Maryland 2015 Legislative Update

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SB 723/HB 999
Nurse Practitioners

- Removes the requirement that an NP have a signed attestation agreement for physician collaboration and consultation on file with the BON.
- Initial certification of mentoring relationship for 18 months still required for NPs who have not been previously certified by Maryland BON or any other state BON.
- NPs must still consult and collaborate with other licensed health professionals (“mentors”) when appropriate or face discipline by the BON.
- Consultation and collaboration not limited to physicians, can be another NP or appropriately qualified provider.
- Effective October 1, 2015

Nurse Practitioners Practical Implications I

- BON will be issuing implementing regulations with further guidance focusing on the relationship with mentors and disciplinary penalties for failure to consult or meet standard of care.
- Commercial carriers and Medicaid MCOs were previously requiring collaborating physicians to be credentialed, leading to a shortage of NPs in the Medicaid program.
- Most payors should now credential NPs without regard to the participation status of their mentoring provider.

Nurse Practitioners Practical Implications II

- Current attestation agreements on file with BON will become ineffective on 10/1/15 but be retained for five years.
- As long as an NP has an attestation agreement on file with BON as of 10/1/15, they will not be subject to the initial certification process, even if their attestation was approved immediately before the implementation date.
- No formal agreements between NPs and mentors are required; NPs will supply contact information to BON and BON will conduct random audits.

Nurse Practitioner Practical Implications III

- NPs still subject to consult and refer when appropriate.
- Part of a national trend towards more independent NP practice.
- MedChi lobbied for initial certification requirements.
- NPs will likely have to be independently credentialed with payors prior to billing for services rendered in a medical practice.
- If a physician agrees to mentor an NP it may be advisable to define/limit the scope of the clinical collaboration.

Nurse Practitioners' Limitations

- NPs with prescriptive authority will not be eligible for in-office dispensing -- dispensing permits are limited to physicians, dentists and podiatrists.
- Maryland hospitals do not have any affirmative obligation under State or federal law to grant staff privileges to NPs, but they would be permitted to do so if their Boards approve appropriate amendments to their Medical Staff Bylaws.
- Expect to see lobbying by NPs to obtain staff privileges and some resistance from physicians and hospitals.

HB 716/SB 347
Nurse Practitioner Pharmacist Agreements

- NPs (and podiatrists) with prescriptive authority may enter into therapy management contracts with pharmacists related to drug therapies, lab tests, and medical devices.
- Prior law limited therapy management contracts to physicians and pharmacists.
- Another example of the trend towards independent NP practice.

SB 195
Psychiatric NPs

- Psychiatric NPs can now give assent and co-certify voluntary or involuntary admission of a minor for a treatment of a mental disorder.
- Assent may now be made by a psychiatric NP and a physician, prior law required either two physicians or a physician and a psychologist.

SB 516/HB 745
NP Naloxone Prescription

- Advance practice nurses (and physicians) with prescriptive authority may prescribe Naloxone either directly or under a standing order to an authorized “certificate” holder -- an individual who has completed relevant training and is authorized by law to assist an individual experiencing an opioid overdose.
- NPs and physicians are also authorized to provide Naloxone directly to an individual experiencing an opioid overdose or someone in a position to assist a person experiencing an overdose.

SB92/HB 230
Assignment of Benefits

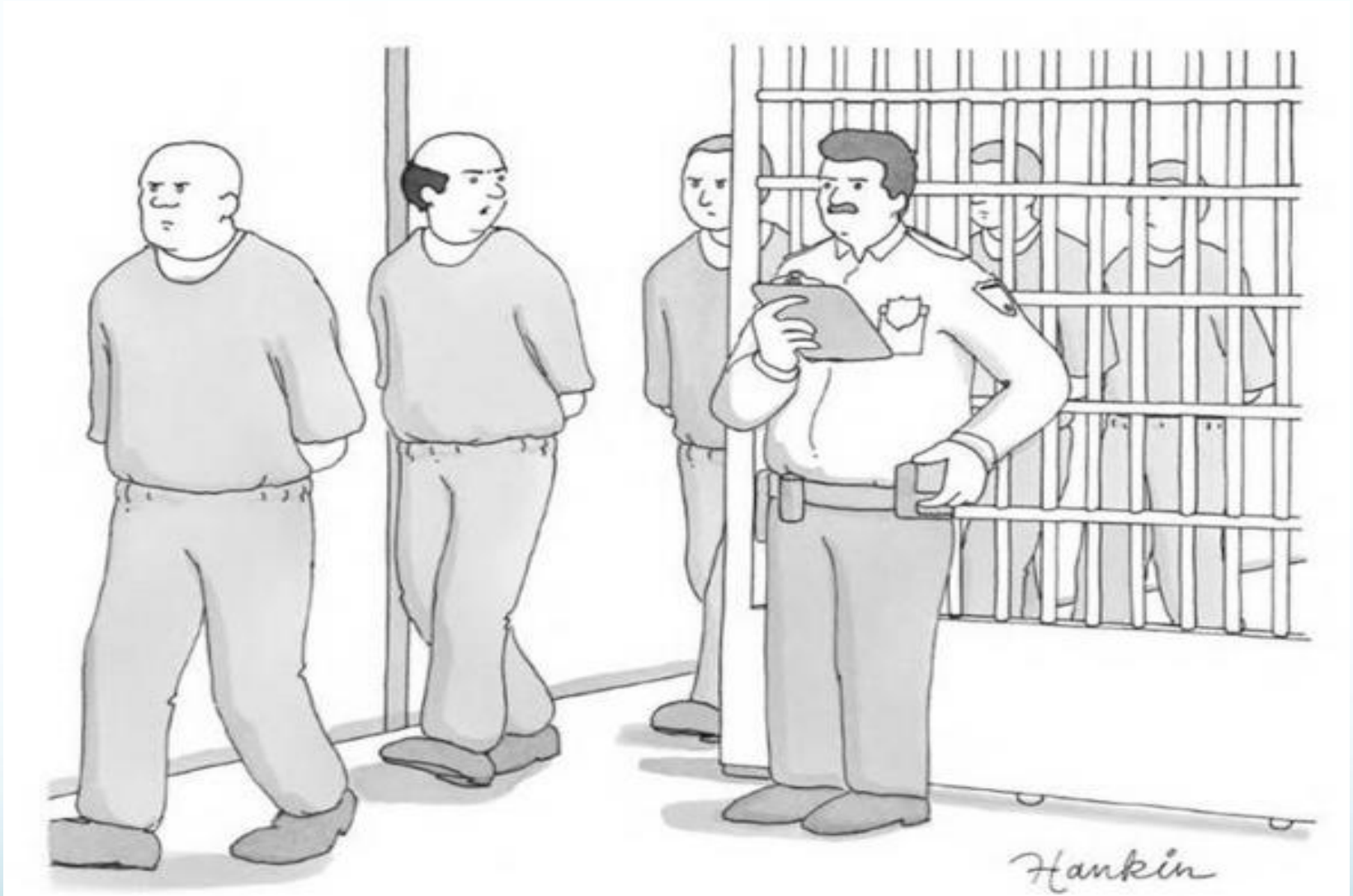
- The “assignment of benefits” law passed in 2010 was subject to a 5 year automatic “sunset”; the AOB law has just been made permanent.
- The AOB law allows (but does not require) non-preferred providers to accept assignment of the patient’s right to claim payment and to receive payment and the EOB directly from the PPO.
- Patients must be informed of the fact that the provider is non-preferred, the exact charge for the service, and whether the provider will be “balance billing” the patient for charges not paid by the PPO.

