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The 2010 General Assembly session: One for the record books

– But not because it was unusually productive . . .

The 2010 session of the Rhode Island General Assembly was remarkable for two unheard of events: the mid-session election of a new House Speaker, and the Senate's rejection of the supplemental budget proposed by the House. It was unremarkable for legislation passed, aside from a new school funding formula.

The looming November general elections and the State's intractable fiscal straits combined to put a damper on legislative exuberance and may have killed whatever appetite House Speaker William Murphy (D-Warwick, Coventry) might still have had for a fifth term at the rostrum. In March the 47 year-old Murphy announced that he was stepping down from the Speakership and would retire from the General Assembly altogether at the end of this, his ninth term in the House. He thus paved the way for the rare mid-session election of House Majority Leader Gordon Fox (D-Providence) to the Speakership. Usually, the election of a Speaker is the first order of business in the January of odd-numbered years, when the Assembly begins a new two-year session. January 2011 will be no exception, but now Fox will face that election as the incumbent Speaker with enhanced prospects for reelection, this time to a full, two-year term.

Dropping the budget ball

The other curiosity was perpetrated by the Senate, which broke with a 30-plus year tradition when it rejected the House's supplemental budget for the fiscal year that ended June 30. Constitutionally, it is the responsibility of the House to formulate the budget and send it to the Senate for concurrence. House Finance

Committee members generally rely on collaboration from their Senate counterparts in developing the budget, so Senate acceptance is normally preordained and free of intrigue. Thus, the rejection of the 2010 supplemental spending plan left veteran State House observers scratching their heads. Ultimately, the 2010 supplemental budget was rolled up with the 2011 budget and passed by both chambers in that form.

Aside from these two novelties – the new mid-session Speaker and the budget surprise – the legislative year was memorable for little other than an early adjournment and stampede for the doors.

Among the relatively few bills left standing to become law were two initiated by RIMS. House bill 7450 Sub A, and its Senate twin, S-2806 Substitute-A, introduced by Representative Frank Ferri (D-Warwick) and Senator Rhoda Perry (D-Providence), respectively, allows physicians, physician assistants and nurse practitioners to treat the partner of a patient for certain sexually transmitted diseases without first examining the partner. Twenty-two other states already permit "expedited partner therapy," which is consistent with the guidelines established by the Centers for Disease Control.

The second successful piece of RIMS legislation is a re-write of the licensing statute for radiological technicians (House 7273-Aaa, by Pollard, and its companion bill, Senate 2130-A, by Gallo). Rad techs have been licensed in Rhode Island since 1994 under a statute co-authored by the techs and RIMS. Given advances in technology in the intervening years, RIMS saw the need to work with the Rhode Island Radiological Society and the Department of Health to update the statute. *continued p.8*

JOSEPH LIFRAK, MD, is President of the Rhode Island Orthopedic Society. **RICHARD TEREK, MD**, is Vice President. **GREG AUSTIN, MD**, is Secretary/Treasurer. Members At Large are **ANTHONY MECHREFE, MD**, **SIDNEY MIGLIORI, MD**, and **ERIC WALSH, MD**.

DIETER POHL, MD, is President of the Rhode Island Chapter of the American College of Surgeons. **STEVEN MIGLIORI, MD**, is President-Elect. **JENNIFER GASS, MD**, is Treasurer. **ERIK ENQUIST, MD**, is Secretary. **MARLENE CUTITAR, MD**, is Immediate Past President.

CHARLES PATTAVINA, MD, will receive the prestigious James D. Mills Outstanding Contribution to Emergency Medicine Award of the American College of Emergency Physicians on Thursday, September 30, in the context of the ACEP's annual Scientific Assembly in Las Vegas, September 28–October 1. The award is named for one of the founders of the ACEP.

L. ANTHONY CIRILLO, MD, will become Chair of the State Legislative and Regulatory Committee of the American College of Emergency Physicians when the ACEP holds its annual Scientific Assembly in Las Vegas, September 28–October 1.

PHILIP R. RIZZUTO, MD, will receive the prestigious Secretariat Award of the American Academy of Ophthalmology in the context

of the AAO's Annual Meeting in Chicago, October 16–19. The Secretariat Award recognizes special contributions to the Academy and to ophthalmology. In particular, AAO will recognize Dr. Rizzuto for exemplary efforts as a member of the AAO's Secretariat for State Affairs, as President of the Rhode Island Society of Eye Physicians and Surgeons and as a teacher and mentor of residents, among other contributions.

