



STRANGE TIMES INDEED

2021 Legislative Session in Review

When the 2021 Legislative session began in early January, it seemed as if the 2020 session had never ended. Over the summer and fall of 2020, legislators continued gathering each month for special sessions called by Gov. Tim Walz so that he could extend his peacetime emergency powers to address the COVID-19 pandemic. Masks continued to be mandatory for legislators on Capitol grounds. The Capitol complex closed to the public. And social distancing was the norm.

It was déjà vu all over again.

The weirdness continued this year in a discordant session that ended with the GOP and the DFL unable to reach an agreement on a budget. When the constitutionally mandated end came on May 17, legislators knew they would be called back for another special session in June. They continued to negotiate both financing and policy differences after the session conclusion and came back for one more special session on June 14. Unlike other special sessions, this one lasted more than one day. In fact, legislators worked all the way up to the end of the fiscal year – June 30. Fortunately, they were able to reach agreements and avoided a government shutdown.

Despite the strange session(s), the MMA successfully shepherded several bills that became law that will improve the practice of medicine in Minnesota. Specifically, the use of telehealth has been expanded, providing more Minnesotans access to care.

Following is a review of the 2021 session including reports on MMA priorities as well as other healthcare-oriented legislation.

MMA’s priority issues at the Legislature

ISSUE	RESULT
Preserving access to care	In late February, the state budget office announced that instead of an anticipated deficit the state had a surplus. This meant the call for reducing budgets for safety net programs would not materialize. Legislative action: Successfully protected our healthcare safety net programs from cuts and expanded coverage for new mothers.
Ensuring telehealth flexibility and parity	The MMA advocated for expanded, ongoing coverage for telehealth and telephone services. This effort garnered bipartisan support to continue coverage for services from a patient’s home and to include audio-only services. However, legislators weren’t completely comfortable with this large expansion, so they included a sunset for the audio-only coverage in 2023. This will force the Legislature to review how it’s working. Legislative action: Passed and signed into law.
Protecting patient access to prescription drugs	The MMA pushed for limiting drug formulary changes by insurers or pharmacy benefit managers (PBMs) for patients who are experiencing success with a medication. Enrollees are bound by a contract to remain in a health plan for a year; Insurers should not be able to change the coverages within that health plan during the year. Legislative action: Legislation did not advance this session.

Other health-care legislative issues

ISSUE	RESULT
Abortion facility licensure	Background: Bill would have licensed facilities that perform more than 10 abortions per month. Legislative action: Passed the Senate but did not receive a hearing in the House. MMA position: Oppose
Broadband access expansion	Background: Law allocates \$70 million to provide grants to local communities to expand broadband access statewide. This is critical for telehealth, but also for schools to provide distance learning. Legislative Action: Passed and signed into law. MMA position: Support
Contact tracing & immunization requirements	Background: The House bill appropriated money to expand contract tracing. The Senate bill would have prohibited any contact tracing without the consent of the individual and it also attempted to prohibit requirements by government or employers to require employees to receive a COVID-19 vaccine. Legislative action: Both bodies passed their different versions of the bills, but they did not pass into law. MMA position: No position
COVID-19 vaccine equitable distribution	Background: Law creates a new position at the Minnesota Department of Health to ensure the equitable distribution of COVID-19 vaccines to disproportionately impacted communities. Legislative action: Passed and signed into law. MMA position: Support
COVID-19 vaccine Medicaid reimbursement	Background: Law increases the Medical Assistance (MA) reimbursement rate for administering the COVID-19 vaccine to the Medicare level. Legislative action: Passed and approved by the Centers for Medicare and Medicaid Services. MMA position: Support
Diversity training for OB programs	Background: To address racial disparities in maternal mortality and morbidity, this law requires hospitals with obstetric services to provide continuing education on anti-racism and implicit bias. Legislative action: Passed and signed into law. MMA position: No position

