PHYSICIAN-LED RESULTS
87TH LEGISLATIVE SESSION
Thanks to our member-driven advocacy, TMA secured wins for medicine and Texas patients. We’re stronger because of you.

Texas Medical Association physician and medical student members, together with county medical societies, specialty societies, and TMA Alliance members, had another strong showing during the 2021 legislative session.

With a persuasive, united voice of more than 55,000 physician and medical student advocates, TMA worked to ensure Texas remains a safe and attractive place to practice medicine, safeguarding the ability of patients to get the health care they need when they need it.

In a truly unprecedented and unpredictable session, TMA quickly and safely pivoted to using Zoom and virtual outreach, which proved critical in achieving legislative victories. The convenience of Zoom technology allowed more TMA members to attend virtual meetings with their legislators during the interim to discuss TMA’s priorities and legislative asks. More physicians than ever before called, emailed, and texted their legislators at key points during the session to stop or pass important legislation.

Back row, left to right: Michael Simmons, MD; Jack Pierce, MD; Dennis McManaman (patient); Timothy Sipos, MD. Front row: Mark Mazow, MD; Mary Kelly Green, MD; Sen. Donna Campbell, MD; Diana Fite, MD; Charlotte Allison (patient); Sanjiv Kumar, MD, on March 23, 2021.
Scope of Practice: Stopped Scope Creep

Physician-led, patient-centered, team-based care results in the best health outcomes and enables patients to access the health care they need when they need it.

- Stopped efforts from advanced practice registered nurses seeking authority to independently prescribe dangerous drugs and controlled substances, order and interpret diagnostic tests, and prescribe durable medical equipment and devices. These bills were stopped in committee.

- Prevented psychologists from gaining authority to prescribe antidepressants and antianxiety medications. This bill was not heard in committee.

- Blocked efforts by pharmacists seeking legislation permitting them to “test and treat” – essentially diagnosing and prescribing – by performing rapid testing for strep throat and the flu and prescribing medication. Pharmacists also were prevented from providing vaccinations to children as young as 3 years of age.

- Supported compromise legislation agreed to by ophthalmologists and optometrists to remove all surgical procedures from the optometry bill. Optometrists can continue to treat mild-to-moderate glaucoma but must abide by a complaint and disciplinary process that will hold them to the ophthalmology standard of care. And they agreed to seek no further expansion until the 2027 sunset review process.
Insurance: Reduced Burden of Prior Authorizations

Although well-intentioned when introduced, prior authorization now thwarts safe, timely, efficient, and cost-effective care, increasing costs for all: patients, physicians, employers, and taxpayers. Building on progress made last session, some prior authorization burdens have been lightened.

- Big win: Physicians who participate in state-regulated commercial health plans will be eligible for “gold carding” on a rolling six-month basis if 90% or more of their prior authorizations have been approved in the previous six months. This is on a procedure-by-procedure, health plan-by-health plan basis. In another significant win for medicine, utilization reviews must now be conducted by a Texas-licensed physician in the same or similar specialty. This bill takes effect Sept. 1.

- Simplified prior approval for Medicaid behavioral health drugs: The Texas Health and Human Services Commission (HHSC) must ensure that physicians treating adult Medicaid patients do not need to obtain prior approval for a nonpreferred antipsychotic drug that is included on the vendor drug formulary for patients who have previously tried and failed preferred agents. This bill takes effect Sept. 1.

- No tax on medical billing services: The Texas Tax Code was amended to clarify that third-party medical billing services are not considered claims processing, which ensures these services will not be subject to sales and use tax. The governor signed this bill in late April; it takes effect Jan. 1, 2022.

- No double-dipping by pharmacies: Pharmacy benefit managers will be prohibited from charging direct and indirect remuneration fees on medications, fees that claw back payments from physicians long after the fact. This bill takes effect Sept. 1.

- Greater health care cost transparency: A statewide all-payer claims database will be established at the Center for Healthcare Data within UTHealth, Houston. The center, overseen by an advisory group, will collect, process, store, and report health care claims information to help health care purchasers, physicians, and providers better identify opportunities to improve health care affordability, outcomes, and access. Importantly, it also will allow physicians to obtain data to help them more effectively develop and compete in alternative and value-based payment initiatives. The bill was negotiated by TMA, the Texas Academy of Family Physicians, and the Texas Society of Anesthesiologists. This bill takes effect Sept. 1.

- Better cancer screening coverage for women: Women with dense breast tissue, or a family or personal history of breast cancer, will now receive diagnostic imaging with the same health plan coverage as screening mammograms. This bill takes effect Sept. 1.

- Preventive screenings covered: Preventive health opportunities were expanded with mandated coverage for colorectal screenings beginning at age 45. This bill takes effect Sept. 1.
Budget: No Cuts to Health Care Services

After a belt-tightening biennial revenue estimate was released, the state’s economy improved dramatically, allowing lawmakers to maintain investments made in previous sessions.

- **GME funding intact:** Graduate medical education (GME) was fully funded with $199.1 million, which will preserve the 1.1 to 1 ratio of first-year residency slots per graduating medical student achieved last session, ensuring Texas medical students can do their training here.

- **ECI funding stabilized:** Early childhood intervention (ECI) services funding was maintained at $339 million, which will allow physicians to address disabilities and developmental delays.

