

Issue Brief

STATE ISSUE BRIEF • MAY 17, 2016

LEGEND

HB = House Bill

SB = Senate Bill

SCR = Senate
Concurrent Resolution

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Status Of Selected Health Care Legislation Summary of the 2016 Session of the Missouri General Assembly

The Missouri General Assembly's 2016 legislative session ended Friday, May 13. The following describes the outcomes of various legislative proposals affecting hospitals and health care. The governor has until Thursday, July 14, to approve or veto most of these enacted bills. As noted, some of these enactments have been approved by the governor or by a legislative override of a gubernatorial veto.

LEGISLATION TRULY AGREED AND FINALLY PASSED

Appropriations and Budget

- Appropriates funds for Medicaid and DSH payments to hospitals in keeping with current payment standards and expected billings for state fiscal year 2017 ([HB 2011](#)) (Approved by Governor)
- Enacts a \$275 million general revenue supplemental budget to offset unanticipated spending during the current state fiscal year, including \$250 million in general revenue for Medicaid, of which \$40 million is for payments to hospitals ([HB 2014](#)) (Approved by Governor)
- Maintains open-ended flexibility in the use of Federal Reimbursement Allowance to support Medicaid and DSH payments to hospitals ([HB 2011](#)) (Approved by Governor)
- Provides \$500,000 in funding for Area Health Education Centers to support health workforce development ([HB 2010](#)) (Approved by Governor)

FRA Reauthorization

- Reauthorizes the hospital FRA and other state provider taxes for two years, to September 30, 2018 ([HB 1534](#))

Medicaid Eligibility

- Expands eligibility for Medicaid coverage by increasing the value of assets that may be held without jeopardizing the eligibility of those who are blind, aged or disabled ([HB 1565](#))
- Directs the Department of Social Services to use a third-party contractor to verify applicants' and recipients' eligibility for public assistance ([SB 607](#))

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Stroke, STEMI and Trauma Centers

- Authorizes an alternative process for designating and regulating hospitals as stroke centers based on certification by The Joint Commission or other designated organizations ([SB 635](#), [SB 732](#), [SB 988](#))
- Establishes additional options for designated stroke and STEMI centers to submit data to the Department of Health and Senior Services, eliminating duplicative processes ([SB 635](#), [SB 732](#), [SB 988](#))
- Creates new standards for DHSS' system of collecting, analyzing and publishing data from designated stroke and STEMI centers ([SB 635](#), [SB 732](#), [SB 988](#))
- Gives the state medical licensure board exclusive jurisdiction to set continuing education requirements for emergency department physicians in designated stroke, STEMI or trauma centers ([SB 635](#), [SB 732](#), [SB 988](#))
- Authorizes regional EMS advisory committees to make recommendations regarding community and regional time critical diagnosis plans ([SB 732](#))

Health Care Price Transparency

- Directs hospitals to make available to the public their charges, without discounts, for the 100 most prevalent diagnosis related groups as defined by Medicare. This already is being done by participants in MHA's voluntary transparency initiative. Such disclosure will constitute compliance with the broader requirement to furnish price estimates for those DRGs upon the patient's request. The requirement takes effect July 1, 2017. ([SB 608](#))
- Requires all licensed health care providers, facilities and imaging centers to provide a patient with a written estimate of the cost of a health care service or procedure upon receiving the patient's written request for the estimate and a medical treatment plan from the patient's provider. The provider or facility is to respond within three business days. The estimate will reflect amounts charged without public or private coverage, exclude services not under the provider's direct control and include specified caveats. Posting publicly available links to such estimates will satisfy the requirement, which takes effect July 1, 2017. The definition of affected providers includes practitioners and facilities in Douglas, Johnson, Miami and Wyandotte counties in Kansas who participate in Missouri Medicaid. ([SB 608](#))
- Excludes charges for hospital emergency department services from disclosure under this law ([SB 608](#))
- Prohibits contractual agreements between providers and insurers that prevent the patient from knowing the contracted payment amount for a service if doing so impedes the patient's ability to determine his or her potential out-of-pocket cost ([SB 608](#))

