

# Legislative Report Card

2021





During the **112th Tennessee General Assembly**, TMA spent much of the 2021 legislative session dealing with pandemic-related bills, matched against our lobbying team’s limited abilities to attend hearings and meet in person with legislators due to protocols and precautions.

Our annual pilgrimage to Capitol Hill in Nashville was once again held as a virtual event, drawing more than 250 physicians, medical support staff and other advocates to lobby for better healthcare policies. TMA members engaged with over 100 state lawmakers on our key issues.

## 2021 by the numbers

**1,654**  
*bills reviewed*

**351**  
*bills tracked*

**18**  
*bills amended*

**13**  
*bills defeated*

**4**  
*bills passed*

## 1 GRADUATE MEDICAL EDUCATION FUNDING

### TMA’s 2021 Legislative Priority

PC587 (TMA Member Sen. Richard Briggs, R. - Knoxville | Rep. Kevin Vaughan, R. - Collierville)

Approximately \$5.5 million was placed in the state budget to fund 130 new residency spots for family practice, general pediatrics, med-peds and psychiatry in medically underserved areas and distressed rural counties of Tennessee. Funding was included in the appropriations bill, which passed both the House and Senate and was signed by the Governor.

**Background:** The Centers for Medicare and Medicaid Services (CMS) ruled in 2020 that Tennessee must scratch its longstanding funding formula for graduate medical education slots through TennCare. It places millions of dollars and all of Tennessee’s residency programs at risk. TMA’s priorities will be to obtain a seat at the table for further discussions on resident funding and advocate for a sensible funding mechanism for preserving the existing slots.

## 2 SCOPE OF PRACTICE

### TMA’s 2021 Legislative Priority

SB0671 | HB1080 (Sen. Mike Bell, R. - Riceville | Rep. Jerry Sexton, R. - Bean Station)

This new law preserves PA-physician collaboration and will create a semi-autonomous licensing board for physician assistants. All rules regarding physician collaboration remain in effect and will continue to be overseen by the medical board. The bill as amended was signed by the governor.

**Background:** TMA opposed this bill as originally drafted because it would have eliminated the requirement for physician assistants to formally collaborate with physicians. TMA is a leader in efforts to preserve Tennessee physicians’ ability to supervise patient care and oppose unsafe scope of practice expansion by midlevel healthcare providers. Because of our leadership, advanced practice nurses and physician assistants have failed to change state laws to achieve collaborative practice in Tennessee. We joined a coalition of medical specialty societies and other healthcare organizations promoting physician-led, team-based healthcare delivery teams as the best model for patient safety and quality of care.

## DOCTORS' VIRTUAL DAY ON THE HILL

TMA's annual policy briefing and lobby day in Nashville connects physicians directly with lawmakers so they can advocate for their patients and discuss major issues affecting the medical profession in Tennessee.

This year the General Assembly declined large, in-person group lobbying events due to the COVID-19 pandemic. So TMA visited lawmakers virtually via Zoom video conferencing with small group breakout discussions. Our typical all-day event shrunk to a dynamic 60 minutes. This event was held on March 3, 2021.

While the online format was new, the overall concept and inner workings remained the same. Invitations were extended to all 133 legislators, and over 300 physicians attended online to address healthcare-related issues.



## 3 BALANCE BILLING

### TMA's 2021 Legislative Priority

SB0001 | HB0002 (Sen. Bo Watson, R. - Hixson | Rep. Robin Smith, R. - Hixson)

The House planned a summer study of this issue to determine the effects of the federal balance billing law. The Senate postponed the bill until 2022.

**Background:** This bill would have ensured a balance billing solution for the state-regulated health insurance market in state law. TMA leads a coalition of hospital-based physician specialty organizations working to protect patients from narrow networks created by health insurance companies. Sen. Bo Watson and Rep. Robin Smith offered a physician-friendly balance billing solution which would require patients to only pay according to their in-network responsibility if they receive a surprise medical bill. It would also allow out-of-network physicians to pursue fair payment from health insurance companies through an independent arbitration process if the initial payment was unsatisfactory. Their bill would incentivize health insurance companies to offer fair initial payments to out-of-network hospital-based physicians.

## 4 PROFESSIONAL PRIVILEGE TAX REPEAL

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

TMA continues to advocate for the reduction or removal of the Tennessee professional privilege tax. The General Assembly exempted some professions in 2019, but doctors are still required to pay the \$400 annual tax. It is unfair to impose the tax on physicians when other health professionals are exempt. We will continue to fight to repeal the tax for physicians.

