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MedChi's 2023 General Assembly Sine Die Report

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The Maryland General Assembly began its 445th Session at noon on Wednesday, January 11th, and concluded its legislative work at midnight on Monday, April 10th. This Session was the first of a new four-year term for members of the General Assembly and the first year of a new Gubernatorial Administration under Governor Wes Moore. Attorney General Anthony Brown and Comptroller Brooke Lierman, both newly elected to their posts, are also new this year. As such, it was a transitional year for the General Assembly this Session. Part of that transition included several key legislative leadership changes as well. In the Senate, Senator Brian Feldman was appointed as Chair of the newly restructured Education, Energy, and the Environment Committee and Senator Melony Griffith was appointed as Chair of the Senate Finance Committee. In the House, Delegate Joseline Pena-Melnyk was appointed as Chair of the Health and Government Operations Committee.

As was reported throughout this Session, the pace in the movement of bills was slower than is typical, especially earlier in Session. Much of the focus was on major priority issues, including accelerating the minimum wage increase to $15 by January 1, 2024, setting up the regulatory framework for the adult-use cannabis market approved by voters last November, affording increased opportunities for victims of child sexual abuse to sue institutions that enabled the abuse, increasing protections for reproductive rights in wake of the *Dobbs* decision by the Supreme Court of the United States (SCOTUS) and tightening rules around the concealed carry of firearms in light of the *Bruen* decision by SCOTUS.

FISCAL YEAR 2024 BUDGET

The Fiscal Year 2024 Budget maintains the current Medicaid reimbursement rates for evaluation and management (E&M) services. Fiscal Year 2023 rates were raised to parity with Medicare during the 2022 Session. However, Medicare recently decreased E&M rates by 2%, causing Medicaid rates to become slightly higher. Given that the budget maintains the current E & M rates, for the first time, rates paid to physicians will be more than Medicare and will contribute to enhanced physician participation in Medicaid and greater access to care for Medicaid patients.

As noted by the Maryland Department of Health (MDH) Secretary Dr. Laura Herrera Scott, "During the pandemic, we saw significant growth in Medicaid enrollment, meaning more Marylanders are relying on this critical program to access health care. The success in increasing provider participation stemming from this decision is not only financially sensible, but also essential for equitable health care access for all Medicaid recipients."

MedChi received $630,000 in the Fiscal Year 2024 Capital Budget for the MedChi Museum project at the MedChi building in Baltimore. The funding will assist in retrofitting and upgrading the museum space, including making it compliant with the Americans with Disabilities Act so that it can be opened to the general public.

BOARDS AND COMMISSIONS

LICENSURE ISSUES

For the second straight year, ***Senate Bill 161/House Bill 241: State Board of Physicians – Dispensing Permits (failed)*** passed the House 126-12 but failed in the Senate. This bill, introduced at the request of the Board of Physicians (BOP) and supported by MedChi, would have transferred oversight of the inspection of the offices of physicians who prepare and dispense a prescription drug or device from the Office of Controlled Substances Administration to the Board. The bill also would have moved related provisions from the Maryland Pharmacy Act to the Maryland Medical Practice Act.

Senate Bill 213/House Bill 278: Health Occupations – Clinical Nurse Specialists – Prescribing (passed) will allow Clinical Nurse Specialists (CNSs) to prescribe. Already recognized as Advanced Practice Nurses (APNs) under the law, CNS's sought parity with other APNs in being allowed to prescribe. This issue garnered a lot of interest from MedChi, although we ultimately ended up taking no position on the legislation.

Senate Bill 372/House Bill 1232: Health Occupations – Pharmacists – Administration of Vaccines (failed) was an emergency bill that proposed to permanently authorize a licensed pharmacist to order and administer vaccinations to individuals as young as three years old. The current provisions, which sunset June 30, 2023, were enacted to reflect federal policy adopted during the COVID-19 public health emergency. The House amended the bill to extend the sunset for an additional year. The Senate did not pass the bill and therefore Maryland's law related to administration of vaccines by pharmacists will return to its original framework. It should be noted that while the current provisions will sunset, MDH was to have released a report on the impact of the change in vaccination policy during the public health emergency. That report is forthcoming, and this issue will likely be a subject of deliberation next Session.

Senate Bill 376/House Bill 351: Health Occupations – Licensed Direct-Entry Midwives – Previous Cesarean Section (failed) would have authorized a licensed direct-entry midwife to assume or continue to take responsibility for a patient if the patient has had a single previous cesarean section that resulted in a confirmed low transverse incision and was performed at least 18 months before the expected date of birth for the current pregnancy. The bill was passed by the House, but the Senate Finance Committee did not further consider the bill after the Senate hearing. It will undoubtedly be reintroduced in the 2024 Session.

As introduced, ***Senate Bill 449/House Bill 401: Maryland Audiology, Hearing Aid Dispensing, Speech-Language Pathology, and Music Therapy Act – Definitions and Application (passed)*** would have significantly expanded the scope of practice of hearing aid dispensers. The legislation was ostensibly introduced in response to federal regulatory changes, but the bill language did much more. After the amendments, which were supported by MedChi, hearing aid dispensers can order and dispense hearing aids and Maryland law now complies with the federal changes.

