The 2020 Missouri General Assembly had an interesting year, to say the least. The coronavirus upended the legislative session, along with almost everything else in our daily lives. About the same time Missouri recorded its first COVID-19 patient, the Senate made the decision to take an extended hiatus in an attempt to decrease the spread of the virus. The House followed suit the next week. The unexpected legislative break ended after six weeks, and both chambers got back to work for the final three weeks of session, and what a three weeks it was!

At first, there were rumblings that the legislature would only reconvene to pass the annual budget bills. Then we heard they would finish the budget and pass a few COVID-related pieces of legislation. The final rumor – and the eventual choice – was a legislative free-for-all that put everything back on the table. So, your MSMA advocacy team ventured back into the Capitol with masks and sanitizer, hoping to not get sick or steamrolled.

When the dust settled, medicine ended up having a pretty good year. Following is a list of the top issues we covered for you in 2020. You'll notice many of the provisions passed as amendments. This is due to the fact there was not enough time to pass them as stand-alone bills this year. That meant we needed to be extra vigilant monitoring proposed amendments. It also meant fewer bills passed, but those that did were massive omnibus bills. Considering how upside-down the year was, we're pleased with the results.

**MSMA WHITE COAT DAY 2021**

MSMA was lucky to be able to host our annual White Coat Day at the Missouri State Capitol before COVID-19 made legislative activities grind to a halt. Our 2020 attendees had the chance to hear remarks from legislators about current healthcare legislation, meet with legislators and staff, visit with the MSMA advocacy team, network with other physicians from around the state, and more. We appreciate everyone who made the time to attend the event, even for just an hour or two, and hope to see you all again next year.

With that in mind, mark your calendars – next year's White Coat Day has already been scheduled for Tuesday, March 2, 2021! This is a great opportunity for you to make your voices heard. Information for the event will be available in the coming weeks. All Missouri physicians, regardless of MSMA membership, are welcome to attend White Coat Day!
PUNITIVE DAMAGES
SB 591

The top priority for our Tort Reform Coalition this year was punitive damages reform. This legislation increases the standard for proving punitive damages to “clear and convincing” in medical malpractice cases. The bill requires healthcare providers to perform either an intentional act or malicious misconduct in order to meet the requirements for a punitive damage award. In addition, the claim can’t be made in the initial pleading, which helps keep the issue out of settlement negotiations. The competing interest groups met in a Senate conference room when this bill was on the docket for debate, and negotiations continued overnight. The agreed-upon language took quite some time to produce as the legislation was drafted, changed, and then re-drafted a few times. The finished product was not available until the next morning. Once everyone was in agreement, this hard-fought legislation passed with little trouble.

VAPOR PRODUCTS IN SCHOOLS
HB 1682
Rep. David Wood

There were many vaping and tobacco bills this year, but only one made it through the legislative process. House Bill 1682 was ultimately turned into a giant omnibus healthcare bill, but the bill began as an anti-vaping bill. The provision extends the current law that prohibits tobacco use in schools to include vapor products. When the bill was heard in committee, students from around the state shared their worry about the possible effects of vaping not only on their own health, but also on the wellbeing of their friends who vape. The students said their classmates vape on the bus, in school bathrooms, and even manage to vape discreetly in the middle of class. Thanks to this legislation, vapor products will be banned in both schools and on school buses.

MAMMOGRAPHY
By amendment to HB 1682

The legislature has traditionally been supportive of making improvements to breast cancer screening coverage, and that trend continues with this legislation. The provisions add “detectors” to the X-ray equipment specifically listed as being covered under the current mandates for breast cancer screenings. The bill also expands access to screening services for women who have an above-average risk of breast cancer. It requires coverage of any additional or supplemental imaging, like breast MRI or ultrasound, deemed medically necessary by a patient’s treating physician for proper screening or evaluation in accordance with applicable American College of Radiology guidelines.

PROMPT CREDENTIALING
By amendment to HB 1682

This legislation allows for reimbursement to physicians and other healthcare practitioners for services provided while their credentialing applications are pending with the insurance companies. The language requires insurance companies to make a credentialing decision within two months, rather than three. As long as the physician (or the entity they work for) has a prior relationship with the insurer, the insurance company must pay for the services provided to their members during those two months. Physicians can submit claims for reimbursement for those services once they are credentialed.