Infection Reporting and Control

- Updates state infection control and reporting laws to reflect current practice and curtail duplicative federal and state reporting ([SB 579](#))
- Requires hospitals and ambulatory surgical centers to implement antibiotic stewardship programs by August 28, 2017 ([SB 579](#))
- Requires DHSS to include carbapenem-resistant enterobacteriaceae in its list of reportable diseases and infections ([SB 579](#))

Hospital Licensure Regulation

- Requires DHSS to issue new hospital regulations that reflect the life safety code standards of the Medicare Conditions of Participation. Contradictory state regulations will lapse as of January 1, 2018. ([SB 635](#), [SB 608](#), [SB 973](#))
- Allows state hospital life safety code regulations to reflect subsequent revisions of external standards without being re-issued through the regulatory process ([SB 635](#), [SB 608](#), [SB 973](#))
- Says that hospitals may not be required by the department to comply with the standards of the Facility Guidelines Institute for the Design and Construction of Hospitals, but hospitals that comply with the 2010 or later version will be exempted from contradictory state standards ([SB 635](#), [SB 608](#), [SB 973](#))

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Telemedicine

- Creates definitions and standards for the use of asynchronous store-and-forward technology in the Medicaid program ([SB 579](#))
- Defines eligible providers and uses of telemedicine in Medicaid ([SB 579](#))
- Establishes an advisory committee regarding telemedicine in Medicaid ([SB 579](#))
- Authorizes a statewide home telemonitoring program in Medicaid, subject to state appropriations to support it ([SB 579](#))
- Sets various standards for the relationship between patients and providers in telemedicine encounters ([SB 579](#))

Medical Malpractice Liability

- Modifies the "collateral source" rule governing how medical costs are considered in calculating potential damages in liability lawsuits ([SB 847](#))
- Revises standards governing the use of expert witnesses in many state court proceedings, including those involving medical malpractice claims, to mimic those used in federal courts ([SB 591](#))
- Creates a two-year statute of limitations for filing medical malpractice liability lawsuits against psychologists, behavior analysts, professional counselors, marital and family therapists, and social workers ([HB 1765](#))

Medicaid Fees

- Establishes an \$8 copayment to be charged to a Medicaid enrollee who is treated for a nonemergent medical condition in a hospital emergency department. The enrollee is to be notified of the copayment before the delivery of services. Failure of the enrollee to pay the copayment will not reduce or affect MO HealthNet Division's reimbursement of the provider. DSS will file Medicaid plan amendments and requests as necessary to implement the policy. ([SB 608](#))
- Permits a health care provider in the fee-for-service Medicaid program to levy a fee on a Medicaid patient who misses and fails to provide 24-hour notice of cancellation of a scheduled appointment. With some caveats, those providers may deny follow-up appointments until the fee is paid. The fee amounts and timing are specified. DSS will file Medicaid plan amendments and waiver requests as necessary to implement the policy. ([SB 608](#))

Emergency Medical Transport

- Blocks DHSS from regulating the construction or operation of hospital medical helicopter landing pads and defines hospitals' obligation to ensure helipad safety ([SB 988](#), [SB 732](#), [SB 635](#))
- Creates standards for intergovernmental transfers to be used to fund the state share of Medicaid payments for emergency medical transport services ([SB 732](#), [SB 607](#))

Brain and Spinal Injury Data Submission

- Repeals DHSS' data registry on brain and spinal injuries and directs the department to use other publicly available data sources to compile reports on the topic ([SB 635](#))
- Repeals the DHSS' data registry on brain and spinal injuries ([SB 732](#))

Post-Partum Care

- Directs DHSS to include severe combined immunodeficiency (SCID) in the battery of screening tests done on blood samples taken from newborn infants. The department is authorized to increase its testing fee to pay for the added test. ([HB 1682](#))

Insurance Benefit Plans

- Sets standards for insurance coverage of occupational therapy services, including cost-sharing limits, beneficiary notification and a legislative analysis of their actuarial implications ([SB 635](#), [SB 608](#))
- Extends an expiration date on a state law governing insurance coverage of refills of prescription eye drops ([SB 635](#), [HB 1816](#), [SB 608](#), [SB 865](#), [SB 973](#), [HB 1682](#))