Physicians in Maryland can now achieve "Emeritus" status. ***Senate Bill 375/House Bill 453: State Board of Physicians – Inactive and Emeritus Status (passed)*** allows certain physicians who no longer actively practice to be recognized by the Board as "Emeritus" rather than "inactive". To qualify, the physician must not be under investigation by the Board, have practiced in Maryland for at least 10 years, not had their license revoked or suspended, and no longer be actively practicing. The physician is exempt from continuing medical education requirements while on Emeritus status but must catch up on these credits if they seek reinstatement.

Some of the State's nurse practitioners (NPs) sought adoption of ***Senate Bill 439/House Bill 475: Advanced Practice Registered Nurse Compact (failed)***, which would have entered Maryland into a nursing compact for APNs. Other NPs opposed the bill and for the second year in a row this resulted in its demise. For MedChi's part, language re-affirming that APNs must consult and collaborate with physicians as needed was added to the bill this year, somewhat addressing MedChi's concerns, but more may need to be done to ensure the Compact does not undermine Maryland law.

House Bill 507: State Board of Physicians – Supervised Medical Graduates (failed) would have provided a place in the regulatory and licensing structure of our State for those medical graduates who do not match with a residency. Under the bill, which MedChi supported with amendments, M.D. and D.O. graduates could work but would be regulated by the BOP and supervised by licensed physicians for a defined period, until such time as they hopefully place with a residency. This situation affects about 20-30 graduates each year in the State.

Senate Bill 258/House Bill 633: Hospital Credentialing – Reappointment Process for Physician Staff – Modifications (passed) removed an outdated statutory requirement for hospitals to re-credential physicians every 2 years. With a recent move to accredit hospitals every 3 years instead of 2, the re-credentialing statute created double work for hospitals and physicians alike. The passage of this legislation, which MedChi supported, now means that re-credentialing can occur every 3 years, consistent with the interval for hospital accreditation, saving physicians and hospitals significant administrative time.

As introduced, ***Senate Bill 647/House Bill 693: State Board of Pharmacy – Board Membership, Delegated Pharmacy Acts, and Sunset Extension (passed)*** would have allowed pharmacy technicians and pharmacy technician trainees to administer vaccinations and allowed pharmacists to delegate data entry to pharmacy techs to be entered at a remote location. MedChi successfully pushed for amendments that limit pharmacy techs to administering only influenza vaccines to persons 18 and older. Our amendments also require that a pharmacy tech working remotely have immediate electronic access to a pharmacist to resolve issues that arise, which addresses physician concerns that prescriptions have been delayed due to the lesser training and knowledge of pharmacy techs who are not able to immediately consult with a pharmacist.

At the request of legislative leaders, MedChi participated in a workgroup over the last interim with Physician Assistants (PAs) to work through legislation proposing significant changes to the PA law. The workgroup, on which Drs. James York, Loralie Ma, Doug Mitchell, Michael Niehoff, Benjamin Lowentritt, and representatives of MDACEP served, made progress, but did not reach agreement. The PAs introduced their bills, ***Senate Bill 673/House Bill 727: Physician Assistants – Revisions (Physician Assistant Modernization Act of 2023) (failed)*** and ***Senate Bill 674/House Bill 722: Physician Assistants – Parity With Other Health Care Practitioners (Physician Assistant Parity Act of 2023) (failed)*** with the understanding that discussions would continue during Session.

MedChi opposed the "Modernization Act", given unresolved concerns over the need to define "collaboration", to specify the contents of the collaboration agreement, and to limit the number of PAs that can be supervised by one physician in non-facility settings. We also identified areas of agreement, such as moving from a supervisory relationship to one of collaboration and reducing several administrative burdens, and these were all conveyed during the legislative hearings on the bill by Steve Wise and Dr. Ma, who testified before the House and Senate Committees.

MedChi supported with amendments the "Parity Act", which identified 16 different areas of the law where PAs sought to be added to the list of practitioners that can perform certain tasks. MedChi agreed with many of these but did not agree with adding PAs to the list of those practitioners that may certify voluntary and involuntary admission, and sought to amend those tasks out.

Hours of negotiations occurred on both bills during Session, resulting in a revised Modernization Act that MedChi was largely prepared to support. However, the PAs had issues with limiting their practice to tasks that were "customary to the practice of the physician", among other items. In the end, because there was no agreement, the bills died, and discussions will continue through the coming interim.

House Bill 1156: Pharmacists – Therapy Management Contract – Form (passed) will make the use of these 3-party agreements between patients, pharmacists, and physicians more streamlined. Under the bill, these contracts can be entered into electronically, or orally. MedChi supported this legislation with an amendment requiring any initial oral agreement to be reduced to writing (or recorded electronically) within 30 days.

Senate Bill 187/House Bill 454: Health Occupations – Licenses, Certificates, and Registrations – Lawful Presence and Identification Numbers (passed) prohibits a health occupations board from requiring that an applicant provide proof that they are lawfully present in the United States or have a Social Security number or Individual Taxpayer Identification Number as a condition for licensure, certification, or registration.

Senate Bill 516/House Bill 556: Cannabis Reform (passed) was introduced to implement the recreational cannabis market in Maryland, as per the referendum approved by voters in November of 2022. While MedChi did not take a position on the issue, members of MedChi's Cannabis Committee identified a very important issue within the bill that MedChi was able to get addressed. The bill would have allowed registered nurses to recommend cannabis, and this was the result of the use of the word "or" instead of "and", a lesson in how careful reading of legislation is important. MedChi sought and obtained an amendment, fixing the error.

