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While some have referred to 2010 as a rollercoaster ride, I prefer to describe it as a trip through the funhouse. According to Wikipedia, “Funhouses seek to distort conventional perception and startle people with unstable and unpredictable circumstances within an atmosphere of whacky whimsicality.” Whether or not the Legislature could be called fun or playful is debatable, but the terms unstable, unpredictable and whacky are all keenly accurate. One of the elements of a funhouse is its design to surprise and challenge the visitor. Uncertainty about what lays ahead, what could be lurking around the corner or what will jump out along the way can be both thrilling and daunting at the same time. Uncertainty was a key feature of this past legislative year.

With dramatic changes in federal health care, new legislative leadership, a slow economy and dismal financial returns, the pathway to sound policy reform or a timely budget seemed anything but certain. Lawmakers ended the year by running out the final hours of the legislative clock debating controversial bills and a budget doomed to fail, leaving a handful of bills victim to the midnight deadline. The session ended with a Legislature running out of time, and to date, California continues to operate without a budget.

The year began with the Assembly electing John A. Perez as their new Speaker, a freshman with both political and policy experience, but still a greenhorn to leadership. Given that he is just concluding his first term in the Assembly, it is expected that he will have at least 4 years in the role, a long run by recent standards. Also new to leadership were minority leaders in both houses, Senator Dennis Hollingsworth and Assemblymember Martin Garrick. Despite

a relatively smooth transition, the change inevitably left questions as to what type of leader each would become, how effective they would be, and what kind of political and policy values they would prioritize.

With unpredictability at the top, lawmakers continued to work in a way that has become quite predictable. In an era of term limits, politicians must campaign for new offices as they prepare to term out of their current job. 2010 proved no different, with dozens running for a new office, in many cases competing against their colleagues. The contests produced an atmosphere of posturing and high-stakes voting as legislators positioned themselves to also be good candidates.

To further complicate this dynamic, election season changed from taking place in the even-numbered years to being a year-round process. It seemed there was always a special election altering the roster in the Capitol, often producing a domino effect of other elections and political appointments. Scandal, untimely death and chance political opportunities caused a handful of special elections that moved Assemblymembers to the Senate and brought in new legislators mid-year. Most recently, Congresswomen Ellen Tauscher went to work for the Obama administration, allowing former Lt. Governor John Garamendi to run and win the congressional seat she vacated, prompting the Governor to appoint Senator Abel Maldonado (last year’s key budget vote) to the second-in-command position, allowing then Assemblymember Sam Blakeslee to win the 15th Senate seat, whose Assembly seat will now be vacant until yet another special election in November. Welcome to the funhouse.

The Governor’s final months in office as a “lame duck,” saw him taking on a quieter role than in previous legislative sessions. Years of political foibles and failed initiatives seem to have worn on him, coupled with a lack of allies on either

side of the aisle. Still, Governor Schwarzenegger has been trying to solidify his legacy via AB 32 and his proactive position on global warming, as well as posturing California to be a leader in health care reform. Though California's attempt to tackle health care reform was not a success, the Governor has clamored to put California at the forefront of federal health care reform implementation.

Despite Sacramento's climate of uncertainty, CMA's Government Relations team continued to be a resource to lawmakers and successfully navigated through the obstacle course to protect and promote physician's interests in the Capitol. Budget woes were at the forefront of everyone's minds, but with no solution in sight Legislators attempted to tackle the issues du jour in California, implement new reform laws and continue fights from the previous year. Raging battles were waged under the state's dome over water rights, gun control and even plastic bags, while the hospitals continued their efforts to erode the ban on the corporate practice of medicine.

Three bills were carried over from the previous year, and with AB 646 (Swanson) and AB 648 (Chesbro) virtually dead in the Senate Business & Professions (B&P) committee, proponents turned their energy toward SB 726 (Ashburn). With a Republican author and union-backed sponsors, SB 726 was a political dichotomy that proved difficult to stop. Ordered by legislative leadership, CMA met with key stakeholders and legislators numerous times throughout the year to hash-out negotiations on the bill, to no avail. The peace-talks were clouded with insincerity as supporters of SB 726 continued to try to move the bill. The battle waged on, with the bill narrowly passing through the Assembly and was finally killed in the Senate B&P committee.

Federal health care reform was also at the forefront of many lawmakers' minds. The complicated series of provisions mean changes at nearly every level of the health care process, from patient to provider. Responsively, many pieces of legislation to bring California into compliance with federal standards were introduced late in the session. There were bills establishing and implementing the state's high-risk insurance pool, bills creating the health insurance exchange, several market reform and coverage expansions and several bills directed at the health insurance rate hikes. CMA ramped up its advocacy efforts and teamed up with some interesting and unexpected allies in the course of events. Clever collaboration was a powerful and exciting tool for both lawmakers and health care interest groups, the result of which was an increase in bipartisan vote counts.

