

New Jersey Academy of Otolaryngology-Head & Neck Surgery
New Jersey Academy of Facial Plastic Surgeons

September 2012

Save the Date!

2013 Annual Meeting

April 10, 2013

PNC Bank Arts Center

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From the Statehouse

Advocacy and Management Group

August certainly went out with a bang as two major announcements were made affecting both New Jersey and the country at large. After months of speculation that Governor Chris Christie would be selected as the Republican Vice Presidential candidate, Mitt Romney appointed Wisconsin Representative Paul Ryan as his Vice Presidential running mate. Ryan is the Chairman of the Budget Committee and is known for his controversial budget proposal which starkly contrasts the plan proposed by President Obama and his Democratic counterparts.

On Tuesday, August 28, Governor Christie delivered the keynote address to the Republican National Convention in Tampa, Florida. The Governor's speech, laced with New Jersey references, implored those in Tampa and abroad to rally behind the Romney-Ryan 2012 ticket. Among other topics, the Governor continued with his State House rhetoric by commenting on the importance of leadership and the need for bipartisan compromise.

PHYSICIANS MEET WITH THE GOVERNOR'S OFFICE TO DISCUSS PHYSICIAN ISSUES

On August 20, 2012, Bev Lynch joined Senator Thomas Kean, Jr., the Medical Society President Mary Campagnolo, MSNJ Executive Director Larry Downs, MSNJ lobbyist Tim Martin, Claudine Leone, lobbyist for the family physicians and Joe Simonetta, representing pediatricians and ophthalmologists

for a meeting with Governor's Counsel office to continue dialogue on important physician issues. Included among the agenda items was eliminating the state CDS registration (duplicative with the federal DEA number); the need for physician involvement as the health exchange is established in the State; the importance of advancing the provider network "fair contracts" regulations; concerns over the chiropractic scope of practice regulations (pending approval); and the general practice environment issues facing the physician community. Thanks to Senate Minority Leader Kean for continued support of the physician's concerns and willingness to assist. Stay tuned - more follow-up is needed to secure resolution on these issues.

PATIENT REGISTRY NOW OPEN FOR NJ MEDICINAL MARIJUANA PROGRAM

Earlier this month, the state Department of Health announced that qualified medical marijuana program patients and caregivers are now able to apply for identification cards. Qualified individuals may register on the Department of Health's new Medicinal Marijuana website, which includes information on how to register for the program and a question and answer section. Participating physicians can enter their patients into the registry by creating a patient record and confirming that the patient has one of the previously approved medical conditions that warrant use of medical marijuana. Only physicians registered with the Medicinal Marijuana Program can authorize their patient's use of the drug. For more information, visit <http://www.nj.gov/health/medicalmarijuana/>

MEDICARE TO PENALIZE NJ HOSPITALS FOR READMISSION RATES

Starting this October, the federal Medicare program will begin to withhold reimbursements from 96% of the state's hospitals and hospital networks due to the number of elderly patients who return to the hospital within one month of being discharged. According to one study, Medicare will withhold 0.67 percent of every reimbursement, the highest loss among any state in the country. Morristown Memorial Hospital and Overlook Hospital in Summit will be the only two hospitals, out of the 64 in the state, that will not be financially penalized due to their low readmission rates. To read more on this issue, visit http://www.nj.com/news/index.ssf/2012/08/analysis_nearly_every_nj_hospi.html

Legal Report

Kern Augustine Conroy & Schoppmann, PC

Government/Private Payors Partner on Fraud Prevention:

U.S. Department of Health & Human Services Secretary Kathleen Sebelius and U.S. Attorney General Eric Holder have announced that the federal government, state officials, several private health insurance organizations, and other health care anti-fraud groups have formed a "ground-breaking partnership" to prevent health care fraud. This voluntary, collaborative arrangement is the so-called "next step" in the Obama administration's efforts to combat health care fraud and is designed to share information and best practices in order to improve detection and prevention of fraudulent health care billings, according to the joint statement. For more information, and a list of the organizations and government agencies that are participating in the collaborative arrangement, go to: <http://www.hhs.gov/news/press/2012pres/07/20120726a.html>.

