

## 150<sup>TH</sup> GENERAL ASSEMBLY – HEALTH CARE RELATED BILLS (2019 and 2020 Legislative Years)

The information below is provided regarding legislative activities of interest in the 150th General Assembly in Dover. The Legislative Session spans two years and this session will end on June 30, 2020. At that time, all pending legislation that has not passed both chambers to be signed by the Governor must be reintroduced if it is to be considered in the 151<sup>st</sup> General Assembly which will convene in January 2021. The following bills affect the practice of medicine in Delaware. MSD will continuously update the status of the bills as the ones that await action of the Governor are signed or vetoed.

<b>HOUSE BILLS</b>		
BILL NUMBER	SUMMARY	STATUS
<b>HB 19 (Jaques)</b>	This Act seeks to ensure that <b>every public school in the State has a school nurse</b> . This Act provides a mechanism to allow a district or a charter school that currently does not have a school nurse to receive State funds. This Act also permits a district to levy a tax under § 1902(b), Title 14, known as a "match tax", to assist those districts that hire a school nurse as a result of this Act to pay for the local share of that school nurse.	3.20.19 – Tabled in Committee
<b>HB 24 w/HA 1 (Bennett)</b>  <b>*Society Supports*</b>	This Act would <b>prohibit insurers and pharmacy benefit managers from engaging in the practice of "clawbacks"</b> . When the total cost of a prescription drug to an insurer or pharmacy benefits manager is less than a patient's co-pay, the insurer or pharmacy benefits manager keeps the difference in a practice known as a "clawback". According to a March 2018 report issued by the University of Southern California's Schaeffer Center for Health Policy & Economics based on the Center's analysis of 2013 data from a large commercial insurer combined with data on national average drug reimbursements, almost 25% of filled pharmacy prescriptions involved a patient co-payment that exceeded the average reimbursement paid by the insurer by more than \$2.00. The report further noted that overpayments were more likely to occur on claims for generic drugs than brand drugs and that the total overpayments in the Center's sample amounted to \$135 million.	4.17.19 – Reported out of Health & Social Services in Senate
<b>HB 44 w/HA 1 (Griffith)</b>	This bill <b>eliminates all references to physical paper copies of professional licenses</b> for professions administrated by the Division of Professional Regulation. This bill would eliminate the need for the Division to print and mail over 80,000 paper licenses every two years thus cutting down on administrative and supply costs and eliminating unnecessary paper production and waste.	4.9.19 – Signed by Governor
<b>HB 52 (Collins)</b>  <b>*Society Opposes*</b>	The Act protects the life of the unborn child at a time when the potential for the child to survive outside the womb increases, especially with the advancement of medical procedures. Specifically, this <b>Act repeals the current sections of the Delaware Code relating to termination of human pregnancy and enacts The Pain-Capable Unborn Child Protection Act</b> . Substantial medical evidence exists that an unborn child is capable of experiencing pain by 20 weeks after fertilization. As set forth in this Act, the General Assembly has the constitutional authority to make this judgment under decisions by the U.S. Supreme Court decisions. In enacting The Pain-Capable Unborn Child Protection Act, Delaware is not asking the U.S. Supreme Court to overturn or replace the holding in Roe v. Wade. Rather, it asserts a separate and independent compelling state interest in unborn human life that exists once the unborn child is capable of experiencing pain.	4.17.19 – Tabled in Committee