Overall, it was a year stymied by poor financial news, coupled with colossal changes at the national level. But despite the uncertainty that permeated through the session, CMA gained some decisive victories for the practice of medicine and for the health care system in general. We were largely victorious in passing our sponsored bill package through the legislative process and stopping the bills that we opposed in their tracks. CMA was pleased to advance five sponsored bills to the Governor, two of which were signed into law. AB 583 (Hayashi), which helps patients better understand who their health care providers are by requiring disclosure of education, and AB 2470 (De La Torre), which cracks down on unlawful rescission, both received bipartisan support and will become law in 2011. Peer review protection, adequate vaccine reimbursement and Maddy Fund transparency bills fell victim to a dismal economy and special interests. Throughout the year, CMA was at the forefront of the health care reform debates and was able to craft and support several bills on

implementation in California as well as develop important relationships with legislative leaders and stakeholders.

Time will tell how a new Governor will respond to nationwide changes on health care. Term limits will make for a Legislature in 2011 comprised of nearly one-third new members. Redistricting will add a new and potentially detrimental element for lawmakers, redrawing district lines and throwing some legislators out of their represented seats. But for now, we made it through the funhouse. We'll see what next year's ride will be.

CMA Sponsored Legislation

AB 583 (Hayashi) Health Care Practitioners:

Disclosure of Education

CMA co-sponsored this bill with the California Society of Plastic Surgeons. It is becoming increasingly difficult for the public to identify the license, education, and training of health care professionals who practice in the state and many are unable to distinguish between physicians and non-physicians. To protect the public's health and safety, this "truth in advertising" legislation will require a health care professional to disclose information in various health care settings to help patients understand who will be helping them with their health care, such as information about their license, education, and recognized board certification.

Status: Signed by the Governor (9/29/10).

AB 1235 (Hayashi) Peer Review

This bill improves an already robust peer review system to make it even more effective in ensuring high quality care in California hospitals. Nearly all peer review in California is done in an efficient and timely manner that protects patients

from quality of care deficiencies. However, the current peer review system can be strengthened. For example, improper or biased review can be utilized to remove physicians for non-quality of care concerns. In rare circumstances peer review can be delayed to the point that patients are placed in danger by the inability to promptly remove a physician that is providing substandard care. This bill is a reintroduction of AB 120 which CMA sponsored last year but was vetoed by the Governor. The veto was based on the fact that AB 120 was joined to a bill the Governor objected to. AB 1235 is not joined with the same provisions that led to the veto of AB 120.

Status: Vetoed by the Governor (9/30/10).

AB 2093 (M. Perez) Adequate Vaccine Reimbursement

Co-sponsored with AAP and CAFP, the bill would require health plans and insurers to reimburse physicians for costs to administer recommended vaccines that are already required to be covered; prohibit health plans and insurers from charging copayments, deductibles or other out-of-pocket expenses that deter parents from immunizing their children; and prohibit health plans and insurers from including the cost of immunizations in a policy's dollar limit provision. CMA has extensive policy on this issue that has been highly ranked by the House of Delegates.

Status: Vetoed by the Governor (9/29/10).

AB 2248 (Hernandez) EMS/MADDY Accounting

Cosponsored with the Chapter of the American College of Emergency Physicians (CAL/ACEP), this bill would clarify the EMS/Maddy Fund reporting requirements in existing law. A House resolution was passed in 2009 on this issue, stating the need for timely and accurate reporting by counties. This legislation will expand the level of detail that counties

are required to report to the state in order to make it easier for members of the public, including physicians, to access thorough and helpful information on counties' Maddy Funds. Nearly every county in the state has a Maddy Fund, and the economic downturn has led to a significant increase in the number of uninsured in California, increasing pressure on these critical resources. In many cases the Maddy Fund is a physician's only source of payment for providing emergency care to this population, and so it is essential that these monies be thoroughly accounted for and effectively spent.

Status: Vetoed by the Governor (9/29/10).

AB 2470 (De La Torre) Unlawful Rescission

This bill is intended to stop the unscrupulous practice of rescission, where HMOs retroactively dump innocent patients off their insurance after they file claims. This bill will conform with the new federal health reform law by establishing that plans and insurers must prove fraud or intentional misrepresentation prior to rescinding a patient. This legislation will ensure that health plans and insurers do not act as "judge and jury" whenever they want to rescind or cancel by giving enrollees the right to appeal a rescission or cancellation to state regulators, who will conduct a review to determine if the insurer's action was appropriate. The bill also requires that the enrollee keep his/her coverage during the appeal process.