TORT AND LEGAL LIABILITY

Senate Bill 666/House Bill 773: Maryland False Claims Act and Maryland False Health Claims Act – Revisions (failed) was filed at the request of the Attorney General. The False Claims Act allows a person to sue on behalf of the State to recover State funds that were disbursed as the result of fraud, including payments made under public health insurance programs like Medicaid and Medicare. These *qui tam* lawsuits allow a private "relator" to file lawsuits on behalf of the State, and the State then takes over the case, rewarding the relator with 15-25% of the funds recovered. Under current law, the relator cannot continue the case if the State chooses not to proceed, but the bill, which MedChi opposed, would have repealed this important check and balance. The House bill was withdrawn by the sponsor.

House Bill 862: Civil Actions – Noneconomic Damages – Personal Injury or Wrongful Death (failed) would have entirely repealed the cap on non-economic damages that applies to cases NOT involving health care claims. MedChi nevertheless opposed the bill over concerns about the precedent it would set, even though health care claims were not directly affected. When the bill was heard, it was very troubling to hear Judiciary Committee members not only support the bill but ask why it did not also propose to repeal the health care claims limit. While the legislation did not pass, the colloquy was very concerning and makes clear that many of the newer members of the Legislature need to be informed by physicians about why there is a cap and why it is important.

House Bill 858: Health Care Alternative Dispute Resolution Office – Authority of Director – Dispositive Issues of Law (failed) would have allowed the Director of the Health Care Alternative Dispute Resolution Office to rule on dispositive issues of law if an arbitration panel chairman has not been appointed or is not available. MedChi was joined by Med Mutual and others in opposition to this bill, arguing the expansion of the Director's role is inappropriate. Cases are referred to arbitration panels so that an objective person can weigh the case without concern for other administrative matters, and those opposed to the bill were concerned that the line was blurred when the Director would step into this role. The bill was withdrawn by the sponsor.

HEALTH INSURANCE

REFORM

This Session, MedChi successfully convened a coalition of over fifty organizations, representing physicians, health care practitioners, patient advocacy groups and manufacturers to support a package of reform bills on step therapy, utilization review/prior authorization and "any willing practitioner," all which were opposed by the insurance industry. The General Assembly passed ***Senate Bill 515/House Bill 785: Health Insurance – Step Therapy or Fail-First Protocol and Prior Authorization – Revisions (passed)***. This bill, beginning January 1, 2024, requires health insurance carriers to adopt a policy to approve a step therapy exception request if, based on the professional judgment of the prescriber, the step therapy drug is detrimental to the patient as specified in the legislation. After approving the step therapy exception request, the bill also states the carrier or pharmacy benefits manager (PBM) must authorize coverage for the drug rather than requiring the insured to then undergo prior authorization for the requested prescription drug. Except for an opioid that is not an opioid partial agonist, a carrier or PBM may not require more than one prior authorization if two or more tablets of different dosage strengths of the same prescription drug are (1) prescribed at the same time as part of an insured's treatment plan and (2) manufactured by the same manufacturer. This provision addresses an issue raised by the Maryland Psychiatric Society but pertains to all medications.

On a related note, the General Assembly also considered ***Senate Bill 308/House Bill 305: Health Insurance – Utilization Review – Revisions (failed)***, which would have made comprehensive changes to the utilization review process, including prohibiting a reauthorization for a prescription drug if a patient is being well-managed on the prescription drug. While this bill did not pass, both the House Health and Government Operations Committee and the Senate Finance Committee committed to MedChi that the committees would work with the advocates over the interim to address the concerns raised by the physician community and other stakeholders in anticipation of legislation returning next Session. Likewise, while ***House Bill 1108: Health Insurance Carriers and Managed Care Organizations – Participation on Provider Panels (failed)*** did not advance, Delegate Robyn Lewis, the sponsor, sent letters to the Maryland

Managed Care Organization Association and the League of Health and Life Insurers requesting meetings this interim to further explore the issues that have been raised relating to network inclusion.

All in all, this Session brought about positive changes and elevated the issue for the new and returning legislators. MedChi applauds the work of our members who sent over 2,200 emails to legislators highlighting the damaging effects that utilization review has on patients and the ability to provide quality patient care.

OTHER HEALTH INSURANCE BILLS

Senate Bill 474/House Bill 716: Managed Care Organizations – Retroactive Denial of Reimbursement – Information in Written Statement (passed), after the committees amended the bill to address MedChi's concern, changes the requirement that a managed care organization (MCO) provide information to a provider of the entity *acknowledging responsibility* for payment to giving the provider the name and address of the insurance company identified as being responsible for payment.

Senate Bill 678/House Bill 1151: Health Insurance – Reimbursement for Services Rendered by a Pharmacist (passed) requires, beginning January 1, 2024, that Medicaid, the Maryland Children's Health Program, and commercial health insurance carriers provide coverage for services rendered by a licensed pharmacist acting within the pharmacist's scope of practice to the same extent as services rendered by any other licensed health care providers.

