



Weekly Policy Highlights

For week ending February 5, 2010

Key Committee Codes:

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| B&T = Senate Budget and Taxation | APR = House Appropriations |
| EHEA = Senate Education, Health & Environmental Affairs | ECM = House Economic Matters |
| FIN = Senate Finance Committee | ENV = House Environmental Matters |
| JPR = Senate Judicial Proceedings Committee | HGO = House Health & Government Operations |
| | JUD = House Judiciary Committee |

All bills can be reviewed under the General Assembly Website at www.mlis.state.md.us by clicking “Bill Information and Status”. Type the bill number by SB or HB plus the bill number (e.g., SB101 or HB9).

2010 GENERAL ASSEMBLY SESSION NEWS --

BUDGET NEWS –

Medicaid Budget Hearings are scheduled for February 18th (House) and February 22nd (Senate). It is unclear how the budget committees will consider the Budget Reconciliation and Refinancing Act of 2010, which contains the increase in the provider tax for nursing facilities that LifeSpan is opposing.

INTRODUCED BILLS:

Affected Industry	Business Bills	Comments	Hearing Date
All	SB106/HB92 Labor and Employment – Job Creation and Recovery Tax Credit. This is an	Monitor	2/2 – S

	emergency bill by the Governor to create a \$20 million program that allows a qualified employer who hires a qualified employee between January 1, 2010 – December 31, 2010 to obtain a \$3000 tax credit per employee, not to exceed \$250,000 per employer. Bill defines qualified employee and qualified employer.		2/4 - H
All – reviewed 1/15/10 by LPC	SB107/HB91 Labor and Employment – Unemployment Insurance – Modernization and Tax Relief Act. This is a Governor’s emergency bill. The preamble of the bill states that the Fund’s solvency is at risk through 2010. \$126.8 million is available from the federal government if Maryland meets certain modernization incentives by September 30, 2011. This bill adopts an alternative base period, adjusting how the state determines a claimant’s monetary eligibility and employer charges. Base period would include the 4 most recently completed calendar quarters immediately preceding the start of the benefit year only if the individual applying doesn’t qualify under existing benefits. The bill also makes alterations to the definition of part-time worker that passed last Session; authorizes a one-year shift from Table F to Table E; reduces the interest rate of 1.5% to 1% per month or part of the month from the date a contribution or reimbursement payment is due and unpaid; and extends benefits for 26-weeks for individuals enrolled in training programs if the individual is separated from employment in a “declining” occupation and being trained in a “demand” occupation. NOTE: The Maryland Chamber of Commerce opposes this bill on the basis that the short-term relief is outweighed by the long-term liabilities.	Monitor	1/26 – S 1/28 – H
All	SB110 Labor and Employment – Job and Financial Privacy Protection Act. This bill states that an employer may not request a credit report from an applicant for employment or an employee unless: (1) the request has a bona fide work-related purpose; or (2) the employer is required to request the credit report under federal or state law. The Commissioner (Department of Labor, Licensing and Regulation must adopt regulations specifying what is a bona fide work-related purpose. If an employer denies employment to an applicant or discharges an employee because of a credit report received by the employer the applicant or employee may bring an action for injunctive relief, damages, or other relief.	Monitor	
All	SB300: Unemployment Insurance – Contributions – Installment Payment Options. This is an emergency bill. This bill allows an employer to pay unemployment insurance contributions for the calendar year 2010 in monthly or quarterly installments. Within 20 days of enactment, the Secretary of Labor must notify employing units of this option.	According to a small business group, this bill simply allows the employer a choice to pay monthly or quarterly in addition to the annual payments	2/4