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Pharmacy Practice

- Creates new standards for insurers and utilization review contractors in administering step therapy protocols for coverage of prescription drugs ([HB 2029](#))
- Permits pharmacists to substitute a less expensive biological product for a brand-name product if the federal Food and Drug Administration views the two products as interchangeable, the prescriber has authorized substitution, and the patient has been informed ([SB 875](#))
- Specifies that the decision to dispense an emergency supply of medication only may be made by a Missouri-licensed pharmacist ([SB 635](#), [SB 608](#))
- Creates new standards governing pharmacy benefit managers ([SB 635](#), [SB 608](#), [SB 865](#))
- Requires health insurers and managed care plans offering prescription drug coverage to offer medication synchronization services to align refill dates of covered drugs ([SB 608](#), [SB 865](#))
- Allows pharmacists some flexibility in dispensing quantities of maintenance medications ([HB 1816](#), [SB 608](#), [SB 865](#))

Pain Management

- Repeals a 2012 state law barring non-physicians from performing certain pain management procedures, including fluoroscopy-aided spinal injections. No 2016 legislation was considered to extend the August 28, 2016, expiration date specified in the 2012 law.

Abuse Reporting

- Expands the scope of adult abuse reporting requirements to encompass "bullying," as defined by the bill and applies those requirements to first-responders ([SB 732](#))

Palliative Care

- Creates a "Palliative Care and Quality of Life Interdisciplinary Council" and an associated DHSS program to promote awareness of palliative care. Hospitals are encouraged to offer patient education information about palliative care. ([SB 635](#), [SB 608](#), [SB 865](#), [HB 1682](#))

Immunization

- Revises standards for meningococcal vaccination of students at public colleges and universities ([SB 635](#), [SB 608](#))
- Calls for long-term care facilities to assist their workers and volunteers who have direct contact with residents in obtaining annual flu vaccinations ([SB 608](#))

Medical Records

- Defines standards for the confidentiality and release of mobile video recordings made by law enforcement personnel in nonpublic settings, such as medical facilities ([SB 732](#))

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Practitioner Licensure

- Revises licensure standards for emergency medical technicians ([SB 635](#), [SB 732](#))
- Revises licensure examination standards for physicians ([HB 1816](#), [HB 1682](#))
- Prevents state physician licensure standards from requiring more rigorous medical specialty board certifications ([HB 1816](#), [HB 1682](#))
- Prohibits state medical licensure from being contingent on required participation in a public or private health insurance plan or emergency department coverage or compliance with federal “meaningful use” electronic medical records standards ([HB 1682](#))
- Authorizes Missouri’s participation in an interstate compact concerning reciprocal licensure of physical therapists ([SB 635](#), [HB 1816](#), [SB 608](#), [SB 973](#))
- Updates the standards of an interstate compact concerning reciprocal licensure of nurses. Missouri currently participates in the compact. ([SB 635](#), [HB 1816](#), [SB 608](#))
- Obligates those licensed or registered by the Board of Pharmacy to report licensure disciplinary actions against them in other states, as well as exclusions from state or federal health payment programs ([SB 865](#))
- Modifies standards governing supervision of optometry students ([HB 1816](#))

Employee Background Checks

- Requires job applicants for patient care positions to disclose any listings on the background screens of the state’s Family Care Safety Registry. Hospitals and other providers may deny employment based on such a listing. ([SB 635](#))
- Broadens access to the state’s employee disqualification list for use in screening those engaged for temporary or intermittent employment in health care settings ([SB 635](#))
- Permits ambulance districts to conduct criminal background checks on current and prospective employees and volunteers ([SB 988](#))

Opioid Abuse

- Expands the ability to dispense, possess or use naloxone hydrochloride as an emergency antidote to overdoses of opioids and provides liability protections ([HB 1568](#))

Mental Health Treatment

- Permits physician assistants and assistant physicians to order restraints or seclusion in mental health treatment settings under certain circumstances ([HB 1816](#), [HB 1682](#))
- Extends liability protection to emergency medical technicians who transport behavioral health patients for evaluation for involuntary detention, or restrain at-risk behavioral health patients to ensure the safety of the patients or technicians ([SB 732](#))

