



# Medical and Chirurgical Faculty of Maryland

## MEMORANDUM

TO: Med Chi Board of Trustees  
Med Chi Legislative Committee  
Med Chi Component and Specialty Societies

FROM: Joseph A. Schwartz, III, Esquire  
Geraldine Valentino, Esquire

DATE: April 11, 1995

RE: 1995 Maryland General Assembly

---

The 1995 Maryland General Assembly ended its 90 day session at midnight on Monday, April 10, with the last day of the 90 day meeting recording significant victories for Maryland physicians. The House/Senate Conference Committee report on the Patient Access Act (HB 724) was adopted at 10:20 p.m. last night in spite of the opposition led by the so-called "Coalition for Affordable Health Care", the Maryland Chamber of Commerce, the AFL-CIO, Blue Cross and Blue Shield, and all of the HMOs. At the end, Med Chi and the Health Provider Coalition scored a significant victory reversing the political momentum of the HMOs signified two years ago by the passage of House Bill 1359.

I. The Patient Access Act contains the following provisions:

*hb 724*

1. Every employee will have to be offered a "point of service" plan if the employer offers a closed panel HMO.

Main Office  
1211 Cathedral Street  
Baltimore, Maryland 21201  
410-539-0872 Toll Free in MD: 1-800-492-1056  
FAX 410-547-0915

Legislative Office  
224 Main Street  
Annapolis, Maryland 21401  
410-263-4035  
FAX 410-263-4207

Every closed panel HMO will be required to offer to Maryland employers a point of service plan to be offered to their employees.

2. For the first time, insurance carriers will be required to have a formal application process to consider a doctor's application for membership. In the application process, insurance carriers will have a 30 day period to either reject the provider or to indicate an intent to further process an application for the purposes of obtaining necessary credentialing information. Final decision is required within another 150 days.

3. Carriers are not permitted to deny an application (a) on the basis of gender, race, age, religion, national origin or disability protected categories, (b) by reference to the number of appeals which the provider has filed contesting a utilization review decisions or (c) the type or number of complaints or grievances the provider has filed with the carrier's internal review system.

4. A provider may not be terminated from a provider panel or penalized for "advocating the interests of a patient" or for the filing of utilization review appeals or for use of the carrier's internal review system.

5. An insurance carrier's failure to adhere to these restrictions could result in a fine of up to \$50,000 from the Maryland Insurance Administration;

6. Patients will have a 90 day right of continuous care from their doctor if their doctor is terminated from a panel

without cause;

7. "Withholds" are abolished as of July 1, 1996, with the rest of the legislation having implementation dates ranging from October 1, 1995 to January and March of 1996. The abolition of "withholds" also extends to "bonuses" which "deter the delivery of medically appropriate care to an enrollee". This is the first abolition of withholds in the United States and is considerably broader than that which exists in the present Medicaid/Medicare law and regulations;

was 4900  
7  
215-113

8. Insurance carriers are required to establish an internal review system to resolve any grievances by providers - again under penalty or fine by the Maryland Insurance Administration;

9. Insurance carriers are prohibited from discriminating in provider selection "solely" on the basis of licensure. In other words, a panel cannot limit applications to optometrists as opposed to ophthalmologists, or psychologists as opposed to psychiatrists;

10. The legislation also establishes two studies to be conducted. One by a four person group as to whether there is a need for Maryland to require all health care practitioners to participate in Medicaid. This study will result in a report to the General Assembly on or before December 15, 1995. The second study is by the Governor's Task Force on Community Health Networks to study what further regulation is necessary to insure that health care delivery networks remain responsive to their communities, are

"broadly representative" of the health provider community and maintain necessary capitalization reserve requirements. This study will report to the Governor and the General Assembly by December 15, 1995.

The Patient Access Act is a "signature bill" similar to House Bill 1359 (1993). It was passed because the General Assembly has now decided that HMOs - so favored by prior legislatures - must be restrained in various of their practices.

We will provide a detailed explanation of the Patient Access Act and the story of its passage in a few weeks.

II. Ambulatory Surgery Licensing/Certificate of Need/Uncompensated Care/Graduate Medical Education Bills

Again on the last day of the session (11:58 p.m. with just 2 minutes to go), Senate Bill 639 was resolved by a six person conference committee and enacted. The final provisions provide as follows:

1. The licensing of ambulatory surgery centers in compliance with Medicare standards;
2. A certificate of need process established for future ambulatory surgery centers with more than one room (as one room would be completely exempt from the certificate of need requirements);
3. A second room could be obtained in an expedited approval process.
4. Grandfathering of all existing facilities (if opened by June 30, 1995) including those planned facilities which received exemption letters by February 13, 1995 provided there has been at

\$25,000 commitment.

5. The issues of hospital uncompensated care and graduate medical education expenses of the teaching hospitals will be studied by the Department of Fiscal Services with a report expected in December of 1995. The Conference Committee resolved virtually every issue in accordance with the Med Chi position, particularly the issues of uncompensated care and graduate medical education. The original proposal on these items was that the freestanding ambulatory surgery centers would be "assessed" to contribute to hospitals for their so-called uncompensated care and to the teaching hospitals for their graduate medical education expense. Again, a more detailed explanation of this bill will be provided within the next few weeks.

III. Volunteer Physicians' Immunity - Insurance Requirements

House Bill 549 removing the "insurance requirement" for those physicians who render health care services voluntarily and without compensation to the medically indigent passed on the last day of the session. This was a Med Chi sponsored initiative and will be one of the few instances in Maryland law where a person who volunteers is allowed to be immune from ordinary negligence.

IV. Diagnostic Test/\$5.00 Nominal Fee

This limitation of the law first imposed in 1993 by House Bill 1359 was repealed. Another Med Chi initiative, the fight was led by primary care doctors and internists who complained that an economic limitation of this nature would discourage doctors from drawing specimens in their offices for dispatch to a medical lab

since it would be economically unfeasible to do so. Originally a "midnight amendment" to House Bill 1359 - promoted by a lobbyist for the medical labs - this was repealed on the concluding day of the session with just 2 minutes to go.

V. Uniform Forms

House Bill 961 which mandates that the Insurance Commissioner, in conjunction with representatives from the provider and payor community, develop a uniform laboratory form and consultation referral form passed on the last day of session.

VI. Health Care Arbitration System

The system was radically changed by the passage of House Bill 1049 which provides that either party to an arbitration before the Health Care Arbitration Office can elect to have the case go directly to the Circuit Court for trial. This means that the unnecessary delay, expense and duplication of trying a medical malpractice case first in the Health Care Arbitration Office and then again in the Circuit Court will be eliminated. However, the arbitration system can remain in place in situations where both parties believe it is beneficial to have the case tried by the Health Care Arbitration Office.

VII. Other Bills of Interest

The final days of the session saw the passage of House Bill 438 - a Med Chi sponsored initiative to allow epinephrine to be applied by non-physicians in emergency bee sting situations. The bill provides that the Secretary of Health and Mental Hygiene will propose regulations and training rules for this program.

Another Med Chi sponsored initiative known as House Bill 1260 which repealed the prohibition on dispensing metamphetamines/amphetamines also passed.

CLOSING.MEM