

## **Virginia Society of Anesthesiologists**

End of Session Update

March 12, 2020

The 2020 Virginia legislative session adjourned on Thursday, March 12<sup>th</sup>. They were scheduled to adjourn Saturday, March 7, but had to extend a few more days to finish all of the legislation and the budget.

After the historic election in November, the Democrats now have the majority of both the House of Delegates and Senate. Democratic leadership was clear that they were going to pursue their top policy priorities right away. And they did exactly that- with the legislature passing bills bringing sweeping reform and a change in policy to most issues, including gun control, increasing the minimum wage, allowing collective bargaining for state employees, marijuana decriminalization, passing the Equal Rights Amendment, rolling back restrictions on reproductive health care services, no-excuse absentee voting, and many more.

Even with all of these issues being debated this year, health care was still a priority. Read below for an update on health-care related bills.

### **Medicaid Reimbursement Increase**

We are thrilled that we accomplished our top priority this year by increasing the Medicaid reimbursement rate for anesthesiologists to 70% of Medicare. If you remember, we did not receive an increase last year due to calculation errors by the Department of Medical Assistance Services. We spent the last year working with DMAS to determine the issue and resolve this. It was determined that anesthesiologists are indeed reimbursed at under 70% of Medicare and should have received the increase in 2019. We are pleased that the legislature recognized this and gave us the increase in this year's budget.

### **Prescriptive Authority for CRNAs**

Senator John Bell and Delegate Dawn Adams introduced legislation this year that would have provided prescriptive authority to CRNAs. We opposed this, but there was overwhelming support amongst legislators. The bill also maintained physician supervision of CRNAs, so a supervising physician could simply not allow the CRNA to have prescriptive authority. After working with the patrons and the Virginia Association of Nurse Anesthetists, we were able to successfully limit the bill to only apply as part of the periprocedural care of a patient. Once the bill was amended, we were able to remove our opposition. The legislation passed both houses and has already been signed into law by Governor Northam.

### **Surprise Billing**

Surprise billing remained at the top of the priority list for legislators. They were determined to resolve this issue this year and we are pleased that we were able to work with the legislature and other stakeholders to pass legislation that protects patients but still allows physicians to receive a fair reimbursement.

The physician community introduced bills sponsored by Delegate Luke Torian and Senator Barbara Favola that were identical to the proposal we had last year and would only apply to emergency services. The health plans had Senator Barker and Delegate Sickles introduce their bill- which would have implemented a fee schedule based on the health plans' in-network rate or 125% of Medicare (whichever is lower) for both emergency AND non-emergency services. We were able to successfully defeat the health plans' fee schedule, but legislators and the patient advocates insisted we address both emergencies and non-emergencies.

A proposal was then offered based on the Washington State model, which applies to emergencies and non-emergencies services at an in-network hospital IF the services involve surgical or ancillary services and are provided by an out-of-network provider. After researching this proposal and discussing with our physician colleagues in Washington, we determined that this was a good option for physicians and certainly better than any of the other proposals on the table. VSA supported this new bill, as did the Medical Society of Virginia and

other physician specialty groups. We were thrilled when the legislature passed it unanimously. The bill contains the following components:

- Pays providers a “commercially reasonable amount” that is undefined so there is no benchmark that can then impact in-network payments.
- For the purposes of arbitration and for determining the “best offers” for the baseball style arbitration, a data set will be created based on commercial health insurance claims (excluding Medicaid and Medicare) and will be prepared using the All Payer Claims Database, in collaboration with providers and health insurers, for use by providers, facilities, insurers, and arbitrators. The data set will include
  - Median in-network allowed amount
  - Median OON allowed amount
  - Median billed charges

We are pleased that the bill includes “baseball style” independent dispute resolution and takes patients out of the middle of the billing process. It is also a huge win for us that it doesn’t put a benchmark in the Code and allows the arbiter to consider physician charges when determining a fair payment.

### **Scope of Practice**

Legislation was introduced this year that would have expanded the scope of practice for pharmacists and naturopathic providers. HB 1506 (Del. Sickles) and SB 1026 (Sen. Dunnavant), as originally introduced, would have greatly expanded pharmacists’ scope of practice and allowed them to provide vaccinations, test for the flu, strep and UTIs and many other services they are not qualified to do. The physician community strongly opposed the bills in that form because we believe there were significant patient safety concerns. We are pleased we were able to work with the patrons and come up with a compromise that does not threaten patient safety.

HB 1040 (Del. Rasoul) and SB 858 (Sen. Petersen) introduced bills that would have given naturopathic providers licensure and allowed them to call themselves “naturopathic doctors.” We were able to defeat these and instead, the Department of Health Professions will conduct a study on whether licensure is needed for this profession.