ISSUE	RESULT
Drug donation	Background: The law allows healthcare facilities to donate excess over-the-counter drugs to uninsured Minnesotans who cannot afford needed medications. This expands the current drug repository for prescription drugs. Legislative action: Passed and signed into law. MMA position: Support
Firearm safety and prevention	Background: Two bills—expanded background checks and a “red flag law”—continued to be active at the Capitol. The former would close a loophole in requiring criminal background checks for all gun purchases, including at gun shows and in private sales. The latter would allow law enforcement to temporarily remove firearms from a person who is deemed to be dangerous to themselves or others. Legislative action: The House discussed the bills but did not move them forward. The Senate did not consider them at all this session. MMA position: Support
Inpatient psychiatric bed capacity	Background: The House held committee meetings to gather information on the loss of inpatient psychiatric beds in Minnesota. In 2020, Fairview Health Services announced that due to budget issues, it would close St. Joseph’s Hospital in St. Paul. The MMA has stressed the need for increased mental health services across the spectrum, from outpatient, community services, through emergency care, to inpatient care. Legislative action: Passed and signed into law. Includes 30 new adolescent and child psychiatric beds for Prairie Care and at least five new psychiatric beds for Regions. MMA position: Support
Mask requirement	Background: Legislation to pass into law the mask requirements included in Gov. Tim Walz’s executive order requiring wearing masks in public moved in the House but not the Senate. By passing this bill it would have allowed the Legislature to have a say in the order and not just leave it to the governor. Legislative action: None taken. MMA position: Support

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Other health-care legislative issues

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ISSUE	RESULT
Medical Assistance for obesity drugs	<p>Background: This bill expanded Medical Assistance to cover obesity drugs. This has been an exclusion for many years because the department thought there was too much room for abuse.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>
Medical cannabis	<p>Background: The law modifies the medical cannabis program to allow the use of raw, smokable cannabis. Minnesota is the only state that has a medical cannabis program that does not allow raw leaf. It has resulted in Minnesota's products being more expensive than other states because of the added cost of processing the product into pills or oils.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Neutral</p>
Organ transplant programs	<p>Background: Bill clarifies that organ transplant programs cannot discriminate against a patient based on the person's mental or physical disability. This is in response to reports that some programs were disqualifying people who had certain conditions, such as Down syndrome.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Neutral</p>
Pharmacy gag clause	<p>Background: Bill strengthens current prohibitions on pharmacy benefit managers (PBMs) who keep pharmacists from discussing drug prices with patients. Referred to as "the pharmacy gag clause," the bill allows pharmacists to discuss the cost of a drug with a patient, including what the pharmacist is reimbursed by the PBM.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>
Postpartum care	<p>Background: Bill expands Medical Assistance (MA) coverage for pregnant women to cover postpartum care for 12 months, effective July 1, 2022. Current law only covers 60 days postpartum for some MA enrollees.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>

ISSUE	RESULT
Price transparency	<p>Background: Bill would have increased price transparency on the drug cost by establishing a drug pricing board, similar to the Public Utilities Commission for electricity. This came from the Attorney General's task force on drug prices.</p> <p>Legislative action: Strong support in the House but did not receive a hearing in the Senate.</p> <p>MMA position: No position</p>
Provider credentialing	<p>Background: Bill requires health plans that credential providers to make their decisions on a "clean application" within 45 days. This addresses delays in credentialing that were making it difficult for physicians and other providers in billing health plans.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>
Public option	<p>Background: This legislation is intended to provide an affordable option for health coverage for low-income Minnesotans. The bill would provide subsidies to purchase MinnesotaCare for those earning less than 400 percent of the federal poverty level. Current law caps eligibility at 200 percent. It would also allow those earning between 400 and 500 percent to purchase MinnesotaCare at the full premium cost as well as allow employers with 50 or fewer employees to purchase it for their employees. These changes would be phased in over three years.</p> <p>Legislative action: Included in the House Health and Human Service budget bill but was not agreed to by the conference committee.</p> <p>MMA position: The MMA supports public option proposals that meet certain principles including: limited to counties where there are one or fewer private options; payment levels that are set at Medicare rates or higher; and with an upper limit on income based on an affordability level.</p>
Recreational cannabis	<p>Background: Bill would legalize and regulate the sale and use of recreational cannabis for adults.</p> <p>Legislative action: Passed the House, but received no hearings in the Senate.</p> <p>MMA position: Neutral as long as there are strong public health components included.</p>

