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UPDATES FOR THE WEEK ENDING MARCH 2, 2018

SESSION OVERVIEW:

We have now reached crunch time. For ease, below are the LifeSpan priority bills with status reports. This week did bring good news when the House Judiciary Committee voted **House Bill 861: Sex Offenders in Nursing Homes and Assisted Living** unfavorable.

BILL UPDATES:

UNFAVORABLE: Senate Bill 304: Maryland Healthy Working Families Act - Enforcement - Delayed Implementation would have delayed implementation and enforcement of the paid sick leave bill until July 1st. Please note that this law went into effect February 11th. LifeSpan supported.

UNFAVORABLE (WITHDRAWN): House Bill 375: Continuing Care Retirement Communities - Continuing Care Agreements - Actuarial Studies would have required Type Cs to conduct an actuarial study every five years. An actuarial study is not an appropriate tool for Type Cs and would not provide the level of financial security like a study on Type A contracts. LifeSpan opposed

UNFAVORABLE: House Bill 861: Nursing Homes and Assisted Living - Sex Offenders would have required a nursing home or assisted living to check the sex offender registry for each resident upon admission and provide a notice to new residents of the availability of the registry.

HOUSE SUBCOMMITTEE UNFAVORABLE (WAITING FOR SPONSOR TO WITHDRAW/SENATE HEARING WAS CANCELLED): House Bill 455: Public Health - Assisted Living Programs - Educational Materials on Influenza Virus would have required assisted living communities to provide information on the flu and the need to be vaccinated to each resident. Assisted living communities already provide this information to residents and their families. In addition, assisted living communities are voluntarily conducting flu clinics for employees and residents. A mandate is not necessary. LifeSpan opposed.

AMENDED. Amendments encompass the concerns raised by LifeSpan and remove the provisions related to complaints on the dashboard: Senate Bill 386: Maryland Nursing Home Resident Protection Act of 2018 inserts federal timeframes for inspections in Maryland law but also require the Office of Health Care Quality to post the number of complaints received every two weeks on its website and on the Department of Legislative Services website. LifeSpan opposes the inclusion of the number of complaints given that 2/3 of complaints are found not to be substantiated and the listing of complaints is not indicative of quality.

REMAINS OUTSTANDING

SUPPORT: *Senate Bill 4: Department of Aging - Study of Nursing Home Quality of Care* is being amended to provide additional authority and to change the composition of the Oversight Committee on Quality of Care in Assisted Living and Nursing Homes rather than a departmental study. LifeSpan supports the change provided that the Committee continues to function as an advisory committee.

SUPPORT: *Senate Bill 923: Maryland All-Payer Model Agreement – Medicare Skilled Nursing Facility – 3 Day Rule – Waiver* requires the Maryland Department of Health to include in the All-Payer Contract a request to waive the 3-day rule for those individuals seeking nursing home post care.

SUPPORT: *House Bill 851: Medicaid and the Maryland Children’s Health Program – Home and Community-Based Providers – Funding* requires a 3.5% rate increase for fiscal year 2020 and for each year thereafter for home-and-community based providers participating in the medical day care services waiver, the home and community0based options waiver, the model waiver for medically fragile children, the brain injury waiver, the community first choice program, the community personal assistance program, the employed individuals with disabilities program, the PACE program and any other program that provides home and community services or supports.

SUPPORT: *Senate Bill 939: Community-Based Services Waivers and State Disabilities Plan – Alterations (Maryland Disabilities Act)* seeks to address the policy that an individual first must be admitted to a nursing facility for 30 days to be eligible for waiver serves under the Community Options Waiver by stating that at least half the waiver participants must live in community-based housing immediately before the participant receives waiver services. The bill also requires the Department to develop a “true” waiting list for these services rather than an “interest registry.”

SUPPORT: *House Bill 1064/Senate Bill 937: Maryland Medical Assistance Program – Home and Community Based Waiver Services – Prohibition on Denial* provides that the Department of Health cannot deny an individual access to HCBS due to a lack of funding if the individual is discharged from a hospital directly to the individual’s home and waiver services for the individual are eligible to be paid for by the Medical Assistance Program within 45 days after the discharge OR the individual is discharged from a SNF or rehabilitation facility directly to the individual’s home and waiver services for the individual are eligible to be paid for by the Program within 45 days after the discharge.

SUPPORT: *House Bill 1483: Duties of a Guardian of the Person – Petition for Visitation* establishes a process through the courts when a family member is being denied visitation or information by another family member.

SUPPORT: *House Bill 1215/Senate Bill 630: Nursing Homes - Partial Payment for Services Provided* requests, at the request of the nursing home, that the Department of Health issue a partial payment to nursing homes if an eligibility determination is not made within 90 days.

LifeSpan Opposes:

OPPOSE: *House Bill 344/Senate Bill 425: Continuing Care Agreements - Notice and Contractual Entrance Fee Refunds* mandates that entrance fees be refunded within 30 days. Maryland law addressed the issue in 2012 by increasing CCRC entrance fee refunds disclosure and transparency requirements. Mandating a return within 30 days would destabilize the communities and financially harm current residents.

OPPOSE: *Senate Bill 325: Nursing Home - Provision of Beds and Bed Rails* requires a nursing home to provide notice to a resident and/or the resident's representative of the availability of bed rails and provide for it

upon request, as allowed under federal law. This notice provides an unreasonable expectation on residents and their families given how strictly the federal government regulates the use of bed rails.

OPPOSE: *Senate Bill 235, Senate Bill 368 and Senate Bill 543/House Bill 664:* All three bills seek to increase the State's minimum wage through a phase-up to \$15/hour. This will be particularly difficult for senior care providers, especially given that providers either receive reimbursement from State and/or federal programs or from clients/residents who are on fixed incomes. At the very least, the legislation should mandate a funding increase for Medicaid providers like the increase provided to developmental disability providers. The State should not choose one provider group over another when both provide care to vulnerable populations.

OPPOSE: *House Bill 601: Public Health – Opioids – Dispensing Requirement* requires that any opioid dispensed be also dispensed with a chemical substance to deactivate the opioids. Unclear how institutional pharmacies would be affected.

OPPOSE: *House Bill 1299: Nursing Facilities: Discharge Plans -Review and Signature Requirement:* This bill requires that discharge papers from a nursing facility be signed by a social worker, nurse, nurse practitioner, physician or physician's assistant. The bill does not differentiate between involuntary and voluntary discharge.

OPPOSE: Medical malpractice bills –

- **Senate Bill 36/House Bill 289:** Triples the non-economic damage cap in medical malpractice cases. Maryland's cap remains one of the most liberal in the nation and increases each year by \$15,000. For causes of action arising in 2018, the cap is \$800,000.
- ***** **Senate Bill 30/House Bill 1581:** Eliminates the 20% rule for expert witnesses. The current law precludes as an expert a person who devotes annually more than 20 percent of their professional activities to testifying in personal injury cases. **NOTE:** This bill has passed the Senate committee and the medical community is planning for a fight on the Senate floor.
- **Senate Bill 5:** Revises the standards for how punitive damages may be applied and in what type of cases, which may include medical malpractice causes.

LETTER OF CONCERN:

Senate Bill 757: Nursing Facilities – Quality Assessment – Exemption for State Veterans Home exempts a State-owned nursing facility for veterans.