



2023 LEGISLATIVE REPORT CARD

OVERVIEW

The first session of the 113th Tennessee General Assembly adjourned in April 2023. While TMA endured one of its most challenging sessions to date, the House of Medicine fared relatively well and achieved most of its top priorities.

TMA, along with its coalition partners, fixed the unintended consequences of the abortion “trigger” law that went into effect following the 2022 overturning of *Roe v. Wade*. TMA also made significant gains in easing the burden of insurance hassles with prior authorization reform in addition to providing relief to doctors terminated from networks because of health plans taking advantage of the No Surprises Act. Finally, TMA once again preserved the physician-led, team-based care model in Tennessee by holding the line on APRN and PA independent practice.

Although the physician wellness priority was not successful this year, TMA remains optimistic that negotiations with various stakeholders over the coming year will yield acceptable statutory language that will protect physicians and other healthcare professionals from probing questions about past treatment for mental health or substance abuse.



2023 BY THE NUMBERS

1,651

bills reviewed

291

bills tracked

9

bills amended

11

bills defeated

8

bills passed



TMA'S LEGISLATIVE INITIATIVES

PHYSICIAN WELLNESS

SB734 Sen. Richard Briggs, MD (R-Knoxville) | HB628 Rep. Tom Leatherwood (R-Arlington)

This bill would have enacted statutory protections for all healthcare professionals licensed under Title 63 by making health information confidential for purposes of provider credentialing, licensing, and pre-employment interviews. As one of TMA's top legislative priorities going into the 2023 session, the measure aimed to reduce occupational stigma for healthcare professionals to help mitigate burnout and suicide. However, several stakeholders raised multiple concerns about the language as drafted. The bill was taken off notice by the sponsors pending further negotiation.

"TRIGGER" LAW CORRECTION

SB745 Sen. Richard Briggs, MD (R-Knoxville) | HB883 Rep. Esther Helton-Haynes (R-East Ridge) | P.C. 313

As amended, the law removes the affirmative defense for doctors to allow abortions to prevent the death or substantial health impairment of the pregnant woman, in addition to clarifying that treating ectopic or molar pregnancies are not criminal abortions. The bill also changes the standard for determining whether medical necessity exists from a "good-faith medical judgment" to a "reasonable medical judgment." Finally, the bill addresses conflicting laws that were superseded by the "trigger" law, such as the "heartbeat" law, "viability" law, and 20-week law, leaving them in the code but removing their effectiveness unless the abortion "trigger" law is found unconstitutional by a court.

Effective April 28, 2023.

PRIOR AUTHORIZATION

SB666 Sen. Shane Reeves (R-Murfreesboro) | HB885 Rep. David Hawk (R-Greeneville) | P.C. 395

The Prior Authorization Fairness Act reforms health plan utilization review protocols to alleviate administrative burdens and ensure patients gain quicker access to healthcare services. As originally introduced, the bill would have established a pathway for physicians with a clear history of appropriate resource utilization and high PA approval rates to bypass the prior authorization requirement (“gold carding”). As amended, the bill focuses on various reforms that insurers voluntarily agreed to back in 2018 via a consensus statement, produced by national stakeholders, such as improving clinical criteria by which prior authorizations are determined; expediting the process for the approval or denial of urgent and non-urgent PA requests; and supporting sufficient continuity of care for patients during transitional periods of formulary or treatment coverage.

Effective Jan. 1, 2025.

BALANCE BILLING

SB1345 Sen. Bo Watson (R-Hixson) | HB1503 Rep. Kevin Vaughan (R-Collierville) | P.C. 352

As amended, the Surprise Billing Consumer Protection Act requires each of the state’s three managed care organizations (MCOs) to file an annual report with the commissioner of the Department of Commerce and Insurance that describes all network hospitals’ percentage of facility-based physicians. The department will be required to review these reports within 45 days to determine whether the network meets sufficient standards. If deemed inadequate, the commissioner must make modifications to the network or institute a corrective action plan. The bill also requires the department to conduct a study on how federal implementation of the No Surprises Act has affected Tennessee physicians and healthcare facilities and submit that report to the chairs of the Insurance Committee in the House and the Commerce and Labor Committee in the Senate by Nov. 1, 2023.

Effective Jan. 1, 2024.



