



Legislative Report Card 2022





The 112th Tennessee General Assembly capped an eventful two-year term in 2022 that saw legislators convene a total of five times due to three special sessions.

TMA obtained coverage for audio-only telehealth services, cemented payment parity for virtual health care, and protected doctors from finding themselves in conflict with federal law and the state's Covid-19 statute. The government affairs team supported several initiatives to reform insurance coverage and reduce onerous administrative burdens for patients and physicians.

2022 by the Numbers

1,467
bills reviewed

248
bills tracked
13
bills amended

11
bills defeated
7
bills passed

TMA'S 2022 LEGISLATIVE INITIATIVES

Covid-19 Clean-Up

SB1789 Sen. Richard Briggs, MD (R-Knoxville) | HB2858 Rep. Sabi Kumar, MD (R-Springfield) | P.C. 756

Clarified Covid-19 Statute — Corrected a technical drafting error contained in two definitions in the Covid-19 statute to clarify that physician practices enrolled in Medicare and/or TennCare were exempted from the recently established prohibition on business mandates for Covid-19 vaccine verification. Specifically, the legislation deleted the phrase “conditions of participation” which applied specifically to hospitals, not physicians. The amendatory language was necessary to make the intent of the original legislation clear and protect doctors from potentially being in conflict with state or federal law.

Balance Billing

SB1 Sen. Bo Watson (R-Hixson) | HB2 Rep. David Hawk (R-Greeneville)

Arbitration for Surprise Medical Bills — Would have created a fair, state-based independent review process that incentivized health insurance companies to offer in-network payments to out-of-network hospital-based physicians. The bill was not calendared during the session largely due to the successful court challenge by the Texas Medical Association which struck down insurance-friendly provisions of the federal arbitration process. The arbitrator must now consider five different factors instead of just one when deciding proper reimbursement. Physicians will be able to argue that their reimbursement should be higher than the in-network rate. The ruling is the best-case outcome for this litigation, which TMA supported financially and by filing an amicus brief through the Physicians Advocacy Institute.

Audio-Only Telehealth

SB1846 Sen. Bo Watson (R-Hixson) | HB1843 Rep. Bryan Terry, MD (R-Murfreesboro) | P.C. 807

Expanded Telemedicine Coverage — Expanded 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

SB2453 Sen. Ken Yager (R-Kingston) | HB2655 Rep. David Hawk (R-Greeneville) | P.C. 766

Removed Payment Parity Repeal Date — Removed 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.

Step Therapy Reform

SB1310 Sen. Joey Hensley, MD (R-Hohenwald) | HB677 Rep. Mark Hall (R-Cleveland) | P.C. 1020

Reformed Step Therapy Protocols — Required 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. Specified 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.

Scope of Practice

SB176 Sen. Jon Lundberg (R-Bristol) | HB184 Rep. Bob Ramsey (R-Maryville)

Proposed Elimination of 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.

SB2775 Sen. Mike Bell (R-Riceville) | HB2629 Rep. Mark Cochran (R-Englewood)

Proposed Elimination of 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.



Elimination of Professional Privilege Tax

SB884 Sen. John Stevens (R-Huntingdon) | HB519 Rep. Ron Gant (R-Rossville) | P.C. 1083

Eliminated Physicians from the Professional Privilege Tax — Exempted osteopathic and medical physicians from the annual \$400 tax. The repeal took effect for the 2022-23 fiscal year which began on July 1, 2022. Physicians were still responsible for paying the tax the previous fiscal year ending June 1, 2022.

Graduate Medical Education

The state will allocate \$10 million in FY22-23 toward graduate medical education to address the state's residency shortage and support medical students working in rural and underserved areas. Under the new framework set forth by the Centers for Medicare and Medicaid Services (CMS) which ties GME to Medicaid reimbursement, state funding was reorganized under the TennCare program in order to receive a two to one funding match from the federal government. Thus, the \$10 million allocation will incur \$30 million total through federal match dollars.

Extending Postpartum Coverage

The state included funding to extend TennCare postpartum coverage from 60 days to 12 months for mothers who meet certain eligibility requirements, joining the majority of other states that have already extended coverage. The coverage expansion is part of a five-year pilot program related to the Biden administration's American Rescue Plan state option. Under the program, TennCare will receive an extra \$75 for each of the two postpartum visits. While TMA House of Delegates policy aims to permanently extend Medicaid coverage to 12 months postpartum through legislation, the pilot program represents a strong first step.

