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Memorandum

To: Kate Franklin

From: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

Date: April 10, 2007

Re: 2007 General Assembly Wrap Up

The General Assembly adjourned Sine Die on April 9, 2007 without significant controversy or public policy advancement. It was the first year of the legislative term and Governor Martin O'Malley's initial year in office. Some would say that Governor O'Malley failed to advance a meaningful policy agenda and should have begun to address the significant structural deficit and looming fiscal crisis that will be upon the State in the coming year. Others would say that his cautious and deliberative approach to the beginning of his Administration demonstrates his commitment to establishing an excellent administrative team prior to launching an agenda and that in contradiction to his predecessor he is as focused on the administration of government as much as he is on new policy initiatives. Whatever one's perspective on the first year of this new term, it was by all accounts a session that produced little in the way of new policy and delayed all substantive consideration of how to address the State's impending fiscal crisis.

2008 will undoubtedly be a dramatically different session as new revenue sources and additional "belt-tightening" will be on the front burner for consideration. While the partisan wrangling of the previous four years is no longer evident, the ultimate assessment of whether the O'Malley administration and this General Assembly will be successful and able to work collaboratively remains to be seen and will be tested in the coming year. Raising new revenues, whether they are from the legalization of slot machines or the imposition of taxes or the combination of both will be an extraordinarily difficult challenge to accomplish and will challenge the relationships of the respective bodies regardless of the political affiliation.

With respect to issues of specific concern to the pediatric community, there were a number of successes and some disappointments. The most important success was the passage of Senate Bill 105/House Bill 140 (Statewide Advisory Commission on Immunization – Duties and Sunset Extension) was a Gubernatorial Initiative advanced on behalf of the Academy of Pediatrics. It requires the Statewide Advisory Commission on Immunizations to study the adoption of a universal purchase program for vaccines in the State or other mechanisms designed to increase

reimbursement for vaccines. It should provide a blueprint for the State to begin to address the challenging issues of affordability and availability of vaccines and the impact those issues have on pediatric practices and the patients they serve.

Efforts to expand health care to the uninsured funded by \$1 tax increase per pack of cigarettes was successful in the House of Delegates (House Bill 754) but died in the Senate solely because Senate leadership was not interested in passing a tax increase until next year when all budget issues were on the table. While this was a disappointment to those who were interested both in curbing tobacco use and funding health insurance for the uninsured, it is really a question of “when” this proposal will be enacted. Assuming that the structural budget crunch can be resolved next year, it is clear that there is a substantial appetite in the General Assembly to reduce the ranks of the uninsured in Maryland.

Perhaps one of the most unexpected victories was the passage of the Clean Indoor Act (Senate Bill 91/House Bill 359) which will forbid smoking in bars and restaurants as of February 1, 2008. At the beginning of the General Assembly Session, it was expected that this legislation would die but it was jump started by the actions of the Baltimore City Council in enacting a local ordinance in Baltimore. Once Baltimore enacted the legislation, the momentum for a statewide ban became palpable. After many years of trying, smoke free advocates were finally successful and achieved a well deserved victory.

The passage of House Bill 138/Senate Bill 107 (Task Force on Health Care Access and Reimbursement) was a Gubernatorial Proposal which creates a Task Force to study issues relating to health care access and physician reimbursement in the state. When signed by the Governor, it will create a 14 member Task Force to study issues relating to declining physician reimbursement and prepare a report for remedial action by December 2007.

Senate Bill 987/House Bill 1270 (Maryland HIV/AIDS Reporting Act) which transitioned Maryland from a unique identifier system of HIV reporting to a name based system. This change was necessary to maintain federal Ryan White program funding. Senate Bill 746/House Bill 781 (Human Immunodeficiency Virus – Test Counseling and Informed Consent – Review) was also enacted. It requires the AIDS Administration to convene relevant stakeholders to review and evaluate new CDC guidelines on HIV testing with recommendations for statutory changes due to the General Assembly before the 2008 Session.

