



Minnesota Academy of Otolaryngology

Capitol Update
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Get Engaged!

Whether determining eligibility for state programs, prior authorization requirements, the provider tax, or countless other items, the actions of the legislature significantly impact your practice and ability to care for patients. It is critical, therefore, that you get involved for yourself and weigh in with legislators on topics that are important to you.

There are two ways we're making it easy for MAO members to get engaged.

Capitol Rounds. Imagine your own, personalized, Day at the Capitol. Capitol Rounds involves coming to the capitol yourself, either on your own or along with colleagues from your area. You can meet with a legislator in their office and see the capitol. Capitol Rounds only occur when the legislature is in session.

In District Meetings. Can't make it to the capitol? Meet with your legislator in your home community. Typically these are small group events in a coffee shop, at a restaurant, in your home or in a clinic office. Legislators love to meet their constituents. Legislators are in Saint Paul usually Monday through Thursday during the legislative session, however, so if you live outside the metro area these meetings are scheduled on a weekend. Once the legislature adjourns, legislators tend to have much more flexible availability.

Please contact myself at snoznesky@mnmed.org or Dennis Gerhardstein at dgerhardstein@mnmed.org and we will coordinate all the details!

First Committee Deadline Arrives, Focus Shifting to Budget

The first of a series of committee deadlines passed this Friday March 27. This is the Legislature's first step in a process to begin winding down their work. For a bill to be still considered "alive" it must have passed through all non-finance or tax committees in one body or the other. The next deadline is Tuesday April 7, when bills have to be through all non-finance and tax committees in both bodies. Any bills not making deadline are "dead" until next session. However, all involved in political life remind those who observe that no bill is really dead until the final motion to adjourn "sine die" is made and the gavel is sounded.

Following the second committee deadline the work of the Legislature shifts to longer floor sessions and work on the state budget. This is where the difficult decisions will have to be made.

The most recent budget forecast projects a \$6.4 billion deficit for the next two year period. With the help of the federal stimulus that shortfall is now \$4.6 billion, and the

Legislature will have to pass a balanced budget through spending cuts, revenue increases, or most likely, a combination of both. With the size of the deficit, there will be plenty of pain to go around.

Governor Pawlenty has continued to promote his budget recommendations that include no new tax increases and large cuts to the health and human services programs. He no longer is recommending eligibility cuts for MA or MinnesotaCare, but he is recommending a 3% payment cut, elimination of most of the optional benefits, and elimination of the Health Care Access Fund.

The Senate Democrats have released an outline of their recommendations to balance the budget. It includes a 7% across the board cut to all program areas (including K-12 education) and \$2 billion in new revenues. They are arguing that this is the fairest approach so that no one program takes the brunt of the cuts.

The House Democrats most recently released their budget ideas as well. Their outline protects K-12 education from cuts, cuts health and human services programs between 9 and 15%, protects the Health Care Access Fund, and recommends \$1.5 billion in new revenues.

These three competing plans will be debated and eventually melded into a final bill.

Shared Decision-Making Tools Required for Medical Assistance

As I wrote in my last report, the legislature is contemplating requiring the use of patient-centered shared decision-making tools prior to reimbursing for certain medical procedures. [SF 696](#) (Berglin) requires “active participation in a patient-centered decision-making process before a referral is approved or reimbursement is paid” for the following conditions: abnormal uterine bleeding; benign prostate enlargement; chronic back pain; early stage of breast and prostate cancers; gastroesophageal reflux disease; hemorrhoids; spinal stenosis; temporomandibular joint dysfunction; ulcerative colitis; urinary incontinence; uterine fibroids; or varicose veins.

While most physicians acknowledge the value of patient-centered decision-making tools, this legislation raises many unanswered questions. What tool will be required? Is this just a new way for health plans to implement a form of prior authorization? What happens if a patient refuses to participate with the tool? Is there a reimbursement for the additional time spent with the patient? Is this tool used by the referring physician or by the physician who is performing the surgery?

SF 696 passed the Senate Health, Housing, and Family Security on March 12 then was amended in the Health and Human Services Committee to add the following additional diagnoses: bypass coronary disease, angioplasty for stable coronary artery disease, and total hip replacement. The House bill, HF 1140 (Huntley) has also passed the House Health Care and Human Services Policy and Oversight Committee on March 19. The House author acknowledged that the bill needs more discussion and committed working with physicians to address the unanswered questions before the bill goes forward.

Health Plan PMAP Disclosure

All of MinnesotaCare and most of Medical Assistance and General Assistance Medical Care is now provided through contracts with the state's managed care plans. The state provides payments to the health plans and the health plans agree to provide care to the public program enrollees. Every year the Department of Human Services enters into negotiations with the health plans to determine what the capitation rate the state will pay to the health plans. Federal law requires that the capitation rate be "actuarially sound" so the health plans receive an increase rate every year.

Legislators are expressing frustration when they try to find out how the health plans are spending that state money because the health plans argue that the payments they make to providers, and the methods they use to determine provider payment rates are proprietary information. Because of this growing frustration Rep Erin Murphy introduced [HF 1988](#). This would require health plans to annually provide to the Commissioner of Human Services information on payments provided to providers, increases provided to providers, and the methodology the health plan uses to determine provider reimbursement. Legislators have authority over the money that is allocated to the managed care plans and believe that health plans have an obligation to show that the money is being used to address access to needed care.

HF 1988 passed the House Health Care and Human Services Policy and Oversight Committee on March 26. The Senate companion bill, SF 1924 (Berglin) will hopefully be heard this week.

