Government Affairs Committee Report on

2016 Maryland General Assembly

The Maryland General Assembly concluded on Monday April 11, 2016. For Governor Hogan, it marked the end of his honeymoon period with the democratically controlled General Assembly as several vetoes from last year’s session were overturned in the beginning of the session. The General Assembly was far more active in the number of bills submitted this year with almost 600 more bills than last year. The healthcare related bills seemed to be geared more toward consumer protections rather than healthcare reform from previous years.

The Government Affairs Committee reviewed 53 healthcare related bills for this session. The committee selected 7 of those bills to highlight during Maryland MGMA Legislative Day in Annapolis. Legislative Day was held on February 25, 2016. With many new MGMA members getting involved for the first time, we were able to meet face to face with members of the Senate Finance Committee and the House Health and Government Operations Committee to explain who we were, what we represent, and the issues effecting healthcare in Maryland. During the session, testimony was provided on all the priority bills.

Outlined below is a brief summary of the outcome of some of the more significant issues:

**2016 MGMA Priority Bills:**

**Credit Card Payments:**

As a result of the ACA implementation, health insurance plans have been encouraged to pay claims and transmit remittance advices electronically using national data standards. New regulations were implemented effective January 1, 2014 as new HIPPA regulations. As an unintended consequence, providers have been receiving payments from payers using credit cards or virtual credit cards with a fee deducted from the credit card industry.

HB639 (*Health Insurance-Provider Claims-Payment by Credit Card or Electronic Fund Transfer Payment Method*) was passed this session to assist providers in addressing this problem. Effective October 1, 2016, providers must be notified in advance of payment, the payment options available and any fees associated with an electronic payment option. The carrier must have a no cost payment option available to the provider. This section of the code applies only to health insurance carriers. We will need to address worker’s compensation payments in next year’s session.

**Assignment of Benefits:**

For the second year in a row, an attempt was made to change the current AOB law without success. SB335/HB1505 (*Health Insurance-Assignment of Benefits and Reimbursement of Nonpreferred Providers-Modifications*) was an attempt to prohibit balance billing by non-contracted providers. The bill was submitted as a result of constituent complaint of balanced billing from an emergency department.
treatment which is prohibited in the current statute. The committee seemed to agree the current statute was working reasonably well at the present time and failed to pass the bill.

Worker's Compensation Payment:

SB258/HB710 (Worker’s Compensation-Medical Benefits-Payment of Medical Services and Treatment) was introduced to place a 45 day limit on providers to submit claims to the worker's comp carrier. The current law is 180 days to submit a health insurance claim by the provider for payment. There was no substance provided by the proponents of the bill to change from the existing standard. The committees issued an unfavorable report on the bills.

Network Access Standards and Provider Network Directories:

There were three different bills submitted this session attempting to address the health plan's responsibility on accurate provider network directories as well as standards on network adequacy and access. The final bill SB929/HB1318 (Health Benefit Plans-Network Access Standards and Provider Network Directories) was passed. This bill gives the Maryland Insurance Administration the authority to determine network adequacy and the accuracy of provider network directories with the ability to impose fines on the carriers. While there was discussion on the culpability of providers in the accuracy of the directories, providers will not be fined at this time. The MIA may select a "multi carrier common on-line provider directory information system" to expedite the administrative processing of updates. The network access standards will be effective January 1, 2017 and the directory standards will be effective January 1, 2018.

Financial Disclosure Requirements:

A bill was submitted that would have mimicked the federal Sunshine Act. The bill would have required providers to self-report on financial arrangements with pharmaceutical and medical device companies to the Maryland Health Care Commission. SB857/HB1265 (MHCC-Hospital and Physician Financial Arrangement Disclosure-Requirements) received an unfavorable report by the committee.

Promoting Provider Alignment:

There were two bills HB929/SB1032 (Health Occupations-Prohibited Patient Referrals-Exceptions) and SB886 (Health-Collaborations to Promote Provider Alignment) that attempted to provide relief from obstacles in the current law in new payment models being developed between hospitals and physicians to encourage the successful implementation of the new Medicare Waiver Model. These bills were not successful this session but may well come back again next year.

Consumer Health Claim Filing Fairness Act:

SB887/HB1150 (Health Insurance-Consumer Health Claim Filing Fairness Act) allows for consumers to submit health care claims for up to one year from date of service for
reimbursement from the health carrier. While this bill does not change the 180 day standard for providers to submit claims, MGMA supported this bill as it recognized the overall complexity of health care claims processing.

**Other Areas of Interest:**

**Maryland Medical Assistance Program:**

*Reimbursement:* The final budget bill increases Medicaid reimbursement from 92% of Medicare for E&M codes to 96% of Medicare. Last year, Medicaid reimbursement for E&M codes were increased by the general assembly and the Governor refused to fund the increase. The Governor may well refuse again this year on principle. The legislative session ended without an agreement on tax reductions and there is a remote possibility of a special session.

