

MAINE MEDICAL ASSOCIATION
2017 ANNUAL REPORT OF THE COMMITTEE ON LEGISLATION
by
Katherine Pope, M.D. and Stephen Meister, M.D., Co-Chairs

The 186 members of the 128th Maine Legislature conducted their First Regular Session at the State House in Augusta from January 4th to July 20th and returned for a “veto day” on August 2nd when they adjourned *sine die*.

In January, Republican Governor Paul R. LePage began the final two years of his second term and continued his combative posture with the new legislature. Republicans maintained control of the Maine Senate and narrowed the Democrats’ control of the Maine House. The Maine Senate now is composed of 18 Republicans and 17 Democrats and Republican Michael Thibodeau (R-Waldo) returns as the Senate President. The Maine House now is composed of 75 Democrats, 71 Republicans, 5 independent or unenrolled members. Democrat Sara Gideon (D-Freeport) was elected Speaker replacing Mark Eves who was prevented from running again by term limits.

The 128th Maine Legislature includes three physicians, all returning incumbents. The senior member of the “physician caucus” is Senator Geoffrey Gratwick, M.D. (D–Senate District 9, Bangor & Hermon) and he is a retired rheumatologist serving his third term in the Senate who sits on the Environment & Natural Resources Committee. The two physician members of the Maine House are Representative Patricia Hymanson, M.D. (D–House District 4, Ogunquit and parts of Wells, York, & Sanford) and Representative Heidi Brooks, M.D. (D–House District 61, part of Lewiston). Representative Hymanson is a retired neurologist who serves as the House Chair of the Health & Human Services Committee and Representative Brooks is trained as a family physician and she sits on the Insurance & Financial Services Committee. Both representatives are serving their second terms. The current legislature also includes an APRN with whom the MMA has enjoyed working on several important health policy matters, including the enabling legislation for the Controlled Substances Prescription Monitoring Program (PMP) – Representative Anne Perry (D-House District 140, Calais).

Governor LePage submitted his State FY 2018-2019 biennial budget proposal in early January and, consistent with his past budget submissions to the legislature, it reflected his policy priorities, including reversal of the 3% income tax surcharge on household incomes greater than \$200,000, continued cuts in health and social service programs in the name of “welfare reform,” and the shift of tobacco settlement money in the *Fund for a Healthy Maine* to the general MaineCare budget. Largely because of health and social service program cuts enacted on the Governor’s recommendation during his first three biennial budget cycles, negotiations of this biennial budget (L.D. 390) did not take place in the context of a state fiscal crisis. As is common during the First Regular Session of each legislature, biennial budget negotiations among members of the Appropriations Committee and the legislative leadership occupied most of the session and resulted in a brief shutdown of state government when the Governor

and the Legislature could not agree on a budget by midnight on June 30, 2017. The shutdown ended in the early morning hours of July 4th when the Governor and Legislative leadership reached an agreement on repeal of the 3% income tax surcharge and \$162 million in additional funding for K-12 education. The final budget deal avoided most of the cuts directly affecting Maine physicians, including cuts in hospital reimbursement and MaineCare eligibility, and the final budget could have been much worse. But, MMA remains concerned particularly about the virtual dismantling of the state's public health infrastructure.

The opioid crisis in the state remained in the forefront of legislative attention with perhaps more bills submitted on this topic than any other. The legislature also passed a *Joint Order, Establishing the Task Force to Address the Opioid Crisis in the State* (S.P. 210), a study group composed of legislators and private sector stakeholders. The physician representatives on the Task Force are Senator Geoffrey Gratwick, M.D., MMA EVP Gordon Smith, Steve Diaz, M.D., and Vernon "Tripp" Gardner, M.D. The Task Force has met several times and made a preliminary report to the legislature this Spring. The Task Force is expected to make another report with recommendations to the legislature at the end of this year and before the start of the next legislative session. The legislature also has expressed a renewed, bi-partisan interest in health care reform through the Insurance & Financial Services Committee's passage of a *Joint Study Order, to Establish the Task Force on Health Care Coverage for All of Maine* (S.P. 592). This study requires private sector funding to proceed.

We believe that it was a successful session for the MMA and Maine physicians during a very difficult political environment and we would like to thank all the MMA members who contributed to our advocacy activities this year - - Legislative Committee members, participants in our weekly conference calls (participation was excellent, with wide representation from a number of specialties), those who served as "Doctor of the Day" at the State House, witnesses at legislative public hearings, and contributors to the *Maine Physicians Action Fund*, the MMA's affiliated political action committee. All of you made substantial contributions to a successful year of advocacy for physicians and patients in the legislature and executive branch agencies. We would also like to thank the MMA staff for their competent guidance of our advocacy efforts.