## 5 PROHIBITING CO-PAY ACCUMULATORS

PC405 (Sen. Art Swann, R. - Maryville | Rep. Iris Rudder, R. – Winchester)

This new law requires health insurance companies to count any co-pay assistance program's share of a patient's cost of a drug towards the patient's deductible or maximum out of pocket expenses. This bill was actively supported and lobbied by TMA.

## 6 PHARMACY BENEFIT MANAGERS REFORM

PC569 (Sen. Shane Reeves, R. - Murfreesboro | Rep. Ester Helton, R. - Chattanooga)

The new law addresses five problematic pharmacy benefit managers (PBMs) practices that directly harm patients: 340B discrimination, specialty pharmacy discrimination, patient steering, spread pricing and rebate retention. This is a patient consumer protection law that addresses multiple issues regarding pharmacy benefits managers, including the practice of "white bagging." This bill was supported and actively lobbied by TMA.

## 7 CORPORATE PRACTICE OF MEDICINE

SB1568 | HB1355 (Sen. Paul Bailey, R. - Sparta | Rep. Michael Curcio, R. - Dickson)

This bill, as amended, would eliminate the current prohibition in law of hospitals employing radiologists, emergency physicians, anesthesiologists and pathologists. The Senate Commerce Committee referred it to a summer study committee, meaning the measure is dead for 2021. TMA actively opposed this bill.



KEY ISSUES SUMMARY	TMA POSITION	OUTCOME
<b>GRADUATE MEDICAL EDUCATION FUNDING (PC587)</b> Approximately \$5.5 million was placed in the state budget to fund 130 new residency spots for family practice, general pediatrics, med-peds and psychiatry in medically underserved areas and distressed rural counties of Tennessee.	 <b>SUPPORT</b>	Passed
<b>SCOPE OF PRACTICE (SB0671/ HB1080)</b> This bill preserves PA-physician collaboration and will create a semi-autonomous licensing board for physician assistants.	 <b>OPPOSE</b>	Postponed until 2022
<b>BALANCE BILLING (SB0001/ HB0002)</b> This bill would have ensured a balance billing solution for the state-regulated health insurance market in state law.	 <b>SUPPORT</b>	Postponed until 2022
<b>PROFESSIONAL PRIVILEGE TAX REPEAL (SB884   HB519)</b> The General Assembly exempted some professions in 2019, but doctors are still required to pay the \$400 annual tax. TMA will continue to fight to repeal the tax for physicians.	 <b>SUPPORT</b>	Postponed until 2022
<b>PROHIBITING CO-PAY ACCUMULATORS (PC405)</b> This new law requires health insurance companies to count any co-pay assistance program's share of a patient's cost of a drug towards the patient's deductible or maximum out-of-pocket expenses.	 <b>SUPPORT</b>	Passed
<b>PHARMACY BENEFIT MANAGERS REFORM (PC569)</b> The new law addresses five problematic PBMs practices that directly harm patients: 340B discrimination, specialty pharmacy discrimination, patient steering, spread pricing and rebate retention.	 <b>SUPPORT</b>	Passed
<b>CORPORATE PRACTICE OF MEDICINE (SB1568   HB1355)</b> This bill, as amended, would eliminate the current prohibition in law of hospitals employing radiologists, emergency physicians, anesthesiologists and pathologists.	 <b>OPPOSE</b>	Postponed until 2022

## SUMMARY OF 2021 HEALTHCARE PUBLIC CHAPTERS

BUSINESS OF HEALTH CARE	EFFECTIVE
<b>PC 56 (SB 154) Wheelchairs</b> The new law amends TCA § 55-8-101(41) to clarify that motorized wheelchairs are not "motor vehicles" for purposes of the rules of the road, accidents, and crimes involving motor vehicles.	March 29, 2021
<b>PC 212 (SB 1597) Ambulance Service Availability</b> This law requires each county to provide ambulance service as an essential service and allows municipal governing bodies to provide ambulance service as an essential service. Counties are not allowed to provide, maintain, license, franchise, or contract for ambulance service within the boundaries of a municipality that has made provisions for ambulance service without the approval of the municipal governing body of the area to be served.	April 22, 2021
<b>PC 557 (SB 1281) Certificate of Need</b> Existing healthcare institutions are no longer able to exercise a veto over an application by a potential competitor. Instead, only the merits of the proposal can be taken into account. The application process has been expedited from up to 135 days to only 60. Mental health hospitals will no longer be subject to certificate of need requirements, nor will facilities located in economically distressed counties or those shuttered within the last 15 years. Non-pediatric magnetic resonance imaging and positron emission tomography services will no longer need to acquire certificates of need to operate in counties with more than 175,000 residents: Davidson, Hamilton, Knox, Montgomery, Rutherford, Shelby, Sumner, and Williamson.	Oct. 1, 2021