TMA'S SUPPORTED INITIATIVES

BILL INFORMATION	BILL SPONSORS	SUMMARY	STATUS
<p>PHYSICIAN SELF-REFERRALS P.C. 739</p> <p>Updated Tennessee's Mini-Stark law to align with new provisions of the federal Stark law, clarifying which business arrangements between physicians are permitted or prohibited. The bill eliminates unnecessary barriers and promotes greater access to health care services for patients, particularly in rural areas. The Tennessee Board of Medical Examiners will still maintain authority to discipline unethical physician self-referrals.</p>	<p>SB2218 Sen. Richard Briggs, MD (R-Knoxville) HB2447 Rep. Ryan Williams (R-Cookeville)</p>	<p>Clarifies Tennessee's Mini-Stark Laws</p>	 PASSED
<p>ELIMINATION OF LOCAL PREEMPTION P.C. 1110</p> <p>Authorized 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.</p>	<p>SB2219 Sen. Richard Briggs, MD (R-Knoxville) HB2705 Rep. Michele Carringer (R-Knoxville)</p>	<p>Authorizes Local Ordinances on Smoking Products</p>	 PASSED
<p>PHARMACY BENEFIT MANAGER REFORM P.C. 1070</p> <p>Builds upon P.C. 569, a comprehensive PBM reform bill passed by the General Assembly last year. Specifically, the legislation strengthened patient choice elements of the original law to prohibit PBMs from interfering with a beneficiary's choice of contracted pharmacy or offering financial incentives to steer them toward their preferred entities. Additionally, the bill prohibits PBMs from banning pharmacies from certain networks and reimbursing affiliated pharmacies at higher rates than non-affiliated pharmacies. The law requires PBMs to establish an appeal process for pharmacies that have been reimbursed for less than actual cost of the prescription drug or device.</p>	<p>SB2458 Lt. Gov. Randy McNally (R-Oak Ridge) HB2661 Speaker Cameron Sexton (R-Crossville)</p>	<p>Prohibitions for Pharmacy Benefit Managers</p>	 PASSED

BILL INFORMATION	BILL SPONSORS	SUMMARY	STATUS
<p>REQUIREMENTS FOR REMOTE SITE VISITS P.C. 949</p> <p>Allows 10 of the required 12 annual site visits by collaborating physicians with APRNs and PAs to be held by HIPAA- compliant electronic means instead of in person. TMA's amendment extended the authorization for federally qualified health centers to arrange for 100 percent of chart review to be conducted remotely, joining free clinics, community mental health centers, and volunteer healthcare providers.</p>	<p>SB2511 Sen. Becky Massey (R-Knoxville)</p> <p>HB2537 Rep. Ron Gant (R-Rossville)</p>	<p>Allows for Site Visits by HIPAA-Compliant Means</p>	 PASSED
<p>COVERAGE FOR BREAST EXAMINATIONS P.C. 1068</p> <p>Updates current law requiring insurance coverage of breast imaging and mammograms to reflect the full range of breast cancer screening technologies and ensures that additional diagnostic and supplemental screenings are covered when required. Specifies that all low-dose mammography services, including breast tomosynthesis (3D imaging), digital mammography and x-ray, are covered. Health plans are also required to cover medically necessary supplemental and diagnostic screenings, such as MRI and ultrasound, when risk factors are present.</p>	<p>SB2771 Sen. Becky Massey (R-Knoxville)</p> <p>HB2544 Rep. Rebecca Alexander (R-Jonesborough)</p>	<p>Updates Coverage for Imaging Services</p>	 PASSED



TMA'S OPPOSED INITIATIVES

BILL INFORMATION	BILL SPONSORS	SUMMARY	STATUS
<p>“MEDICAL FREEDOM” CONSTITUTIONAL AMENDMENT</p> <p>Would have amended the Tennessee Constitution to allow citizens the right to refuse any medical procedure, treatment, injection, vaccine, or prophylactic without being questioned or interfered, or having their rights abridged or denied.</p>	<p>SJR993 Sen. Janice Bowling (R-Tullahoma)</p>	<p>The Right to Refuse Medical Treatment</p>	 FAILED
<p>REPORTING PRESCRIBERS TO LAW ENFORCEMENT</p> <p>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 were 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 the TMA and Tennessee Medical Foundation (TMF).</p>	<p>SB1843 Sen. Jon Lundberg (R-Bristol)</p> <p>HB1897 Rep. Bud Hulsey (R-Kingsport)</p>	<p>Reporting Requirements for Substance Abuse and Misuse</p>	 FAILED
<p>COVID-19 VACCINATION DISCRIMINATION</p> <p>Would have created an unlawful discriminatory practice for an individual or other governmental entity to withhold or deny service, insurance, or benefits on the basis of vaccination status. Based on the language of the legislation, it would have applied to medical practices. TMA offered amendatory language to the sponsor but it was not accepted.</p>	<p>SB2151 Sen. Joey Hensley, MD (R-Hohenwald)</p> <p>HB2452 Rep. Terri Lynn Weaver (R-Lancaster)</p>	<p>Discrimination Based on Vaccination Status</p>	 FAILED
<p>APRN/PA CERTIFICATION OF INVOLUNTARY HOLDS</p> <p>Would have removed the requirement that a physician complete a second certificate of need for psychiatric in-patient involuntary commitment when the first certificate was completed by a non-physician. The bill would have authorized nurse practitioners and physician assistants to perform the secondary certification in lieu of a physician. TMA worked with Coalition for Collaborative Care (CCC) member societies to defeat this legislation.</p>	<p>SB2137 Sen. Shane Reeves (R-Murfreesboro)</p> <p>HB2250 Rep. Kevin Vaughan (R-Collierville)</p>	<p>Second Signature on Involuntary Commitment</p>	 FAILED

