

New Jersey Academy of Otolaryngology-Head & Neck Surgery

New Jersey Academy of Facial Plastic Surgeons

Monthly Report - May 2012

NJAO-HNS/NJAFPS Annual Meeting Update

Gabriel Wong, MD

I want to thank everyone who attended the NJ-AAO/FPS spring meeting on April 25. The conference was a huge success based on attendee feedback. I want to give special recognition to the speakers and the exhibitors. The next conference is our joint meeting with the American College of Surgeons on December 1. If you have any suggestions for future speakers please feel free to contact me. Enjoy your summer and I look forward to seeing everyone at the Winter meeting!

From the Statehouse

Advocacy and Management Group

Budget Breaking into Busy May-June

Now that the traditional budget break (March/April) is coming to a close, physicians can expect a busy May and June. We are working on your behalf on the following issues:

- Out of Network Reimbursement

Assemblyman Gary Schaer (D-Passiac) has reintroduced legislation which establishes that a waiver, rebate or payment of an insured's deductible, copayment, or coinsurance by a health care practitioner, owed by a covered person pursuant to the terms of an insurance policy between that person and an insurance company, shall be considered a form of insurance fraud. The New Jersey Physician Coalition was successful last session in halting progress of this onerous legislation, and are working with the sponsors and committee members again this session.

- Truth in Advertising

The Medical Society of New Jersey has established a coalition of specialty representatives working on AMA model legislation that would require any health care providers to appropriately advertise their board certification and other information.

The purpose of this bill is to help provide clarity and transparency for patients when they seek a health care practitioner. Due to the explosion of professional and quasi-professional titles employing the term "doctor," patients are confused about the training and education of health care practitioners. This bill helps ensure that patients are promptly and clearly informed of the training and qualifications of their health care practitioner.

- Ambulatory Surgery Center Licensure

Discussions are taking place with sponsors of legislation (vetoed last session by Gov. Christie) regarding licensure, accreditation and taxing of ambulatory surgery centers.

- Health Insurance Exchange

Gov. Chris Christie appears unlikely to sign a bill (A-2171/A-1319) narrowly approved this month by Democratic lawmakers that would establish a state health insurance exchange, a key part of national health-care reform designed to go into effect in 2014.

Christie reiterated that he won't expend state funds to implement federal health-care reforms in New Jersey unless it is deemed constitutional. The bill would pay five public members of the exchange's board \$50,000 each, and the board would then hire and pay an executive director to head a newly created exchange. The exchange, which has been created in numerous states already, would determine how insurance coverage would be offered in New Jersey.

- PIP Regulations

The New Jersey Department of Banking and Insurance has issued a notice of proposed substantial changes to the Personal Injury Protection regulations.

The original regulation was proposed Aug. 1, 2011. Due to the large volume of comments received, the Department of Banking and Insurance decided to make substantive changes, which triggered a further comment period that ended April 21, 2012.

Changes include:

- A new, separate fee schedule for hospital outpatient departments, the Hospital Outpatient Surgical Facility. Previously ASCs and HOPD were lumped together on the same fee schedule. This new HOSF includes procedures that are not payable if performed at ASCs, and the rates are higher.
 - Deletion of 117 procedure codes performed by neurosurgeons and spine surgeons from the physician fee schedule. These will now be paid UCR for the professional fee. Some remain on the Outpatient Surgical Facility and HOSF schedules, so the facility would be reimbursed per fee schedule.
- Numerous physician specialties who treat auto accident victims filed comments with the Department.

Support Lawmakers who Support Physicians

AMG has begun its series of fundraisers to support key legislative leaders who support the physician community. On April 16, we hosted an event for the Assembly Majority leaders. Many physicians, representing numerous specialties, attended.

The second event - WEDNESDAY, MAY 9 - will host Senate Budget Committee Chairman, Paul Sarlo (D-Wood-ridge). Join your physician colleagues at this important event - 5:30 pm to 6:30 pm, at Forsgate Country Club, Jamesburg. For more information, call Jessica Frasco at 609-392-7553 or email her at jessica@amg101.com.

Thank you to the 2012 Annual Meeting Exhibitors!

Accurate Medical Billing
Bollinger Insurance
Conventus Inter-Insurance Exchange
Independent Med Reps
Katronix Pharmaceuticals
MD Advantage
Medicis
Nixon Uniform Service and Medical Wear
NJ Pure
WB Mason Co.

