

112th GENERAL ASSEMBLY

Quick reprioritization distinguished life for all engaged in the second half of Tennessee's 112th General Assembly, and Tennessee Medical Association was no exception. As the antagonistic COVID-19 epidemic advanced across our state, TMA's steady legislative experience was clearly influential.

From quick, one-off issues to a multitude of large, encompassing bills that threatened both the practice of medicine and the health of patients statewide, our lobbying and legal guidance helped shape the outputs of the 112th General Assembly in ways we're proud.

All told, TMA's legislative team:

- reviewed just under 1,700 bills that impacted or had the potential to impact our members;
- actively tracked and actioned on 253 bills affected our members most;
- took action, ranging from mild to major, on 119 bills by session's end;
- amended 34 bills, and actively worked to defeat 16 more;
- added muscle to 12 bills requiring late-minute support to become law;
- all while advising, lobbying or otherwise supporting 20 of Governor Bill Lee's 29 Executive Orders dealing with the rapidly advancing virus.

As we exit the 112th General Assembly's bifurcated session with significant wins, two major issues, yet unresolved, are expected to resurface in an August Special Session: COVID-related liability protections and parity payment for telehealth visits.

These important matters will potentially need member engagement through phone calls, emails and other action once we understand the legislation coming forth. Please be watching for upcoming alerts on how you can get involved for the benefit of organized medicine next month and beyond.



SCOPE OF PRACTICE

With the help of the House Subcommittee on Health Licensure and Regulation, TMA achieved our top legislative priority: Defeat a major push by the Tennessee Nursing Association and nurses across the state for independent practice for advanced practice nurse practitioners. This was TNA's first renewed attempt at the issue after a three-year moratorium expired in 2019.

For years, TMA has led advocacy efforts to keep Tennessee physicians supervising patient care and prevent inappropriate scope of practice expansion by mid-level healthcare providers. Advance practice nurses and a subset of doctoral physician assistant students have failed previous attempts to change state laws to achieve independent practice in Tennessee (DMS bill in 2018 and 2019, and APRN prescriber bill regarding buprenorphine in 2019).

We continue to educate new legislators about legacy Scope of Practice issues, and advocate for policies that strengthen inter-professional relationships, not weaken them. We have formed and continue to work with a coalition of the state's largest medical specialty societies and other healthcare organizations to advance the practice of physician-led, team-based healthcare delivery as the best model for patient safety and quality of care. The group is examining collaboration rules to identify how the state might improve the regulatory environment to support more efficient primary care as an alternative to nurse independent practice.

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TELEHEALTH

Anticipated August Special Session

Our dedication to telehealth legislation continues as we believe technology-based services should be reimbursed at parity with in-office visits. TMA was unable to pass telehealth parity during the regular session, but we remain confident of success during the upcoming special session.

Two versions of telehealth legislation made more progress than ever in previous years. Unfortunately, neither passed, and a final bill was defeated in the Senate after the House demanded both chambers pass telehealth and limited liability legislation. This supports our belief that the right players understand the significance of both issues. We believe this session advanced the conversation about appropriate rules and reimbursement for technology, which is crucial for improving healthcare access, particularly in rural, underserved areas.

TMA expects to work closely with **Rep. Robin Smith** (Hixson) and **Sen. Art Swann** (Maryville) on future versions of telehealth parity legislation.

COVID-RELATED LIABILITY PROTECTIONS

Anticipated August Special Session

The Tennessee Safe Harbor and Recovery Act, sponsored by **Rep. Michael Curcio** (Dickson) and **Sen. Mike Bell** (Riceville), sought to protect businesses from frivolous COVID-related lawsuits when they have done everything required to protect them-selves and their customers.

After considerable debate, most differences were resolved, leaving one significant divide: whether the Act should be retroactive to the day of the first confirmed positive COVID-19 test in Tennessee (March 5, 2020). The Senate

sought the retroactive provision; the House did not. The bill fell four votes short of passing when legislators contended the final version violated the

State's constitutional prohibition on backward-leaning legislation. Failure of this bill had residual impacts as the Senate refused to further address telehealth.



We anticipate liability protections to be one of two primary issues Gov. Lee wishes to resolve (along with telehealth payment parity) in the anticipated special session in August.

BALANCE BILLING

Anticipated 112th General Assembly

A majority of American patients have been surprised by a medical bill they thought was covered by insurance. Most of those surprises involve out-of-network medical bills the patient mistakenly thought were in-network at the time of service. Often, the confusion can be debilitating for patients.

TMA offered a solution, championed by **Sen. Bo Watson** and **Rep. Timothy Hill**, to hold patients harmless from a balance bill when they do everything correctly. The proposed legislation maintained support until the final days of session, when advocates of payors all but threatened an amendment detrimental to providers. Sponsors pulled the bill to regroup for the 112th General Assembly. We anticipate meetings among all the parties will begin as soon as this month (July 2020) and continue until legislation is filed.

TMA remains opposed to any effort that gives health insurance companies undue leverage and forces unfair contractual terms onto providers. We believe a reasonable solution shares the burden between providers, payers and hospitals — and frees patients from the liability of billing inconsistencies. Balance billing has been an issue in Tennessee since the ACA allowed payors to narrow their networks, excluding providers from performing services.

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OPIOIDS

We defeated another attempt to summarily suspend the license of doctors who prescribe opioids when a complaint is filed, regardless of the validity of the complaint. Summary suspensions, functions of administrative law, allow a judge to suspend a license upon the receipt of allegations. Under such law, summary suspensions can occur prior to a full hearing on the allegation. The practice sets the stage for fraudulent claims that can unceremoniously impair a physician's practice, reputation or care of patients.

TENNESSEE PROFESSIONAL PRIVILEGE TAX

Prior to adjourning the 2019 session, the General Assembly abruptly exempted several professions from paying the state's professional privilege tax. Doctors are still required to pay the annual tax, along with lawyers, lobbyists and stock brokers. TMA has advocated for reduction or removal of the professional privilege tax for years and will continue working with state lawmakers on possible solutions. Due to the COVID-focused agenda, however, Professional Privilege Tax was deferred entirely.

GRASSROOTS ACTIVISM

TMA's legislative success depends on active participation from member physicians. Lawmakers listen to their constituents and are especially receptive to doctors who volunteer time to share their expertise and educate legislators on important healthcare issues. This is how TMA's grassroots agenda plays out:

- TMA member physicians volunteer as Doctor of the Day, where they serve as the on-site medical professional on Capitol Hill, gaining one-on-one access to lawmakers and staff in a respectful and sometimes casual setting.
- On matters of immediate concern, TMA mobilizes member physicians through action alerts, phone calls and email campaigns to legislators seeking their support or opposition on specific legislation.
- TMA's political action committee, IMPACT, accepts donations year-round to help elect and retain pro-medicine candidates in the state legislature. During the 2020 election, IMPACT expects to distribute more than \$100,000 to friends of medicine.

Last year, Tennessee Medical Association was named the most influential and trusted advocacy organization in the state* – not just in healthcare but across all industries. Joining with us, you gain a respected and effective voice.



IMPACT, the political action committee (PAC) established by TMA, is equally productive. With a 95% success rate or better in supporting winning candidates, IMPACT's influence is controlled only by available funds. With just 4% of TMA members contributing currently, please consider how a small donation can help support more candidates and gain stronger standing on Capitol Hill. For more information or to contribute, please visit tnmed.org/IMPACT.

*Based on an independent survey and ranking by Capitol Resources, LLC, February 2019.