Yo Again, We Rise

by Janus L. Norman

The California Medical Association's 2016 Legislative Wrap-Up

The delivery of health care, and its costs, continue to be at the forefront of California politics. Dramatic changes, such as the implementation of the Affordable Care Act, escalating health care premiums, consolidation of health plans, rising drug costs and the implementation of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), continue to create uncertainty in the marketplace, causing a relatively new state Legislature to question nearly every aspect of health care delivery in California. The result has been a record number of significant legislative challenges to the core policy beliefs of the California Medical Association (CMA).

"Transition" was the consistent variable in 2016. The year began with a transition of power in the Assembly as then-Speaker Toni Atkins (D - San Diego) handed over her leadership position to current Speaker Anthony Rendon (D - Lakewood). Chairs of policy committees during Speaker Atkins's tenure worked quickly to conclude unresolved legislation from 2015, while policy chairs appointed by Speaker Rendon rushed to learn the full breadth of their policy committees' jurisdictions. During all this time, the special legislative sessions on health care and transportation continued to convene.

Great Opportunities

Legislative transition is synonymous with opportunity — and these opportunities are both good and bad.

The continuation of the special session on health care gave CMA and the Save Lives Coalition the opportunity to beat Big Tobacco by passing the most expansive package of tobacco reform legislation in the history of the Golden State. We closed loopholes in workplace and school campus smoking laws, brought e-cigarettes under the umbrella of tobacco products, increased licensing fees, and raised the legal purchasing age to 21. But our war against tobacco is not over yet, as we take on the industry again at the ballot box in November to increase the state tax on all tobacco products in order to help fund Medi-Cal.

Our public health focus did not end with tobacco. After the tragic loss of two San Diego medical students to a drunk driver in 2015, CMA pushed for mandatory responsible beverage training for managers, servers and bartenders in establishments that serve alcohol.

We took advantage of the shift in Senate chairmanships to reestablish CMA's position at the bargaining table on reforms to the workers' compensation system. Last year, partnering with Senator Richard Pan, M.D., CMA sponsored SB 563 to ensure the utilization review program was not providing incentives for denying medically appropriate care. This effort, combined with our continual effort to push for improvements to the system, resulted in our sponsored bill being incorporated into a larger workers' compensation reform bill, which decreased the usage of prospective utilization review – solidifying the physician's place in that discussion.

We also turned our eye inward to the health and the future of the profession. Working closely with our colleagues at the California Academy of Family Physicians, the California Primary Care Association and other organizations, we secured a badly-needed investment in our state's primary care workforce: a $100 million appropriation in the 2016-17 state budget. This appropriation will provide $33 million each year for three years to increase funding for the Song-Brown Program, a competitive grant program that supports primary care residency programs in medically underserved areas. The budget will set aside some portion of this money exclusively for residency programs at clinic-based Teaching Health Centers, including support for the six existing sites as well as for clinics interested in starting new training programs. We believe this augmentation represents one of the biggest investments in the primary care physician workforce the state has ever undertaken.

Then, with the California American College of Emergency Physicians, we co-sponsored legislation to extend the program that donates certain traffic fines to the Maddy Emergency Medical Services Fund, which provides reimbursement to physicians who treat uninsured patients. Finally, CMA ensured that physicians suffering from substance abuse had a credible, viable health and wellness program to ensure that their patients continue to receive the very best care from those impacted physicians.

Great Threats

Our opponents also have the ability to recognize and take advantage of opportunities, resulting in threats that must either be defeated or neutralized depending on the political realities surrounding the particular issue.

Threats to the profession during this legislative

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session came in the shape of SB 932 (Hernandez) and SB 1033 (Hill). SB 932 sought to put limitations on what may be included in contracts between health care insurers/plans and providers, as well as to implement a new process for approving mergers and acquisitions of health plans and risk-based organizations. Meanwhile, SB 1033 would have required doctors under probation with the Medical Board of California to disclose their probationary status to all patients. Neither measure made it out of their House of Origin.

Once again, we protected patients from undertrained practitioners offering treatment outside of their scope of practice. Nurse practitioners, optometrists, naturopathic doctors and certified nurse midwives — all had their scope expansion efforts decisively defeated. Scope bills on nurse practitioners (SB 323 - Hernandez) and optometrists (SB 622 - Hernandez) were not even brought up for a vote in the Legislature this year due to overwhelming pressure and negative perception of the proposals in the Capitol. Naturopathic doctors (SB 538 - Hueso) and certified nurse midwives (AB 1306 - Burke) were longer fights, with both lasting up until the last hours of the legislative session. Ultimately, however, both bills were defeated by wide margins.

