



Pennsylvania Issues

Legislation

- **H.B. 1619**: Interstate Medical Licensure Compact Legislation. On October 14, 2015, Representative Jesse Topper (R-Bedford, Franklin, Fulton) introduced legislation which would authorize Pennsylvania to join the Interstate Medical Licensure Compact. The compact was created by the Federation of State Medical Boards (FSMB) to serve as a new licensing option for physicians seeking to practice in multiple states. Once operational, the compact would be administered and enforced by an interstate commission, which would grant expedited licenses to eligible physicians. The compact would also permit physicians licensed in one state to treat patients in other participating states via telehealth. In order for a physician to be eligible, he or she must be certified in a medical specialty, have a medical license for a minimum of three years and have no prior record of being penalized by a court, a medical licensing agency or the United States Drug Enforcement Agency. Sixteen states have approved the legislation, and ten other states have introduced comparable legislation.

The FSMB asserts that the requirements for licensure vary widely across different states and that the licensing process can be unnecessarily lengthy and difficult. According to Representative Topper, participation in the compact would expand access to health care, especially in rural and underserved communities. Several national physician organizations, including the Association of Physicians and Surgeons, oppose the bill based on their concerns that the compact would supersede protections for physicians established by state licensing boards. The Hospital & Healthsystem of Pennsylvania (HAP) supports the bill, which is co-sponsored by Representatives Rosemary Brown (R-Monroe) and Mike Schlossberg (D-Lehigh). On June 8, 2016, the bill was unanimously approved by the House Health Committee, and it has been sent to the full House for consideration. Companion legislation has been introduced in the State Senate by Senator Thomas Killion (R-Chester, Delaware) and is co-sponsored by Senator Bob Mensch (R-Bucks).

- **H.B. 1699**: Safe Emergency Prescribing Act. On March 22, 2016, Representative Rosemary Brown (R-Monroe) introduced legislation which would prohibit providers from (a) prescribing opioid drug products in emergency rooms or urgent care centers in a quantity sufficient to treat a patient for more than seven days or (b) refilling a prescription for an opioid drug product that has been lost, stolen or destroyed. The bill would also require that providers refer an individual for treatment if the individual is believed to be at risk for substance abuse while he or she is seeking treatment in an emergency room or urgent care center. On June 15, 2016, the bill was approved by the House Health Committee, and it has been forwarded to the House Rules Committee for further consideration. Representatives Doyle Heffley (R-Carbon) and David Parker (R-Monroe) serve as co-sponsors of the bill.
- **H.B. 1698**: Abuse Deterrent Opioid Analgesic Drug Products Coverage Act. Abuse-deterrent opioid drug products make certain types of abuse, such as crushing a tablet to snort the contents or dissolving a capsule to inject its contents, more difficult or less potent. On February 9, 2016, Representative Doyle Heffley (R-Carbon) introduced legislation which would require health insurance carriers to provide coverage for at least three abuse-deterrent opioid drug products if the carrier also provides coverage for standard opioid drug products. In addition, the bill would prohibit a health insurance carrier from requiring that an insured patient first use a standard opioid drug product before providing coverage for an abuse-deterrent opioid drug product. Representative Heffley believes that the legislation will help reduce opioid abuse while ensuring access to appropriate treatment for patients in pain. On June 15, 2016, the House Health Committee passed the bill, and it has been sent to the House Rules Committee for consideration. HAP supports the bill, which is co-sponsored by Representatives Marcia Hahn (R-

Northampton), Julie Harhart (R-Northampton, Lehigh), David Parker (R-Monroe) and Mike Schlossberg (D-Lehigh).

New Jersey Issues

Legislation

- **S. 296:** Standards for Tiered Network Health Benefits Plans. As previously reported, Horizon Blue Cross Blue Shield of New Jersey (Horizon) is offering tiered health insurance policies to consumers through the formation of the OMNIA Health Alliance. On January 12, 2016, Senators Joseph Vitale (D-Middlesex) and Nia Gill (D-Essex and Passaic) introduced legislation that would establish certain standards for tiered health insurance plans. As currently drafted, a carrier would be required to clearly state on its website, and in plan documents supplied to subscribers, the cost sharing differences for a covered person in various tiers of a health insurance plan. Additionally, variations in cost sharing among provider tiers would need to be reasonable in relation to the premium charged for the plan. On June 6, 2016, the bill was approved by the Senate Commerce Committee by a vote of 6-0, and it has been sent to Senate Budget and Appropriations Committee for consideration.

Miscellaneous

- **New Jersey Primary Election:** The New Jersey primary election was held on June 7, 2016. Congressman Leonard Lance (R-7-NJ), who is running for his fifth term in office, easily defeated his two Republican primary opponents. In the November general election, the Congressman will face Democrat Peter Jacob, a 30-year old social worker and activist. St. Luke's Hospital – Warren Campus is located in New Jersey's 7th Congressional District.

Federal Issues

Advocacy

- **False Claims Act and Implied Certification:** On June 16, 2016, the United States Supreme Court issued a decision concerning the “implied certification” theory of falsity under the False Claims Act (FCA). The FCA prohibits “knowingly” submitting to the Government a “false or fraudulent claim for payment or approval.” Courts have recognized that false claims can be either “factually false” or “legally false.” A factually false claim is one that is based upon inaccurate information about the product or service billed (e.g., a physician bills Medicare for services that were not actually provided). Many courts have held that a legally false claim is one that either impliedly or expressly certifies compliance with conditions of payment set forth in applicable statutes, regulations or contractual provisions. Some courts have also held that, for the implied certification theory to apply, the underlying rule had to provide expressly by its terms that compliance with it was a condition of payment. The Supreme Court held for the first time that, subject to two conditions, “the implied false certification theory can, at least in some circumstances, provide a basis for liability.” The first condition is that “the claim does not merely request payment, but also makes specific representations about the goods or services provided.” The second condition is that “the defendant’s failure to disclose noncompliance with material statutory, regulatory or contractual requirements makes those representations misleading half-truths.” The Court’s decision is an important development in FCA litigation. While it expands possible liability, the Court’s materiality safeguard would appear to inject a true fraud analysis into a statute that had morphed into an onerous regulatory enforcement tool.

Legislation

- **H.R. 5273:** The Helping Hospitals Improve Patient Care Act of 2016. As previously reported, Congressmen Pat Tiberi (R-12-OH) and Jim McDermott (D-7-WA) introduced legislation on May 18, 2016 which would permit a hospital to receive Medicare outpatient hospital prospective payment system rates for a new outpatient site if the Centers for Medicare & Medicaid Services receives a certification from the hospital confirming that it executed a binding agreement before November 2, 2015 for construction of the site. The American Hospital Association, HAP and the Association of American Medical Colleges support the bill, which was approved by the House on June 7, 2016. It has been sent to the Senate Finance Committee for consideration.