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To Our Valued Clients, Friends and Colleagues:

On April 7, 2014, the Maryland General Assembly concluded its 434th legislative session. At this time each year, we like to take a moment to share with you the highlights of the last 90 days. As always, this synopsis is by no means an exhaustive report of the legislature's activities, but merely an overview. If you have specific questions, please feel free to contact us.

Business Regulation

Automated Purchasing Machines

The General Assembly passed Senate Bill 382/House Bill 918, which establishes a regulatory scheme for automated purchasing machines ("APM's") operating in Maryland. The bill requires APM operators to be licensed through the Department of Labor, Licensing, and Regulation ("DLLR") and meet certain security and reporting requirements, including requiring photo ID from sellers, gathering information about devices being sold, and making regular reports to the designated local law enforcement unit. The bill reserves regulation of APM's to the state, but permits local entities to ban the machines, as well as require an additional local, licensing fee.

Ride Sharing Transportation

Legislation was introduced to create a new regulatory regime for ride-sharing programs and applications, such as *Uber* and *Lyft*, that varies from the current, more traditional, regulation of taxis and limousines, under the Public Service Commission ("PSC"). The proposed legislation created a new definition of "transportation network application companies" and "transportation network operators" and exempted them from traditional PSC regulation. The bill proved controversial in both chambers and, after substantial debate, House Bill 1160 was withdrawn by the sponsor in lieu of a letter to the PSC from the chairs of the Senate Finance Committee and the House Economic Matters Committee, asking that they study the issue further and develop an appropriate regulatory scheme that allows consumer access to these transportation services while ensuring proper safety standards and a level of fair competition with other service providers.

Community Manager Licensing

Once again legislation was introduced to license and regulate common ownership community managers. House Bill 10 would have created a State Board of Common Ownership Community Managers (“the Board”) appointed by the Governor. The legislation would have established training and licensure requirements and granted the Board the authority to discipline managers for noncompliance. After concerns were raised by DLLR regarding the cost of the new licensing scheme, the bill was withdrawn by its sponsor.

Maryland Cooperative Housing Act – Transparency Requirements and Members Rights

A bill passed this session which expanded regulation of community associations under provisions of the Maryland Cooperative Housing Act (“MCHA”). Senate Bill 865 amended the MCHA to apply specified provisions of law similar to those contained in the Maryland Homeowners Association Act (“MHAA”) and the Maryland Condominium Act (“MCA”). Substantively similar to the MHAA, the bill establishes meeting standards and a dispute settlement mechanism similar to those contained in the MCA. Books and records are required to be kept in accordance with “good accounting practice” and are subject to an audit by an independent certified public accountant, at the request of at least five percent of the unit owners. This legislation also provides guidelines on the distribution of written information or materials regarding matters relating to the operation of the cooperative housing corporation. For a cooperative project that is no longer subject to a mortgage or deed of trust, Senate Bill 865 restricts the ability of a governing body to bring an action to evict a member.

Condominiums – Disclosures to Purchasers on Resale of Unit – Limitations of Fees

There was a failed effort to limit the fee that a condominium council of unit owners (“CUO”) and homeowner association may charge a unit owner (the “Owner”) to \$50 for providing information necessary to comply with required disclosures to purchasers under the law. Under current condominium law, a contract for the resale of a unit in any condominium by an Owner other than the developer is not enforceable unless the Owner discloses specified information to the purchaser no later than 15 days prior to closing. The information required to be disclosed depends on the number of units within the condominium. For the resale of a unit in a condominium of any size, the required disclosure must include a copy of the declaration, the bylaws, the rules and regulations of the condominium, and written notice of the Owner’s property insurance deductible responsibilities. While this information is required regardless of the size of the condominium, the Owner must provide additional information if the condominium contains seven or more units. This additional information includes a certificate containing specified information, such as more detailed financial data and information regarding whether the CUO or the Owner has knowledge of any violations of health or building codes or the condominium governing documents. To collect the information needed to make the required disclosures, the Owner may make a written request, accompanied by a reasonable fee, to the CUO to provide a certificate containing the necessary information. The CUO must provide this certificate within 20 days of receipt of the request and fee. The Owner is not liable for any erroneous information provided by the CUOs and passed along to the buyer. However, the

Owner may be liable to the buyer in specified situations in which the Owner provides erroneous information that was not provided by the CUO. Within the industry this information is generally prepared and delivered by community managers hired by the CUOs who were strongly opposed to the legislation. Senate Bill 229 was amended several times before it died after the members appointed by both the Senate and the House failed to meet and concur on its language.

Common Ownership Communities – Foreclosure of Liens

A bill was passed this session that expands the types of damages which the governing body of a common ownership community (“COC”) may recover in a lien foreclosure action brought under the Maryland Contract Lien Act for delinquent assessments. House Bill 602 allows for the recovery of reasonable costs and attorney’s fees directly related to the filing of the lien that do not exceed the amount of the delinquent assessments, excluding any interest. Recovery is not available for fines imposed by the governing body of the COC, or attorneys or costs related to recovering the fines.

