



Legislative Highlights

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TO: Chief Executive Officers
Chief Financial Officers
Government Relations Officials

SUBJECT: LEGISLATIVE HIGHLIGHTS (March 17 and 20)

This is the inaugural issue of “Legislative Highlights” alerting you to issues of concern for teaching hospitals. This issue summarizes key action that occurred during the legislative sessions of March 17 and March 20. **Two bills containing amendments provided by NJCTH moved forward, one on *medical malpractice liability* and the other on *auto insurance reform* including Personal Injury Protection (PIP).**

Medical Malpractice Bill Amended by NJCTH Passes the Senate

The medical malpractice bill that NJCTH has worked on with legislators for over six months was released from a joint meeting of the Senate Health and Senate Commerce Committees and passed by the full Senate in the same week. The legislation, SCS2174, sponsored by Senators Vitale, Matheussen, Singer, Allen and Kyrillos, received bipartisan support. In short, the bill has the following key provisions of interest to hospitals:

- Limits the awards in medical malpractice liability cases for non-economic damages to \$300,000 for all “health care providers” including nurses (**an amendment proposed by NJCTH**).
- Establishes a Fund to pay jury awards over \$300,000, comprised of the following revenue sources: An annual surcharge of \$3 per employee for all employers who are subject to the NJ Unemployment Compensation Law and an annual charge of \$50 on every physician, chiropractor, podiatrist, dentist, optometrist and lawyer.
- Establishes a Task Force (**including a representative of NJCTH**) with a specific charge to study and evaluate limits on non-economic damages, and the feasibility of extending the current liability limits on nonprofit hospitals to hospital employees (**a provision requested by NJCTH**);
- Provides a **statute of limitations** of two years for most law suits; eleven years for injuries sustained at birth, and if a minor is nine years old, any prior action that has accrued for medical malpractice must be commenced within four years;
- Includes “**Good Samaritan**” language to provide immunity to a healthcare professional (non-emergency personnel) who, in good faith, responds to a life-threatening emergency within a hospital or other healthcare facility; and
- Focuses on various **patient safety provisions**, with a confidential system for the reporting of adverse events.

Personal Injury Protection (PIP) Default Kept at \$250,000

SCS-63(Rice) is the Administration's bill designed to address automobile insurance availability and affordability. **At issue for NJCTH and our trauma centers was the language in the bill, proposed by the Department of Banking and Insurance (DOBI), to change the Personal Injury Protection (PIP) default level from the current \$250,000 coverage level to \$15,000.** Thus, for every new policy, if a consumer did not make a choice of PIP coverage, he/she automatically would receive PIP benefits up to \$15,000, despite the fact that the cost differential between the \$15,000 and the \$250,000 coverage would only be \$60 per year.

NJCTH testified, along with trauma doctors from our hospitals, against reducing the \$250,000 default level in PIP and further cautioned the Legislature not to eliminate PIP altogether from auto insurance. The committee amended the bill as requested by NJCTH to keep the PIP default level at \$250,00. Subsequently, SCS-63 passed the full Senate on March 20.

Future Action: The medical malpractice insurance bill (SCS-2174) faces an uncertain future in the Assembly since Speaker Sires and the Majority party do not support the bill, favoring an Assembly democrat package as contained in A-50.

The auto insurance bill (SCS-63) will likely have an easier passage in the Assembly since the bill is an Administration proposal. **However, the NJCTH and other coalition members will continue our lobbying efforts on both bills.**

Fiscal Year 2004 State Budget

The Senate and Assembly Appropriations Committees have begun their deliberation on the FY-04 State Budget. **The NJCTH testified on March 12 opposing proposed state cuts that will result in increased costs to our teaching hospitals.** The Administration proposed reducing eligibility for the Family Care Program to save the State an estimated \$76 million. We argued that the Charity Care rolls will be increased along with accompanying costs to teaching hospitals.

NJCTH is scheduled to testify at the next public hearing in Trenton on Wednesday, May 14, before the Senate Appropriations Committee. We will also be monitoring State agency testimony from the departments of Health, Human Services, and Banking and Insurance. The hearings continue through April, May and June, with the introduction of a Fiscal Year 04 State Budget bill that must be passed by both Houses of the Legislature and signed by the Governor by July 1, 2003, the beginning of the next fiscal year.

Federal Action - House Passes Medical Malpractice Bill (H.R. 5)

The House approved a medical malpractice bill last week by a vote of 229-196 that places a \$250,000 limit on non-economic damages. The bill was supported by the Bush Administration. NJ Congressmen LoBiondo, Saxton, Frelinghuysen and Ferguson joined as co-sponsors. The bill next goes to the U.S. Senate where passage is less certain since Democratic leaders are likely to oppose the measure. **We have sent an alert letter to CEO's to contact US Senators Lautenberg and Corzine to urge them to support the bill in the Senate.**