SB 450/HB 660
Patient Claim Submission

- Requires health insurers, BCBS plans, and HMOs to allow patients to submit claim information by first class mail and either fax or a secure Web site.
- Carriers required to provide annual instructions.
- Not applicable to claims submitted to Medicare supplemental insurance or freestanding pharmaceutical or vision plans.
- Not clear if it applies to claims submitted under the AOB law (i.e., can providers submit claims through a patient web portal to receive direct payment).

HB 72
CDS Renewal

- Timeframe for renewing CDS registration has been extended from 2 to 3 years, to harmonize with current DEA renewal timeframes.



"That's doctor inmate 2264."

SB 449/HB 181
BOP Criminal Background Checks

- All BOP initial licensees and annual renewal applicants (as determined by BOP regulations) will be required to submit a criminal background check report from the Criminal Justice Information System.
- Will also apply to former licensees renewing after a lapse of a year or more.
- Passed in response to BOP granting a license to **William Dando, M.D.**, who was licensed even though he had been convicted of rape in Florida (and another case involving a physician with robbery and manslaughter convictions).

SB 449/HB 181
BOP Criminal Background Checks

- BOP will issue regulations on how a criminal conviction will impact the decision to issue, renew, or reinstate a license.
- Failure to submit required background check can result in reprimand, probation, or license revocation.
- Factors to be considered will include: age the crime was committed, nature of the crime, surrounding circumstances, length of time passed, subsequent work history, employment and character references, and other evidence demonstrating whether the applicant poses a threat to the public health or safety.

SB 346/HB 657
Pharmacist Drug Administration

- Authorizes pharmacists to administer a self-administered drug to a patient when prescribed by an authorized prescriber.
- Includes eye drops, intramuscular injection, and subcutaneous injection.
- Original bill would have permitted pharmacists to prescribe and administer certain drugs independently. Final version eliminated the prescriptive authority.

HB 978
HIV Testing

- Prior law required consent for HIV tissue and fluid testing to be be separate from consent for other testing.
- New law allows HIV testing to be included in a general informed consent for medical care.
- Patient must be informed that testing will be conducted unless the individual refuses HIV testing.
- Providers may now show video in lieu of providing verbal or written information.
- Patient must be able to ask questions and decline testing; declination must be documented in the record.
- Brings Maryland into compliance with CDC guidelines.

HB 859/SB 437
BCBS Surplus Distribution

- Insurance Commissioner may conduct an examination and/or hold hearings if another state requires a BCBS plan licensed in Maryland to reduce its surplus.
- Commissioner may prohibit distribution of surplus to benefit residents of another state and take other actions.
- Passed in response to a ruling by the DC Commissioner of Insurance that CareFirst's surplus was "excessive" and that a partial distribution should be reinvested in community health efforts in the District.

SB 69/HB 181
Sterile Compounding

- Repeals requirement set to take effect in July 2015 requiring physicians to have a sterile compounding permit from the Board of Pharmacy to perform the routine mixing of medicines in a physician's office.
- Subsequent Federal law exempted physician offices from state licensure requirements for mixing medicines in the office.
- The Board of Pharmacy is expected to withdraw regulations proposed under the prior law and is essentially relinquishing any jurisdiction over mixing of medicines in physician offices.

SB 757
Abuse-Deterrent Opioids

- Commercial carriers must now cover at least two brand name abuse-deterrent opioids analgesic products and, if available, at least two generic abuse-deterrent opioid analgesic drug products at equivalent cost-sharing levels as non abuse-deterrent opioids.
- Prohibits carriers from requiring patients to first use a specified drug product before providing coverage for abuse-deterrent products