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M E M O R A N D U M

To: CSEP Membership

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Subject: Session Wrap Up

The 2014 legislative session adjourned at midnight on May 7th, setting the stage for an exciting election season. With 18 seasoned legislators and leaders retiring, the landscape will look very different next year.

Below is a summary of the more important pieces of legislation that we worked on in 2014.

APRN

The scope review process was the point of entry for this year's APRN legislation. Unfortunately, after extensive input from CSEP, CT ENT, CT Urology and CT Derms, the recommendation to allow APRNs to practice independently moved to the Legislature. With support from the Governor, largely based on the need to add primary care providers to the system to accommodate the influx of newly insured patients as a result of health care reform, SB 36 was introduced. The legislation gained support from the Office of the Health Care Advocate, DPH, the CT Hospital Association, numerous legislators, many nurses and even some physicians.

It was an uphill battle from the start, as the bill moved quickly through the process. Although there seemed to be a willingness to address some of the patient safety concerns identified in the bill, the Senate approved SB 36 with amended language that effective July 1, 2014, allows APRNS who have been in collaboration for 3 years with a physician to practice independently. Language was also included to require 50 CE credits every two years for APRNS, and pharmaceutical manufacturer disclosures. The Senate voted 25-11 inn support of the bill.

As the bill moved to the House, key legislators, including Rep. Srinivasan, Rep. Ritter and several others agreed to spearhead efforts to amend the bill with important provisions like a profile, residency-like training requirements, liability exemptions for collaborating physicians and provisions requiring practice in specific areas of training. There was extensive support within the House caucus for these

amendments, but concern about the bill having to go through the Senate again after being amended by the House.

The governor got engaged and called for a caucus position in the House, but agreed to amending some of the provisions on the technical corrections legislation. HB 5537, **An Act Concerning The Department Of Public Health's Recommendations Regarding Various Revisions To The Public Health Statutes,** included the following provisions:

- Specified 2000 hours during the collaborative period
- Requires notice to DPH when planning to practice independently
- Specifies CE in (A) Infectious diseases, including, but not limited to, acquired immune deficiency syndrome and human immunodeficiency virus, (B) risk management, (C) sexual assault, (D) domestic violence, (E) cultural competency, and (F) substance abuse.
- Includes APRNs in the on-line profiling system.

Our grassroots activities, and longtime discussions with key members of the General Assembly were critical to achieving these changes.

Homeopaths

SB 5327, An Act Concerning Health Freedom And The Practice Of Classical Homeopathy. This bill would have allowed people certified by the Council for Homeopathic Certification to provide homeopathy, subject to certain conditions and restrictions.

HB 5327 would have required classical homeopaths to make certain written disclosures to clients, including information about their qualifications and the services being provided. It specified various prohibited activities for classical homeopaths not credentialed by the Department of Public Health (DPH) to provide health care services. Among other things, it also specified that homeopathy provided by classical homeopaths in accordance with the bill is not considered the practice of medicine.

CSEP testified on behalf of the physician community against this proposal. Despite wide opposition from hospitals and physicians and citing of the scope review study from 2012, the committee unanimously approved the bill. It died on the House calendar.

Natureopaths

SB 437, An Act Concerning An Act Concerning Licensure For Genetic Counselors And The Practice Of Natureopathy. This bill expanded the definition of naturopathy and its scope of practice to specifically include, among other things, the science, art, and practice of healing that comprises diagnosing, preventing, and treating diseases and optimizing health by stimulating and supporting the body's natural healing processes. It eliminated the requirement that the natural healing

methods be recognized by the Council of Natureopathic Medical Education. By law, and unchanged by the bill, these methods must be approved by the State Board of Natureopathic Examiners, with the consent of the public health commissioner.
Specifically, the proposed bill expanded the scope of naturopathic practice to include:
1. ordering diagnostic tests and other diagnostic procedures;
2. ordering medical devices, including continuous glucose monitors, glucose meters and test strips, barrier contraceptives, and durable medical equipment;
3. removing ear wax and foreign bodies from the ear, nose and skin;
4. shaving corns and calluses;
5. spirometry (i.e., breath and lung capacity analysis);
6. tuberculosis testing;
7. vaccine administration; and
8. venipuncture for blood testing and minor wound repair, including suturing.

