Government Affairs Committee Report on  
2017 Maryland General Assembly

The Maryland General Assembly concluded on Monday April 10, 2017. The General Assembly was active in the number of controversial bills passed this year including (HB1325) a statewide ban on hydraulic fracking, (SJ5) expanding the Attorney General’s powers to sue the federal government without approval of the Governor, (HB01) requiring employers to provide paid sick leave, and (HB879) strengthening the public service ethical standards. Much of the focus in this session included preparing to respond to the Trump administration proposals including passage of SB571 (Maryland Health Insurance Protection Act) which creates a commission to explore the effects of changes to the ACA, Medicare, Medicaid and the Medicare Waiver to the state and recommend actions to protect the state’s healthcare system; HB1083 (Health – Family Planning Services – Continuity of Care) which replaces federal funding to Planned Parenthood: and a joint resolution (SJ8) opposing proposed federal budget cuts to the Chesapeake Bay Restoration Fund. There were not as many healthcare related bills except for pharmacy issues in this year’s session.

The Government Affairs Committee reviewed 44 healthcare related bills for this session. The committee selected 4 of those bills to highlight during Maryland MGMA Legislative Day in Annapolis. Legislative Day was held on February 23, 2017. 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:

2017 MGMA Priority Bills:

Written Cost Estimate:

HB63 (Health Care Practitioners – Cost Estimate Notice – Required) would have required providers to give their patients a written cost estimate before providing those services. Maryland MGMA provided testimony that while we believe in transparency between the patient, the insurance carrier and the provider, the complexities of healthcare billing and reimbursement would create unnecessary problems between the patient and the provider where the issues are really between the patient and their healthcare carrier. The bill failed in committee. As there was no cross-filed bill, it is unlikely to resurface next year.

Worker’s Compensation Payment:

SB194/HB1484 (Worker’s Compensation-Medical Benefits-Payment of Medical Services and Treatment) was introduced for the second year in a row to place a 45-day limit on providers to submit claims to the worker’s comp carrier. This year the bill was amended to allow billing within a year of the greater of the date of service or the date the injury is determined to be a compensable event. With the proposed amendment, all the opponents’ objections were withdrawn and the bill passed.
Disclosure of Medical Records Timeline:

SB745 (*Disclosure of Medical Records – Compulsory Process – Timeline*) attempts to require healthcare providers to respond to medical record requests within a statutory 30-day timeline as part of the discovery process in a court proceeding. There is already a statute to respond to patient requests for medical records within 21 days. Maryland MGMA opposed the bill with the understanding that the legal process can be confusing to the providers and often the actual time to respond is less than the 21 days under the current statute for patients. The Senate passed the bill but the measure was held up in the House. There was no companion bill in the house and the measure failed for this year. This issue will most likely resurface again next year.

Health Record and Payment Clearing House Pilot Project:

SB750/HB1516 (*Public Health – Health Record and Payment Clearing House – Pilot Project*) was introduced that directed the Maryland Healthcare Commission to investigate the feasibility of an individual electronic card that enable access to health records and insurance information at the time of service to streamline the administrative cost mimicking technology available in other countries. Maryland MGMA testified in favor of the bill and the government affairs committee wanted MGMA to participate with MHCC in the planning and implementation. There was no other support for the bill and the measure failed in both the Senate and the House.

Other Areas of Interest:

**FY2018 Budget:**

The final budget bill maintains Medicaid reimbursement for E&M codes to 94% of Medicare. Both the general assembly and the administration recognize the need to ensure access to physicians to participate in the Medicaid program.

A Department of Legislative Services report concluded that Medicaid is underfunded by an estimated $100.6 million for FY2018. In addition, federal funding provided under the ACA supports over $1.4 billion in services included in the FY2018 budget. The state anticipates a total of $7.7 billion in ACA funding through 2022. Further complicating the potential impact of the ACA, the new waiver model is approved through an agency created by the ACA, the Center for Medicare and Medicaid Innovation. While it is unlikely for federal legislation to effect FY2018, there is significant funding to the state’s healthcare system at risk in the provisions of the ACA that will need to be monitored closely.
Pharmaceuticals and Pharmacy Related Bills:

Concerns about the high cost of prescription drugs and significant price increases from the pharmaceutical industry prompted a high volume of pharmacy-related bills:

HB631 (Public Health – Essential Off-Patent or Generic Drugs – Price Gouging – Prohibition) was passed by the general assembly. This bill prohibits a manufacturer or wholesaler from engaging in “price gouging” in the sale of essential generic drugs and authorizes the Attorney General to bring an action in circuit court against the manufacturer or wholesaler including potential actions of restraining order, restitution, and imposing a civil penalty of up to $10,000 for each violation. It is believed to be the first type of law passed in the country.

SB997/HB1273 (Pharmacist – Substitution and Dispensing of Biological Products) passed. This bill authorizes a pharmacist to substitute an interchangeable biological product (same dosage form and strength) for any brand name drug if the subscriber does not expressly state the script must be dispensed only as directed, the substitution is recognized as specified, and the consumer is charged less. Appropriate notifications after dispensing are required.

HB1147/SB898 (Health Insurance – Prescription Drugs – Dispensing Synchronization) passed. This bill requires carriers and PBMs to allow and apply a prorated copayment or coinsurance amount for a partial supply of a prescription drug dispensed by an in-network pharmacy under certain circumstances. Medication synchronization has been proven to increase patient compliance.