Other health-care legislative issues

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ISSUE	RESULT
Reporting pregnant women on controlled substances	<p>Background: Bill removes a requirement for a physician or other healthcare provider treating a pregnant woman from reporting her to social services if she is using a controlled substance during her pregnancy. This is intended to remove a barrier that results in women not accessing prenatal care because of fear of being reported.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>
Tobacco tax increase and prevention programs	<p>Background: Several bills addressed a variety of tobacco issues including: raising the tobacco tax by \$1.50 per pack; conforming Minnesota law to the recently passed federal law related to taxing e-cigarettes; dedicating \$15 million each year from the money raised on tobacco taxes to the tobacco use prevention and cessation account for tobacco cessation projects, public information programs, and other tobacco prevention programs; allocating \$10 million to the University of Minnesota School of Public Health for tobacco prevention activities; dedicating \$15 million of the existing tobacco tax to prevention and cessation programs; and prohibiting the sale of any tobacco products or e-cigarettes that are flavored, including menthol tobacco. The final bill that passed allocates \$4 million each year to tobacco and vaping prevention and cessation programs.</p> <p>Legislative action: Passed and signed into law.</p> <p>MMA position: Support</p>



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, The Pulse, 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 someone from our legislative or member relations teams.

The MMA legislative team



Dave Renner
Director of Advocacy

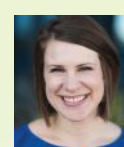
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News Briefs



MN Supreme Court agrees to hear medical malpractice case

The Minnesota Supreme Court has agreed to take on a medical malpractice case from 2014 that is of great interest to the MMA and other healthcare entities.

In April 2021, the MMA, in partnership with the Minnesota Hospital Association (MHA), submitted a brief urging the Court to review a Court of Appeals ruling.

In the case, a Park Nicollet patient was being treated on an outpatient basis for major depression and anxiety throughout the summer of 2015. In a horrific event, the patient killed his family and then committed suicide. Afterward, the patient’s next-of-kin sued Park Nicollet claiming that the violent acts committed by the patient could have been foreseeable to his healthcare providers, even though the patient had no prior history of violence.

The Court of Appeals said that the treating physician could have foreseen the violent acts because they prescribed a medication that had a black-box warning of violence and aggression and that more should have been done by the treating team to prevent the violent act from occurring.

The MMA, AMA and MHA have submitted a joint amicus brief to the Supreme Court explaining how this expansion of liability would negatively impact the mental health system in Minnesota. Specifically, this ruling would hurt the “emphasis on outpatient mental health treatment, patient confidentiality, and limiting provider liability” by promoting more extreme clinical measures, such as involuntary commitment, when faced with an individual with a mental health condition. The MMA is also concerned about the burden this ruling places on providers to warn third parties of a patient’s unforeseeable violent behavior.

Task Force on emergency department boarding to reconvene

The Emergency Department Boarding Task Force, which was co-created by the MMA and Minnesota Chapter of the Ameri-

can College of Emergency Physicians (MNACEP), is beginning to meet again. The group, which was put on hold during the COVID-19 pandemic, will reconvene this month (September) and share its recommendations to the MMA Board of Trustees by the end of 2022.

The MMA and MNACEP established the task force in 2019 to examine the escalating problem of the boarding of patients with mental-health issues in emergency departments.

The group is exploring a portfolio of interventions that in combination might serve to lessen the complex problem of ED boarding. These interventions include upstream interventions, including EmpATH Units and community-based mental health supports; immediate interventions, including investments in inpatient psychiatric beds; and downstream interventions, including community transition supports that offer continuity of care in outpatient settings.

If you are interested in serving on the task force, email auphoff@mnmed.org.

Minnesota joins coalition to receive billions from opioid manufacturer, distributors

In July, Minnesota Attorney General Keith Ellison joined a large multistate coalition in announcing a \$26 billion agreement with opioid manufacturer Johnson & Johnson and the nation’s three top pharmaceutical distributors—Cardinal, McKesson, and AmerisourceBergen—that will bring much-needed relief to communities in Minnesota that have been devastated by the opioid crisis.

Minnesota’s share of this agreement could be as much as \$337 million over 18 years, with significant payments frontloaded in the first five years. The spending of State of Minnesota funds from the agreement will be overseen by the State’s Opioid Epidemic Response Advisory Council.

The agreement also requires data transparency and significant industry changes that will help prevent this type of crisis from reoccurring. The agreement would resolve investigations and claims against these companies of the nearly 4,000 states and local governments across the country that have filed lawsuits in federal and state courts.

The 10-year agreement will result in court orders requiring Cardinal, McKesson, and AmerisourceBergen to:

- Establish a centralized independent clearinghouse to provide all three distributors and state regulators with aggregated data and analytics about where drugs are going and how often, eliminating blind spots in the current systems used by distributors.

