

2022



ACHIEVEMENT REPORT



KMA SECURES WINS FOR PATIENTS, MEDICINE DURING 2022 LEGISLATIVE SESSION

Legislators gavelled in for the 60-day session of the 2022 Kentucky General Assembly on Tuesday, January 4, and immediately began work on the state redistricting plans. Bills containing the redistricting maps for Kentucky's six Congressional seats, 38 state Senate seats, 100 state House seats, and seven Supreme Court districts quickly moved through both chambers with legislators convening in an unusual Saturday session to cast final votes on the redistricting plans and send them to the Governor's desk. Governor Beshear vetoed the State House redistricting plan (House Bill 2) and the congressional plan for the state's six U.S. House seats (Senate Bill 3) prompting the General Assembly to swiftly override the vetoes the next day with little fanfare or floor debate. However, before the ink was dry on the overrides, the Kentucky Democratic Party filed suit challenging the congressional and state legislative redistricting maps. Although the legal challenge has yet to be resolved, a Franklin County Circuit Court judge declined to issue a temporary injunction, thus allowing this year's elections to proceed under the newly drawn maps while the issue makes its way through the legal system.

Another major focus of the 2022 session was the biennial budget. In a surprise move, the House Republicans released their budget plan before the Governor's budget address to the General Assembly on January 13, effectively pre-empting Governor Beshear's initiative to set the tone and prioritize billions in new funding. The House budget easily passed both chambers resulting in 27 line-item vetoes by the Governor, most of which legislators overrode during the final two days of the session. In addition to passing the biennial budget, lawmakers also passed House Bill 8, the House Tax Modernization Plan, which maintains the state's 6% sales tax and extends it to a larger group of services while gradually lowering the individual income tax. House Bill 8 also received a gubernatorial veto that was ultimately overridden along party lines. In all, the legislature overrode vetoes on 30 bills during the session.

KMA Priorities That Passed

Despite the legislature's initial focus on redistricting and budget issues, hundreds of healthcare related bills were once again filed during the session. The Kentucky Medical Association (KMA) successfully advocated for the following three priority bills that were sent to the Governor and became law:

Lung Cancer Screening

Kentucky has the highest incidence rate of lung cancer in the United States and consistently ranks at the top of the list in lung cancer deaths. **House Bill 219**, sponsored by Rep. Kimberly Moser, establishes the Lung Cancer Screening Program within the Kentucky Department of Public Health and the Lung Cancer Screening Advisory Committee. The program and advisory committee will work collaboratively to increase lung cancer screening, reduce the state's morbidity and mortality from lung cancer, reduce the cost associated with the treatment of lung cancer, and raise public awareness regarding the benefits of screening. Funding for the program in the amount of \$1 million was included in the separate budget bill (House Bill 1) passed by lawmakers.

Compassionate Patient Support

Under federal law, providers must immediately make test results available to patients through apps and EHR systems or face possible fines unless the release falls under a permissible exemption outlined in the law. As a result, patients are able to view test results often before their provider sees them. **House Bill 529**, introduced by Rep. Killian Timoney, permits an exception to this rule by allowing pathology reports or radiology reports that have a reasonable likelihood of showing a finding of malignancy or tests that could reveal genetic markers to be temporarily withheld from disclosure for up to 72 hours if the provider believes the receipt of such results by the patient prior to provider counseling could cause emotional harm.

Healthcare Workforce

Physician workforce shortages have plagued our state for years. Emerging evidence demonstrates that scholarship and loan repayment programs are effective in achieving long-term retention of participants in the communities in which they serve. **House Bill 573**, another KMA priority sponsored by Rep. Kimberly Moser, establishes the Healthcare Worker Loan Relief Program. This state-based program will operate alongside the current federal loan forgiveness program (Kentucky State Loan Repayment Program) and seek to retain more healthcare providers in Kentucky and further expand the number of healthcare providers in rural, underserved areas of the Commonwealth. The biennial budget allocated a total of \$4 million in funds from the American Rescue Plan Act of 2021 to help increase the number of healthcare providers receiving loan forgiveness for their education debt.



COVID-19 Legislation

Several bills related to COVID-19 vaccination and masking were filed during the 2022 session. **House Bill 28**, sponsored by Rep. Savannah Maddox, would have disallowed public sector entities, including postsecondary institutions, from requiring disclosure of COVID-19 vaccination status as a condition of continued employment or job application. The legislation would have also allowed an exemption to immunization against COVID-19 on the basis of conscientiously held beliefs. The bill passed the House but did not garner enough support to pass the Senate Health and Welfare Committee. KMA policy is opposed to vaccination exemptions other than those based on medical contraindications. As such, KMA and other concerned parties submitted letters of opposition prior to the Senate committee hearing and were able to stop the bill from advancing.

