

Texas Medicine

★
SCORES

for Patients and
Physicians in
2015
Legislature

A lineup that swung for the fences — combined with a solid defense and some outstanding pitching — led Texas medicine to an outstanding season at the top of the standings in the 2015 Texas Legislature.

The Texas Medical Association team hit home runs on graduate medical education funding, Medicaid fraud reform, e-cigarette regulation, tax cuts, and red tape elimination. The pitching staff threw a perfect game, keeping all inappropriate and dangerous expansions of nonphysician practitioners' scope of practice off of the base paths.

The team did experience a few letdowns, failing to score on Medicaid payment increases, and some public health improvements and insurance reforms. But the skippers vowed to enhance their squad's off-season training and conditioning so medicine is even more prepared for the 2017 battles.

"Our team of physician volunteers and TMA staff gave it all they had to score important runs for patients and their physicians. We absolutely have to build a stronger TEXPAC to give us more firepower in the next season."

TMA President Tom Garcia, MD



Physicians Caring for Texans



**Medicaid
Fraud Investigation
Reforms**
478 ft

**Graduate
Medical Education**
528 ft

**E-Cigarette
Regulation**
465 ft

Tax Relief
423 ft

Red Tape Cut
408 ft

HOME RUNS

Graduate Medical Education

Graduate medical education (GME) funding gets a big boost in the 2016-17 state budget. Our goal is to have 1.1 entry-level residency positions for each graduating medical student. That would ensure enough slots for the Texas students who want to stay here and to recruit from other states. To meet that goal, we need to add almost 600 GME positions by 2022. Lawmakers appropriated enough money for the next two-year budget to keep the new positions they added in 2013 and to create up to 200 new slots. The legislature also passed Senate Bill 18 to create a permanent endowment of roughly \$300 million to be used solely to help expand GME starting in fiscal year 2018. Thanks goes to Sen. Jane Nelson (R-Flower Mound), the Senate Finance Committee chair, for making this one of her priorities.

Medicaid Fraud Investigation Reforms

Senate Bill 207 by Sen. Juan “Chuy” Hinojosa (D-McAllen) responded to TMA’s call for due process improvements in overzealous Medicaid fraud investigations by the Office of Inspector General (OIG). Among other reforms, the bill clarifies that “fraud” does not include unintentional technical, clerical, or administrative errors, and it requires OIG to give physicians a detailed summary of its evidence relating to the allegation.

E-Cigarette Regulation

Senate Bill 97 by Senator Hinojosa was one of the first bills to reach the governor’s desk this session. The first-time regulation of e-cigarette sales in Texas applies many existing state rules on tobacco cigarettes to vapor products, foremost barring sales of e-cigarettes to minors. It also prohibits their use on public school campuses and at school functions.

Tax Relief

TMA led a collaboration of associations representing a total of 600,000 Texas professionals to win passage of House Bill 7 by Rep. Drew Darby (R-San Angelo) and Senator Nelson, which eliminates the \$200 occupation tax physicians pay each year. The tax was imposed in 1993 as a “temporary measure” and has been on the books ever since.

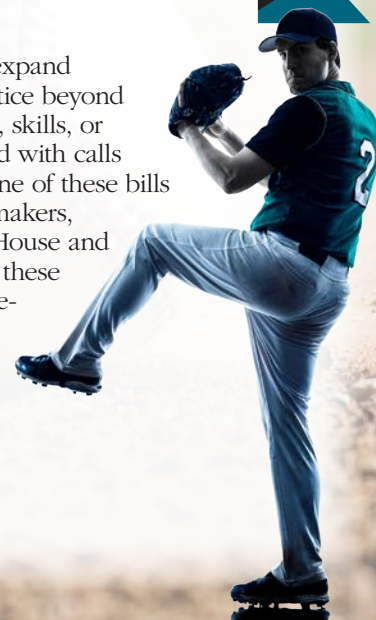
Red Tape Cut

You won’t need a state-controlled substance permit starting Sept. 1, 2016, because we passed Senate Bill 195 by Sen. Charles Schwertner, MD (R-Georgetown), and Rep. Myra Crownover (R-Denton). The bill also moves the Prescription Drug Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy, and allows physicians to delegate access to the database to any HIPAA-trained staff member.

PERFECT GAME

Scope of Practice

Not a single bill passed that would expand midlevel practitioners’ scope of practice beyond what is safely within their education, skills, or training. Grassroots physicians rallied with calls to legislators to keep almost every one of these bills bottled up in committee. Many lawmakers, Republican and Democratic, in the House and Senate, stood with medicine against these bills. TMA did support a smart scope-of-practice bill, which will allow emergency medical technicians to practice in hospitals under the direct supervision of an emergency room physician.



EXTRA BASE HITS

Mental Health Funding

The 2016-17 state budget includes an \$80 million increase in funding for outpatient mental health services, autism intervention services, early intervention and treatment for pregnant women with substance use disorders, substance abuse prevention initiatives, and mental health workforce training programs in underserved areas.

Health Insurance

To help practices identify and educate patients who may fall under the 90-day grace period for subsidized plans purchased through the Affordable Care Act (ACA) marketplace exchange, House Bill 1514 will require health plans to place the letters “QHP” (for “qualified health plan”) on their ID cards. The opportunity to remind patients of the importance of continuing to pay their premiums helps both the physician and the patient. Senate Bill 760 would enhance state regulation of network adequacy in Medicaid HMO plans.

