2019 Legislative Session in Review

First, the good news. After years of work, the MMA was able to pass legislation that will help fight the opioid epidemic as well as add some needed transparency to how pharmacy benefit managers operate in the state.

We also had victories on improving driving safety, restricting e-cigarette use, speeding up the process for physicians to get licenses in multiple states and reducing administrative burdens associated with step therapy.

Now, the not-so-good news. The session didn't really live up to its initial billing. New Gov. Tim Walz talked of “One Minnesota” and both sides of the aisle entered the legislative session talking cooperation.

As the two bodies pursued different agendas, however, the spirit of cooperation fizzled. Even with good intentions, very little compromise was found on polarizing issues or on the overall budget until the final hours, when the governor and leaders from the House and Senate met behind closed doors to hammer out deals. Capitol observers and legislators alike were left shaking their heads in disappointment over the lack of transparency.

In a one-day special session, lawmakers finished the state’s business by passing a budget. While there were wins shared by all parties, there also were many disappointments.

**HERE’S A REVIEW OF THE 2019 SESSION:**

**MMA priority issues at the Legislature**

- **Preserving MinnesotaCare and Medical Assistance coverage by adopting a claims expenditure assessment (CEA) as an on-going, stable funding mechanism for the outdated provider tax.**
  - Funding for public health programs were preserved when the governor and legislative leaders agreed to reinstate the provider tax (at a reduced rate of 1.8 percent). The MMA’s CEA legislation was introduced in both bodies but was never heard in committee. With concerns that the CEA put the programs at too great risk, legislators focused simply on whether to keep or kill the provider tax.

- **Supporting funding to address the opioid crisis, including funding for new addiction treatment, prevention and education, as well as technical support to allow the Prescription Monitoring Program to be embedded into EHR platforms.**
  - An opioid stewardship bill received overwhelming support from the House and Senate. The new law creates an opioid epidemic response account that will be funded with $20 million per year by a combination of sharply increased registration fees paid by drug manufacturers and wholesalers and any settlement money received by the state in lawsuits against opioid manufacturers. Revenues will be used to expand treatment services; fund education for consumers and prescribers regarding opioid abuse, addiction and overdose; and help offset the escalating cost of opioid abuse absorbed by county and tribal child protective services. The bill also creates a new 19-member Opioid Epidemic Response Advisory Council (with an MMA appointee) that will guide the state’s efforts to promote treatment, prevention and education.

- **Ensuring continuation of drug therapy for patients with chronic medication needs by limiting the ability of health plans or pharmacy benefit managers to restrict access to drugs once a patient begins a therapy.**
  - An MMA-supported bill that would have prohibited health plans from forcing patients to change drugs once they have started on a therapy that is working until the end of the health plan contract year did not prevail. While the use of formularies and preferred drug lists are tools that can help reduce drug costs, changes to drug therapies based solely on cost can harm patient care.

- **Supporting changes to the Minnesota Health Records Act to align with federal HIPAA laws to improve efforts to better coordinate patient care and reduce duplication of services.**
  - A bill that would align the Minnesota Health Records Act (MHRA) with HIPAA standards did not pass this session. The bill was intended to maintain patient privacy protections while eliminating burdensome requirements that prevent physicians from providing the safest and most coordinated care possible. Modernization of the MHRA is supported by a broad list of organizations, including the MMA, the Minnesota Hospital Association, the ALS Association, the Minnesota Council of Health Plans, the Minnesota Chamber of Commerce and the Minnesota Business Partnership.
Other health-care legislative issues

**Abortion restrictions**
The Senate passed legislation to ban most abortions after 20 weeks, as well as a requirement that physicians performing an ultrasound prior to an abortion procedure must inform the patient of the opportunity to view an active ultrasound image of the fetus.

**Legislative action:** Failed  
**MMA position:** Oppose

**CBD regulation**
In recognition of the growing sale and use of products containing cannabidiol (CBD), a non-psychoactive component found in hemp and marijuana plants, the Legislature adopted several provisions to more closely regulate these products, including product testing and labeling requirements.