MEDICAL MARIJUANA EDIBLES
By amendment to HB 1896
Sen. Bob Onder, MD

Numerous concerns were raised throughout the legislative session about medical marijuana and related paraphernalia falling into the hands of small children. This amendment prohibits the sale of medical marijuana edibles in shapes that resemble candies or would otherwise be attractive to children.

MEDICAL MARIJUANA TELEHEALTH
By amendment to HB 1896
Rep. Jon Patterson, MD & Sen. Bob Onder, MD

MSMA requested that medical marijuana telehealth restrictions be drafted into the regulations back in 2019, but the chips didn’t fall our way. We believe that the standard of care should be higher for a schedule I controlled substance than for other drugs. Since then, advertisements have appeared throughout the state with offers to certify patients online without adequately creating a physician-patient relationship. The provision added to HB 1896 applies the same telehealth prescribing standards to medical marijuana as are required for all other medicines.
OPSIID SETTLEMENT FUNDS
By amendment to HB 1682
Sen. David Sater

Last year, we watched with interest as the Oklahoma v. Purdue Pharma court battle unfolded. Oklahoma sought billions of dollars in compensation from one of the pharmaceutical companies who aggressively and deceitfully marketed opioids in their state. While the court only awarded a fraction of the amount they sought, Oklahoma’s win was still a huge success. Oklahoma will use the money they were awarded to fight the opioid epidemic in their state through treatment programs, preventative education, and other public health initiatives. We anticipate a similar court settlement favoring Missouri in the future. Rather than run the risk that settlement funds would be used for other state expenses, this provision requires the state to dedicate any funds awarded in such a case to addiction treatment programs and other public health measures aimed at curbing the opioid epidemic.

INSURANCE RECoupMENTS
By amendment to HB 1682
Sen. Wayne Wallingford

This issue started at the behest of the dentists because insurance companies were recouping overpayments to one dentist from a completely different dental provider the patient might have seen. We added language that requires insurance companies who are using clawbacks to give notice to the physician’s practice of the particular healthcare service, the date of the service, and the patient for which the recoupment or withhold is being made.

POSTPARTUM DEPRESSION CARE ACT
By amendment to HB 1682
Sen. Jill Schupp

A drove of witnesses turned out in favor of this provision when it was heard in committee. The legislation establishes the Postpartum Depression Care Act, which contains a number of provisions that would improve educational resources for new mothers on the symptoms of postpartum depression. It also beefs up screening guidelines to match clinical suggestions from the American College of Obstetricians and Gynecologists. Subject to future appropriations, the amendment will also extend the length of time new mothers are eligible for MO HealthNet benefits if they are receiving treatment for postpartum depression.

LICENSE RECIPROCITY
HB 2046
Rep. Derek Grier

We’ve seen this issue at the Capitol for the past few years, and a bill easing license reciprocity for non-physicians was even passed a couple years ago. It received renewed fanfare in the wake of COVID-19 as supporters claimed the provisions would improve Missouri’s healthcare resources during future emergency situations. The bill lowers the standards set for license reciprocity set by various state
agencies, including the Board of Healing Arts. Out-of-state physicians pursuing a Missouri license will now find it easier to get one. Other professional licenses that are subject to interstate compacts are not affected by these new provisions.

**MEDICAL MARIJUANA BACKGROUND CHECKS**
**HB 1896**
Sen. Bob Onder, MD & Rep. Lane Roberts

Prior to this session, the FBI allowed the Department of Health and Senior Services (DHSS) to access its databases in order to run background checks on license applicants, but not on employees. That’s a big deal because the Missouri Constitution forbids certain felons from working in the marijuana industry. In order to provide greater oversight to the state’s medical marijuana program and abide by the Constitution, this legislation requires DHSS to collaborate with the highway patrol to procure fingerprints and run criminal background checks for all employees, officers, managers, staff, and owners of marijuana facilities. The fingerprints will also be forwarded to the FBI for a federal criminal background check.