<p><b>HB 53 (Collins)</b></p> <p><b>*Society Opposes*</b></p>	<p>This Act requires a physician to offer a patient ultrasound imaging and auscultation of fetal heart tone services before terminating a pregnancy and provides civil and criminal penalties for the failure of a physician to comply with this requirement. The patient is free to choose not to view the ultrasound or listen to the heartbeat. This Act is known as "<b>The Woman's Ultrasound Right to Know Act.</b>"</p>	<p>1.24.19 – Introduced and Assigned to Health &amp; Human Development Committee in House</p>
<p><b>HB 58 w/HA 1 (Shupe)</b></p>	<p>This act will increase the numbers of Delaware nursing students eligible for the <b>nursing incentive program</b> by allowing Delawareans pursuing nursing careers at non-profit hospitals located in Delaware to be eligible for the program.</p>	<p>4.11.19 – Assigned to Education Committee in Senate</p>
<p><b>HB 61 (Baumbach)</b></p>	<p>Benzodiazepine drugs that are approved for medical use in the United States are classified by the federal Drug Enforcement Agency as Schedule IV. Fourteen benzodiazepine drugs are currently listed on Schedule IV of the Uniform Controlled Substances Act, § 4720 of Title 16. Benzodiazepine drugs have a serious potential for abuse. This Act <b>adds both additional benzodiazepine drugs by name and the category of benzodiazepine drugs to Schedule IV of the Uniform Controlled Substances Act</b> so that all current and future benzodiazepine drugs are included on Schedule IV in Delaware, whether or not the specific drug is approved for medical use in the United States.</p>	<p>4.9.19 – Passed By Senate</p>
<p><b>HB 63 w/SA 2 (Lynn)</b></p>	<p>This Act <b>revises the crime of "unlawfully permitting a child access to a firearm," an existing class A misdemeanor under Delaware law.</b> The offense is renamed "unsafe storage of a firearm" to place emphasis on firearm safety and proper storage. Under the revised statute, a crime is committed when a person intentionally or recklessly stores or leaves a loaded firearm where a minor or other person prohibited by law, or "unauthorized person," can access the firearm, and the unauthorized person obtains the firearm. The unauthorized person's use of the firearm to inflict serious physical injury or death is not an element of the offense, but is an aggravating factor. For the purposes of this offense, "stores and leaves" does not include when firearm is carried by or under the control of the owner or another lawfully-authorized user. Under this Act, the offense is a class B misdemeanor if there are no aggravating circumstances. If, however, the unauthorized person uses the firearm to commit a crime, uses the firearm to inflict serious physical injury or death upon anyone, or transfers the firearm to another unauthorized person, the offense is a class A misdemeanor. It is an affirmative defense that the person stored the firearm in a locked container, disabled it with a tamper-resistant trigger lock, or stored it in a location a reasonable person would have thought was safe from access by unauthorized persons. This Act provides an exception for firearms manufactured in or before 1899, or a replica to such firearms, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition. This Act also makes technical changes to conform existing law to the standards of the Delaware Legislative Drafting Manual.</p>	<p>4.17.19 – Passed by Senate</p>
<p><b>HB 70 (Bush)</b></p>	<p>This Act would add a <b>fee schedule specific to requests made by insurance companies to the Department of Insurance for expedited service of charter documents, copies of documents on file in the Department, certification and affixing of official seals, and certified copies of insurer certificates of authority or of any license issued under Title 18.</b> This Act also requires the Insurance Commissioner to promulgate a rule to establish the timeframe during which requests must be received in order to receive expedited service. The Department of Insurance's Bureau of Examination, Rehabilitation and Guaranty routinely processes</p>	<p>3.13.19 – Reported Out of Economic Development/Banking/Insurance &amp; Commerce Committee</p>