Senate Bill 724: Health Insurance Carriers – Requirements for Internal Grievance Process – Modification (passed), requested by the Maryland Insurance Administration (MIA), alters the means by which a health insurance carrier must inform an individual of the carrier's adverse decision for nonemergency cases. Under the bill, a carrier must inform either orally by telephone (as under current law) or – with the recipient's consent – by text, facsimile, electronic mail, online portal, or other expedited means. A written follow-up must still be sent within five days.

Senate Bill 398/House Bill 650: Health Insurance – Reimbursement and Use of Specific Pharmacies and Dispensaries – Prohibitions (failed), similar to "any willing practitioner," authorized an individual to obtain specialty drugs from any pharmacy or physician provided that all the contract terms and conditions of the insurer are satisfied.

Senate Bill 212/House Bill 155: Genetic Testing – Prohibitions on Disability, Life, and Long-Term Care Insurance and Educational Materials (Genetic Testing Protection Act of 2023) (failed) would have prohibited carriers that offer life insurance, long-term care insurance, and disability insurance policies or contracts from taking certain coverage actions (e.g., denying, limiting, rejecting, increasing rates, etc.,) based on whether an applicant or policy or contract holder has requested or undergone genetic testing or the results of the genetic testing.

CANCER PREVENTION, DIAGNOSIS, AND TREATMENT

Several bills passed related to cancer prevention, diagnosis, and treatment. Two of the bills also require further study by State agencies, indicating that additional legislation will most likely be considered next session.

Senate Bill 184/House Bill 376: Health Insurance – Diagnostic and Supplemental Examinations and Biopsies for Breast Cancer – Cost-Sharing (passed) requires commercial health insurance carriers

that provide coverage for a "diagnostic breast examination" or a "supplemental breast examination" from imposing a copayment, coinsurance, or deductible requirement for such examinations. As a result of a Fall House of Delegates resolution, MedChi strongly supported this bill.

Senate Bill 965/House Bill 815: Cancer Screening – Health Insurance and Assessment of Outreach, Education, and Health Disparities (passed) requires a health insurance carrier to provide coverage for a recommended follow-up of diagnostic imaging to assist in the diagnosis of lung cancer as recommended by the U.S. Preventative Services Task Force, including diagnostic ultrasound, magnetic resonance imaging, computed tomography, and image-guided biopsy. With the assistance of a stakeholder workgroup, MDH is required to conduct an assessment on current outreach, education, and health disparities in cancer screening, including the availability of biomarker testing, in the State and report to the General Assembly by January 1, 2024.

Senate Bill 805/House Bill 1217: Maryland Medical Assistance Program and Health Insurance – Required Coverage for Biomarker Testing (passed) requires commercial health insurance carriers, beginning January 1, 2024, to provide coverage for biomarker testing, as defined in the bill, for the purpose of diagnosis, treatment, appropriate management, or ongoing monitoring of a disease or condition that is supported by medical and scientific evidence. Beginning July 1, 2025, the Maryland Medical Assistance Program must provide similar coverage. The bill also requires two reports: 1) one on the fiscal impact to Medicaid; and 2) one on the impact of providing coverage of biomarker testing, including an analysis of the impact of providing access to individuals based on race, gender, age, and public or private insurance.

MANDATED BENEFITS

As indicated above, MedChi supported many new mandated benefits this Session, such as the ones related to cancer care. In addition to those new mandates, several other bills were introduced but failed to pass.

House Bill 1199: Health Insurance – Lyme Disease and Related Tick-Borne Illnesses – Long-Term Antibiotic Treatment (failed) would have mandated that, if the long-term antibiotic treatment of Lyme disease and related tick-borne illnesses had been ordered by a physician for therapeutic purposes, a carrier could not deny coverage for treatment solely because the treatment may be categorized as unproven, experimental, or investigational in nature.

Senate Bill 397/House Bill 1145: Health Insurance – Hearing Aids for Adults – Coverage (failed) would have mandated similar coverage for hearing aids for adults that is currently required for children.

Senate Bill 108 – Health Insurance – Annual Behavioral Health Wellness Visits – Coverage and Reimbursement (failed) would have required commercial health insurance carriers to provide coverage for an annual "behavioral health wellness visit."

ACCESS TO HEALTH CARE COVERAGE

Marylanders will continue to receive and physicians to provide health care through telehealth as a result of ***Senate Bill 534: Preserve Telehealth Access Act of 2023 (passed)***. This bill extends, through June 30, 2025, provisions of law that specify that (1) "telehealth" includes specified audio-only telephone conversations between a health care provider and a patient and (2) reimbursement for a telehealth service must be made on the same basis and at the same rate as if the service were delivered in person. These provisions apply to both Medicaid and commercial health insurance. The Maryland Health Care

Commission (MHCC) is also required to study and make recommendations regarding the delivery of health care services through telehealth and report to the General Assembly by December 1, 2024.