Public Health

Under House Bill 2171, ImmTrac — the state’s vaccination registry — will store childhood vaccination records until the person turns age 26. Senate Bill 66 provides liability protections to schools, pharmacists, and physicians that encourage making unassigned epinephrine autoinjectors available on school campuses for use in emergency anaphylactic reactions.

Health Information Technology

House Bill 2641 gives important new liability protections for physicians using health information exchanges (HIEs), including any inappropriate disclosure of patient information by an HIE or another physician or provider.

State Agency Contracting

In light of recent contracting scandals involving the Texas Health and Human Services Commission, Senate Bill 20 will enhance reporting requirements and increase accountability in the contracting process to boost confidence in how state government is spending tax dollars.

SOLID SINGLES

2016-17 State Budget

- \$50 million increase for women’s health
- \$20 million investment for infectious disease prevention and response
- \$11 million for tobacco cessation programs

Health Care Delivery

- House Bill 1945 streamlines how patients can contract directly with primary care physicians for medical services.

- Senate Bill 239 establishes a tuition loan repayment assistance program for mental health professionals.
- House Bill 1624 requires health plans to display accurate directories and formulary lists on the Internet.
- House Bill 1621 requires 30 days’ notice on adverse utilization determinations for medications and infusible drugs.
- House Bill 751 requires pharmacists to notify physicians when they substitute a biological product prescribed to a patient.
- Senate Bill 1753 spells out how hospital ID badges must show a health care worker’s professional credentials.
- HB 3781 creates the Texas Health Improvement Network to study ways to reduce health care costs and increase quality and patient satisfaction.
- HB 3433 clarifies the level of care designations for hospitals that provide neonatal intensive care services.

Public Health

- Senate Bill 202 strengthens the Texas Department of State Health Services to focus on core public health priorities.
- Senate Bill 200 requires a strategic plan for human papillomavirus-related cancers.

Medicaid

- House Bill 3519 allows Medicaid to pay for some home telemonitoring services.
- Senate Bill 200 enhances the accountability of Medicaid vendors.

“We asked our state government to make it easier — not more difficult — for us to care for our patients, and for the most part, that’s exactly what our lawmakers did.”

**TMA Immediate Past President
Austin King, MD**

SAVES

Bad outcomes that TMA prevented:

- TMA stopped several bills that would have eliminated balance billing for out-of-network services. In addition, Senate Bill 481, as filed, would have allowed patients to take to mediation any bill for out-of-network services from facility-based physicians, for any balance. TMA negotiated a \$500 minimum balance for mediation.
- Several bills would have mandated that physicians provide specific, state-produced information to patients or families of patients with certain diagnoses. In Senate Bill 791 (cytomegalovirus) and House Bill 3374 (Down syndrome), TMA negotiated the elimination of the mandate and of government practice of medicine.

WILD PITCHES

Bills that became law with TMA's reservations or concerns:

- Senate Bill 339 allows the prescription of low-THC cannabis oils for certain intractable neurological conditions.
- House Bill 3074 removes "to prevent suffering" from the reasons physicians might be able to restrict artificial food and hydration in end-of-life care.
- House Bill 21 provided alternative treatments to terminally ill patients who did not qualify for Food and Drug Administration free trials.

FLY OUTS

Despite support in at least one chamber of the legislature, and hard work by TMA, these measures did not pass:

- Medicare-parity payment for primary care services in the 2016-17 state budget
- House Bill 2474: Parents' right-to-know bill on vaccine exemptions at school campuses
- Senate Bill 1229: Banning health plans' use of virtual credit cards to pay physicians
- House Bill 80: Statewide ban on texting while driving
- House Bill 65: Establishing pilot needle exchange programs
- House Bill 2541: Ensuring health plans cover certain treatments for patients with terminal illnesses



GROUND OUTS

These TMA-supported bills just didn't seem to get enough traction in 2015:

- House Bill 1433: To stop efforts to reduce the penalties on health plans for prompt pay violations
- House Bill 2348: To require health plans and Medicaid to pay local physicians for after-hours telephone and telemedical consultations
- House Bill 661: To make it easier for qualified physicians to obtain licensure across state lines

CAUGHT STEALING

TMA stopped these bad bills from moving:

- House Bill 2172 would have allowed physicians to prescribe over the phone without establishing a patient-physician relationship.
- House Bill 3095 would have imposed complicated and unworkable changes to Durable Power of Attorney forms.
- House Bill 136 would have removed the statutory requirement that Texas Medical Liability Trust insurance is for TMA members only.

THROWN OUT AT THE PLATE

Mental Health

The day after Texas lawmakers went home, Gov. Greg Abbott pulled out his veto pen and dispatched a pair of TMA-supported mental health bills. Senate Bill 359 would have allowed a four-hour emergency department hold for a mentally ill patient the physician believes is a danger to self or others. "TMA is extremely disappointed in Governor Abbott for vetoing a bill that would have saved lives, provided short-term help for people with mental illness, and actually would have kept some of them out of forced imprisonment," Dr. Garcia told the media. The governor vetoed House Bill 225 as well, which would have protected from prosecution people who seek emergency care for someone suffering a drug overdose. It also would have allowed first responders to administer an opioid antagonist to save someone from a potentially fatal overdose. Senate Bill 1462, which the governor did sign, also contained the opioid antagonist language.

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