



# Legislative Wrap-Up

07.01.08

## MAG Celebrates Many Successes Following 2008 Session

The Medical Association of Georgia (MAG) further solidified its role as a leader in the legislative arena in the State of Georgia during the 2008 legislative session given the results on a number of priority issues for MAG ...

- **Certificate of Need (CON) Reform** – MAG joined Gov. Sonny Purdue, other state leaders, and a number of specialty societies to drive CON reform in Georgia. Effective July 1, SB 433 will preserve the exemption for physician-owned facilities, expand the definition of single specialty to include general surgery, and increase the threshold for physician-owned exempt ambulatory surgery centers.
- **Care Management Organization (CMO) Reform** – MAG was instrumental in reforming the CMO/Medicaid system in Georgia with HB 1234, which includes restrictions on the ability of a CMO to recoup payment from a physician if he or she properly verified the eligibility of the patient as a Medicaid recipient. The bill also mandates that physicians be paid for newborn care until the newborn is discharged from the hospital.
- **The Uninsured** – MAG worked hand-in-hand with legislators and other stakeholders to pass HB 977, enabling the Commissioner of Insurance to promote the availability of Health Savings Account eligible High Deductible Health Plans to the 1.7 million Georgians without health insurance. These plans include health and wellness programs for patients and encourage consumers to take personal responsibility for their health care.
- **Tort Reform** – Since the passage of tort reform in 2005, MAG has been a leader in addressing many legislative efforts aimed at stripping away the provisions of tort reform (SB 3). Preserving the strides that have been made in tort reform will continue to be a legislative priority for MAG.
- **Trauma Funding** – MAG played an important advocacy role in improving the trauma network in the state, as Gov. Perdue added nearly \$59 million to the state's supplemental budget for reimbursing physicians, EMS and hospitals for trauma expenses. Creating a sustainable funding mechanism for the state's trauma network will be a legislative priority in 2009.

MAG also used the legislative arena to remove physician services from the “tax on professional services” plan and to increase Medicaid funding and to head off moves to encroach on the physician’s scope of practice.

In the 2008 session, MAG monitored 276 bills that were related to health care and actively engaged in 79 bills. A brief synopsis of priority issues and actions/deliberations follows:

### **Protect Tort Reform**

#### **SB 286: Sen. Seth Harp (R-Midland)**

MAG Position: Oppose

Outcome: Did not pass

Comments: Would have reduced the standard of care for medical malpractice actions arising from an emergency setting. Would also have undermined SB 3, the comprehensive tort reform package that was passed in 2005.

### **Certificate of Need Reform**

#### **HB 151: Rep. John Lunsford (R-McDonough)**

MAG Position: Support

Outcome: Did not pass

Comments: As first introduced, HB 151 would have permitted changes in appointing members of hospital authority boards at the local level. Was amended in the Senate Health Committee to create the DCH Health Strategies Advisory Council. Would have provided for membership on the council by a physician of a surgical specialty, including general surgery – demonstrating that the legislature recognizes general surgery as a single medical specialty.

#### **HB 210: Rep. Austin Scott (R-Tifton)**

MAG Position: Oppose as drafted

Outcome: Did not pass

Comments: Comprehensive CON reform bill that included the CON Commission consensus items. While MAG did not support the measure given its opposition to a number of those consensus items, it did work with Rep. Scott and other physician groups to create the final CON reform package that was signed into law.

#### **HB 249: Rep. Ron Stephens (R-Savannah)**

MAG Position: Oppose as drafted

Outcome: Did not pass

Comments: Was the House CON reform bill for the Cancer Treatment Centers of America. MAG opposed the measure because the exception that would have been created would not apply to physician-owned facilities.

#### **HB 263: Rep. Jill Chambers (R-Atlanta)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have repealed Georgia’s CON program.

**HB 337: Rep. Tom Graves (R-Ranger)**

MAG position: Support

Outcome: Did not pass

Comments: Would have recognized general surgeons as a single medical specialty for the purpose of the physician-owned exemption from the CON process (letter of non-reviewability, or LNR).

**HB 376: Rep. Tom Rice (R-Norcross)**

MAG Position: Support

Outcome: Did not pass

Comments: Contained MAG's key CON reform elements (preservation of the exemption for physician-owned facilities; elimination of the cap on investment; recognition of general surgeons as a single-medical specialty for purposes of physician-owned facilities).

**120HB 568: Rep. Rich Golick (R-Smyrna)**

MAG Position: Support

Outcome: Did not pass

Comments: Gov. Sonny Perdue's comprehensive CON reform proposal.

