 Virtual First Tuesdays at the Capitol

Welcome

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For legislative info visit www.texmed.org/Legislature
Questions or Comments?

Thank you for joining TMA and TMAA for this virtual First Tuesdays legislative briefing!

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Submit your questions in the Q&A box on your screen.
Priorities for Medicine

• State budget
• Protect GME gains
• Strengthen public health
• Increase regulation of tobacco and vaping products
• Reform insurance
• Tax issues
• Prevent scope of practice expansion
• Telemedicine payment parity
Funding Priorities

• Senate Finance (SB 1) & House Appropriations (HB 1) developing 2022-2023 State Budget

• Ensure more Texans with meaningful coverage*

• Maintain funding for Medicaid, CHIP, women’s health services, and behavioral health services

• Enhance Medicaid and CHIP physician payments

• Expand the physician workforce to improve access and sustain state investments in GME growth. Improve geographic and specialty distribution of physicians

*The Families First Coronavirus Response Act requires states to maintain Medicaid coverage through the end of the Public Health Emergency, including for postpartum women, in exchange for higher federal funding. The federal administration recently announced it will maintain PHE at least through 2021.
Meaningful Health Care Coverage

• Ensure meaningful, comprehensive health care coverage for Texans, including working uninsured, postpartum women, and children.
  • Use federal Medicaid dollars to extend coverage to low-income working-age adults.
  • Establish 12-months continuous coverage for children enrolled in Medicaid, the same benefit provided to children enrolled in the CHIP… to keep children from erroneously losing coverage.

  HB 290 (Cortez)/SB 39 (Zaffirini)
  • Increase funding for outreach and enrollment to Texans eligible but not enrolled in Medicaid or CHIP, especially children.

• Promote better birth outcomes by enhancing women’s access to preventive, primary, and behavioral health care throughout their reproductive lifespans.

• Support behavioral health funding and increase access to community and crisis mental health and substance abuse services.
Graduate Medical Education/GME

Expand the physician workforce and continue state support for GME capacity-building and sustaining programs:

• GME Expansion Program:
  • Preserve 1.1 to 1 ratio (250 slots by 2024)
  • $150M at $7M reduction, need $199.1M

• Texas Higher Education Coordinating Board budget:
  • Family Medicine Residency Program, Rural Training Track Grant Program
  • Primary Care Preceptorship Program
  • Physician Education Loan Repayment (House -2%)
  • Support GME formula funding for teaching costs in the health-related institution bill patterns
Legislative Asks

On Funding Priorities:
Urge lawmakers to invest in the health of all Texans and continue to prioritize funding for Medicaid & CHIP, women’s health, and behavioral health.

On GME:
Ask legislators to continue to expand the physician workforce to improve access and sustain state investments in GME growth. Improve geographic and specialty distribution of physicians through pipeline programs.
ImmTrac: Opt-Out

The Solution: HB 325 (Howard)/SB 468 (Zaffirini/Seliger)

Convert to an Opt-out System

• An opt-out system still allows anyone to withdraw their ImmTrac2 records if they wish, while avoiding loss of immunization records when patients immunized in childhood forget to renew their consent as young adults.

Texas Public Health Coalition recommends:

• Change ImmTrac2 from an opt-in public participation to an opt-out public participation registry.

• Incorporate hashing into the system so physicians and other vaccine providers can know if a person has withdrawn from ImmTrac2.

• Eliminate the requirement for children aging into adults to authorize their childhood vaccination records to remain in ImmTrac2. Instead, automatically allow for childhood vaccination records to follow adults unless they specifically request to be withdrawn from ImmTrac2.

• More clearly define who qualifies as a First Responder.

• Eliminate the need for a separate consent for disaster situations. Include this as option within the existing adult and minor consent forms.
Tobacco and Vaping

TMA has joined Texas Tobacco Control Partners, which emerged out of the T21 Coalition from last session.