**ATHLETIC TRAINERS**
**By amendment to HB 2046**

After a number of years trying to get this across the finish line, the athletic trainers finally found some success. This amendment updated their practice act for the first time in about 30 years. Among other things, the language broadened the definition of “athlete” to include people who aren’t necessarily involved in professional or amateur athletics. Now it covers soldiers at Fort Leonard Wood, for example. Athletic trainers must still practice under the supervision of a consulting physician. The bill does not increase their scope-of-practice.

**PROMPT PAY PenALTIES**
**By amendment to HB 1682**
Rep. Nick Schroer

This legislation changes the penalty provisions that are placed on insurers when they don’t pay claims on time. Current law requires 1% interest on the claim per month, plus a 1% per day penalty. It’s the penalty that the insurers don’t like. When the legislation was heard in committee, the health insurance companies and their billions in revenue shared tales of unfairness with the committee members. MSMA and our allies reminded the committee that provisions such as the per day penalty are in the bill because insurers have a history of not working well with others. A watered-down version of this bill was included as a compromise in order to pass the prompt credentialing language we wanted. The new law will cap the penalty for improperly denied claims at 100 days for claims over $35,000. Claims under that amount will continue to accrue penalties under the old law. Late claims will also garner the old penalty amounts from the date physicians inform the insurer they are owed money.

**MOTORCYCLE HELMET REPEAL**
**By amendment to HB 1963**
Sen. Eric Burlison

In the last ten minutes of the legislative session, the General Assembly passed a large transportation omnibus bill that included language that repeals the state’s motorcycle helmet requirement. Motorcyclists over the age of 26, who have proof of health and liability insurance, will be able to ride helmetless on the state’s roads and highways. MSMA and other healthcare advocacy groups have spoken with the governor’s office and voiced our concerns. We have also sent the Governor an official veto request. Last year, he vetoed a bill that contained similar language. We’re hoping for a repeat performance.

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From left, Garrett Hull, a medical student at A.T. Still University in Kirksville, Brian Vause, DO, and Garrett Gilmore, DO, during White Coat Day in Jefferson City.
PHYSICAL THERAPIST DIRECT ACCESS  
HB 1869  
Rep. David Gregory  

This bill would have expanded the scope-of-practice for physical therapists. If the bill had passed, physical therapists would no longer have needed a prescription or referral from a doctor in order to evaluate and initiate treatment on a patient. They would have been able to treat a patient for 21 business days or 10 visits, whichever occurred sooner, before they had to refer a patient to a physician. Under current law, physical therapists are not allowed to diagnose a patient. A month is too long for many medical conditions to remain undiagnosed. This bill has had overwhelming support in the House for the past couple of years, so we were pleased to see it stall with many other bills as legislative proceedings were cut short this year.

APRN COLLABORATIVE PRACTICE  
SB 965, HB 1617, HB 1816, HB 2226  

These nursing bills sought to do away with current collaborative practice arrangement requirements. SB 965 would have permitted the Missouri State Board of Nursing to establish rules setting forth the licensure, renewal procedures, required fees, and discipline of advanced practice registered nurses. The bill would have allowed APRNs to practice independently after completing six months in a collaborative practice arrangement with a physician. HB 2226 would have repealed the collaborative practice act for APRNs entirely, except for the granting of prescriptive authority, which would continue to require physician oversight. HB 1617 would have made more subtle changes to the collaborative practice arrangement requirements by removing the geographic proximity requirement for collaborative practice arrangements of certain assistant physicians, registered professional nurses, and physician assistants who are working in an alternatives-to-abortion agency. MSMA lobbied against all these bills. They did not receive a hearing.

ANTI-VACCINATION  
HB 2328 & HB 2380  

These bills would have made vast changes to Missouri’s compulsory immunization laws. House Bill 2328 would have exempted parochial schools and daycares from immunization requirements, prohibited DHSS from promulgating rules for certain immunizations, and created meningococcal waivers for certain fraternities and sororities. It also contained overburdensome informed consent requirements designed to discourage immunizations. House Bill 2380 would have lowered the threshold for parents to opt out of vaccinations for religious or conscientious reasons. These two bills never received a hearing.