		currently being done. This has been introduced because of the large increase in tax.	
All	SB312: Labor and Employment – Credit Reports and Credit Histories of Applicants and Employees – Limitations on Use by Employers. This bill states that an employer may not use an applicant’s or employee’s credit report or credit history in determining whether to deny employment, discharge employment or determine compensation. The employer may consider the applicant’s credit report or history if the applicant has received an employment offer and the history or report is for a reason other than those already prohibited or for a bona fide work related purpose. If an employer violates this section, the applicant or employee may bring an action for injunctive relief, damages or other relief.	Monitor	
All	HB214/SB695: Labor and Employment – Wage Payment and Collection Law – Definition of Wage: This bill amends the Wage laws to state that “wage” includes “overtime wages.”	According to the small business association, when there is a judgment, the employer must pay all wages, which doesn’t include overtime wages. The small business association is monitoring because of the fairness implications of the bill.	2/10
All	HB175: Labor and Employment - Credit Reports and Credit Histories of Applicants and Employees – Limitations on Use by Employers. This bill does not apply to an employer that is required to inquire into an applicant’s or employee’s credit report or credit history under federal law or any provision of state law for the purpose of employment; or a financial institution where deposits are insured by a federal agency that has jurisdiction over the financial institution. An employer may not use an applicant’s or employee’s credit report or credit history in determining whether to: (1) deny employment to the applicant; (2) discharge the employee; or (3) determine compensation or the terms, conditions, or privileges of employment. An employer may request or consider an applicant’s credit report or credit history if: (i) 1. The applicant has received an offer of employment; and 2. The credit report or credit history will be used for a purpose other than those prohibited by subsection (b) of this section; or (ii) the request has a bona fide work-related	Monitor	2/10

	purpose. If an employer violates this section, the applicant or employee may bring an action for injunctive relief, damages, or other relief.		
All	HB370: Labor and Employment – Payment of Wages. This bill stipulates that each employer must pay each employee at least once in every two weeks or twice in each month the regular full wage earned for each pay period on all paydays that fall within any given year.	Getting More Information	2/10
All	HB381: Workplace Religious Freedom Act. This bill is a reintroduction of last Session. This bill prohibits an employer from prohibiting an employee from using leave to observe a Sabbath or other holy day in accordance with a sincerely held religious belief. An employer that can demonstrate to the Commission of Labor that reasonable accommodations to comply with the requirements of this section would cause an undue hardship is exempt from this Section.	Oppose	2/10
Affected Industry	Health Care Bills	Comments	
All	SB9 – Health – Duty to Report Death – Requirement and Penalties. This bill would apply only to an individual who: (1) has permanent or temporary custody or responsibility for the supervision or care of the individual who is the deceased; (2) is a spouse, parent, or adult child of the deceased; or (3) is a member of the household of the deceased. An individual who has personal knowledge of the death of another individual or who has personally discovered the body of another individual shall provide, in person or by telephone, notice of the death within 24 hours after acquiring personal knowledge or discovery of the death to: (1) a law enforcement officer as defined in § 3–101 of 15 the public safety article; (2) a physician who has provided medical treatment to the deceased individual within 30 days prior to the knowledge or discovery of the death; (3) a 9–1–1 system or public safety answering point as those terms are defined in § 1–301 of the public safety article; or (4) a medical examiner.	No Position	
Nursing Facilities	SB141/HB151: Budget Reconciliation and Financing Act of 2010. This bill contains the increase to the Nursing Facility Quality Assessment Program has described above in the “Budget News.”	Oppose Provider Tax Increase	
Nursing Facilities	SB144/HB137: State Board of Examinations of Nursing Home Administrators – Sunset Review and Evaluation. This bill extends the Board from 2013 to 2017.	No Position	1/26 – H 2/4 - S

