Pennsylvania Issues

Advocacy

- **Medical Malpractice Reform for Emergency Room Providers**: On April 8, 2015, State Representative Eli Evankovich (R- Allegheny, Westmoreland) announced plans to reintroduce legislation which would heighten the standard required to prove the occurrence of medical malpractice arising from emergency medical care, including emergent care provided in an obstetrical unit or surgical suite following evaluation of a patient in an emergency department. The bill would provide that physicians and other providers would not be liable unless it is proven by clear and convincing evidence that the physician or other provider acted intentionally or recklessly, which is a much higher standard than negligence. Supporters of the bill include the Hospital & Healthsystem Association of Pennsylvania (HAP), the American College of Emergency Physicians, the American College of Obstetricians and Gynecologists, and the Pennsylvania Medical Society (PAMED), which argue that emergency providers should be protected when making quick decisions under difficult time constraints. The Pennsylvania Association for Justice (formerly known as the Pennsylvania Trial Lawyers Association) opposes the bill. Similar legislation has been enacted in Arizona, Texas, Florida, Georgia, South Carolina, Utah and West Virginia.

Legislation

- **S.B. 717**: Modernization of the Professional Nursing Law. Nurse practitioners in Pennsylvania may treat patients and prescribe medications only through collaborations with physicians. On April 10, 2015, Senator Pat Vance (R-Cumberland, York) reintroduced legislation to allow nurse practitioners to perform these tasks independently and without the collaboration of a supervising physician. Twenty other states and the District of Columbia have passed similar legislation. The Pennsylvania Coalition of Nurse Practitioners supports the bill and asserts that the legislation will allow nurse practitioners to work to their full capabilities, especially in rural and underserved areas. The American Academy of Nurses reports that states that have granted nurse practitioners full practice authority have lower hospitalization rates and improved health outcomes. Several physician groups, including PAMED and the Academy of Family Physicians, oppose the bill and express concerns regarding patient safety. Senators Dave Argall (R-Schuylkill, Berks), Bob Mensch (R-Bucks) and Mario Scavello (R-Monroe) serve as co-sponsors of the bill, which has been assigned to the Senate Consumer Protection and Professional Licensure Committee. HAP has taken a neutral position on the legislation. Companion legislation has been introduced in the House, where Representative Bob Freeman (D-Northampton) serves as a co-sponsor.

New Jersey Issues

Legislation

- **A. 4315**: Licensure of Elective Angioplasty Facilities. On March 19, 2015, State Assemblyman Jack Ciattarelli (R-Hunterdon, Mercer, Middlesex, Somerset) introduced legislation that would permit New Jersey hospitals without cardiac surgery services to apply to the Commissioner of Health for a license to provide elective angioplasty services. The commissioner would be required to issue a license to any facility that, in addition to any other requirements set forth by the commissioner, demonstrates the following: (1) the ability to offer a high quality program for the provision of elective angioplasty services; (2) the ability to provide patient selection from among a community that is representative of the State's diverse regions and urban,

suburban and rural populations; and (3) the ability to increase access to care for minorities and the medically underserved. The Assemblyman asserts that licensure of additional elective angioplasty facilities is necessary to better serve the health care needs of cardiac patients through the state. The New Jersey Hospital Association (NJHA) has taken a neutral position on the bill, which has been referred to the State Assembly Health and Senior Services Committee.

Federal Issues

Advocacy

- **Electronic Health Record Incentive Programs**: On March 20, 2015, the Centers for Medicare & Medicaid Services (CMS) issued its proposed rule defining Stage 3 Meaningful Use (MU) requirements for the Electronic Health Records (EHRs) Incentive Program, which would significantly increase interoperability standards among EHRs. The American Hospital Association (AHA) criticized CMS for including additional elements when only 35% of hospitals have met Stage 2 requirements.

Legislation

- **H.R. 2:** The Medicare Access and CHIP Authorization Act of 2015. As reported previously, on March 24, 2015, Congressman John Boehner (R-8-OH) introduced legislation to permanently repeal the Sustainable Growth Rate (SGR) formula. The SGR formula was devised to control healthcare spending by tying Medicare fees to the growth in the economy. As medical costs increased more quickly than inflation, the SGR formula would have caused physician payment reductions every year since 2002. In response, Congress passed 17 bills since 2003 at a cost of $170 billion to delay implementation of the payment reductions. The current Medicare physician fee schedule was scheduled to expire on March 31, 2015.

  On March 26, 2015, the House passed the bill by a vote of 392 to 37, and, on April 14, 2015, the Senate passed the bill by a vote of 92 to 8. On April 16, 2015, President Obama (D) signed the bill into law. Congressmen Charles Dent (R-15-PA), Mike Fitzpatrick (R-8-PA), Matt Cartwright (D-17-PA) and Leonard Lance (R-7-NJ) and Senators Robert Casey (D-PA), Patrick Toomey (R-PA), Cory Booker (D-NJ) and Robert Menendez (D-NJ) voted in favor of the bill.

- **H.R. 876**: The Notice of Observation Treatment and Implication for Care Eligibility (NOTICE) Act. On February 11, 2015, Congressmen Lloyd Doggett (D-35-TX) and Todd Young (R-9-IN) introduced legislation requiring hospitals to provide notice of a patient's observation status when receiving care under observation status for at least 24 hours rather than being admitted as an inpatient. Notice would be made orally, with written notification required within 36 hours. Both the oral and written notification would explain: (1) the patient's status as an outpatient under observation and not as an inpatient; (2) the reason for the classification; and (3) the financial implications, the patient's eligibility for Medicare coverage and any cost-sharing requirements of the outpatient status. The written notification would also include the name and title of the hospital staff member who gave the oral notification and the date and time of such notification, and it would be signed by the patient to acknowledge receipt.

  On March 16, 2015 the House passed the bill by a vote of 395 to 0, and it has been sent to the Senate for consideration. St. Luke's University Health Network plans to meet with its Senate members to discuss the unintended consequences of the bill and to seek amendments. The bill is supported by AARP, the Alliance for Retired Americans, the Center for Medicare Advocacy, the National Association of Professional Geriatric Care Managers, the American Health Care Association and the National Committee to Preserve Social Security and Medicare. The AHA opposes the legislation, since: (1) the bill does not include exceptions for situations beyond control of the hospital, such as subsequent decisions to reclassify a patient; (2) the signature requirement is onerous; and (3) hospital staff may be unable to explain the financial implications, including the cost-sharing requirements, associated with the classification. HAP shares the AHA's concerns and has urged legislators to review Pennsylvania's patient observation legislation as a suggested model for implementation.