SCOPE OF PRACTICE

SB196 Sen. Jon Lundberg (R-Bristol) | HB1455 Rep. Jeremy Faison (R-Cosby)



As amended, the bill would have allowed APRNs to practice independently in hospitals and ambulatory surgical treatment centers without a collaborative practice agreement in counties with fewer than 100,000 residents (79 of 95 counties). It would also have limited physician oversight by capping chart review at 10% and limiting site visits to no more than six in a 12-month period. The bill was taken off notice in both chambers.





SB1170 Sen. Art Swann (R-Maryville) | HB1457 Rep. Mark Cochran (R-Englewood)




The bill would expand the scope of practice of physician assistants to allow those with more than 6,000 post-graduate hours of clinical experience to practice without the collaboration of a physician. This would eliminate chart review and site visits as well as schedule drug prescribing oversight. While the bill would prohibit PAs from utilizing a medical specialty designation, it would permit use for the name of their practice. PAs with less than 6,000 or fewer hours of postgraduate clinical experience would still be required to collaborate with a physician and practice pursuant to protocols. Despite aggressive lobbying from the Coalition for Collaborative Care (CCC) and TMA, this bill advanced out of the Senate Commerce and Labor Committee for the first time in history. It stalled in the Senate Health and Welfare Committee until the first calendar of 2024.










KEY ISSUES SUMMARY	TMA POSITION	OUTCOME
<p>PROHIBITED PROCEDURES FOR MINORS</p> <p><i>SB1 Sen. Jack Johnson (R-Franklin) HB1 Rep. William Lamberth (R-Portland) P.C. 1</i></p> <p>Prohibits physicians and other healthcare providers from performing gender-affirming care on a minor, including surgery and prescribing, administering, or dispensing puberty blockers or hormones. Treatment for precocious puberty is exempted from this bill's prohibition, as well as psychological treatment or counseling for gender dysphoria. Creates a private right of action against a healthcare professional or other person who contributed to the violation for up to 30 years past the age of maturity.</p>	 <p>NEUTRAL</p>	<p>Passed. Effective July 1, 2023.</p>
<p>PHYSICAL THERAPY REFERRALS</p> <p><i>SB72 Sen. Bo Watson (R-Hixson) HB1195 Rep. Ryan Williams (R-Cookeville) P.C. 107</i></p> <p>Adds nurse practitioners and physician assistants to the list of health professions that may refer patients to physical therapy. Under current law, this authority is limited to physicians, chiropractors, and podiatrists. It is currently uncertain whether this authority must be delegated by a physician to APRNs and PAs via protocols. This bill makes it clear that any APRN or PA could directly order physical therapy.</p>	 <p>NEUTRAL</p>	<p>Passed. Effective April 4, 2023.</p>

KEY ISSUES SUMMARY	TMA POSITION	OUTCOME
<p>COVERAGE FOR SUPPLEMENTAL BREAST SCREENING</p> <p><i>SB365 Sen. Becky Massey (R-Knoxville) HB355 Rep. Rebecca Alexander (R-Jonesborough) P.C. 379</i></p> <p>Requires a health benefit plan that provides coverage for a screening mammogram to provide coverage for diagnostic imaging and supplemental breast screenings without imposing a cost sharing requirement on the patient. Establishes an exemption to the no-cost sharing requirement if the coverage would result in a high deductible health benefit plan with a health savings account becoming ineligible under the Internal Revenue Code. Under these conditions, the new coverage only applies to health plans after the enrollee has satisfied the minimum deductible.</p>	 <p>SUPPORT</p>	<p>Passed. Effective Aug. 11, 2023.</p>
<p>ANESTHESIOLOGY ASSISTANTS</p> <p><i>SB453 Sen. Bo Watson (R-Hixson) HB1146 Rep. Greg Vital (R-Harrison)</i></p> <p>Bill would establish a licensure process for anesthesiologist assistants under the auspices of the Board of Medical Examiners. These professionals would only be allowed to practice under the supervision of an anesthesiologist and perform delegated tasks outlined within their scope of practice.</p>	 <p>SUPPORT</p>	<p>Postponed until 2024.</p>
<p>WHITE BAGGING</p> <p><i>SB502 Sen. Bo Watson (R-Hixson) HB916 Rep. Iris Rudder (R-Winchester)</i></p> <p>Bill would prohibit an insurance company from conditioning, denying, restricting, or refusing to authorize or approve, fail to cover, or reduce payment to a participating healthcare service provider for administering infusion drugs purchased by his or her office or obtained through an out-of-network pharmacy. Defines “clinician-administered drug” as an outpatient prescription drug other than a vaccine that cannot reasonably be self-administered by the patient and is administered by a healthcare provider in an outpatient center or clinical setting.</p>	 <p>SUPPORT</p>	<p>Postponed until 2024.</p>
<p>TOPICAL MEDICAL WASTE REDUCTION ACT</p> <p><i>SB523 Sen. Ed Jackson (R-Jackson) HB495 Rep. Brock Martin (R-Huntingdon) P.C. 150</i></p> <p>Allows any unused portion of topical antibiotics, anti-inflammatory, dilations, or glaucoma drops or ointments used during a procedure to be offered to the patient upon discharge when it is required for continuing treatment. Stipulates that the prescriber must counsel the patient on its proper use and administration.</p>	 <p>SUPPORT</p>	<p>Passed. Effective April 13, 2023.</p>