Status: Signed by the Governor (9/30/10).

AB 2533 (Fuentes) Quality Measurement

AB 2533 requires health care service plans and insurers to file with the Department of Managed Care or Department of Insurance a description of policies and procedures related to quality or physician rating of physicians or surgeons used by the plan or insurer. Quality rating or physician rating is

an attempt of a health care service plan, insurer, or a third party to develop, evaluate or rate the performance of a physician or surgeon based on quality measurement and insurance claims data. Many insurers are attempting to rate physicians based on quality or costs measures without the consent of physicians. For example, the California Physician Performance Initiative (CPPI) has been ongoing for the past two years, yet, problems continue to exist. Given that there are many concerns about the accuracy of the claims data used by insurers, and the irreparable harm such ratings may bring to a physician's personal and professional reputation or how patients could be misled by the information, CMA believes that health plans, insurers, or any third party contracted to conduct a quality rating program should be required to simply disclose a description of the policies and procedures related to the rating.

Status: Did not meet deadline for bill passage; effectively dead for the 09-10 Session.

AB 2586 (Chesbro) Network Transparency

This bill would require the Department of Managed Health Care (DMHC) and the Department of Insurance (DOI) to more effectively enforce network adequacy requirements in current law and ensure that provider directories are accurate. The bill would require DMHC/DOI to regularly review provider networks to ensure that the required physician-to-patient ratios are being maintained, as well as to ensure that the networks and directories do not include doctors who are non-contracted, out-of-network, deceased, retired, have moved, or whose practices are closed to new patients. Providing these departments with better network adequacy enforcement tools will improve access and continuity of care and will equip patients with full and complete information about their health care

provider network. AB 2586 will help ensure consumers and employers are being offered real value in exchange for their health care premiums.

Status: Did not meet deadline for bill passage; effectively dead for the 09-10 Session.

SB 1031 (Corbett) Medical Malpractice for Volunteer Physicians

In order to encourage more physicians to provide voluntary care to Californians in need, CMA, in conjunction with the Medical Board, will use this bill to provide malpractice coverage to volunteer physicians. Currently, CMA staff is managing a work group comprised of insurers, hospitals, clinics and the Medical Board that is charged with finding a solution to this ongoing problem, including public coverage, requiring government agencies to cover physician employees who volunteer and mandates on other insurers to provide funds. This bill will address a key barrier to improving access to care.

Status: Did not meet deadline for bill passage; effectively dead for the 09-10 Session.

CMA Opposed Legislation

AB 646 (Swanson) Physicians and Surgeons Employment

This bill was amended in Assembly Health Committee to establish a pilot program to allow Healthcare Districts located in an underserved area to directly employ and charge for physician services. Districts would be allowed to hire up to 5 physicians with an ability to request up to 5 additional contracts and would allow physicians to be employed up to 2031.

Status: Dead Bill.

AB 648 (Chesbro) Rural Hospitals: Physician Services

This bill, as amended in Assembly Health, would allow a rural hospital that serves an underserved area or population to directly employ and charge for physician services. The demonstration project would last up to 10 years and allow the hospital to employ up to 10 physicians. To be eligible, the hospital must demonstrate that it can document that it has been unsuccessful in recruiting a physician for 12 months and the CEO certifies to the Medical Board of California that there is a critical unmet need in the community.

Status: Dead Bill.

SB 726 (Ashburn) Hospitals: Employment of Physicians and Surgeons

This bill, as amended in Assembly Health Committee, will allow virtually all Health care Districts and Rural Hospitals to directly employ up to 5 physicians in a pilot program. The CEO of a facility must show they have been unsuccessful in recruiting a physician for 12 months, that no currently contracted physician or physician with privileges will be supplanted, and the physician was not recruited from an FQHC. Employment contracts can be up to 10 years but may be renewed if signed prior to December 31, 2017. The Medical Board of California would be responsible for an interim report on the success of the pilot program due in 2013 with a final report due in 2016.

Status: Failed when reheard in Senate Business and Profession Committee (3-4). Dead Bill.

SB 810 (Leno) Single Payer Health Care

This bill is a reintroduction of SB 840 (Kuehl) from last session. The bill would create a single-payer system of health care in California. Specifically, SB 810 creates a

single payer purchasing pool and would prohibit most private health insurance from being sold.

Status: Did not meet deadline for bill passage; effectively dead for the 09-10 Session.

