, "creating dilemmas for doctors and their patients as well as straining public health budgets."

Vaccines use to be a "loss leader for manufacturers, because they are often more expensive to produce than conventional drugs." But with Obamacare's mandates, "Vaccines now can be very profitable."

The average cost to fully vaccinate a child with private insurance to the age of 18 has risen since 1986 from $100 to $2,192.
GOP Charges Double-Standard in Puckett Probe

With four Democratic lawmakers leaving the General Assembly in recent weeks, only one of those resignations has sparked a federal grand jury investigation:

Sen. Phillip Puckett from Southwest Virginia, whose exit helped block Gov. Terry McAuliffe's efforts to expand Medicaid. There's been no call for a federal probe of the three other departing Democratic lawmakers: Sen. Henry Marsh of Richmond; Del. Bob Brink of Arlington; and Del. Algie Howell of Norfolk.

Republican leaders are charging that Puckett's exit - which handed Republicans a 20-19 majority in the Senate - "is a partisan witch hunt launched by President Barack Obama's Justice Department against Virginia Republicans for thwarting one of Obama's and Democratic Gov. Terry McAuliffe's key policy initiatives," reports the Virginian-Pilot.

While the other three Democratic resignations brought the GOP no partisan advantage, "all three got jobs in the McAuliffe administration." Marsh was named to the ABC Control Board. But unlike Puckett's district in Russell County, all three of those legislative seats are likely to remain in Dems' hands.

University of Virginia political scientist Larry Sabato agreed, saying, "The distinction is that Puckett's decision changed the character of the Senate in a major way."

Still, Sabato said, "I have a hard time believing this will lead to anything. This is politics... It can be a very dirty game."

Sabato is the keynote speaker at RAM's Sept. 16 General Membership meeting. Click here to register.

Carl Tobias, a law professor at the University of Richmond, begged to differ with Sabato's analysis.

Citing a possible "quid pro quo" - with an early offer to give Puckett a high-paying job on the GOP-controlled state Tobacco Commission - he said, "There is the possibility that the Republicans, in order to take control of the Senate, offered him this commission job in exchange for his stepping down."
Roster of New State Health Laws

An array of new health bills took effect July 1 "and may require you to make changes in your practice," says this alert from the Medical Society of Virginia.

The laws include workers’ compensation reforms, concussion awareness and mental health reforms.

Kaine Supports Bill to Counter "Hobby Lobby" Contraceptive Ruling

**Virginia Sen. Tim Kaine** is one of more than 30 senators backing legislation to counter the U.S. Supreme Court's *Hobby Lobby* decision, reports the Times-Dispatch.

The court dealt a setback to *President Barack Obama's* health care law June 30, ruling that business owners with religious objections to certain forms of birth control may refuse to provide their employees with insurance coverage for contraceptives.

But Kaine said in a statement that he wants to "restore the contraceptive coverage requirement guaranteed by the Affordable Care Act and protect coverage of other health services from employers who want to impose their beliefs on their employees by denying benefits."

**Virginia Sen. Mark Warner** also has said he supports legislation to counter the Hobby Lobby decision.

Will Single Women Help Dems in Midterms?

Fewer marriages over the years has helped "create an emerging voting block of unmarried women that is profoundly reshaping the American electorate" in a way that has benefited the Democratic Party in recent elections, reports The New York Times.

"What is far from clear is whether Democrats will benefit in the midterm contests this fall," the Times reports.

The political calculus took on new urgency after the Supreme Court ruled recently in the *Hobby Lobby* case that family-owned corporations aren't required to provide birth control as part of insurance coverage.
Still, "the challenge for Democrats is that many single women do not vote, especially in non-presidential election years like this one... The result is a turnout that is older, whiter and more conservative than in presidential years."

Access Now Key Link in Richmond-area Charity Care Chain

Times-Dispatch health writer Tammie Smith used Access Now and the Richmond Academy of Medicine to answer a reader's question: "Can you explain charity care?"

After explaining how the state's Certificate of Public Need Program affects area hospitals, she concluded, "Many local safety-net providers - free clinics and community health centers - partner with Access Now, a Richmond Academy of Medicine program that screens people who need specialist care, including surgery, imaging and outpatient procedures, but cannot afford it.

"Access Now arranges for those people to get care at participating providers, who are able to count that care as part of their charity care obligation."

Thanks to the many RAM members, practices, health care systems and others who provide this all-important service free of charge to the uninsured!

Brat Faces Loss of Cash After Cantor Crash

When House Majority Leader Eric Cantor suffered his stunning primary loss to novice nominee David Brat, it "left a bit of a mess in Virginia seventh congressional district, with Democrats weighing whether to invest in the race" and Brat's allies "alleging that Mr. Cantor's backers are pulling money away from the campaign," reports The Washington Times.

