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2003 Legislative Report

Legislative Session was a Success, Thanks to You!

You did it. Hundreds of MedChi physicians sent over 1,200 e-mails and letters from MedChi's online Legislative Action Center to our elected representatives—34 per day in March alone. And you made the 2003 Patients' and Physicians' Day in Annapolis a success with the largest physician attendance ever. Many legislators remarked on the large number of e-mails and phone calls their offices received from physicians. Referring to MedChi's ability to get results, Delegate John Hurson, Chairman of the House Health & Gov't Affairs Committee, was

quoted in a Baltimore *Sun* article, saying simply, "They have a very powerful lobby." Thanks to the thousands of Maryland physicians

For further details, go to www.medchi.org or call the MedChi legislative office at (410) 974-8384 or (301) 858-5230.

whose MedChi and MMPAC membership make us strong, and special thanks to everyone who took the time to send a message to Annapolis on behalf of our profession. Here's a brief summary of results on

MedChi's legislative agenda in the 2003 General Assembly. Physicians can be pleased by the outcome on our key issues, including tort reform. But on that critical issue, we know that the real fight awaits us next year, as the trial bar "took the year off" on its main agenda items; so, there's much still to be done on that front. Meanwhile it's time to celebrate a successful session, with gratitude to our colleagues and outstanding staff for making it happen.

Catherine Smoot-Haselnus, M.D.
MedChi President

Medical Liability: Good Result, but get Ready for Next Year

Going into this session, preserving Maryland's tort reforms was at the top of MedChi's agenda. It's still there. We fought off a trial-lawyer-led bill to allow judges to increase jury verdicts. We also helped hospitals amend the Consumer Protection Act to end lawyers' use of that law in medical liability actions to circumvent Maryland's cap on non-economic damages. But signaling challenges ahead, the lawyer-dominated Senate Judicial Proceedings Committee killed a MedChi bill aimed at shortening the statute of

limitations for claims by minors. The bill would have overruled a recent Court of Appeals decision which threw out a 20-year-old tort reform law that significantly shortened the statute of limitations for claims by minors. The House of Delegates passed the bill 69-66 after a fierce floor fight led by MedChi. However, Senate Judicial Proceedings Committee Chairman, Brian Frosh (D., Montgomery Co.), declined to bring it up for a vote. The trial bar largely held its fire in this session, electing to wait until next

year to bring its main agenda item: eliminating Maryland's contributory negligence defense, in which a plaintiff's own negligence operates as a complete defense. The trial bar wants a rule in which the plaintiff's own negligence simply reduces the damage award. Medical Mutual says that change will result in even higher insurance costs. Count on a major fight next year, so get your colleagues engaged in the issue now by visiting MedChi's online Legislative Action Center at www.medchi.org.

CareFirst/WellPoint Conversion: Blood in the Water

MedChi has led the opposition to CareFirst's proposed conversion to a for-profit company and sale to WellPoint of California. Two years ago, MedChi was alone in opposing legislation that made it easier for CareFirst to convert. How things have changed. Insurance Commissioner Steven Larsen's scathing denial of the proposed conversion and sale led

to a frenzy of legislative reforms of the company, including capping management salaries, reconstituting the board of directors, specifying in law the company's non-profit mission, and creating a new oversight body to scrutinize the company. Now the question is: What's next? The national Blue Cross Blue Shield Association, which owns

CareFirst's Blue Cross Blue Shield trade mark, says the bill goes too far and is threatening to take the trade mark and give it to someone else. Mike Preston's column in the January *MedChi Physician* predicted a train wreck scenario. Stay tuned.

Have you given MedChi your e-mail address?