	expedited requests to satisfy insurers' timelines. Currently, the Department of Insurance receives approximately 20 such requests per month. Implementing this fee schedule would help prioritize these kinds of requests, while adding an additional revenue to the General Fund.	
<b>HB 82 (Bentz)</b>	The bills <b>eliminates the requirement that an institution provide notary services to parents of new born children for the purpose of executing an acknowledgment of paternity.</b> This bill also eliminates the requirement that an acknowledgment of paternity be notarized and that it only be witnessed by someone who is not a parent or relative of either parent.	3.20.19 – Reported out of Health & Human Development Committee in House
<b>HB 89 (Matthews)</b>	This bill updates the members of the <b>Childhood Lead Poisoning Advisory Committee</b> to include additional stakeholders, and directs the Committee to report to the General Assembly on the effectiveness of the Act, ways to improve the Act, and other measures that should be taken by the State of Delaware to prevent lead poisoning in children	4.18.19 – Passed by Senate
<b>HB 91 w/HA 1 (Bentz)</b>	This Act <b>updates the definition of hospital, raises the fees associated with hospital licensing, and imposes an additional fee for plan reviews prior to construction or renovation of hospitals.</b>	4.24.19 - Assigned to Health & Social Services Committee in Senate
<b>HB 101 (K.Williams)</b>	This Act <b>requires high needs elementary schools, including high needs elementary charter schools, to have school-based health centers.</b> The State will pay the start-up costs for each school-based health center at 2 centers per year until each high needs elementary school has a center. High needs elementary schools are defined as any elementary school in the top quartile of 3 or more in percentage of low-income students, percentage of English learners, percentage of students with disabilities, percentage of minority students, or having 90% of its students classified as low-income, English learners, or minority. This act also allows high needs elementary schools having pre-existing school-based health centers to apply for reimbursement of previously expended funds necessary to establish said health center	3.28.19 - Assigned to Appropriations Committee in House
<b>HB 103 (Bentz)</b>	This <b>bill reflects in greater detail the work performed by DSAMH and ensures that DSAMH has the appropriate authority to license and oversee community mental health providers</b> as they do with SUD facilities. DSAMH essentially already does this when they draft their contracts, so providers are already required to meet their specific standards. This bill establishes uniform standards for providers.	4.16.19 - Assigned to Elections, Govt. & Community Affairs Committee in Senate
<b>HB 104 w/HA 1 (Bentz)</b>	This bill addresses the <b>Behavioral and Mental Health Commission</b> and functionally narrows its scope to peer review responsibilities. This <b>peer review function provides independent oversight to Delaware's mental health system</b> without authority to force changes on the State. Much of the current broader responsibilities of the larger Commission overlap with the Governor's Advisory Committee to DSAMH. The proposed changes do not replace or eliminate the Addiction Action Committee. This is merely to ensure that all commissions and committees have their own discrete area in which to focus.	3.21.19 - Introduced and Assigned to House Health & Human Development Committee
<b>HS 1 for HB 105 (Minor-Brown)</b>	Step therapy protocols are a mechanism by which health insurance companies require patients to try one or more prescriptions drugs before coverage is provided for the actual drug prescribed by the patient's health care provider. <b>This Act creates a Step Therapy Exception Process whereby patients who are required by their insurance company to go through step therapy protocols can, under certain circumstances, bypass step therapy to obtain the initially-prescribed medication.</b>	4.17.19 – Reported out of House Economic Development/Banking/Insurance & Commerce Committee

<b>HB 115 (Heffernan)</b>	This Bill requires Podiatrists, Dentists, Doctors, Nurses and Optometrists who issue prescriptions to utilize <b>electronic prescriptions</b> except under certain exceptions.	4.17.19 – Reported out of Sunset Committee in House
<b>HB 140 (Baumbach)</b>  <b>*Society Opposes*</b>	This Act <b>permits a terminally ill individual who is an adult resident of Delaware to request and self-administer medication to end the individual's life</b> in a humane and dignified manner if both the individual's attending physician and a consulting physician agree on the individual's diagnosis and prognosis and believe the individual has decision-making capacity, is making an informed decision, and is acting voluntarily.	5.2.19 – Introduced and assigned to Health & Human Development in House