STEVEN R. DETOY, RIMS' Director of Government Relations and Public Affairs, has been named to the fifteen-member Federation Staff Advisory Steering Committee of the AMA Practice Management Center. The Center provides advocacy on payment issues, practical assistance to medical offices, and timely information to medical society staff on medical practice issues. Mr. DeToy is also a founding member of the Executive Committee of the AMA's Advocacy Resource Center.

NEWELL E. WARDE, PHD, RIMS' Executive Director, was elected by his state medical society peers in June to chair the Executive Committee of the Litigation Center. The Center, a joint undertaking of the AMA and the medical societies of every state and the District of Columbia, was established in 1995 to advance physicians' rights through the judicial system. It has participated in more than 200 legal cases.

Budget – continued

RIMS vs. tanning salons and sugary drinks
RIMS initiated two other timely public health measures that failed narrowly because of the abbreviated Assembly session and will be back on RIMS' legislative agenda next year. One measure would have barred persons under the age of 18 from patronizing tanning salons. Jason Neustadter, MD, a resident in dermatology, led the charge for this legislation. His worthy efforts were the subject of a front-page feature article in the Providence Journal on July 5, 2010.

RIMS also introduced a bill to tax sugar-added drinks. This bill attracted support from more than twenty organizations that share the Medical Society's concern about American dietary habits and the related epidemic of obesity. It also attracted vehement opposition from the beverage industry, which launched a well-funded campaign of radio and print advertising and whipped up "anti-tax" chatter on the radio talk show circuit. RIMS' bill was given a lengthy hearing by the House Finance Committee. In the end, however, the opposition succeeded in killing the bill. RIMS and a growing coalition will bring it back in 2011.

Professional liability

This year's efforts on liability reform met with disappointment as well. One might have hoped that RIMS' legislation to protect open communication between doctors and patients when outcomes disappoint (commonly known as the "I'm sorry" bill) would have stood a good chance of passage this year in the wake of last summer's high-profile case involving the family of actor James Woods and Kent County Hospital. But while the bill did receive a reasonable hearing in House Judiciary Committee, the Senate did not deign to follow suit.

The usurious prejudgment interest rate that Rhode Island law applies to medical liability settlements and awards (12%) received diligent attention once again this year. Inappropriately frozen in law for decades now at an artificially high level, the prejudgment interest rate remains a significant driver of process delays and high cost. Unfortunately, much like RIMS' "I'm sorry" legislation, this year's interest bill received a serious hearing on the House side but met a firm stone wall in the Senate.

As always when liability reform bills are heard in the General Assembly, it can be impressive to observe the intellectual creativity, rhetorical elegance and mulish intransigence of the plaintiff bar as they fiercely defend their lush turf.

Drs. Aronson, Hamolsky receive national honors

The Federation of State Medical Boards has honored Dr. Milton W. Hamolsky and Dr. Stanley Aronson with Lifetime Achievement Awards for distinguished leadership in medical regulation.

The two Rhode Island doctors were only the third and fourth recipients in the entire history of the award, which is presented infrequently to outstandingly meritorious individuals. The previous presentations were made in 2002 and 2008.

The Federation is the professional association of state medical boards, the authorities that license and discipline doctors in the various states. Dr. Aronson and Dr. Hamolsky received their awards at the federation's 98th annual meeting in Chicago in April.

Dr. Hamolsky had just retired in 1986 from a long and distinguished career as a pioneering endocrinologist, professor of medicine at Brown and physician-in-chief at Rhode Island Hospital, when then-Director

of Health H. Denman Scott, MD, MPH, recruited him to be the first chief administrative officer of the new Board of Medical Licensure and Discipline. The BMLD officially replaced the old Board of Medical Review on January 1, 1987, with Dr. Hamolsky at the helm. Dr. Hamolsky led the new board from then until his second retirement in 2001.

