

# New Jersey Academy of Otolaryngology-Head & Neck Surgery

## New Jersey Academy of Facial Plastic Surgeons

### Monthly Report - June 2012

#### From the Statehouse Group

#### Advocacy and Management

##### **Psychologist Fight for Right to Prescribe**

New Jersey psychologists are fighting for the ability to prescribe in order to better treat their patients. The Assembly Regulated Professions Committee heard nearly four hours of testimony related to this issue on May 10, but did not vote on the measure. The bill, A-2419 (Assemblymen Diegnan, Coughlin and Johnson) would provide for certain psychologists to prescribe medications. The legislation would require psychologists to undergo additional training in order to be certified by the State Board of Psychological Examiners. An identical bill is sponsored by Senator Ronald Rice of Newark in the upper house.

##### **Out of Network Bill Debated**

Earlier this month, the Assembly Financial Institutions and Insurance Committee heard testimony regarding the Out of Network bill (A-2751). The bill was up for discussion only and is expected to be considered again in a month. The Medical Society of New Jersey, the Ambulatory Surgery Center Association, the Association of Health Care Plans, the BIA/Chamber of Commerce, the NJ Hospital Association, and several physician specialties testified in opposition to various portions of the bill. According to Assembly Republican Leader Jon Bramnick, "A patient's right to decide what is their best course of treatment should be based on conversations with their doctor, not on carriers who have created an unmanageable bureaucracy for both the patient and doctor." Work continues with sponsors as well as with legislative leaders on this measure.

##### **Legislation to Ban Teen Tanning Passed**

The General Assembly voted 58-7-13 to approve A-2142, a measure that would help protect teens from an increased risk of skin cancer by banning access to tanning beds for anyone under 18 years old. The bill, sponsored and co-sponsored in a bipartisan effort by 13 legislators, would bar anyone under the age of 18 from using tanning beds in New Jersey, regardless of whether they have obtained parental permission. However, the bill would allow teens 14 years of age and older, with written permission, to use spray tanning, which does not expose them to UV radiation the way a tanning bed does. The measure now awaits consideration by the Senate.

Currently, California and Vermont have laws preventing minors under the age of 18 from using tanning beds. At least 25 other states have varying restrictions on teen tanning.

### **Cosmetic Tax Rollback Begins July 1**

In January 2012, the Cosmetic Tax Rollback was signed into law by Governor Christie. This rollback countered the 2004 legislation that explicitly taxed cosmetic surgical procedures, a measure that never produced the anticipated revenue expected by the government. This action is very significant as New Jersey was one of the first states to institute the tax which drove business out of New Jersey and prompted patients to go to other states for these procedures.

The Cosmetic Tax Rollback will begin on July 1 as the tax drops from six to four percent. Additional rollbacks will occur annually, with an additional two percent rollback in the summer of 2013 and a complete dissolution of the tax in July of 2014.

### **Malpractice Insurance Reconsidered for Volunteer MDs**

The New Jersey Assembly and Senate are considering legislation in which retired physicians who volunteer at community health centers would not have to purchase malpractice insurance. A-2178 and S-1165 have been introduced in hopes of attracting much need medical assistance to the poorest cities in New Jersey where patients rarely have insurance. FQHCs throughout the state support this legislation who say it is it's not unusual for the FQHC patient to wait weeks or months for care. The New Jersey State Bar Association continues to oppose this measure as they believe it limits a patient's right to sue. "Lawyers believe the right to sue trumps the right to care, and I don't think it does," said Assembly sponsor Dr. Herb Conaway Jr. Similar legislation has been adopted nationally, including Florida, Michigan and Mississippi.

## **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.

**Medical Practice Social Media Guidelines Issued:** The Federation of State Medical Boards (FSMB) has released new "Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice." The guidelines, available at <http://www.fsmb.org/pdf/pub-social-media-guidelines.pdf>, advise physicians on multiple aspects of social media and internet activity. The FSMB guidelines also encourage state medical boards to use their authority to discipline physicians for inappropriate communication with patients, online use of the internet for unprofessional behavior, online misrepresentation of credentials, online violations of patient confidentiality, failure to reveal conflicts of interest online, online derogatory remarks regarding a patient, online depiction of intoxication, and discriminatory language or practices online. Physician practices should have social media policies that guide physicians and staff and protect patients.

**CMS Rules Intended to Reduce Regulatory Burden:** The Centers for Medicare & Medicaid Services (CMS) has issued two new rules intended to reduce the regulatory burden on health care providers and cut health care costs, but which also affect hospital and medical staff issues. The Medicare Regulatory Reform Rule, [http://www.ofr.gov/OFRUpload/OFRData/2012-11543\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-11543_PI.pdf), among other things, will eliminate the enrollment bar for physicians when based on failure to respond timely to revalidation or other requests for information and remove some obsolete requirements for ASCs. The final rule revising Medicare Conditions of Participation for Hospitals, [http://www.ofr.gov/OFRUpload/OFRData/2012-11548\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-11548_PI.pdf), allows an optional program for patient/caregiver self-administration of certain medications; encourages the use of pre-printed and electronic standing orders and protocols; allows one governing body to oversee multiple hospitals in a single health system with a member(s) of the medical staff serving on the board; requires that the medical staff review all eligible candidates, as defined by the governing body, for eventual medical staff appointment; and allows a podiatrist to serve as head of the medical staff, when permitted by state law.

**Licensee Sanctioned for Role in Patient Financing:** A New Jersey dentist has had his license revoked and been assessed over \$400,000 in restitution, penalties and costs by the New Jersey Board of Dentistry for gross negligence, fraud and professional misconduct. Among the findings were the dentist's knowledge and approval of a "staff appreciation" program that motivated his staff to encourage patients to take loans and other financing arrangements to pay for dental care, including elective dental care, because the staff received rewards and other benefits for doing so. The Board noted that patients were unaware of these financial incentives, entered into high interest financing arrangements, and were often unable to obtain refunds when treatment did not proceed as planned. Physicians offering patient financing arrangements should be wary of staff incentive programs and take reasonable measures to ensure that patients understand their financing options and terms.