1. Increase taxes on conventional cigarettes by at least $1 per pack and close loophole in excise tax to include e-cigarettes that achieves parity with combustible cigarettes. Use a significant portion of tax revenue for additional evidence-based tobacco cessation programming at DSHS and retail enforcement activities.

2. Require all e-cigarette retailers to obtain a permit to sell e-cigarette products, similar to the current tobacco retailer permit.

3. Ban all characterizing flavors, including menthol, in tobacco products and e-cigarettes.

SB 216 (Johnson)/HB 1255 (Allison)
- Includes the previously mentioned tax loophole language and licensure requirements.

SB 248 (Perry)
- Only includes provisions for establishing licensure of vaping retailers. Does not include tax portion.

SB 836 (Alvarado)
- Restricting the use of flavors of the prohibited sale of flavored cigarettes, e-cigarettes, and tobacco products.
Statewide Survey: Vaping Tax

Should State Tax on Vaping Products & E-Cigs be the same as Tobacco Products?

- **Statewide**
  - Favor: 76%
  - Opposed: 17%
  - Undecided: 5%

- **Republicans**
  - Favor: 78%
  - Opposed: 17%
  - Undecided: 5%

- **Democrats**
  - Favor: 82%
  - Opposed: 8%
  - Undecided: 10%

- **Independents**
  - Favor: 62%
  - Opposed: 21%
  - Undecided: 17%

And should the state’s tax on e-cigarettes and vaping products be at the same level as taxes on tobacco products to help cover costs associated with public healthcare and disease prevention?

Texas Medical Association
32nd Annual Statewide Survey
November 18-23 2020
1,200 Texas Registered Voters Interviewed
Conducted by live Landline & Cell Phons plus Online Surveys
±2.9% Margin of Error at 95% Level of Confidence
Advanced Directives

• TMA advocating for protecting physician right to conscience. Expected language will violate personal liberty of physicians.
• Previous versions have sought to expand mandated treatment to 45 days or indefinitely.
• Government interference to mandate the provision of potentially unethical, medically inappropriate, outside the standard of care services.
• HB 2180 (Moody) will allow for use of multiple co-agents with simultaneous authority under Medical Powers of Attorney. TMA has opposed this effort in the past.
On ImmTrac 2:
Ask your elected officials to support or coauthor HB 325 (Howard)/SB 468 (Zaffirini/Seliger) to reform the state’s immunization registry.

On Tobacco and Vaping:
Encourage lawmakers to strengthen the regulation of tobacco and e-cigarette products in Texas by supporting and coauthoring HB 1255 (Allison)/SB 216 (Johnson).

On Advanced Directives:
Ask your elected official to oppose any legislation that will dilute the Texas Advanced Directive Act and physician ability to exercise moral conscience and ethics.
Prior Authorization

• Require health benefit plan issuers to “gold card” certain physicians from prior authorization, regularly approve procedures.

• Require health benefit plan issuers and benefit managers that require prior authorizations to have staff available to process approvals 24 hours a day, 365 days a year, including holidays and weekends.

• Strengthen Texas law to better prevent payment denials once patient care has been approved.

• Require peer-to-peer discussions Texas-licensed physician who is of the same or similar specialty.

• Require the Texas Department of Insurance to audit health plan compliance with statutory prior authorization timelines for approvals and denials.  
  
  **HB 2142 (Vo)**

• Prohibit "White and Brown Bagging" processes that limit physicians' ability to treat their patients.  
  
  **HB 1586 (Lucio)**
Prior Authorization

• Heighten enforcement and penalties when a health benefit plan issuer or its agent **HB 2035 (Johnson)**
  (1) knowingly violates the prudent layperson standard for emergency care;
  (2) deters enrollees from seeking care consistent with the prudent layperson standard for emergency care; or
  (3) engages in a pattern of wrongful denials of claims for emergency care, including denials related to application of the prudent layperson standard.