Health Reform Bills

Temporary High Risk Pool

SB 227 (Alquist) Health Care Coverage: Temporary High Risk Pool (Support)

This bill establishes the Federal Temporary High Risk Pool (FTHRP) Program in California to draw down federal health reform funding for state high risk pools, one of the first coverage expansions in the federal Patient Protection and Affordable Care Act (PPACA), where individuals with pre-existing conditions can purchase coverage. Like the existing Major Risk Medical Insurance Program (MRMIP), the new high-risk pool will be administered by the state's Managed Risk Medical Insurance Board (MRMIB). CMA supports the development of the temporary high-risk pool, as it will provide an avenue to coverage for those with complex medical conditions, in the time between now and when the ban on pre-existing conditions exclusions takes effect for everyone in 2014. This bill is a companion measure to AB 1887 (Villines).

Status: Signed by the Governor (6/29/10).

AB 1887 (Villines) Temporary High Risk Pool (Support)

This bill creates in the State Treasury the Federal Temporary High Risk Health Insurance Fund to receive the federal funding made available in the federal Patient Protection and Affordable Care Act (PPACA) for high-risk pools. Additionally, AB 1887 will permit the state to solicit new contracts for the

new federal program. This bill is a companion measure to SB 227 (Alquist), which contains most of the implementing language for the temporary high-risk pool in California.

Status: Signed by the Governor (6/29/10).

Health Insurance Exchange

AB 1602 (Perez) Health Care Coverage (Support)

This bill now only contains the powers and duties of the Exchange relative to determining eligibility and enrollment in the Exchange, and negotiating rates with licensed carriers to arrange for coverage from which uninsured consumers may choose. The establishment of the Governing Board and its administrative functions are now in the companion bill, SB 900. The amendments also deleted the language implementing federal market reforms, such as requiring coverage of preventive conditions and dependent coverage up to the age of 26, because those provisions are in other bills. Other amendments require an annual audit on the implementation and performance of the Exchange, authorize the California Health Facilities Financing Authority to provide a \$5 million loan to assist in the establishment and operation of the Exchange, require coordination between the Exchange, counties and the Managed Risk Medical Insurance Board to facilitate enrollment of individuals into the appropriate program, and limit fees assessed on health plans to run the Exchange when there is a reserve in the Exchange's operating budget. Enactment of this measure is contingent upon enactment of SB 900. The Exchange will provide consumers with a marketplace of insurance plans through a website that will provide standardized, detailed information about the plans and offer a toll-free number to help consumers understand their options. California's Exchange is likely to be the first in the nation and the largest

exchange operated by a single state, with over eight million residents expected to be eligible for coverage.

Status: Signed by the Governor (9/30/10).

SB 900 (Alquist) California Health Benefits

Exchange (Support)

This bill now only creates the California Health Benefit Exchange and establishes the Governing Board and its administrative functions. The bulk of the powers and duties of the Exchange relative to determining eligibility and enrollment in the Exchange, and negotiating rates with licensed carriers to provide for coverage from which uninsured consumers may choose are now in the companion measure, AB 1602. CMA was successful in getting amendments to SB 900 to allow a health care provider to serve on the Exchange Governing Board as long as he or she has no financial conflict. CMA was also successful in getting “revolving door” amendments that would have prevented an Exchange Board Member from leaving the Board to work for a health insurer or other conflicted entity until a year has elapsed. However, that restriction was later removed because it would have prevented a health care provider from earning a living once leaving the Exchange Board. Enactment of this measure is contingent upon enactment of AB 1602. The Exchange will provide consumers with a marketplace of insurance plans through a website that will provide standardized, detailed information about the plans and offer a toll-free number to help consumers understand their options. The Exchange is likely to be the first in the U.S. and the largest exchange operated by a single state, with over eight million residents expected to be eligible for coverage.

Status: Signed by the Governor (9/30/10).

Market Reform and Coverage Expansion

AB 1825 (De La Torre) Maternity Services (Support)

This bill would close a loophole exploited by health insurance companies in order to sell cheap, “subprime” non-comprehensive health insurance that lacks maternity coverage. This bill brings two bodies of law into conformity by requiring all individual and group health insurance policies regulated under the Department of Insurance to cover maternity services, while HMOs regulated by the Department of Managed Health Care (DMHC) are already required to meet these standards. This bill will ensure fair, affordable access to maternity coverage in health care benefits, regardless of the type of plan offered.

Status: Vetoed by the Governor (9/30/10).

