

2024

ADVOCACY IN ACTION ACHIEVEMENT REPORT



ADVOCACY
IN ACTION

KENTUCKY MEDICAL ASSOCIATION

KMA

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Physicians Caring for Kentucky



2024 LEGISLATIVE SESSION

The 2024 General Assembly adjourned on Monday, April 15, concluding the 60-day “long” session which began on Tuesday, January 2. Initially slow-paced and marked by limited bill introduction, multiple committee hearing cancellations, and minimal floor action, the session eventually settled into a rhythm punctuated by intermittent starts and stops. Despite a record-breaking 1,218 bills filed, lawmakers opted for a more measured approach than in recent years, passing only 214 bills, including 25 bills enacted over Governor Beshear’s vetoes.

Among the main priorities for legislators this session was the passage of the two-year state budget. **House Bill 6** allocates funds for education, public safety, and economic development. In addition to the biennial state budget,

lawmakers also passed **House Bill 1**, a one-time infrastructure and investment measure that funds \$2.8 billion in line items for pension debt, economic development, and infrastructure projects. The legislation also includes funding for healthcare initiatives such as AEDs in public schools and the establishment of a psychiatry residency program at Appalachian Regional Health.

The two bills dominating media headlines and generating the most intense debate and controversy this session were **House Bill 5** and **Senate Bill 6**. House Bill 5, a comprehensive anti-crime measure, increases penalties for repeat violent offenders and addresses issues like carjacking and street camping. Despite the governor's concerns about its impact on the homeless and the overall cost, lawmakers easily overrode his veto upon their return to Frankfort. On the other hand, Senate Bill 6, aimed at curbing the influence of Diversity, Equity, and Inclusion (DEI) concepts in Kentucky higher education, received floor votes in both chambers but ultimately did not pass. The bill was amended in the House and awaited Senate concurrence but was left languishing in the Senate Rules Committee while time expired.

KMA PRIORITY LEGISLATION AND OTHER HEALTHCARE BILLS THAT DID NOT PASS

Prior Authorization: Building on momentum from last year's legislative session, KMA's singular legislative priority for the 2024 session was the passage of prior authorization reform. Following an op-ed by KMA and nine specialty societies urging Kentucky lawmakers to act on prior authorization this session, Rep. Kim Moser introduced **House Bill 317** to alleviate burdensome prior authorization requirements if a physician has historically been approved for a specific medication, procedure, or service 90 percent of the time. Immediately following the introduction of the KMA-supported legislation, an insurer-backed prior authorization bill (House Bill 318) was introduced that would have required insurers to establish a "gold carding" program; however, insurers would have the ability to set up such programs on their terms, which would require a participating provider to enter into an electronic medical records access agreement as well as a value-based healthcare reimbursement agreement where the provider assumes downside risk.

KMA entered negotiations with the insurance companies and other stakeholders in an attempt to reach a compromise. With only a few legislative days left, it became clear that the negotiations were at an impasse and a deal could not be reached before the end of the session. **Senate Bill 270**, the KMA-supported prior authorization companion bill introduced by Sen. Jason Howell, also failed to be considered in the Senate.

KMA is extremely disappointed by House Bill 317 and Senate Bill 270's failure to pass during this legislative session. However, we are encouraged by the overwhelming bipartisan support the measure received and remain optimistic that with continued advocacy from our members and the public, as well as

collaboration with lawmakers, this critical legislation, which proposes to streamline the prior authorization process and ensure patients have timely access to care will soon be enacted.

Conscientious Objections in Health Care: Senate Bill 239, sponsored by Sen. Donald Douglas, MD, would have protected medical professionals who decline to participate in certain medical services due to conscientious objections from discrimination and civil, criminal, or administrative liabilities. The bill passed off the Senate floor just days before the veto recess but failed to move in the House. KMA took no position on the legislation since the American Medical Association's code of ethics already addresses the conscience issue for physicians. The AMA code says doctors should have "considerable latitude," but not unlimited freedom, to practice medicine following their conscience.