**HB 581: Rep. Mickey Channell (R-Greensboro)**

MAG Position: Opposed

Outcome: Did not pass

Comments: Comprehensive CON reform proposal supported by the hospital industry.

**SB 53: Sen. Tommie Williams (R-Lyons)**

MAG Position: Oppose as drafted

Outcome: Did not pass

Comments: Senate CON reform bill for Cancer Treatment Centers of America. MAG opposed the measure because the resulting exception would not apply to physician-owned facilities.

**SB 164: Sen. Don Balfour (R-Snellville)**

MAG Position: Oppose

Outcome: Did not pass

Comments: Comprehensive CON reform legislation that included consensus items from the CON commission, as well as other hospital industry-supported provisions.

**SB 189: Sen. Don Thomas (R-Dalton)**

MAG Position: Support

Outcome: Did not pass

Comments: Contained MAG's key CON reform objectives (preservation of the exemption for physician-owned facilities; elimination of the cap on investment; recognition of general surgeons as a single medical specialty for purposes of physician-owned facilities).

**SB 296: Sen. Bill Hamrick (R-Carrollton)**

MAG Position: Support

Outcome: Did not pass

Comments: CON reform legislation that promoted MAG objectives.

**SB 433: Sen. Tommie Williams (R-Lyons)**

MAG Position: Support

Outcome: Passed, signed by Gov. Perdue on April 9, and goes into effect on July 1, 2008.

Comments: Created an alternative review process for “destination cancer hospitals”. Includes MAG-endorsed goals of retaining the exemption for physician-owned facilities, expanding the definition of single specialty to include general surgery, and increasing the threshold for physician-owned exempt ambulatory surgery centers (ASC).

**SB 490: Sen. Joseph Carter (R-Tifton)**

MAG Position: Neutral

Outcome: Did not pass

Comments: CON legislation designed to accommodate skilled nursing facilities. Provisions were incorporated into SB 433.

**SB 539: Sen. Don Thomas (R-Dalton)**

MAG Position: Neutral

Outcome: Did not pass

Comments: CON reform designed to accommodate Critical Care Retirement Centers. Provisions were incorporated into SB 433.

### **Tax Reform**

**HR 900, HR 1246, HB 979: Rep. Glenn Richardson (R-Hiram)**

MAG Position: Neutral as substituted

Outcome: Did not pass

Comments: As originally drafted, HR 900 would have replaced all ad valorem taxes with a tax on goods and services. However, the final version would have been limited to removing the ad valorem tax on vehicles and restricted property tax increases. MAG worked diligently to have physicians removed from the “tax on services” proposals prior to the 2008 session.

### **Trauma Funding**

**HB 1158: Rep. Ron Stephens (R-Savannah)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have added \$10 to each automobile tag registration in Georgia to fund the statewide trauma network, contingent on the enactment of a property tax reform constitutional amendment that would have replaced the ad-valorem tax on vehicles with a car tag fee. The measure was on separate tracks in the House and Senate; consensus could not be reached on tax cut proposals, and a trauma funding mechanism did not pass.

**SB 125: Sen. Ronnie Chance (R-Tyrone)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have increased the fines for speeding violations to fund the trauma network.

**SB 394: Sen. Renee Unterman (R-Buford)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have used 50 percent of the funds collected for red-light camera violations to fund the trauma network.

**HB 973: Rep. Harry Geisinger (R-Roswell)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have placed a \$1 fee on cell phones to fund the trauma network.

**HB 1028: Rep. Tom Rice (R-Norcross)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have used 20 percent of the out-of-country wire transfer fees to fund the trauma network.

### **Care Management Organizations**

**HB 1234: Rep. Mickey Channell (R-Greensboro)/Sen. Greg Goggans (R-Douglas)**

MAG Position: Support

Outcome: Passed; Signed by the Governor on May 13, 2008.

Comments: With broad legislative support, reforms the Care Management Organization/Medicaid system in Georgia, which will restrict the ability of a CMO to recoup payment from a physician if he or she properly verified the eligibility of the patient as a Medicaid recipient. The bill also mandates that physicians be paid for newborn care until the newborn is discharged from the hospital.

### **Budget**

**HB 989: (FY '08 Supplemental Budget)**

MAG Position: Support

Outcome: Passed

Comments: Gov. Purdue added \$53 million to the supplemental budget for the purpose of reimbursing trauma expenses for physicians, EMS and hospitals to improve the trauma network – which was later increased to \$58.9 million to provide funds for trauma-related capital equipment, including ambulances and emergency medical helicopters.

