TMA Tennessee Medical Association 2022 Legislative Summary

The 112th Tennessee General Assembly adjourned on April 28, capping an eventful two-year term that saw legislators convene a total of five times due to three special sessions. Below is a summary of TMA legislative activity and how its top priorities fared during session.

Bills Reviewed: 1,467 Bills Tracked: 248 Bills Amended: 13 Bills Defeated: 11 Bills Passed: 7

AUDIO-ONLY TELEHEALTH (PC 807) – PASSED

SB1846 Sen. Bo Watson (R-Hixson)
HB1843 Rep. Bryan Terry, MD (R-Murfreesboro)
Expands Telemedicine Coverage
Expands the definition of provider-based telemedicine to include coverage for HIPAA-compliant audio-only encounters when access to audio-video is unavailable. Specifies that "unavailable" means a patient does not own the technology to conduct an audio-video encounter; the encounter cannot take place due to lack of service; or the patient has a physical disability which inhibits the use of video technology.

TELEHEALTH PAYMENT PARITY (PC 766) – PASSED

SB2453 Sen. Ken Yager (R-Kingston)
HB2655 Rep. David Hawk (R-Greeneville)
Removes Payment Parity Repeal Date
Removes the sunset date of April 1, 2022 to enable payment parity for telehealth services to continue beyond the pandemic. Clarifies that the 16-month requirement for telemedicine encounters does not apply during a declared state of emergency.

ELIMINATION OF PROFESSIONAL PRIVILEGE TAX – PASSED

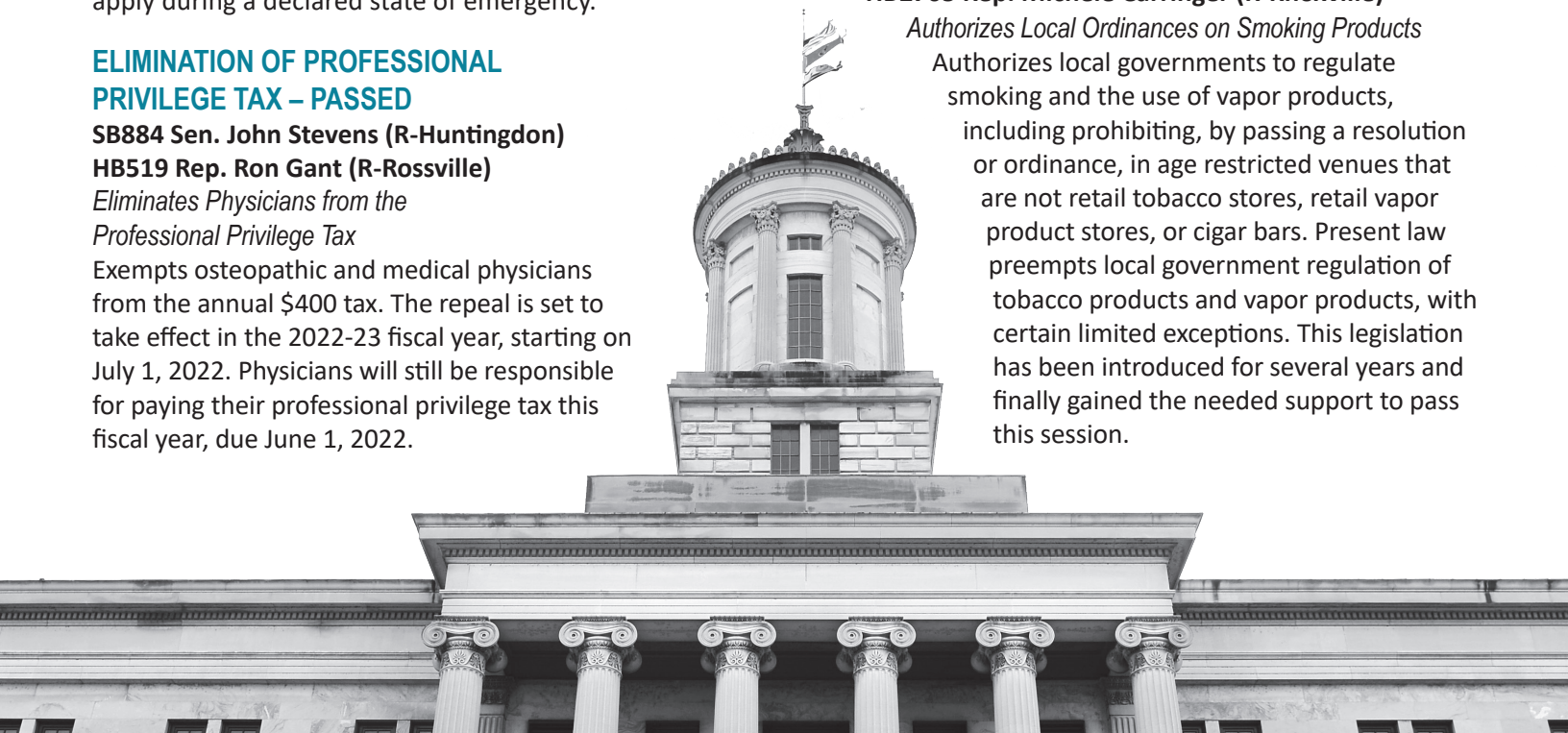
SB884 Sen. John Stevens (R-Huntingdon)
HB519 Rep. Ron Gant (R-Rossville)
Eliminates Physicians from the Professional Privilege Tax
Exempts osteopathic and medical physicians from the annual $400 tax. The repeal is set to take effect in the 2022-23 fiscal year, starting on July 1, 2022. Physicians will still be responsible for paying their professional privilege tax this fiscal year, due June 1, 2022.

