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UPDATES FOR THE WEEK ENDING MARCH 6, 2020

This week was very busy. Beginning Monday, there are 29 days remaining in the 2020 Session. This upcoming week also marks the week before March 16th, which is crossover – the day all bills must leave the original chamber to cross over to the opposite chamber.

This week, the House passed landmark legislation on **House Bill 1300/Senate Bill 1000: Blueprint for Maryland's Future – Implementation** with a vote of 96 to 41. The legislation implements the recommendations of the Kirwan Commission to enhance education in Maryland. As a result, the General Assembly is now concentrating on a funding package for the \$3.9 billion initiative.

The House Ways and Means Committee did vote unfavorable House Bill 1628, which would have extended the State's sales tax to services (albeit health and human services and others). LifeSpan submitted opposition to this legislation given that senior care communities would have been required to pay the tax on procured services, which would have decreased any increase to Medicaid rates and potentially increased costs to seniors. The Committee did continue, however, to examine funding options and voted favorable on Friday night a series of bills that limit the extension of the State sales tax to "luxury items" and taxes certain digital downloads, corporations (combined reporting and throwback provision) and other items. The revenue package will be on the floor of the House for debate this week. More information will be provided when the amendments are released.

The Senate Budget and Taxation Committee has completed its work on the proposed FY2021 budget, which will be debated in the Chamber this week. The House will begin its decision process this week as well. As previously reported, the Senate Committee voted to reject the Governor's decision to decrease the Medicaid rate increase from 4% to 2%. LifeSpan is working diligently to ensure that the House follows suit so that the rate increase will go into effect on July 1, 2020 as expected.

Committees also have received briefings on the Coronavirus from the Maryland Department of Health and the Governor released \$10 million in a supplemental budget for the MDH in addressing the virus. Kevin Heffner, LifeSpan's CEO, has been in daily contact with the Maryland Department of Health to provide updates and assistance to our members.

Below is an update on the bills being tracked and the actions taken on them to date.

PRIORITY BILLS:

LifeSpan has been aggressively working to make sure your concerns are heard in the General Assembly. As such, we have had great success in either having bills we oppose withdrawn or voted unfavorable. These include.

UNFAVORABLE - Senate Bill 106: Health Care Facilities – Certificate of Need – Exemption for State Owned Facilities. This bill was voted unfavorable by the Senate Finance Committee. It would have exempted State facilities from the CON process.

WITHDRAWN - Senate Bill 969/House Bill 1063: Health Care Facilities – Assisted Living Programs – Regulations, Staffing and Training. This bill would have, among other provisions, that every ALP to have a nurse on-site between 7 AM and 7 PM and require (for programs with more than 5 beds) a training program of eight hours of initial training before employment and an additional 40 hours within the first 60 days of employment.

WITHDRAWN - House Bill 707/Senate Bill 480: State Board of Examiners of Nursing Home Administrators - Renaming and Licensure of Assisted Living Managers. This bill would have required all assisted living managers to be licensed by the State Board of Nursing Home Administrators by October 1, 2022.

*** LifeSpan will be hosting a meeting on April 30th at 10:00 AM to discuss revisions of the assisted living regulations in anticipation of the work that will occur this interim by the Office of Health Care Quality.

WITHDRAWN - House Bill 639: Public Health – Health Care Professionals – Cultural Competency Coursework or Training. This bill would have applied to related institutions and hospitals and would have prohibited them, beginning January 1, 2022, from hiring or contracting with a health care professional who has not taken coursework in cultural competency.

WITHDRAWN - House Bill 1256: Nursing Home Administrators – License Requirements. This bill would have lessened the standards for nursing home administrator applicant. It is anticipated that this issue will generate further discussion this interim.

OTHER BILLS SUPPORTED BY LIFESPAN:

Senate Bill 42: Health Services Cost Review Commission – Duties and Reports. This bill has passed the Senate. The bill that makes modifications to the HSCRC reporting requirements on the Total Cost of Care Model. LifeSpan worked to have the bill amended to require a report on the progress being made with hospitals to form partnerships with community-based organizations and post-acute care providers.

Senate Bill 576/House Bill 691: Health Occupations – Nurse Practitioners – Certifications of Competency and Incapacity. This bill has passed the full Senate and will be discussed in the House HGO subcommittee on March 9th. This bill amends the process for determining competency for appointment of the “guardian of the person of a disabled person” and for the providing, withholding or withdrawing of medical treatment to authorize a nurse practitioner along with a physician to make the determination of competency.

House Bill 456/Senate Bill 725: Maryland Department of Health – Public Health Outreach Programs – Cognitive Impairment, Alzheimer’s Disease, and Other Types of Dementia. This bill has passed the House but has not had any action in the Senate. The Senate bill is being heard on March 12th. The bill states that the Department of Health, in partnership with the Department of Aging, the Virginia I. Jones Alzheimer’s disease and related disorders council, and the Alzheimer’s association, shall incorporate information into relevant public health outreach programs administered by the Department on Alzheimer’s disease and related disorders.