Legal Report
Schoppmann, PC

Kern Augustine Conroy &

Agencies to Implement Regulatory Reform Measures: The NJ Division of Consumer Affairs (DCA) has adopted a rule that authorizes the DCA and all of its boards and committees (including professional licensing boards and committees) to waive specific regulatory requirements, for reasons of undue hardship (economic or otherwise), at the timely request of the regulated person or business, so long as the waiver is consistent with the underlying purpose of the DCA's laws and rules. The rule also allows the agency, under certain circumstances, to waive its rules in a particular case on its own initiative. A related rule adoption directs state agencies to "take action to cultivate an approach to regulations that values performance-based outcomes and compliance, over the punitive imposition of penalties for technical violations that do not result in negative impacts to the public health, safety or environment." That new rule encourages the agencies, boards and committees to pursue measures to encourage compliance with the agency's rules rather than seek disciplinary sanctions or penalties. The new rules became effective April 16, 2012, and implement certain provisions of Governor Christie's 2010 Executive Order directing implementation and adherence to "Common Sense Principles" concerning regulatory burdens. View the new rules, and commentary, at: http://www.njconsumeraffairs.gov/adoption/dcaado_041612.htm.

NLRB Poster Delayed Indefinitely: The National Labor Relations Board's (NLRB) jurisdiction is broad and covers most non-government employers. Included are private sector employers whose activity in interstate commerce exceeds a minimal level which, for medical offices, is defined as having a gross annual volume of business of \$250,000 or more. Under an NLRB rule, employers are required to post a notice advising employees of their rights under the National Labor Relations Act, even if the employer does not have union employees. The rule was to be effective in November 2011. Ongoing court challenges have continually delayed the posting, however, with the latest posting deadline having been scheduled for April 30, 2012. Now, because one federal district court has ruled that the agency has authority to issue the rule and another federal district court has ruled the opposite, the D.C. Circuit Court of Appeals has temporarily enjoined the NLRB rule. As a result, the rule will not be enforced until the legal challenge is resolved. If the rule ultimately is upheld, covered practices must post the notice, which can be found at: <http://www.nlr.gov/faq/poster>.

FAIR Health Launches Medicare Compare: FAIR Health, an independent, not-for-profit corporation created to establish and maintain a new database to help insurers determine their reimbursement rates for out-of-network charges and provide patients with a clear, unbiased explanation of the reimbursement process, has launched FH Medicare Compare, a free web-based tool designed to help consumers better understand their out-of-pocket medical costs if their insurers base out-of-network reimbursement on the Medicare fee schedule. The tool is available on the FH Medical Cost Lookup webpage: www.fairhealthconsumer.org/medicalcostlookup. Many private health plans base out-of-network reimbursement rates on a percentage of Medicare fees, generally 110% to 140% of Medicare fees. An insurer's switch from a usual, customary and reasonable (UCR) reimbursement methodology to Medicare-based rates often means the insurer's reimbursement decreases, leaving the consumer to pay more out-of-pocket costs. The Medicare Compare feature enables consumers to look up Medicare-based reimbursement for a specific procedure and "compare" Medicare and UCR-based amounts side by side.

Novitas Solutions takes over Highmark Job and Much More: In March 2012, Novitas Solutions began the transition for taking over as the Medicare Administrative Contractor for Jurisdiction 12, which includes Pennsylvania, New Jersey, Delaware, Maryland, and the District of Columbia (and some counties in Virginia). In addition, Novitas Solutions is transitioning in as the Medicare Administrative Contractor for Jurisdiction H, which includes Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, and claims processing for Indian Health Service/Tribal Providers. Novitas also administers the national Section 1011 contract for CMS. Section 1011 is the program for federal reimbursement of emergency health services furnished to undocumented aliens. The new Novitas Solutions website is www.novitas-solutions.com and frequently asked questions/answers can be found at: <https://www.novitas-solutions.com/partb/info-alerts.html>.

Second Round: Physician-Pharmacist Drug Therapy Collaboration: The NJ State Board of Medical Examiners and the NJ Board of Pharmacy are jointly re-proposing new rules that establish standards of practice for physicians and pharmacists who wish to enter into collaborative practice agreements for the management of patients' drug related therapies. The Pharmacy Practice Act authorizes the Boards to jointly promulgate rules that allow physicians and pharmacists in the

State to enter into written agreements for the cooperative management of a patient's drug, biological, and device-related health care needs. The Boards received numerous comments on their initial proposal, the majority of which expressed concern regarding the specific training required of pharmacists to participate in collaborative practice agreements. After soliciting and receiving input from members of the regulated community concerning the type of training that should be required of pharmacists for collaborative practice, the Boards revised their proposal. To see comments and Board responses to the initial proposal, as well as the full text of the re-proposed rule, go to: http://www.njconsumeraffairs.gov/proposal/pharmpro_031912.htm.