

SENATE FINANCE COMMITTEE
LOG NOTES
01/18/01

GENERAL SUBJECT(S):

Overview: Update on Federal and State Medical Issues
American Medical Association

The following overview was taken in log note format. Tapes and handouts will be on file with the Senate Finance Committee through the 21st Legislative Session, contact 465-4935. After the 22nd Legislative session they will be available through the Legislative Library at 465-3808.

Time Meeting Convened: 9:05 AM

Tape(s): SFC-01 # 3, Side A

	PRESENT:
x	Senator Donley
x	Senator Kelly
x	Senator Austerman
	Senator Green
x	Senator Hoffman
x	Senator Leman
x	Senator Olsen
x	Senator Ward
x	Senator Wilken

ALSO PRESENT:
JIM JORDAN; Executive Director, Alaska State Medical Association
PETER LAWRASON, MD; President, Alaska State Medical Association
DONALD J PALMISANO MD, JD; Member, Board of Trustees, American Medical Association
BECKY DADURA, Attorney, Advocacy Resource Center, American Medical Association

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LOG	SPEAKER	DISCUSSION
0	Co-Chair Kelly	<p>Introduction</p> <p>Medical professionals in the capital, so I invited them to update the Committee on the status of medical issues</p> <p>Noted that the entire membership of the Senate Health and Social Services Committee, which also have an interest in this matter, also serve on this Committee.</p>
34	<p>Jim Jordan; Executive Director, Alaska State Medical Association</p>	Introduced speakers
46	<p>Peter Lawrason, MD; President, Alaska State Medical Association</p>	<p>OB/GYN practicing in Fairbanks</p> <p>Hoping the Committee will consider SB 37, Physicians Negotiations With Health Insurer.</p> <p>Listed the credentials of Dr. Pamisano, including law degree. General and vascular surgeon in New Orleans, Louisiana, Member, American Medical Association (AMA) Board of Trustees, Member, AMA Executive Committee and it's board, the finance committee and Chair of its Compensation Committee. Former president, Louisiana State Medical Association and serves as AMA's point person on privacy confidentiality as well as anti-trust reform to allow negotiations by self-employed physicians.</p> <p>Listed credentials of Becky Dadura, Attorney, AMA's Advocacy Resource Center, who also testified before the Committee the previous year.</p>
95	<p>Donald J Palmisano MD, JD; Member, Board of Trustees, American Medical Association</p>	<p>Discussed with medical students that this is an exciting time in medicine with the gene projects and the potential for curing many diseases during their lifetimes.</p>
118		<p>Spoke of potential future system of identifying and curing patient with cystic fibrosis through gene technology</p>
124		<p>Technical advances allow us to diagnose and cure conditions quicker as opposed to only being able to offer comfort.</p>
130		<p>Other side is issues that impede the process</p> <p>On national level, there is an increase in regulations and increased burdens on practicing physicians</p> <p>Interference with the patient/physician relationship by many insurance companies. AMA position on insurance is a "system of plurality"</p> <p>We are in favor of "letting the patients be</p>

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		<p>in control" AMA favors letting them chose the doctor and insurance companies</p>
141		<p>Have seen the rise in large companies that have interfered and presenting "take it or leave it "contracts to doctors. Physicians look at the contracts and see onerous problems, such as the different types of offerings. Insurance making the decision for patients and doctors</p>
148		<p>Physicians are forced in the position to have to deny care to patients when the physician believes the patient needs care. Physicians are finding they are not effective patient advocates. Insurance companies control so much of the market place that a physician has no choice. If the physician quits the plan, the physician is unable to care for his or her patients.</p>
160		<p>Meanwhile, more regulations are coming out. There is a big issue of privacy before the US Congress currently. AMA believes patients have a right to privacy and they should control the information that the physician has in his or her chart. We see wholesale transfer of this information by insurance companies for reasons other than health care.</p>
170		<p>Congress had to take action on this matter by a certain date, but failed. As a result, the regulatory branch issued in December, 1535 pages, much of which is commentary, but over 600 pages of regulations, that we are studying to see what affect it will have. There are many entities that "escape". Life insurance companies are exempt from the privacy information requirement and can still transfer information for marketing purposes.</p>
180		<p>Patient safety issue - we want every patient to be safe. We founded the National Patient Safety Foundation, with several other organizations. Has been very successful. The Institute of Medicine report, "To Err is Human" repeatedly mentions the good work of the foundation. Concerned about regulations that focus on punishment of the physicians who cause the</p>

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		errors. That will not work.
188		<p>Need a culture of candor, truth and sharing of information.</p> <p>Over 20 states have mandatory reporting but nothing is being done with that information.</p> <p>Not enough to collect information.</p> <p>Need someone knowledgeable about the analysis of that information to ask what is the system that set the physician or nurse up for that problem.</p> <p>The Joint Commission on Accreditation of Health Care Organizations, which the AMA places seven members on, has come out with standards for hospitals.</p> <p>They are saying that regardless of whether you have voluntary or mandatory reporting, the information has to be confidential, shared and analyzed properly.</p>
202		Seeing a number of practices closing down in California, which we told Congress when we testified on HR 1304
210		HR 1304 passed with overwhelming bipartisan support in the US House of Representatives but couldn't get through the Senate
217		Things at national and state level affect the treatment of the patient
222		<p>AMA believes two things must happen at the state and federal level</p> <p>1. Meaningful patients bill of rights</p> <p>We have hopes that such a bill will actually pass this congressional session.</p>
231		<p>2. There has to be an ability for individual practitioners who are not eligible to join a collective bargaining unit on the National Labor Relations Act, to get together to say "this is hurting my patient, this is inappropriate and needs to be changed" without the fear of anti-trust</p>
239		Supreme Court in 1943 decided, "if the state action doctrine, (if a state actually passes a law allowing these negotiations, and also actively supervising it) then the matter doesn't fit under the national Sherman/Clayton Act.
243		<p>Long term solution is to make sure everyone is insured, particularly children.</p> <p>43 million people are not insured, including 11 million children.</p> <p>Our website details a system that changes the framework of insurance.</p> <p>Instead of the employer having to decide between staying in business and converting to offering managed care to their</p>

