



American Academy of
Orthopaedic Surgeons

AAOS

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FEBRUARY 2002 STATE LEGISLATIVE UPDATE

Legislatures were busy in February trying to find sandbags to shore up the fiscal levees of the state. The National Governors Association went to Washington, DC to request help from the federal government to fund the state Medicaid programs.

As of the end of the month, the following state legislatures were in regular session: **AK, AL, AZ, CA, CO, CT, DE, FL, GA, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, and WY**. Through February there have been 60,597 new bills introduced in the states (this does not include carry-over bills from last year) and 3,676 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.

PROMPT PAYMENT

Prompt pay legislation in **Colorado** advanced out of the Senate during February. The bill adopts the CMS-1500 as the uniform claim form in Colorado and requires carriers to accept electronic claims by October 1. The bill also raises the penalty (separate from interest) insurers must pay to providers from 3% to 10% of the amount of the claim.

The prompt pay bill in **Michigan** passed the House and now just needs to go back to the Senate for concurrence. Under the bill clean claims must be paid within 45 days or an interest penalty of 12% is assessed.

New bills were introduced in **Connecticut, Idaho, Illinois, Maryland** and **New Jersey**. The bills in **Idaho** would establish a prompt pay law requiring payment within 30 or 45 days (depending on the bill). The bill in **New Jersey** requires prompt decisions on authorizations and prohibits unjustified downcoding of claims. A bill in **Missouri** would also prohibit changing the submitted codes on a claim.

REIMBURSEMENT

Spurred by the impending bankruptcy of the Medicaid system, **Mississippi** legislators passed legislation reducing provider reimbursement by 5%.

In **California** (emergency care only), **Illinois** and **Kentucky** legislation was introduced to prohibit doctors from "balance billing" their patients for non-contractually mandated fees (copays, etc.). States considering legislation mandating payment for services in the emergency department include **Indiana** and **Maryland**. A bill in **Rhode Island** would mandate the use of RBRVS by carriers.

TORT REFORM

The avalanche of tort reform bills in **Mississippi** came to a grinding halt in February. Only one bill, dealing with restrictions on where malpractice cases can be filed, made it out of committee in the Senate. Tort reform advocates were working on lining up support to amend the bill on the Senate floor to include broad tort reform objectives. The Chair of the committee, a trial lawyer, realizing this declined to bring the bill to the Senate floor and therefore it died.

The bill in **California** to double the statute of limitations was amended to require a study of the issue. The excellent contingency fee bill in **Colorado** died in committee. A bill was introduced in **Kentucky** to create a Task Force to look into the medical malpractice insurance situation. A series of bills to increase damages in wrongful death suits were introduced in **Florida, Michigan** and **Rhode Island**.

The two houses in **Pennsylvania** passed different versions of tort reform and failed to agree on compromise language. They will try again in March. Doctors in **Nevada** are organizing to call for a special session to deal with the looming crisis caused by skyrocketing premiums.

SCOPE OF PRACTICE

A bill to amend the scope of physical therapy was introduced in **Kansas**. But due to the work of the Medical and Orthopaedic Societies the PTs did not ask for an end to the physician referral requirement. A direct access bill was introduced and failed in **Wyoming**.

A bill in **New Hampshire** that would expand the scope of PTs and broaden an already liberal direct access statute passed out of committee. The committee did address several objections of the orthopaedic and medical community by adding in some restrictions on direct access and reining in several of the more adventuresome ideas of the PTs. The bill, though, still allows PTs to do debridement, integumentary repair and use electrotherapeutic modalities. A similar bill died in **Washington** during February.

The direct access bill was signed into law in **Pennsylvania**. PTs must practice for two years before they can treat without a referral. They can only treat for thirty days before the patient must be referred to a physician, podiatrist, etc. PTs must have the same liability coverage as physicians and the bill clearly states that this bill does not mandate third-party reimbursement for direct access treatment.

A bill was introduced in **California** to allow podiatrists to call themselves physicians and would also expand the scope of podiatry to include "the human foot and ankle and related structures, including those anatomical structures of the leg inserting into or affecting the functions of the foot." Governor Swift in **Massachusetts** signed into law a bill allowing chiropractors to call themselves "chiropractic physicians" and podiatrists to call themselves "podiatric physicians."

MEDICAL ERRORS

Bills were introduced in **Florida** and **Illinois** to create a patient safety center. **Hawaii** is considering legislation to create a patient safety and medical errors reduction program, as is **Rhode Island**.

Physician profiling legislation has been introduced in **Illinois, Kentucky**, and **New Jersey**. **Virginia** modified what must be reported for its profile