Monitoring Consumer Behavior and Shopping Habits – Required Notice

Bills were introduced this year to enhance consumer protection with regard to retailers’ ability to track consumer shopping habits via the interaction of the retailers’ wireless internet technology and the consumer’s cellular phone. House Bill 924 and Senate Bill 950, cross-filed by Delegate Sam Arora and Senator Brian Feldman respectively, would have required a retailer to post notices at each store entrance notifying the consumer that they employ consumer tracking technology. A violation of this proposed law would have amounted to an unfair or deceptive trade practice under the Maryland Consumer Protection Act (“MCPA”), subject to MCPA’s civil and criminal penalty provisions. The bills were met with strong opposition from the retailer community who argued that consumer tracking technology is not widely used in Maryland and regulating the practice through legislation is premature and unsuitable. To the satisfaction of our retailer clients, we worked to ensure that these bills did not pass this year, so that the issue can be studied in greater detail while consumer tracking technology develops in Maryland.

Money Transmission - Protection From Financial Abuse, Financial Exploitation, and Fraud

A bill was introduced this year implementing measures to decrease instances of fraud against elder adults who utilize money transmission services. House Bill 723, introduced by Delegate Ben Kramer, requires a licensee who engages in the business of money transmission to provide training materials to agents on how to recognize financial abuse and financial exploitation of elder adults and how to respond appropriately if the agent suspects that he or she is being asked to engage in the business of money transmission for a fraudulent transaction in which an elder adult is the victim of fraud. As originally drafted, the bill would also have required an agent to file a report of abuse with a local department of social services if they suspected that their services were being used in furtherance of a fraudulent transaction. To the satisfaction of our retailer clients, we worked with the Maryland Retailers Association to secure amendments to the bill which removed the reporting requirements and exempted certain licensees from the training mandate.

Public/Private Partnerships- Disclosure of Involvement in Deportations

Similar to legislation passed in 2011, Senate Bill 754/House Bill 1326 entitled, “Public-Private Partnerships-Disclosure of Involvement in Deportations-Requirement” was introduced this year. The bill would have required that, to be eligible to participate in a public-private partnership (P3) with the State, a private entity, as defined by the bill, must certify whether it had any direct involvement in the deportation of people to Nazi “death” camps from 1939 to 1945; if the entity had such involvement, it must also certify that it has provided reparations to all identifiable victims or to their families. Currently, the only P3 affected is the “Purple Line” project, a proposed 16-mile light rail line extending inside the Washington, D.C. capital beltway from New Carrollton in Prince George’s County to Bethesda in Montgomery County. Earlier this year, four consortia were selected and invited to bid on the Purple Line. One bidder included Keolis, a firm founded in the 1990s that is 70% owned by the French firm Société Nationale des Chemins de Fer Français (SNCF). During World War II, SNCF was paid by Germany to transport 76,000 Jews and other prisoners to Nazi “death” camps. SNCF’s chairman issued a formal apology to Holocaust victims in 2011, but the firm has not paid reparations to victims or their families. Due to the substantial amount of federal funds allocated to the Purple Line, passage of this legislation may have jeopardized the project by triggering conflicts with federal procurement laws. Despite a number of very emotional hearings and discussions, the bill did not pass.

Taxation*Estate Tax*

In response to arguments that Maryland’s wealthiest elderly residents are leaving the State in order to settle in areas with more favorable estate tax rates, House Bill 739 was introduced and passed this year; a bill that couples the Maryland estate tax with the value of the unified credit under the federal estate tax, thereby increasing the amount that can be exempted in the State from \$1 million to \$5.34 million.

Combined Reporting

Legislation aimed at revising Maryland’s corporate tax code to require “combined tax reporting” failed once again in 2014. Maryland currently requires that taxes on income be computed on the basis of the books and records of *separate* corporate entities, without regard to the fact that the entity may be a member of a commonly owned and controlled group of entities functioning as a single business. Under “combined reporting”, the *combined income* of all members of the unitary group is taken into account as the starting point for determining Maryland taxable income. Senator Paul Pinsky and Delegates Heather Mizeur and Anne Healey tried in vain to convince their fellow legislators that Maryland is losing out on millions of dollars in corporate tax revenue each year because of the perceived ability for large business entities to shift assets and liabilities to take advantage of the most favorable tax rates. Having been introduced every year since 2010,

it is almost certain that the General Assembly will, once again, take up combined reporting legislation in 2015.

Corporate Taxation

In a repetition of previous years, there were several pieces of legislation introduced this year to reduce Maryland's corporate tax rate. Several Republican legislators introduced bills arguing that a reduced corporate tax rate would make Maryland a more "business friendly" region. In a contentious and progressive election year, no attempt gained any traction in the General Assembly.

Public Health & Safety

Pit Bull Liability

The Senate and House of Delegates were finally able to agree on compromise legislation to address the dog bite liability concerns raised by the 2012 *Tracey v. Solesky* Court of Appeals decision. Senate Bill 247/House Bill 73 is emergency legislation that establishes that in an action for damages against a dog owner for personal injury or death caused by a dog, evidence that the dog caused the personal injury or death creates a rebuttable presumption that the owner knew or should have known that the dog has vicious or dangerous propensities. Under the bill, notwithstanding any other law or rule, the judge in a jury trial may not rule that the presumption has been rebutted as a matter of law, before the jury returns a verdict.

The bill is intended to abrogate the court decision and returns liability for all other parties, including third party property owners, to the pre-*Solesky* common law standard. Additionally, the bill removes any breed specific provisions applying solely to pit bulls or any other type of dog in Maryland law.

