



Legislative Highlights

May 5, 2003 (Issue #3-03)

J. Richard Goldstein, M.D., President

STATE NEWS

Three major issues of concern to teaching hospitals have surfaced once again during the past week as legislators returned from a brief spring hiatus...In the Assembly, there was a public hearing on May 1 on a proposal for **medical malpractice insurance “premium assistance”**; the auto insurance reform bill, including **Personal Injury Protection (PIP)**, is on the agenda for the Assembly Banking and Insurance Committee on May 5; and we have just gotten word informally that on the Senate side, A-1852/S-1712, legislation limiting NJ **medical resident duty hours** will be scheduled for consideration on May 8 in the Senate Health Committee (for the third time in the last six months).

Recap of Senate Action on Medical Malpractice: With the combined effort of our NJCTH membership and working with the medical community as part of a coalition, the Senate version of the medical malpractice bill (A-50/3R) finally passed that House in late March with bipartisan support. This was a major accomplishment since the bill incorporated a key provision **limiting non-economic liability to \$300,000 for physicians, nurses** and certain other healthcare professionals. **The NJCTH specifically crafted the amendment for hospital nurse employees to be included.** Further, the bill allows plaintiffs to collect up to \$1 million for non-economic damages from a special state fund, financed through surcharges paid by employers, doctors, attorneys and other licensed professionals. However, **Assembly support for the Senate version is questionable.**

The Assembly proposal (there is no bill yet) uses the same funding mechanism as the Senate bill, with **the \$30 million “Fund” to be used to directly reduce the insurance premiums** of obstetricians, neurosurgeons and other physicians who meet the eligibility criteria. The proposal will cover 50 percent of the excessive premium increases physicians have experienced since July 1, 2002. While this is a well-intentioned measure that would appear to provide short-term relief to eligible doctors who can't afford to pay their premium increases, **NJCTH supports the more comprehensive plan as embodied in the Senate version.**

Good News on PIP....NJCTH participated in a conference call with Assemblyman Neil Cohen, the chair of the Assembly Banking and Insurance Committee, who made a verbal commitment to post S-63(3R), the Senate-approved version of the auto insurance reform bill, at the next committee meeting on May 5. **Cohen supports maintaining the PIP default level at \$250,000** as the NJCTH has advocated. In fact, the Council (with the tremendous lobbying effort put forth by our trauma doctors) was instrumental in gaining support in the Senate for the amendment to keep the PIP default at the current level. The original bill proposed by the Administration lowered the default threshold to a mere \$15,000. So, the current version of the bill is a “win-win” at this point. Working with a broad based PIP Coalition, we are now concentrating our efforts on the Assembly floor vote.

Medical Resident Duty Hours Facing Committee Action Again: Some bills never go away. After being posted for three different meetings of the Senate Health Committee during the past year and HELD due to fierce opposition from teaching hospitals, medical directors, and some of the medical residents they serve, **the bill will be heard again on May 8.** Despite the fact that the ACGME, the national accreditation organization, has approved new rules that apply nation-wide, some NJ legislators (namely Assemblyman Impreveduto, the sponsor of A-1852) have insisted that NJ standards be more limited than the national standards. **The NJCTH will continue to mount opposition to the legislation.** Thus far, Senators Singer, Allen, Matheussen and Rice have expressed opposition while Senators Vitale and Buono have expressed support. We have invited the Executive Director of ACGME (David Leach, MD) to testify before the Senate Health Committee on the need to keep the national standards consistent in each state and expound on the outstanding level of expertise of those who crafted the national standards.

REGULATORY UPDATE

DOHSS “Mandatory Overtime Regulations” Readied for Submission to Health Care Administration Board (HCAB): On April 25, the NJCTH met for the third time with representatives of the Department of Health as part of a healthcare working group conducting an informal review of draft regulations on mandatory overtime. The rules are designed to implement a law approved by the Legislature and enacted on Jan 1, 2002 (as Chapter 300) that established maximum work week hours for certain healthcare hourly wage facility employees (excluding physicians)... **“No healthcare facility shall require an employee to accept work in excess of an agreed to, predetermined and regularly scheduled daily work shift, not to exceed 40 hours per week.”** The NJCTH had submitted comments on behalf on our teaching hospitals (with extensive comments provided by Robert Wood Johnson University Hospital). **While many of the NJCTH concerns had been addressed in the revised version, clarification of exceptions to the rules and chronic short staffing definitions continued throughout the meeting.** We will have an opportunity to review the final draft before it is submitted to the formal regulatory process for public comment through the HCAB.

FEDERAL UPDATE

The size of the Administration-proposed **tax cut** has taken center stage as Congress returned last week, with the House pushing for at least \$550 billion and the Senate moderates opting for a lower tax cut of about \$350 billion. In the House, Speaker Hastert has indicated that **“Medicare modernization”** would be their top priority in the coming weeks. Both issues must first be scrutinized by the House Ways and Means Committee although no action has yet been scheduled. More news next time.