

PASA Government Affairs Report

Pennsylvania is in the second half of the two-year legislative session and the budget stalemate has entered its seventh month. Negotiations between Democratic Governor Tom Wolf and the Republican-controlled legislature have, to date, been unsuccessful in resolving how to close the deficit and increase spending on education. A partial budget was finally signed by the governor at the end of 2015 but the Commonwealth still does not have a full year budget. The governor is set to propose his 2016-2017 budget to the Legislature on February 9. With much of the focus on the budget, very little else is being done.

Sales Tax Expansion

During last year's budget address, Governor Wolf proposed a measure that could have a serious impact on all PASA members. He proposed that the Pennsylvania sales tax be increased from 6% to 6.6% but also that it be extended to "other ambulatory Health Care Services." Adding 6% onto your services would be very substantial to your patients. Throughout the ongoing budget negotiations, there has been talk of an expansion of the sales tax. The fact remains that the Commonwealth is facing very significant financial issues and simply cannot ignore the situation any longer. Lawmakers will have difficult decisions to make before the new fiscal year starting July 1. While they are, PASA's lobbying firm, Milliron and Goodman, LLC, will advocate on behalf of Pennsylvania's Ambulatory Surgery Centers (ASCs) to ensure that they can continue to deliver high quality patient care. Please stay alert for updates from PASA.

Updating Length of Stay in Licensed ASCs

Ambulatory Surgery Centers (ASCs) provide quality care and exceptional patient experiences in a low cost environment. Current regulations limit ambulatory surgical procedures to those that do not exceed a total of four hours of operating time and a total of four hours directly supervised recovery. With advances in technology and anesthesia practices, PASA is seeking to increase the time allotment to mirror CMS Guidelines "of expected duration of services not to exceed 24 hours following an admission."

The majority of states, including the neighboring states Delaware, Maryland, New York, Ohio, New Jersey and West Virginia, parallel the Medicare length of stay duration. PASA President Gwen Baker, President-Elect John Gleason, Secretary Pam Ertel, and Dr. Dennis Pellecchia, Medical Director for Spring Ridge Surgery Center in Wyomissing, PA, recently met with Pennsylvania Secretary of Health, Dr. Karen Murphy to discuss updating Pennsylvania's length of stay in licensed ASCs.

PASA looks forward to working collaboratively with the Department of Health to update length of stay in licensed ASCs throughout Pennsylvania. We anticipate that this change will require a strong grassroots effort by all surgery centers to bring the issue to the forefront in legislators' minds. Please stay tuned for further updates and be ready to act!

Balance Billing

The Insurance Department held a hearing on the issue of balance billing in Pennsylvania in October. Balance billing is the practice of a health care provider billing a patient for the difference between what the patient's health insurance reimburses and what the provider charges. Unexpected balance billing can occur when a patient receives a service that they expect to be in their health insurance plan's network, but a portion of their care is performed by an out-of-network provider or facility. As a result of the hearing, the Insurance Department has released [draft legislation](#) to address concerns about balance billing. The department is inviting interested parties to [submit comments](#) on the proposal no later than February 29. The proposed legislation is new and PASA will need time to review it in order to comment on how it will affect surgery centers.

PASA encourages all Ambulatory Surgery Centers (ASCs) to inform patients about their financial obligations in advance of their health care procedures. PASA stands ready to work with the Insurance Department and lawmakers to find a solution.

HB 294 – Any Willing Provider Legislation

State House Representative Tony DeLuca, D-Allegheny County, has re-introduced this legislation providing for nondiscrimination by payers in health care benefit plans. Under the bill, a health care payer is required to contract with and to accept as a health care benefit plan participant any willing provider of health care services. A health care payer may not discriminate against a provider of health care services who: (1) agrees to accept the health care payer's standard payment levels; and (2) meets and agrees to adhere to quality standards established by the health care payer. It is claimed that in some parts of the Commonwealth, physicians and other health care providers are refused payment for their services from certain healthcare insurers. This legislation would effectively prohibit that practice. The bill has been referred to the House Insurance Committee where Representative DeLuca is the Democratic Chairman. PASA supports the bill.

HB 274 – Self-Referral Prohibition

State House Representative Tony DeLuca, D-Allegheny County, has also re-introduced legislation that would prohibit any healthcare provider, who has a financial interest in any healthcare facility, from referring a patient to that facility for care. The intent of the bill infringes on a physician's ability to refer a patient to the best facility and physician possible. However, the Federal law on physician/healthcare providers, when they refer patients to facilities where they have a financial interest, currently has several exceptions. They are commonly referred to as the "Stark Amendments". HB 274 includes all of the Stark exceptions to the financial interests' rule that apply to Medicare, and adds them to all sections of this legislation. As a result, PASA does not oppose HB 274 in its current form, but objects to the basis of the legislation that there is an inherent conflict of interest when any physicians refers his or her patient to a facility where the physician has a financial interest. There is also the possibility that the Stark exceptions could change or be removed from the bill as it moves through the legislative process. Therefore, PASA prefers that HB 274 remain in the House Health Committee.

SB 396 – Reenacting Pennsylvania Cost Containment Council (PHC4) Legislation

State Senator Pat Vance, R-Cumberland County, has introduced legislation to reenact the Pennsylvania Health Care Cost Containment Council, also known as PHC4, for a term of four years. The Council expired on June 30, 2014 and is currently performing operations under an executive order from the governor. PHC4 is an independent state agency that among other things, collects, analyzes and makes public information about the quality and cost of health care, studies the issue of access to care for the uninsured and reviews and makes recommendations regarding proposed or existing health care mandates. M&G closely monitors the activities of PHC4 for PASA. SB 396 unanimously passed the Senate and is currently in the House Health Committee.

Election Update

Amid the Harrisburg gridlock, expect things to get interesting in Pennsylvania as lawmakers face voters this year. January 26 is the first day that candidates can start circulating petitions for the April 26 primary election. Retirements are already paving the way for an influx of new members. Several long-time lawmakers have announced they will not seek re-election in 2016. Among them, Rep. Bill Adolph (R-Delaware), a top budget negotiator for the House Republican Caucus and chairman of the House Appropriations Committee. Republican Caucus Chairwoman Sandy Major (R-Susquehanna) and House Professional Licensure Committee Chairwoman Julie Harhart (R-Northampton) will not seek re-election in 2016. Senate Public Health and Welfare Committee Chairwomen Pat Vance (R-Cumberland) and Shirley Kitchen (D-Philadelphia) are also stepping down at the end of the year. Representatives Pete Daley (D-Washington), John Payne (R-Dauphin), Dwight Evans (D-Philadelphia), Nick Kotik (D-Allegheny), Mauree Gingrich (R-Lebanon), and Mike Vereb (R-Montgomery) will also retire in 2016. Additionally, there are currently four open seats in the state legislature that will be filled this year. Special elections are scheduled for March 15 to fill the three House seats left vacant by the resignations of Reps. Cherelle Parker (D-Philadelphia), Louise Bishop (D-Philadelphia) and Tim Krieger (R-Westmoreland). On the Senate side, a special election will be held on April 26 to fill the seat left vacant by Sen. Dominic Pileggi (R-Delaware).

Republicans currently hold sizable majorities in both chambers, 119-84 in the state House and 31-19 in the state Senate.