GENDER TREATMENT RESTRICTIONS  
HB 1721, HB 2051, HB 2210  

Several gender-related bills proposed this year would have heavily restricted, and even criminalized, medical and mental health services offered to transgender youth. A coalition of healthcare groups had concerns that these provisions would have effectively prohibited physicians from treating young patients who are diagnosed with gender dysphoria. Clinical guidelines for this patient population suggest the proper course of treatment is a care team that can include a pediatrician, a mental health professional, a pediatric endocrinologist, and others. These bills never made it out of committee after we stayed late into the evening to testify against them. Such bills threaten the patient-physician relationship by assuming the government can determine (or completely prohibit) individual treatments better than a patient’s physician. MSMA opposes all gag clauses for physicians, as such restrictions decrease the quality of patient care.

APRN LICENSURE  
SB 714 & HB 1441  

While some nursing bills would have done away entirely with collaborative practice arrangements for APRNs, others were more nuanced in their regulatory changes. SB 714 would have created an APRN license under the Board of Nursing but retained the requirement for collaborative practice arrangements with a physician. HB 1441 also would have allowed for APRN licensure under the Board of Nursing and added language to the definition of professional nursing that would have expanded scope-of-practice.
We tried to find common ground into May, but no compromise could be reached.

**CRNA SCOPE**

**SB 863 & HB 2057**


A pair of bills were filed that would have allowed certified registered nurse anesthetists (CRNAs) to issue orders for and administer Schedule II-V controlled substances during the course of providing anesthesia services to a patient. CRNAs would also have been allowed to order tests and apply medical devices, and wouldn’t have had to abide by the Board of Nursing’s prescriptive authority rules for other APRNs. Under current law, in the absence of a facility’s standing authorization protocol, a CRNA is required to receive verbal or written approval from a supervising physician before administering controlled substances. Rather than passing a standing protocol, these bills would have drastically expanded a CRNA’s scope of practice with the authority to order Schedule II-V controlled substances under a physician’s DEA number.

**STAB WOUNDS**

**HB 2086**

Rep. Rory Rowland

This bill would have required a physician who treats a person for a stab wound at least one inch deep to report the wound to local law enforcement. Failure to do so would be an infraction. The bill also made changes to the way hospitals are required to collect and store forensic evidence after a patient presents with a gunshot or stab wound. Because it’s nearly impossible to determine the depth of a stab wound, or the dimensions of the weapon based on the wound alone, MSMA testified against the bill and suggested changes that would give physicians more discretion about when to report such injuries. Ultimately this bill was lost in the chaos caused by COVID-19.
The creation of a statewide PDMP has become an annual topic in the Missouri legislature. It’s well-known that Missouri is the only state that has failed to pass a such a program. The initial language of SB 677 and HB 1693 was identical to bills that have passed the House in previous years. The legislation would have established a voluntary PDMP which can be used to track the dispensing of controlled substances. It would have limited the ability of the state to provide that information to outside sources, contained confidentiality and privacy requirements, and otherwise would have created a program to assist physicians and others in the identification of drug-seeking behavior. The bill quickly moved through the House, and was in the Senate by mid-February. A couple of days before our six-week break, the Senate spent about 12 hours debating the legislation. The Senate made some changes to the bill, including allowing the PDMP information to flow through HIEs, criminal penalties for fentanyl trafficking, and new relaxed limits on pseudoephedrine purchases. We’ve not had much luck getting this bill through the Senate over the years, but in the end, the Senate passed a modified bill that we could live with. In mid-March, it went back to the House and all it needed was one vote to send it to the Governor.

The PDMP splits the House Republicans into two groups. About half of them favor the PDMP as a public health tool. The other half reject it as an unnecessary intrusion into personal privacy. This split gives the minority Democrats an unusual amount of power, as it is they who decided the fate of the bill. When we reconvened after the break and this bill came up on the House floor (where it had passed 98-56 in February) the minority party decided to use that power to hold up this bill in order to hinder other legislation they did not like. Claiming that they disliked the fentanyl trafficking language, they joined the “personal privacy” Republicans in voting down the Senate's version of PDMP by a 58-87 margin. The House then immediately voted to send the bill to a conference committee.

The conference took out the fentanyl language, and on the final Wednesday of session, by a vote of 94-59, the House finally passed the PDMP. It all needed was concurrence of the Senate. It was brought up for debate on the final Friday and was promptly filibustered by the usual gang of opponents. Senate leadership gave it about two hours of floor debate, then it died.