COVID-19 (SELECTED)	EFFECTIVE
<p><b>PC 155 (SB 474) Business Fairness Act</b></p> <p>“During the existence of a declared state of emergency, a business may continue or resume if it complies with safety precautions and guidelines issued by the governor, state department or agency, or a county or municipal governing body or agency, or any executive order, proclamation, or rule issued to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event, or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.”</p>	July 1, 2021
<p><b>PC 346 (SB 777) Pharmacy Collaborative Agreements</b></p> <p>The Commissioner of Health is authorized to declare the existence of an epidemic. Upon the declaration of an epidemic, the state chief medical officer may implement a statewide collaborative pharmacy practice agreement with a licensed pharmacist for the purposes of dispensing and administering vaccines to the state’s vulnerable population. It sets out specific requirements for the agreement’s operation and specific requirements for the pharmacist under the agreement.</p>	May 6, 2021
<p><b>PC 384 (SB 1573) Classification of Workers as Essential or Nonessential by Governmental Entities</b></p> <p>A local governmental entity or the executive head of a local government may not create categories or classes of nonessential businesses, trades, professions, or industries for the purpose of suspending lawful commerce, encumbering trade, or denying citizens the right to work if such activities are otherwise lawful in this state, unless an explicit order of the local fire marshal or court declares that the business operating poses a clear and present danger.</p>	May 11, 2021



### Are you an IMPACT member?

Electing friends of medicine to public office helps to ensure policy will benefit patients and physicians. This is IMPACT’s goal. We must ensure that our physician legislators return victorious in next year’s election, and the best way to do that is with donations to the PAC. Visit our site at [TNmed.org/IMPACT](https://tnmed.org/IMPACT) to become a member, or contact Erika Thomas, advocacy engagement coordinator, at [Erika.Thomas@tnmed.org](mailto:Erika.Thomas@tnmed.org).

HEALTHCARE DELIVERY	EFFECTIVE
<p><b>PC 153 (SB 1589) Store-and-Forward Telemedicine</b></p> <p>Section 63-1-155(a) is amended to redefine “store-and-forward telemedicine services” and “telehealth/telemedicine” for purposes of establishment of provider-patient relationships and standards of practice. “Store-and-forward telemedicine services” means the use of asynchronous computer-based communications, which may include the transfer of medical data in an image captured or created by a camera or similar device, between a healthcare provider and patient for the purpose of diagnosis, consultation, or treatment of the patient at a distant site where there may be no in-person exchange between the healthcare provider and the patient.</p>	April 13, 2021
<p><b>PC 191 (SB 425) Audio-Only Telehealth</b></p> <p>This amends the statute in the insurance code regarding payment for telehealth. Payment is allowed for encounters using HIPAA compliant audio-only conversation for the provision of behavioral health services if certain means of telehealth are unavailable.</p>	April 22, 2021
<p><b>PC 163 (SB 270) Medical Records of Adopted Children</b></p> <p>The Department of Children’s Services (DCS) shall require any person receiving federal or state DCS-funded assistance for adopting a child to provide the department with a DCS form completed by the adopted child’s current medical or mental health professional provider or from the school the child attends. The completed form must not include records from the verifying entity. DCS may initiate a visit to ascertain the well-being of the child if the person fails to provide the required form.</p>	July 1, 2021
<p><b>PC 168 (SB 334) Mammogram Screening for Prison Inmates</b></p> <p>Female inmates who are 50 through 74 years of age must be offered a mammogram screening every two years at no cost to the inmate. Female inmates who are 40 through 49 years of age must be offered a consultation with a physician to seek professional care as to when to receive a mammogram. Correctional institutions must provide inmates with educational training on the importance of preventative healthcare measures, including breast self-exams.</p>	July 1, 2021

