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MEMORANDUM

To: Valerie Klans  
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From: Terry Steczo

Re: Legislative Report

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**Sunset Legislation Update Bill Number Changes; Closer To Passage**

As far as the ten-year extension of the Respiratory Care Practice Act goes it seems like the General assembly is playing a game of “follow the bouncing bill number”. Originally, the bill number that contained the sunset language was House Bill 408. Later in the session it was determined that Senate Bill 1826 would be the vehicle for the sunset language. Now, Senate Bill 973 will carry what we hope will be the final version of the Practice Act language.

As confusing as this switching of bill numbers may seem it’s a common occurrence during the legislative process. Reasons for making the change may vary but for whatever reason the progress of the extension through the process has not been hindered.

Our conversations with other stakeholder have been completed and, with the exception of minor language tweaking, there has been general agreement on the language of the extension. The staffs of both legislative chambers have been informed of all discussions and agreements and have worked with ISRC to review the language in all drafts for form and content.

Senate Bill 973 has passed the Senate with the Respiratory Care Practice Act language included. Some minor amendments will be made in the House to clarify a few items, but the expectation is that the House committee will act on the language by May 8, the full House will consider the bill by May 22, and the Senate will act on the amended language by May 31.

**It’s May 1 ...**

For the past four months state government observers have tried without much success to try to figure how both how and when the current session will end., and practically no one is predicting that the legislative session will adjourn on time by May 31. Session ending predictions have ranged from early June to late July, well after the July 1 beginning of the state’s fiscal year.

In order for any thought of ending the session to occur there first has to be some meeting of the minds on a state budget ... a budget that must plug a \$6.6 billion gap. And before that, according

the recent pronouncements by the Governor, there must be some positive consideration of his “Turnaround Agenda” that seeks to implement a number of structural business changes relating to tort, worker’s compensation, and unemployment compensation reform, a property tax freeze, plus a number of other issues like limitations on legislative leadership and a constitutional amendment on pension reform.

Why the insistence on the policy considerations before a budget is discussed and considered? Well, according to the Governor in recent interviews, “Crisis creates opportunity. Crisis creates leverage to change ... and we’ve got to use that leverage of the crisis to force structural change.” So by declining to consider a budget plan until the “Turnaround Agenda”, which include items that have been rejected for years, is negotiated a legislative overtime is almost guaranteed.

Legislative Democrats have questioned why the Governor has spent the time between January and now travelling the state railing against state labor unions and promoting an agenda that the legislative majority has never been fond of rather than applying all of his energies and effort toward resolving the budget crisis. As the adjournment clock ticks toward May 31 the question is whether or not there will be any realistic negotiations that take place before then.

With Governor Rauner being new on the scene legislative leaders are trying to assess who he is and the type of negotiator he will be. At one recent meeting with legislators the Governor asked legislators to trust him. “Trust you?” one legislator responded, “we don’t even know you.” And that is the big question mark as the session heads into the final four weeks. Who is this new Chief Executive? In a recent Chicago Tribune interview this is how the Governor characterized himself: “I am one of the baddest, you know, enemies anybody can have. And when I set a goal, we do it. I don’t care what the headline is. I want the results.” The administrations of Governors Thompson, Edgar and Ryan found much success by engaging in fruitful negotiations with a very amenable Democratic legislative majority. Whether or not the new administration follows the same roadmap or embarks on a different path remains to be seen.

### **Getting to the Bottom Line**

Just before the legislative spring break began the General Assembly approved a \$1.6 billion budget fix that was supposed to have put a final cap on the FY 2015 budget so that discussions could finally turn toward FY 2016. But nothing is ever easy in Illinois these days. When the Governor cut an additional \$26 million from the budget on Good Friday legislators howled, arguing that the budget deal was supposed to have made those additional cuts unnecessary. Not so, said the Governor’s Office. Now, the discussions over the \$26 million have delayed conversations over the \$30+ billion budget for next fiscal year. There’s a lot of budget ground to cover in the next four weeks and some very important decisions are going to have to be made in order to try to even contemplate a balanced state budget for next year.

In order to grasp how difficult it’s going to be to find the \$6.6 billion to balance the budget next year, especially with the Governor’s current posture excluding revenue from the picture, one needs only to look back at the last month.