**Legislative Action:** Passed  
**MMA position:** No position

**Prohibiting conversion therapy for minors**
A bill that would have prohibited the use of conversion therapy for individuals under the age of 18 did not prevail. Several health care organizations, including the MMA, AMA, American Academy of Pediatrics and the MNAAP, refute the practice, which aims to “convert” gays and lesbians into heterosexuals. The House supported the proposal, though an effort to add the language to the HHS spending bill in the Senate failed on a party-line vote.

**Legislative action:** Failed  
**MMA position:** Support

**Direct Primary Care**
Under Direct Primary Care, physicians provide all primary care services to patients for a set monthly fee. Proponents of this model of care delivery argue that it strengthens the relationship the patient has with his or her primary care physician while giving primary care physicians who participate a reprieve from fee-for-service and managed care models. This passed the Senate unanimously but did not receive a House hearing.

**Legislative action:** Failed  
**MMA position:** Support

**E-cigarette restrictions**
This law includes e-cigarettes in the smoking definition under the Minnesota Clean Indoor Air Act. Current state law prohibits the use of the devices in government buildings, including schools, as well as in hospitals, clinics and other health care buildings. The new law extends the prohibition to bars, restaurants and other places where smoking is currently prohibited.

**Legislative action:** Passed  
**MMA position:** Support

**Firearm safety: universal background checks and “red flag” law**
The first measure called for expanding criminal background checks to include most private firearm sales and transfers to include sales at gun shows or between individuals. The second measure would enact a “red flag” law that would allow relatives and law enforcement to ask a judge to temporarily remove firearms from individuals who are deemed to be a serious threat to others or themselves. These bills passed the House but were not heard in the Senate.

**Legislative action:** Failed  
**MMA position:** Support

**Interstate Medical Licensure Compact**
Legislation that would allow Minnesota to fully participate in the Interstate Medical Licensure Compact (IMLC) became law. Minnesota physicians will now be able to apply for expedited licensure in IMLC states. Minnesota adopted legislation to enter the Compact during the 2015 legislative session but had to pass this bill to meet federal law enforcement background check requirements.

**Legislative action:** Passed  
**MMA position:** Support

**Mandated reporting of pregnant women**
The bill called for removing a mandatory reporting requirement when a physician has reason to believe a pregnant woman in their care is using or abusing illicit drugs or controlled substances. Current law provides an exception in cases when the patient is using alcohol or cannabis. This reporting requirement results in some pregnant women avoiding prenatal medical care for fear of being reported to law enforcement.

**Legislative action:** Failed  
**MMA position:** Support

**Medical cannabis**
Changes to the medical cannabis law passed this year. The number of distribution sites were doubled from eight to 16 in the state, and requirements for those who provide care to patients eligible to participate in the medical cannabis program were modified.

**Legislative action:** Passed  
**MMA position:** No position

**ONEcare**
The bill would have provided an option for Minnesotans, regardless of income, to purchase a MinnesotanCare product that covers 90 percent of costs, with only a 10 percent cost-sharing requirement. Called the platinum option, these plans would be fully paid for by the enrollee’s premiums and reimbursement would be set to be at least that of Medicare. The bill also proposed options with 70 percent and 80 percent coverage if, following a market study, it is deemed that there are not coverage options available in an enrollee’s county.

**Legislative action:** Failed  
**MMA position:** Opposed unless specific criteria are met including limiting the option to counties where there is no or only one private coverage option available

**Mental health**
Legislators acted in several ways to address issues related to mental health. The HHS spending package included increased spending on school-linked mental health services, as well as funding for suicide prevention services. The Legislature also adopted measures to strengthen existing requirements that insurers provide parity between mental health coverage and other covered services.

**Legislative action:** Passed  
**MMA position:** Support
Other health-care legislative issues

**PBM licensure**
This bill licenses pharmacy benefit managers (PBMs) operating in Minnesota. It also requires annual reporting on the aggregate cost spent on wholesale drugs by PBMs, the aggregate amount of rebates received from drug manufacturers, whether a PBM has any exclusive contracts with manufacturers and any spread between the amount charged to plan sponsors and the amount paid to pharmacies. It also outlawed the use of “gag clauses” on pharmacists, in which PBMs have prohibited a pharmacist from telling the patient that there may be cheaper alternatives to the drugs on the PBM’s formulary.