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		<p>employers. Instead, we propose a system where the employer makes defined contributions that would allow individual employee to have the choice to choose the type of insurance policy. Employee who pays more to get higher coverage would get a tax credit.</p>
273		<p>Meanwhile problem with patients being denied care by insurance company and physicians having to go through hoops to provide care. We think SB 37 would give physicians the opportunity to advocate for their patients, which is their ethical obligation. We think the bill would benefit the people of this state and would be an example around the nation.</p>
		<p>Texas and Washington State have laws similar to that we are proposing. Washington DC almost had a bill, but ran out of time and are reintroducing it again this year. Over a dozen states introducing similar legislation.</p>
289		<p>Would like to get something done at national level but we can't wait. Patients are the ones suffering.</p>
294	Co-Chair Kelly	<p>Texas legislation: we referred to that several times last year. What is the status of that law? Explain bill before this legislature the previous session that protected doctors from some provisions of the anti-trust law when negotiating with insurance companies.</p>
304	Dr. Palmisano	<p>Texas law was passed but then ran into obstruction in its implementation</p>
308	Becky Dadura, Attorney, Advocacy Resource Center, American Medical Association	<p>Law passed then went through lengthy regulatory process, completed last Spring. Caused consternation because they are onerous. Potential for similar situation in other states as well that adopt similar laws. Oversight authority with attorney general in Texas. Political implications with last year's presidential election. Concern is that regulations would actually serve as a deterrent with physicians who may want to utilize the law. The way the regulations are written, applications would never be complete. We are drafting revisions to the law to streamline the regulations. Will keep you apprised.</p>

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341	Co-Chair Kelly	So the Texas law concept was not flawed but rather conflicts between its legislature and executive branch
345	Ms. Dadura	Correct. The bill sponsor and other Texas legislators wrote a letter to the attorney general stating, we think you are exceeding the scope of your authority. Your regulations go far beyond just implementing the law and in fact are writing additional law. Regulations written do not allow physician to use the law in the manner it was crafted.
256	Senator Ward	Is there already tightened language proposed for the Texas law that we could use here, to avoid having to go through the same regulatory problems?
366	Ms. Dadura	Intent of the legislation is very clear. Texas legislature plan is to limit the regulatory process to the language in the statute. Won't necessarily benefit other states, rather a matter of the political dynamics in that state. More a reflection on how the regulatory process works in that state
380	Senator Ward	Any generalized language to keep that from happening in the first place?
392	Ms. Dadura	That has not happened yet. They are considering vesting the oversight authority of this law with a different agency. They have not considered any specific language for this issue.
399	Co-Chair Kelly	We will look to you to watch that case so we can prevent similar problems here.
402	Ms. Dadura	Have looked at other states and found it is very specific to how each state handles its regulatory authority.
411	Co-Chair Kelly	Even though we do not have the legislation before us, I did not want to miss the opportunity to meet with you and have you speak to the Committee.
414	Senator Hoffman	Patient bill of rights - do you know what Senator Hillary Rodham Clinton's position is on your proposal?
420	Dr. Palmisano	Our belief is that bill would have been signed by the Clinton Administration. Issue raised in presidential debate where Al Gore challenged George W. Bush. President-Elect Bush responded that he signed the bill in Texas and would also sign a national law.

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		Regarding Senator Clinton, we think she would support, although she hasn't stated such publicly. Only opposition has been raised by the insurance industry who has spent a lot of money fighting this
439	Co-Chair Kelly	600 pages of commentary on one bill?
441	Dr. Palmisano	Yes. There are different interpretations of what they mean.
446	Co-Chair Kelly	So the medical community is getting overwhelmed with regulations?
449	Dr. Palmisano	No question. We have fought to have the fraud and abuse statutes in the "American spirit of fair play so the physician is not considered guilty - people swoop into your office, take your records. You would be astounded that such things happen." We are against fraud, but the regulations have become so burdensome. Relayed experience with own practice and the amount of paperwork necessary to meet regulations. New physicians will be unable to afford to establish their own practices. Relayed instance of prohibition of waiving co-payment for those patients who cannot afford it. Physicians who do this are accused of fraud. Relayed instance of emergency situation with a patient and the difficulty getting insurance approval for hospitalization. Difficulty in getting to speak to another physician at the insurance company to fully explain situation. If he went to the patient telling of the insurance approval difficulty, this would have caused more stress leading to a possible stroke in this instance.
516	Co-Chair Kelly	
517	Dr. Palmisano	Wish to leave written information that further details.
520	Co-Chair Kelly	Adjourn 9:44 AM