By law, unchanged by the bill, naturopathic practitioners can conduct counseling; offer treatment by natural substances; and perform several mechanical therapies, including orthopedic gymnastics and hydrotherapy.

Although the bill was not approved, a provision was included in SB 5537, An Act Concerning The Department Of Public Health's Recommendations Regarding Various Revisions To The Public Health Statutes.

Sec. 69. Section 20-34 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) The practice of natureopathy means the science, art and practice of healing by natural methods as recognized by the Council of Natureopathic Medical Education and <u>that comprises diagnosis, prevention and treatment of disease and health optimization by stimulation and support of the body's natural healing processes, as</u> approved by the State Board of Natureopathic Examiners, with the consent of the **[**commissioner**]** <u>Commissioner of Public Health</u>, and shall include (1) counseling<u>;</u> **[**and**]** (2) the practice of the mechanical and material sciences of healing as follows: The mechanical sciences such as mechanotherapy, articular manipulation, corrective and orthopedic gymnastics, physiotherapy, hydrotherapy, electrotherapy and phototherapy; and the material sciences such as nutrition, dietetics, phytotherapy, treatment by natural substances and external applications<u>; (3) ordering diagnostic tests and other diagnostic procedures as such tests and procedures relate to the practice of mechanical and material sciences of healing as described in subdivision (2) of this subsection; (4) ordering medical devices and durable medical equipment; and (5) removing ear wax, spirometry, tuberculosis testing and venipuncture for blood testing</u>.

Joint Ventures and Acquisitions- SB 35
The Attorney General has focused on the acquisition of physician practices and concern over the limitation of provider options. **SB 35, An Act Concerning Notice Of Acquisitions, Joint Ventures And Affiliations Of Group Medical Practices, was the subject of lengthy negotiations in in the final minutes of the session was passed by both chambers.**

Originally, the required parties to certain transactions that materially change the business or corporate structure of a medical group practice to notify the attorney general (AG). In general, a material change is defined as any merger, consolidation, affiliation, stock acquisition, formation of partnership, or change in corporate structure involving a hospital or similar entity or that results in a group practice of eight or more physicians.

It also required parties to transactions involving a hospital, hospital group, or health care provider that are subject to federal antitrust review to (1) notify the Connecticut AG and (2) at his request, provide a copy of the information filed with the federal agencies.

Under the bill, the AG must maintain and use the information submitted to him, in both cases, as part of his antitrust investigation and enforcement capability.
The bill also requires hospitals and hospital systems with affiliated group practices, and unaffiliated group practices of 30 or more physicians, to report annually to the AG.

After lengthy negotiations, agreement was reached on the proposal which included:

Changes to the medical foundation provisions related to for-profit hospitals, created the definition of affiliate to mean:

"Affiliate" means any person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with another person. A person is deemed controlled by another person if the other person, or one of that other person's affiliates, officers, agents or management employees, acts as a general partner or manager of the person in question;

The bill included a new definition of group practice for CON purposes:

"Group practice" means eight or more full-time equivalent physicians, legally organized in a partnership, professional corporation, limited liability company formed to render professional services, medical foundation, not-for-profit corporation, faculty practice plan or other similar entity (A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including, but not limited to, medical care, consultation, diagnosis or treatment, through the joint use of shared office space,

facilities, equipment or personnel; (B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group practice and amounts so received are treated as receipts of the group; or (C) in which the overhead expenses of, and the income from, the group are distributed in accordance with methods previously determined by members of the group. An entity that otherwise meets the definition of group practice under this section shall be considered a group practice although its shareholders, partners or owners of the group practice include single-physician professional corporations, limited liability companies formed to render professional services or other entities in which beneficial owners are individual physicians.

The bill also included new CON provisions, including the transfer of ownership of a group practice to CON review and added new guiding principles to CON review, including:

> (11) Whether the applicant has satisfactorily demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the geographic region; and
> (12) Whether the applicant has satisfactorily demonstrated that any consolidation resulting from the proposal will not adversely affect health care costs or accessibility to care.
> (b) In deliberations as described in subsection (a) of this section, there shall be a presumption in favor of approving the certificate of need application for a transfer of ownership of a group practice, as described in subdivision (3) of subsection (a) of section 19a-638, as amended by this act, when an offer was made in response to a request for proposal or similar voluntary offer for sale.