Board of Physician Quality Assurance: Clear & Convincing

Senator Paula Hollinger (D. Baltimore Co.) vowed that no bill would pass which maintained the "clear and convincing" evidence standard for disciplinary actions. She even threatened to let Maryland's Medical Practice Act lapse if her demand was not met, which would have meant that the entire system of physician licensing would have disappeared and anyone could practice medicine. In the end, MedChi's arguments must have been clearer and more convincing because the law which passed retains the higher evidentiary standard for cases involving alleged substandard care, but allows the lower "preponderance of evidence"

standard for all other types of disciplinary actions. On the final day of the session, other MedChi amendments to the bill which were adopted by the House were blocked. Sen. Hollinger, who threatened again to

"The Senate chairman simply dislikes doctors and she wants to stick it to them," Hurson said.

let the licensing statute lapse if the amendments came back to the Senate. The next day the Baltimore *Sun* reported on the matter as follows:

The House last night also gave in on its position on how doctors are regulated and licensed because time was running out.

If the chamber didn't yield, said

Del. John Adams Hurson, chairman of the House Health and government Operations committee, there would be no panel regulating doctors in Maryland come this summer.

He blamed the final roadblock not on the medical lobby, which had been fighting parts of the bill, but on Sen. Paula C. Hollinger, chairwoman of the Education, Health and Environmental Affairs committee. "The Senate chairman simply dislikes doctors and she wants to stick it to them," Hurson said.

Hollinger, a nurse, dismissed Hurson's remarks. "When you have doctors who have dead patients and brain-damaged babies and nobody's disciplining them...somebody has to toughen the rules," she said.

Send your e-mail address to jduffy-bilanow@medchi.org.

HMO Reimbursement to Non-par Physicians: Waivers OK'd

MedChi-backed legislation passed which clarifies that it is appropriate for non-participating physicians to bill HMO patients under circumstances where the patient has signed a waiver of Maryland's so-called "hold-harmless" law, which gener-

ally bars non-par physicians from billing HMO patients. Such waivers, which were developed by MedChi, were commonly used until last year when a technical change in the law inadvertently cast doubt on them. In addition, MedChi obtained an opin-

ion from the Attorney General, which also validated use of the waiver. For questions about billing issues contact MedChi's practice consultant, Jama Allers at ext. 310, or jallers@medchi.org.

Nurse Practitioners: Real Collaboration at Same Location

After years of legislative conflict, nurse practitioners and MedChi together presented a compromise bill to the General Assembly. The bill allows HMO enrollees to select a

nurse practitioner as their primary care practitioner when the physician explicitly retains sole authority for medical management of the patient and where the nurse practitioner and

physician are practicing at the same location. MedChi's internal House of Delegates approved the terms of the compromise in January.

Other Items of Interest

- Legislation passed to fund payment to trauma physicians in Maryland's trauma system.
- A bill aimed at legalizing "medical marijuana" passed, but in a highly amended form, including MedChi amendments removing physicians from a position of "prescribing" the leaf. As enacted, the bill creates a defense for a person charged with possession of marijuana on the ground that using it is "medically necessary."
- MedChi fought off a bill offered by podiatrists to garner the same payment as physicians.
- Optometrists lost their bid to increase their scope of practice, opposed by MedChi and the Maryland Eye Society.
- A 2% premium tax on HMOs was passed to help fund Medicaid, but the Governor says he'll veto the tax package.
- Enrollment in MCHIP was capped for children with family incomes from 200% to 300% of poverty.

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- **BPQA Changes**
- **HMO Non-par Waivers OK'd**
- **New Nurse Practitioner Law**
- **Other Legislative Wins**

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Save the Date!
MedChi Convention
October 24-26, 2003
Clarion Resort Fontainebleau
Ocean City, Maryland

Physician To Physician Recruitment Works!

MedChi has added more than 541 members this year alone. This brings MedChi's total active dues paying membership to 5144 representing 51 percent of Maryland's practicing physicians.

However, our new member goal for 2003 is 1000 new members, so we have instituted incentives for you to recruit.

- **Recruit a new member and receive a MedChi umbrella.**
- **Recruit two new members and you will receive a MedChi golf shirt.**
- **Our top three recruiters will also be rewarded honored at the MedChi Convention on October 25, 2003 in Ocean City, MD.**