Two bills sought to address the issue of health insurance coverage for certain immigrant populations. ***Senate Bill 365/House Bill 588: Health Insurance – Qualified Resident Enrollment Program (Access to Care Act) (failed)*** would have required the Maryland Health Benefit Exchange (MHBE) to submit a federal State Innovation Waiver application by July 1, 2024, to establish a Qualified Resident State Subsidy Program and request federal pass-through funding to allow "qualified residents" to obtain coverage, including State premium assistance and cost-sharing reductions. However, the General Assembly did pass ***Senate Bill 806/House Bill 363: Maryland Health Benefit Exchange and Maryland Department of Health – Health Care and Dental Care Coverage for Undocumented Immigrants – Report (passed)***. This bill states that by October 31, 2023, MHBE and MDH must develop a report comparing options for offering affordable health care and dental coverage to State residents who are ineligible for the Maryland Medical Assistance Program, the Maryland Children's Health Program, or qualified health plans through MHBE.

REGULATION OF PHARMACY BENEFIT MANAGERS

Once again, the General Assembly considered several pieces of legislation aimed at regulating PBMs. It is important to note that the top three PBMs are owned by health insurance carriers – CareFirst owns CVS Caremark; Cigna owns Express Scripts; and United owns Optum. There were three bills that progressed further than any others.

Senate Bill 565/House Bill 374: Health Insurance – Pharmacy Benefits Managers – Audits of Pharmacies and Pharmacists (passed) expands the applicability of specified requirements governing pharmacy audits to all PBMs, including those used by Medicaid MCOs; (2) authorizes PBMs to conduct an audit through an auditing entity; and (3) imposes additional requirements and restrictions on PBMs during the audit process.

Senate Bill 895/House Bill 382: Maryland Department of Health and Prescription Drug Affordability Board – Managed Care Organizations and Prescription Drug Claims – Study (passed), which is an emergency bill, requires MDH and the Prescription Drug Affordability Board to jointly study (1) the total amount that Medicaid MCOs paid pharmacies for prescription drug claims in calendar years 2021 and 2022; (2) what the total amount paid to pharmacies would have been if claims had been reimbursed at Medicaid fee-for-service rates; and (3) how to best address the inconsistency between these amounts by considering the total cost to the State and recommending a methodology for determining the most accurate ingredient cost of a drug and an appropriate dispensing fee. The Department and the Board must jointly report their findings to Maryland Medicaid and the General Assembly by October 31, 2023.

Senate Bill 898/House Bill 357: Pharmacy Benefits Managers – Definition of Purchaser and Alteration of Application of Law (failed) passed the House but failed to move in the Senate Finance Committee. As a result of a recent court case and a report of the MIA, this bill expands the definition and makes several provisions (i.e., choice of pharmacy by a beneficiary; information on and sales of prescription drugs; requirements before entering into a contract) of the Insurance Article apply to all PBMs, including those providing services on behalf of self-funded plans and insured plans.

PUBLIC HEALTH

BEHAVIORAL HEALTH

Addressing behavioral health was a major priority for both the Senate and House as well as MedChi as a result of the commitment made by MedChi President Dr. James York with the formation of the MedChi Task Force on the issue. The Senate introduced a bipartisan package of bills that were also encompassed in bills introduced by the House of Delegates and included the initiatives summarized below.

Senate Bill 101/House Bill 48: Maryland Medical Assistance Program – Collaborative Care Model Services – Implementation and Reimbursement Expansion (passed) requires Medicaid reimbursement for behavioral health services delivered in primary care settings through the Collaborative Care Model. In 2018, legislation was enacted that created a Collaborative Care Pilot Program. The "collaborative care model" is a patient-centered, evidence-based approach for integrating physical and behavioral health care services in the primary care setting. It includes care coordination and management, regular and proactive outcome monitoring and treatment using the standardized and validated clinical rating scale, and regular, systematic behavioral health caseload review and consultation for patients. The pilot program proved to be very effective, and passage of this legislation will expand access to the collaborative care model for all Medicaid recipients.

Senate Bill 362/House Bill 1249: Certified Community Behavioral Health Clinics – Planning Grant Funds and Demonstration Application (passed) will increase access to comprehensive community based mental health and substance use care by expanding Maryland's network of Certified Community Behavioral Health Clinics (CCBHCs). CCBHCS are federally designated, proven models that provide a comprehensive range of services, and connection to other systems and supports. CCBHCs must provide nine core services, including (1) targeted case management, (2) somatic screening, (3) veterans' services, (4) 24/7 crisis intervention, (5) peer support, (6) psych rehab, (7) screening, diagnosis, and assessment, (8) treatment planning, and (9) outpatient mental health and substance use treatment. They are based on the federally qualified health center model, providing services to the underserved, regardless of their ability to pay. The House also included these provisions in ***House Bill 1148***, which is discussed below.

Senate Bill 581: Behavioral Health Care Coordination Value-Based Purchasing Pilot Program (passed) establishes the Behavioral Health Value-Based Purchasing Pilot Program. The program is designed to pilot an intensive care coordination model using value-based purchasing in the specialty behavioral health system. The pilot is designed to provide person-centered, team-based services designed to assess and meet the needs of an individual with a behavioral health condition and help the individual navigate the healthcare system. $600,000 in mandatory funding is provided for the pilot in Fiscal Years 2025 through 2027.

Senate Bill 283/House Bill 418: Mental Health – Workforce Development – Fund Established (passed) establishes the Behavioral Health Workforce Investment Fund to provide reimbursement for costs associated with educating, training, certifying, recruiting, placing, and retaining behavioral health professionals and paraprofessionals. MHCC, in coordination with stakeholders, must conduct a comprehensive behavioral health workforce needs assessment. The assessment, which must recommend an initial allocation to the fund and identify which programs the allocation will support, must be submitted to the General Assembly by October 15, 2024.