Meaningful Use EHR Incentive Payment Audits Begin: As of June 30th, the total of Medicare Electronic Health Record (EHR) Incentive Program Payments exceeded \$3 billion to over 120,000 eligible professionals and hospitals. What CMS giveth, however, it may taketh away. A New York accounting firm, Figliozi and Company, has been contracted by CMS to conduct meaningful use audits of physicians and providers who attested that they are meaningful users of EHR. A physician selected for an audit will receive a letter from the accounting firm, with the CMS logo on the letterhead. If, based on an audit, a physician is found to be ineligible for an EHR incentive payment already received, the payment will be recouped, subject to an appeals process to be established by CMS. To ensure you are prepared for a potential audit, save the supporting electronic or paper documentation that supports your attestation, including proof that your EHR system is certified. For more details about how physicians should prepare for these audits, see: <http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Attestation.html#10>.

On August 23, 2012, CMS published the final rule for Stage 2 of the EHR Incentive Programs. The rule provides new criteria that eligible professionals must meet to successfully participate in the EHR Incentive Programs. CMS has developed a Stage 2 Overview Tipsheet, summarizing the Stage 2 final rule and key changes to the EHR Incentive Programs.

Health System Settles with FTC over Acquired Physician Practices: The Federal Trade Commission (FTC) has reached a settlement with Renown Health of Reno, Nevada, a three-hospital system, resolving FTC charges that Renown's actions had illegal anti-competitive effects in the relevant cardiology services market, following its acquisition of the two major cardiology practices in the area. A key factor in the case was the non-compete provisions that effectively prevented the establishment of a competing cardiology provider in the area. The FTC's order suspends enforcement of the non-compete provisions for a period of time to allow some of the physicians to join competing practices. While anti-trust cases are always fact sensitive, this case provides a warning that the FTC is scrutinizing hospital acquisitions of physician practices. To see the FTC news release and a link to the related materials, go to: <http://www.ftc.gov/opa/2012/08/renownhealth.shtm>.

New Jersey Legislative/Regulatory Activity:

Dental Auxiliaries Act - Amended by Senate Bill 298 to allow dental hygienists to practice in schools, clinics, and certain institutions, if under a dentist's "supervision," as defined in the statute; providing that certain hygienist services can only be provided under a dentist's "direct supervision" as defined in the statute; limiting a hygienist's performance of "intra-oral" services and anesthetic procedures; and defining services, including invasive procedures, that can only be performed and billed by a dentist. Access the enacted legislation at: <http://www.njleg.state.nj.us/bills/BillView.asp>.

Department of Health & Senior Services, Office of Certificate of Need & Healthcare Facility Licensure - Memorandum responding to inquiries as to what is a "nationally or regionally accredited education program for surgical technologists," in complying with State requirements for employment as a surgical technologist. See: http://www.state.nj.us/health/healthfacilities/documents/ac/surgical_technologists.pdf.

State Board of Optometrists - Proposed rule amendment implementing an existing statute that permits an optometrist to dispense, at a charge to the patient, medicated contact lenses for treatment of acute and chronic eye conditions, such as corneal abrasions, glaucoma, dry eye, and allergies. See the proposal at: http://www.state.nj.us/lps/ca/proposal/optpro_080612.html.

Audiology and Speech-Language Pathology Committee - Proposed rule revising the educational requirements for licensure as an audiologist or speech-language pathologist. The proposal can be accessed at: http://www.state.nj.us/lps/ca/proposal/audpro_071612.htm. Comments are due to the Committee by September 14, 2012.

Division of Consumer Affairs - Proposed amendment to the controlled dangerous substances schedules to permanently place synthetic cannabinoids in Schedule I, making the possession, sale, and distribution of products containing these substances unlawful. See the proposal at: http://www.state.nj.us/lps/ca/proposal/cdspro_080612.html.

Division of Consumer Affairs-Proposal authorizing prescribers to transmit, and pharmacists to fill, electronic prescriptions for controlled dangerous substances (CDS), in keeping with existing rules of the Board of Medical Examiners permitting a practitioner to transmit prescriptions for CDS if permitted by Federal law and rules of the Board of Pharmacy permitting a pharmacist to accept an electronic prescription for dispensing CDS if permitted by Federal law. See: http://www.state.nj.us/lps/ca/proposal/cdspro_082012.htm. Submit comments by October 19, 2012.

For more information on any of the above items, contact Kern Augustine at 1-800-445-0954.