*Literative action: Passed*
*MMA position: Support*

**Rare Disease Advisory Council**
This creates an advisory council to study and make recommendations to policy makers regarding rare diseases. The council, which is to include at least three physicians with expertise in rare diseases, is to “provide advice on research, diagnosis, treatment, and education related to rare diseases.” Rare diseases are defined as those conditions that affect fewer than 200,000 individuals in the U.S., or conditions that impact more than 200,000 but for which there is unlikely to be drug development. The advisory council is to be established by the University of Minnesota.

*Literative action: Passed*
*MMA position: Support*

**Reach Out and Read funding**
The innovative Reach Out and Read program received funding for 2020 and 2021. Long supported by the MMA, the program provides age-appropriate children’s books to parents through physician’s offices. Studies have found that parents who are served by Reach Out and Read services are four times more likely to read with their children, and children with access to Reach Out and Read have higher receptive and expressive vocabulary skills.

*Literative action: Passed*
*MMA position: Support*

**Reinsurance extension**
The state’s reinsurance program was extended for two more years. First passed in 2017, the program uses a combination of state and federal monies to help health insurers cover the costs of large medical expenses through reinsurance.

*Literative action: Passed*
*MMA position: No position*

**Recreational marijuana**
A bill that would have legalized marijuana for recreational use in Minnesota failed to get out of its first committee hearing in March.

*Literative action: Failed*
*MMA position: No position*

**Restrictive covenants**
This bill would have prohibited non-compete clauses for all physician employment contracts. Supporters argued that it was needed to protect the patient-physician relationship, while critics raised concerns about losing the investment an employer makes in a new hire.

*Literative action: Failed*
*MMA position: No position*

**Safe driving**
This law prohibits the use of hand-held cellphones and other devices while driving.

*Literative action: Passed*
*MMA position: Support*

**Smoking cessation funds**
This extends funding for tobacco and nicotine cessation services. Existing services are provided by Clearway Minnesota, a tobacco control group established by the tobacco settlement in the late 1990s but that will soon sunset.

*Literative action: Passed*
*MMA position: Support*

**Step therapy**
The Legislature extended protections against burdensome and potentially risky step therapy requirements to patients who are on MinnesotaCare and Medical Assistance. Originally passed in 2018, the protections had previously only applied to those who purchased their health insurance in the individual commercial market.

*Literative action: Passed*
*MMA position: Support*

**Sunscreen in schools**
Legislation to allow students to possess and apply sunscreen during the school day was included in the education spending bill. The Minnesota Dermatological Society led the effort to pass this measure.

*Literative action: Passed*
*MMA position: Support*

**Tobacco 21**
As more local communities are raising the age to purchase tobacco products to 21 years, legislation was introduced to make T21 statewide. The provision passed the House but not the Senate.

*Literative action: Failed*
*MMA position: Support*

**Vaccine education and outreach**
Grants to provide education about the importance of vaccines in communities with lower rates of immunization were not adopted into the HHS finance bill. The incidence of measles in the U.S. is the highest it has been in more than 25 years.

*Literative action: Failed*
*MMA position: Support*
THE SESSION: *By the numbers*

<table>
<thead>
<tr>
<th><strong>Number of bills introduced regarding physicians and other health care topics</strong></th>
<th><strong>Nearly 1,900</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of physicians who testified</strong></td>
<td>11</td>
</tr>
<tr>
<td><strong>Number of times MMA staff testified</strong></td>
<td>15</td>
</tr>
<tr>
<td><strong>MMA letters sent to legislators on key bills</strong></td>
<td>14</td>
</tr>
<tr>
<td><strong>Physicians in the Legislature</strong></td>
<td>4</td>
</tr>
<tr>
<td><strong>Size of the Health and Human Services budget</strong></td>
<td><strong>$14.5 billion</strong> (out of $48.1 billion total, 30 percent of state’s overall budget)</td>
</tr>
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How does an issue become an MMA priority?

The MMA Board of Trustees defines MMA priorities based on the input from our physician members through their participation in committees, task forces, policy forums, the Policy Council, listening sessions, member events, surveys and online discussions. MMA policies serve as the foundation for our legislative, regulatory and administrative advocacy efforts during the legislative session and throughout the year.

To get involved in MMA legislative and grassroots efforts, contact our legislative team or someone from our member relations team.

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