Dr. Aronson served on Rhode Island's Board of Medical Licensure from 1992 to 2003. He is the Founding Dean of Brown's medical school, now the Warren Alpert School of Medicine, and served as Dean for 11 years. He is a former editor-in-chief of the Medical Society's monthly journal, *Medicine @ Health Rhode Island*. His popular, erudite commentaries on medicine and medical history appear regularly in that journal and on the editorial pages of the *Providence Journal* every Monday morning. ❖

Awards for Drs. Ettensohn, Troise

The Medical Society will bestow special honors upon David Ettensohn, MD, and Carolyn Troise, MD, in the context of the RIMS Annual Member Banquet on Saturday evening, October 2, at the Squantum Association in East Providence.

Dr. Ettensohn will receive the Dr. Charles L. Hill Award in recognition of his energetic and eloquent leadership in a time of particular challenge and stress for the Rhode Island medical community. Dr. Ettensohn was President of RIMS 2002–2003.

Dr. Carolyn Troise will be the third recipient of the Dr. Herbert Rakatansky Award for Professionalism in Medicine. Dr. Troise has served as the medical director of the Rhode Island Free Clinic since its inception. ❖

Members should have received invitations to the Annual Banquet by late August. Questions can be directed to Sarah Stevens at 401-331-3207. (See also p.2 of this newsletter.)

Other health-related bills that did become law include the following:

- A bill to regulate "discount medical plans," which are typically scams promoted by small signs nailed to utility poles.
- A bill adopting the AMA's 6th edition *Guides to the Evaluation of Permanent Impairment* in workers' compensation cases. This bill also clarifies the statutory language pertaining to workers' compensation and Preferred Provider Networks (PPNs). (See also a related article on workers' compensation page 16.)
- A bill to allow the Director of Health to grant privileges to health care professionals licensed in other states to practice in Rhode Island during a declared emergency.
- A bill to allow the health care provider of a child who has been sexually assaulted to report that information to the appropriate regulatory agency.
- A bill to expand the role of the medical examiner's office to include making recommendations to decrease the incidence of preventable child deaths.

- A bill to require school districts to work with the Rhode Island Interscholastic League (RIIL) to develop guidelines for coaches and players of youth sports to reduce risks associated with concussions.
- A bill changing the name of the Department of Mental Health, Retardation and Hospitals (MHRH) to Rhode Island Department of Healthcare, Developmental Disabilities and Hospitals (DHDDH).

A more complete account of this year's health legislation is provided in the accompanying grid on pages 10–11.

The RIMS Public Laws Committee, chaired by Michael E. Migliori, MD, is comprised of physicians representing a full spectrum of medical specialties and subspecialties. Its meetings are open to RIMS members. Physicians are encouraged to contact RIMS' Director of Government Relations, Steve DeToy, with questions regarding the legislative process or with suggestions for potential future legislation (sdetoy@rimed.org). As usual, the Public Laws Committee invites participation and suggestions from members and specialty societies for its meeting in the autumn to formulate RIMS' legislative agenda for 2011. ❖



Senator Sheldon Whitehouse with RIMS President Vera De Palo, MD, at the Rhode Island Health Care Stakeholders meeting in Washington, DC, on July 14.

Health-related bills that became law in the 2010 session of the Rhode Island General Assembly

The complete text of the bills can be viewed at www.rilin.state.ri.us, search by bill number.

