

# THE LEGISLATIVE BULLETIN

A PUBLICATION OF THE VERMONT MEDICAL SOCIETY

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## Working for Vermont Physicians at the State House

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## MEDICAID PROGRAM IMPACTED BY CHALLENGES FOR CHANGE

The Vermont House passed the appropriations bill in late March resolving the \$154 million shortfall for fiscal year 2011 and setting aside \$62.5 million in federal Medicaid money for future demands on human services. The General Fund budget, which came in at \$1.074 billion, was balanced through cuts, government restructuring, labor savings, retirement savings, and changes in revenue.

However, a piece of the budget that was removed – the \$38 million Challenges for Change government restructuring plan – continues to be debated by the House of Representatives.

Early last week, the House Appropriation Committee introduced H.792, legislation related to the implementation of Challenges for Change. In the bill are the two Office of Vermont Health Access (OVHA) Medicaid-related initiatives that require legislation. In section 22 of the bill, OVHA will redirect the funds that are currently being paid to APS Healthcare to manage the state's Chronic Care Management Program to instead help fund the local community health teams under the Blueprint for Health. In its testimony, VMS expressed strong support for funding locally based community care teams that would work with primary care physicians as a part of the patient centered advanced medical home.

Under the second initiative found in section 23 of the legislation, OVHA is seeking legislative authority to create a Clinical Utilization Review Board (CURB) to examine existing medical services, emerging technologies and relevant evidence-based clinical practice guidelines and make recommendations to the department on the most appropriate mechanisms to implement the recommended clinical practice guidelines. The board is intended to mirror the existing Drug Utilization Review Board and will be comprised of 10 members with diverse medical experience to be appointed by the governor.

While the final authority for implementing the board's recommendations resides with the director of OHVA, any policies that are inconsistent with the board's recommendations would have to be reviewed by the board prior to implementation.

In its testimony, VMS offered numerous amendments that were accepted by the House Health Care Committee. These included moving the focus of the board away from utilization control to one of recommending evidence-based practice guidelines. In addition, VMS was successful in ensuring the board would be charged to consider the possible administrative burdens of potential recommendations on health care professionals and the feasibility of exempting from any prior authorization requirements those health care professionals whose prior authorization requests are routinely granted.

To review the full text of H.792, please go to:  
<http://www.leg.state.vt.us/database/status/status.cfm>

## BILL ALLOWING FOR NON-UNANIMOUS JURY VERDICTS PASSES SENATE

Legislation allowing for non-unanimous jury verdicts in civil cases has passed the Vermont Senate by a voice vote. However, House leadership has indicated to VMS that the bill is a low priority and is unlikely to be considered by the House before the legislature adjourns in early May.

VMS testified against the bill, S.279, due to concern that eliminating the unanimous requirement could lead to an increased number of cases that would otherwise be settled before being brought to trial. VMS also stated that the bill could have a direct impact on the cost of health care, since physicians may order additional diagnostic tests and make additional referrals to other physicians in order to reduce their potential exposure to lawsuits.

The bill, as introduced, eliminated the current standard of unanimous jury verdicts in civil cases and set a new lower 80 percent requirement and thereby would have allowed verdicts to be decided by 10 of the 12 jury members. However, in recommending the bill for adoption by the full Senate, the Judiciary Committee amended the bill by raising the verdict threshold from ten to eleven out of the twelve jurors, requiring the office of the court administrator to report on the implementation and effects of this act by Jan. 15, 2014, and, repealing the legislation on Jan. 15, 2015.

VMS continues to oppose S.279, since it believes there is not a clear and compelling reason to make the change and due to concerns that the lower verdict threshold has the potential to increase the number of civil cases going to trial.

### 2011 BUDGET DELIBERATIONS MOVE TO SENATE

The FY 2011 Appropriations Bill has passed the House and is being reviewed by the Senate Appropriations Committee. Although the House-passed version of the bill includes the prior authorization program for high tech imaging opposed by VMS, it did include the language VMS proposed that sets detailed standards and reporting requirements for the prior authorization process.

The budget also restored funding for loan repayment, the Area Health Education Center program and the tobacco prevention programs.