On the calendar

Event	Date
2021 Virtual Annual Conference	September 24, 2021
MMA Day at the Capitol	March 1, 2022

- Use data-driven systems to detect suspicious opioid orders from customer pharmacies.
- Terminate customer pharmacies' ability to receive shipments
- Report to state regulators companies that try to divert shipments to pharmacies.
- Prohibit the shipping of suspicious opioid orders.
- Prohibit sales staff from influencing decisions related to identifying suspicious opioid orders.
- Require senior corporate officials to engage in regular oversight of anti-diversion efforts.
- The 10-year agreement will also result in court orders requiring Johnson & Johnson to:
 - Stop selling opioids.
 - Not fund or provide grants to third parties for promoting opioids.
 - Not lobby on activities related to opioids
 - Share clinical trial data under the Yale University Open Data Access Project.



AMA Foundation launches new fellowship program for LGBTQ+ community

The AMA Foundation has launched its National LGBTQ+ Fellowship Program that is intended to transform the health equity landscape.

Launched in July with a \$750,000 grant from the AMA Foundation, the program is designed to revolutionize healthcare for LGBTQ+ individuals by providing advanced fellowship training for physicians—who are “first-contact” doctors for their patients’ medical needs—in ways to optimize the health of LGBTQ+ patients. The ultimate goal of the program is to ensure that all LGBTQ+ patients receive the highest standard of care.

The announcement marks the first chapter in the Fellowship Program’s nationwide effort to train hundreds of fellows, while developing multi-disciplinary standards of care for LGBTQ+ health to educate the next generation of physician leaders. The result will be a workforce of LGBTQ+ health specialists and a rich body of knowledge that can be passed on to all medical schools and healthcare professionals by establishing best practices in caring for LGBTQ+ patients.

In a stringent peer-reviewed process, the AMA Foundation selected the University of Wisconsin School of Medicine and Public Health for the award due to its extensive multidisciplinary network of institutional and community leaders with expertise in LGBTQ+ health. The school’s interdisciplinary collaborative fellowship will build on existing foundations of diversity, equity, and inclusion strategies that support affirming LGBTQ+ services and will accelerate education, research, and clinical initiatives.

ICSI Institute for Clinical Systems Improvement

ICSI to cease operations at end of 2021

Leadership at the Institute for Clinical Systems Improvement (ICSI) have decided to cease operations at the end of 2021 due to declining financial support.

ICSI was formed in 1993 to drive quality improvement through practice guideline development and dissemination. The independent, nonprofit organization’s work evolved over time to include prevention of hospital readmissions, opioid prescribing standards, suicide prevention and intervention and a collective effort on racial equity in healthcare.

“ICSI has been a valuable partner and powerful example of Minnesota’s collaborative healthcare improvement tradition,” says MMA CEO Janet Silversmith. “We appreciate all they have contributed and are prepared to assist in any way we can to sustain cross-organizational improvement.”

ICSI expects to complete some of its current efforts in 2021, while others will transition to different organizations.

Report: more than half of U.S. docs are now employed physicians

According to a report issued by the AMA in late May, 2020 was the first year in which fewer than half of patient care physicians worked in a private practice, a drop of nearly 5 percentage points from 2018.

The report also found that 17.2 percent of physicians were in practices with at least 50 physicians in 2020, up from 14.7 percent in 2018.

The report describes changes in physician employment status and practice size, type and ownership between 2012 and 2020. The content of the report is based on the AMA’s Physician Practice Benchmark Survey.

Although the 2020 data are consistent with earlier trends, the size of the changes since 2018 suggest that the shifts toward larger practices and away from physician-owned (private) practices have accelerated.



FROM THE CEO

Pushing through the frustration

Frustrated! Nearly everyone I've talked to recently feels the same and I imagine you do as well (although you might use a more colorful adjective to describe your feelings). The reason for the frustration is clear—the Delta variant is rampant, and infection rates and hospitalizations are surging. Amid the increase in cases, vaccination rates remain stubbornly low in some areas and several states have made it illegal for schools and businesses to enact policies, such as mask usage, that would help keep people safe. The optimism that widely accessible vaccines and springtime weather promised just a few months ago seems like a distant memory.

In April, the *New York Times* published an article by Adam Grant, "There's a Name for the Blah You're Feeling: It's Called Languishing." The article resonated with me at the time (as I anxiously awaited my second vaccine dose) and I've been thinking more about it over the past several weeks. Grant noted that languishing "dulls your motivation, disrupts your ability to focus, and triples the odds that you'll cut back on work." I see these characteristics in so many people and can imagine how easy the slide could be for many more.

