2011 Legislative Session Summary (July 2011)

by Tom Buckley, RPh, MPH

Coming off the recent successes in the 2010 session to expand our ability to provide clinical services, the 2011 Connecticut legislative session was much more challenging on both the financial and clinical aspects of our profession. Due to the State's $3.6 million deficit at the start of the session, pharmacy was not spared in Governor Malloy's efforts to reduce spending. Thanks to the efforts of the community pharmacy organizations, some modification of the prescription reimbursement plan was negotiated, such as fighting off the effort to include Medicaid patients in the same PBM as state employees (CVS Caremark). This would have reduced reimbursement far more than the final negotiation of AWP minus 16% plus $2.00 for all pharmacies. Negotiations are still ongoing with regard to reimbursement of generic drugs. In addition, if the state employee unions had passed their concession package, then mandatory mail order would have been enacted for state employees and some retirees; however, that appears to now not be happening (at least as of July 1).

CSHP has actively worked for 4 years with other pharmacy organizations on opposing legislation requiring filling of brand-name products for anti-epileptic medications. In addition to Connecticut, this type of legislation has appeared in over 25 states and this year the momentum to get it passed was too much to overcome. Beginning October 1, 2011 pharmacists will be prohibited from filling a prescription to treat epilepsy using a different manufacturer or distributor without prior notice to the patient and prescribing practitioner, and the prescriber MUST provide written consent. It applies to all new or renewed prescriptions that contain an ICD code indicating the drug is being used to treat epilepsy or seizures. The prescriber can be notified by e-mail or fax, however, if the prescriber does not consent, the pharmacist must fill the prescription without substitution or return it the patient for filling at another pharmacy.

This provision is not applicable to hospital in-patients, however it does include all outpatients from hospital clinics or other free-standing clinics, such as federally qualified health centers. Through the efforts of Eric Tichy and myself, CSHP testified in front of the Public Health Committee in opposition to the Bill, and had special meetings with legislative leaders to offer alternative language to the Bill. In an attempt to not limit this type of legislation to just anti-epileptic medications, CSHP worked with other pharmacy organizations to develop language requiring pharmacists to notify the prescriber if a different manufacturer is used for any generic to generic or brand to generic substitution. We raised concerns that the current language of the Bill would open the door for other brand name entities to provide "carve-out" language for specific types of medication, creating multi-tier dispensing with no evidence-based research to support its application. While we have seen this practice occur in our State and other states for multiple therapeutic entities, we feel this legislation will also have a financial impact on the State's budget by increasing use of brand name medication that may not be medically necessary. We voiced this concern through our testimony and in meetings with legislators, emphasizing the recently released AHRQ report that did not reveal any conclusive efficacy or safety differences between brand and generic entities in this drug category. These concerns prompted the legislation to not make it out of the Appropriations Committee, but ultimately the language was attached to the end-of-session "budget implementor" bill which made it virtually impossible to defeat.

CSHP will continue to work with other state pharmacy organizations and ASHP to provide alternatives to this legislation in next year's session and to monitor for other therapeutic entities that may arise with similar language. The state budget was dependent upon passage of the union agreement which now appears to not have been passed, so budget discussions are still in flux. Even though the legislative session has ended, 5 new bills were introduced in June that affect pharmacy practice and are being monitored by CSHP.