Great Compromises

Amid all of these defeats, this year was also a year of great compromises. The majority of the bills we opposed at the start of the year were neutralized through amendments and negotiations during the course of the legislative session.

This year saw the completion of the CURES database negotiations that were begun in 2015. SB 482 (Lara) is a great achievement in mitigating the inevitable tightening of requirements for CURES database use. More work on this issue remains to be done, but much has been achieved through this bill and through building a foundation of cooperation with the Legislature and other stakeholders.

The most contentious negotiation this session was that of AB 72 (Bonta, et. al.), the out-of-network bill signed into law by the Governor. AB 72 is a direct result of our defeat last session of AB 533 (Bonta), which essentially would have extended Medicare rates to all non-participating physicians. CMA defeated AB 533 last year on the last night of session. However, Assemblymember Bonta requested reconsideration, a procedural maneuver that granted him an opportunity to bring up the bill at any point in 2016 for a second vote.

To neutralize the threat of a revote on AB 533, our allies forced Bonta to restart negotiation on out-of-network billing, not only with CMA but also with the legislators as well. Their intervention precipitated the development of the jointly-authored AB 72. The joint authorship of Assemblymembers Wood, Santiago, Maienschein, Gonzalez, Dahle and Bonilla was far more favorable for our association than the prior year's stakeholder process, which was solely directed by Assemblymember Bonta's office. The end result is a law that puts to rest the issue of so-called "surprise billing" in a way that preserves the ability of a physician to continue collecting their usual rate (as long as they obtain the consent of the patient), implements a statutory payment structure that borrows significantly from CMA policy and ensures that the statutory payment structure only applies in a narrow set of circumstances.

While the enactment of AB 72 can never be describe as favorable, it did present CMA with the opportunity to rise above the negative political constructs and portrayals of physicians conjured up by the health insurer lobby. Through our good faith participation in the AB 72 stakeholder process, CMA once again represented the true nature of physicians delivering care in a complex system. We were able to convey that physicians desperately do not want patients to be financially injured by the profit-driven decisions of health insurers to narrow physician networks so that patients are barred from having a substantive opportunity to utilize their in-network benefits.

Yet again, CMA rose to the occasion, transforming

Change is happening, and change will continue to happen. CMA's charge must be to look into the future and act boldly to shape the world of health care in a way that is most favorable for all physicians and their patients.

an absolute debacle into an advocacy gateway leading to enhanced network adequacy standards and allowing physicians a means to continue collecting their normal rate. Our actions also weakened the narrative weaponry available to health insurers. Surprise billing, or balance billing, was the primary "white hat" issue for health insurers. With the introduction of AB 533, they sought to exchange that "white hat" issue for a substantial financial windfall. With the passage of AB 72, the insurers have lost that issue in a manner that could see the overall physician compensation increase over time and stricter oversight of their networks.

Change Is Happening

The question is whether CMA will continue this trend of rising above a turbulent political environment and marketplace to lead California from uncertainty to clarity. No longer can organized medicine maintain an overly defensive posture, hoping and working to simply maintain the status quo or to get things back to the way they used to be; such a position is unrealistic and will lead to decisive losses in the near future.

Change is happening, and change will continue to happen. CMA's charge must be to look into the future and act boldly to shape the world of health care in a way that is most favorable for all physicians and their patients.

CMA's leadership challenge is not new. The physician leaders and staff that set the course of this organization had the same duty. I submit to you the same call to action as CMA's former Chief Lobbyist Steve Thompson:

> *"Crisis… is an opportunity for leadership. It's an opportunity for the CMA to take the lead in providing solutions to the myriad problems facing health care today. The challenge ahead is to know what solutions to propose. But, if CMA does not lead in problem solving, that role will be filled by others who are far less concerned with what the future holds for physicians and patients."*

As we embrace this challenge, we must recognize that sometimes it is impossible to find complete agreement — what might help one physician might be less favorable to another. But we are organized medicine. We cannot allow rifts to seep outside of our House. We cannot give into the temptation to tear down what has been built. Our enemies are waiting and counting on division within the House of Medicine to create fractures so they may exploit the harmful opportunities that would result.

We rise today because we were unified yesterday. We will rise tomorrow, because we reaffirmed our bond today.