Examining at the recent action the legislature took to bail out FY 2015 shows how impossible balancing FY 2016 will be without some additional resources. The recent \$1.6 billion deal, regardless of the \$26 million controversy, was comprised of two parts ... \$1.3 billion in fund sweeps and another \$300 million in programming cuts. Two things are relevant. First, the programming upheaval that has been experienced from the \$300 (or \$326) million in cuts represented only a small portion (20%) of the total FY 1015 shortfall. The remainder of the balance was accomplished by a one-time only sweep of special state funds. Those swept funds

will not be available next year so on top of everything else budget negotiators are going to have to try to find an extra \$1.3 billion just to get to a starting point for discussions. What is also means is that any further programming cuts are going to impact a wider range of citizens.

Budget tricks like sweeping funds were a mainstay of the Blagojevich administration as he refused to address revenue shortfalls in a freefalling economy, and that helped bring us to the situation we find ourselves in today. Circumstances have changed and the rationale for Governor Rauner's reluctance to discuss revenue is far different. In fact, he has suggested that he might be inclined to discuss additional resources once his Turnaround Agenda is considered. While the possibility of a budget deal that balances cuts and resources is enticing everyone is waiting to see how far the Governor digs in on his Agenda. If he's willing to compromise and accept that some of the Agenda is doable but some of those goals may be unattainable then there could be room for negotiation and a budget deal that can be accomplished before the July 1 beginning of the new fiscal year. However, if he adopts an all or nothing posture, then prepare for a long summer.

It was reported earlier in the week that executive/legislative working groups have been created to begin to discuss the various issues to determine if a compromise consensus can be reached on any. Previously, the General Assembly has used an "agreed bill" process whereby divergent interests discuss and negotiate and whatever they agree to, and only what they agree to, is put to a vote by the legislature. If that's the process that will be adhered to this year, then there may be hope for some productive action by the General Assembly sooner rather than later.

### **Riddle Me This, Batman**

Once, when describing a particularly perplexing problem, Winston Churchill once stated it was "a riddle, wrapped in a mystery, inside an enigma." In today's Illinois that also seems to be an adequate description of the Governor's stinginess in providing details for both his agenda proposals and his administration decisions.

Way back during his campaign for office there was a great deal of criticism about the lack of specifics for the proposals his campaign had put forward, such as pension reform, deficit reduction and a myriad of other issues. The response from the candidate and the campaign was always, "Soon". As summer turned to fall and Election Day approached there were still very few details about how the Governor intended to address the major issues facing the state. Again, "Soon" was the response.

From his inaugural speech through the State of the State speech and his recent budget message there have been platitudes galore, a broad plethora of aims and goals, many statements and comments about a plan to turn Illinois around but a woeful lack of any specific details to embellish and explain the nuts and bolts of the proposals. Members of the legislature who ultimately will have to cast votes on many of these budget and policy issues have shrugged their shoulders and have shaken their heads as they try to explain the lack of specificity from the Governor's Office on major issues.

If you cast a glance at the Governor's daily schedule the one thing that is noticed immediately is the notice of "No Press Availability" that accompanies most of the entries. Normally, Governor's look forward to any chance to interact with the press to advance their agendas. Not so now. For whatever reason there seems to be an effort to make sure that there is ultimate control of the message and that seems to be working, even if is no inclination to discuss details, impact or ramifications of whatever the Governor may have in mind.

When budget cuts were assessed and the administration explained that priorities were based on essential v. non-essential services, there have been no guidelines provided as to how those determinations were made, even though inquiry after inquiry has been made. And when the Governor announced his "Turnaround Agenda" package the media was given a sheet of talking points with no further embellishment. At that time the Governor announced that the legislative leaders had the detailed proposals but, according to the leaders that had the same talking point sheet with no further details.

With four weeks left in the legislative session and some awfully large decisions to be made on budgets and major policy it's critical that there be opportunities to review and allow enough time for comment and conversation about them. So far, the administration's goals have resembled a college class syllabus ... an outline waiting for the details. How "soon" the syllabus gets filled in is still anybody's guess but the time is growing short and the deadlines are drawing closer and closer.

### **The Money-Go-Round**

Everyone thought that the immense amount of money spent by Governor Rauner in his election campaign, about \$30 million of his and over \$30 million raised through some individuals "of means", that blew away the old record for campaign spending was an aberration. Well, you apparently ain't seen nothin' yet. Since November, three PACs, two for sure supporting the Governor and his activities and one outlier have been created for the express purpose of supporting or opposing candidates based on their support of opposition to the Turnaround Agenda, and creating messaging in support of the Agenda goals.