Senate Bill 582/House Bill 1148: Behavioral Health Care – Treatment and Access (Behavioral Health Model for Maryland) (passed) is an omnibus bill that includes many of the provisions also passed

in the bills discussed above. The bill, as amended, (1) establishes a Commission on Behavioral Health Care Treatment and Access; (2) creates a Behavioral Health Care Coordination Value-Based Purchasing Pilot Program; (3) extends for two years provisions relating to telehealth services; (4) requires MHCC to study and make recommendations regarding telehealth; and (5) requires MDH to apply for federal grant funds and inclusion in the state certified community behavioral health clinic demonstration program. For Fiscal Years 2025 through 2027, the Governor must include in the annual budget bill an appropriation of $600,000 for the value-based pilot program.

In addition to the package of behavioral health initiatives discussed above, there were a number of other behavioral health bills that were enacted. ***Senate Bill 3/House Bill 271: 9-8-8 Trust Fund – Funding (passed)*** requires the Governor to provide $12,000,000 in Fiscal Year 2025 budget to the 9-8-8 Trust Fund. ***Senate Bill 263/House Bill 573: Maryland Higher Education Commission – Access to Mental Health Advisory Committee – Establishment (passed)*** establishes the Access to Mental Health Advisory Committee within the Maryland Higher Education Commission to study and make recommendations regarding access to mental health services on higher education campuses. The Committee is to report its findings and recommendations by December 1, 2023. ***Senate Bill 154: Public Health – Mental Health Advance Directives – Awareness and Statewide Database (passed)*** requires MDH to develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State. The Behavioral Health Administration and MHCC must jointly study how first responders and behavioral health crisis providers can access the advance directives database when responding to a behavioral health crisis. The report is due to the General Assembly by December 1, 2023.

There were two bills supported by MedChi that unfortunately did not advance this Session. ***Senate Bill 762/House Bill 173: Drug Paraphernalia for Administration – Decriminalization (failed)*** was a reintroduction of legislation that was enacted in 2022 but vetoed by the Governor. The bill decriminalizes possession of items that can be used to inject, ingest, inhale, or otherwise consume a controlled dangerous substance. The bill was passed by the House but the focus on other behavioral health initiatives resulted in the Senate failing to pass the initiative. Undoubtedly the bill will be reintroduced in the 2024 Session. Similarly, ***Senate Bill 618/House Bill 953: Public Health – Overdose and Infectious Disease Prevention Services Program (failed)***, which would have provided authorization for the establishment in one or more counties of a safe consumption site, referred to in the legislation as an Overdose and Infectious Disease Prevention Services Program, by a community-based organization with the approval of MDH in consultation with the local health department.

REPRODUCTIVE RIGHTS

With the *Dobbs* decision, the U.S. Supreme Court eliminated the right of an individual to make their own decision about abortion. Following the decision, a number of States have enacted laws that not only makes access to reproductive care illegal in their States but also threatens reproductive health practitioners in other States with civil, criminal, and licensure penalties who provide services to residents of the States who have prohibited abortion and other reproductive care services. The leadership of the General Assembly, as well as Governor Moore, made protection of reproductive health care services as well as practitioners who provide reproductive health care services a priority for this Session. The following bills were enacted to achieve those objectives.

Senate Bill 798/House Bill 705: Declaration of Rights – Right to Reproductive Freedom (passed) seeks to amend the Maryland Constitution to establish that every person, as a central component of the individual's rights to liberty and equality, has the fundamental right to reproductive liberty. Its enactment, if passed by the qualified voters of the State at the next general election, will prohibit the State in the future

from directly or indirectly denying, burdening, or abridging the right unless justified by a compelling State interest achieved by the least restrictive means. Given Maryland's strong support of reproductive rights, passage by the voters of this amendment is virtually assured.

Senate Bill 859/House Bill 808: Reproductive Health Protection Act (passed) will shield patients, providers, and support networks from intimidation and legal action. The bill creates a "shield" against criminal, civil, and administrative penalties related to legally protected health care. Legally protected health care includes abortion, contraception, miscarriage management, fertility treatment, and reproductive health care. The bill includes (1) restrictions on using state resources to support out-of-state investigations of legally protected care; (2) a prohibition on issuing subpoenas or other court orders related to legally protected care; (3) limitations on extraditions related to legally protected care where the law already provides for discretion of the Governor to make such decisions; (4) protections for health care practitioners in being disciplined by a Maryland health occupational board for an adverse action taken by an out-of-state board related to the provision of reproductive health care that would have been legal in Maryland; and (5) a prohibition on malpractice insurers raising rates if health care practitioners are disciplined by out-of-state boards for legally protected care.