Domestic Violence

Another priority of the O'Malley Administration ("the Administration") this year, particularly of Lieutenant Governor Anthony Brown, was to implement reforms to domestic violence policy in Maryland. The General Assembly passed a package of legislation to improve the state's approach to domestic violence offenders by altering the basis for peace and protective orders and increasing the penalties for crimes committed in the presence of a minor.

Senate Bill 333/House Bill 307 alters the burden of proof for peace and protective orders from clear and convincing evidence to a preponderance of the evidence. Senate Bill 334/House Bill 309 requires a court to issue a permanent and final protective order against an individual who is sentenced to serve, as opposed to who has served, a term of imprisonment of at least five years for specified crimes, including murder, first degree assault, attempted rape or sexual offense, and has served at least twelve months of that sentence. Additionally, the bill adds second degree assault to the list of crimes that trigger the issuance of a permanent final protective order.

Finally, with the support of the Administration, the General Assembly passed Senate Bill 337/House Bill 306, which establishes enhanced penalties for crimes of violence committed when a person knows or reason to know that a minor, who is at least two years old, is present and within sight or hearing. This bill has been introduced in different variations for the past several years, and the additional support of the Administration was able to put it over the finish line this year.

Pretrial Confinement and Release

There was a great deal of dispute amongst legislators this year in response to a recent Court of Appeals decision that extended an arrestee's right to legal representation to initial bail hearings before Court commissioners. Prior to *DeWolfe v. Richmond*, the right to legal representation was available only when a commissioner's initial bail decision was reviewed by a judge. The expanded right to counsel would require the State to furnish indigent defendants with public defenders and was estimated to cost approximately \$28 million. Senator Brian Frosh and Delegate Kathleen Dumais sought to stem the estimated costs by introducing legislation which would have replaced the Court commissioner's level of bail review with a new executive-branch department that would implement a computerized determination of the need for pretrial detention. Senator Robert "Bobby" Zirkin, who outspokenly disagreed with the *Richmond* decision and Senator Frosh's proposal, attempted to pass a constitutional amendment invalidating the court ruling. Neither Senator Frosh's nor Senator Zirkin's proposal passed when the legislature adjourned on April 7, 2014 and only time will tell how Maryland's court system and future legislatures react to the consequences of *Richmond*.

Energy Drinks – Sale to and Possession by Minors

Legislation failed to pass this year that would have prohibited a person from: (1) distributing, selling, furnishing, giving away or offering to sell, furnish, or give away an "energy drink" to a minor; (2) selling or offering for sale an energy drink by means of a vending machine or any other automatic device; (3) providing free samples of energy drinks or coupons for free or discounted energy drinks to minors; and (4) possessing an energy drink, if the person is younger than age 18. An "energy drink" was defined under the legislation as a beverage, an energy shot, or a powdered drink mix that contains: (1) 71 milligrams (mg) or more of caffeine per 12 oz. serving from any source or combination of sources and (2) taurine, guarana, panax ginseng, inositol, or L-Carnitine in any amount. House Bill 1273, introduced by Delegate Kathleen Dumais, met strong opposition from Maryland retailers and received an unfavorable committee vote.

Use of Electronic Smoking Devices-Prohibition

An effort to alter the definition of "smoking" for purposes of the Clean Indoor Air Act of 2007 (the "Act") to include the use of an electronic smoking device ("E-cigarettes") failed this year. Pursuant to the Act, except as otherwise specified, a person may not smoke in: (1) an indoor area open to the public; (2) an indoor place in which meetings are open to the public; (3) a

government-owned or government-operated means of mass transportation; or (4) an indoor place of employment. “E-cigarettes” are battery-operated devices containing nicotine cartridges which produce an odorless vapor when used. House Bill 1291, introduced by Delegate Aruna Miller, received an unfavorable report from the House Economic Matters Committee.

Speed Monitoring Systems Reform Act of 2014

Once again the legislature considered a variety of proposals concerning the State’s speed camera program this year. House Bill 929 and Senate Bill 350, introduced by Delegate James Malone and Senator James Brochin respectively, repeal the 30-day period during which only warnings may be issued following placement of the first speed monitoring system (“SMS”) in a jurisdiction and, instead, require a warning period of 15 days after specified signage is installed at each new location an SMS is placed.

The bills further require that: (1) the daily set-up log for an SMS states that the operator successfully performed, reviewed and evaluated the manufacturer-specified daily self-test of the system; (2) an independent calibration laboratory, unaffiliated with the manufacturer, be selected by the local jurisdiction to perform the annual calibration check; (3) a certificate alleging an SMS violation must be sworn to or affirmed by a duly authorized law enforcement officer, rather than an agent or employee of a law enforcement agency.

In addition, a local jurisdiction that authorizes an SMS must designate, subject to the approval of the governing body of a jurisdiction, an official or employee to investigate and respond to questions or concerns. Before the deadline for contesting liability, if the person that receives a citation requests review of the citation, the designee must review the citation and, if the citation is determined to be an “erroneous violation,” he or she must void the citation. The designee may not determine that a citation is erroneous based solely on the citation’s dismissal by a court. If the designee determines that notice of a citation was not received due to administrative error, the designee may resend or void the citation; the designee must also notify the Motor Vehicle Administration for the purpose of rescinding any administrative penalties for nonpayment of a citation.