Senate Bill 181/House Bill 30 (Oral Health Safety Net Program) establishes an Office of Oral Health within DHMH, provides for a Dentist to be hired and creates a grant program for community based initiatives that enhance access to needed dental services.

Medicaid HMOs (MCOs) will now be required to follow the retroactive reimbursement rules followed by commercial HMOs in Maryland (House Bill 1082 sponsored by Delegate James Hubbard). Passage of this legislation will also assure the coordination of benefits between MCOs and commercial carriers which had not been occurring because of the failure of commercial payers to recognize MCOs.

The advancement of a school mandate for the HPC vaccine was halted not long after its introduction. The introduction of the legislation coincided with an immunization requirement fiasco in several Maryland jurisdictions related to a Hepatitis B and chicken pox vaccine requirement for middle school children. Hundreds of middle school children had failed to receive their vaccines and were prohibited from attending school. As a result of that controversy, and concurrent concerns about availability and affordability expressed by the provider community the bill was withdrawn. Legislation was then introduced to create a Taskforce to study the issue and report back prior to the next legislative session. Ultimately this legislation (Senate Bill 774/House Bill 1049 – Cervical Cancer Committee – HPV Vaccine Subcommittee) was enacted. The bill was amended from its original structure as a stand alone taskforce and was enacted as a separate subcommittee of the existing Cervical Cancer Committee. The membership of the Committee is defined in the legislation and includes the various constituencies that would have a stake in the implementation of a school mandate.

The State's interest in creating a statewide FIMR was frustrated by an attempt to turn the proposed legislation into a debate on the collection of abortion statistics. The Department is hopeful it can achieve its objects either without legislation or through a different mechanism in the coming session.

Efforts to mandate specific requirements for physical education failed again in the House Ways and Means Committee. It is unlikely this initiative will be successful until the link between academic performance and physical education is better understood and accepted by school officials and the legislators. There is a mistaken belief that these requirements can only be accomplished by lengthening the school day. There is little if any recognition that performance in other areas could be enhanced and time lessened in exchange for more physical education time. Obesity is an issue but academic performance and physical education is the link that will move this legislation.

The child advocacy centers advanced legislation that would have amended the Centers for Excellence program enacted by the Academy a few years ago. The legislation to the Academy by surprise but efforts were made to address their concerns. Acceptable amendments were agreed upon but ultimately the sponsor withdrew the legislation. It is anticipated that these issues may arise again next year.

The Coalition to End Childhood Lead Poisoning advanced legislation that the Academy supported. It largely focused on additional advances in relocation and lead remediation. It was an omnibus bill that was heavily amended but passed by the House. In the Senate the bill failed in the final days of the session for failure to get the necessary 6 votes required to move it out of Committee. It will also be revisited during the next legislative session.

Efforts to implement CDC's YRBSS survey statewide (SB 9) was amended to require MSDE and DHMH in conjunction with other stakeholders to evaluate the impact of schools on administering surveys, the desirability and feasibility of combining/incorporating existing surveys into one survey instrument, coordination of survey administration, the collection of statistically valid data and other issues relative to student surveys. There was a strong push to incorporate requirements for passive as opposed to active consent for surveys. Significant

resistance was raised by certain constituencies relative to passive consent, largely because of concerns about sexual questions or other questions regarding risk behaviors. Significant focus on educating legislators on the need for and benefit of statistically significant data will need to occur if passive consent is to be adopted statewide. It remains a work in progress.

House Bill 524 (Workgroup on Cultural Competency and Workforce Development for Mental Health Professionals) creates a workgroup in the Office of Minority Health to look at mechanisms for addressing cultural competency and workforce shortage issues in the mental health area.

House Bill 979 (Health Information Exchange Pilot Program) was amended to establish a pilot project for developing a health information exchange where doctors could review electronic medical records relating to a patient.