Maryland Legislature Eyes Insurance Rate Stabilization

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As physicians push for professional liability reform at the national level, the Maryland legislature signed off on a bill aimed at halting rising malpractice premiums.

The centerpiece of the legislation is a rate stabilization fund for medical professional liability insurance that will be funded through a tax on HMOs.

The Maryland State Medical Society (MedChi) and the Maryland Hospital Association estimate that the fund would cover about 95% of the increase in premiums for 2005. Obstetricians in Maryland are paying about $120,000-$160,000 for insurance coverage this year.

Maryland physicians have been pushing hard for reform—especially since last fall, when the state's largest malpractice carrier, Medical Mutual of Maryland, said it would raise its premium rates in 2005 an average 33%. The move follows a 28% increase a year ago.

Maryland is considered a medical liability insurance crisis state by the American College of Obstetricians and Gynecologists. And physicians of all specialties in the state are choosing to lay off staff, close practices, or move, in order to deal with the malpractice problem, according to MedChi.

The new legislation was passed in dramatic fashion during an end-of-the-year special session called by Gov. Robert Ehrlich. But he objected to the HMO tax and said the bill didn't contain meaningful tort reform. He then vetoed the measure in January, but legislators returned to work to override the veto.

The saga is expected to continue as Mr. Ehrlich prepares to introduce other legislation with more comprehensive reforms.

The state's physician and hospital groups are applauding the new legislation as an important first step. "While we agree with the governor and others that Maryland needs more comprehensive reform, it does offer important positive elements that we cannot walk away from, given the need to assure access to health care to the citizens of Maryland," MedChi and the Maryland Hospital Association said in a joint statement. "We believe this bill will keep physicians on the job."

The groups pointed out that the measure contains a reduction in the cap on noneconomic damages in death cases, reform of how past medical expenses are calculated, and new requirements for expert witnesses. However, the legislation fails to include needed reforms such as mandatory structured settlements of awards, an expansion of the Good Samaritan Act to include emergency department professionals, and parameters on the calculation of future economic damages, the groups said.

Although there is still more work to be done, the attention brought to medical liability reform through the special session is good news for physicians, said Willarda V. Edwards, M.D., an internist in South Baltimore and MedChi president.

The increased awareness and the better understanding of the issues that resulted from the special session will help as physicians seek increased reform this year, she said. MedChi plans to pursue limits on lawyers' fees, structured settlements that can be paid over time, reforming the calculation of economic damage payments, and enactment of a Good Samaritan law.

"This is just a little taste of what we think should be done," Dr. Edwards said.

But physicians in Maryland are still waiting to see what the current legislation will mean in terms of premiums. "It's too early to say how this is going work," said Miriam Yudkoff, M.D., an ob.gyn. in Annapolis.

And Dr. Yudkoff said she has some concerns about what the insurance reform provisions in the legislation will mean for liability carriers. If Maryland becomes an unprofitable place for insurers, it could have a significant impact on physicians' ability to obtain coverage. "We need a bill that will make Maryland a favorable state for carriers," she said.

Carol Ritter, M.D., a solo gynecologist in Towson, who gave up obstetrics last year, said she sees the legislation as a first step in reform. However, the changes prescribed by the legislation aren't enough to make her able to afford to practice obstetrics again.

The rate stabilization fund is likely to limit the 2005 average premium increase, Dr. Ritter said, but it will still be more than 2004 rates, which were already more than she could afford. However, Dr. Ritter said she's hopeful that it will allow some of her colleagues to stay in practice in the short term.

The legislation also won't help David Zisow, M.D., a gynecologist in Bel Air, to start practicing obstetrics again. Like Dr. Ritter, Dr. Zisow gave up obstetrics at the beginning of 2004 when the rates became too high. But even though the new legislation contains significant reforms, Dr. Zisow said he wouldn't be able to afford to buy the tail coverage that would be necessary to start practicing obstetrics again.

His insurer, Medical Mutual, allowed him to forego paying tail coverage for obstetrics because of his many years with the company. However, he would have to pay a significant amount if he were to go back into obstetrics, he said.

As it is, Dr. Zisow has already seen a major increase in his premiums for gynecology alone in 2005, and he said he isn't optimistic that the legislation will result in too much change in premiums.

"It's business as usual," he said.