Most importantly, the bills define an “erroneous violation” as a potential violation submitted by an SMS contractor for review by an agency that is apparently inaccurate based on a technical variable that is under the control of the contractor. An “erroneous violation” includes: (1) a recorded image of a registration plate that does not match the plate issued to the vehicle; (2) an image that shows a stopped vehicle or no progression; (3) an incorrectly measured speed; (4) a speed measured below the threshold that would subject the owner to a citation; (5) an image recorded at a time in which a citation cannot be issued; and (6) an image taken by a system with an expired calibration certificate. The bill provides that designee may not be employed by a contractor and may not be otherwise involved in the review of SMS citations. On receipt of a written question or concern from a person, the local designee must provide a written answer or response to the person within a reasonable time, and the jurisdiction must make the question or concern, and any subsequent written answer or response, available for public inspection.

The bills prohibit the payment of a contractor on a per-ticket basis and specify that this prohibition applies to a contractor that, in any manner, operates an SMS or administers or processes citations. The contract must include a provision for payment of liquidated damages for erroneous violations by the contractor. Specifically, if more than 5% of violations in a calendar year are erroneous violations, liquidated damages apply – equal to at least 50% of the fine amount for each erroneous violation, plus any reimbursements paid by the local jurisdiction. Also, the contract must include a provision allowing the local jurisdiction to cancel a contract if the contractor violates the law in implementing it or violates the contract by submitting erroneous violations to the agency that exceed a threshold specified in the contract.

A local jurisdiction that authorizes an SMS must designate a program administrator, who may not be an employee or representative of the SMS contractor. The bill defines a “program administrator” as an employee or representative of a jurisdiction designated to oversee a contract with an SMS contractor.

The legislation requires the Maryland Police Training Commission, in consultation with the State Highway Administration and other interested stakeholders, to develop a training program for oversight and administration of an SMS by a local jurisdiction, including a curriculum of best practices. A program administrator must participate in the training program before a jurisdiction initially implements an SMS and at least once every two years thereafter. For a speed monitoring program in existence on June 1, 2014, the program administrator must participate in a training program by December 31, 2014. If a local jurisdiction designates a new program administrator, the new program administrator must participate in the next available training program.

Finally, the Maryland Police Training Commission must compile and make publicly available a report by December 31 of each year, and each local jurisdiction must report information to the commission by October 31 of each year. The commission report must include specified data, including the number of citations issued and voided as erroneous, the gross and net revenues of each local program, payments to contractors, the types of monitoring systems used, and how revenues are spent.

Child Abuse Training and Study

Several bills were introduced this year seeking to address the prevalence of child abuse and neglect in Maryland. Two bills attempted to create a task force to study measures to prevent child sexual abuse, but both bills received unfavorable committee reports. A bill that would have criminalized failure to report child abuse by professionals subject to the State’s mandatory reporting laws also died in committee. Senate Bill 607, introduced by Senator Chris Shank, would have allowed a social services agency to report suspected instances of failure to report by health care practitioners. Though the reporting provisions of Senator Shank’s bill were removed when it passed out of the Senate, another portion of the bill remained, which mandated 90 minutes of training on child abuse for all practitioners licensed under the Board of Physicians. The mandatory training portion of the bill met strong opposition in the House from various practitioner groups, including the Maryland Psychiatric Society, and the bill was eventually defeated in subcommittee.

Civil Law

Maryland Birth Injury Fund

Legislation was introduced that would have created a statewide “no fault” Maryland Birth Injury Fund (“BIF”), paid for by OB/GYN doctors, hospitals, and insurance companies. Proponents of the legislation argued that: (1) more babies who suffer birth injuries would have the lifetime care needed based on acceptance into the program, as opposed to the outcome of a lawsuit; (2) Maryland hospitals could continue to provide high-quality obstetrics care to women and continue to attract and retain OB/GYN physicians in its most vulnerable communities; and (3) children and families would have greater certainty and immediate access to lifetime care, as rather than an unpredictable, costly, and painful litigation process, which could result in no compensation at all. The Legislature was not swayed by these arguments and eventually chose not to pass House Bill 1337/Senate Bill 798. Instead, the General Assembly requested that the Department of Health and Mental Hygiene (“DHMH”) convene a group of interested stakeholders, including the providers of obstetrical care from urban and rural areas, to study the issue of access to obstetrical care. This group is tasked with, among other things, reviewing the creation of a BIF and analyzing the costs and benefits of the proposal.

Transgender Rights

The General Assembly passed Senate Bill/House Bill 1265, known as the “Fairness for All Marylanders Act of 2014,” which extends discrimination rights to transgender individuals by prohibiting discrimination based on “gender identity” in public accommodations, labor and employment, and housing. Under the bill, gender identity discrimination is also prohibited by persons licensed or regulated by the Department of Labor, Licensing, and Regulation. The bill also prohibits discrimination based on gender identity and sexual orientation in State personnel actions and in the leasing of property for commercial use.

Similar legislation has been introduced in previous years, but failed to survive committee review. This year the legislation was able to garner widespread support in both chambers and resist substantial amendments on both floors.

