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Monthly Report

April 2010

From the President

Theresa Impeduglia, MD

Dear Colleagues,

I appreciate your confidence in allowing me to serve as president this year. I would like to extend a sincere note of thanks to Todd Vogel MD for orchestrating a successful and enlightening scientific program for the annual spring meeting 2009. Discussions are already in motion for next year's meeting. This year members may be requested to give feedback regarding the Society's participation in regional and national plans.

In recent weeks we have witnessed the passage of a contentious bill that will begin a campaign to sell a 940 billion dollar - ten year legislation to the public and healthcare industry. I believe this bill is a far cry from what was intended during the presidential campaign. What was promised was a national insurance program that will compete with the terms of the insurance companies and regulate soaring costs. This reform is intended to offer medical coverage for the uninsured as well as those denied coverage for pre-existing conditions.

In 1954, President Dwight Eisenhower, proposed a plan of federal reinsurance for any private company as protection against heavy losses resulting from health insurance. This was for the objective of enabling private insurance companies to broaden their coverage. After the first five years, the program would become self financing with money derived from premiums paid by the insurance companies. At that time the House rejected the plan. In 1974, Richard Nixon proposed his Comprehensive Health Insurance Plan that would allow universal coverage with voluntary employer participation. This deal was killed by lobbyist from organized labor. Further efforts on the part of President Bill Clinton also failed to persuade fellow Democrats to support universal coverage in a restructured healthcare system.

With the current passage of the new bill, it is difficult to envision how the changes will play in our practices, in our financial security as well resource allocation for innovative technologies and therapies. In fact the current plan may not even remain as the final plan with expected appeals to its passage via parliamentary maneuvers. I believe the most responsible action we can take is to remain informed and take charge individually and as a society to relay our concerns to our representatives in Congress. This coming year, the healthcare industry will be laden with a road of insecurities since the actual affects of this bill will not be put into place for several years. By increasing membership and participation, our vascular society can be become a reckoning force in the political aspects of vascular practice in the state of New Jersey as well as contribute to the voice of our national societies.

Thank you to our sponsors of the 32nd Annual Meeting:

**Abbott Vascular
Medtronic Endovascular
Rinko Orthopedic, Inc
W L Gore & Associates, Inc**

We would also like to thank our exhibitors for their contributions:

**AngioDynamics
Bard Peripheral Vascular
Boston Scientific
Cook Medical
Cordis, a Johnson & Johnson Company
Endologix
Genentech USA
King Pharmaceuticals, Inc
LeMaitre Vascular
M2S, Inc
MediUSA
Medical Society of New Jersey
Organogenesis
SourceOne Medical Management
Spectranetics
Varbeco Wealth Management, LLC**

From the Statehouse

Beverly J. Lynch

On Thursday, March 4, the Assembly Health and Senior Services Committee invited testimony from the NJ Council of Teaching Hospitals, who has completed a study of state's physician workforce needs for the next decade. Deborah Biggs, Senior Vice President, Health Policy and Advocacy, from NJCTH, reported that the main problem is that the New Jersey medical school pipeline is much smaller than neighboring states; half the number of resident slots by population, and that number is much lower than the national average as well. This stems, in her opinion, from the fact that New Jersey medical schools are much younger and are, therefore, much smaller than older schools. The number of New Jersey residents that stay in the State to practice is slowly declining, mainly because they are able to weigh the options of taxes, cost of living, malpractice insurance, etc. New Jersey is not a desirable State in which to practice.

Biggs offered a few solutions. The first is for the State to better organize the work of the teaching hospitals, medical schools, and residency programs. She suggested establishing a Medical and Health Workforce planning department to coordinate stakeholders between the different entities. She also suggested establishing a re-licensing fee and survey through the Board of Medical Examiners. This will bring money in to establish the task force and the survey will supply a more accurate snapshot of the practicing NJ doctors.

Another suggestion was to provide a tax holiday for physicians who set up their practice in New Jersey. Since

the majority of those physicians would have set up their practice in other states, no money will really be lost with the waiving of the taxation. She recommended support of Assemblyman Conaway's legislation addressing Medical Malpractice reform in order to help make New Jersey a less hostile State in which to practice.

Lastly, she suggested that medical schools and teaching hospitals be rewarded with incentives based upon their graduates who begin practicing in New Jersey.

Work Begins in Earnest on Priority Physician Initiatives

As expected, hearings have begun on reimbursement rates for physicians, hospitals and ASCs practicing out of network. A strong statewide coalition, representing over 20 physician and hospital organizations, has been formed and begun work to address the legislative questions as well as proposed budget changes to the ASC tax.

Heartened by a Republican in the front office, the physician community is exploring new energy towards some form of medical liability reform, perhaps in the form of a medical liability court, or another similar measure.

Legislation Addresses SBME Workload

The Senate has approved legislation, S-1795, sponsored by Senator Loretta Weinberg (D-Teaneck), that makes various changes to the membership terms and duties of the State Board of Medical Examiners (BME).