Vaccines: Legislation to prohibit a requirement for any individual to receive a COVID-19 vaccine for student enrollment, employment, or medical treatment passed the Senate but failed to receive a committee hearing in the House. Although unsuccessful, **Senate Bill 295** garnered over 20 co-sponsors in the Senate including moderate Republicans, increasing the likelihood that similar legislation will be introduced in future sessions. KMA policy opposes nonmedical exemptions from immunizations and all legislative efforts to create a protected legal status or civil right for unvaccinated individuals.

Abortion Exceptions: Legislation sponsored by Sen. David Yates to expand exceptions under Kentucky's abortion ban failed to receive a committee hearing in the Senate. **Senate Bill 99** would have added

exceptions for rape, incest, lethal fetal anomaly, and fetal incompatibility. The bill also included a presumption of compliance for physicians asserting a "good faith belief" in meeting exceptions.

Crisis Aversion and Rights Retention: Outgoing Republican Senate Judiciary Committee Chair Whitney Westerfield introduced legislation in January to create a firearm crisis aversion and rights retention program in the state. **Senate Bill 13** would have allowed law enforcement to petition a court to issue orders to temporarily remove guns from the hands of citizens ruled to be mentally ill and a threat to themselves or others. The bill received a well-publicized interim joint Judiciary Committee hearing in December; however, once introduced in the Senate, the bill had no traction and did not receive a committee hearing during the session. The 2023 KMA Gun Violence and Firearm Safety Work Group Report adopted by the KMA House of Delegates calls for KMA to support legislation that would allow for the temporary transfer of firearms away from people on the brink of crisis, like that of the Crisis Aversion and Rights Retention Act.



HEALTHCARE BILLS THAT DID PASS

Although some of the more controversial healthcare-related bills did not pass this session, lawmakers did act on a wide range of significant healthcare measures. KMA collaborated with stakeholders on many of these bills, contributing to a more favorable outcome for Kentucky physicians and patients.

Maternal & Child Health: Rep. Kim Moser introduced **House Bill 10** to support maternal and infant health and reduce the high mortality rate for mothers in Kentucky. Nicknamed the "Mominibus," the measure requires most health plans to cover pregnancy, childbirth, and postpartum care along with in-home treatment for substance use disorder. It also calls on most plans to cover labor and delivery costs and all services and supplies related to breastfeeding. The legislation was ultimately attached to **Senate Bill 74**, a separate bill on maternal health sponsored by Sen.

Shelley Funke Frommeyer that, among other things, establishes the Kentucky Maternal Mortality Review Committee as a permanent entity under the state Department for Public Health. The amended bill easily cleared both chambers and was signed by the governor.

Parental Access to Minor's Health Records: One of the more debated healthcare bills to pass this session, **House Bill 174** allows the parent or a representative of a patient who is under the age of 18, the right to access the patient's health information maintained by a health care provider in a medical record unless prohibited under HIPAA or any other federal or state law. Rep. Rebecca Raymer filed the legislation to address a situation where a 13-year-old was required to consent to parental access. While seemingly noncontroversial, some patient

advocates asserted that the legislation conflicts with an existing state law that allows minors to consent to a limited number of medical services (e.g., venereal disease, mental, and reproductive health) without notification or permission of their parents. To avoid the conflict, a floor amendment was introduced to keep the medical records associated with such services private. The amendment failed in the House, and the legislation passed both chambers along party lines and became law without the governor's signature.

Healthcare Workforce Protections: House Bill 194, a measure by Rep. Kim Moser to address workplace violence against healthcare providers, passed through both chambers with little opposition. The legislation expands assault in the third degree to cover harm to healthcare providers in a health clinic, doctor's office, dental office, long-term care facility, or a hospital or hospital-owned facility. Another healthcare workforce measure, **House Bill 159**, sponsored by Rep. Patrick Flannery, provides immunity for healthcare providers from criminal liability for inadvertent medical mistakes committed while providing healthcare services. However, healthcare providers can still be held liable in cases of gross negligence or wanton, willful, malicious, or intentional misconduct.