*Covered Services:* SB242/HB886 (MMAP-Telemedicine-Modifications) was passed this year. This bill expands Medicaid coverage for primary care physicians providing telemedicine services to Medicaid recipients effective June 1, 2016.

*Audits:* HB1220 (DHMH –Health Program Integrity and Recovery Activities) was submitted for the second year after major revisions were made from last year’s bill. The bill attempted to mimic the federal OIG audit extrapolation methodology as a result of 3 recent audits where the state was required to repay CMS $68 million for the Medicaid portion of OIG provider audits. CMS looks to DHMH to recover Medicaid payments since they do not pay the providers directly. The objections from the provider community were removed this year and the bill passed.

**Medical Liability**

The issue of medical liability receives significant attention in each session but without any major changes to the current statutes. Only one malpractice related bill passed this session.

SB450/HB1487 (Healthcare Provider Malpractice Insurance-Scope of Coverage) expands coverage under malpractice policies for the cost of defense of any potential disciplinary action by BPQA from an adverse outcome. This bill had been submitted for the past 4 years and has finally passed.

There was a bill to increase the non-economic cap on malpractice awards SB574/HB869 (Civil Actions-Noneconomic Damages-Catastrophic Injury) that failed again this session.

Several other malpractice related bills including SB566 (Healthcare Malpractice Claims - Notice of Intent), SB849/HB814 (Taskforce to Study the Establishment of Health Courts) and SB636 (Medical Malpractice-Discovery) all of which have been submitted in prior sessions received unfavorable reports from the committee.
SB513/HB377 (Maryland No-Fault Birth Injury Fund) was initiated last year by Mercy Medical Center and supported by MHA to create a separate fund for OB cases due to several large malpractice awards in the past few years. Their concern was maintaining access to OB services in Maryland if facilities determine to discontinue services due to malpractice cost. The bill was modeled after existing funds in Virginia and Florida. While the General Assembly has become sensitized to the rising cost of malpractice, the bill was unable to find any acceptable solution to the funding mechanism again this year.

**Scope of Practice**

There were a number of initiatives to alter the scope of practice permitted to various licensed health professionals including proposals regarding:

**Physician Assistants:** SB647/HB752 (Physicians-Prescriptions Written by Physician Assistants or Nurse Practitioners-Preparing and Dispensing) allows a physician to prepare and dispense prescriptions written by a NP or PA in the same office. This measure was passed as an emergency bill early in the session.

**Anesthesiologist Assistant:** SB 30 (Maryland Anesthesiologist Assistant Act) was introduced to create a new licensing category for Anesthesiologist Assistants under the BPQA with a scope of practice similar to CRNAs. This is the first time the bill has been introduced in Maryland. The measure failed this year but will certainly be back next year.

**Other Bills of Interest**

**Prescription Drug Monitoring Program:** SB537/HB437 (Prescription Drug Monitoring Program – Modifications) passed on the final day of the session. The bill has been a high priority of the Administration and legislative leadership to address Maryland’s heroin and opioid overdose epidemic. The final bill requires prescribers to register with the PDMP as part of the CDS renewal process by 2017. The bill also requires mandatory query prior to prescribing under defined circumstances by July 1, 2018 with the ability to delay implementation if the technical capacity and ease of access is not available in the system.

**Medical Record Fees:** There were several bills introduced to limit the fees charged for copies of electronic medical records. Current Maryland law allows for a base fee plus a per page fee that is indexed to inflation for copies of paper records. SB462/HB724 (Public Health-Copies of Medical Records-Fees) limits the fees of electronic medical records to 75% of the paper record fees.
Physician Licensing Reciprocity: There were several bills introduced to aid in the administrative burden of licensing physicians in multiple states. The interstate licensure compact is the national model for licensing reciprocity that has been adopted in several western states. The compact applies standards to both the licensure process as well as disciplinary procedures for all states under the compact. Maryland passed a simpler version with HB998/SB1020 (BPQA-Authority to Adopt Regulations-Physician Licensing Reciprocity) that allows the BBQA to recognize a licensed physician if they determine the other state’s licensing process is substantially the same as Maryland’s without automatically adopting that state’s disciplinary actions.

Physician CME: HB185 (State Board of Physicians-Licensed Physicians-CME Requirements) passed. This bill states that the BPQA may not require a specific CME course or program for every physician as a condition of renewal.

Income Tax Credit: SB411/HB1494 (Income Tax Credit for Physician Preceptors in Areas with Workforce Shortages) passed. This bill allows for a Maryland income tax credit of $1,000 per student up to $10,000 per year in an approved preceptorship program authorized by an accredited medical school in the state in an area with a workforce shortage. The bill was amended to include Nurse Practitioners preceptorships as well.