• Prohibit prior authorization for health care services that are state-mandated benefits: mammography, mastectomy and breast reconstruction or prosthesis, diabetes management, low bone-mass test for osteoporosis prevention, and prostate cancer screenings. **HB 410 (Johnson)**

• Support continuity of care for medical services and prescription medications for patients on appropriate, chronic, stable therapy through minimizing repetitive prior authorization requirements. **HB 907 (Johnson)**
Prior Authorization

Negative outcomes associated with PA

- Delayed access to necessary care for a patient: 28% Sometimes, 14% Often, 43% Always
- Interfered with the continuity of ongoing care: 29% Sometimes, 10% Often, 42% Always
- Patients abandoned their recommended course of treatment: 4% Sometimes, 34% Often, 40% Always
- Affected care delivery and led to a serious adverse event: 10% Sometimes, 25% Often, 3% Always
Prior Authorization

31 average number of prior authorizations completed by physicians each week

91% of physicians reported care delay

75% of physicians reported prior authorization can lead to treatment abandonment
SB 523 – Eliminating Copay Accumulators

• **SB 523 (Buckingham)**

  Health insurance plans use copay accumulators to further prevent patients from reaching their deductibles, by not counting manufacturer coupons towards their out-of-pocket cost on prescription drugs.

  This creates an increased financial burden for patients on costly drugs to maintain their health care needs with chronic illness and/or general health care.
HB 1445/SB 775 – Preventing Medical Billing Tax

• **HB 1445 (Oliverson)/SB 775 (Nichols)**

  • Prevent the preparation of medical bills for claims submission by a third party from being subject to state sales tax.

  • This cost will undoubtedly be passed on from billing companies to physicians and their practices.

  • State sales tax could add 6.25% to physician medical costs with possibility of an additional 2% from local entities.

  • Currently, if legislation does not pass, implementation of tax will begin October 1, 2021, due to a revised interpretation of the tax code.

  • TMA is working with a coalition of more than 40 organizations and companies to pass this legislation and were already successful in delaying the implementation of the revised interpretation.
Legislative Asks

On Insurance:
Support all legislation that reduces the burden of patients getting the care they need when they need it, by reforming prior authorization programs.

On Copay Accumulators:
Stop raising patients’ out-of-pocket health care costs by banning copay accumulators.

On Medical Billing Services:
Support closing the loophole that could cause medical billing services to be taxed.
Scope of Practice

HB 2029 (Klick)
- Independent prescribing – Sched III and Sched II in facilities and hospice
- Independent ordering and evaluation of diagnostic testing
- Independent prescribing of medical devices and DME
- "Notwithstanding any other law, an advanced practice registered nurse performing an act described by Subsection (a) is not considered to be practicing medicine without a license."

What problem are we trying to solve?

Access?
- No data exists in states that allow that there is an appreciable increase in APRNs moving to underserved areas.

Cost?
- Plans may reduce fees to APRNs but should expect increased utilization of testing and additional treatment.

Quality?
- Primary care is provided and supervised by board supervised physicians with significantly more education and clinical training.

Full support of physician-led, team-based care.

HB 1462 (Goodwin)
- Independent prescribing for psychologists

HB 2340 (Klick)
- Authorizing surgical procedures by optometrists
Telemedicine

Payment parity
• HB 515 (Oliverson)
• HB 522 (Johnson)
• HB 980 (Fierro)
• SB 228 (Blanco)
• Likely more bills will be filed …

Fundamental principle: A covered service provided to an enrolled patient by a contracted physician should be paid at the contracted rate. The choice of providing that service in-person or via telemedicine should be the choice of the patient and physician.
Legislative Asks

On Scope:
Continue to write/email state Senators and Representatives on the House Public Health Committee to oppose:

- HB 2029 (Klick) APRN independent Rx
- HB 2340 (Klick) Optometrists performing surgeries
- HB 1462 (Goodwin) Psychologists Rx

On Telemedicine:
Ask your state Representative on the House Insurance Committee to support HB 515 (Oliverson), telemedicine payment parity, and sign on as cosponsor.
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THANK YOU!