AB 2244 (Feuer) Health Care Coverage (Watch)

This measure is intended to provide early implementation of federal health reform for a segment of the market that already has substantial subsidies (children) and to provide a transition to health reform modeled on the small employer market rules by phasing in modified community rating, and limiting and then eliminating premium variation based on health status. This bill requires guaranteed issue of health insurance for children in 2011 and adults in 2014, in conformity with federal law. For children’s premium rates prior to 2014, this bill requires the use of “rate bands” that differ from federal law to limit premium variation in the individual market based on the phased in approach taken in the state’s small group health insurance law, where health plans and health insurers file a standard rate based on a particular age, family size, geographic area and benefit plan design. While the goals are laudable, this bill goes well

beyond the provisions in PPACA, and does not couple an individual mandate with the guaranteed issue provisions.

Status: Signed by the Governor (9/30/10).

SB 890 (Alquist) Health Care Coverage (Support)

This bill requires plans/insurers to categorize their products offered in the individual market based on actuarial value, ranging from catastrophic coverage to platinum coverage. Actuarial value is the percentage of health care expenses paid for by health insurance, versus paid for out-of-pocket, by an individual. Health plans would be required to disclose to people shopping for individual coverage the percentage of expenses paid by insurance for a person of average health, the annual out-of-pocket expenses of an individual of average health, and his or her total annual cost. The bill now also clarifies that individuals can switch to an equal or lower benefit plan offered by their health plan after 12 months, instead of being required to be enrolled for 18 months under current law. The bill also requires all health insurance products to cover medically necessary basic health care services, including maternity coverage.

Status: Vetoed by the Governor (9/30/10).

SB 1088 (Price) Health Care Coverage:

Dependents (Support)

This bill implements provisions of the recently enacted federal Patient Protection and Affordable Care Act (PPACA) that requires health plans and health insurers to expand coverage to dependents up to age 26. This bill conforms state statute to federal law by preventing young adults who are enrolled on their parents' insurance from being terminated prior to their 26th birthday.

Status: Signed by the Governor (9/30/10).

[Rate Review / Rate Regulation](#)

AB 591 (De La Torre) Health Care Coverage:

Premium Rates (Oppose)

This bill imposes a 90-day moratorium on increases in premium rates, and would prohibit health plans and insurers from increasing premium rates by more than the average percentage increase in the medical care component of the consumer price, unless the plan or insurer files an application with the Department of Managed Health Care or the Department of Insurance, respectively, and the application is approved by that department. The bill would prohibit approval of an application unless the applicant completes an audit showing that its medical loss ratio would meet or exceed that which is required in federal law. The bill would also prohibit a plan or insurer from increasing the premium rate it charges a subscriber or policyholder during the 12 months following the last premium rate increase. While it takes a different form, this is still a 'rate regulation' bill, which CMA has historically opposed. Physicians will still likely take the brunt of the impact of state agency rate-setting. This bill's benefit to consumers and patients is also dubious, as it gives health plans and health insurers carte blanche to raise rates regularly based on medical inflation.

Status: Did not meet deadline for bill passage; effectively dead for the 09-10 Session.

AB 2578 (Jones) Health Care Coverage:

Rate Approval (Oppose)

This bill would require the Department of Managed Health Care and Department of Insurance to approve any increase in the amount of the premium, copayment, coinsurance obligation, deductible, and other charges under the health care service plan or health insurance policy. While CMA is very concerned about the effect of skyrocketing premiums

on individuals and small businesses, a full rate regulation scheme could give insurance companies an excuse to further squeeze dollars out of health care delivery. CMA has supported enforceable medical loss ratios, which require health plans to fund medical treatment instead of administration, as an alternative to rate regulation.

Status: Dead Bill.

SB 1163 (Leno) Health Care Coverage:

Denials Premium Rates (Watch)

The author and sponsor (Health Access) agreed to demands from CMA and other provider organizations to prohibit the public disclosure of confidential and proprietary provider-specific rate and cost information by carriers and regulators. The sponsors of this measure wanted to be able to publicly call out individual medical groups as cost-drivers in carrier rate increase filings, but that language was removed. This bill is a reasonable alternative to full governmental regulation of premiums (as required in the now dead AB 2578), where regulators making political decisions will arbitrarily cap health care premiums, which will only lead carriers to find ways to spend less on patient care. The bill increases transparency in rate filings and requires carriers to provide their regulators and post on their web-site year-to-year cost increase information by benefit category, such as physician services, hospital services and pharmaceuticals. The bill requires rate filings to be actuarially sound and to include a certification by an independent actuary that any increase is reasonable or unreasonable. This statutory authority is necessary to implement rate review provisions in federal health care reform and to draw down related federal grants that will be available over the next five years.

Status: Signed by the Governor (9/30/10).