So frustrating, but we’ll be back at it next year. And, in the meantime, the excellent St. Louis County PDMP continues to operate and covers most of the state’s prescribers.

**COVID-19 TORT LIABILITY**

By amendment to HB 2049

Adopting COVID-19 immunity language was sticky. And try as we did the last three weeks of session, we were not able to shepherd anything across the finish line. Language was drafted that gave physicians and other providers immunity for acts related to COVID-19. There was an additional provision pursued by the business community that would have extended immunity to employers and manufacturers of PPE. That addition significantly complicated this issue, even among its proponents. Our opposition used this as leverage in an attempt to make additional changes to the punitive damage language that had already passed the Senate. In the end, and without an excessive claim being filed, this language fizzled. There is some scuttlebutt that indicates this issue may be subject of a special legislative session this fall.

**VAPING REGULATIONS**

SB 829

Sen. Lincoln Hough

Early in session, before COVID-19 threw legislative proceedings into disarray, vaping and the related EVALI health crisis ruled the day as the topic of greatest discussion in the legislature. This bill would have enacted a number of policies, including the addition of vaping to the state's indoor clean air act, prohibiting flavored vapor cartridges, and criminalizing the addition of THC to such cartridges. It also would have created a statewide tobacco retailer registration system, declared vapor products to be tobacco products under state law, and increased the legal age of purchase to 21 years. The bill faced opposition from the big tobacco lobby and the mom-and-pop vape shops. Progress was significantly slowed by some of our allies who wouldn't agree to language unless it was exactly in-line with their internal policies. This lack of flexibility, and the coronavirus, severely limited the viability of this legislation. It was not discussed once when the legislative quarantine ended.

### GOOD BILLS THAT DIED

**PRESCRIPTION DRUG MONITORING PROGRAM (PDMP)**

SB 677 & HB 1693

Sen. Tony Leutkemeyer & Rep. Holly Rehder

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ALTERNATIVE SENTENCING
SB 813, HB 1291, HB 2216

This legislation would have provided for alternatives to incarceration for certain non-violent offenders who are also primary caretakers of children. It would have helped children who would otherwise be susceptible to a number of health issues while their parents or guardians were incarcerated, such as risky sexual behavior, mental illness, drug issues, etc. It received an initial hearing early in the year, but never resurfaced once COVID-19 disrupted legislative proceedings in March.

TEXTING WHILE DRIVING BAN
SB 532 (and numerous House bills)
Sen. Wayne Wallingford (and numerous House sponsors)

As in previous years, several members of the General Assembly proposed legislation that would ban texting and driving. Only two states don’t have a full ban on texting and driving: Missouri and Montana. Missouri bans texting and driving by minors, but this prohibition is very difficult to enforce. Opponents of the bill consider the ban an issue of personal liberty, and argue that citizens should have the ability to text and drive if they want—even if doing so endangers the safety of their fellow drivers. MSMA supports a texting and driving ban, but the issue has so far failed to gain much traction in the legislature.

MAINTENANCE OF CERTIFICATION (MOC)
SB 933
Sen. Bob Onder, MD

This bill would have prohibited hospitals, health care facilities, and health insurers from conditioning plan participation, employment, or medical staff privileges on a physician’s maintenance of certification status. A few years ago, we helped pass a law that limits the Board of Healing Arts in using MOC in licensure decisions. We’ve introduced this language a couple of times since then, but haven't been able to get it across the finish line. The hospitals oppose prohibiting anything that they already do. We managed to get this onto an omnibus bill in May hoping other issues would carry it to passage, but a different bill made it to the Governor instead.

DEFINITION OF SURGERY
SB 942 & HB 2382
Sen. Jeanie Riddle & Rep. Dean Plocher

These bills would have defined surgery in statute. Surgery has been reserved for licensed physicians for about 80 years, but the term has never been defined. This bill received resistance from non-physician interest groups who believe they already perform functions that fall within...
our definition. The advanced practice registered nurses (APRNs) and optometrists were the most vocal. When the bill was heard in committee, we explained that the purpose of the language is not to restrict any practitioner from services they are currently allowed to perform under their scope-of-practice. Despite our best efforts, the bill struggled to gain traction. The coronavirus vacation was its ultimate undoing.