Marijuana Decriminalization

Several bills introduced this session sought to decriminalize the possession of small amounts of marijuana. A measure introduced by Delegate Heather Mizeur would have made the possession of 1 oz. or less of marijuana a civil offense punishable by a \$100 fine. A bill introduced by Senator Robert “Bobby” Zirkin would have imposed the same punishment for the possession of 10 grams or less of marijuana. While Delegate Mizeur’s bill never made it out of committee, Senator Zirkin’s bill moved through the Senate, but met opposition in the House Judiciary Committee. When rumors circulated that the Judiciary Committee was seeking to reform the bill into an interim study group, proponents rallied to revive the legislation by offering compromise amendments. An amended version of Senate Bill 364 was passed in the waning hours of the

session which makes the possession of 10 grams or less of marijuana a civil offense punishable by a \$100 fine, with increased penalties for minors and repeat offenders.

Education

Prekindergarten Expansion

One of Governor O'Malley's final legislative initiatives included expanding access to prekindergarten for economically disadvantaged Maryland children. By increasing the threshold to qualify for State-funded prekindergarten to 300% of the federal poverty guidelines, House Bill 297 or the "Prekindergarten Expansion Act of 2014" is expected to provide an additional 1,600 four year olds in the State with access to prekindergarten education. The bill further provides that if funds are provided for the Prekindergarten Expansion Grant Program in the State budget in a given year, then at least the same amount must be appropriated the following year. The Administration's budget passed this year includes \$4.3 million for prekindergarten expansion.

Common Core Repeal & Implementation

After being inundated with complaints from parents and teachers in their respective districts regarding the push to hastily employ Common Core education standards, legislators introduced a number of bills this year aimed at repealing or delaying the implementation of the Common Core standards. Several of the more conservative members of the House introduced bills to repeal the Common Core entirely, but fellow legislators were unwilling to entertain such drastic measures. However, several bills affecting Common Core did receive the support they needed for passage.

House Bill 1167 and Senate Bill 676, introduced by Delegate Sheila Hixson and Senator Nancy King respectively, prohibit Common Core student assessment tests from being used for evaluations of teachers and principals until the 2016-2017 school year.

House Bill 1001, also introduced by Delegate Hixson, requires that any waivers from the federal Elementary and Secondary Education Act sought by the Maryland State Department of Education must be reviewed by the Legislative Policy Committee of the General Assembly. The purpose of the bill is to allow the General Assembly to track the State's compliance with federal education guidelines, which include the Common Core State Standards.

Finally, House Bill 1164, introduced by Delegate Eric Leudtke, establishes a workgroup to make recommendations to better prepare teachers to implement the Common Core State Standards and to determine schools' financial and technological needs for new student assessments scheduled for the Spring of 2015.

Later Start Times for Public Schools

Legislation was passed this year to study later start times for Maryland public schools. House Bill 883 requires the Office of Public Health Services (“OPHS”) of the Department of Health and Mental Hygiene (“DHMH”) to conduct a study of safe and healthy school hours. In conducting the study, OPHS is required to review the science on the sleep needs of children and adolescents, including the effects of sleep deprivation on academic performance; review and study how other school systems have implemented alternative school day starting times and how various activities in those school systems were impacted and scheduled around the changes; and make recommendations regarding whether Maryland public schools should implement a starting time later than 8:00 a.m.

Labor & Employment*Minimum Wage*

Increasing the minimum wage was the chief priority for the Administration in the 2014 legislative session, and they were successful in increasing the minimum hourly rate from the current \$7.25 to \$10.10. The increase will be phased in over the next 4 years, reaching the maximum of \$10.10/hour by July 1, 2018. The final legislation also includes other exemptions and limitations, such as exemptions for certain agriculture work, drive-in movie theaters and food service establishment with a gross income of less than \$400,000, to mitigate the financial impact on employers and the small business community.

The bill allows for a training wage of 85% of the minimum wage for employees under twenty years old, for the first six months of employment. It also freezes the base rate for tipped employees at the current rate of \$3.63/hour, provided that the employer makes up the difference to the full minimum wage rate, in the event that the employee does not make it up in tips.

The legislation also contained provisions requiring the Governor to include funding for a 3.5% increase rate increase for community service providers in future budgets.

Prevailing Wage

The legislature approved Senate Bill 232/House Bill 727 this year, expanding the applicability of the prevailing wage law by lowering the threshold amount of State funding for school construction projects from 50% to 25%. Under the expansion, virtually all school construction contracts valued at more than \$500,000 to pay prevailing wage and requires increased monitoring and enforcement by DLLR.

Leave – Sick and Parental

Once again, there were several pieces of legislation introduced requiring mandatory paid sick leave for a variety of purposes. The legislation was almost as broad as its 2013 predecessor, and

raised serious concerns regarding the potential cost and burden to employers and small businesses. Both the Senate Finance Committee and the House Economic Matters Committee failed to take action on any of the sick leave proposals.

There were also different versions of legislation requiring mandatory parental leave for employees. House Bill 1026/Senate Bill 737, introduced by Delegate Ariana Kelly and Senator Catherine Pugh respectively, applies to businesses with 15-49 employees and requires six weeks of unpaid parental leave for employees for the birth, adoption or foster placement of a child. This bill was opted for over alternative legislation that would have required paid leave, due to concerns about the financial burden on small businesses. DLLR will adopt regulations to allow affected employees to bring action for damages against employers who violate the provisions of this law.