All Medicaid Providers	<p>SB 187: Maryland False Claims Act. The Governor will be releasing a bill to create a Maryland False Claims Act.</p> <p>SB279HB525: Maryland False Claims Act of 2010. This is the Governor’s bill. For the last two years, this bill has died on the Senate floor. Meetings have been occurring on this bill since the beginning of Session, invitation only. The two main provisions that health care providers have expressed concern over include: (1) the definition of “knowing or knowingly” because it states that a provider does not need to have the specific intent to defraud but only an actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information or acts in reckless disregard of the truth or falsity of the information; and (2) “qui tam” provision that allows an individual to bring a private cause of action even if the government does not pursue an action.</p>	A committee has been formed to review this bill. LifeSpan has expressed its concern to the Department regarding the “knowingly” definition and the “qui tam” provision.	2/23 – S 3/10 - H
Housing	SB263/HB587: Creation of State Debt – Maryland Affordable Housing Trust. This bill authorizes a \$2 million State loan to the Maryland Affordable Housing Trust.	Support	
Assisted Living	SB265: Assisted Living Programs – Elevator Installation – Exemption. This bill is a reintroduction from last Session. This bill exempts an assisted living program with five or fewer beds that is licensed by the Department of Health and Mental Hygiene from the registration and inspection requirements for installing an elevator. The Commissioner of Labor and Industry may adopt regulations to enhance the safety of elevator units in these facilities.	No Position	
All	<p>SB266/HB302: State Board of Nursing – Membership – Nominations for Vacancies.</p> <ul style="list-style-type: none"> • This bill increases the membership to include one more registered nurse. The composition would now be 8 RNs, 3 LPNs and 2 consumers. Currently, of the RNs, one must be in an advanced practice nursing specialty, one must be a baccalaureate nursing educator with, at least, a master’s in nursing or education, one must be a practical nursing educator with, at least, a bachelor’s degree in nursing or education, one must be a nurse administrator with, at least, a master’s degree in nursing administration, education or public health and 2 shall be nurse clinicians with at least a master’s in nursing or public health. • As far as the education requirements, this bill would allow the nurse administrator slot to have a master’s degree also in business administration or business management. It would also add the requirement that one should be a currently practicing nurse who has practiced acute care for at least 5 years with a bachelor’s in nursing. • The bill also requires that for the RN certified in an advance practice nursing specialty, the vacancy should rotate between nurse anesthetist, nurse practitioner, nurse midwife and nurse psychotherapist. • The bill also expands the organizations that can submit numbers to the Governor to include not only the Maryland Nurses Association but any other professional nursing organization that represents at least 25 licensed registered nurses or a valid petition submitted to the 	LifeSpan will be drafting amendments to broaden the membership to a Director of Nursing from a nursing facility and a delegating nurse in assisted living. Will also be examining other ways to interject more practical experience in the Board rather than the education aspect.	2/10 – S 2/11 - H

	<p>Secretary and the Governor by an RN with an active license. The same provision applies for the licensed practical nurses, except the organization must have at least 25 licensed practical nurses.</p> <ul style="list-style-type: none"> • Any petition submitted must have at least 25 signatures of support from nurses with active licenses in the State. • Lastly, the bill states that a member who is appointed after a term has begun may serve an additional two consecutive full terms rather than the current requirement that the member only serves for the rest of the term and until a successor is appointed and qualifies. 		
All Medicaid Providers	<p>SB429/HB278: Maryland Medical Assistance Program – Medical Eligibility for Nursing Facility Level of Care. This bill requires DHMH to determine that an individual is medically eligible for nursing facility services or for a nursing facility level of care under the Program if the individual requires, on a regular basis, health-related services above the level of room and board. If an individual does not demonstrate the clinical need for health-related services above the level of room and board on a regular basis, DHMH must permit the individual to submit additional information for clinical review to demonstrate eligibility under applicable federal or State regulations. Definitions include:</p> <ul style="list-style-type: none"> • ADL = bathing, dressing, mobility, transfer, toileting or continence and eating; • Health-Related Services Above the Level of Room and Board = Care of an individual who requires hands-on assistance to perform adequately and safety 2 or more ADLs as a result of a current medical condition or disability; supervision of an individual’s performance of 2 or more ADLs for an individual with cognitive deficits, as indicated by a score of 15 or less on the mini-mental status evaluation or equivalent determination by a licensed, physician psychologist or certified social worker-clinical and who is in need of assistance with at least three IDLs; or supervision of an individual’s performance of 2 or more ADLs combined with the need for supervision of or redirection for an individual who exhibits at least 2 of the following behaviors – wandering several times a day, hallucinations or delusions at least weekly, aggressive or abusive behavior several times a week, disruptive or socially inappropriate behavior several times a week or self injurious behavior. 	Support	2/16 – S 2/18 - H
All	<p>SB309/HB483: Uniform Power of Attorney Act. Note: This is a 48 page bill that completely revises the laws relating to durable powers of attorney. Staff is still reviewing this bill.</p> <p>SB519: Maryland General and Limited Power of Attorney Act (Loretta’s Law): This bill also makes substantial changes to the durable powers of attorney law.</p>	Hold	
Chronic Hospitals	<p>SB328: Hospitals – Financial Assistance and Debt Collection. This bill alters the requirements for hospital financial assistance and debt collection policies and makes the requirements applicable to chronic care hospitals that are subject to rates set by the Health Services Cost Review</p>	No Position	

