

ADVOCACY IN ACTION

ACHIEVEMENT REPORT



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23

KMA WRAPS 2023 SESSION WITH WIN FOR PHYSICIAN WELLNESS

OTHER PRIORITIES ADVANCE

The 2023 General Assembly wrapped up the 30-day “short session” on Thursday, March 30. While initial indications pointed to a scaled-back session, legislators ultimately passed over 180 new laws and resolutions, including the overriding of 15 gubernatorial vetoes. One of the first actions by House and Senate Republicans was to codify the triggers in last year’s tax reform bill, which lowered Kentuckians’ income taxes from 5 percent to 4.5 percent for the 2023 tax year and further reduced the state income tax to 4 percent beginning January 1, 2024. After the January recess, lawmakers returned to Frankfort to tackle a host of other issues, many of which generated a great deal of controversy and led to one of the more contentious sessions in recent memory. The passage of legislation allowing sports wagering and medicinal cannabis marked a significant shift in the politics of the General Assembly. Lawmakers also passed a major package on juvenile justice, a ban on “gray” gambling machines, and a slew of bills on public schools spurring intense deliberations on both sides of the aisle.

Despite the overwhelming number of major policy issues competing for attention, KMA was able to successfully advance priority bills this session and lay the groundwork for future advocacy efforts on several issues thanks to the outstanding advocacy efforts of members.

KMA Priority Issues

Enhancing Physician Wellness

Physicians and other healthcare workers have an increased risk of experiencing burnout due to the demanding nature of their work. However, they are less likely to request and receive help for mental health issues due to the stigma associated with seeking treatment for themselves within the medical field. **Senate Bill 12**, sponsored by Sen. Donald Douglas, M.D., encourages physicians to seek care when needed through a wellness program and ensures that a record of a physician’s participation in such a program is confidential and has additional legal protections. In testimony before House and Senate Committees, KMA Vice President Evelyn Montgomery Jones, M.D., and KMA Past President Shawn Jones, M.D., highlighted the importance of helping physicians deal with job-related burnout without fear of retaliation. The passage of this legislation is a major step in KMA’s overall efforts to improve physician well-being and address workforce issues in the state.



Prior Authorization Exemption

House Bill 134, sponsored by Rep. Kim Moser, would have established a prior authorization exemption program designed to automatically waive prior authorization requirements if a physician has historically been approved for a specific procedure/service at least 90 percent of the time. A prior authorization exemption program would ensure patients have timely access to the care they need, reduce administrative burdens for physicians, and lower healthcare costs. The bill easily passed the House Health Services Committee, thanks to the testimony of KMA President Monalisa Taylor, M.D. Despite the nearly unanimous consensus among lawmakers that prior authorization reform is desperately needed, the bill was ultimately recommitted to the House Banking and Insurance Committee for further consideration due to concerns over the potential cost of such reforms, especially to the Medicaid program. Although the bill did not pass the General Assembly this session, KMA members have continually expressed strong support for this effort due to the overuse and misuse of prior authorizations by health plans. Streamlining and reforming prior authorization will continue to be a major focus of KMA's advocacy efforts throughout 2023 and into the 2024 session.

Scope of Practice

Each year during the legislative session, various non-physician groups introduce legislation to increase their scope of practice in the state. KMA has successfully defended against the multi-year effort by the Kentucky Association of Nurse Practitioners and Nurse-Midwives (KANPNM) to phase out the CAPA-CS (Collaborative Agreement for Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances). Following

five months of negotiations, an agreement was reached this year on Senate Bill 94, that consistent with KMA policy, preserves the physician-led, team-based care model. KMA Legislative Chair Donald Swikert, M.D., led the efforts to ensure that the legislation strengthened the CAPA-CS, increased meaningful collaboration between APRNs and collaborating physicians, and provided the appropriate safeguards for public health. While an agreement has been reached on this issue, many other scope of practice bills are anticipated in future legislative sessions. KMA encourages members to remain engaged on such issues to ensure the practice of medicine and patients are protected. KMA's "KY Physicians Care" campaign continues to educate legislators and the public on the importance of the physician-led, team-based care model. More information on this effort is available at kyphysicianscare.com.



Other Issues of Interest

One of the most controversial issues addressed by the General Assembly this session was legislation to ban puberty blockers, hormones, and surgeries for minors diagnosed with gender dysphoria. In addition to imposing a statewide prohibition against gender transition services for youth who identify as transgender or gender diverse, **House Bill 470** also specified penalties for providers who provide transition services and liabilities for health insurers. After emotional and oftentimes heated committee hearings in both chambers, multiple floor amendments were filed on the bill, and a “scaled-back” amendment was adopted in the Senate. However, with time running short before the veto recess and lawmakers still split on their support, House Bill 470 was tabled, and the provisions of the bill were added to **Senate Bill 150**, another controversial parent’s rights bill, containing provisions to provide more parental engagement on school policies or curriculum related to sensitive topics like sexuality, pronouns, and student health services. After hours of floor debate, the amended Senate Bill 150 passed both chambers with the slightly modified provisions of House Bill 470. As anticipated, the governor vetoed the measure, which was swiftly overridden by lawmakers after another round of fierce floor debate.