Cooperative Health Care Arrangements
HB 5345, An Act Concerning Cooperative Health Care Arrangements.

This bill would have permitted health care practitioners from two or more firms to form a health care collaborative ("collaborative") to negotiate as a group with insurers, managed care organizations (MCO), or other similar groups for compensation, prices, and conditions of service. It defined practitioners as licensed (1) physicians, (2) chiropractors, (3) podiatrists, (4) naturopaths, and (5) optometrists. A collaborative must apply to the Office of Healthcare Advocate (OHA) for approval to (1) negotiate an agreement and (2) implement any final agreement.

The bill exempted collaboratives from state antitrust law if they operate under the bill's provisions.

Under the bill, when negotiations stall between a collaborative and an insurer or MCO, the healthcare advocate must take steps to help the parties reach an agreement. If there is an impasse, the advocate must order a resolution, which is

presumably binding on both parties. An insurer or MCO can face civil penalties for refusing to negotiate with a collaborative.

The bill authorized OHA to issue certificates of public advantage (CPAs) that permit collaboratives to negotiate. It requires OHA to regulate collaboratives and gives it authority to revoke their certificates for failing to comply with their application or terms of approval.
The bill exempted all applications, reports, records, documents, and other information obtained by the advocate due to activities under the bill from the Freedom of Information Act.

The bill also included provisions addressing (1) appealing the advocate's decisions to Superior Court, (2) charging prospective collaboratives an administrative fee, (3) requiring the advocate to report annually to the governor and General Assembly, and (4) adopting regulations.

There was widespread support within the physician community for this legislation, which has remained a priority for several years. The AG and insurers testified in opposition to the bill. The bill was approved by the Labor Committee and later died in the Appropriations Committee.

Medical Necessity
HB 5529, An Act Concerning the Definition of Medical Necessity was intended to address issues with insurers claiming treatments as "experimental" when up to date scientific studies were not available. The bill would have created a new definition of medical necessity to give the physician greater ability to determine the appropriate course of treatment thereby making insurance coverage easier for the patient.

The bill was approved by the Public Health Committee and Appropriations Committee.

Workers Compensation
SB 61, An Act Concerning Workers' Compensation And Liability For Hospital And Ambulatory Surgical Center Services. Originally, this legislation was introduced to set hospital rates for workers compensation treatment. In the Labor Committee it was amended to set rates at 200% of Medicare for both hospitals and ASCs. After lengthy discussions with the Governor's office and committee chairs, the bill was amended to call on the Chair of the Workers Comp Commission to work with employers, insurers, hospitals, ASCs and others to craft an appropriate Medicare-based fee schedule by January 1, 2015. The bill was approved by both chambers and awaits signature by the Governor.

HB5373- Substance Abuse Access to Care Act

Mental health parity has been one of the key areas of focus for CSMS from a state legislative front for quite some time, but their efforts were redoubled after the tragedy of Newtown.
Last year, John Foley, MD made as one of his major legislative priorities the issues of fire arm responsibility and mental health parity (transparency, access and care). As part of this effort, CSMS worked with General Assembly leaders and especially the Health Care Advocate, Vicki Veltri, JD, to pass legislation last year to strengthen our state laws and to help provide further access to mental and behavioral health care services.
This year CSMS worked again with Vicki Veltri and the substance abuse community, including their own Committee on Substance Abuse to pass (unanimously) legislation (HB5373) that would have provided a significant level of monitoring necessary to guarantee implementation of administrative and legislative initiatives associated with mental health, behavioral health and especially substance abuse parity and transparency critical for access to care. The Governor, without warning or notice, vetoed the passed legislation, one of only a handful of bills this session vetoed by the Governor. The only opposition to this bill was select health insurers (not all health insurers)- even the state agencies remained silent or neutral on this legislation.

Conclusion
This was a challenging session for the physician community but highlights the need to remain engaged and active in the process. The involvement of this organization helped to mitigate some of the effects of the proposed bills and enabled us to amend many of the more onerous provisions.