This is a wake-up call to physicians to get politically active, said Mark Seigel, M.D., an ob.gyn. in Gaithersburg and the former president of MedChi. Passing meaningful changes to the system takes time, he said, and ultimately it may mean voting officials out of office who fail to take on medical liability reform. "Doctors have to do more than just go to the office and see patients," Dr. Seigel said. ■

POLICY & PRACTICE

Fed to Evaluate Arthritis Treatments

The Agency for Healthcare Research and Quality plans to spend $15 million this year to evaluate interventions and prescription drugs used by Medicare beneficiaries. AHRQ will consider interventions aimed at treating patients with ischemic heart disease, cancer, chronic obstructive pulmonary disease and asthma, stroke, hypertension, arthritis and nontraumatic joint disorders, diabetes, dementia, peptic ulcer, and depression and mood disorders. "The additional medical evidence provided by this initiative will help doctors and patients make more informed decisions," said Mark McClellan, M.D., administrator of the Centers for Medicare and Medicaid Services. AHRQ research will focus on the evidence of outcomes and comparative clinical effectiveness and appropriateness. The results of these studies will be made available to the Medicare, Medicaid, and state children's health insurance programs (SCHIPs), as well as to private health plans, prescription drug plans, health care providers, and the public.

New Leadership

Former Rep. James Greenwood (R.-Pa.) is now the new president of the Biotechnology Industry Organization (BIO) and is predicting continued growth in biotech drug products in 2005. Last year, the Food and Drug Administration approved 32 new therapeutic products that were either discovered, developed, or marketed by biotechnology and related companies, according to a BIO analysis. "More than 800 million patients have benefited from biotech medicines and vaccines already, and millions more will benefit in the future," Mr. Greenwood said in a statement. "Literally hundreds of products are in the development queue."

Spending for Power Wheelchairs

Federal safeguards did not go far enough to curb out-of-control spending growth for power wheelchairs under the Medicare program, the Government Accountability Office found. Medicare spending for the wheelchairs rose more than fourfold from 1999 through 2003, raising concerns that some of the payments may have been improper. Following the indictment of several power wheelchair suppliers in Texas who fraudulently billed Medicare, GAO was asked to examine earlier steps taken by the Centers for Medicare and Medicaid Services to respond to improper payments. CMS' contractors started informing the agency in 1997 about escalating spending for wheelchairs, and some started taking steps to respond to improper payments—yet the agency didn't assume an active role until 2003. Since then, CMS has worked to prevent fraudulent suppliers from entering the Medicare program, although it has not implemented a revised form to collect better information for power wheelchair claims reviews, according to teh GAO report.

Portable Health Plans

Patients can take their health insurance coverage with them when they change or lose a job, under the final regulations that implement the last piece of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). According to a statement by the Health and Human Services Department, it is important that American workers, who often change jobs several times in the course of their lives, be able to respond to the modern workplace without having to fear for their health insurance. The regulations allow greater portability and availability of group health coverage during a time of job transition, setting limits on preexisting condition exclusions that could be imposed, and requiring group health plans and insurance issuers to offer "special enrollment" to certain patients who lose eligibility for other group health coverage or health insurance, or to otherwise eligible new dependents. The regulation goes into effect for plan years starting on or after July 1.

Computer Entries Lead to Errors

Automation isn't necessarily a foolproof way to improve patient safety and reduce medical errors, a report from the United States Pharmacopeia (USP) found. Computer entry errors were the fourth leading cause of medication errors according to MEDMARX, USP's national medication error reporting system. These errors have steadily increased and represent about 12% of all MEDMARX records from 1999 through 2003. Performance deficits—where an otherwise qualified physician makes a mistake—were the most frequently reported cause of errors. Distractions were the leading contributing factor, accounting for almost 57% of errors associated with computer entry. The report provided an analysis of 235,159 medication errors voluntarily reported by 570 hospitals and health care facilities nationwide.

Reduced Benefits for Retirees

Businesses are asking retirees to pay more for their health coverage as they struggle to control rising costs, the Kaiser Family Foundation reported. In the last year, 79% of firms increased their retirees' contributions for premiums, and 85% expect to do so in the coming year. In addition, 8% of employers surveyed eliminated subsidized health benefits for future retirees in 2004. For 2005, 11% said they are likely to terminate coverage for future retirees. However, 58% of responding firms said they were likely to continue offering prescription drug benefits and accept the tax-free subsidy created by the new Medicare law. The survey included responses from 333 large private-sector firms that offer retiree health benefits.

—Mary Ellen Schneider