**HB 909: (FY '09 Budget)**

MAG position: Support

Outcome: Passed

Comments: The FY 2009 budget includes \$9.5 million for Medicaid reimbursement rate increases. The new maximum allowable reimbursement is 80 percent of the 2007 Resource Based Relative Value Scale (RBRVS) as specified by Medicare for the Atlanta area for participating Medicare providers. This will not be applicable to CPT codes 99296, 99294, 99299, 99300, 99431, 99298, 99436, 99433, 92586, 99440, 31500, 76811, 76820, 99238, 99293, 59409, 76819, 59515 and 59514. Global maternity delivery rates were increased by five percent – or \$1.2 million – and Healthcheck reimbursement rates were increased by 2.5 percent.

## The Uninsured

### **HB 977: Rep. Tom Knox (R-Cumming)**

MAG Position: Support

Outcome: Passed; Signed by the Governor on May 7, 2008

Comments: Enables the Commissioner of Insurance to promote Health Savings Account eligible High Deductible Health Plans, which include health and wellness programs for patients and tax incentives for insurance companies and employers. Will address some 500,000 of Georgia's 1.7 million uninsured citizens.

### **SB 404: Sen. Tommie Williams (R-Lyons)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have enacted the "Georgia Health Marketplace Act" to provide consumers with access to a wide range of information, including health care products (e.g., PeachCare), Department of Community Health initiatives, traditional small group and individual plans, health care savings accounts, and health services provided directly by physicians.

## Insurance

### **SB 109: Sen. Ralph Hudgens (R-Hull)**

MAG Position: Support

Outcome: Failed

Comments: A TPA/Prompt Pay measure, SB 109 passed the Senate by a vote of 48-1 in 2007. In 2008, the measure passed the House of Representatives with a Committee substitute by a vote of 139-4. This year's session ended before the Senate could agree to the House substitute.

### **HB 378: Rep. Robert Mumford (R-Conyers)**

MAG Position: Oppose

Outcome: Did not pass

Comments: Required Medical malpractice insurers to file rates, rating plans, rating systems and underwriting rules. Also required medical malpractice insurers to file reports and information on specific losses with physicians.

### **HB 798: Rep. Austin Scott (R-Tifton)**

MAG Position: Support

Outcome: Did not pass

Comments: Allowed the Commissioner of Insurance to regulate any person or entity acting as a Pharmacy Benefits Manager. MAG testified in support of this bill.

### **HB 923: Rep. Carl Rogers (R-Gainesville)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have required that health insurance companies obtain approval from the Commissioner of Insurance before implementing premium price increases. The measure also promoted greater competition in the individual health insurance market. MAG testified in support of the bill.

**HB 1278: Rep. David Ralston (R-Blue Ridge)**

MAG Position: Oppose

Outcome: Did not pass

Comments: Reduced the out-of-network benefits paid to a physician from a health insurer under a PPO plan. MAG testified in opposition to the bill, and MAG prevented the measure from being attached to other bills during the session.

**SB 73: Sen. David Shafer (R-Duluth)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have allowed the Commissioner of Insurance to require that carriers give Managed Care Plan enrollees at least 30 calendar days notification prior to the termination of a physician or the facility contract and empowered the Commissioner of Insurance to require coverage for an additional 60 days.

**SB 338: Sen. Jack Murphy (R-Cumming)**

MAG Position: Support

Outcome: Did not pass

Comments: Prohibited a health insurer from requiring prior approval for prescription drugs on a patient's formulary.

**SB 401: Sen. Cecil Staton (R-Macon)**

MAG Position: Support

Outcome: Did not pass

Comments: Provided that agency interpretations of rules and regulations and policies prevail in the investigation of improper payment of claims by health care providers. MAG advocated that agency interpretations of rules and policies related to health care provider contracts be examined pursuant to contract law.

## Scope of Practice

### Pharmacy

**HB 127: Rep. Charlice Byrd (R-Woodstock)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have prohibited pharmacists from substituting of one epileptic medication with another without the consent of the prescribing physician. MAG staff and MAG member physicians testified in support of HB 127 on a number of occasions.

**HB 1042: Rep. Sharon Cooper (R-Marietta)**

MAG Position: Neutral

Outcome: Did not pass

Comments: Would have prohibited pharmacists from substituting drugs prescribed to patients undergoing immunosuppressive therapy.