In Unity,

Janus L. Norman

Senior Vice President of Government Relations

On the following pages are details of the major bills that CMA followed this year.

CMA-Sponsored Legislation

ABX2 7 (Stone): Smoking in the Workplace

This bill eliminated most of the loopholes in the state's smoke-free workplace law. One in eight workers reports being exposed to secondhand smoke in the workplace. Low-income workers, young adults, and Latinos are more likely to be exposed to secondhand smoke at work. Exposure to secondhand smoke should not be a condition of employment.

Status: Signed by the Governor (Chapter 4, Statutes of 2015-16 Second Extraordinary Session).

ABX2 9 (Thurmond): Tobacco Use Programs

This bill prohibited the use of all tobacco products on school grounds by requiring that all Local Education Agencies (LEAs) adopt and enforce tobacco-free policies on their campuses. In addition, it expanded the definition of tobacco products to include electronic cigarettes, snuff, chew, and other nicotine delivery devices.

Status: Signed by the Governor (Chapter 5, Statutes of 2015-16 Second Extraordinary Session).

ABX2 10 (Bloom): Local Taxes: Authorization: Cigarettes and Tobacco Products

This bill would have authorized counties to levy a tobacco tax by placing a tobacco tax measure before the voters. It would have allowed counties to enter into agreements with one another to share both start up and ongoing costs of establishing a tax. It would also have allowed them to contract with the Board of Equalization to administer the tax.

Status: Vetoed by the Governor.

ABX2 11 (Nazarian): Cigarette and Tobacco Product Licensing: Fees and Funding

This bill adjusted state tobacco license fees to ensure that they cover the cost of administering the licensing program, thereby eliminating a chronic shortfall in the Board of Equalization's (BOE) costs to administer the program and stop the need for diversion of tobacco excise taxes to cover the shortfall.

Status: Signed by the Governor (Chapter 6, Statutes of 2015-16 Second Extraordinary Session).

SBX2 5 (Leno): Electronic Cigarettes

This bill redefined tobacco products to include electronic cigarettes. This created the necessary framework to ensure that our state's law restricting youth access to tobacco products will extend to electronic cigarettes. This bill also included electronic cigarettes in California's Smoke-Free Workplace Act, which prohibits smoking at workplaces, schools, daycares, restaurants, bars, hospitals and on public transportation, protecting Californians from secondhand smoke and reducing the acceptability of smoking in general. Electronic cigarettes were left largely unregulated, and SBX2 5 fixed this loophole and aligned state law with proposed federal regulations that define e-cigarettes as tobacco products.

Status: Signed by the Governor (Chapter 7, Statutes of 2015-16 Second Extraordinary Session).

SBX2 7 (Hernandez): Tobacco Products: Minimum Legal Age

This bill raised the minimum age to purchase tobacco products to 21.

Status: Signed by the Governor (Chapter 8, Statutes of 2015-16 Second Extraordinary Session).

AB 2121 (Gonzalez): Alcoholic Beverage Control: Responsible Beverage Service Training Program Act of 2016.

This bill would require California bartenders, servers, managers, and on-site owners to receive responsible beverage service training (RBS). AB 2121 seeks to help individuals who serve alcohol to meet their statutory requirement not to serve obviously intoxicated patrons and minors and reduce drunk driving.

Status: Vetoed by the Governor.

SB 867 (Roth): Emergency Medical Services

This bill was co-sponsored with the California American College of Emergency Physicians. Current law requires a portion of certain infractions and fines to be donated in the Maddy Emergency Medical Services Fund, which provides reimbursement to physicians who treat uninsured patients. This bill will extend the fund for at least another 10 years.

Status: Signed by the Governor (Chapter 147, Statutes of 2016).

SB 1160 (Mendoza, Pan): Workers' Compensation

CMA supported this legislation after language from our sponsored bill, SB 563 (Pan), was amended into SB 1160. This bill is the Administration's workers' compensation proposal that incorporates both substantive utilization review (UR) changes and lien changes to the system. The changes within this bill largely seek to institute improvements to the system related to more transparency and accountability within UR; reduced prospective UR, in addition to expedited UR, in certain instances; and increased efficiencies related to communications amongst the players throughout the UR process.

Status: Signed by the Governor (Chapter 868, Statutes of 2016).