Before Brat's victory, Democrats had all but conceded the general election before nominating college
professor

Jack Trammell at the last minute. Now they "must decide whether to spend money in a district that leans heavily Republican."

Meanwhile, "Mr. Brat, in securing one of the biggest political upsets in recent memory, must now find a way to raise the money to fend off Mr. Trammell."

And Cantor? He's "winding down his prolific joint fundraising committee, which has raised more than $4.5 million over the past two years alone to boost local, state and national GOP candidates and causes."

Even though Cantor's "wind-down" may cost Brat lots of money, he's still the front-runner in the race. National Democrats have done some "chest-thumping" about Cantor's loss, but so far they haven't shown any sign they plan to bankroll Trammell's longshot campaign, the Times reports.

In other news, this report from Princeton University's newspaper - The Daily Princetonian - raises questions about some of Brat's campaign assertions that "he was educated in Princeton."

Brat did receive a master's degree from Princeton Theological Seminary, but that's a free-standing graduate school of the Presbyterian Church (USA) and not part of the university.

Warner Outraising Gillespie in Senate Race; Brat Leads Trammell

Sen. Mark Warner widened his financial lead over Ed Gillespie in the fund-raising period ending last month, raking in $2.7 million compared with the $1.9 million his GOP rival amassed, reports The Washington Post.

GOP congressional candidate David Brat reported raising just under $400,000 during the quarter, more than twice that of his Democratic rival in the 7th District race, Jack Trammell.

UVa Close to Culpeper Hospital Deal

The University of Virginia Medical Center is close to becoming sole owner of Culpeper Regional Hospital,
according to this Daily Progress report.

Barring any legal hurdles from the state, UVa officials expect to take control of the 70-bed hospital by September. Culpeper Regional employs 669 people, and hospital officials said the university’s investment would help expand existing department and add new technology.

UVa has been affiliated with Culpeper Regional since 2009, when the Medical Center bought a 49 percent stake in the hospital.

Multi-state License Coming?

By the end of the summer, reports MedPage Today, the Federation of State Medical Boards will send Virginia and other states a new framework for expediting licenses that allow board-certified physicians to practice in multiple states through an interstate compact.

This could open doors to telemedicine and other novel approaches to practicing medicine. There are still plenty of hoops to jump through - including each state's ability to deny licensure to approved physicians.

The goal is a "one-stop pathway" to multistate licensing. The interstate compact would not replace initial licensure and would only be granted to board-certified physicians.

According to this report, the pact would allow people with rare or complex medical conditions to gain access to experts in their areas of need at major academic medical centers.

OCare Aid Groups Help 10 Million

Since the passage of the Affordable Care Act, more than 4,400 consumer assistance programs have been created, helping an estimated 10.6 million people explore new health insurance options and apply for coverage during the initial six-month enrollment period, according to a Kaiser Foundation Survey.

"But the programs that operated in states with their own online insurance marketplaces got more funding and helped more people than those in states on the federal exchange," such as Virginia, the survey found.

The assistance programs employ more than 28,000 full-time-equivalent workers and volunteers.

"The size of this infrastructure was something I wouldn't
have predicted when we began," a Kaiser researcher told The New York Times.

### Medicare Readies Penalties for Hospitals

Medicare has identified 175 hospitals likely to be penalized for high rates of infections and complications, including three in Virginia, reports Kaiser Health News.

They are: **Hiram W. Davis Medical Center in Petersburg; Rappahanock General Hospital in Kilmarnock (on the Northern Neck); and Riverside Doctors' Hospital in Williamsburg**, according to Kaiser.

Click [here](#) for more about what's likely to happen to them.

### Should Docs Get V.I.P. Treatment?

*Dr. Mikkael Sekeres, director of the leukemia program at the Cleveland Clinic, raises interesting questions for physicians who have an accident and land in the ER. His blog recently ran in The New York Times:*

"I was halfway through my ride on a recent crisp and sunny Sunday morning, gaining speed as the road on which I was traveling descended precipitously: 25 miles per hour ... 30 ... 35. I eased on the brakes but my bike abruptly lost its traction and, as if pushed by God, wiped out."

Click [here](#) to read more about his treatment, and his conclusion about getting V.I.P. treatment, which he didn't want:

"...While I could have refused many of these interventions, I recognized how awkward it would be to reject my colleagues' advice or, worse still, to be thought of as a 'difficult patient.' I also realized how hard it was to distinguish 'normal' from 'super-normal' care.

"I did fine and was discharged the following day. If I underwent more tests than someone without a medical degree, I did not suffer from them, and understood they were ordered with my well-being at heart.

"I still had to wonder, though. Could I have done just as well with less?"

### What's Happening?
Check your RAM calendar here.

Check out back issues of The Leg.Up.

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