BILL INFORMATION	BILL SPONSORS	SUMMARY	STATUS
<p>"PATIENTS BILL OF RIGHTS"</p> <p>Would have prohibited any health care provider from denying a patient's request for treatment that is "reasonably obtainable" to the practitioner within 24 hours. If the requested treatment conflicted with the physician's independent judgment, the physician would be required to relinquish care of the patient to another provider within 24 hours or else face strict penalties—including civil lawsuits, clinical privilege revocation and mandatory licensing board discipline. The bill failed for lack of a second.</p>	<p>SB2276 Sen. Mark Pody (R-Lebanon)</p> <p>HB2486 Rep. Todd Warner (R-Chapel Hill)</p>	<p>Allows Patients to Dictate Medical Treatment</p>	 FAILED
<p>PARENT BILL OF RIGHTS ACT</p> <p>Would have prohibited a healthcare practitioner from treating a minor patient without obtaining written consent from the parent or legal guardian of the minor. This bill would have eroded the longstanding mature minor doctrine ("Rule of Sevens"), which guides how a physician delivers health care to minors without parental involvement. The bill failed for lack of a second.</p>	<p>SB2360 Sen. Janice Bowling (R-Tullahoma)</p> <p>HB2451 Rep. Terri Lynn Weaver (R-Lancaster)</p>	<p>Eliminates the Mature Minor Doctrine</p>	 FAILED





TMA PAC is the non-partisan, physician-led political action committee established by the Tennessee Medical Association aimed at the election and retention of pro-medicine candidates. As the political arm of TMA, TMA PAC helps amplify the voice of physicians from all across the state by engaging in campaign activity to grow political capital and legislative influence.

TMA PAC membership is separate from TMA dues. All licensed and unlicensed physicians are encouraged to participate regardless of TMA membership. Membership benefits are dependent on donation level and include various perks such as in-depth election guides, access to legislative receptions, and discounts on admission to TMA PAC hosted fundraisers. Contribute and learn more at tnmed.org/tmapac.

*Contributions to TMA PAC are not deductible for federal income tax purposes.

— TMA PAC Member Benefits —

CAPITOL HILL CLUB | \$1,000+

For those politically involved members who seek a platform to engage with policymakers. Capitol Hill Club members receive priority access to legislative receptions, fundraisers, and an annual dinner with state dignitaries.

ADVOCATE | \$500 - \$999

For those passionate members who want to go the extra mile for organized medicine. Advocate members will have access to legislative receptions and half-price admission to TMA fundraisers.

SUSTAINING | \$250 - \$499

For politically disengaged members who recognize the value of a strong, well-funded PAC. Sustaining members will receive name recognition on TMA's website and discounted admission to TMA-hosted fundraisers.

CONTRIBUTOR | \$50 - \$249

For politically inactive members who support TMA's vast policy agenda. Contributor members receive a copy of our weekly legislative newsletter, Political Pulse, and election guides.

DAY ON THE HILL 2022

Hundreds of physicians and healthcare advocates from across the state gathered in Nashville last spring to bring the voice of medicine to Tennessee legislators at TMA's Day on the Hill.

The annual event gives doctors the opportunity to educate the Tennessee General Assembly on important healthcare issues affecting the practice of medicine in the state. Physicians met with their elected representatives throughout the day in order to cultivate and reinforce legislative relationships key to ensuring the profession is well represented when critical healthcare issues are raised.

"TMA enjoyed a successful day lobbying for good healthcare policies on behalf of our state's doctors and our patients," said Ron Kirkland, MD, 2021-22 TMA president. "It is important that our elected representatives know where their physician constituents stand on issues like Scope of Practice, Balance Billing and Telemedicine.

"Our goal is for our patients to benefit from this healthy dialogue

with reduced costs and increased access to the best care our system can provide."

Prior to the event, several of these issues were effectively settled for the session: Scope of Practice (SB176), TMA's Covid-19 Clean-Up bill (HB2858), and Audio-Only Telehealth (SB1846).

Other pertinent issues physicians lobbied for included: Coverage for Breast Examinations (SB2771/HB2544), Professional Privilege Tax Repeal (SB88/HB519 and SB2524/HB2776), and Step Therapy Reform (SB1310/HB677).

TMA's annual Day on the Hill will take place in March 2023. Additional details are available at tnmed.org/day-on-the-hill.



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