Senate Bill 786/House Bill 812: Health – Reproductive Health Services – Protected Information and Insurance Requirements (passed) generally prohibits the disclosure of "legally protected health care", which means all reproductive health services, medications, and supplies related to the provision of abortion care and other "sensitive health services" as determined by the Secretary, based on the recommendation of the Protected Health Care Commission (PHCC). "Sensitive health services" includes reproductive health services other than abortion care. The prohibition applies to disclosure by a health information exchange, electronic health network, or health care provider beginning December 1, 2023. Beginning June 1, 2024, a person who knowingly violates this prohibition is guilty of a misdemeanor and subject to a fine of up to $10,000 per day. The bill establishes a PHCC, staffed by MDH, to make specified recommendations to the Secretary of Health on what should be classified as "legally protected health care." The Secretary must respond to PHCC reports within 60 days of receipt and adopt emergency regulations within 90 days of the bill's effective date to identify which specified codes should be restricted. MHCC must (1) adopt emergency regulations within nine months of the bill's effective date to restrict data of patients related to legally protected health care and (2) submit quarterly reports on the bill's implementation in Fiscal Years 2024 and 2025. The legislation also includes limitations on disclosures under Maryland Public Information Act to ensure Maryland's state government protects personal information of patients and providers that may be stored in state databases.

MEDICAL ASSISTANCE

The following bills were supported by MedChi and reflect MedChi's continued commitment to enhancing access to medically necessary care, facilitating program enrollment of eligible individuals, and providing coverage for new and innovative approaches to cost-effectively address the needs of Medicaid enrollees.

Senate Bill 460/House Bill 283: Maryland Medical Assistance Program – Gender-Affirming Treatment (Trans Health Equity Act) (passed) provides an important enhancement of Medicaid benefits to address gender-affirming treatment. Gender-affirming treatment is defined as any medically necessary treatment consistent with current clinical standards of care prescribed by a licensed health care provider for the treatment of a condition related to the individual's gender identity. If enacted, Medicaid could not exclude gender-affirming treatment on the basis that the treatment is a cosmetic service and could not issue an adverse benefit determination denying or limiting access to gender-affirming treatment unless a

health care provider with experience prescribing or delivering gender-affirming treatment had reviewed and confirmed the appropriateness of the adverse benefit determination. The bill also requires each MCO to submit a report to MDH that includes, for each health care provider offering gender-affirming treatment with which the MCO has an active contract and who consents to the inclusion, (1) the name and location of the health care provider; (2) the types of gender-affirming treatment provided by the health care provider; and (3) whether the health care provider consents to being publicly listed as part of MDH's annual report. MDH must compile an annual report that includes, for each health care provider offering gender-affirming treatment to Medicaid recipients and whose consent to the inclusion has been submitted to MDH, (1) the name and location of the health care provider; (2) the MCOs that have active contracts with the health care provider; and (3) the types of gender-affirming treatment provided by the health care provider. MDH must publish the report in a conspicuous manner on the department's website. This bill was a high priority of the MedChi Student Section.

Senate Bill 26/House Bill 111: Maryland Medical Assistance Program, Maryland Children's Health Program, and Workgroup on Low-Income Utility Assistance (passed) was amended in both Chambers to address concerns that more research and deliberation was needed before utility assistance could be added to the express lane eligibility (ELE) as proposed in the original legislation. As enacted, the bill requires MDH, by January 1, 2025, subject to the limitations of the State budget and as permitted by federal law, to establish an ELE Program to enroll individuals in Medicaid and the Maryland Children's Health Program based on eligibility findings by the Supplemental Nutrition Assistance Program. The bill also requires the Workgroup on Low-Income Utility Assistance to submit a final report on its study, findings, and recommendations, including recommended legislation and regulatory changes, to the Senate Finance Committee and the House Economic Matters Committee by January 1, 2024.

Senate Bill 441/House Bill 813: Maryland Medical Assistance Program – Prescription Digital Therapeutics (failed) required Medicaid to provide coverage for "prescription digital therapeutics." It defined "prescription digital therapeutics" as a product, a device, an internet application, or any other technology that: (1) is approved, cleared, or classified by the federal food and drug administration; (2) has an approved or cleared indication for the prevention, management, or treatment of a medical disease, condition, or disorder; (3) primarily uses software to achieve its intended result; and (4) can be dispensed only in accordance with a prescription. The bill failed primarily due to the high fiscal note as well as a recognition that digital therapeutics are relatively new to the marketplace and more deliberative evaluation is required before adoption of a broad mandate for coverage.

ENVIRONMENTAL HEALTH

Senate Bill 158/House Bill 319: Pesticides – PFAS Testing – Study (passed) requires the Maryland Department of Agriculture (MDA) – in consultation with the Maryland Department of the Environment, MDH, and the U.S. Environmental Protection Agency – to study the use of PFAS in pesticides in the State. By November 1, 2023, MDA must report its findings and recommendations to the Governor and the General Assembly. The bill, as introduced, would have required PFAS testing and registration in relationship to the use of pesticides. Based on concerns by both Chambers, that adoption of registration and testing requirements had not been sufficiently studied, it was amended to require additional study by relevant State and Federal agencies. Given the November report date for the study, it will undoubtedly be an issue in the 2024 Session.

House Bill 976: Mold Assessment and Remediation – Standards (passed), as originally introduced, required the adoption of regulations related to mold assessment and remediation. The House amended the bill based on input from a range of stakeholders. While there was general recognition that mold

remediation is critically important to the protection of human health, stakeholders remained concerned about the requirement for the adoption of regulations without further study and deliberation by relevant State and Federal Agencies and affected stakeholders. As a result, the Senate further amended the bill to create a Workgroup on Mold Standards and Remediation. The Workgroup's report is due October 1, 2024.