	Commission (HSCRC).		
All	HB179: State Board of Nursing – Temporary License – Issuance. This bill allows the Board to issue a temporary license when an applicant has passed an examination for RN or LPN but is waiting for a criminal history background check.	No Position	
Nursing Facilities and CCRC	HB384/SB655: Task Force to Study Financial Matters Relating to LTC Facilities – Extension. This bill extends this Task Force until January 1, 2010 to January 1, 2012. The reason for the extension is that the Governor just made appointments to this Task Force this month. Several LifeSpan representatives will be serving on this Task Force, which will examine trends in ownership, impact of ownership on quality of care, whether there should be limitations or restrictions on certain types of ownership, whether LTC facilities should be required to have liability insurance and whether any laws should be amended.	Support Letter	2/16 - H
All	SB484/HB319: State Board of Nursing – Nurse Practitioners – Certification Requirements and Authority to Practice. This bill authorizes nurse practitioners the ability to practice independently. As part of their scope of practice, nurse practitioners would be authorized to refer an individual to an appropriate licensed physician or other health care provider and admit an individual to a hospital or nursing facility. The bill states that an HMO must allow access to a nurse practitioner similar to a physician. NOTE: This bill has traditionally been opposed by Med Chi, the physician’s association.	No Position	2/11 - H
NF and AL	HB536: Department of Aging – Long-Term Care Ombudsman Program: This bill looks to implement several recommendations contained in the comprehensive report on the Long-Term Care Ombudsman Program that was released in March 2009. The report found various flaws in Maryland’s Ombudsman Program, including: (1) having the State Long-Term Care Ombudsman report directly to the Secretary of Aging; (2) merging smaller county offices into larger offices; (3) no central program governance; (4) understaffed offices; (5) uneven distribution of funds for the program; and (6) improved recruitment of volunteers (only 103 volunteers used in Maryland primarily in two jurisdictions). The report also questioned the amount of complaints and issues brought forth by the facilities rather than residents and the lack of advocacy by the ombudsman for systems change. This bill provides a general structure for redesigning the ombudsman program. The bill states that: (1) the Secretary must appoint the State Long-Term Care Ombudsman; (2) the State Long-Term Care Ombudsman personally administers the office; and (3) lists the duties of the Ombudsman’s office. The Secretary must adopt regulations to establish requirements for training and designating ombudsmen as well as confidentiality and privacy of complainants. An ombudsman must have access to long-term care facilities and residents as well as the necessary medical and social records of a resident if the ombudsman has the permission of the resident or resident’s legal representative. If the legal representative will not give permission, the ombudsman	LifeSpan recommends amending the statewide uniform reporting system to ensure that the facilities not be required to submit reports, etc. In addition, in developing regulations, the Secretary should have to convene a workgroup and also report to the General Assembly on the recommendations.	2/16

