American Academy of Pediatrics, Maryland Chapter Final Report

April 7, 2008

The 425th Session of the Maryland General Assembly came to its customary end at midnight on its 90th day, Monday, April 7, 2008. This was an unusual Session because it followed so closely the Special Session in November 2007 which was principally devoted to raising taxes and righting the fiscal ship of state. There was a certain lack of energy as the regular Session began, described by some as a "hangover" from the earlier Special Session on taxes which had exposed virulent political partisanship.

The Chapter was actively involved as a principle stakeholder on a number of key issues specifically germane to the practice of pediatrics and the health and well-being of children. Furthermore, as a partner with the balance of the provider community a number of initiatives were successfully enacted that enhance the practice of medicine.

Oral Health

There was successful passage of significant new funding for the Department of Health and Mental Hygiene's oral health initiative that reflected the recommendations of the Oral Health Workgroup which deliberated over the interim, after the death of Diamonte Driver in 2007, triggered a focused review of dental health services. $400,000 in operating revenue and $500,000 in capital revenue was appropriated in the operating and capital budgets respectively. Further, the legislation that expands the scope of practice for dental hygienists in certain settings was also enacted. This legislation will expand the staffing options to assure enhanced access to necessary dental services. Finally, $7 million was appropriated to increase dental reimbursement rates with the stated goal of increasing the participation rate of private dentists in the medical assistance program.

HIV

House Bill 991 / Senate Bill 826 (HIV Testing – Informed Consent and Treatment) was enacted. This legislation will move Maryland substantially into conformance with CDC Guidelines on HIV Testing in Health Care Settings. The bill removes the requirement of specific written informed consent for HIV testing and moves to an "opt-out" framework that is consistent with consent for other diagnostic testing. It also provides for the testing of all pregnant women (with opt-out rights) presenting for prenatal care and again at the third trimester if appropriate.

Obesity and School Physical Education Requirements

House Bill 1176 (Public Health – Committee on Childhood Obesity) was enacted which creates a Committee within DHMH to address issues specific to obesity. The Committee membership which includes a representative from the Chapter largely reflects the composition of the current HEAL Committee and, therefore, should not be duplicative of its efforts but may create additional viability for its recommendations. Legislation that was introduced to require certain levels of physical education in public schools - House Bill 503 / Senate Bill 955 (Task Force on Physical Fitness in Maryland Public Schools) was significantly amended to be a Task Force of one years' duration to evaluate the issue. The membership of the Task Force does not specifically include a pediatrician but there are several slots that a pediatrician could fill and a effort to do so should be undertaken.

Child Abuse and Neglect

House Bill 790 (DHMH – Child Abuse Medical Providers Initiative), which reflected a negotiated revision of the Chapters "Centers of Excellence" statute as a result of issues raised by Child Advocacy Centers, was enacted exactly as agreed upon by the Chapter and the CACs. The bill did provide the

opportunity to rename the Centers of Excellence the Child Abuse Medical Providers Initiative, an objective desired by the professional involved in the Centers of Excellence.

There were a number of bills relative to child abuse and neglect introduced this session. Of particular note is the defeat of legislation that added additional persons to the reporting requirements and provided for a misdemeanor penalty for knowingly failing to report. The bill passed favorably out of the Senate but was defeated in the House. While the Chapter opposed the criminal penalty in the Senate, it took no position on the issue in the House. The defeat of the bill was predominantly a result of objections by other persons required to report under the statute.

Legislation that would have defined and created criminal penalties for child endangerment and neglect was also defeated in the final hours of the Session. The legislation passed the House after significant debate on how to define child endangerment. That debate continued in the Senate. The Senate Committee voted the bill to the floor but debate and delay on the floor defeated the initiative. The issue will undoubtedly return next year.

Newborn Screening and Birth Defect Surveillance

DHMH sponsored initiatives to return all newborn screening to the State Laboratory and to "modernize" the State's birth defect surveillance program were both successful. The newborn screening initiative was particularly controversial given the reticence of several hospitals to terminate their relationship with Pediatrix, the private laboratory providing initial screenings at 11 hospitals across the State and because of an effort to remove the parental consent exemption from the legislation. That legislation passed in the final hours of the Session. The House Committee agreed to review parental consent exemption language in a more global context over the interim.

State Level FIMR Program

Legislation was enacted (House Bill 535) that establishes a state level FIMR program. This legislation was a culmination of a two year effort to enable the State to provide support to the local FIMRs and to enhance the effectiveness and coordination of the local programs so that information sharing can maximize the ability to identify opportunities for system reform, either locally or across the State. Passage of HB 535 will greatly enhance the impact of the FIMR program on the health and welfare of women and children.

Vaccine Issues

Legislation to enable pharmacists to administer all vaccines was severely amended. As enacted, it applies to pneumovax and vostavax vaccines administered to adults subject to regulations to be promulgated by the Board of Physicians and Board of Pharmacy.

An effort to address the concerns regarding thimerasol and vaccines was again defeated. The issue has been sent to the Statewide Commission on Immunizations to review the availability of flu vaccine without thimerasol. On a related note, Med Chi has nominated Dr. Joshua Sharfstein to be the Chair of the Commission. It is anticipated that the nomination will be improved. Dr. Sharfstein's leadership should energize the Commission to address the multitude of issues regarding vaccines that remain a priority of the Chapter.

Vision and Hearing Screenings

Senate Bill 600 / House Bill 653 (Schools - Early Intervention - Hearing and Vision Screenings) was an initiative of the Maryland Society of Eye Physicians and Surgeons to change the timing of vision screenings in Maryland's schools in order to more effectively diagnose amblyopia in young children so that it could be effectively treated. Concerns expressed by the Chapters Committee on School Health resulted in amendments to the legislation that were acceptable to all stakeholders.