<b>SENATE BILLS</b>		
<b>BILL NUMBER</b>	<b>SUMMARY</b>	<b>CURRENT STATUS</b>
<b>SB 15 (Lopez)</b>  <b>*Society Opposes*</b>	This Act, modeled on similar laws in Virginia and Maryland, <b>requires a health-care provider to provide notice to a patient at the time blood is drawn to perform a laboratory test for Lyme disease that explains the limitations of the test and instructs the patient to see their health-care provider if the patient continues to experience unexplained symptoms.</b> This Act is consumer and patient friendly.	4.17.19 – Reported out of Health & Social Services Committee in Senate
<b>SB 19 (Richardson)</b>  <b>*Society Opposes*</b>	This Act requires a physician to offer a patient ultrasound imaging and auscultation of fetal heart tone services before terminating a pregnancy and provides civil and criminal penalties for the failure of a physician to comply with this requirement. The patient is free to choose not to view the ultrasound or listen to the heartbeat. This Act is known as "The Woman's Ultrasound Right to Know Act."	1.24.19 - Introduced and Assigned to Sunset Committee in Senate
<b>SB 21 (Richardson)</b>  <b>*Society Opposes*</b>	The Act protects the life of the unborn child at a time when the potential for the child to survive outside the womb increases, especially with the advancement of medical procedures. Specifically, this Act <b>repeals the current sections of the Delaware Code relating to termination of human pregnancy and enacts The Pain-Capable Unborn Child Protection Act.</b> Substantial medical evidence exists that an unborn child is capable of experiencing pain by 20 weeks after fertilization. As set forth in this Act, the General Assembly has the constitutional authority to make this judgment under decisions by the U.S. Supreme Court decisions. In enacting The Pain-Capable Unborn Child Protection Act, Delaware is not asking the U.S. Supreme Court to overturn or replace the holding in Roe v. Wade. Rather, it asserts a separate and independent compelling state interest in unborn human life that exists once the unborn child is capable of experiencing pain.	1.24.19 - Introduced and Assigned to Sunset Committee in Senate
<b>SB 24 (Delcollo)</b>  <b>*Society Opposes*</b>	This Act <b>allows a patient to qualify for a valid registry identification card to purchase and use medical marijuana for any condition that a physician certifies that medical marijuana would likely provide a therapeutic or palliative benefit.</b> This Act removes the requirement that only certain specialists may certify the use of medical marijuana if the patient is younger than 18 years old. This Act retains the requirement that qualifying patients younger than 18 years old may only receive marijuana oil.	3.6.19 - Introduced and Assigned to Health & Social Services Committee in Senate
<b>SS1 for SB 25 (Townsend)</b>	This Act <b>restricts access to tobacco products and tobacco substitutes to individuals under age 21</b> by doing all of the following: 1. Prohibits sales of tobacco products or tobacco substitutes to individuals who are under 21. 2. Imposes a civil penalty for sales to individuals between the ages of 18 and 21. 3. Repeals the ability of a parent or guardian to purchase tobacco products or tobacco	4.17.19 – Signed by Governor

<p><b>*Society Supports*</b></p>	<p>substitutes for a minor. 4. Revises the framework by which an employer may use an affirmative defense to the improper sale of tobacco products or tobacco substitutes, aligning the affirmative defense with the minimum age increase. 5. Adopts best practices for enforcement measures by modifying the prohibition against the purchase of tobacco products by minors. 6. Prohibits individuals under age 21 from entering vapor establishments. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.</p>	
<p><b>SB 27 w/SA 1 (Walsh)</b></p>	<p>This Act, named the <b>Share the Care Act</b>, permits an individual employed by a personal assistance services agency to administer medications to an adult individual who resides in the individual's own home if a responsible caregiver does the following: 1. Authorizes the direct care worker to do so. 2. Prepackages the medication by date and time. 3. Provides written instructions regarding the administration procedure. 4. Enters into an agreement with a personal assistance services agency governing the administration of the medication by the direct care worker.</p>	<p>3.13.19 – Assigned to Sunset committee in House</p>
<p><b>SB 34 w/SA 1 (Hansen)</b></p>	<p>This Act creates a <b>Prescription Opioid Impact Fund ("Fund")</b> through a prescription opioid impact fee ("Fee") that is paid by pharmaceutical manufacturer. The anticipated revenue from the Fee is \$2.8 million in 2020, \$2.7 million in 2021, and \$2.5 million in 2022.: 1. The fee is based on the total of the Morphine Milligram Equivalent ("MME") in each manufacturer's products dispensed in Delaware, based upon data already reported to the Prescription Monitoring Program ("PMP"). The PMP data contains the mandatory reports by pharmacists of every prescription opioid dispensed in the State. The PMP data does not include prescription opioids administered in hospitals, provided directly to patients by hospice, or dispensed by veterinarians. 2. The fee is assessed on manufacturers who exceed a threshold of 100,000 MMEs dispensed each quarter. 3. The Fee is calculated at a rate of either 1 penny per MME for a name brand prescription opioid dispensed and reported in the PMP or ¼ of a penny per MME for a prescription opioid that is a generic. The Act also provides that Secretary of the Department of Health and Social Services, after receiving recommendations from the Behavioral Health Consortium, the Addiction Action Committee, and the Overdose System of Care Committee, will award grants and contracts from the money in the Fund for the following activities: 1. Opioid addiction prevention. 2. Opioid addiction services, including the following: 3. Inpatient and outpatient treatment programs and facilities, including short-term and long-term residential treatment programs and sober living facilities. 4. Treating substance use disorder for the under-insured and uninsured. 5. Emergency assistance relating to prescription opioids, including purchasing Naloxone. 6. Administrative costs of implementing the Fee and Fund, up to 15% of the amount in the Fund. Finally, this Act expires in 5 years, unless terminated sooner or extended by the General Assembly, so that the Fee is only continued if it is effective and is not creating negative unintended consequences.</p>	<p>4.11.19 –Assigned to Health &amp; Human Development Committee in Senate</p>
<p><b>SB 35 (Paradee)</b></p>	<p>This Act revises Delaware Insurance Code provisions related to the individual and group health insurance markets to <b>directly incorporate into Delaware law the Patient Protection and Affordable Care Act's consumer protections</b> related to the following: (1) The prohibition of preexisting condition provisions. (2) Guaranteed issue and availability of coverage. (3) Permissible rating factors. This Act also ties references in Delaware law to the Patient Protection and Affordable Care Act to that law as it was in effect on January 1, 2018. This ensures the ACA's core consumer protection provisions will remain in place during the uncertainty surrounding the ACA in light of recent court challenges. Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.</p>	<p>4.11.19 – Assigned to Banking, Business &amp; Insurance Committee in House</p>

