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## Monthly Report

### June 2009

From the Statehouse

Beverly J. Lynch

#### **"PATIENT SAFETY" BILL AMENDED TO REMOVE PHYSICIAN REFERENCE ... AND MOVES TO GOVERNOR'S DESK**

A bill which would require the Department of Health and Senior Services (DHSS) to publicly report certain preventable patient safety errors at New Jersey's hospitals was approved by the Assembly on May 18 by a vote of 76-1. The Senate, which had previously approved a slightly different version, concurred with the Assembly amendments and sent the bill to the Governor for consideration and signature.

As reported previously to the physician community, this measure would have prohibited physicians from billing patients if they admitted causing one of a list of hospital-acquired conditions. The bill, however, was amended significantly in the Assembly Health Committee, and led by Chairman Herb Conaway, Jr., MD, the physician section was deleted completely.

In its current form, the bill (S-2471) would require DHSS to include in the annual New Jersey Hospital Performance Report certain patient safety indicators and preventable medical errors on a hospital-by-hospital basis. DHSS would be required to report information on 14 pre-established patient safety indicators, including: foreign body left after medical procedure; postoperative hemorrhage or hematoma; postoperative sepsis; accidental puncture or laceration; or surgery performed on the wrong side, wrong body part, or wrong patient. The patient safety indicators listed in the bill were developed by the federal Agency for Healthcare Research and Quality or are listed by the Centers for Medicare and Medicaid Services (CMS) as "never" events that are not eligible for payment under Medicare or Medicaid.

The information would be available to the public to allow them to make more informed decisions about their health care, and would put pressure on poor performing hospitals to do more to ensure patient safety in New Jersey.

The bill would also prohibit hospitals from charging a patient or third-party payer for certain medical errors or hospital-acquired conditions which are ineligible for reimbursement under the CMS-established medical error guidelines. The sponsors noted that asking a patient to pay for treatment of a preventable medical error is unfair,

particularly since many health insurers, including Medicaid and Medicare, do not cover treatment for preventable medical errors.

*Kudos to Chairman Conaway for his leadership on this important initiative.*

### **CDS Prescription Measure Advances**

On May 18, the Assembly unanimously approved A-3799, which **authorizes a physician to issue multiple prescriptions for a Schedule II controlled dangerous substance**, such as Ritalin, under certain circumstances. Specifically, the bill permits a physician to issue up to three prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II substance, if:

- each separate prescription is issued for a legitimate medical purpose by the physician acting in the usual course of professional practice;
- the physician provides written instructions on each prescription (other than the first prescription if it is to be filled immediately) indicating the earliest date on which a pharmacy may fill each prescription;
- the physician determines that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and
- the physician complies with all other applicable State and federal laws and regulations.

This bill is intended to relieve the burden on patients who require the use of maintenance Schedule II controlled dangerous substances, and who must now typically obtain a new prescription every 30 days, if the prescribing physician determines that there is not an undue risk of diversion or abuse.

The provisions of the bill are not intended to require or encourage physicians to issue multiple prescriptions, or to see their patients only once every 90 days when prescribing Schedule II controlled dangerous substances. Individual practitioners must determine on their own, based on sound medical judgment and in accordance with established medical standards, whether it is appropriate to issue multiple prescriptions and how often to see their patients when doing so.

An identical Senate measure (S-2550) is awaiting consideration by the full Senate before it moves to the Governor's desk.

### **Another interesting piece of legislation....**

Coming on the heels of the media surrounding Tom Cruise and his personal use of an

ultrasound machine to monitor the pregnancy of his wife, Katie Holmes, the New Jersey Assembly has approved A-3477, **which prohibits the sale, lease, or distribution of an obstetric-gynecologic ultrasonic imager** in the State to any person other than the following:

1. a licensed health care professional;
2. a licensed health care facility;
3. a dealer, distributor, manufacturer's representative, or sales agent that purchases an obstetric-gynecologic ultrasonic imager for the sole purpose of selling, leasing, or otherwise distributing the equipment to a person pursuant to this act;
4. a bank, leasing company, or financial institution that purchases an obstetric-gynecologic ultrasonic imager from a manufacturer or other person for the sole purpose of leasing the system to a person pursuant to this act; or
5. an educational or research facility that purchases an obstetric-gynecologic ultrasonic imager for training or research purposes.

A person violating the provisions of this bill is subject to a civil penalty of not less than \$500 and not more than \$1,000 for each offense.

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## SAVE THE DATE

Thursday, November 5, 2009  
VSNJ Fall Dinner/Membership Meeting

Highlawn Pavilion, West Orange