Certificate of Need

- Makes state-operated hospitals licensed under chapter 197 subject to Certificate of Need review. Psychiatric hospitals operated by the Department of Mental Health will continue to be exempted from CON review as will projects involving equipment acquired by a state-operated academic medical center for research or teaching purposes. ([SB 635](#), [SB 988](#), [SB 608](#), [SB 973](#))

Workforce

- Authorizes various practitioner licensure boards to release data to a central repository for use in assessing health workforce trends ([SB 635](#), [HB 1816](#))
- Transfers the “Nursing Education Incentive Program” to the State Board of Nursing from the Department of Higher Education ([HB 1816](#))

Medicaid Benefits

- Authorizes Medicaid payment for specified behavior assessment and intervention CPT codes for behavioral services used to treat or prevent physical health problems ([SB 608](#), [SB 607](#))

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Personal Care Wage Mandate

- Invalidates state regulations mandating higher wages for personal care attendants ([SCR 46](#)) (Override of veto)

Crime Victim Treatment Services

- Authorizes the Crime Victim’s Compensation Fund to pay for mental health services delivered by board-certified psychiatric-mental health clinical nurse specialists and board-certified psychiatric-mental health nurse practitioners ([SB 921](#))

Workers’ Compensation

- Revises standards for large deductible workers’ compensation coverage through an insolvent insurer ([HB 1763](#)) (Vetoed by Governor)

Unemployment Compensation

- Revises standards regarding recovery of unemployment compensation overpayments ([SB 702](#))

Emergency Preparedness and Response

- Expands the scope of a state law permitting volunteers to donate their services and equipment in responding to a disaster under the auspices of the State Emergency Management Agency ([SB 732](#))

Taxation of Medical Equipment

- Expands the list of state sales tax exemptions to encompass sales, repair and parts for durable medical equipment, including parts for hospital beds and wheelchairs ([SB 794](#))

Governmental Hospital Investments

- Gives municipal hospitals meeting specified standards additional options for investing their assets ([SB 635](#), [SB 988](#))
- Gives county hospitals meeting specified standards additional options for investing their assets ([SB 988](#))

Medicaid Operations

- Creates a state legislative committee to monitor and investigate public assistance programs, including Medicaid ([SB 608](#), [SB 607](#))

Insurance Regulation

- Authorizes state insurance regulators to cooperate with the U.S. Department of Health & Human Services to promote greater uniformity of insurance regulation among the states ([SB 865](#))
- Creates a system of health insurance premium rate review and disclosure for specified plans of coverage, with standards for state regulators to determine whether the proposed rate increase is excessive, inadequate, unjustified or unfairly discriminatory. The state insurance department may publicly denote but not block implementation of rates deemed to be unreasonable. The new law will apply to plans of coverage issued or renewed after January 1, 2018. ([SB 865](#))
- Revises standards governing vision insurance ([HB 1682](#))

Hemp Extract Treatments

- Prohibits a health care provider from incurring state civil or criminal penalties or licensure sanctions for prescribing or using hemp extract as authorized by state law for the treatment of seizure disorders ([HB 1682](#))

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LEGISLATION DEFEATED

Medicaid Managed Care

- Establishes various reforms of Medicaid managed care (SB 1111, HB 2750)
- Authorizes MO HealthNet to advance the development of systems of care for medically complex children through pediatric care networks, centers of excellence or medical homes (HB 1876)

Covenants Not to Compete

- Bars not-for-profit hospitals from including covenants not to compete in their employment contracts with physicians (HB 1660, HB 2206)

Insurance Benefits

- Permits HMOs to sell high-deductible policies of coverage and preferred provider plans to use a "gatekeeper" model of delivery (HB 1592, HB 2061 and others)

Prisoner Medical Care

- Restricts the use of shackles on pregnant and post-partum prisoners (SB 618, HB 2552 and others)
- Bars bail bond or surety recovery agents from apprehending patients or residents within a health care facility (HB 2454)

Perinatal Care

- Creates a Perinatal Advisory Council to develop recommendations for state regulations to define neonatal and maternal care regions, levels of care and other standards for the delivery of perinatal care in hospitals (HB 1875)

Discharge Planning

- Allows patients admitted to a hospital or treated at an ambulatory surgical center to designate a caregiver to perform post-discharge tasks (SB 1102)