<b>SB 59 (DelCollo)</b>	This Act <b>allows nurse practitioners and physician assistants to recommend medical marijuana</b> for patients. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.	3.21.19 - Introduced and Assigned to Senate Health & Social Services Committee
<b>SB 71 (DelCollo)</b>	This Act protects consumers from paying high prices for prescription drugs by ensuring competition in the marketplace by doing the following: 1. <b>Prohibiting a pharmacy benefit manager from requiring or providing an incentive for an insured individual to use a pharmacy in which the pharmacy benefit manager has an ownership interest.</b> 2. Requiring that a pharmacy must be owned by a pharmacist or by a majority of pharmacists if owned by an artificial entity. This ownership requirement is modelled on the same requirement in North Dakota law, enacted in 1963, which has kept North Dakota prescription prices among the lowest in the country and provides North Dakotans with more pharmacies per capita than the national average and a high level of care from locally owned pharmacies. This ownership requirement does not apply to current holders of a permit to operate a pharmacy or to hospital pharmacies that furnishes services only to patients and employees.	4.18.19 - Introduced and Assigned to Banking, Business & Insurance Committee in Senate

<b>Resolutions</b>		
<b>BILL NUMBER</b>	<b>SUMMARY</b>	<b>CURRENT STATUS</b>
<b>HCR 3</b>	DESIGNATING THE WEEK OF FEBRUARY 10 - 16, 2019 AS "CHILDREN OF ALCOHOLICS WEEK".	Passed
<b>HCR 4</b>	RECOGNIZING THE IMPORTANCE OF IMPROVING THE HEALTH AND SAFETY OF STUDENT ATHLETES.	Passed
<b>HCR 6</b>	RECOGNIZING THE MONTH OF JANUARY 2019 AS "HUMAN TRAFFICKING AWARENESS MONTH" IN DELAWARE.	Passed
<b>HCR 20</b>	RECOGNIZING THE MONTH OF APRIL 2017 AS "ALCOHOLISM AWARENESS MONTH" IN DELAWARE.	Passed
<b>SCR 6</b>	ENCOURAGING THE STATE TO APPLY FOR A STATE RELIEF AND EMPOWERMENT WAIVER UNDER SECTION 1332 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT TO CREATE A STATE REINSURANCE PROGRAM.	Passed
<b>SCR 11</b>	DESIGNATING THE MONTH OF MARCH AS "EATING DISORDERS AWARENESS AND PREVENTION MONTH" IN DELAWARE	Passed
<b>SCR 13</b>	RECOGNIZING FEBRUARY 12, 2019 AS "WORLD CHOLANGIOCARCINOMA DAY" IN DELAWARE.	Passed

If you have any questions, please contact Mark B. Thompson, Executive Director, [Mark.Thompson@medsocdel.org](mailto:Mark.Thompson@medsocdel.org), 302-444-6958, or Drew Wilson, [awilson@morrisjames.com](mailto:awilson@morrisjames.com), 302-888-6878. Version: March, 2019