NORWOOD & ASSOCIATES

This Week in Sacramento

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California Links

State Senate

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Given that the Legislature is about mid-way through the interim recess for the 2017-2018 session, the amount of legislative activity to report is minimal for now. As the holiday season approaches, this will be the case for some time, so we will be publishing biweekly. Inevitably, though, it will become clearer which issues will be priorities for the 2018 session.

Medical Providers Suspended For Workers' Compensation Fraud

The California Division of Workers' Compensation (DWC) has suspended 21 medical providers from participating in California's workers' compensation system, bringing the total number of providers suspended this year to 73.

The suspensions were made possible by the passage last year of Assembly Bill 1244 (Gray). AB 1244 requires the DWC to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in cases in which any of the following is true: they were convicted of a felony or misdemeanor involving fraud or abuse of the Medi-Cal or Medicare programs or the workers' compensation system, fraud or abuse of a patient, or related misconduct; they were suspended due to fraud or abuse from the Medicare or Medicaid programs; or, the provider's license to provide health care has been surrendered or revoked.

DWC Administrative Director George Parisotto issued Orders of Suspension for an owner of a medical-billing and medical-management company, which headed a $40 million conspiracy to commit medical insurance fraud along with over two dozen doctors, pharmacists, and business owners. More than 13,000 patients and at least 27 insurance carriers were victims in the scheme. The owner pled guilty in Orange County Superior Court on April 26, 2017 to two felony counts of conspiracy to commit medical insurance fraud and felony insurance fraud.

Another case in Torrance in July of this year involved a fraudulent $150 million workers' compensation insurance billing and capping conspiracy with an orthopedic surgeon. Nearly two dozen patients were deceived into undergoing surgeries they were told would be performed by the physician, but were instead performed by a physician's assistant who has never attended medical school. The scheme included payments of up to $10,000 a month for illegal referrals.

Other suspension orders were based on court rulings around the paying of illegal kickbacks as part of Medicare; fraudulent billing; offering to sell and trade a prescription drug sample and misbranding drugs for sale with the intent to defraud and mislead; battery relating to abuse of a patient; repeated acts of gross negligence in treatment of multiple patients; incompetence in treatment of a patient; and, conspiracy to obtain controlled substances by misrepresentation, fraud, forgery deception, and subterfuge.

The Opioid Epidemic in California

This week in San Diego, almost 300 doctors, policy makers, and law enforcement professionals gathered at the second annual California Opioid Policy Summit to discuss the ongoing issue of opioid abuse in California. This summit comes two weeks after President Trump declared the opioid crisis a national public health emergency, although the declaration came with no funding or action items to address the issue. Speakers at the summit addressed such issues as the availability of opioids in the state and overdose related deaths in California.

One of the main issues addressed was how California compared to other states that have appear to have been hit much harder with the opioid crisis. While it is true that California has the seventh-lowest rate of drug overdose deaths in the nation – 11 per 100,000 residents – the size of the state belies that statistic. In terms of the raw number of drug-overdose deaths, California leads the country with 4,600 victims in 2015, and that trend is driven largely by opioids. According to Dr. Kelly Pfeifer from the California Health Care Foundation, "We prescribe enough opioids every year to kill every Californian more than twice."

Another factor that complicates the issue is the wide variability of the problem from county to county. Several rural counties such as Inyo, Humboldt, and Lassen have rates as high as 22.4 deaths from drug overdoses per 100,000 residents, and even further complicating the problem is the addition of the very powerful and lethal drug fentanyl. The drug often appears as a look-alike pill to oxycodone but can kill in small doses, and can even be mixed into heroin or other pill before it is sold. Of the 1,925 deaths attributed to opioids last year, at least 234 of those were cause by fentanyl.

Dr. Karen Smith, the director of the California Department of Public Health, stated that "We are starting to see a bending down in the curve of overdoses and deaths – however that is almost entirely made up by a decrease in prescribing practices. At the same time, we are seeing a dramatic increase in the number of fentanyl- and heroin-associated overdoses and deaths."

Efforts are being made throughout the medical field to prescribe fewer unnecessary opioids, especially in light of a recent study that has shown over-the-counter painkillers like Tylenol were just as effective as opioids when used in emergency rooms to treat sprains and even broken bones. Further efforts are being pursued to treat those who are already addicted through new addiction management medications such as methadone and Suboxone, which help block cravings. Such programs have seen success in Vermont, but the issue of how to get addicts into treatment has yet to be fully addressed.

The Repeal Of The Affordable Care Act Individual Mandate Will Lead To More Uninsured & Increased Premiums, According To The Congressional Budget Office

The Congressional Budget Office (CBO) said on Wednesday that repealing the Obamacare individual mandate would increase the number of uninsured by 13 million by 2027 and reduce the federal budget deficit less than initially forecast. The CBO, the nonpartisan budget-scoring agency, said that eliminating the Obamacare mandate that all Americans purchase health insurance or else pay a fine would lower the deficit by $338 billion over the next decade, not $416 billion as it estimated in December.

The agency found that health insurance premiums would rise by about 10% in most years over the next decade in the individual market created by the Affordable Care Act, former President Barack Obama’s signature domestic policy achievement. It noted that markets in most areas of the country would remain stable. President Donald Trump and some Republicans favor including a repeal of the mandate in tax overhaul legislation. But lawmakers, Republican aides and lobbyists have said it would be difficult to include a repeal in a tax effort complicated by intraparty differences and intense business lobbying.

The US House of Representatives unveiled its tax plan last week, and the Senate’s plan is expected to be released on Thursday. The individual mandate is a central tenet of Obamacare that health policy experts and proponents say is essential to making the law work. It compels young and healthy people to join health insurance markets and help lower premiums by offsetting the costs of sicker patients. Americans must note on their tax returns whether they have health coverage.

Yet it has proved to be among the most controversial portions of the law as Republicans, who say Obamacare is too expensive and an example of government overreach, argue that the federal government should not be able to require people to buy health insurance if they do not want it. The CBO said in its December report that the individual mandate increases the federal deficit by encouraging people to buy subsidized coverage, either through Medicaid,

the government health insurance program for the poor and disabled, employer-provided plans, or through the Obamacare individual health insurance market.

Eliminating the mandate would lower the deficit by reducing federal spending on subsidized health insurance coverage, it said. The CBO said abolishing the requirement would cause premiums to rise because healthier people would be less likely to purchase insurance. It found that the resulting increases would cause more people to forego insurance.