SB 1177 (Galgiani): Physician and Surgeon Health and Wellness Program

This bill would authorize the Medical Board of California to contract with an independent third party to administer a Health and Wellness Program as a means of rehabilitating physicians and surgeons dealing with substance abuse conditions. Unlike the previous program in California, this new program is not a diversion program; participation would not preclude the medical board from taking disciplinary actions deemed necessary.

Status: Signed by the Governor (Chapter 591, Statutes of 2016).

Successfully Negotiated Legislation

AB 72 (Bonta, et. al.): Health Care Coverage: Out-of-Network Billing

This bill is a revised version of AB 533 (see the Opposed Legislation Section), which sets the rate for out-of-network payments at the higher of 125% of Medicare rates adjusted by geographic region or the average contracted rate of the individual health insurance plan that covers the patient in question. The physician can appeal this payment through an independent dispute resolution process, which is mandatory and binding, in order to get a higher rate for their services. The bill included a reporting requirement and language that will allow the regulators to issue in-patient and specialist specific network adequacy standards. CMA participated in a year-long stakeholder process, reconstituted from the negotiations on AB 533, to reach an agreement that, while not perfect, all parties could agree upon.

Status: Signed by the Governor (Chapter 492, Statutes of 2016).

AB 1575 (Bonta) – Medical Cannabis

This bill would have made a number of changes to the recently enacted legislative package regulating the cultivation, distribution, and sale of medical marijuana products (commonly known as the Medical Marijuana Regulation and Safety Act, or MMRSA). The author accepted amendments requested by CMA.

Status: Died in the Senate Appropriations Committee.

AB 1639 (Maienschein): Pupil Health: Sudden Cardiac Arrest Prevention Act

This bill would require the California Department of Education to create information forms on sudden cardiac arrest symptoms (SCA) and warning signs. It would require those forms to be provided to parents of athletes, who must return them and acknowledge receipt prior to a student's participation in athletic

activity. The bill would require athletic trainers, coaches, and certain volunteers or contractors to remove students who pass out or faint while participating in or immediately following an athletic activity. It allows removal of a student athlete if the athlete exhibits any other SCA symptoms. The bill would prohibit an athlete from returning to play until cleared by a physician, or a nurse practitioner or physician assistant supervised by a physician. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 792, Statutes of 2016).

AB 2024 (Wood): Critical Access Hospitals: Employment

Current law defines a "Critical Access Hospital" (CAH) as a hospital with 25 beds or fewer than 15 miles from the next nearest acute care facility. This bill will create an exemption to the corporate bar for CAHs, with the author stating that the policy goal is to increase access in rural areas because CAHs could directly hire physicians. The medical staff must vote that the hire is in the best interest of the community before the hospital can directly hire a physician. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 496, Statutes of 2016).

AB 2084 (Wood): Medi-Cal: Comprehensive Medication Management

This bill would have established a comprehensive medication management (CMM) benefit under the Medi-Cal program. Under the bill's provisions, the benefit would have provided 3 or 4 visits per year with physicians or pharmacists and would have covered all prescription drugs and biologics, over the counter medications, and supplements. CMM services provided under this bill were 1) initial health status assessment, 2) documentation of beneficiary's clinical status and the goals of each condition, 3) assessment of each medication for safety and efficacy, 4) identification of all medical therapy problems, 5) development of a treatment plan to address medication therapy problems, verbal education and training of the patient, and 6) follow up evaluations. Although a CMM Medi-Cal benefit had the potential to improve medication adherence and address and remediate side effects of medication, this would have allowed a pharmacist, after identifying a medication therapy problem, to change a medication treatment plan without consultation, notification, or concurrence with the treating prescriber and in all medical settings that serve Medi-Cal patients. The author accepted amendments requested by CMA.

Status: Died in the Assembly Appropriations Committee.

AB 2086 (Cooley): Workers' Compensation: Neuropsychologists

This bill is an urgency measure sponsored by the California Society of Industrial Medicine and Surgery (CSIMS) and the California Psychological Association (CPA), which seeks to preserve the right of injured workers suffering brain injuries to continue to receive workers' compensation medical evaluations by clinical neuropsychologists, as part of the Qualified Medical Evaluator (QME) process. The Division of Workers' Compensation (DWC) recently commenced the regulatory process to amend its administrative regulations to enable the creation of QME panels automatically when represented injured workers need to have a dispute resolved by this process. As part of the regulatory package, the Division proposes to abolish the QME category for clinical neuropsychologists, choosing instead to lump them into the same pool as general psychologists for the creation of the random QME panels. Although California has recognized clinical neuropsychologists as a distinct QME specialty for more than 22 years, a strict reading of current law supports what DWC proposes to do. To address the issue, the bill will amend current law accordingly. The bill also amends the same code section to address an apparent drafting error in current law by clarifying that a medical doctor or osteopath who has successfully completed a residency or fellowship program accredited by an organization

that is a predecessor to the Accreditation Council for Graduate Medical Evaluation and is recognized by the administrative director would satisfy the current QME residency training requirement. The author accepted amendments requested by CMA.