The following list of bills did not pass but were referred for summer study:

HB1103 (Health Insurance and Pharmacy Benefits Managers – Reimbursement for and Provision of Pharmacy Services)

HB1117 (Health Insurance – Specialty Drugs – Authority to Dispense)

HB1121 (Health Insurance – Freedom of Choice of Pharmacy Act)

HB1162 (Pharmacy Benefits – Processing and Adjudication of Claims – Restriction on Fees)

The following list of pharmacy bills did not pass:

HB666/SB437 (Public Health – Expensive Drugs – Manufacturer Reporting and Drug Price Transparency Advisory Committee)

HB1159/SB814 (Pharmacists – Dispensing of Prescription Drugs – Single Dispensing of Dosage Units)

HB316/SB428 (State Board of Pharmacy – Dispensing of Drugs Containing Controlled Dangerous Substances – Requirements)
HB582 (Pharmacies – Availability of Generically Equivalent Drugs)

SB 768/HB1128 (Health Insurance – Prescription Drugs – Formulary Changes)

Maryland’s Opioid Crisis:

The Governor and the General Assembly have made fighting Maryland’s opioid crisis a top public health priority. Providers have joined the efforts to fight the crisis and their practice could be impacted by new state statutes. Maryland MGMA did not participate in the debate (last year, we did raise concerns about the accuracy of the CRISP database in the PDMP implementation) but MedChi has worked to maintain provider flexibility in treating each patient’s needs.

HB1432 (Healthcare Providers – Prescription Opioids – Limits on Prescribing) passed after substantial amendments. The original bill would have limited the prescription of an opioid to seven days. The final language requires a health care provider based on clinical judgement to subscribe the lowest effective dose and a quantity that is no greater than the quantity needed for the expected duration of the pain based on evidence based clinical guidelines appropriate for the clinical setting. The bill does not apply to an opioid being prescribed for pain associated with cancer, pain experienced while receiving end of life, hospice or palliative care, chronic pain, or substance disorders.

SB967/HB1329 (Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017) passed. This bill focused on expanding the treatment options available. The bill is focused on court related programs sufficient to meet each county’s needs and the Behavioral Health Administration under DHMH.

SB1060/HB1082 (Heroin and Opioid Education and Community Action Act of 2017 [Start Talking Maryland Act]) passed. This bill focuses on education at the state, county and local board of education levels.

The Governor allocated approximately $23 million in the FY2018 budget for the campaign including a position in the executive branch to administer on the Governor’s authority.

HB1093/SB433 (Substance Abuse Treatment – Inpatient and Intensive Outpatient Programs – Consent by Minor) passed. This bill allows a parent or guardian of a minor to apply on behalf of the minor for admission to a certified program.

SB968/HB1127 (Health Insurance – Coverage Requirements for Behavioral Health Disorders – Modifications) passed. This bill mandates carriers to provide coverage for diagnostic evaluation and treatment for both inpatient and outpatient treatment.
HB887 (Health Insurance – Prior Authorization for Drug Products to Treat an Opioid Use
disorder – Prohibition) passed. This bill prohibits carriers from applying a preauthorization
requirements in treatment.

**Medical Liability**

The issue of medical liability receives significant attention in each session but without any major
changes to the current statutes again this year.

There was a bill to increase the non-economic cap on malpractice awards SB225 (Civil Actions-
Noneconomic Damages-Catastrophic Injury) that failed again this session. SB682 (Civil
Actions-Noneconomic Damages) would have increased the cap in wrongful death cases from
150% to 450% also failed. SB836 (Civil Actions – Punitive Damage Awards) would have
lowered the standard for awarding punitive damages failed. Finally, SB1037 (Healthcare
Malpractice Qualified Expert – Limitation on Testimony in Personal Injury Claims – Repeal)
also failed.

SB5877/HB1347 (Maryland No-Fault Birth Injury Fund) failed for the third straight year.

HB957/SB195 (State Board of Physicians – Medical Professional Liability Insurance Coverage
– Verification, Publication and Notification Requirements {Janet’s Law}) actually passed with
several amendments. The original bill would have mandated medical liability insurance for all
licensed physicians. The final bill requires disclosure by physicians who do not carry liability
insurance in writing to each patient. The disclosure must be signed by the patient and retained in
the patient’s medical record. The physician must also post the information in a conspicuous
location at each practice location.

**Scope of Practice**

HB1124 (Health Occupations – Physician Assistants – Prescribing and Dispensing
Prescriptions) and SB848 (Health Occupations – Physicians Assistants – Dispensing Authority)
both failed. Each bill would have allowed physician assistants to dispense medications subject to
the delegation agreement with a physician.

HB1054/SB989 (State Board of Physicians – Physician Licensure – Prohibition on Requiring
Specialty Certification) passed. This bill prohibits the State Board of Physicians from requiring
specialty board certification as a condition of licensure or renewal of a license. This bill is in
response to national anger by physicians in the increasing cost and time commitment in board
certification.
Other Bills of Interest

HB403/SB369 (Maryland Patient Referral Law – Compensation Arrangements Under Federally Approved Programs and Models) passed. This bill attempts to exempt a health care practitioner from Maryland’s current self-referral law if the compensation arrangement is funded by certain federal program initiatives. With the passage of this law, Maryland’s Waiver program can advance physician compensation arrangements with greater opportunity to comply with federal requirements.

SB1020 (Maryland Healthcare Regulatory Reform Act of 2017) failed. This bill would have combined HSCRC and MHCC into one commission.

SB82 (Department of Health and Mental Hygiene – Renaming) passed. This bill renames the Department as the Department of Health.