



“Working with the legislature, we were able to minimize the Medicaid cuts to office-based physicians, so that our hard-working doctors can continue to see the neediest Texas patients and continue their important work of improving the health of all Texans.”

— C. Bruce Malone, MD,
TMA President

Caring for Patients in a Time of Change

TMA's 2011 Legislative Agenda

Our top priority during the 2011 legislative session was to protect the patient-physician relationship in every aspect of the health care system. With an enormous budget deficit and special interest groups from hospitals to midlevel practitioners lining up to take on medicine, it felt like everyone wanted a piece of our profession. Many of our adversaries wanted control of physicians, our practices, and our patients. Others wanted to weaken the Texas Medical Board (TMB), jeopardizing Texas' hard-fought liability reforms, and Texans' access to care. Some believed physicians were the cost drivers and needed restraint.

However, when the session ended, physicians crossed the finish line with the reins still in hand. Even better, major steps were taken to protect and strengthen the patient-physician relationship from future outside interference.

Here is a short list of TMA accomplishments:

- ✓ **Fought off severe cuts to physicians' Medicaid payments.**
Result: Physicians won't be forced to stop seeing Medicaid patients.
- ✓ **Protected the patient-physician relationship against corporate interference.**
Result: Patients' health care needs come before a corporation's bottom line.
- ✓ **Defended clinical autonomy of physicians employed by rural hospitals, 501(a)'s, and future health care collaboratives.**
Result: Physicians and their patients have ultimate control of health care decisionmaking.
- ✓ **Won Texas Medical Board reforms.**
Result: The improved TMB disciplinary process is much fairer for physicians without endangering Texas' medical liability reforms. The anonymous complaint was eliminated.
- ✓ **No scope-of-practice expansions.**
Result: Midlevel practitioners and allied health professionals must stay within a scope of practice safely permitted by their education, training, and skills. The doctor is the trusted leader of the health care team.
- ✓ **Safeguarded the public health system.**
Result: Cuts to tobacco cessation and chronic disease prevention programs were mitigated.
- ✓ **Improved immunization requirements.**
Result: College students are protected from contracting meningococcal meningitis. And new vaccination policies ensure health workers won't spread infectious diseases to their patients.

Patients Care About...

- ✓ Access to a physicians
- ✓ Accessible mental health care
- ✓ Physician shortages
- ✓ Steep cuts to Texas' safety-net system
- ✓ Huge cost shift to local taxpayers

Fought Off Budget Cuts: Good and Bad News

The 2011 session began with a budget shortfall of more than \$26 billion. Texas' health and human services, and public and higher education were on the chopping block. TMA argued that not adequately funding basic health care services for Texas' most vulnerable population only drives the cost down to local taxpayers. Initial budget plans looked grim. Medicaid payments to physicians, hospitals, and other providers were slashed by 10 percent. The Children's Health Insurance Program, trauma funding, the Children With Special Health Care Needs program, mental health services, and tobacco cessation programs all faced huge cuts or no funding. Medical school formula funding, physician education loan repayment programs, and primary care residencies and preceptorships also were in danger.

Lawmakers finally agreed to a two-year budget that trimmed \$15 billion in current spending. It authorized state spending to the tune of \$80.6 billion. **The good news is that the agreed-upon budget includes NO cuts to physicians' Medicaid payments and NO cuts to state mental health services, and it alleviates the proposed cuts to tobacco cessation and chronic disease prevention programs.**

Instead of axing Medicaid services, steps were taken to find savings and efficiencies. In order to create more than \$460 million for Texas Medicaid, lawmakers placed a premium tax on Medicaid HMOs expanding to the Rio Grande Valley. TMA worked with legislators to ensure Medicaid HMOs were held more accountable for patient care and viable physician networks, especially as they expand into South Texas.

The bad news is that women's health and family planning were cut significantly as well as other public health services. Undergraduate and graduate medical education (GME) also took a huge hit. As lawmakers worked to push every available education dollar into the public schools, they pulled money out of higher education, which put medical education in harm's way. Here's the damage:

- The Family Practice Residency Program operated by the Texas Higher Education Coordinating Board was cut by nearly 75 percent.
- The Statewide Primary Care Preceptorship Program and the Primary Care Residency Program were not funded.
- State GME formula funding was cut by 31 percent.
- Two state physician loan repayment programs were stripped. One was eliminated; the other was cut by 76 percent.

TMA strongly opposed these cuts. Texas desperately needs these programs to maintain an adequate physician-training pipeline. We will continue to work with legislators to find more funding to ensure newly trained physicians stay in Texas.

Check out the detailed budget chart:
www.texmed.org/legislature



Patients Care About...

- ✓ Professional standards and accountability
- ✓ Well-trained health care professionals
- ✓ Texas' medical liability reforms
- ✓ High-quality and safe health care

TMB Reforms Passed; Medical Liability Reforms Remain Intact

TMA was able to fight off attempts to weaken the Texas Medical Board, which also would have put Texas' hard-fought medical liability reforms of 2003 in grave jeopardy.

Despite the efforts of some of TMB's harshest critics, TMA fought off an effort to strip the medical board of much of its ability to protect patients from truly bad doctors. Instead, we enacted reforms that ensure physicians face less bureaucratic hassle from TMB's disciplinary processes.

This new law provides much-needed due process protections for physicians without endangering the 2003 liability reforms that have meant so much to Texas.