Pseudoephedrine Limits: House Bill 386, sponsored by Rep. Robert Duvall, eases purchase limits on pseudoephedrine to allow people with chronic allergies to legally obtain enough of the medication to meet their needs. While the bill partially rolls back one of the most stringent state laws on pseudoephedrine in the country, the revised limits remain 20 percent stricter than federal monthly limits and the annual limits are 78 percent stricter than those in most other states. Individuals must still show their driver's license at the pharmacy counter and purchase limits will continue to be tracked.

Cannabis: Introduced as a follow-up to last year's **Senate Bill 47** that allows Kentuckians access to medicinal cannabis for specific medical conditions starting in 2025, **House Bill 829**, sponsored by Rep. Jason Nemes, addresses medicinal cannabis use for K-12 students, allows public and private schools to opt out of the program and requires schools to establish policies if they choose to participate. Additionally, the bill allows local governments to apply fees and opt out of the program, prioritizes hemp businesses, clarifies state inspection powers, and ensures the program starts on time.

Vaping & e-Cigarettes: Another bill sparking a great deal of discussion on both sides of the aisle was **House Bill 11**, sponsored by Rep. Rebecca Raymer, which imposes fines on wholesalers and manufacturers who engage in the distribution of tobacco products that have not been granted authorization by the FDA. The bill also establishes escalating fines on retailers selling authorized products to individuals under 21. Another anti-vaping bill, **House Bill 142**, introduced by Rep. Mark Hart, bans all tobacco, alternative nicotine, and vapor products in Kentucky public schools. It also requires school districts to adopt disciplinary procedures for students who violate the bans. KMA policy supports a ban on the use of electronic nicotine delivery systems in locations where tobacco use is prohibited and encourages education for the public, especially youth, on the dangers of using electronic nicotine delivery systems.

KMA ADVOCACY IN ACTION

The KMA leadership and advocacy teams extend their sincere gratitude to the nearly 100 members who participated in the annual Physicians' Day at the Capitol event to advocate for the passage of prior authorization legislation. We also appreciate those who sent multiple messages of support to their legislators. Your advocacy laid the groundwork for future endeavors as KMA maintains its focus on prior authorization heading into 2025. We urge members to stay engaged in the process by supporting pro-medicine legislators who understand the importance of a strong medical community and work to enact sound health policies such as prior authorization reforms. By contributing to the Kentucky Physicians Political Action Committee (KPPAC), KMA's political arm, you can continue to directly influence the makeup of the Kentucky General Assembly, ensuring your voice will continue to resonate in the halls of decision-making. To learn more about KPPAC or to contribute, visit www.kppac.org.

Kratom: Lawmakers also acted to regulate kratom, an herbal substance frequently sold online and in convenience stores. **House Bill 293**, sponsored by Rep. Kim Moser, prohibits sales to people under 21 and provides guidelines for manufacturing and labeling the product. KMA policy supports a complete ban on over-the-counter sales of kratom in Kentucky.

Vaccine Administration: House Bill 274 enables Kentucky pharmacies to administer vaccines to children aged five and above with parental or guardian consent. The current minimum age for such vaccinations is nine. Initially drafted to include children starting at age three, the bill was adjusted to age five following discussions with KMA. Despite the age reduction, pharmacists must still administer vaccines based on a prescriber-approved protocol.

Greater Access to AEDs in Schools: Sponsored by Rep. Ruth Ann Palumbo, **House Bill 169** updates current state law by mandating all Kentucky school buildings, including elementary schools, house a portable automated external defibrillator (AED) in a public, easily accessible spot. This builds upon 2023's **House Bill 331** ensuring AED presence in middle and high school buildings and at school events.

Additionally, House Bill 1, the one-time spending and investment bill passed this session, designates \$2.5 million to the Department of Education for AEDs in public schools. 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.

Cancer Detection and Screening: Continuing the state's efforts in recent years to increase access to cancer detection and screening initiatives, **House Bill 52**, by Rep. Deanna Frazier Gordon, requires health benefits plans to cover preventive cancer screenings and tests without any cost-sharing requirements. Likewise, **House Bill 115**, co-sponsored by Reps. Kim Moser and Lisa Wilner, eliminates co-pays and cost-sharing requirements for high-risk individuals who need follow-up diagnostic imaging to rule out breast cancer.