Status: Vetoed by the Governor.

AB 2151 (Chu): CalWORKS: Special Diet or Food Preparation Needs Allowance

This bill would have established a $20 special needs food allowance for individuals with dietary restrictions as a result of a permanent or temporary medical condition (not including pregnancy). This bill would have allowed untrained providers such as nutritionists and dieticians to sign the verification form to obtain an additional allowance from CalWORKS for a temporary medical condition caused by a medical procedure such as surgery. The author accepted amendments requested by CMA.

Status: Died in Assembly Appropriations Committee.

AB 2182 (Mullin): School Athletics: Neurocognitive Testing

This bill would initiate a pilot project if funds are available that would allow a school district, charter school, or private school that offers an athletic program to provide neurocognitive testing for all pupils who participate in athletics, to take place at the beginning of an athletic season and after a head injury. The author accepted amendments requested by CMA.

Status: Vetoed by the Governor.

AB 2325 (Bonilla): Ken Maddy California Cancer Registry

This bill changed the existing requirements for physician reporting to the California Cancer Registry (CCR). Prior law required physicians to report diagnoses to the CCR only for those patients who do not undergo diagnostic procedures or treatment at a hospital or other cancer reporting facility. The bill required pathologists to electronically report each cancer case to the CCR. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 354, Statutes of 2016).

AB 2439 (Nazarian): HIV Testing

This bill would create a pilot program at volunteering hospitals that would require that a patient who has blood drawn at an emergency room be offered an HIV test. No hospital would be required to participate, as this is purely a voluntary pilot project. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 668, Statutes of 2016).

AB 2467 (Gomez): Health Facilities: Executive Compensation

This bill would have required hospitals and medical entities to submit executive compensation reports to the Office of Statewide Health Planning and Development (OSHPD), which would then be required to post them on their website. The bill's language stated that the intent of the legislation was to assess the scope of these compensation packages to inform policy decisions related to escalating health care costs and to ensure that the compensation packages for chief executive officers, executives, managers, and administrators of hospitals are consistent with the goal of providing affordable, high-quality medical care to all Californians. The bill would have only been applicable to hospital executives receiving over $300,000 a year for work performed or services provided at the facility, and just those serving in primarily administrative and managerial functions, rather than those providing medical services and direct patient care. It would have applied to hospital-affiliated medical foundations and hospital-affiliated physicians groups, in addition to private nonprofit and for-profit general acute care hospitals and hospital groups. The author accepted amendments requested by CMA.

Status: Died on the Assembly Floor.

AB 2539 (Levine): Modeling Agencies: Licensure: Models: Employees

This bill required Cal-OSHA to adopt occupational

safety and health standards for models by December 1, 2017. The language required Cal-OSHA to consult with accredited specialists in the prevention and treatment of eating disorders and required the standards to 1) protect the model's rights to health care privacy, address workplace safety, including protection from sexual exploitation and sexual predators, and 2) address the prevention and treatment of eating disorders. The author accepted amendments requested by CMA.

Status: Died in the Assembly Appropriations Committee.

AB 2744 (Gordon): Healing Arts: Referrals

This is a bill sponsored by the company Groupon, which advertises "coupons" for discounted services that often include health treatments. There are strong federal and state anti-kickback and referral laws which prevent physicians and other health care providers from providing or advertising a discounted service, predicated on the fact that the service is discounted in exchange for a referral for that service. This bill would create an exception to those anti-kickback laws by deeming that a payment or receipt for consideration for advertising where a licensee offers or sells prepaid services does not constitute a referral of patients. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 360, Statutes of 2016).

