

2011 Virginia General Assembly Legislative Summary

The 2011 session of the Virginia General Assembly ended a day late on Sunday, February 27th. As usual, the budget was the cause of delay. However, unlike in previous years when the House and Senate could not agree on how much to cut from the budget this delay was caused by disagreement over how to spend "surplus" money. The last several revenue reports have all been rather rosy indicating that the Commonwealth's economy is well on its way to recovery. After rather austere cuts in the original budget passed last year, Delegates and Senators had the opportunity of mitigating some of those cuts. Health care and K-12 education were the main beneficiaries of the Commonwealth's increased prosperity. Cuts to physicians, dentists, pharmacists, nurse practitioners, hospitals, and long-term care were mostly restored. VPhA actively monitored 54 bills during the 2011 session that would have impacted the practice or business of pharmacy.

Pharmacy saw the following actions in the budget:

- Medicaid reimbursement for brand medications
 - Proposal to slash reimbursement to AWP-17.43% was defeated.
 - Reimbursement will stand at AWP-13.1% on July 1, 2011
- Medicaid dispensing fee for brands and generics
 - 2010 budget included a dispensing fee reduction to \$3.50 which was slated to begin July 1, 2011.
 - This cut was removed. Dispensing fee will remain at \$3.75.

Bills impacting pharmacy that passed during the 2011 session

(will go into effect on July 1, 2011 unless otherwise stated)

- **HB 2220: Pharmacies; Mandatory CQI Program**
Date of start: will go into effect once regulations are adopted by Board of Pharmacy
 - Requires that pharmacies shall implement a program for continuous quality improvement
 - Board of Pharmacy will produce regulations regarding the requirements for the program
 - Such program shall provide for a systematic, ongoing process of analysis of dispensing errors that uses findings to formulate an appropriate response and to develop or improve pharmacy systems and workflow processes designed to prevent or reduce future errors.
 - Note: Any pharmacy that actively reports to a patient safety organization that has as its primary mission continuous quality improvement under the Patient Safety and Quality Improvement Act of 2005 (P.L. 109-41), shall be deemed in compliance with this section.
 - Non-resident pharmacies doing business with Virginians are required to be in compliance as well
- **HB 2255 and SB 1029: Disclosure of Health Care Records, Providers Who Dispense**
 - Will allow a pharmacist to re-disclose information obtained from the Prescription Monitoring Program to another prescriber or dispenser who has prescribed or dispensed a covered substance to a recipient.
- **HB 2256 and SB 1150: Schedule II Drugs; ID for Filling Prescriptions**
 - Alters last year's law for more flexibility for C-II pick-ups for patients and pharmacies
 - Adds "agent" as an entity who can identify and log information. Could be a technician or a clerk, designated by the pharmacist.
 - If patient or individual picking up prescription is known to the pharmacist or his/her agent, ID is not required and information (name/address/scanning of ID) does not need to be completed.
 - If individual picking up prescription is NOT known to the pharmacist or his/her agent, ID required and must either make a photocopy or electronic copy of such person's identification or record the full name and address of such person.
 - Records to be kept for one month (not one year).

- **HB 2464:** Drug Control Act; Conforms Schedule IIs
 - Conforms Virginia's Schedule IIs with the DEA's Schedule IIs
- **SB 742:** Neighborhood Assistance Tax Credits; Pharmacists
 - A pharmacist who donates pharmaceutical services* to patients of a free clinic (an organization exempt from taxation under the provisions of § 501(c)(3) of the Internal Revenue Code) shall be eligible for tax credits under this article based on the time spent in providing such pharmaceutical services, regardless of where the services are delivered.
 - *Such pharmaceutical services must be performed at the direction of an approved neighborhood organization that has received an allocation of tax credits from the Commissioner of the State Department of Social Services.
- **SB 1096:** Pharmacies; Access to PMP
 - Nothing shall prevent a pharmacist who is eligible to receive information from the Prescription Monitoring Program from requesting and receiving such information
 - No pharmacy shall be required to maintain Internet access to the Prescription Monitoring Program. The PMP can also be accessed by Fax request. Note: fax requests are not real-time and are not operational outside of normal office hours.

Defeated bills that would have impacted pharmacy

(bills in odd-numbered years cannot be carried over to next session.)

- **HB 1966:** Pharmacists; voluntary reporting
 - Current law allows for health professionals and the public to report licensed and registered providers for any number of issues to protect public health.
 - Bill was redundant for what is currently in law, and did not include other health providers outside of pharmacy practice
- **SB 878:** Pseudoephedrine; Prescription Required
 - Would have classified pseudoephedrine as a Schedule III
 - Bill was defeated in Senate Education and Health committee
- **SB 879:** Pharmacy Freedom of Choice; Conforms to North Carolina's Code
 - Would have replaced Virginia's Freedom of Choice language with North Carolina's language.
 - VPhA to work on an altered bill during the off-session
 - Bill was left in Senate Commerce and Labor committee
- **SB 1286:** Medicaid; managed care
 - Would have directed the Department of Medical Assistance Services (DMAS) to continue efforts to expand managed care of Medicaid recipients throughout the Commonwealth, to the extent possible.
 - Goal of achieving statewide managed care by July 1, 2012.
 - Bill was left in Senate Education and Health
- **SB 1420:** Controlled Substances; Mandatory Reporting by Prescriber and Dispenser
 - Would have amended language currently in law to make it mandatory that prescribers and dispensers report to local law enforcement if one suspects that a person has obtained or attempted to obtain a controlled substance or prescription for a controlled substance by fraud or deceit.
 - Currently allowed, but optional.

*For all bills that VPhA monitored in the 2011 session, please visit:
www.virginiapharmacists.org and click on the Government Affairs button.*