House Bill 512: Drugs and Devices – Electronic Prescriptions. This bill has passed the full House and requires that all CDS be e-prescribed beginning January 1, 2022. This bill is a re-introduction from 2019. In 2019 and in this Session, LifeSpan worked to ensure that nursing facilities and assisted living programs were exempted from the requirement.

Senate Bill 738/House Bill 1120: Health Care Providers and Health Benefit Plans – Discrimination in Provision of Services. This bill is still being worked on in both committees. This bill states that a hospital or related institution, an individual licensed under the health occupation article or a health benefit plan may not refuse, withhold from, or deny to any individual medical services or otherwise discriminate against any individual with respect to the individual's medical care because of the race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability of the individual. LifeSpan testified in support but requested clarifying language which is being accepted by the House Committee. ** LifeSpan did submit a letter of concern on a similar bill **House Bill 1010: Health Care Facilities – Discrimination (LGBTQ Senior Bill of Rights).** This bill adds to the Patient Bill of Rights for comprehensive care facilities specific rights for the LGBTQ community. LifeSpan requested passage of Senate Bill 738/House Bill 1120 rather than House Bill 1010.

Senate Bill 449: Labor and Employment – Direct Care Workforce Innovation Program. This bill has passed the Senate. The purpose of the bill is to develop a program to provide matching grants to eligible entities (includes non-profit associations) to create and expand on successful recruitment and retention strategies that address the range of potential barriers to increasing the number of direct care workers. The goal of the program is to ensure the availability of trained direct care workers across the state. Direct care workers include home health aides, certified nursing assistants, personal aide, and psychiatric aide. LifeSpan supported this bill and had language added to the bill to ensure that geriatric nursing assistants were included under the bill's provisions.

Senate Bill 938/House Bill 1571: Hospitals – Change in Status – Hospital Employee Retraining and Placement. This bill revises the current hospital retraining program. The bill states that, on July 1 each year, each hospital shall pay directly to the Maryland Department of Labor (MDOL) a fee equal to 0.006% of the total gross patient revenue approved by the HSCRC for the hospital for the immediately preceding year, which will be paid into a special fund. Each hospital must submit an annual report to the health services cost review commission and the MDOL on: (1) the number of hospital employees displaced due to layoffs; (2) the categories of hospital employees displaced due to layoffs; and (3) the number of hospital employees to whom hospitals directly provided funding for retraining purposes. The fund will be used by MDOL for the retraining of, and job-seeking assistance for, hospital employees who are nonexecutive employees, who are not licensed physicians or physical assistants, and who are unemployed or who may become unemployed as a result of the closing, partial closure, delicensing, downsizing, or acquisition of a hospital or the merging of hospitals.

Senate Bill 966: Health Facilities – Assisted Living Programs – Referrals and Licenses. This bill addresses penalties for operating without a license and for referring an individual (willfully and knowingly) to an assisted living program operating without a license. The bill also regulates agencies that refer individuals to assisted living programs. Karin Lakin, Assisted Living Policy Chair, testified in support at the hearing.

OTHER BILLS OPPOSED BY LIFESPAN:

House Bill 712/Senate Bill 260: Labor and Employment – Leave with Pay – Bereavement Leave (Family Bereavement Act). This bill has passed the House but has not had any action in the Senate. This bill expands Maryland’s Flexible Leave Act by authorizing employees of certain employers (those with at least 15 employees) to use earned paid leave for bereavement leave. An employee can use bereavement leave for the death of the employee’s immediate family member or the employee’s pet. The House amended the bill to remove the employee’s pet. LifeSpan had testified to remove the inclusion of an employee’s pet.

House Bill 839/Senate Bill 539: Labor and Employment – Family and Medical Leave Insurance Program – Establishment. This bill has no action in either committee. This bill establishes a Family and Medical Leave Insurance Program that will be funded through an employee and employer payroll tax. Provisions are broader than what is currently provided in the federal FMLA. LifeSpan opposed the establishment of this program given recent passage of the minimum wage increase and paid sick leave.

Senate Bill 863/House Bill 1091: Maryland Medical Assistance Program – Long-Term Care Services and Supports – Personal Needs Allowance. LifeSpan originally opposed this legislation because it would have increased the personal needs allowance of a recipient who is an aged, blind, or disabled person to \$450 per month. Our opposition was grounded in the concern that it would cause residents to lose eligibility. The bill also had a \$45 million fiscal note. The sponsors amended the bill to apply only to recipients in medical adult day centers and the sponsors have requested a new fiscal note.

