

Overview:

The first session of the 113th Tennessee General Assembly adjourned in April 2023. While TMA endured one of its most challenging sessions to date, the House of Medicine fared relatively well and achieved most of its top priorities.

PRIOR AUTHORIZATION

The Prior Authorization Fairness Act reforms health plan utilization review protocols to alleviate administrative burdens and ensure patients gain quicker access to healthcare services. As originally introduced, the bill would have established a pathway for physicians with a clear history of appropriate resource utilization and high PA approval rates to bypass the prior authorization requirement (“gold carding”). As amended, the bill focuses on various reforms that insurers voluntarily agreed to back in 2018 via a consensus statement, produced by national stakeholders, such as improving clinical criteria by which prior authorizations are determined; expediting the process for the approval or denial of urgent and non-urgent PA requests; and supporting sufficient continuity of care for patients during transitional periods of formulary or treatment coverage. **Effective Jan. 1, 2025.**

PHYSICIAN WELLNESS

This bill would have enacted statutory protections for all healthcare professionals licensed under Title 63 by making health information confidential for purposes of provider credentialing, licensing, and pre-employment interviews. As one of TMA’s top legislative priorities going into the 2023 session, the measure aimed to reduce occupational stigma for healthcare professionals to help mitigate burnout and suicide. However, several stakeholders raised multiple concerns about the language as drafted. The bill was taken off notice by the sponsors pending further negotiation.

"TRIGGER" LAW CORRECTION

As amended, the law removes the affirmative defense for doctors to allow abortions to prevent the death or substantial health impairment of the pregnant woman, in addition to clarifying that treating ectopic or molar pregnancies are not criminal abortions. The bill also changes the standard for determining whether medical necessity exists from a “good-faith medical judgment” to a “reasonable medical judgment.” Finally, the bill addresses conflicting laws that were superseded by the “trigger” law, such as the “heartbeat” law, “viability” law, and 20-week law, leaving them in the code but removing their effectiveness unless the abortion “trigger” law is found unconstitutional by a court. **Effective April 28, 2023.**

BALANCE BILLING

As amended, the Surprise Billing Consumer Protection Act requires each of the state’s three managed care organizations (MCOs) to file an annual report with the commissioner of the Department of Commerce and Insurance that describes all network hospitals’ percentage of facility-based physicians. The department will be required to review these reports within 45 days to determine whether the network meets sufficient standards. If deemed inadequate, the commissioner must make modifications to the network or institute a corrective action plan. The bill also requires the department to conduct a study on how federal implementation of the No Surprises Act has affected Tennessee physicians and healthcare facilities and submit that report to the chairs of the Insurance Committee in the House and the Commerce and Labor Committee in the Senate by Nov. 1, 2023. **Effective Jan. 1, 2024.**

SCOPE OF PRACTICE

For years, TMA has worked to preserve the formal professional relationship between physicians and advance practice providers, such as advance practice registered nurses (APRN) and physician assistants (PA), to ensure patients receive the highest quality of care possible. Unfortunately, these same professionals have actively lobbied to practice medicine without the collaboration of a physician, potentially putting patients at risk. TMA, along with its multi-specialty partners in the Coalition for Collaborative Care, will continue to promote the team-based care model as the most effective solution for Tennesseans to have access to high-quality, comprehensive health care no matter where they live.

ASSAULT ON HEALTHCARE PROFESSIONALS

Since the onset of the Covid-19 pandemic, medical professionals have experienced a sharp increase in workplace violence which has resulted in assault and even death in some cases. Not only does this aggression cause physical and psychological injury for health care workers, but it creates an unsafe environment that makes it far more difficult for doctors and other clinical staff to provide quality patient care. While Tennessee currently has legal protections for assaults committed against first responders and nurses, TMA would like to see these protections extended to physicians as well. Ensuring that offenders are appropriately punished for violent behavior will help keep our health care heroes safe from harm so they can continue to deliver high-quality care.

PHYSICIAN WELLNESS

Career fatigue among physicians has risen dramatically since the COVID-19 pandemic, with nearly 63% reporting at least one symptom of burnout in 2021, according to a recent [survey](#). These feelings have been linked to lower productivity and patient satisfaction, increased risk for medical errors, and even suicidal ideation. TMA is working to prioritize physician well-being by removing stigmatizing questions on licensure, renewal, and credentialing applications which may serve as barriers to seeking routine mental health treatment.

INSURER CLAWBACKS

Health insurers often attempt to recover payments made to physician practices well after a service is rendered. Recoupments for these inaccurate payments can occur up to 18 months after the claim was duly adjudicated by the health plan and initial payment was received. These recovery efforts greatly increase administrative costs incurred by the physician, causing significant downward pressure on the physician's business and ability to keep the practice doors open. TMA will work to reform audit and overpayment protocols to prohibit health plans from recouping 100% of improperly adjudicated claims and place specific requirements on overpayment recovery processes, including advance overpayment notification, payment transparency, due process rights, and claw-back time limits.