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<p>DIVERSITY TRAINING IN HIGHER EDUCATION</p> <p><i>SB603 Sen. Joey Hensley, MD (R-Hohenwald) HB571 Rep. Michele Carringer (R- Knoxville)</i></p> <p>Bill would have prohibited state medical institutions of higher education from requiring diversity, equity, and inclusion (DEI) training and education for purposes of issuing a degree. It would have required health care providers with greater than 50 employees to certify to the BME annually that they do not require employees, contractors, or vendors to ascribe to, study, or be instructed with DEI material with respect to state funds.</p>	 <p>OPPOSE</p>	<p>Taken off notice.</p>
<p>IMMUNIZATION FOR HOMESCHOOL STUDENTS</p> <p><i>SB644 Sen. Joey Hensley, MD (R-Hohenwald) HB252 Rep. Jody Barrett (R- Dickson) P.C. 296</i></p> <p>Removes the requirement that a family submit proof to the local director of schools that a home school student has been vaccinated or received any other health services or examinations required by law for children in the state. Creates exceptions for home school students who participate in a local education (LEA)-sponsored interscholastic activity or event or an LEA-sponsored extracurricular activity.</p>	 <p>OPPOSE</p>	<p>Passed. Effective April 28, 2023.</p>
<p>CERTIFICATE OF NEED FOR INVOLUNTARY COMMITMENT</p> <p><i>SB672 Sen. Shane Reeves (R-Murfreesboro) HB1051 Rep. Kevin Vaughan (R- Collierville) P.C. 199</i></p> <p>Expands the scope of practice of APRNs and PAs to allow them to complete one of the two involuntary commitment certificates of need. Present law provides if a person who is not a licensed physician executes the first certificate of need in support of hospitalization, then only a licensed physician may execute the second certificate of need in support of hospitalization. This legislation would still require one of the two signatories for involuntary commitment certificate of need to be from a physician. If the physician signing the first CON is a board-certified psychiatrist, then a second CON would not be required.</p>	 <p>NEUTRAL</p>	<p>Passed. Effective July 1, 2023.</p>

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<p>FAMILY MEDICINE LOAN REPAYMENT PROGRAM</p> <p><i>SB781 Sen. Rusty Crowe (R-Johnson City) HB1281 Rep. John Holsclaw (R-Elizabethton) P.C. 414</i></p> <p>Establishes a family medicine student loan repayment grant program to incentivize physicians in residency training to provide medical health services in health resource shortage areas following completion of their training. A family medicine resident is eligible for up to \$40,000 per year for five years provided the sum of all grants do not exceed total student loan indebtedness.</p>	 <p>SUPPORT</p>	<p>Passed. Effective July 1, 2023.</p>
<p>GRADUATE PHYSICIANS ACT</p> <p><i>SB937 Sen. Richard Briggs, MD (R-Knoxville) HB1311 Rep. Sabi Kumar, MD (R-Springfield) P.C. 470</i></p> <p>Establishes a pathway to licensure for medical graduates providing primary care services who did not match into a residency program. Allows limited supervised practice in underserved areas under a strict collaborative agreement with an MD or DO where the practicing graduate must be in the same practice location as the collaborating physician. Sets forth limits on duties the medical graduate may perform in addition to limits on prescribing.</p>	 <p>SUPPORT</p>	<p>Passed. Effective Jan. 1, 2025.</p>
<p>MATURE MINOR DOCTRINE CLARIFICATION ACT</p> <p><i>SB1111 Sen. Janice Bowling (R-Tulahoma) HB1380 Rep. John Ragan (R-Oak Ridge) P.C. 477</i></p> <p>Prohibits healthcare providers from administering a vaccination to a minor unless first receiving informed consent from a parent or legal guardian. Specifies that informed consent may be verbal except for the administration of the Covid-19 vaccine, in which case written consent is required. Excludes children suspected of being abused or neglected, or emancipated minors.</p>	 <p>OPPOSE</p>	<p>Passed. Effective May 17, 2023.</p>