State Retirement & Pension System

An attempt by the Administration to balance the State budget by dipping into the State's pension fund was rebuked by legislators this year. As originally proposed, the Budget Reconciliation and Financing Act ("BRFA") would have reduced the State's statutorily required \$300M/yr. contribution to the State Retirement & Pension System ("SRPS") to \$200M/yr. indefinitely. The proposal met harsh criticism from union groups, as well as legislators, and was eventually abandoned in favor of an alternative funding scheme developed by the Senate Budget & Taxation Committee. The revised five-year funding method requires the State to meet its statutorily required annual contribution to the SRPS and make supplemental payments as follows:

- In 2014 and 2015, the supplemental payment will be \$100M
- In 2016, \$150M
- In 2017, \$200M
- In 2018, \$250M
- In 2019, \$300M

The amendment further provides that if the supplemental payment amount is different in any given year, it will be made up the following year.

Though union leaders remained outspokenly frustrated with the State's insistence to use the SRPS to balance the budget, they applauded the Senate's work on an alternative funding method which is expected to allow the SRPS to be 80% funded by the year 2025 and fully funded by 2039.

Public School Labor Relations Board- Sunset Repeal

A bill repealing the sunset of the Fairness in Negotiations Act passed this year. In 2010, the Fairness in Negotiations Act created a Public School Labor Relations Board ("PSLRB") in order to provide an exclusive forum for the settlement of labor disputes arising between local boards of education and their employees. Union groups including the American Federation of Teachers-Maryland argued before committees in the House and Senate to preserve the PSLRB by repealing the sunset of the Fairness in Negotiations Act. House Bill 1181 passed with

amendments requiring the Board to report to the General Assembly on its case management statistics and compliance with the State's open meetings law.

Correctional Officers- Polygraph Examinations & Contraband Penalties

In response to the federal investigation and indictment of correctional officers at the Baltimore City Detention Center ("BCDC") this past summer, several bills were passed this year to promote better hiring practices in State correctional facilities and increase penalties for bad actors working in the system.

At the request of a special joint commission convened as a result of what happened at the BCDC, House Bill 173 allows correctional employers to demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to a polygraph examination.

Also requested by the special joint commission, House Bill 175: (1) increases the maximum penalty for telecommunication devices-related offenses to imprisonment for five years and/or a \$3,000 fine; (2) expands current statutory prohibitions to include *attempting to deliver* a telecommunications device to a detainee; and (3) requires that a sentence imposed on an inmate for the commission of a telecommunication devices-related offense be served consecutively to the sentence currently being served.

A third bill requested by the special joint commission, House Bill 176, authorizes the appointing authority of a State correctional facility to impose an emergency suspension without pay on a State correctional officer if the officer is charged with a misdemeanor contraband violation involving an alcoholic beverage, a controlled dangerous substance, or a telecommunication device. The bill is intended to address the current inability to suspend an officer without pay unless the officer is charged with a felony under the State Correctional Officers Bill of Rights.

Energy and Utility Regulation

Expansion of the Renewable Energy Portfolio Standards ("RPS")

There were several pieces of legislation introduced this year to alter and expand the eligible energy sources for inclusion in the Renewable Energy Portfolio. These included carve outs and subsidies for energy derived from poultry litter and other thermal and hydrokinetic sources, as well as a proposal for a general expansion of the portfolio goal from the current 20% renewable sources by 2020 to 40% by 2025. The attempted expansion of the RPS limitations raised concerns about the financial impact on ratepayers, as well as the state's ability to meet its current renewable goals in a timely manner, and was ultimately rejected by the General Assembly.

Additionally, Delegate Olszewski once again introduced legislation to limit the use of energy derived from "black liquor" or the processing of paper materials, but this was also rejected in

committee due to its potential impact on employment in Western Maryland and the strong opposition of the labor community.

Public Service Commission Report on Competitive Energy Suppliers

The General Assembly passed Senate Bill /House Bill 928 this year, which requires the PSC, by January 1, 2015, to submit a report to the General Assembly on the status of PSC's efforts to provide appropriate protections for consumers in connection with competitive retail electricity and gas supply, including recommendations as to how to better protect ratepayers. The PSC must convene a workgroup of interested persons, including retail electricity, to advise on the information and recommendations to be included in the report. This report was widely supported by representatives from the energy industry and the consumer community.

Geographic Limitations on Wind Energy Projects

The Southern Maryland Delegation pushed for legislation that limits wind energy facility activity within a defined geographic barrier around the Patuxent River Naval Air Station. The bill prohibits the PSC from approving a certificate of public convenience and necessity for a wind-powered generating station in the defined geographic area prior to July 1, 2015. In evaluating any proposal for a wind-powered generating station within the defined area, the PSC shall review and consider all available pertinent information relating to potential for interference with the operations of the Naval Station including determinations on height restrictions.

Given the considerable support for this bill from the Southern Maryland Delegation and legislative leadership, the bill was passed over the strong objections of the Administration and the environmental community.