FOR YOUR INFORMATION (Monitored by LifeSpan):

House Bill 14: Equal Pay for Equal Work – Inquiring About Wages – Prohibition on Adverse Action. The House voted this bill favorable. It has not been scheduled yet for a hearing in the Senate. The bill is technical and prohibits an employer from taking any adverse employment action against an employee for inquiring about the employee’s own wages. Under Maryland’s Equal Pay for Equal Work law, an employer already may not prohibit an employee from inquiring about, discussing, or disclosing the wages of the employee or another employee or requesting that the employer provide a reason for why the employee’s wages are a condition of employment.

House Bill 33/Senate Bill 153: Criminal Law - Abuse or Neglect of a Vulnerable Adult - Causing Severe Emotional Distress. The House Judiciary Committee voted this bill favorable with amendments. The amendments are not available yet. The Senate Committee has yet to act. This bill adds “severe emotional distress resulting from a course of conduct by another” to the definition of “abuse” applicable to the prohibitions on abuse or neglect of a vulnerable adult in the first and second degrees. The bill also specifies that “abuse” includes (1) deceptive or misleading statements made with a malicious intent to agitate or harm the vulnerable adult; (2) the destruction of or harm to an animal owned by the vulnerable adult; and (3) the malicious distribution, display, or transmission of information identifying and about the vulnerable adult using social media if the distribution, display, or transmission is made without the vulnerable adult’s permission.

House Bill 123/Senate Bill 217: Labor and Employment – Wage History and Wage Range. This bill passed the full Senate (33-14) but has not had any action in the House. This bill requires an employer to provide, on request by an applicant for employment, the wage range for the position

for which the applicant applied. The bill prohibits an employer from seeking wage history information for an applicant, or from screening or considering an applicant for employment or determining an applicant's wages based on the applicant's wage history. However, an applicant is not prohibited from voluntarily sharing wage history information with an employer.

House Bill 448/Senate Bill 402: Health Care Practitioners – Telehealth. This bill has passed the full House (130-6) but has not had any action in the Senate. This bill authorizes a health care practitioner to establish a practitioner–patient relationship through either a synchronous telehealth interaction or an asynchronous telehealth interaction under certain circumstances. The bill was amended to require a health care practitioner to, if clinically appropriate for the patient, provide or refer a patient to in–person health care services or another type of telehealth service.

Senate Bill 494: Health Care Facilities – Dialysis Treatment Services – Training (Dialysis Parity Act). This bill has passed the Senate. This bill applies to home health, hospice and nursing facilities. A health care facility may not provide peritoneal dialysis or hemodialysis treatment services unless the individual performing the dialysis procedure has received training in the peritoneal dialysis or hemodialysis technique being performed. The Department must adopt regulations to carry out this section.

Senate Bill 519: Public Health – Behavioral Health Programs and Health Care Facilities – Safety Plan. This bill has passed the Senate but has not yet been scheduled in the House. The bill requires the Department, before approving a license for a health care facility licensed under Title 19 (home health, hospice, nursing facilities, assisted living, medical adult day care) to have a safety plan for the safety of those served by it. It is LifeSpan's understanding that a licensee's emergency/disaster plan will qualify as a safety plan. The purpose of this bill was to ensure behavioral health programs had a safety plan and a community relations plan for the community where it is located; however, for legal reasons, those licensed under Title 19 were also included.

House Bill 643/Senate Bill 701: End of Life Option - (Richard E. Israel and Roger “Pip” Moyer Act). There has been no action on this bill. The Senate Committee has heard the bill but not yet acted upon it. The House is waiting for action by the Senate. This bill creates a process by which an individual may request and receive aid in dying from the individual's attending physician.

House Bill 1291: Health Facilities – Certificate of Need – Exemption for Hospitals Providing Hospice Program Services. This bill has been withdrawn. This bill would have exempted from the CON process a hospital who wants to provide hospice services.

House Bill 1168/Senate Bill 897: Maryland Department of Health – Residential Service Agencies – Training Requirements. These bills were heard on March 5th and requires RSA to have six hours of annual and 4 hours of training for Alzheimer's and dementia for direct care staff for direct care staff and supervisory staff. MNCHA took the lead on this bill and requested amendments to require training but only for those caregivers providing care to Alzheimer's patients.

House Bill 1282: Criminal Procedure – Vulnerable Adult Abuse Registry. This bill, heard March 5th, requires MDH to establish and maintain a registry containing the names of individuals who have been found by a state agency to have abused, neglected, or misappropriated or exploited the property of a vulnerable adult or who have been convicted of a vulnerable adult abuse crime. The names and information contained in the registry shall be available for public inspection as

provided in this subtitle. The MDH may discharge its responsibilities under this subtitle directly, or through interagency agreement, if authorized access to the records by means of a single centralized agency is assured.

House Bill 1527/Senate Bill 833: Adult Protective Services – Vulnerable Adults Registry – Investigations and Records of Abuse and Neglect and Workgroup Study. This bill, heard March 5th, also provides the requirements on State agencies for investigations and records of abuse and neglect. It also establishes a workgroup to further study the issue.

LAST DAY OF SESSION: APRIL 6TH