

This year, the Medical Society of Virginia (MSV) tracked approximately 180 pieces of health care legislation. With the support of physicians, local societies and specialty society lobbyists, MSV was successful in passing a number of bills that will provide improvements for your practice and the health care system. Equally important, MSV defeated legislation that would have been harmful to the physician community.

ADVOCATING FOR PHYSICIANS AND PATIENTS

Budget

While MSV has been successful in securing increases in Medicaid reimbursement for physicians over the years, in 2009 MSV focused on ensuring that Medicaid payments were not subject to budget cuts as the General Assembly looked to fill a \$4 billion shortfall. Initially the Virginia Senate considered cutting provider payments by 3 percent to balance the budget, but an infusion of federal stimulus money led them to withdraw that proposal. Budgets proposed by Gov. Timothy M. Kaine and the House of Delegates never included cuts to physician payments.

As the General Assembly considered the budget, MSV held a press conference to release data from our survey of Virginia physicians. The survey indicated that even a 3 percent cut in Medicaid physician reimbursements could have severe consequences on the Medicaid physician network in Virginia—and on the patients who depend on it. When asked if they would have to make changes to accepting new or treating established Medicaid patients if Medicaid payments were reduced by 3 percent, nearly 58 percent of the survey participants responded that they would have to reduce the number of existing Medicaid patients they treat, reduce the number of new Medicaid patients, stop accepting new Medicaid patients or stop caring for all Medicaid patients.

MSV also weighed in on Gov. Kaine's proposal to boost Medicaid by doubling the cigarette tax to 60 cents. While this measure ultimately failed, MSV supported the tobacco tax increase because it would not only have reduced the harmful effects these products have on public health, but also would have created revenue to preserve access to health care for Virginia's Medicaid patients - thereby safeguarding a critical safety net for vulnerable patients in the current economic climate.

The following bills were **PASSED** by the General Assembly:

Certificate of Public Need

HB 1598 - Del. Phil Hamilton

Amends the Certificate of Public Need (COPN) statutes to streamline the COPN application process. This legislation reduces the number of criteria considered for COPN applications from 21 to 8.

Clean Air Act

HB 1703 - Del. John Cosgrove (chief patron)

Del. Phil Hamilton (chief co-patron)

SB 1105 - Sen. Ralph Northam

The legislation will ban smoking in restaurants in Virginia effective December 1, 2009. The bill includes limited exceptions for private clubs and for restaurants with separate rooms with entirely separate ventilation systems from the rest of the establishment. Smoking will also be permitted on open-air patios.

Licensure of radiology assistants

HB 1939 - Del. Chris Peace

SB 968 - Sen. Harry Blevins

Provides for the licensure of radiologist assistants as individuals who have met the requirements of the Board of Medicine for licensure as advanced-level radiologic technologists and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, are authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"I'm Sorry" legislation

HB 2057 - Del. Phil Hamilton

Expands the list of expressions of sympathy that are not admissible in medical malpractice actions and wrongful death actions brought against a health care provider to include commiseration, condolence, or compassion, together with apologies. This bill was introduced at MSV's request because

research suggests that physician apology programs appear to have the potential to reduce overall medical malpractice liability costs.

Regulations governing the practice of midwifery
HB 2163 - Del. Matt Lohr

Provides that regulations governing the practice of midwifery shall require midwives and certified nurse midwives to disclose to their patients information on health risks associated with home deliveries including but not limited to special risks associated with vaginal birth after a prior C-section, breech births, births by women experiencing high-risk pregnancies, and births of twins or multiples.

Prescription monitoring program
HB 2211 - Del. Chris Jones
SB 1195 - Sen. Phil Puckett

Removes requirement that a prescriber obtain written consent from the recipient of a prescription before requesting information on that recipient for the purpose of establishing his treatment history, and authorizes a prescriber authorized to access information in the possession of the prescription monitoring program to delegate such authority to up to two health care professionals who are licensed, registered or certified by a health regulatory board and employed at the same facility under the direct supervision of the prescriber.

Exposure to communicable diseases
SB 1107 - Sen. Ralph Northam

Requires that if any salaried or volunteer firefighter, paramedic or emergency medical technician becomes exposed to another's body fluids in a manner that may transmit HIV or hepatitis, the other person will be deemed to have consented to testing for those viruses. This bill removes the duty of a law-enforcement officer to inform a person of his deemed consent prior to exposure to his bodily fluids. Also, when a first responder is asked to transport someone with a communicable disease, this bill removes the transferring facility's discretion in deciding if the responder must be notified as to the general condition of the patient and any precautions to be taken, and instead always requires such notice.

DEFENDING AGAINST THREATS TO PHYSICIANS AND PATIENTS

While MSV invests a great deal of time and resources in passing its proposed agenda, the lobbying team also works to favorably amend or defeat legislation that would adversely

impact the physician community and patients in Virginia.

MSV was successful in DEFEATING the following:

Licensure of naturopathic "physicians"
HB 1820 - Del. Terry Kilgore

Left in committee

Would have established licensure requirements for the practice of naturopathy by setting criteria for the practice of naturopathy, including educational requirements, examinations, scope of practice, requirements for the promulgation of regulations governing the profession, and an advisory board to the Board of Medicine. MSV argued that lack of evidence-based research findings, as well as the difference in levels of competency upon completion of the naturopathy education, does not support naturopaths' request for independent practice.

Medical malpractice cap
SB 843 - Sen. Henry Marsh

Passed by indefinitely

Would have raised the total amount recoverable in certain medical malpractice actions to \$2,750,000 on July 1, 2009 with an annual inflation adjuster thereafter. The Senate Courts of Justice Committee voted unanimously to kill this bill for the year. MSV worked vigorously to stop SB 843 from moving forward and was satisfied with the committee's action this year.

Patients' compensation fund
SB 1389 - Sen. Ken Stolle

Left in Court of Justice Committee

Would have created a patients' compensation fund financed by fees levied on health care providers. The fees collected by the health regulatory boards would be used to pay the portion of amounts due from a malpractice settlement, judgment or verdict in excess of \$2 million. The bill would have limited a health care provider's personal liability to \$2 million for any injury to, or death of a patient.

Unborn child pain information
HB 2634 - Del. Ben Cline

Passed by indefinitely

Would have required doctors to offer to anesthetize a fetus prior to abortion and to include in informational materials a statement that a fetus at 20 gestational weeks has the physical structures necessary to feel pain and react to physical stimuli in a manner that, in an infant or adult, would be interpreted as a response to pain.

**To view a complete copy of MSV's 2009 Legislative Wrap-up,
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