Teen Driving, Child Safety Seats, and All-Terrain Vehicles

There were numerous proposals to enhance the strength and effectiveness of Maryland's young driver laws. Some of these initiatives have been sent to "summer study" to be further evaluated over the interim. One initiative that will require the State to notify parents if a provisional driver receives a citation of any kind was enacted.

An effort to strengthen Maryland's child booster seat law became very controversial when Senators attempted to defeat the bill on the floor of the Senate. Despite no opposition to the legislation, a few Senators raised the "over regulation" argument and questioned the legislations' lack of height and weight limitations in addition to age. The House was able to pass an amended version on the final day of the Session which was acceptable to the Senate. The law now will require the use of a booster seat through age 7 unless the child is greater than 65 lbs. or taller than 4'9."

Legislation was also enacted that creates a Task Force to study the safety and regulation of all-terrain vehicles.

Medicaid and MCHP Enrollment Initiatives

Legislation sponsored by Delegate Mizeur that should lead to an increase in enrollment of eligible children who are not presently participating passed the Senate on *Sine Die* after amendments voted upon by the Senate Finance Committee to essentially gut the legislation were reversed by the Committee. The bill will require parents to provide information on their tax returns regarding the health care coverage status of their children and require DHMH to develop information to be sent to parents by the comptroller if the parents' income indicates they are eligible to enroll their children. Another bill, House Bill 115 was also passed early in the Session that aims to accomplish the same objective. This legislation will require the Comptroller to include information on Medicaid and MCHP with any state issued checks.

Lead Initiatives

The Coalition to End Childhood Lead Poisoning was successful in its efforts to pass two initiatives to address lead poisoning. The most significant issue was the passage of legislation that address the prohibition of the sale of Lead-Containing Children's Products (House Bill 62). The second bill enhanced current requirements for remediation of dwellings and the provision of alternative housing options for residents of dwellings that require remediation (House Bill 589 / Senate Bill 557). Lead dust testing and other remediation related issues will be studied over the interim.

Network Adequacy

The issue of network adequacy is also in a significantly improved posture following a flurry of activity early in the Legislative Session. At the commencement of the Session, the Maryland Insurance Administration issued network adequacy regulations that were grossly inadequate. Delegate Eric Bromwell and Senator Katherine Klausmeier promptly filed House Bill 1161 / Senate Bill 719 (Health Insurance – Carrier Provider Panels – Standards for Availability of Health Care Providers) to remedy the deficiencies of the regulations. Subsequent dialogue with the Maryland Insurance Administration led to a substantially enhanced regulatory proposal that will advance the physician communities' objectives with respect to requiring carrier accountability for network adequacy. As a result of the development of an enhanced regulatory framework, withdrawal of the legislation was requested. Special recognition is due to Beth Sammis, the recently appointed Deputy Insurance Commissioner who has brought new energy to the Insurance Administration.

Physician Payment Issues

MedChi has historically been the organization to initiate physician payment reforms. The Chapter has always been an active participant in advancing the objectives of Med Chi's payment initiatives. To that end, the Chapter supported a number of successful proposals introduced this Session.

For a number of years MedChi has been seeking to curb the “cram down” contractual practices of United Healthcare. This is the practice where United demands that a physician practice in multiple health insurance products in order to participate in a single desirable product. Since 2000, Maryland has had a “cram down” law which was interpreted by the Maryland Insurance Administration (MIA) to only forbid certain United practices. After the MIA administrative interpretation of the law was upheld by a decision of the Montgomery County Circuit Court in late 2006, MedChi turned to the Legislature for relief. The result was the passage of Senate Bill 811/House Bill 1219 (Health Insurance – Health Care Provider Panels – Provider Contracts) This legislation will stop United from its current practice of “cramming down” participation in undesirable and low reimbursement products as a condition of participating in higher reimbursement plans. The legislation will take effect in October 2009 as a concession to United’s complaints that the new law would dismantle its existing networks. Beginning in October 2009, all new or renewal contracts will be affected by the new law and it will apply to all contracts within the next year.

Another initiative was House Bill 594 (Health Insurance – Carrier Credentialing – Reimbursement of Providers of Health Care Services). This legislation addressed long standing complaints of medical billing companies to the effect that health insurance carriers would not reimburse a new doctor joining a group practice until such time as the new doctor was officially “credentialed.” Since credentialing took upwards of five months, a new doctor would, in effect, be working for free and have to be subsidized by the group practice. Given Maryland’s current low standings in physician reimbursement rankings for the United States, this was another disincentive to practicing medicine in Maryland. The passage of House Bill 594 (and its companion Senate Bill 595) will remedy this inequity in the future.

House Bill 815 (Health Insurance – Reimbursement of Health Care Practitioners – Information Provided by Carriers), required health insurance companies to inform physicians of reimbursement rates for 50 CPT codes (as opposed to the present 20) and further to give appropriate notification to changes in a pharmaceutical formulary so that a doctor would know which drugs to prescribe given a particular patient’s insurance plan.

The passage of these MedChi initiated physician payment initiatives was somewhat unexpected as the Governor’s Task Force on Health Care Access and Reimbursement is not scheduled to report back to the General Assembly until next year. Hence, lobbyists for the health insurance companies attempted to derail all such payment related legislation by arguing that the General Assembly should wait until the final report of the Governor’s Task Force. While the Senate seemed inclined to accept this logic, the Health Subcommittee in the House HGO Committee was not and, accordingly, several issues were addressed.