Because of the political landscape of divided government, the MMA's proactive legislative agenda for the 128th Maine Legislature was purposely modest. MMA expected to be heavily involved in the biennial budget process and to continue our work on the State's response to the opioid drug crisis.

During the 2-year cycle of each legislature, the MMA Legislative Committee tracks more than 350 bills of interest to Maine physicians and their patients. The Legislative Committee met once in late 2016 to assess the coming session and determine its legislative agenda and then held conference calls to brief members on new bills and legislative action weekly during the session. The Legislative Committee also conducted a forum for members with key legislators on two bills (L.D.s 347 and 1066) on "physician-assisted dying." Governor LePage was expected to veto any such bill, but neither were enacted by the legislature. The MMA collaborated with the Maine Osteopathic Association to

present a successful *Physicians Day at the Legislature* in May. Some examples of legislation of interest to Maine physicians enacted this session will:

- Eliminate the physician exemption from jury duty (L.D. 46) [MMA opposed]
- Authorize a Chief Medical Officer (CMO) or Medical Director of a hospital to access PMP reports for their employed physicians (L.D. 184) [MMA supported]
- Permit podiatrists to conduct pre-surgical history and physical examination of patients for procedures currently within their scope of practice (L.D. 132) [MMA supported]
- Address various issues with the comprehensive opioid prescribing law (P.L. 2015, Chapter 488) enacted by the 127th Legislature and (L.D.s 273, 1031, and 1363) [MMA supported]
- Encourage consumers/patients to comparison “shop” for medical services based on price (L.D. 445) [MMA negotiated best result possible]
- Require a health care entity including individual health care practitioners who prescribe opioid medication to have an “opioid medication policy” in place by January 1, 2018. (L.D. 479) [MMA supported final version]
- Allow physical therapists to do blood tests for diabetes during home care visits (L.D. 801) [MMA monitored]
- Establish state standards for pharmaceutical and medical device manufacturers’ marketing to physicians (L.D. 911) [MMA supported final version]
- Authorize visiting sports team physicians to treat their team members without holding a Maine license (L.D. 985) [MMA supported]
- Restore public health nursing services (L.D. 1108) [MMA supported]
- Enable CRNA to provide anesthesia services in a Critical Access Hospitals or hospital in a rural area without supervision by an anesthesiologist. (L.D. 1166) [MMA supported final version]
- Elevate the age for purchase of tobacco products from 18 to 21 (L.D. 1170) [MMA supported]
- Prohibit physician licensing boards from using ABMS “maintenance of certification” as a criterion for licensure. (L.D. 1200) [MMA supported]
- Adopt the interstate medical licensure compact (L.D. 1359) [MMA monitored]
- Define “direct primary care agreements.” (L.D. 1385) [MMA supported]
- Adopt the interstate nurse licensure compact (L.D. 1410) [MMA monitored]
- Give Maine EMS the ability to continue community paramedicine projects beyond a pilot phase. (L.D. 1427) [MMA supported final version]
- Protect patients from “surprise bills” from out-of-network clinicians providing services in in-network hospitals. (L.D. 1557) [MMA negotiated best result possible]
- Authorize pharmacists to dispense naloxone pursuant to rules adopted by the Board of Pharmacy until July 1, 2019. (L.D. 1594) [MMA supported]

- Provides a process for including certain information about methadone treatment in the PMP (L.D. 1619) [MMA supported]

Most bills become effective 90 days after adjournment of the legislature and that date is November 1, 2017. Emergency legislation becomes effective immediately upon the Governor's signature and some bills include a specific effective date.

Some key bills carried over for consideration during the Second Regular Session beginning in January 2018 include those to enhance the funding in the Doctors for Maine's Future Program (L.D. 503), further address the opioid crisis (L.D.s 565, 605, 812, 1063, 1429, and 1430), re-dispense drugs (L.D. 1273), establish additional standards for prior authorization and utilization review by health insurance carriers (L.D. 1032), and requiring health insurance coverage for long term antibiotic treatment for Lyme disease (L.D. 1417). You can find details of any of these bills by using the "Bill Status" tab on the Maine legislature's web site, www.legislature.maine.gov.

Later this Fall, the Legislative Council will consider new bill requests from legislators that they believe are of a fiscal or "emergency" nature and should be considered during the Second Regular Session. The MMA staff has prepared a PowerPoint summary of the highlights of the First Regular Session of the 128th Legislature and are available to provide a legislative update presentation to physician groups upon request.

For more information about the MMA's advocacy work, please contact us or staff members Gordon, Andy, or Peter. If you are interested in participating in the MMA's advocacy work in 2018, look in the *Maine Medicine Weekly Update* for a notice of the next organizational meeting of the Legislative Committee to be scheduled in late November or early December.