Even the usual spectacle of the Summer Olympics seemed to languish, despite many extraordinary performances (kudos, Minnesota Olympians!). There were empty stadiums, awkward video chats with families and results announced prior to primetime broadcasts due to time zone differences. An unexpected silver (pun intended) lining of the Olympics was the gift provided by world renowned gymnast Simone Biles—the gift to admit

that it's okay to not be okay, even when the stakes are high. The stakes, of course, are high for physicians; and it may be a patient's life on the line, not just a gold medal.

There are many lessons to be learned from this pandemic and, thanks to the variants, I guess we are continuing to learn. At the MMA, we have maintained our resolve to push back against misinformation and to protect the health of Minnesotans. For example, in partnership with the Minnesota Academy of Family Physicians and the Minnesota Chapter of the American Academy of Pediatrics, we contacted the superintendents of every Minnesota school district to urge them to adopt universal mask use in K-12 schools for all students, teachers, staff and visitors regardless of vaccination status, consistent with CDC and health department guidance.

As Grant advised in his *Times* article, one way to transcend languishing is to focus on a "just-manageable difficulty ... a challenge that matters to you ... a worthwhile goal, a meaningful conversation." The post-COVID world remains elusive, and the current resurgence is extremely frustrating. But we remain focused on our worthwhile goal—to make Minnesota the healthiest state and the best place to practice. That work helps to ease the frustration, it matters and it makes a difference. **MM**

Janet Silversmith
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VIEWPOINT

Gratitude

From the beginning of the COVID-19 pandemic, Minnesota's physician leaders have met the challenge of our time and tried to lead by example. It hasn't been easy, especially when so many of us are on the frontlines doing what we can to save lives and keep as many Minnesotans healthy as possible. It's not been enough just to keep our wits about us and do our daily work. Early on we recognized the magnitude of this pandemic and we knew it was in everyone's best interest to take that extra step, to go that extra yard to get in front of it. So, when we were asked to do more, to stretch a bit, we all did so in an unprecedented show of sacrifice and camaraderie.

To all my fellow physicians who stepped up, it is against this background that I humbly say—thank you! You've made a difficult few years that much more manageable. You've been true leaders.

Thank you:

- To my fellow MMA leaders who brought the voice of practicing physicians to state decision-making tables on the COVID-19 response. You have advocated on behalf of those in healthcare at the Legislature, protecting the health of fellow Minnesotans and fighting on behalf of those who practice medicine.
- To those who have dedicated their time to serve on committees and task forces that improve how we practice while always advocating for our patients.
- To those who have offered their time to help with the Minnesota Department of Health and Blue Cross Blue Shield COVID bus that has taken the vaccine program out to Minnesotans across the state.
- To those who have gone out into their community and spoken at churches and in barbershops to help educate vaccine-hesitant Minnesotans. Your influence and dedication to fighting miscommu-

nication regarding what it takes to join together to combat COVID-19 is greatly appreciated.

- To those who have joined our new Well-Being Advisory Committee. Your dedication to improving the health and well-being of your peers and physicians across the state is admirable and much needed. Physicians have always faced tremendous pressure in their work. The pandemic has only magnified that stress and to know their peers have their back is reassuring.
 - To those in our new work group who are examining the barriers that people of color face in navigating Minnesota's medical school and residency processes. You are positioning organized medicine at the forefront of the health equity and access discussion especially when it comes to how we can impact the fabric of our future work force to better match the population served.
 - To my fellow Board of Trustee members for volunteering your time to help guide the MMA as it continues to meet the needs of Minnesota physicians especially in this COVID-19 era.
 - To our AMA delegation for your work in helping to influence national policy. Providing that crucial linkage to physician leaders across the nation is vital in representing the house of medicine at the highest levels.
 - To physicians in public service who are helping shape policy that is patient-centric and takes into consideration physicians and everyone on the care team.
- Again, a sincere great thanks to you all. Leadership comes in many ways. I'm grateful for the leadership of so many physicians in these times, including those who continue to steward the MMA and help us accomplish our mission to be the healthiest state in the nation as well as being the best place to practice medicine. MM



Edwin Bogonko, MD, MBA
MMA Board Chair

PHOTO BY KATHRYN FORBES

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physicians who stepped
up, it is against this
background that I
humbly say—thank you!
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