



Warner Norcross + Judd LLP

MEMORANDUM

TO: MRS Board of Trustees and Shannon Sage, Executive Director
FROM: James G. Cavanagh
DATE: November 18, 2021
RE: **Legislative and Regulatory Update**

OVERVIEW

The Legislature is on break until November 30 for the firearm deer season and the Thanksgiving Holiday. Even after the 2021-22 Budget was passed, there is still nearly \$11 billion which Michigan derived from its share of the federal COVID Recovery dollars from the Trump Administration, and COVID Rescue funds from the Biden Administration. In addition, the State's General Fund is flush due to unexpectedly high tax revenue. At this time, it is believed these excess funds will be appropriated through a series of supplemental funding bills to be enacted later this year into next, and possibly beyond. There now appears to be some consensus among Democrats and Republicans about how to apply the funds. There is also growing momentum for infrastructure and, in particular, a dramatic increase in behavioral health beds, especially for young people. With regard to policy, there are efforts in both Houses to revamp the way behavioral health services are administered. Specialty nurses are at it again attempting to expand their scope of practice which includes ordering and interpreting imaging. MRS leadership is working with MSMS to combat any such effort.

Nurses Seek to Practice Radiology:

SB 680, sponsored by Sen. Rick Outman, (R-Six Lakes) would establish the category of "certified nurse practitioners" (CNP) in statute and would greatly expand their scope of practice. The bill allows a CNP to determine a diagnosis, which is, in essence, the practice of medicine. The bill also allows CNPs to prescribe pharmacological and non-pharmacological "interventions and treatments" that are within their specialty role. Finally, the bill allows CNPs to supervise others and to order, perform, supervise and interpret laboratory and imaging studies. Clearly, this is the practice of medicine and radiology.

MRS will be working with MSMS to defeat this bill. I will be heading up an initial grassroots effort. While this bill just was introduced and is still with the Senate Health Policy and Human Services Committee, it is "all hands on deck" for this one.

Chiropractors Seek to Amend Limited Liability Law and Business Corporation Act:

HB 5295 and 5296, sponsored by Representatives Roger Hauck (R-Mt. Pleasant) and Kevin Hertel (D-St. Clair Shores) amend Michigan's Professional Business Corporation Act and Limited Liability Act. The legislation allows chiropractors to be in business with each other or MDs, DOs or Podiatrists. One or more chiropractors could also form a PLLC or a PC with one or more physician assistants, but only if at least one MD or DO also is a member in the company or a shareholder in the corporation. The bills have been referred to the House Committee on Regulatory Reform. This appears to be an attempt to have chiropractic considered one of the "learned professions" traditionally meant for medicine, law, theology and, in some states, engineering and architecture. In addition, listing a chiropractor in practice with a medical doctor or a doctor of osteopathic medicine could be deceptive to the public. I will be working on this issue with MSMS.

LEGISLATION

Prior Authorization:

Last year, Sen. Curt VanderWall (R-Ludington), the Chair of the Senate Health Policy Committee, introduced legislation calling for procedures and protocols to be established before the use of prior authorization by insurance companies. MRS has been a member of the "Health Can't Wait" coalition which has been advocating prior authorization reform. Unfortunately, major insurers such as Blue Cross/Blue Shield were successful in amending last session's version of the legislation to the point where even the Coalition opposed its passage. Consequently, the bill died at the end of session. In March, Sen. VanderWall introduced SB 247, a revised version of last session's bill. While SB 247 is not as strong as last session's bill as originally introduced, it is still supported by the Coalition. SB 247 has unanimously passed the Senate and was sent to the House. In an attempt to get the best final product, it is anticipated that legislation on the subject will also be introduced in the House, which will be more to the Coalition's liking. The strategy here is to leverage the House legislation in negotiations with the Senate. Another dynamic involves House and Senate strategy. Even though both Houses are controlled by the GOP, each House is holding legislation passed by the other in order to obtain the best possible horse trade.

Upgrade Standards for Radiographic Technologists:

HB 5116, sponsored by Rep. Rodney Wakeman (R-Saginaw) establishes education and training standards for those who operate sophisticated imaging equipment. Currently, Michigan is an outlier among states, mandating requirements for only mammography and CT operation. MRS is supportive but has suggestions as to how to make the bill stronger. The legislation is with the House Health Policy Committee where a hearing was expected this fall. However, that Committee will first consider legislation to address the Benton Harbor water crisis. Expect a Committee hearing after the Holidays.

Essential Health Provider Legislation:

SB 246, sponsored by Sen. VanderWall, would increase the debt limit the State would pay for an individual who has taken part in the essential health provider repayment program from \$200,000 to \$300,000 over a ten-year period. SB 435, sponsored by Sen. Michael MacDonald (R-Macomb), expands the list of health care professions that would qualify for the program to include behavioral sciences. These bills have passed the Senate and are now with the House Committee on Health Policy.

REGULATORY

The Commission's informal MRI work group is headed by Suresh Mukherji, M.D., former MRS President. The work group has broken up into four subgroups that will be reviewing standards and reporting back to the Commission. The CON Executive Director has stated there is no prohibition against an out-of-state resident participating in an "informal" work group.

OTHER

Day of Radiology:

Governor Gretchen Whitmer issued a Proclamation declaring November 8, 2021 as the "Day of Radiology" in Michigan. The Proclamation noted the 126 years since discovery of the X-Ray, and how radiology has improved the quality of health care and, indeed, the lives of all Michiganders.

Centennial:

To mark the MRS Centennial celebration, Governor Whitmer sent a letter of tribute to the Society. In addition, the Governor and legislative leaders inked an official tribute commemorating the 100th Anniversary of the Society and its contributions to the medical profession, the practice of radiology and the welfare of the public.

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