HEALTHCARE DELIVERY (CONTINUED)	EFFECTIVE
<p><b>PC 259 (SB 615) Discharge of Patient Who Expresses Threat to Harm Self</b></p> <p>If a patient who is an inpatient in a licensed healthcare facility, or seeking services from an emergency department, expresses to a healthcare provider a recent threat or attempt at suicide or infliction of bodily harm to themselves, then the healthcare provider shall enter the attempt or threat into the patient's medical record. Upon discharge from the facility, the facility shall provide the patient with contact information to access a qualified mental health professional or counseling resource unless the patient is discharged to another facility. This requirement may be satisfied by providing this state's mobile crisis services or the statewide crisis hotline information.</p>	July 1, 2021
<p><b>PC 441 (SB 488) Transplant or Anatomical Gift Discrimination</b></p> <p>Entities responsible for matching anatomical gifts or organ donors to potential recipients and health insurance entities that provide coverage for transplantation may not discriminate against or refuse to serve potential recipients solely because of the recipient's disability. Healthcare entities must make reasonable modifications to their policies, practices or procedures to allow individuals with disabilities access to transplantation-related treatment and services. If an individual has a reasonable belief that an entity violated this law, he/she may file a civil lawsuit.</p>	July 1, 2021
<p><b>PC 462 (SB 212) Indicted Prescribers, APRN/PA Collaboration &amp; Report to Licensing Board</b></p> <p>1. A prescriber licensing board must revoke a prescriber's Schedule II prescribing privilege if the prescriber is indicted for a controlled substance or sexual criminal offense. <b>This is not a misprint. The Public Chapter does say "indicted," not convicted.</b></p> <p>2. The nursing and physician assistant boards are required to suspend the license of an APRN or PA who fails to collaborate with a physician as required by law.</p> <p>3. A hospital administrator must notify the licensing board:</p> <ol style="list-style-type: none"> <li>If an action is taken related to professional ethics, professional incompetence, negligence, moral turpitude, or drug or alcohol abuse of a licensee; and</li> <li>Any licensee who has been referred to or participated in a professional assistance program on two or more separate occasions because the person inappropriately prescribed an opioid; diverted an opioid; engaged in sexual activity with a patient; or has a mental or physical impairment that prevents the person from safely practicing the licensed profession. For any licensee reported, the board is entitled to any quality improvement committee information on the licensee.</li> </ol>	May 18, 2021

HEALTHCARE LIABILITY	EFFECTIVE
<p><b>PC 150 (SB 1275) Liability Protection for FQHCs</b></p> <p>Federally qualified health centers are added to the state's quality improvement committee (formerly peer review) law.</p>	July 1, 2021
<p><b>PC 379 (SB 1370) Wrongful Birth or Wrongful Life</b></p> <p>The law places in Code that there is no cause of action for:</p> <ol style="list-style-type: none"> <li>Wrongful birth on behalf of any person based on a claim that, but for an act or omission of the defendant, a person once conceived would not or should not have been born; and</li> <li>Wrongful life on behalf of any person based on a claim that, but for an act or omission of the defendant, the person would not have been conceived or, once conceived, would or should have been aborted.</li> </ol> <p>Causes of action could still be brought under the same set of facts under the theory of negligent infliction of emotional distress.</p>	May 11, 2021

HEALTH INSURANCE	EFFECTIVE
<p><b>PC 67 (SB 1376) Assignment of Benefits</b></p> <p>Except when dealing with an assignment of benefits to a healthcare provider, the rights, duties, or benefits provided by a health insurance policy may be assigned only as expressly provided by the terms of the policy of insurance or as otherwise expressly allowed by the insurer.</p>	March 29, 2021

PHARMACY, PRESCRIBING & PAIN MANAGEMENT	EFFECTIVE
<p><b>PC 136 (SB 748) Controlled Substance Monitoring Database</b></p> <p>This makes amendments relative to data that is reported in the controlled substance monitoring database. The main focus of the bill is to change the word “aggregate” to “deidentified” and specify that, “deidentified information from the database must not include the identifying information of any patient, healthcare practitioner, healthcare practitioner delegate, or healthcare facility.”</p>	April 13, 2021

PUBLIC HEALTH	EFFECTIVE
<p><b>PC 157 (SB 20) Vaping Products</b></p> <p>Requires the department of health to post information from the CDC concerning the health effects and dangers of vapor products. Information must also be disseminated to students in public middle, public junior, and public senior high schools.</p>	April 20, 2021
<p><b>PC 169 (SB 386) Immunization Records</b></p> <p>The department of health must accept out-of-state medical records evidencing the immunization of a natural or adopted child of a military parent against each of the diseases required for attendance at any school or child care facility. This will no longer require a child’s parent to obtain a medical evaluation for the child in Tennessee in order to obtain a certificate of immunization.</p>	July 1, 2021
<p><b>PC 272 (SB 1259) Safe Stars Act</b></p> <p>Coaches of public and charter school youth athletic activity must complete an annual concussion recognition and safety course; sudden cardiac arrest education program, CPR training, AED training, and background check. Student participants must return signed forms acknowledging receipt of education material on sudden cardiac arrest symptoms and warning signs.</p>	July 1, 2021