**HB 367: Rep. Earl Carter (R-Pooler)**

MAG Position: Oppose/Support

Outcome: Did not pass

Comments: Would have originally permitted pharmacists to engage in therapeutic substitution if the prescribed drug was not on the patient's payer's formulary – which MAG opposed. The bill was amended to require that health plans cover a 10-day supply of prescribed medication if the drug was not on the patient's payer's formulary and the therapeutic substitution language was removed; MAG subsequently changed its position and supported the bill. MAG also took steps to ensure that the HB 367 did not become a vehicle for other insurance provisions. The legislative session ended before a consensus bill could make its way to a conference committee.

### Medical Lasers

**SB 498: Sen. John Wiles (R-Marietta); HB 1328 Rep. Calvin Hill (R-Canton)**

MAG Position: Support

Outcome: Did not pass

Comments: HB 528 was introduced in 2007 to create categories of laser technicians and to provide a mechanism for the licensure and regulation through the Composite State Board of Medical Examiners. MAG opposed this bill as it would have allowed laser technicians to practice using medical lasers without appropriate physician supervision. Identical bills – SB 498 and HB 1328 – were put forth to address this concern in 2008, but both stalled in the House Regulated Industries Committee.

### Psychologists

**HB 397: Rep. Clay Cox (R-Atlanta)**

MAG Position: Oppose

Outcome: Did not pass.

Comments: Would have allowed psychologists (certified to prescribe medications) to administer, order, and prescribe drugs for the diagnosis, care, and treatment of mental or nervous disorders or illnesses – including laboratory tests performed in concert with the prescription. The bill was tabled in committee in 2007 and was not reconsidered in 2008.

### Pathology Billing

**HB 342: Rep. Bill Hembree (R-Winston)**

MAG Position: Oppose

Outcome: Did not pass

Comments: Having stalled in the House Insurance Committee in 2007, HB 342 passed the committee but stalled in the House Rules Committee in 2008. Pathology interests sought to include the bill in other legislation without success. The measure was opposed by the Georgia Academy of Family Physicians, the Georgia Obstetrics and Gynecology Society, the Georgia Chapter of the American Society of Internal Medicine, the Georgia Society of Dermatologists and the American Academy of Dermatology, as well as MAG.

**HB 92: Rep. Melvin Everson (R-Snellville)**

MAG Position: Oppose/Support (compromise reached)

Outcome: Did not pass

Comments: Would have allowed the licensure of micropigmentation technicians who provide permanent cosmetic tattooing around the human eye.

### **Vehicle Safety**

**SB 86: Sen. Don Thomas (R-Dalton)**

MAG position: Support

Outcome: Did not pass

Comments: Would have required passengers in pickups to wear a seat belt.

### **Advanced Directives**

**HB 343: Rep. Pat Gardner (R-Atlanta)**

MAG Position: Did not support as drafted

Outcome: Did not pass

Comments: Would have created a psychiatric advanced directive. While MAG wasn't opposed to an advanced directive tailored specifically for psychiatric patients, MAG did have significant concerns with the manner in which HB 343 was drafted.

### **Vital Records**

**HB 111: Rep. Austin Scott (R-Tifton)**

MAG Position: Neutral

Outcome: Passed

Comments: Permits delayed certificates of birth to be filed with probate courts in addition to superior courts.

**SB 381: Sen. Dan Weber (R-Dunwoody)**

MAG Position: Neutral

Outcome: Passed

Comments: Allows the parent of stillborn children to request a birth certificate from the office of vital records.

### **Hospitals**

**HB 906: Sen. John Lunsford (R-McDonough)**

MAG Position: Neutral

Outcome: Did not pass

Comments: Would have placed a six percent indigent care requirement on nonprofit hospitals; failure to comply for two consecutive years would have resulted in a facility losing its tax-exempt status.

**SB 549: Sen. Don Thomas (R-Dalton)**

MAG Position: Neutral

Outcome: Passed

Comments: Established different levels of stroke centers and stroke center designation.

## Other Issues

### **HB 235: Rep. David Ralston (R-Blue Ridge)**

MAG Position: Neutral

Outcome: Failed

Comments: Would have expanded the universe of persons authorized to consent to medical/surgical treatment for incapacitated people to include grandparents, grandchildren, aunts, uncles, nieces, nephews, and others.

### **HB 455: Rep. Ron Stephens (R-Savannah)**

MAG Position: Support

Outcome: Did not pass

Comments: Would have created a prescription drug monitoring program to prevent the abuse and unlawful diversion of controlled substances. MAG worked with the bill's author to address some areas of concern and ultimately testified in support of the bill.