STEP THERAPY REFORM (PC 1020) – PASSED

SB1310 Sen. Joey Hensley, MD (R-Hohenwald)
HB677 Rep. Mark Hall (R-Cleveland)
Reforms Step Therapy Protocols
Requires health plans and utilization review organizations to provide a clear, readily accessible, and convenient process for a patient or prescribing practitioner to request a step therapy exception. Specifies conditions in which an exception must be granted including when the drug is contraindicated or may cause an adverse reaction; the drug is expected to be ineffective; the patient has already gone through step therapy under a different health plan; or the patient is stable on a drug covered by a previous health plan. TMA provided an amendment to clarify that only one, not all, requirements must be met in order to obtain an exemption from step therapy. The bill will not apply to TennCare or state-funded plans but will apply to all commercial plans.

ELIMINATION OF LOCAL PREEMPTION – PASSED

SB2219 Sen. Richard Briggs, MD (R-Knoxville)
HB2705 Rep. Michele Carringer (R-Knoxville)
Authorizes Local Ordinances on Smoking Products
Authorizes local governments to regulate smoking and the use of vapor products, including prohibiting, by passing a resolution or ordinance, in age restricted venues that are not retail tobacco stores, retail vapor product stores, or cigar bars. Present law preempts local government regulation of tobacco products and vapor products, with certain limited exceptions. This legislation has been introduced for several years and finally gained the needed support to pass this session.



REMOTE SITE VISITS (PC 949) – PASSED

SB2511 Sen. Becky Massey (R-Knoxville)
HB2537 Rep. Ron Gant (R-Rossville)
Allows for Site Visits by HIPAA-Compliant Means
Allows 10 of the required 12 annual site visits by collaborating physicians with APRNs and PAs to be conducted by HIPAA-compliant electronic means instead of in person. TMA's amendment extends the authorization for federally-qualified health centers to arrange for 100 percent of chart review to be remote, joining free clinics, community mental health centers, and volunteer healthcare providers.

APRN INDEPENDENT PRACTICE – SUMMER STUDY

SB176 Sen. Jon Lundberg (R-Bristol)
HB184 Rep. Bob Ramsey (R-Maryville)
Eliminates Collaborative Practice Agreements
Would have eliminated the requirement for APRNs to maintain formal collaborative relationships with physicians except for those in their first three (3) years of practice, and expanded their scope to allow diagnosis and treatment without physician delegation. The bill would also have allowed APRNs to perform invasive procedures like spinal blocks, determine cause of death, and sign death certificates. Additionally, it would have eliminated the certificate of fitness requirement under current law, meaning an APRN license from the Board of Nursing would have equaled prescriptive authority for all legend and controlled drugs. The Senate Commerce and Labor committee will convene a summer work group to try to facilitate meaningful compromise between physicians and mid-level providers.

REPORTING PRESCRIBERS TO LAW ENFORCEMENT – FAILED

SB1843 Sen. Jon Lundberg (R-Bristol)
HB1897 Rep. Bud Hulsey (R-Kingsport)
Reporting Requirements for Substance Abuse and Misuse
Would have required health care employers to report employees suspected of diverting drugs to TBI, local law enforcement authorities, and the professional's licensing board. As introduced, the bill would have conflicted with disciplinary requirements set forth in law and created a disciplinary record that would unnecessarily follow a physician the rest of his or her career, even if he or she was completely compliant with treatment and recovery. Although TMA offered an amendment, it was not accepted by the sponsor. The legislation failed on a voice vote following testimony by TMA and the Tennessee Medical Foundation (TMF).

PA INDEPENDENT PRACTICE – SUMMER STUDY

SB2775 Sen. Mike Bell (R-Riceville)
HB2629 Rep. Mark Cochran (R-Englewood)
Eliminates Collaborative Practice Agreements
Would have authorized PAs with more than 6,000 hours of clinical practice to practice under a written collaboration statement signed by either the employer or a physician. Employer was defined as: 1) an entity that is organized to deliver healthcare services in this state (including PCs and PLLCs), 2) a group or medical practice that is part of a health system, or 3) a physician who employs a PA. PAs with less than 6,000 hours of clinical practice would practice in collaboration under a specific physician or a PA with more than 10,000 clinical hours. TMA will work toward resolution with both PAs and APRNs in the summer study called by the Senate Commerce and Labor committee.

PRESCRIPTION FOR NALOXONE HYDROCHLORIDE (PC 1061) – PASSED

SB2465 Sen. Shane Reeves (R-Murfreesboro)
HB2228 Rep. Bob Ramsey (R-Maryville)
Requirements for Prescribing Naloxone
Requires a health care prescriber who prescribes opioids to offer the patient a prescription for naloxone hydrochloride or other overdose reversing drug when certain conditions are present. TMA's amendment specifies that a prescriber only has to offer naloxone if the prescription is for more than 3 days and the patient is at risk of overdose, or if a benzodiazepine and opioid are prescribed together. The amendment also specifies that the law does not create a private right of action against the prescriber.