Similarly, **Senate Bill 93** would have required public and private employers mandating vaccination to provide notice to employees that they may seek a religious or medical exemption to the vaccine. The bill moved quickly through the Senate Judiciary Committee but never received a full vote on the Senate floor.

House Bill 51 would have allowed parents of students in public K-12 schools to opt out of any facial covering guidance related to COVID-19 issued by local school boards. The bill passed the House but did not receive a committee hearing in the Senate.

Senate Joint Resolution 150 immediately ended Kentucky's COVID-19 state of emergency as of the effective date of the resolution and included provisions requiring the governor to ask for the General Assembly's approval before declaring another COVID-19 emergency. The resolution passed both chambers and was subsequently vetoed by the Governor. However, within days, the General Assembly overrode the Governor's veto in a strictly party-line vote.



KMA Vice Chair Evelyn Jones, M.D. with medical students during KMA's 2022 Physicians' Day at the Capitol.

Other Issues of Interest

The Kentucky Association of Nurse Practitioners and Nurse Midwives once again proposed legislation to expand prescriptive authority for advanced practice registered nurses (APRNs). If passed, **House Bill 354** would have phased out the statutory requirement for APRNs to have a collaborative agreement (CAPA-CS) with a physician in order to prescribe Schedule II through V controlled substances and would have eliminated the one-year practice requirement before APRNs may prescribe controlled substances under a CAPA-CS. While the bill did pass the House, it did not move in the Senate, thanks largely to the record number of KMA members expressing their concerns to legislators.

Efforts to legalize medicinal cannabis in Kentucky continued this session with the introduction of **House Bill 136**, sponsored by Rep. Jason Nemes. The bill passed off the House floor by a vote of 59-34 but once again failed to gain support in the Senate. **House Bill 604**, sponsored by Rep. Kimberly Moser, took a different approach to the medicinal cannabis issue by creating The Kentucky Center for Cannabis Research at the University of Kentucky to advance the study of the use of cannabis and cannabis derivatives for the treatment of certain medical conditions and diseases. The bill became a vehicle for a number of other bills and appropriation measures during the final days of the session; however, it passed both chambers and was delivered to the Governor for his signature. The Governor used his line-item veto powers to remove language limiting the purpose of the Center to medicinal research. Governor Beshear recently indicated he is considering taking executive action on the medical marijuana issue. KMA policy calls for further clinical research of cannabis in the treatment of medical conditions.

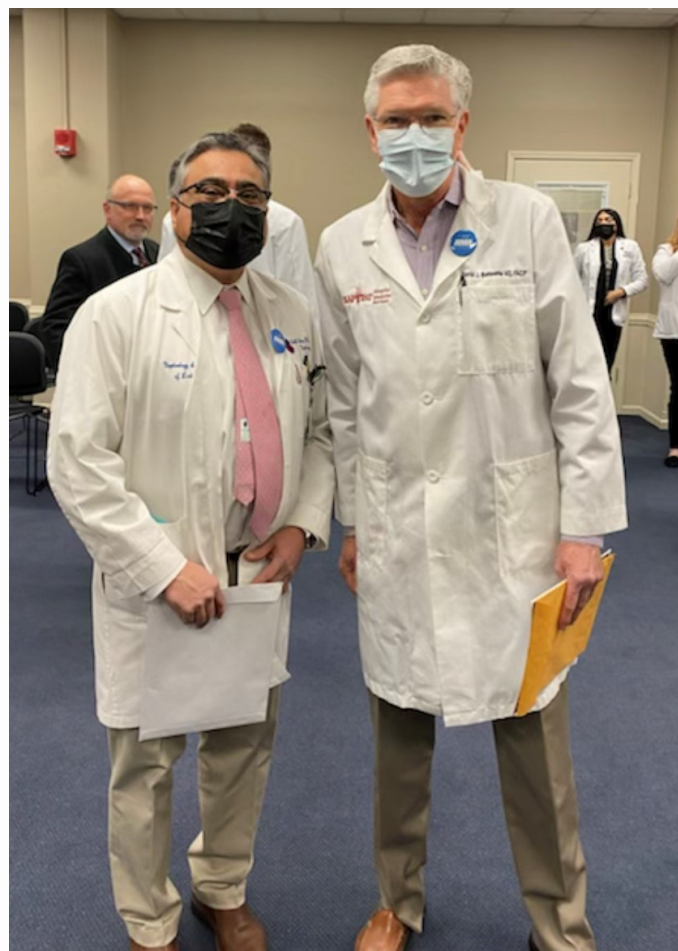
House Bill 188, sponsored by Rep. Jim DuPlessis, is largely a clean-up bill for 2021 House Bill 140 related to telehealth. The legislation bars professional licensure boards from prohibiting the delivery of telehealth services to residents of Kentucky who are temporarily located outside of the state by health service providers credentialed in Kentucky. Likewise, it bars professional licensure boards from prohibiting the delivery of telehealth services to nonresidents of Kentucky who are temporarily located in Kentucky by health service providers credentialed in the person's state of residence. Before the bill passed the Senate, KMA was able to have new language included to address the way some insurers have been misinterpreting the pay parity provisions of Kentucky's telehealth statutes. The House concurred with the changes, and the bill was signed into law. KMA will continue to monitor payer compliance with the state's payment parity laws.