The first move was made by the Governor himself just before his inauguration when he started a PAC fund and contributed \$20 million of his own funds and \$10 million from various friends and associates. Second was the creation of Illinoisans for Growth and Opportunity (ILGO) that is of a more mysterious origin and that is supposedly a Democratic-leaning PAC. However, on its website the group portrays itself as "pro-growth" and prominently highlights a recent Chicago Tribune article entitled, "The Real Scrooges in Springfield Don't Include Bruce Rauner". Thus far, ILGO has raised \$5.5 million. Third is the recently created Turnaround Illinois Super PAC to help support the Governor's agenda. Earlier this week the Chicago Tribune reported a \$4 million contribution to the Turnaround Illinois fund from Sam Zell, a Chicago real estate mogul.

Over the next year or two it appears that the Governor and his friends are planning to fund and engage in a battle for the hearts and minds of Illinoisans via media and candidate warfare. At this point there's no telling whether, for them, these are prudent investments or money down the drain but the they've indicated by their actions that they're "all in" and putting their money where their mouth is.

### **Session Schedule/Deadline Dates**

Here are relevant dates for the legislative session:

- May 8 – House Committee Deadline (Senate Bills)
- May 15 – Senate Committee Deadline (House Bills)
- May 22 – House/Senate 3<sup>rd</sup> Reading Deadline
- May 31 – Session Adjournment

## **Legislation of Interest**

**HB 408 – Rep. Zalewski** - Makes changes in the definitions of "basic respiratory care activities", "licensed health care professional", and "respiratory care". Allows individuals without a license to practice respiratory care to perform basic screening spirometry if certified by the National Institute for Occupational Safety and Health, the American Association for Respiratory Care, or other similarly accepted certification programs. Allows respiratory care practitioners licensed in other jurisdictions to provide respiratory care in this State (i) in a declared emergency in this State, (ii) as a member of an organ procurement team, or (iii) as part of a medical transport team that is transporting a patient into or out of this State. Provides that unlicensed and non-credentialed individuals who deliver respiratory care equipment may deliver, set up, calibrate, and demonstrate the mechanical operation of the device to patients, family, and caregivers if the individuals received training and demonstrated competency using the specific devices under the supervision of a respiratory care practitioner licensed by this State or some other licensed practitioner operating within his or her scope of practice. Provides that patients, family, and caregivers must be taught to use the equipment for the intended clinical application by a licensed respiratory care practitioner or other licensed health care professional operating within his or her scope of practice. Provides that instructions to the patient regarding the clinical use of equipment, patient monitoring, patient assessment, or any other procedure used with the intent of evaluating the effectiveness of the treatment must be performed by a respiratory care practitioner licensed by this State or any other licensed practitioner operating within his or her scope of practice. **(Status – House – Re-referred to Rules Committee)**

**HB 2404 – Rep. Willis** - Amends the School Code and the Smoke Free Illinois Act. Provides that specified provisions concerning cigarettes apply also to electronic cigarettes. Defines "electronic cigarette" as any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance other than those produced by unenhanced human exhalation. Permits theater actors to use electronic cigarettes within performance spaces. Defines other terms. **(Status – House – Re-referred to Rules Committee)**

**HB 2507 – Rep. Martwick** - Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that smoking cessation products shall not be subject to prior approval as a result of the 4-prescription limit. **(Status – House – Re-referred to Rules Committee)**

**HB 3165 - Rep. Burke** - Amends the Critical Health Problems and Comprehensive Health Education Act. Requires instructors training persons on how to properly administer cardiopulmonary resuscitation and how to use an automated external defibrillator to be certified to administer cardiopulmonary resuscitation and use an automated external defibrillator by the American Red Cross, the American Heart Association, or another nationally recognized certifying organization. **(Status – House – Re-referred to Rules Committee)**

**HB 3212 – Rep. Lilly** - Amends the Health Care Worker Background Check Act. Replaces language prohibiting a health care employer to hire, employ, or retain any individual in a position with duties involving direct care for clients if the individual is convicted of committing specified offenses with language that allows health care employers to hire, employ, or retain any individual in a position involving direct care for clients, patients, or residents, or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit specified offenses after specified time periods or within the time periods with a waiver under the Act. Adds 5 members to the Health Care Worker Task Force. Requires the Task Force to issue recommendations to the Department of Public Health, including (i) examining whether the relevant rules must be amended to reflect changes in Illinois law, (ii) determining whether the waiver procedures are effective, and (iii) connecting people

with criminal records to employment with work in the health care industry. Requires the Department of Public Health to issue a report regarding waivers. Makes other changes. **(Status – House – Re-referred to Rules Committee)**

