American Academy of Orthopaedic Surgeons | AAOS American Association of Orthopaedic Surgeons

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STATE LEGISLATIVE UPDATE

If you could get a state legislator to honestly tell you what they think is important this session they will tell you three things: 1) redistricting, 2) redistricting and 3) redistricting. This is because the number one legislative priority always is to be reelected. The general public, though, is still very concerned about health care and the legislators have responded with a great and varied offering of health care legislation.

As of the end of February all state legislatures were in session except **FL** and **LA**. Through February there have been 100,321 bills introduced in the states and 3,952 have become law.

Some of the bills the Department of Health Policy is tracking are outlined below. If you have any questions please give Jay Fisher a call at 800-346-2267, x4336.

SCOPE OF PRACTICE

Nebraska passed a law expanding the scope of practice of the podiatrists to include the foot, ankle and governing structures. With the help of testimony from an orthopaedic surgeon the bill was toughened and has the following restrictions: ankle surgery may only be performed in a licensed hospital or ambulatory surgical center by a podiatrist who has completed an advanced one-year postdoctoral surgical residency. For podiatrists licensed after September of this year the bill requires a two-year surgical residency.

Physical therapists continue their desire to gain direct access to patients. Bills were introduced for this purpose in **Ohio** and **Pennsylvania**. The direct access bill in **Virginia** passed but not before being greatly improved. As passed, PTs must practice for three years before they can have direct access to patients. Then they can treat without a referral for fourteen days only if the patient has within the previous two years been referred to a PT by a doctor for the same injury and the PT notifies the physician within three days of commencing treatment. It is unlawful for a PT not to immediately refer a patient to a physician (or podiatrist, chiropractor etc.) when they determine the patient's medical condition is beyond the scope of practice of physical therapy.

JOINT NEGOTIATION

The joint negotiation bill in **Alaska** advanced out of committee with no recommendation. Bills were introduced in February in **New Mexico, Rhode Island**, and **Tennessee**.

INSURER LIABILITY

Bills were filed to allow patients a right to sue their insurer for negligent decisions in February in **Kansas, Michigan, New Mexico** and **Texas**. The bill in **Virginia** failed to pass.

The bill in **Montana** passed the House of Representatives.

PROMPT PAYMENT

Bills dealing with the ever-present problem of prompt payment were introduced in February in **Alabama, Connecticut, Kentucky, Maine, Oklahoma, Oregon, Tennessee**, and **Texas**.

The bill in Alabama is controversial because the medical association doesn't want it to apply to Blue Cross/Blue Shield and they cover a majority of people in Alabama.

The bill in Oregon was drafted and introduced by the Oregon Association of Orthopaedists.

The bills in Oklahoma and **Missouri** passed out of one house of the legislature. The Missouri bill allows doctors to file a civil action and obtain the amount of the claim, interest owed and a $50.00 a day penalty that starts 10 days after the interest penalty starts. Since class actions are specifically barred by the bill I wonder if it would be cost-effective to utilize this provision.

The prompt pay bill in **Utah** passed both houses in February and awaits action by Governor Leavitt. Insurers have 30 days to pay clean claims, provide written explanation for a denial or specifically request additional information needed to process the claim. The provider has 30 days to respond with the additional information.

The insurer may extend the initial 30 day time limit by another 30 days to investigate the claim. The insurer can submit a request to the Commissioner to extend the investigation beyond 60 days. The insurer has 20 days to pay the claim after receipt of additional information (though they also can request more information during that 20 day window).

Interest on late fees accrues at the rate of .1% per day for the first 90 days and at the rate of 10% per annum thereafter. Amounts under $1.00 will not be assessed. The Commissioner is empowered to investigate insurers and sanction them for violations.

MEDICAL ERROR

The issue of medical error prevention has not subsided this year. Legislation to study the issue has been introduced in **Kentucky, Massachusetts, Mississippi** (already dead), and **Missouri**.

Legislation to require reporting or improve procedures has been introduced in **Connecticut, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Pennsylvania, Tennessee** and **Washington**.

Legislation setting up physician profiles has been introduced in **Illinois, Indiana,** and **Ohio**.

OSTEOPOROSIS

Bills addressing osteoporosis prevention, education and treatment are popular again this year. The bill pushed by the **Mississippi** Orthopaedic Society to mandate bone density testing coverage was introduced in both the House and the Senate, but failed to advance out of Committee. The groundwork, though, has been laid for better success next year.

Other states with bills to mandate coverage of bone density testing are **Illinois, Indiana, Kansas, New Jersey, New York, Oregon, Pennsylvania,** and **West Virginia**.

Maryland and **Vermont** have bills to create an osteoporosis education program.