SCOPE OF PRACTICE & LICENSURE	EFFECTIVE
<p><b>PC 124 (SB 478) Home Health by APRNs and PAs</b></p> <p>This law adds advanced practice registered nurses and physician assistants as healthcare providers who can place orders for home health care. Such orders may be transmitted electronically.</p>	April 13, 2021
<p><b>PC 130 (SB 584) Direct Access to Physical Therapists</b></p> <p>Patients now have direct access (no physician referral) to a physical therapist if the physical therapist holds a doctorate level degree, has three years of practice experience, and has completed 15 hours in a program approved by the board of physical therapy.</p>	April 13, 2021
<p><b>PC 340 (SB 1267) Graduate Nurses Practicing without a License</b></p> <p>Nursing graduates who have yet to take their licensing exam to practice may practice in a licensed Title 33 or 68 healthcare facility for a maximum period of 120 consecutive calendar days from the date of receipt of the first authorization to take the licensing exam. Graduate nurses must work under supervision, and supervisors may only supervise one graduate nurse at a time. There are limits as to what a graduate nurse may do and what title one may use in a clinical setting.</p>	May 4, 2021
<p><b>PC 376 (SB 1339) Aestheticians Performing Microneedling</b></p> <p>Aestheticians working under the supervision of a licensed physician may perform microneedling without fear of discipline by their licensing board.</p>	May 11, 2021
<p><b>PC 148 (SB 1266) Certification of Nurse Aides in Nursing Homes</b></p> <p>This is a grandfathering provision for temporary nurse aides who stepped up to care for nursing home patients during the COVID-19 pandemic. Requires the board for licensing healthcare facilities to, no later than July 1, 2021, permit persons who qualified as temporary nurse aides on or after the beginning date of the national public health emergency declared January 31, 2020, to become certified as nursing assistants in this state and be placed on the nurse aide registry.</p>	April 13, 2021
<p><b>PC 160 (SB 101) Art Therapists</b></p> <p>This creates a professional art therapist advisory committee under the board of examiners in psychology. The committee will issue licenses to qualified art therapists and the act sets forth the statutory requirements for licensure, but licensees cannot diagnose.</p>	April 20, 2021

TENNCARE	EFFECTIVE
<p><b>PC 186 (SB 1430) Sickle Cell Disease</b></p> <p>The new law requires the bureau of TennCare to conduct an annual review of all medications and forms of treatment for sickle cell disease, and services for enrollees with a diagnosis of sickle cell disease. The purpose of the review is to determine if the available covered medications, treatments, and services are adequate.</p>	April 20, 2021
<p><b>PC 197 (SB 574) Substance Abuse Grants</b></p> <p>Several state executive departments must seek and apply for federal, private, or other available funds, and actively direct available state funds, for the development of recovery programs for Tennessee residents who are pregnant or have children to assist with substance use disorder treatment and wrap-around services to support life skills development in outpatient treatment facilities, in residential treatment facilities, or through home visitation programs.</p>	April 22, 2021
<p><b>PC 459 (SB 123) Hospital Assessment</b></p> <p>Enacts the annual hospital assessment creating funds for federal matching through TennCare to “buy back” TennCare benefits such as imaging and office visit limits and to provide funding for graduate medical education among other things.</p>	May 18, 2021

WORKERS' COMPENSATION	EFFECTIVE
<p><b>PC 189 (SB 1285) Workers' Compensation Investigations</b></p> <p>The bureau administrator is authorized to inspect and investigate the places of employment and pertinent conditions; business records, including complete payroll and tax information; certificates of insurance; sign-in and sign-out sheets for jobsites; and vendor lists if the bureau has reasonable cause to believe that an employer is in violation of the workers' compensation insurance requirements of employers. Subpoenas may be served for witnesses or documents. An employer has 21 days in which to comply with a subpoena. Failure to do so can result in a fine. The bureau has civil penalty power if an employer misclassifies an employee.</p>	July 1, 2021

## EXPECTED HEALTHCARE LEGISLATIVE ISSUES FOR 2022

- APRN/PA independent practice
- Issues concerning COVID-19 vaccinations
- Childhood vaccination requirements
- Telehealth
- Medical marijuana
- Motorcycle helmet repeal
- Optometrists performing laser procedures
- Repeal of rest of the professional privilege tax
- Budget for state pandemic PPE and equipment arsenal
- Corporate practice of medicine
- Prohibition of physician non-compete agreements (Uniform Law Commission)

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