Health Care

Medicare Waiver

After much work and collaboration among stakeholders, Maryland's modernized Medicare waiver was approved by the Centers for Medicare & Medicaid Services ("CMS") early this year. As a result, Maryland remains the only state in the country with an all-payer system. The State now begins the hard work of implementing the waiver. In order to avoid the problems associated with the flawed rollout of the Maryland Health Benefit Exchange, the General Assembly introduced legislation aimed at better ensuring transparency and accountability. House Bill 298 requires, beginning October 1, 2014 and every six months thereafter, the Health Services Cost Review Commission ("HSCRC") to: (1) update the General Assembly on the status of the State's compliance with the provisions of the model contract; (2) provide a summary of the work conducted by the HSCRC and any of the recommendations made by workgroups. The HSCRC must also provide written notice to the Governor and the General Assembly if CMS issues a warning notice related to a "triggering event" as described in the model contract.

Maryland Health Benefit Exchange

Maryland has experienced a number of technological difficulties with regard to implementation of the Affordable Care Act through its Health Benefit Exchange (“HBE”). Because many Marylanders seeking insurance via the HBE have been unable to successfully enroll in a qualified health plan via the website, the Administration introduced Senate Bill 134/House Bill 119, entitled, “Maryland Health Insurance Plan-Access for Bridge Eligible Individuals.” This emergency legislation expands the purpose of the Maryland Health Insurance Plan (“MHIP”) to include providing access to affordable, comprehensive health insurance for “bridge eligible individuals” as needed, on a retroactive and prospective basis and expresses the intent of the Maryland General Assembly that MHIP be used to subsidize health insurance coverage for such individuals. “Bridge eligible individuals” include those people who are eligible for enrollment in the HBE and can provide evidence that he/she has attempted to obtain insurance through the HBE but was unsuccessful in doing so. The goal is to provide coverage for these individuals until they are able to enroll in a plan offered on the HBE. This legislation passed and individuals have already begun receiving coverage through MHIP.

Just recently, Maryland decided to abandon efforts to fix the State's HBE and instead move towards adopting the system that Connecticut built. Those efforts are underway.

Behavioral Health Integration

At the request of the DHMH, House Bill 1510 sought to merge the Alcohol and Drug Abuse Administration (“ADAA”) and the Mental Hygiene Administration (“MHA”) into a single organization known as the Behavioral Health Administration (“BHA”). The purpose of the bill was to integrate behavioral health care by merging ADAA with MHA, and managing all Medicaid-funded services under one Administrative Services Organization (“ASO”). The perceived advantages of the legislation included strengthening and enhancing the behavioral health treatment system, subjecting providers a single set of standards, and supporting implementation of best practices. The bill met opposition from various stakeholder groups who argued that, though they believed the bill was well intended, the merger was premature and would be too hastily implemented. In an effort to address these concerns, prior to final passage the bill was amended to require DHMH to convene a stakeholder workgroup to study issues relating to behavioral health integration and report to the General Assembly on or before December 1, 2014.

Workers' Compensation

The battle between physicians dispensing medications and workers' compensation insurers reached new heights this year. After a proposed fee schedule was handily defeated by the Administrative, Executive and Legislative Review Committee (“AELR”) in 2011, workers' compensation insurers, including self-insured entities and several governments such as Baltimore City, Baltimore County and Anne Arundel County, began focusing their efforts on banning physician dispensing for workers' compensation patients, altogether. Senate Bill 215/House Bill 280 and Senate Bill 217/House Bill 281 introduced by Senator Kathy Klausmeier and Delegate

Sally Jameson, would have accomplished that goal. House Bill 280 would have limited a doctor to dispensing in the first 30 days of treating a workers' compensation patient but forbid it after that. This particular bill had nine lives, with insurer-friendly legislators attempting to add amendment after amendment in an effort to move it forward.

To counter what we knew was inevitable, opponents of a physician dispensing ban supported House Bill 1342/ Senate Bill 507, introduced by Delegate Shawn Tarrant and Senator Brian Feldman, respectively. This bill would have established a fair fee schedule for doctors to dispense medicine.

Late in the final day of the legislative session, House Bill 280 was withdrawn by its sponsor. Proponents of this legislation have already declared that these bills will be back for the 2015 legislative session. We will be working during the interim in order to prepare for the coming debate.

Medical Marijuana

Bills were introduced this year to expand the 2013 establishment of a medical marijuana program in Maryland. In 2013, Delegate Dan Morhaim was successful in passing medical marijuana legislation, but the bill restricted medical marijuana programs to qualified academic centers. Academic institutions in Maryland, however, were unwilling to establish such programs in the interim and the 2013 legislation was therefore rendered ineffective. This year, Delegate Morhaim and Senator Jamie Raskin introduced bills in their respective chambers to expand the purpose and responsibilities of the Medical Marijuana Commission ("the Commission") to allow certified physicians to apply to the Commission on behalf of seriously ill patients in order to obtain medical marijuana. After numerous amendments were made to the House and Senate versions, a final bill passed which will vastly expand the growing, dispensing, and recommendation of medical marijuana for needy patients in the State.

Oral Health Parity

Maryland's Medicaid program has made significant strides recently in addressing children's dental care needs. Indeed, the overall level of spending on dental care for children has increased significantly in recent years. While enrollment growth drives that spending level, so do efforts to manage dental services differently, as well as raise rates for dental services. After a review by DHMH of twelve restorative codes, a 6% funding increase for certain dental codes was included in this year's operating budget. DHMH has indicated that they will consult with the Dental Action Committee prior to allocating the funds. It is worth noting that, as a part of the budget process, the health sub-committees added language that resulted in an increase in the reimbursement rates for anesthesia for reconstructive dental surgery following a study that was required as a result of budget language adopted in 2013. Further study on the issue will continue under the auspices of the Medicaid program.