SB 482 (Lara): Controlled Substances: CURES Database

This bill mandates, except in certain limited circumstances, that prescribers access and consult the CURES database prior to prescribing a Schedule II, III, or IV controlled substance for the first time and at least every four months when that prescribed controlled substance remains a part of his or her treatment. The mandate would go into effect six months after the Department of Justice makes certain findings regarding CURES' functionality and staffing levels. The bill provides liability protections related to the duty to consult the database and makes clarifying changes to ensure that health care providers can meet the requirements under state and federal law to provide patients' with their own medical information without penalty. The bill also clarifies that health care providers sharing the information under the parameters of HIPAA and CMIA, including adding the CURES report to the patient's medical record, are not out of compliance with the CURES statute.. CMA worked closely with the Author's office and with stakeholders to reach a mutual agreement, which is reflected in the final version of the bill.

Status: Signed by the Governor (Chapter 708, Statutes of 2016).

SB 1065 (Monning): Dismissal or Denial of Petitions to Compel Arbitration: Appeals: Elder and Dependent Adult Civil Protection Act

This bill prevents a party from taking an immediate appeal from an order dismissing or denying a petition to compel arbitration if the opposing party has filed a claim pursuant to the Elder and Dependent Adult Civil Protection Act and that opposing party has been granted a trail preference. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 628, Statutes of 2016).

SB 1076 (Hernandez): General Acute Care Hospitals: Observation Services

This bill would require a general acute care hospital that provides observation services to comply with the same staffing standards as supplemental emergency services. The bill would require that a patient receiving observation services receive written notice immediately upon admission for observation services or placement into observation status, or immediately following a change from inpatient status to observation status, that his or her care is being provided on an outpatient basis. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 723, Statutes of 2016).

SB 1174 (McGuire): Medi-Cal: Children: Prescribing Patterns

This bill requires DHCS and the Medical Board to share medical information regarding the prescribing

practice of physicians providing treatment to children in the Medi-Cal population and mandates that the Medical Board investigate any provider they determine deviates from the standard of care. The data sharing would be limited to type of drug, dosage, diagnoses, child weight, child height, and overall timeline. The author accepted amendments requested by CMA that narrowed the scope of who is to be reviewed as well as require a child psychiatrist to review the data.

Status: Signed by the Governor (Chapter 840, Statutes of 2016).

SB 1175 (Mendoza): Workers' Compensation: Requests for Payment

This bill created a 12-month limitation period within the workers' compensation system to submit a medical bill for treatment rendered to an injured worker and bills for medical-legal expenses. It requires that the Division of Workers' Compensation adopt regulations that would determine good cause exceptions to the 12-month submission period. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 214, Statutes of 2016).

SB 1261 (Stone): Physicians and Surgeons: Licensure Exemption

This bill expanded the voluntary license status, which is currently only offered to physicians who live in the state, to physicians who live outside the state. The author accepted amendments requested by CMA.

Status: Signed by the Governor (Chapter 239, Statutes of 2016).

SB 1334 (Stone): Crime Reporting: Health Practitioners: Human Trafficking

This bill would have required reporting if a patient disclosed that he or she is seeking treatment due to abusive or assaultive conduct. The author accepted amendments requested by CMA.

Status: Died in the Senate Appropriations Committee

CMA-Opposed Legislation

AB 533 (Bonta): Health Care Coverage: Out-of-Network Billing

This bill would have required health plan contracts and insurance policies to provide that patients only owe in-network cost sharing when they receive care from an out-of-network provider at an in-network facility. It also required this cost sharing to count toward annual deductibles and out-of-pocket limits, just like cost sharing for in-network services. AB 533 would have prohibited a health care service plan or health insurer from reimbursing a nonparticipating provider for services provided to the enrollee if the nonparticipating provider obtained, or looked to obtain, more than the in-network cost sharing from the enrollee. AB 533 would have required the health plan to pay the providing physician Medicare rates for similar services in similar geographic areas. AB 533 would have only allowed an enrollee to voluntarily consent to use an out-of-network provider if at least 3 days prior to receiving services, there were an estimate of the services and the provider and patient had executed a written agreement in the language spoken by the enrollee. The bill would have also included an undefined disputed resolution process to allow the physician to challenge whether the Medicare rate was adequate payment.

Status: Failed on the Assembly Inactive File.

AB 1306 (Burke): Healing Arts: Certified Nurse Midwives: Scope of Practice

This bill would have deleted the statutory requirement that certified nurse midwives (CNMs) perform certain medical procedures only under standardized procedures developed and implemented under the supervision of a physician and surgeon. AB 1306 would have authorized a CNM to provide medical services and perform medical procedures without the clinical supervision of a physician, while failing to provide an equal level of consumer protections for women and families seeking gynecological, obstetric, and reproductive health care.