- **Women’s health funding stable:** Women’s health programs received $352.6 million, a slight increase of $5.6 million over the current biennium, to fund Healthy Texas Women, the Family Planning Program, and Breast and Cancer Services.

- **More funding for children’s behavioral health:** The Texas Mental Health Care Consortium received $119 million, an increase of $19.5 million over the current biennium, which will continue funding the Child Psychiatric Access Network.

- **Study to increase pediatric Medicaid payments:** Texas Medicaid must conduct a study with stakeholder input to determine whether increasing Medicaid physician payments for services provided to children aged 0-3 years will result in savings such as fewer unnecessary emergency department visits.

Medical Education: Protected Texas’ Investment in the Future of Health Care

- **Clinical clerkships protected:** The Texas Higher Education Coordinating Board’s authority to regulate clinical clerkship rotations has been strengthened. This will prioritize Texas medical students for these scarce positions. This bill takes effect Sept. 1.
Health Care Coverage: Progress Made

Texas’ worst-in-the-nation uninsured rate will see some improvement with the passage of bills that will expand patient access to meaningful care.

- Postpartum coverage expanded: Comprehensive postpartum coverage has been extended from two months to six months for women enrolled in Medicaid, ensuring more women will be able to address delivery complications and underlying health issues. Texas must obtain a federal Medicaid waiver to implement this change. This bill takes effect Sept. 1.

- Consistent health care coverage for Medicaid-enrolled children: Lawmakers adopted legislation to help prevent gaps in children’s Medicaid coverage, eliminating paperwork that results in eligible children being erroneously dropped from coverage. Children will receive six months’ continuous coverage, followed by another six months’ coverage after a single income check, rather than four checks today. Families also will get 30 days to respond to information requests instead of 10. This bill takes effect Sept. 1.

- Medicaid collaborative mental health services covered: Physicians and health care professionals participating in Medicaid will be able to bill for behavioral health collaborative care codes, mirroring the same codes covered by Medicare and commercial payers. This bill takes effect Sept. 1.

- Telemedicine flexibilities preserved for Medicaid and Children’s Health Insurance Program enrollees: HHSC will be able to continue payment for virtual care services temporarily authorized during the pandemic, including audio-only behavioral care services, if HHSC determines doing so will be clinically appropriate and cost-effective. This bill took effect June 15.
Public Health: Strengthened Response to Future Health Emergencies

Texas must ensure our state’s public health agencies can fulfill their lifesaving mission of preventing and eliminating disease. Improved investments in public health will enable Texas to tackle the unexpected with every tool necessary.

- Disaster preparation shored up: The pandemic highlighted the need for Texas to better plan for the inevitable next natural disaster. TMA helped shape and pass legislation that will modernize and upgrade the state’s public health authority infrastructure, allowing for more timely, efficient, and effective surveillance and response to outbreaks and disasters. Achievements include improved reporting and data collection, and enhanced personal protective equipment stockpiling and planning.

- As physicians fought on the front lines taking care of patients, we leaned heavily on both state and local public health authorities to make the most sound, evidence-based decisions to limit continued spread of the coronavirus and defend the health of Texans.

  Written testimony by TMA on Senate Bill 967, House Public Health Committee, April 28, 2021

- Narrowed and limited ban on vaccination passports to customers only: Knowing vaccination status during an outbreak is critical and good public health policy. Texas law continues to permit health facilities and physicians to require certain vaccines of workers, balancing a vaccine exemption allowance with other necessary precautions. TMA and the Texas Public Health Coalition defeated several pieces of legislation that would have complicated vaccination efforts and added legal jeopardy for physicians.

- Prevention of youth vaping: Stopping the vaping epidemic among Texas’ youth is closer to reality with the passage of a bill requiring vape and e-cigarette retail store registration and enforcing restrictions the same as with all tobacco products. This bill takes effect Sept. 1.

- Funding for opioid addiction and PMP: Accelerating Texas’ recovery from the opioid epidemic will be possible through establishing and funding the Opioid Abatement Account and Trust, to be used to prevent and treat addiction, and to fund improvements to and integration of the Prescription Monitoring Program (PMP). This bill took effect June 16.
„More work on reining in the egregious overreach of prior authorization will be needed next session, including protecting the prudent layperson standard, which is particularly important to emergency medicine.‟

– DIANA L. FITE, MD

Help TMA Prepare:
Special Session in Fall 2021
88th Legislative Session in 2023

Lawmakers will have nearly $17 billion in federal pandemic relief funds to distribute in a special session expected in October 2021. Health care will be in the mix, and TMA will press for needed funding changes. Stay tuned.

Beyond the special session, the deliberate pace of the interim allows physicians, medical students, and alliance members to strengthen their relationships with legislators. Join TMA and your county medical society’s First Tuesdays in the Districts meetings starting this fall.

Keep TMA’s momentum going and help champion medicine’s priorities during the interim and campaign season.

✓ Get to know your legislators and be a resource.
✓ Learn how to strengthen your advocacy skills.
✓ Schedule an Advocacy Leadership CME session for your physician group, county medical society, or section.
✓ Participate in First Tuesdays in the Districts in your area.
✓ Learn more about TEXPAC.
✓ Encourage colleagues to become a TMA member.