KMA members, including Chris Bolling, M.D., a Northern Kentucky pediatrician who attended several in-person legislator meetings and testified multiple times before legislative committees, successfully engaged lawmakers through strong grassroots advocacy. As a result, many elements of concern to KMA in the original version of House Bill 470 were not included in the amended Senate Bill 150 as a result of discussions with legislators. However, several provisions in Senate Bill 150 remain extremely problematic. Specifically, the legislation places limitations on safe medications that can be used to treat gender dysphoria. KMA opposes these restrictions and instead supports the utilization of evidence-based standards of care for the treatment of gender dysphoria in youth, including non-surgical medical treatment (e.g., medications) provided to youth by professionally trained and experienced healthcare providers. Such standards for appropriate care, which do NOT include surgical interventions for minors (e.g., gender reassignment surgeries), have been developed and recognized by the nation’s leading healthcare organizations and have proven effective. Equally important, KMA believes that the doctor-patient relationship is the bedrock on which safe and ethical medical care is provided, with decision-making between a physician and a patient private and specific to the patient’s conditions. Many observers anticipate SB150 will face one or more legal challenges. KMA will continue to monitor the fate of SB150 and provide member updates as developments occur.

In the final days of the session, legislators also decided to take on the controversial and complex issue of “medicinal” cannabis. After a decade of debate, a bill to allow people with serious medical conditions to use cannabis for therapeutic purposes passed both chambers

and was signed by the governor. **Senate Bill 47**, sponsored by Sen. Stephen West, calls on the state Cabinet for Health and Family Services to implement, oversee, and regulate a medicinal cannabis program beginning on January 1, 2025. The bill establishes the authorization process for physicians and advanced practice registered nurses to “recommend” the use of medicinal cannabis to “qualified patients” with a qualifying medical condition, which will include cancer, chronic and other types of pain, epilepsy, multiple sclerosis, muscle spasms, chronic nausea, and post-traumatic stress disorder. Before accessing cannabis, patients have to register and receive approval for a special identification card. Patients under 18 years old are not allowed to possess, purchase, or acquire medicinal cannabis without the assistance of a designated caregiver. The bill also creates separate licenses for cultivators, dispensers, and producers. Use of the product will be tracked through KASPER, Kentucky's controlled substance monitoring system. Based on policy established by the KMA House of Delegates, the Association has advocated for a more cautious approach and urged legislators to allow more time for clinical research on cannabis in the treatment of medical conditions.

As lawmakers were passing legislation to institute a medicinal cannabis program in the state, a separate bill was passed to regulate hemp-derived products. **House Bill 544** directs the Cabinet for Health and Family Services (CHFS) to promulgate emergency regulations no later than August 1, 2023, applicable to any product containing delta-8 tetrahydrocannabinol or any other hemp-derived substance identified by CHFS as having intoxicating effects on consumers. Regulations will include new consumer safety

rules regarding the marketing, labeling, and packaging of such products. In addition to directing regulatory action, the measure also prohibits the possession, sale, gift, or other transfer by or to persons under the age of 21.

The General Assembly continued to take steps to address the effects of the ongoing opioid epidemic in the state. **House Bill 353**, sponsored by Rep. Kim Moser, excludes fentanyl test strips and other testing equipment used to determine the presence of chemicals, toxic substances, or hazardous compounds in controlled substances from the prohibition of possession of drug paraphernalia. This legislation aligns with KMA policy established by the 2022 House of Delegates calling for exempting materials distributed for the appropriate use in evidence-based harm reduction programs from being classified as “drug paraphernalia.”

In another policy win for the Association, **House Bill 331**, sponsored by Rep. Ruth Ann Palumbo, directs local boards of education to require schools to maintain a portable automated external defibrillator (AED) in every middle and high school building. Schools will also be required, as funds become available through a newly created AED Fund, to have an AED available at every middle and high school athletic practice/competition. House Bill 331 also states that the coaches’ sports safety course must now include AED training and CPR certification. Current KMA policy calls for AED education and instruction as part of CPR training and supports the increased availability of AEDs in public spaces throughout the state.

Senate Bill 135 aims to improve perinatal mental health by requiring the Cabinet for Health and Family Services (CHFS) to make information on postpartum depression and a

postpartum assessment tool available on its website. The bill, sponsored by Sen. Shelley Funke Frommeyer, also directs CHFS to develop and implement a collaborative program aimed at improving the quality of prevention and treatment of postpartum depression.

Sponsored by Rep. Kim Moser and supported by KMA, **House Bill 180** requires health benefit plans to cover biomarker testing for patients who have been diagnosed with cancer and other diseases. Biomarker testing is often used to help determine the best treatment for a patient by analyzing a patient's tissue, blood, or other biospecimen for the presence of a biomarker. Insurance coverage for biomarker testing is essential to keeping pace with innovation and advancement in treatment.

House Bill 176, sponsored by Rep. Jason Nemes, requires the Cabinet for Health and Family Services (CHFS) to develop guidelines for health facilities on conducting workplace safety assessments and creating a workplace safety plan. It also requires health facilities to create a workplace safety assessment and plan, provide related training, and develop internal reporting requirements for incidents of workplace violence. Beginning January 1, 2025, CHFS must annually audit health facilities to ensure compliance.

Advocacy in Action

More than 90 physicians and medical students from across Kentucky gathered in Frankfort on



February 22 to advocate for their practice and their patients as part of the 2023 KMA Physicians' Day at the Capitol (PDAC). The day kicked off with a press conference in the State Capitol Rotunda featuring KMA President Monalisa Taylor, M.D., and Rep. Kim Moser calling for reform of the prior authorization process. Following the press conference, attendees met with legislators to discuss additional KMA priorities, including Senate Bill 12, the physician wellness bill that was ultimately passed and signed by the governor.

In addition to the advocacy efforts at PDAC, KMA members were highly active on the grassroots level this session through compelling testimony at committee hearings, legislative visits, and messages sent through the KMA Action Center. Many physician advocates went "above and beyond" to assist with KMA advocacy efforts that undoubtedly made a lasting contribution towards enacting positive, pro-medicine healthcare policy in the state. KMA greatly appreciates the collective efforts of members to advance the priorities of physicians and patients across the Commonwealth.