One of the most important things the law will do is prohibit the filing of anonymous complaints. The law also:

- Requires the board to notify the physician when insurance companies, pharmaceutical companies, or third-party administrators file a complaint;
- Increases the time for a physician to respond to a complaint notice from 30 days to 45 days;
- Allows physicians to tape the proceedings of a TMB informal settlement conference;
- Allows TMB to require a remedial action plan rather than impose a fine for a minor administrative violation; and
- Institutes a seven-year statute of limitations on bringing a disciplinary action.

No Scope Expansions

As in every session, dozens of bills were filed from nonphysician practitioners seeking to expand their scope of practice beyond their training, and attempting practicing medicine without graduating from medical school. This year was no exception.

Advanced practices nurses — APNs — wanted to seek diagnosis and prescribing privileges — essentially the practice of medicine — without physician supervision. They wanted the Texas Board of Nursing, not TMB, to supervise them. APNs argued they were the solution to Texas' physician shortage. Physical therapists wanted direct access to patients without a physician's referral. Optometrists wanted to perform certain surgeries, prescribe or administer any oral or parenteral drugs, and use the title "optometric physician." And chiropractors wanted the Texas Board of Chiropractic Examiners to have carte blanche authority to do whatever it wants — by rulemaking — without having to worry about legal action from another state health licensure agency.

The good news: Not one scope bill passed this session that affects physicians and their patient's quality of care.

"We listened to our members' concerns about the TMB. Reforms were instituted while allowing us to continue to work with TMB in the future to protect our hard-won tort reforms".

– Dr. Malone



- ✓ High-quality health care
- ✓ Trust in their physician's judgment
- ✓ Third-party intrusions
- ✓ Prescribed medications

Patient-Physician Relationship Protected

Dozens of bills were filed by rural and urban county hospital districts to employ physicians without protecting independent medical judgment. TMA adamantly opposed these bills because corporations — not physicians — would be in charge of critical patient-care decisions.

TMA worked to transform these bills into ones that protect patients and their physicians' ability to make medical decisions free from interference by a hospital administrator or corporate officer. At the same time, we were able to preserve Texas' ban on the corporate practice of medicine with several carefully controlled expansions for physician employment. These included strong protections for clinical autonomy and independent medical judgment. Texas is the first state in the country to take this critical step.

The new federal health law also opened the door to explore new ways to lower health care costs while still trying to improve the quality of that care. Legislation was enacted that creates health care collaboratives in Texas.

TMA significantly changed the legislation to protect physicians and their patients in these new arrangements. As a result, physicians will now have an equal say and vote in a collaborative arrangement's governing board, due process protections, and the ability to participate in more than one collaborative arrangement in their community.

Health Insurance Reform

Even though windstorm insurance reform dominated the session, TMA still was able to win three important measures that prevent further intrusion into the patient-physician relationship. Legislation was passed that would ban discretionary clauses; force health insurers to cover patients' oral chemotherapy drugs; and ensure patients receive the medications that were prescribed by their physician, not those the least expensive to their insurer.

Today employed physicians and their patients are free to make important health care decisions in these health care settings.

Health Care Setting	Physicians Employment Protections
Nonprofit health care corporations, commonly referred to as 501(a) corporations	<ul style="list-style-type: none"> • Physician board of directors is responsible for all clinical matters. • Physicians have important liability protections within a 501(a).
Rural county hospital districts in counties of 50,000 or less <i>Medical staff must select chief to oversee operations of employed physicians.</i>	<ul style="list-style-type: none"> • Independent medical judgment and medical staff responsibility for all clinical policies — from privileges, to credentialing, to utilization. • Hospital's chief medical officer must report to the Texas Medical Board any administrative interference in clinical or patient care decisionmaking.
Large urban hospital districts <i>Law is structured to meet the district's statutory mission of indigent care.</i>	<ul style="list-style-type: none"> • Structure for supervision of all clinical matters centered on a physician medical executive committee. The board made up of physicians would establish the rules related to credentialing of physicians, peer review process, quality assurance programs, and any other function related to the clinical responsibilities of physicians practicing in district facilities.
Health care collaborative	<ul style="list-style-type: none"> • Equal say and vote in a collaborative arrangement's governing board, due process protections, and the ability to participate in more than one collaborative arrangement in their community.

Employment WITHOUT protections is the corporate practice of medicine. Employment WITH protections is part of the practice of medicine, and that's what we stand for.

Patients Care About...

- ✓ Smoke-free Texas
- ✓ Increase immunization rates
- ✓ Obesity prevention
- ✓ Cancer research, detection, and prevention
- ✓ Healthy young athletes

Safeguarded Public Health System: Improved Immunization Requirements

Texas' budget crisis made it difficult for lawmakers to improve Texas' public health care system. TMA worked closely with a smoke-free coalition on another attempt to pass a statewide ban on smoking in public places such as restaurants and bars. The measure made it further in the process than in the last two sessions, partly because it demonstrated how a smoking ban could save money in Texas Medicaid.

Texas' immunization requirements received a boost. Two bills passed to protect Texans from preventable diseases. One was TMA-backed legislation requiring health care facilities such as hospitals to develop and implement vaccination policies for employees. Another requires college students — on and off campus — to get vaccinated against meningitis.

Attempts were made to strip Texas public schools of physical education. However, those efforts were thwarted.

Legislators did support funding for the Cancer Prevention and Research Institute of Texas (CPRIT) that will save lives through new therapies, as well as for the prevention and early detection of cancer. Plus, it will allow CPRIT to invest in evidence-based cancer prevention programs that provide screening services to medically underserved populations, health care professionals' training, and cancer awareness and education programs around the state.

An effort was made this session to protect young athletes from brain injuries and to better manage athletes who sustain a concussion while playing sports.



Physicians Caring for Texans

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