**HB 3362 – Rep. Willis** - Creates the Sale of Flavored Electronic Cigarettes and Flavored Cigarette Liquids Prohibition Act. Creates the offense of unlawful sale of flavored electronic cigarettes or flavored cigarette liquids. Provides that a person commits unlawful sale of flavored electronic cigarettes or flavored cigarette liquids when he or she knowingly sells flavored electronic cigarettes or flavored cigarette liquids, or causes, permits, or procures flavored electronic cigarettes or flavored cigarette liquids to be sold from his or her premises or establishment. Provides that a violation is a Class A misdemeanor. Defines "electronic cigarette", "electronic cigarette liquids", "flavored electronic cigarette", and "flavored cigarette liquids". **(Status – Tabled)**

**HB 3531 – Rep. Golar/Sen. Link** - Provides that it is a violation of the Act for any person to smoke tobacco in any area of a day care center, day care home, or group day care home (removing qualifying language regarding services being provided or children being present). **(Status – Passed House; Senate – Committee on Assignments)**

**SB 32 – Sen. Morrison** - Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. Provides that a person under 18 years of age shall not possess an alternative nicotine product. Establishes penalties. **(Status – House – 3rd<sup>d</sup> Reading)**

**SB 785 – Sen. Harris, N./Rep. Evans** - Exempts certain health care professionals licensed to practice in another state or country from State licensure requirements if the professional is practicing in the State while under contract to provide services to an athletic team. Defines "athletic team". Limits the services the health care professional may provide. Limits the licensing exemption period to 10 days per sporting event. Authorizes the Secretary of Financial and Professional Regulation to grant one 20-day extension to the exemption period. Provides that an exempt health care professional is not authorized to practice at a health care clinic or facility. Effective September 1, 2015. **(Status – Passed Senate; House – Rules Committee)**

**SB 973 – Sen. Althoff/Rep. Tryon** - Amends the Regulatory Sunset Act. Extends the repeal of the Respiratory Care Practice Act from January 1, 2016 to January 1, 2026. Makes changes in provisions regarding definitions, exemptions, restrictions and limitations, powers and duties of the Department of Financial and Professional Regulation, the Respiratory Care Board, examinations, license restoration, grounds for discipline, notice of hearings, transcript of formal hearings, hearing officer proceedings, restoration of suspended or revoked licenses, summary suspension of licenses, administrative review, costs, and the Illinois Administrative Procedure Act. Adds provisions concerning durable medical equipment use and training. Provides that parties involved in disciplinary or other proceedings may enter into negotiated consent orders. **(Status – Passed Senate; House – Rules Committee)**

**SB 1862 - Sen. Rose** - Amends the Hospital Licensing Act. Requires hospitals to adopt, implement, periodically update, and submit to the Department of Public Health evidence-based protocols for the early recognition and treatment of patients with sepsis, severe sepsis, or septic shock that are based on generally accepted standards of care. Requires the protocols to contain certain components, including components specific to the identification, care, and treatment of adults and of children. Requires hospitals to submit the protocols to the Department no later than 6 months after the effective date of the amendatory Act. Provides that protocols shall be resubmitted at the request of the Department, but not more frequently than once every 2 years

unless the Department identifies hospital-specific performance concerns. Requires hospitals to report certain sepsis-related data to the Department. **(Status – Senate – 3rd Reading)**

**SB 1919 – Sen. Morrison/Rep. Evans** - Amends the Cigarette Tax Act and the Tobacco Products Tax Act of 1995. Provides that a person who is both a licensed distributor and a licensed retailer shall be issued a single license number by the Department of Revenue. Provides that records may be kept electronically and may be kept at an out-of-state location so long as those records are made available upon reasonable notice for the purpose of investigation and control by the Department of Revenue. Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. In provisions that provide for increased penalties for retailers that do not have training programs, provides that those training programs may be conducted electronically. Provides that, if a retailer has a training program in place prior to the effective date of the amendatory Act, has a training program approved by another state, or follows the guidelines set forth by the federal Food and Drug Administration, then that training program shall be deemed to meet the minimum standards in this State. Effective January 1, 2016. **(Status – Passed Senate; House – Rules Committee)**