These services and procedures, including, but were not limited to, primary health care, gynecologic and family planning services, preconception care, care during pregnancy, childbirth and the postpartum period, immediate care of the newborn, and treatment of male partners for sexually transmitted infections. Additionally, the bill would have allowed a CNM to procure and administer drugs to order and obtain diagnostic testing.

Status: Failed on the Assembly Floor.

AB 1992 (Jones): Pupil Health: Physical Examinations

This bill would have added chiropractic doctors, naturopathic doctors, and nurse practitioners to the list of providers who can perform a sports physical when a school district or county superintendent of schools requires a pre-participation examination as a condition of participation in an interscholastic athletic program.

Status: Failed in the Assembly Business and Professions Committee.

AB 2134 (Waldron): Clinics: Notice: Abortion Pill Reversal

This bill would have required licensed health care facilities that perform abortions to post the following notice in English and the Medi-Cal primary threshold languages: "It may be possible to reverse the effects of the abortion pill. If you change your mind after taking the abortion pill, time is of the essence. For more information, call the Abortion Pill Reversal Hotline at [insert the telephone number or website] for more information."

Status: Failed in the Assembly Health Committee.

AB 2407 (Chavez): Workers' Compensation

This bill was sponsored by the California Chiropractic Association and would have limited the instances when back surgery could be approved within the workers' compensation system. The language would have legislated the practice of medicine by seeking to require back surgery patients to access chiropractic and other conservative care modalities prior to surgery.

Status: Failed Policy Committee Deadline.

AB 2588 (Chiu): Cancer Data

This bill would have required the California Cancer Registry (CCR) to analyze the Registry's cancer data to assess, measure, and publically report on the quality of cancer care in the state, including analysis of individual oncology providers. It would also have required that the California Department of Public Health establish a system for routine, automated linkages between CCR data and public and private health insurance payor cancer claims data. The bill would have required the State Public Health Office to convene a stakeholder committee to make recommendations on the creation of this data transfer system. Finally, the bill would have authorized certain people access to confidential information from the database.

Status: This bill was amended into legislation completely unrelated to cancer data and the practice of medicine.

AB 2606 (Grove): Crimes against Children, Elders, Dependent Adults, and Persons with Disabilities

This bill would have required that if a law enforcement agency received a report, or if a law enforcement officer made a report, that a person who holds a state professional or occupational credential, license, or permit that allows the person to provide services to children, elders, dependent adults, or persons with disabilities is alleged to have committed one or more specified crimes, the law enforcement agency must promptly send a copy of the report to the state licensing agency that issued the credential, license, or permit.

Status: Failed in the Assembly Appropriations Committee.

AB 2638 (Gatto): Public Health: Vaccinations

This bill would have protected a physician providing notice to a school of a student's medical exemption for school vaccine requirements from any liability or discipline.

Status: This bill was amended into legislation completely unrelated to vaccinations and the practice of medicine.

AB 2703 (Linder): Medical Confidentiality: Authorizations

Current law allows for the release of medical information by providers in certain instances and to certain individuals, such as a patient's legal representative or the beneficiary of a deceased patient. This bill would have also authorized release of medical information to surviving spouses of deceased patients.

Status: Failed Policy Committee Deadline.

AB 2740 (Low): Driving Under the Influence: Tetrahydrocannabinol Standard

This bill would have established a threshold THC level for charging a person with driving under the influence. The level established by the bill would have been 5 ng/ml or more of delta 9-tetrahydrocannabinol in a driver's blood, which is the level used for drugged driving in Colorado. It also would have created a presumption that the person was driving under the influence if the blood test returns with the 5 ng/ml level.

Status: Failed in the Assembly Appropriations Committee.

AB 2775 (Gallagher): Abortion Services Facilities: Pregnancy Center Notice

This bill would have required facilities that provide abortions to post a notice referring patients to the Option Line hotline.

Status: Failed in the Assembly Health Committee.

SB 323 (Hernandez): Nurse Practitioners: Scope of Practice

This bill would have allowed nurse practitioners to practice in specialties such as primary care, pain management and cardiology without physician supervision.

Status: Failed Policy Committee Deadline.