MISCELLANEOUS

Senate Bill 19/House Bill 9: Equity in Transportation Sector – Guidelines and Analyses (passed) is in line with MedChi's House of Delegates resolution on transportation equity. As passed, the bill requires that equity be considered when State transportation plans, reports, and goals are developed. The Department of Transportation must conduct transit equity and cost-benefit analyses and consult with impacted communities before announcing or proposing any major service change or any reduction or cancellation of capital expansion projections.

Senate Bill 281/House Bill 214: Commission on Public Health – Establishment (passed) establishes a Commission on Public Health to make recommendations to improve the delivery of "foundational public health services" in the State. The Commission must assess the foundational public health capabilities of MDH and local health departments. Based on this assessment, the Commission must make recommendations for reform. By December 1, 2023, the Commission must submit an interim report on its findings and recommendations. A final report is due by December 1, 2024.

Senate Bill 188/House Bill 302: Public Health – Rare Disease Advisory Council (passed) establishes a Rare Disease Advisory Council to enhance research and provide policy recommendations on matters related to individuals living with rare diseases in the State. The Council's duties include (1) performing a survey to establish the needs of rare disease patients, caregivers, and health care providers in the State; (2) developing policy recommendations; (3) creating a publicly accessible webpage; (4) providing an annual report to the Governor and the General Assembly; and (5) providing recommendations to address the needs of individuals living with rare diseases in the State.

Senate Bill 644/House Bill 876: Maternal Mortality Review Program – Local Teams – Access to Information and Records (passed) was introduced at the request of the Baltimore City Health Department to address its concerns that the City's Local Maternal Mortality Review Team does not have timely access to medical records for cases it wishes to review. Baltimore is the only jurisdiction that currently has a local review team. The bill, as introduced, required the "immediate" release of records with no definition of "immediate". While it was based on language in the child fatality review statute, the language was enacted many years ago and the child fatality review program is structured differently than the maternal mortality review program. In conjunction with the Maryland Hospital Association, we worked with the City and were able to craft amendments that provided the City access to records in a manner analogous to the State Program with all the same privacy and other protections. The amended version that was enacted provides the City direct access to records without creating additional burdens or unrealistic response times for providers.

House Bill 878: Public Schools – Student Telehealth Appointments – Policy and Access (failed) would have required each local board of education to establish a policy to accommodate students who needed to participate in telehealth appointments scheduled during the school day. Each local board would then have ensured that the local school system published the student telehealth policy in the student handbook and made school personnel aware of student telehealth policy objectives and requirements.

SPECIAL THANKS

MedChi thanks those members who served on the MedChi Council on Legislation this Session for their efforts in promoting the practice of medicine in Maryland and strengthening the role that MedChi plays in shaping public policy in Maryland. A special thanks to our subcommittee chairs: Dr. Lawrence Green (Boards and Commissions), Dr. Kathleen Keeffe Hough (Public Health), and Dr. Anuradha Reddy (Health Insurance), and to our Council on Legislation co-chairs Dr. Clement Banda and Dr. Kathleen Keeffe Hough.

MedChi also recognizes those physicians who testified on behalf of MedChi for various initiatives, including Dr. Loralie Ma, Dr. Paul Celano, Dr. Erinn Maury, Dr. Benjamin Stallings, Dr. Jeffrey Bernstein, Dr. Carolyn O'Connor, Dr. James Rice, Dr. James Chesley, Dr. Lawrence Green, and Angela Campbell, who is a supervisor of a prior authorization unit.

Lastly, MedChi extends its appreciation to the physicians who volunteered their time to staff the State House First Aid Room this Session. Staffing the First Aid Room is an honor for MedChi and one that cannot be taken for granted. Physicians who staff the First Aid Room have access to the legislators and are looked at not only as a resource for medical care but also as a resource on policy issues. MedChi also would like to thank Colleen White, RN, and Megan White, BSN for their dedication in staffing the First Aid Room for the Session.

Doctors who staffed the First Aid Room this Session include:

Dr. Dianna Abney
Dr. Harbhajan Ajrawat
Dr. Marie-Alberte Boursiquot
Dr. Martin Albornoz
Dr. Jill Allbritton
Dr. Deondra Asike
Dr. Clement Banda
Dr. Anne Banfield
Dr. Christine Bell Lafferman
Dr. George Bone
Dr. Renee Bovelle
Dr. Jane Chew
Dr. Tyler Cymet
Dr. Dennis Dey
Dr. Karen Dionesotes
Dr. Jessica Friedman
Dr. Walter Giblin
Dr. John Gordon
Dr. Pallavi Gowda
Dr. Lawrence Green
Dr. Harry Kaplan
Dr. Kathryn Kelly
Dr. Benjamin Lowentritt
Dr. Loralie Ma
Dr. Erinn Maury
Dr. Sarah Merritt
Dr. Roy Moss
Dr. Michael Niehoff
Dr. Andrew Oh
Dr. Toyin Opesanmi
Dr. Roger Orsini
Dr. Gary Pushkin
Dr. Padmini Ranasinghe
Dr. Anuradha Reddy
Dr. Stephen Rockower
Dr. Diane Snyder
Dr. Frank Sparandero
Dr. Gary Sprouse
Dr. Francisco Ward
Dr. James York
Dr. Jayne Zhang