**TITLE PROTECTION/ TRUTH-IN-ADVERTISING**

SB 942 & HB 2382  
Sen. Jeanie Riddle & Rep. Dean Plocher

These bills would have provided title protection by reserving certain titles for physicians and mid-level healthcare providers. For example, only those people who hold an active license as an APRN would be able to present themselves to the public using that title. Seems pretty simple, right? We sought to reserve a number of medical specialty titles for physicians, and restrict the use of the term “doctor” when used in clinical settings. In addition, healthcare professionals claiming to be board certified on their advertisements would need to disclose the name of their certification board. It wasn't terribly complicated, but unfortunately, it turned into a scope-of-practice bill. We were in talks late in session to use this language as a compromise with the nurses on some language they wanted, but those groups couldn’t come to a consensus on what was acceptable to each of them. There was no serious movement once we returned to the Capitol in late-April.

**COVENANTS NOT TO COMPETE**

SB 932 & HB 2326  

These bills would have restricted certain physician employers from utilizing covenants-not-to-compete in employment contracts. We have pursued this for a number of years as applied to non-profit hospitals, and this year’s version carved out big research institutions that use restrictive covenants to attract top notch researchers. As is the case every year, most provider groups testified with us and the major hospitals testified in opposition. The house bill received a hearing and squeaked out of committee, but it never received any floor debate.

**JOINT & SEVERAL LIABILITY REFORM**

SB 845 & HB 2242  

This bill would have repealed Missouri’s system of joint and several liability in favor of several liability only. This means that defendants would have only been liable for the percentage of fault for which they are responsible. Currently, defendants found more than 50% at fault can be required to pay 100% of the damages. This language has appeared a number of times over the years, but it has never been a top priority of tort reformers. We can only push one or two tort issues each year and this one has not been one of their major reforms. Perhaps next year?
Legislators and staff alike were disappointed that COVID-19 forced us to cancel the Physician of the Day program for the last half of the 2020 legislative session. But there’s good news: the Physician of the Day program will return in 2021!

Members who volunteer for this much-loved program spend a day visiting the Missouri State Capitol in Jefferson City to serve as the on-call physician for legislators and their staff. During the day, volunteers visit their local legislators’ offices, catch up with MSMA’s lobbying team, and check in on legislators or staff who might be experiencing minor medical ailments. All specialties are encouraged to volunteer. Sign up information will be publicized later this summer.

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msma.org/physician-of-the-day

Join MSMA’s Advocacy Efforts

CONNECT WITH LEGISLATORS THROUGH PHONE 2 ACTION

OPEN TEXTING APP ON YOUR PHONE
ENTER 52886 IN THE PHONE NUMBER FIELD
ENTER MOMEDICAL IN MESSAGE FIELD
HIT SEND
MSMA WILL SEND A RETURN MESSAGE
CLICK LINK IN MESSAGE TO ACCESS SIGNUP FORM

COMPLETE THE SIGNUP FORM

Use your home address and zip code to ensure you are able to more quickly connect with your legislators. When MSMA reaches out, you can readily take action!

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msma.org/physician-of-the-day
Physician Advocacy
24 / 7 / 365

MSMA is your state government specialist with two full-time employees addressing physician issues all day, every day. Communication with state government is our specialty.

Email: shantel@msma.org

INVITE US TO HOST A VIRTUAL MEETING WITH YOUR PHYSICIAN COMMUNITY: PRACTICE, PEERS, OR MEDICAL SOCIETY.

On the Cover
The Fountains of the Centaurs perch in the granite pool containing the bronze centaurs and other figures by Adolph Alexander Weinman on the north side of Missouri’s Capitol building in Jefferson City. It was dedicated in 1927. Although the mythical beings in the fountain are labeled as “centaurs,” they are in fact “ichthyocentaurs.” This is because the lower portion of their bodies are sea serpents rather than horses. Each of the centaurs is portrayed in a struggle with some sort of creature of the waters. They both are surrounded by playful sea urchins who spray water on them. Photo by Lizabeth Fleenor, MSMA Director of Communications.