KEY ISSUES SUMMARY	TMA POSITION	OUTCOME
<p>MEDICAL LABORATORIES AS PARTICIPATING PROVIDERS</p> <p><i>SB1275 Sen. Richard Briggs, MD (R-Knoxville) HB874 Rep. Justin Lafferty (R-Knoxville) P.C. 484</i></p> <p>Prohibits a health insurance carrier from denying a licensed medical laboratory the right to be a participating provider, as well as prohibiting a beneficiary from being denied choice in the medical laboratory services they choose to use, as long as the facility is a participating provider. Requires each issuer to apply the same coinsurance, copayment, deductible, and quantity limit factors within the same employee group and other plan-sponsored groups to all medical laboratory services provided by a licensed medical laboratory. TMA amended the bill to include pathology facilities.</p>	 <p>SUPPORT</p>	Passed. Effective July 1, 2023.
<p>OUT-OF-NETWORK PAYMENTS FOR COVERED BENEFICIARY</p> <p><i>SB1392 Lt. Gov. Randy McNally (R-Oak Ridge) HB1213 Speaker Cameron Sexton (R-Crossville) P.C. 244</i></p> <p>Allows a health benefit plan enrollee to choose to pay for healthcare services out-of-pocket from an out-of-network provider and requires the health insurance plan to count the full amount that the enrollee paid out-of-pocket toward the enrollee's deductible, coinsurance, copayment, or other cost-sharing amount, provided the service is covered in the plan and the enrollee negotiated a lower price for the service. TMA's amendment clarifies that the patient submits the paperwork to the insurance plan and the requirement only applies to out-of-network physicians.</p>	 <p>NEUTRAL</p>	Passed. Effective July 1, 2023.





DAY ON THE HILL

Over 250 physicians and health care advocates gathered in Nashville in March to bring the voice of organized medicine to state legislators at the Tennessee Medical Association's annual Day on the Hill.

The event gives doctors the opportunity to share their expertise with the Tennessee General Assembly regarding important issues affecting the practice of medicine in Tennessee.

The impressive attendance signified physicians' eagerness to engage in the legislative process and address big challenges faced by the profession. It also spotlighted advocacy efforts led by TMA, which was recently named the most influential advocacy organization in Tennessee.

"TMA put forward an aggressive legislative agenda this year," said 2022-23 TMA president Ed Capparelli, MD. "We believe the best way to influence the outcomes we seek is through direct involvement in the process.

"In order to reach policymakers that impact the practice of medicine, it is important that we stand up and be counted."

The event brought together practicing and retired physicians, residents and students from multiple specialties and geographic locations throughout the state. Participants attended committee hearings and held individual and group meetings with legislators throughout the day.

"Doctors are widely respected, and our voices carry an outsize influence," said Dr. Capparelli. "We represent our profession, our medical practices, and our specialties, but perhaps most importantly, we have a responsibility to share the experiences and concerns of our patients. We are hopeful that the constructive dialogue generated will resonate with our elected representatives and result in some positive changes in the laws."

Participants received a presentation from Rep. Esther Helton-Haynes (R-East Ridge) regarding her sponsorship of HB883, which changed the affirmative defense component of the state's "trigger" law to a legal exception allowing doctors to terminate pregnancies in life-threatening situations without facing prosecution.

The bill was one of TMA's top legislative priorities this session, along with other priority issues including Prior Authorization, Scope of Practice, Balance Billing and Physician Wellness.

Members may visit tnmed.org/day-on-the-hill to learn more about next year's event. Additional opportunities for legislative involvement are available at tnmed.org/grassroots.





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