	<p>may examine the records after receiving approval of the State Long-Term Care Ombudsman and believes the legal representative is not acting in the best interest of the resident. The report also states that the Secretary must establish and maintain a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and to residents.</p>		
<p>ALL</p>	<p>SB 632/HB624: Registered Nurses, Licensed Practical Nurses, Nursing Assistants and Medication Technicians – Changes to Licensure Requirements. This bill states that, in addition to the licensee, the Board can review an applicant to an appropriate examination by a health care provider if the Board believes that the applicant may cause harm to individuals affected by the applicant’s practice of nursing. Refusal is prima facie evidence of the applicant’s inability to practice nursing competently. This applies to CNAs and med techs as well.</p> <p>This bill broadens the exemptions for needing a license to practice as an LPN or RN to an individual who has taken and passed a required examination but is waiting for the completion of the criminal history record information as well as an individual who provides gratuitous care for friends and family. Specifies that the examination for a certified nurse practitioner, registered nurse or LPN must be developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council rather than simply “approved by the Board.” Acceptable proof of proficiency in the oral communication of the English language will now include completion of at least five years of practicing nursing in another state or territory of the U.S. Removes that the Board should give examinations to applicants at least once each year calendar year.</p> <p>The bill provides that each new licensee must be issued a license number and registration certificate that indicates that the initial license was issued by the Board and electronically record each license in the Board’s database and on the Board’s website – this also extends to CNAs and medication technicians. The Board must also record the inactive status on the Board’s database and on the Board’s website.</p> <p>Three months before a license expires, the Board must send to the licensee a renewal notice by first-class mail to the last known mailing address or electronic means to the last known electronic address – this applies to CNAs and med techs. The Board must also send information for initiating the criminal history records check if necessary for licenses and med techs and CNAs. This bill allows a license for nurse practitioner, RN or LPN to be renewed by paper or electronically.</p> <p>Increases from 10 to 12 years for a criminal history records check.</p>	<p>Support, but extend criminal history records check to CNAs. LifeSpan recommends raising the issues of the database used by the Board and the delays being experienced in having applications on-line.</p>	

	<p>A certificate holder has 60 days to notify the Board of any change in name or address.</p> <p>Removes reference to a skilled nursing assistant, which is a CNA who may perform additional tasks based on the successful completion of a Board-approved supplemental training program.</p>		
	<p>HB627: Health Occupations Boards and Committees – Consumer Member Requirements. This bill prohibits a consumer member of a Board or committee from being or being in the past a health care professional or in training to be a health care professional. The person may not have a household member who is a health care professional or in training to be a health care professional and may not participate or ever have participated in a commercial or professional field related to the jurisdiction of the Board of committee or have a household member who participates in a commercial or professional related field or have, or have had within 2 years before appointment, a substantial financial interest in a person regulated by the Board or committee.</p>	Getting More Information	
	<p>HB706/SB751: Nursing Facilities – Medical Assistance Program – Rights. This is a LifeSpan/HFAM bill which originated after speaking with Attorney General Doug Gansler. The bill broadens the actions that a court can take if a person fails to comply with a court order directing them to pay the determination determined available by DHR or a to apply for Medicaid or cooperate fully with Medicaid. The court can now, after 14 days, find the nursing facility civilly liable to the nursing facility for \$20K, the cost of care billed by the nursing facility or both as well as attorney fees and reasonable court costs.</p>	Support	
AL and NH	<p>SB719: Health Occupations – Dental Hygienists – Practice in LTC Facilities. This bill authorizes a dental hygienist to practice under the supervision of a dentist in an AL community or nursing facility. There must be a written agreement between the dental hygienist and the dentist. The dentist does not need to be on premise. The community or facility must have a medical emergency plan and adequate equipment, including portable equipment and appropriate armamentarium available for the appropriate delivery of dental hygiene services.</p>		
All Medicaid providers	<p>HB849: DHMH – Home-and-Community Based Services Waiver – Denial of Access Prohibited. This bill changes the time frame for when a person can become eligible for home-and-community based services. Right now, the person must be in a NF for 30 days. This bill changes that the person only has to be in the nursing facility but eligible for 30 days of a nursing facility placement. Therefore, the person becomes eligible for transfer into home-and-community based services after one day of stay rather than 30 days of stay.</p>		
	<p>HB874: Oversight Committee on Monitoring and Quality of Care in Group Homes. This bill deals with monitoring the quality of care in “group homes.” “Group home” is not defined but the composition of the Oversight Committee seems to point to group homes regulated by the</p>	This bill is only on the list because I think there should be an	