Omnibus Licensing Bill Advances, No Concerns

The House Health Policy Committee passed an omnibus licensing bill which includes bills that have been worked out. There are no provisions audiology and the speech language pathology provisions earlier reviewed by the MAO are included in the MDH Agency Licensing bill. Any controversial items have either been worked out or excluded from the bill, except for the two articles related to dentists. The bill includes the following provisions:

- Article 3, allows pharmacists to give flu shots.
- Article 4, Licenses Respiratory Therapists
- Article 5, Physician Assistants
- Article 6, Psychologists (minor update)
- Article 8 and 9 Social Workers
- Articles 10, Dental therapist
- Article 11, Oral health practitioner licensing

Uniform Prior Authorization and Formulary Exemption

[HF1454](#) (Huntley, DFL-Duluth) requires the commissioner of health, in consultation with the Minnesota Administrative Uniformity Committee, to develop a uniform prior authorization and formulary exception form that allows health care providers to request exceptions from group purchaser formularies, including Part D plans, using a uniform form, within six weeks from the enactment date. Effective January 1, 2011, the uniform

prior authorization and formulary exception form must be accessible by health care providers, and accepted and processed by group purchasers, electronically through a secure Internet site. A witness from St. Mary's Duluth Clinic testified that SMDC spends over \$100,000 annually for R.N.s to fill out and fax paper forms. The bill was approved and sent to the full Finance Committee.

The Senate companion, SF1099 (Prettner Solon, DFL-Duluth) also passed the Health and Human Services Policy Committee and was sent to Finance.

Cap on Copying Fees for Medical Records Stalls

A bill proposing limits on the amounts that hospitals and clinics can charge for duplicating records (\$.05 cents per page or the cost of the copy whichever is *less*) and other plaintiff-attorney friendly items including unlimited access to medical records, was heard in the Senate Data Privacy Subcommittee last week. [SF863](#) (Olson, M., DFL-Brainerd) was deleted from the omnibus data privacy bill after objections from providers and an agreement that the issue related to the cost duplicating records and making them more user friendly for patients and attorney's as we move to E-records will be studied over the interim.

Gift Ban Expansion to Medical Devices Tabled

The Senate Committee on Business, Industry and Jobs on Wednesday heard [SF1237](#), (Marty, DFL-Roseville), a bill that amends Minnesota's current ban on gifts by drug companies to health care providers. The bill expands the provisions of the gift ban to medical device companies. Representatives from HealthPartners and the Prescription Project said the bill was necessary because of inappropriate manipulation by drug companies of physicians. In an effort to reduce opposition to the bill, an amendment was offered which would strike medical device companies from the bill. The amendment was approved, but representatives from LifeScience Alley, Medtronic and Vascular Solutions testified against the bill pointing out that the line between pharmaceutical and medical device companies is narrowing due to convergence of medical devices, biologics and pharmaceuticals. Senator Julie Rosen (R-Fairmount), noted that it was ironic that HealthPartners had a witness opposing drug companies marketing their products at the same time that HealthPartners markets itself with billboards, T-shirts, pens, etc. The bill did not appear to have the necessary votes to pass out of committee so the author asked that the bill be laid on the table. Its House companion, H.F. 1641 (Liebling, DFL-Rochester), which had been scheduled for a hearing on Thursday in the House Health and Human Services Policy and Oversight Committee, was removed from the Committee agenda following the tabling motion in the Senate Committee because the bill would not have met deadline.

Removal of Medicare Balanced Billing Prohibition Considered

A bill supported by the Mayo Clinic to repeal Minnesota's ban on balance billing Medicare patients was heard last week but did not advance and therefore did not meet deadline. [HF1027](#) (Liebling, DFL-Rochester) would have allowed non-participating providers to balance bill Medicare patients. Legislators stated that they recognized the need to recover the gap between the cost of care and low Medicare reimbursement, especially from patients with the means to afford

it, but the bill was opposed by the Minnesota Senior Federation and AARP and did not appear to have the votes necessary to pass. The bill was tabled and is not likely to be heard again.

PA Changes Moving Forward, APN Bill Appears Dead

Legislation modifying the regulation of physician assistants (PA) is moving forward. [SF230](#) (Higgins) would change the regulation of PAs from registration to licensure. It would also increase the number of PAs a physician can supervise from 2 to 5. The MOS does not oppose this bill.

SF 320 passed the full Senate by a vote of 55-4 on March 2. The House version (HF 240, Norton) has been included in an omnibus licensing bill that passed the House Health Care and Human Services Policy and Oversight Committee last week. At this point there has been no opposition to this bill.

Legislation proposing changes to advance practice nurse (APN) laws does not seem to be moving forward this year. This issue, arising from the Healthcare Work Force Shortage Task Force, would have eliminated the requirement for a written delegated prescribing protocol for APNs and instead implemented a written collaborative plan. The bill, [HF 1668](#) (Murphy), was drafted by the Minnesota Nurses Association but physicians felt it did not fully represent the recommendations of the task force. The bill was heard in the House Licensing Subcommittee Tuesday March 17. As drafted the bill did not require a written collaboration plan for all APNs, only for those that were not credentialed by a hospital or health plan. The bill also applied to certified registered nurse anesthetists, even though the task force recommendations were not intended for them. Following lengthy discussion, and conflicting amendments, the bill was laid on the table and the committee adjourned.

The Senate companion bill, SF 1532, has not received a hearing so the bill did not meet deadline.

Committee Schedules for This Week

Check <http://www.leg.state.mn.us/leg/sched.asp> for the most up-to-date information.