Kentucky was a pioneer in patient protections when it enacted step therapy reforms a decade ago. Now, more than half of the states have stronger laws in place. In the wake of evolving clinical practices and insurance policies, Sen. Max Wise introduced **Senate Bill 140** to update and clarify existing statutes that address step therapy protocols mandated by insurers and pharmacy benefit managers. The legislation was unanimously approved by both chambers and signed by the governor. The new law will require step therapy protocols to be based on widely accepted medical and clinical guidelines and will update the clinically justified circumstances for a patient and health care provider to override a step therapy protocol.

During the 2022 legislative session, the General Assembly enacted an omnibus abortion bill, **House Bill 3**. The legislation bans abortions in Kentucky at 15 weeks of gestation and requires minors to obtain consent from their parents before undergoing the procedure. The measure also bans online sales of abortion-inducing drugs and regulates the disposal of fetal remains. House Bill 3 was vetoed by Governor Beshear; however, lawmakers quickly and overwhelmingly overrode the veto.

On the medical liability front, Sen. Ralph Alvarado introduced **Senate Bill 142** which would give Kentucky voters the opportunity to change the state constitution and allow the Kentucky General Assembly the ability to limit noneconomic damages in civil lawsuits. Sen. Alvarado has filed this legislation before, and after years of fighting for liability reforms in the upper chamber, he gained a partner in the House of Representatives. Rep. Josh Bray introduced **House Bill 455**, a companion bill to Senate Bill 142, so that the need for tort reform could receive equal discussion and debate in the lower chamber. Neither bill passed their respective chamber. Nevertheless, medical liability reform will remain a major legislative initiative for the Association and its members.

Senate Bill 105 requires treating obstetric or prenatal services physicians to provide pregnant women or women who may become pregnant with information regarding congenital cytomegalovirus (CMV). The Department for Public Health is required to produce the information. Additionally, the measure states that any newborn who fails two auditory screening tests, or has other risk factors, must be tested for CMV not later than twenty-one days after the date of birth by the health facility or physician providing services to the infant unless the parents opt-out. The bill easily passed the House and the Senate and was signed by the Governor.



KPLI graduate Khalil Rahman, M.D. (left) with KMA Past President and Budget Chair David Bensema, M.D. (right) during the 2022 KMA Physicians' Day at the Capitol.

KMA Advocacy in Action

After hosting a virtual "Advocacy in Action Month" last year due to the ongoing COVID-19 pandemic, the annual KMA Physicians' Day at the Capitol (PDAC) event returned to Frankfort with some modifications to the schedule to ensure the safety of legislators and attendees. The event kicked off on February 2 with a virtual legislative briefing followed by a Question-and-Answer session with KMA lobbyists. On February 9, physicians and medical students gathered at the Capitol to meet with legislators and advocate on KMA priority issues.

In addition to the advocacy efforts at PDAC, KMA members testified at committee hearings, held in-person and virtual meetings with legislators, and sent hundreds of messages through the KMA Action Center. The successes of the 2022 session could not have been achieved without the collective efforts of engaged and informed member advocates. KMA extends its appreciation to members for advancing the priorities of physicians and patients across the Commonwealth and for working to move healthcare forward in Kentucky.