Specialty Drugs

The Maryland General Assembly has worked in recent years on access issues relating to specialty drugs. Legislators and stakeholders have aimed to identify a solution that manages health care costs while ensuring that people with rare and/or chronic diseases are able to obtain their medications. This year, House Bill 761/ Senate Bill 874, cross filed by Senator Katherine Klausmeier and Delegate Peter Hammen, was passed and prohibits carriers from imposing a copayment or coinsurance requirement on a covered "specialty drug" that exceeds \$150 for up to a 30-day supply. This bill was extensively debated and discussed but, in the end, passed. While there were some questions raised about whether or not medications administered in a physician's office were included in the provisions of this bill, it was determined that they are not since the bill only addresses and applies to medications/drugs obtained from a pharmacy. Medications administered in a physician's office would continue to be covered as they have been in the past.

Sterile Compounding

In 2013, Maryland passed stricter provisions relating to sterile compounding as a result of a scandal created by the Massachusetts manufacturing facility which had shipped contaminated drugs. The Maryland law, however, was too broad and, unfortunately, negatively impacted some physicians' abilities to perform appropriate medical procedures. In realizing this, a group of oncologists and hematologists organized support for the introduction of Senate Bill 1108 entitled, "Sterile Compounding Permits-Definition of 'Compounding'." This bill excludes "mixing" and "reconstituting" from the definition of "compounding" so as to exempt specified administration of chemotherapy medications. This legislation passed.

Telemedicine

Bills were introduced this year providing that coverage of and reimbursement for health care services delivered through telemedicine must apply to Medicaid and managed care organizations in the same manner they apply to health insurance carriers. Legislation was passed in 2013 which required limited reimbursement for health care provided (1) for the treatment of cardiovascular disease or stroke; (2) in an emergency department setting; and (3) when an appropriate specialist is unavailable. This year, Delegate Susan Lee and Senator Catherine Pugh sought to expand upon the 2013 legislation with House Bill 802/Senate Bill 198 by providing reimbursement for all telemedicine-delivered services offered for Medicaid enrollees statewide. The bill received bipartisan support in the House and Senate and was passed.

Involuntary Commitment Standards

Legislation seeking to modify the standards for involuntary admissions of mentally ill individuals to certain mental health facilities failed once again in 2014. Similar to legislation introduced in 2013, House Bill 606/ Senate Bill 67 would have allowed for the consideration of an individual's reasonably foreseeable propensity to pose a danger to self or others *if released from the hospital*, rather than the existing standard which has been interpreted to only allow for the assessment of an individual's *present* dangerousness. The legislation was met with a wide

range of reactions from stakeholders in the mental health community and it quickly became clear that a consensus on the appropriate standard would not be reached during this legislative session. The bills were therefore withdrawn in favor of requiring DHMH to convene a stakeholder workgroup to address involuntary admission standards in the interim.

Involuntary Medication Standards

Legislation seeking to modify the standards for approval by clinical review panels (“CRPs”) of the involuntary administration of medication to certain mentally ill individuals passed in 2014. Delegate Dan Morhaim and Senator Delores Kelley sponsored bills this year to address a 2007 Court of Appeals decision that required a CRP to look at whether the individual is dangerous *within the facility*, not whether the individual poses a danger to the community *if released*. Advocates of the bill argued that broadening the definition would allow for better treatment of seriously mentally ill individuals who lack insight into their condition and could result in earlier release. Opponents argued that the State’s interest in changing the standard does not override an individual’s right to bodily integrity and forcibly medicated individuals are less likely to voluntarily seek mental health treatment. Working with representatives at DHMH and Johns Hopkins University, we were successful in obtaining amendments to the bill sought by the Maryland Psychiatric Society. As passed, House 592/Senate 620 addresses the perceived problems with the 2007 *Kelly* decision by allowing CRPs to consider dangerousness *upon release*.

Community Integrated Medical Homes

DHMH introduced legislation this year that would have established a Community Integrated Medical Home Program and an accompanying Advisory Board. "Community Integrated Medical Homes" (“CIMH”) is a concept that is meant to expand the patient centered medical home concept across all payers and to incorporate "community health workers" and other community based services in an effort to increase with access to services and patient compliance. According to DHMH, House Bill 1235 was the product of an extended stakeholder process held over the interim and prompted by the CIMH planning grant DHMH received from the federal government. However, the bill as introduced raised many questions from many organizations and groups as it proposed a program design that was not previously vetted and agreed upon by the stakeholders. Subsequently, DHMH significantly amended the bill to reflect only the creation of an advisory board to work with DHMH on the development of the program. Despite the amendments accepted, many questions remain about the development of this program. We will continue to monitor progress on this effort.

Thank you, as always, for your business, support, and friendship. We hope you will continue to remember that at Harris Jones & Malone, LLC we are keeping our eye on politics to help you stay in business.

Sincerely,

Harris Jones & Malone, LLC

A handwritten signature in blue ink, appearing to read "Lisa Jones", written in a cursive style.

Lisa Harris Jones

A handwritten signature in blue ink, appearing to read "Sean R. Malone", written in a cursive style.

Sean R. Malone