SB 538 (Hueso): Naturopathic Doctors: Scope of Practice

SB 538 would have allowed naturopathic doctors (NDs) to independently prescribe all Schedule V controlled substances, as well as any drug approved by the federal Food and Drug Administration and labeled "for prescription only" or words of similar effect, except for chemotherapeutics. This bill would have allowed for independent prescribing of these substances if the naturopathic doctor works under physician supervision for 12 months, completes a naturopathic residency program, or resides in a state for 12 months that allows naturopathic doctors to independently prescribe these drugs.

Status: Failed on the Assembly Floor.

SB 622 (Hernandez): Optometrists: Scope of Practice

This bill would have allowed optometrists to perform delicate scalpel and laser eye surgeries, administer immunizations, and perform or order appropriate laboratory and diagnostic imaging tests.

Status: Failed Policy Committee Deadline.

SB 932 (Hernandez): Health Care Mergers and Acquisitions

This bill would have prohibited specified provisions in contracts between health care insurers/plans and providers and adopted a new process for approving mergers and acquisitions of health plans and risk-based organizations. Additionally, the bill would have addressed several contracting issues, including mandatory arbitration and disclosure of contracted rates. The bill would have required (1) that any of a broad range of activities including sharing of physician resources, cobranding, collocated services, use of video technology, etc. be noticed and approved by the Department of Managed Health Care and (2) that the Attorney General provide an advisory opinion regarding the effects of the merger on competition. The bill would also have stipulated that contracts between hospitals and payors and plans and providers could not have included any of the following provisions: a requirement that the payor include any specific providers in its network; a requirement that a payor place all members of a provider group in the same tier of a tiered network

plan; a provision that sets rates for emergency services for providers not participating in the network at rate greater than the reasonable and customary charges; a requirement that the payor compensate a provider at the contracted rate for services after acquisition by another provider during the term of the contract and with which a contract is in effect; a requirement that either entity submit to binding arbitration or alternative dispute resolution programs; a provision that prohibits offering incentives to enrollees to access care from certain facilities or providers in the network; or a requirement that prohibits the disclosure of contracted rates.

Status: Failed in the Senate Appropriations Committee.

SB 1033 (Hill): Medical Board: Disclosure of Probationary Status

This bill would have required a physician, chiropractor, podiatrist, acupuncturist, or naturopathic doctor who is on probation due to gross negligence, repeated negligent acts involving a departure from the standard of care with multiple patients, repeated acts of inappropriate and excessive prescribing of controlled substances, drug or alcohol abuse, or felony conviction arising from patient care to disclose his or her probationary status to patients before the patient's first appointment with the licensee after probation is ordered. Amendments would have allowed the Medical Board of California to recover from the physician costs associated with the investigation and prosecution of probation cases.

Status: Failed on the Senate Floor.

SB 1101 (Wieckowski): Alcohol and Drug Counselors: Regulations

This bill would have provided title protection for "licensed alcohol and drug counselors" by establishing a licensure requirement to be administered by a newly-created Alcohol and Drug Counseling Professional Bureau within the California Department of Consumer Affairs (DCA). It would have established minimum qualifications to be licensed as a licensed alcohol and drug counselor.

Status: Failed in the Senate Appropriations Committee.

SB 1204 (Hernandez): Health Professions Development: Loan Repayment

This bill would have doubled the mandatory fee imposed on physicians for licensure and renewal for the purposes of the Steve Thompson Loan Repayment Program (STLRP) from $25 to $50. It would have also doubled a similar existing fee on psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors for similar workforce programs designed to incent providers to practice in medically underserved areas. Additionally, this bill would have made additional changes to the STLRP by including psychiatrists as an eligible specialty and increased the maximum amount of loan forgiveness that can be awarded from $105,000 to $150,000 for three years of practice in a medically underserved area.

Status: Failed Without Hearing.

SB 1252 (Stone): Health Care Costs: Patient Notification

This bill would have required that when a scheduled medical procedure is performed on a patient, the general acute care hospital, surgical clinic, and the attending physician must provide the net costs to the patient, in a written notification, including the following information: (1) applicable copayment, coinsurance or deductible, (2) the full cost of the medical procedure, (3) the range of costs for a stay in a general acute care hospital or surgical clinic, and (4) a complete and precise breakdown of the portion of the bill the health plan or health insurer will pay and what portion of the bill the enrollee will pay. Further, for "complex" procedures or screening, these same entities would have had to disclose, in writing, if any of the physicians providing services are out-of-network and the costs the patient is responsible for as a result of receiving care from an out-of-network physician.

Status: Failed Policy Committee Deadline.