Specifically, the bill requires that:

- A member of the BME is eligible for reappointment for one additional term of office, but no member shall serve more than two consecutive terms. This limitation shall apply to any member newly appointed after the effective date of the bill, and any member serving on the effective date of the bill shall be limited to two additional consecutive terms.
- To ensure that the BME takes timely disciplinary action to protect the public, the BME's Medical Practitioner Review Panel shall investigate notices or complaints it receives from health care facilities and health maintenance organizations regarding a licensee in order to make a recommendation to the BME, and make its recommendation within 90 days after receipt of the complaint, rather than investigate promptly, as the law currently provides. If the review panel requires additional time due to extenuating circumstances, it shall so notify the BME, indicating the reason and amount of additional time required to make its recommendation, and transmit a copy of the notice to the Attorney General and the complainant. The bill also clarifies that this time-frame is not to be construed to limit or otherwise impair the BME's authority to take any action against a licensee or applicant for a license, or the review panel's authority to make a recommendation.
- Within 60 days upon receipt of notification from a physician of any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer, the BME shall investigate the information received and obtain any additional information that may be necessary in order to make a determination whether to initiate disciplinary action against the physician. The

bill also provides that this time-frame is not to be construed to limit or otherwise impair the BME's authority to take any action against a licensee.

The committee amended the bill to delete the provision that would have required that at least one BME member be a pediatrician.

For information on these or any legislative measures, please contact me at BLYNCH@BLYNCHASSOCIATES.COM or 609-392-7553.

Legal Report

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Two Out-of-Network Bills Recently Introduced in the New Jersey State Senate

Two bills seeking to regulate out-of-network providers were recently introduced in the New Jersey State Senate by New Jersey State Senator Nia H. Gill (D-34), Chairwoman of the Senate Commerce Committee.

The first bill, S-1743, would make the waiver, rebate or payment of an insured's deductible, copayment or coinsurance by a health care practitioner, a form of insurance fraud and subject to criminal and civil penalties (the "Copayment Bill").

Specifically, under the Copayment Bill, if a practitioner waives, rebates, gives, pays, or offers to waive, rebate, give or pay, all or part of the deductible, copayment, or coinsurance owed by a covered insured, the practitioner would be deemed to violate the New Jersey Insurance Fraud Prevention Act, resulting in penalties ranging between \$5,000 and \$10,000. The practitioner would also be guilty of a crime of the fourth degree and would be subject to criminal penalties. Punishment for the conviction of crimes of the fourth degree can result in the imposition of a fine of up to \$10,000 and imprisonment of up to eighteen months. In addition, the practitioner would be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained, and could have his or her license or certificate suspended for a period of up to one year.

The second bill, S-1742, would require a health care provider who participates in an insurance carrier's network of providers to give notice to a covered insured when that provider refers him or her to an out-of-network provider (the "Notice Bill").

The terms of the Notice Bill apply when the insured's health insurance plan provides for in-network and out-of-network benefits, other than a point-of-service plan. The notice must be in writing and must contain a disclosure explaining the financial responsibility of the covered insured for deductibles, copayments and coinsurance, including a comparison of the covered insured's responsibilities if the services were provided in-network. In addition, the notice must include a list of in-network providers that are available in that geographic area.

New Jersey Governor Submits Budget – Elimination of Cap on ACF Taxes Proposed

On March 16, 2010, Governor Christie proposed a \$28.3 billion budget to a joint session of the Legislature. As part of the budget, the Governor proposes lifting the \$200,000 cap on the 2.95% ambulatory care assessment.

He also proposes lifting the cap on the 0.53% assessment on hospital revenues.

The Governor predicts that these tax increases will generate an additional \$45 million which will be matched with federal funds and redistributed to hospitals. According to the Governor, hospitals will collectively receive \$11 million in additional funding in FY 2011, even after the increased assessment is taken into account. A copy of the Budget in Brief can be found on the Governor's website at www.state.nj.us/governor.

Republican legislative leaders were supportive of the Governor while Democratic leaders criticized the proposal as increasing property taxes and cutting programs for the middle class and working poor. The budget must be passed by the Legislature and signed into law by July 1, 2010.

Health Care Reform

As you have no doubt heard, on March 23, President Obama signed the Patient Protection and Affordable Care Act (H.R. 3590) into law. A number of key provisions in the new law may have an immediate impact on your physician practices, as well as their patients. By way of example, although Congress will address the sustainable growth rate formula in separate legislation later this year, H.R. 3590 includes a number of payment improvements for physicians that, combined, will result in Medicare payment increases for many physicians. In particular, physicians in family medicine, internal medicine, geriatrics and pediatrics whose Medicare charges for office, nursing facility and home visits comprise at least 60 percent of their total Medicare charges will be eligible for a 10 percent bonus payment for these services from 2011-16; and all general surgeons who perform major procedures in a health professional shortage area will be eligible for a 10 percent bonus payment for certain services from 2011-16. Brach Eichler will be providing additional details on this comprehensive health care overhaul shortly.

Save the Date
October 28, 2010
VSNJ Annual Meeting
Highlawn Pavilion
West Orange, New Jersey