Bold and underlined indicates RIMS-Sponsored

Bold and italicized indicates of particular RIMS interest

BILL	HOUSE BILL NO. SPONSOR	HOUSE STATUS	SENATE BILL NO. SPONSOR	SENATE STATUS
RELATING TO EDUCATION This act would require school districts to work with the Rhode Island interscholastic league to develop guidelines for educating coaches and players in youth sports about the risks associated with concussions. This act would also limit the liability of school districts and others for such injuries, provided certain insurance coverage is provided. This act would take effect upon passage.	H 7036 A aa Gallison	PL 10-022	S 2034 A aa Felag	PL 10-021
RELATING TO BUSINESSES AND PROFESSIONS – RADIOLOGIC TECHNOLOGISTS LICENSING This act would repeal the existing radiologic technology licensing act and adopt a revised radiologic technology licensing act. This revised act would allow the director of health to appropriately license radiologic technologists in accordance with current standards of practice established by national professional associations which examine, register, certify or approve individuals and education programs relating to operators of sources of radiation. This act would take effect upon passage.	H 7273 A aa Pollard	PL 10-137	S 2130 A Gallo	PL 10-139
MAKING APPROPRIATIONS FOR THE SUPPORT OF THE STATE FOR THE FISCAL YEAR ENDING JUNE 30, 2011	H 7397 A aa Watson	PL 10-023		
RELATING TO HEALTH AND SAFETY – MEDICAL EXAMINERS This act would increase the responsibilities of the medical examiner's office to make recommendations to decrease the prevalence of preventable child deaths, and to help establish community intervention strategies through the use of a child death review team. This act would take effect upon passage.	H 7417 A Naughton	PL 10-143		
RELATING TO EDUCATION – HEALTH EDUCATION CURRICULUM This act would require that the department of elementary and secondary education develop a Lyme disease awareness and prevention course for public school students and all health education classes include instruction on Lyme disease prevention and treatment. This act would take effect upon passage.	H 7418 A Jackson	PL 10-087	S 2265 B DiPalma	PL 10-081
RELATING TO HEALTH AND SAFETY – SEXUALLY TRANSMITTED DISEASES This act would permit physicians, physician assistants and nurse practitioners to prescribe prescription drugs to a patient's sexual partner or partners for the treatment of sexually transmitted diseases.	H 7450 A Ferri	PL 10-175	S 2806 A Perry	PL 10-166
RELATING TO INSURANCE - DISCOUNT MEDICAL PLANS This act would establish standards for discount medical plan organizations, protect consumers from unfair and deceptive marketing practices and facilitate consumer understanding of discount medical plan organizations. This act would take effect upon passage.	H 7606 A Kennedy	PL 10-158	S 2632 A Sheehan	PL 10-156

BILL	HOUSE BILL NO. SPONSOR	HOUSE STATUS	SENATE BILL NO. SPONSOR	SENATE STATUS
RELATING TO HEALTH AND SAFETY – DISTRESSED ESSENTIAL COMMUNITY HOSPITALS This act would allocate a quarter percent (.25%) of the taxes on the premiums of health insurers to assisting a distressed essential community hospital. This act would take effect upon passage.	H 7654 A Fierro	PL 10-154	S 2417 A Picard	PL 10-155
RELATING TO INSURANCE This act would add a trend test to the risk based capital statutes governing insurers and health organizations, financial health determinations. This act would take effect upon passage.	H 7711 A Marcello	PL 10-065	S 2714 A Lynch	PL 10-049
RELATING TO BUSINESSES AND PROFESSIONS – CONFIDENTIALITY OF HEALTH CARE COMMUNICATIONS AND INFORMATION ACT – HEALTH CARE COMMUNICATIONS AND INFORMATION This act would require the health care provider of a child who has been sexually abused to report the abuse to the appropriate law enforcement entity. This act would take effect upon passage.	H 7865 A McNamara	PL 10-085	S 2220 Aaa Perry	PL 10-082
RELATING TO HEALTH AND SAFETY – HEALTH CARE SERVICES – UTILIZATION REVIEW ACT This act would repeal the sunset provision regarding the statutory variances the department of health is allowed to issue. This act would take effect upon passage.	H 7907 A Kilmartin	PL 10-190		
RELATING TO LABOR AND LABOR RELATIONS – WORKERS' COMPENSATION This act would make changes in the medical review procedure for claimants receiving workers' compensation benefits. This act would take effect upon passage with paragraph 28-29-2(3)(ii) and section 28-33- 4 18 applicable to all injuries sustained on or after January 1, 2011.	H 8114 A Williams	PL 10-121	S 2083A P Fogarty	PL 10-095
RELATING TO MOTOR AND OTHER VEHICLES – THE DIESEL EMISSION REDUCTION ACT This act would add new provisions with respect to diesel emissions control in public projects, and would exempt diesel emissions control technology from the sales tax. This act would take effect upon passage.			S 2440 Aaa Miller	PL 10-184
RELATING TO INSURANCE – EXTENDED MEDICAL BENEFITS This act would provide that dental and vision benefits be included for individuals eligible for extended medical benefits. This act would take effect upon passage.			S 2629 DeVall	PL 10-053
RELATING TO HEALTH AND SAFETY This act would give authority to the director of health to certify out-of-state health care professionals in times of emergency. This act would take effect upon passage.			S 2631 Tassoni	PL 10-051