### VITAMIN TAX PASSED BY HOUSE

Vitamins would be subject to sales tax under H. 783 as passed by the House. The bill includes a provision that extends the sales tax to dietary supplements, which traditionally have been included in the sales tax exemption for food.

Although dietary supplements purchased by prescription would not be taxed, VMS members and others have expressed concern that this provision could discourage patients from using recommended over-the-counter supplements. The Senate Finance committee is reviewing the proposal.

### S. 88 SENATE PASSES BILL TO STUDY COMPREHENSIVE HEALTH CARE REFORM

Two Senate committees with different views on health care reform, the Health & Welfare Committee and the Appropriations Committee, resolved those differences last week and the full Senate approved the resulting compromise bill. The bill that passed the Senate directs the existing Legislative Health Care Reform Commission to contract with a consultant to develop at least three design options, including specific implementation plans, for comprehensive health care reform in Vermont. At least one of the options must be for a single-payer plan. All of the options would be presented to the legislature by next February.

The Senate-passed S.88 also imposes budget targets for hospital spending for FY 2011 and FY 2012, and new regulatory authority for BISHCA to impose limits on insurers' administrative costs.

The scope of the task for the consultant and commission is massive and the timeline for the work runs concurrently with implementation of the complex new federal health care reform law. The legislation includes a long list of topics to be reviewed by the consultant and commission, including:

- A review of prior legislative reports dating back to 1993, and Vermont's current reform efforts including Catamount, Blueprint and IT;
- Recommendations for payment methods and payment incentives, such as design of global budgets for all sectors of the delivery system;
- Recommendations for coordinated local delivery systems such as accountable care organizations (ACOs) that would provide a comprehensive package of health services; and,
- Recommendations to address obstacles to statewide reform created by federal laws such as ERISA and Medicare and ways to maximize federal funds.

The House Health Care Committee is marking up an amendment to S. 88 that will add a number of the initiatives that the House has been working to the bill.

## EASIER OUT-OF-STATE PRO BONO LICENSES DEBATED

To address concern that the complexity of the Vermont physician licensing process discourages physicians licensed in New Hampshire from applying for Vermont pro bono licenses, a free clinic contacted the Senate Government Operations committee to request legislative change. The clinic proposed that physicians licensed in New Hampshire who have credentials at one of three New Hampshire hospitals, should be granted pro bono Vermont licenses without further documentation. Currently, the licensing fee and interview are waived for applicants for pro-bono licenses; however, the completion of the application form and supporting documentation are required.

The Department of Health (DoH) and Vermont Board of Medical Practice (VBMP) raised concerns about establishing a two-tiered licensing process that they believe would offer less oversight and protection to Vermont patients who do not pay for their care.

To address the clinic's concerns, the VBMP offered to establish a button on its web site that would connect physicians with VBMP staff for individual assistance in applying for pro bono licenses. The Board also offered to work with the clinic to identify barriers that impede the process.

At its meeting on April 10, 2010, the VMS Council discussed this issue and directed staff to encourage DoH and VBMP to do everything possible to streamline the process for pro bono applicants.

## INPUT SOUGHT FOR VMS'S ANNUAL PHYSICIAN SURVEY

VMS is once again preparing its annual physician survey and would like to receive input from members on what questions the survey should ask.

Each year VMS conducts the survey in order to ensure that the organization's work reflects the concerns and priorities of the state's physicians. The results will help shape the organization's direction for the next year by serving as a guide for the VMS Priority Planning Retreat to be held on June 19th.

Questions from last year's survey, which can be viewed by visiting <http://www.vtmd.org/2009vmsphysiciansurvey.htm>, pertained to three key topics: physicians' satisfaction with their practice health and determinants, national health care reform and Vermont's health care priorities.

To suggest a question, contact Stephanie Winters at [swinters@vtmd.org](mailto:swinters@vtmd.org) or (802) 223-7898.

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The VMS is striving to communicate in the best way for each of our members! Let us know your thoughts and ideas!

Vermont Medical Society 197th Annual Meeting

Make your reservations today! Call 1-877-854-7625.

*(Make sure you tell them you are with the VMS)*

2010 Annual Meeting



Saturday, November 6, 2010

Equinox Hotel  
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