	Department of Health and Mental Hygiene, Juvenile Justice and local law enforcement.	amendment that specifies the definition of group home so that it cannot cross over to AL.	
NH and AL	<p>HB879/SB776: AL and NH Residents Protection Act of 2010.</p> <ul style="list-style-type: none"> • This bill requires law enforcement, as soon as possible but not later than 5 days, after receiving a registration of a sex offender to send it to the AL or NH. • During the admission process, an AL or NH must conduct a criminal history records check AND must check the sex offender registry for each applicant. • As of December 1, 2010, an AL or NH must conduct a criminal history records check for each current resident. • If a sex offender is identified, the NF or community must place the individual in a private room, inform the staff, and develop a care plan to keep residents safe. • Each community or facility must provide notice of the sex offender registry and the availability of the website to every prospective resident and current resident and their guardian as well as have a notice at the front door concerning the sex offender registry and the website, require the individual to sign a statement acknowledging the notice, keep the signed statement in the resident's file. 		
	<p>HB897: Health – Task Force on Alzheimer's Disease. This bill is a reintroduction. The Task Force shall: (1) survey current Alzheimer's disease research; (2) survey practices being used and approaches being taken in the State regarding Alzheimer's disease; and (3) make recommendations regarding the steps the State should take in dealing with Alzheimer's disease. On or before September 30, 2012, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.</p>		
NF	<p>HB899: Nursing Facility – Home Based Community Services Assistance.</p> <ul style="list-style-type: none"> • This bill requires social workers to provide information to residents about living in the community upon discharge. The current requirement is admission OR discharge. Now it will be admission AND discharge. • This bill places timeframes on the State – if an individual asks for information on living in the community, the State must provide information within 10 days of the request and must move the individual within 25 days. • A nursing facility may not deny representatives of a designated protection and advocacy systems agency access to residents of a nursing facility. The secretary may impose a civil money penalty set by the Secretary for a violation of this subsection. If a civil money penalty is imposed under this section, the nursing facility shall have the right to appeal 		

	from an order imposing the civil money penalty. Currently the law states that a nursing facility must give reasonable and unaccompanied access to residents by designated groups. Employees of designated groups must maintain the confidentiality of residents. Nursing facilities may require proof of employment before authorizing access.		
	SB797: Blue Ribbon Commission on Alzheimer’s and Related Disorders	Bill Text Not Yet Available	
	SB812: End of Life Care Disclosure Act.	Bill Text Not Yet Available	
	SB855/HB929: Patient Centered Medical Home Program.	Bill Text Not Yet Available	
	FYI Bills		
	SB190: Seniors Tax Relief Act. This bill increases the additional exemption amounts allowed under the Maryland income tax for elderly or blind individuals from \$1,000 to \$1,500 from 1/31/11 – 1/1/13 \$2,350 from 1/31/12 – 1/1/14, and \$3,200 in after December 31, 2013 and beyond.		
	SB320: Income Tax – Credit for LTC Premium. This bill is a reintroduction of last Session. It expands the existing LTC Insurance income tax credit by (1) allowing the credit to be claimed for every year a policy is in force in the amount of \$500 in the first year the credit is claimed and \$150 thereafter.		
	HB382: Income Tax – Credit for LTC Premium. This bill is the same as SB320 but it does not allow the \$500 credit to be claims with respect to an insured individual if the insured was covered by a long-term care insurance at any time before July 1, 2000. The \$150 credit cannot be used if the insured was covered at any time before January 1, 2012.		

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