Certificate of Need

- Ends certificate of need review of hospital and ambulatory care capital investment projects (SB 776)
- Revises the criteria for awarding CON for long-term care capital investment projects (SB 654)
- Imposes a moratorium on CON for additional long-term care beds through 2019, with specified exceptions, and creates a task force to review CON issues for long-term care (SB 1076)

Hospital Billing

- Caps the amount that can be billed for care of the uninsured to the lowest contracted payment rate among third-party payers (amendment to SB 608 and others)
- Requires health insurers to respond electronically to a provider's electronic predetermination request for an estimate of the expected coverage, including patient cost-sharing, for specified procedures (HB 2477, SB 1023)

Health Information Exchange

- Makes state funding for the state-designated health information exchange contingent on its providing access without fees to specified users (HB 2011) (Vetoed)
- Prohibits "health data blocking," defined to encompass restrictions on access to health data, as well as using an electronic medical record system to steer patient referrals to affiliated providers (HB 2609)
- Creates a Health Information Exchange Commission to regulate HIE vendors, with policy standards specified in the bill (SB 636, HB 1579)

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LEGISLATION DEFEATED

Liability Issues

- Creates new standards for litigating the assessment of punitive damages (HB 2458)
- Ends Missouri’s use of the legal principle of joint and several liability, so that defendants only are responsible for damages attributable to their particular percentages of fault (HB 2287)
- Regulates civil litigation funding (HB 1705, SB 785)

Collaborative Practice Arrangements

- Revises standards for collaborative practice arrangements between advanced practice registered nurses and physicians (HB 1465, HB 1866 and others)

Consent to Treatment

- Revises state standards regarding the process of securing consent to treatment for incapacitated patients without an advance directive (HB 2502 and others)
- Requires health facilities and physicians with institutional policies regarding life-sustaining or nonbeneficial treatments to disclose them to patients (HB 1915)
- Prevents health facilities and practitioners from withholding life-sustaining treatment from or implementing do-not-resuscitate orders for a child without written authorization from the child’s parent (HB 1915)
- Creates a web-based registry of advance directives (SB 887)

Pharmacy Practice

- Authorizes a state prescription drug monitoring system (HB 1892, SB 768)
- Permits broader access to epinephrine auto-injectors for use in emergency situations (SB 677, HB 1784)
- Allows pharmacists to prescribe and dispense various contraceptives (HB 1679)

Investigational Drugs

- Authorizes the voluntary tracking of off-label drug use in the state’s cancer information reporting system (HB 2562)

Immunization

- Mandates that hospital employees and volunteers be immunized against influenza annually (SB 819)

Hospital Food Services

- Includes hospitals in the list of organizations encompassed by a “Farm-to-Table” program to promote consumption of locally-grown agricultural products (SB 878 and others)

Mental Health Treatment

- Requires hospitals to allow a third-party contractor designated by DHSS to annually assess their medical staff for evidence of depression and burnout, with public posting of the hospital-specific results (HB 2544)
- Sets standards for notifying designated contacts of a patient’s admission to a mental health facility (HB 2309)
- Creates various initiatives to assess the incidence of depression in medical students and promote awareness of suicide among medical students (HB 1658)
- Establishes programs to curtail suicide among youth and college students (HB 1546, SB 627 and others)
- Bars state or local governments from discriminating between types of licensed mental health providers (SB 1133)

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Insurance Networks

- Requires health insurers to include in their networks any provider willing to accept the insurer's contractual terms and conditions and the insurer's standard fee schedule (HB 2129)
- Requires out-of-network physicians in in-network hospitals to notify patients of the availability of mediation for billing disputes (HB 2811)

Tobacco Settlement

- Revises state law to comply with a settlement agreement with tobacco manufacturers and stop the ongoing and significant loss of state revenue (SB 1096)

Practitioner Licensure

- Creates a system of occupational licensure for radiation technologists (HB 1604, SB 1114 and others)
- Creates a separate system of licensure for advanced practice registered nurses (HB 1866)
- Repeals a 2014 state law authorizing the licensure of assistant physicians (HB 1918)
- Creates criteria for considering new categories of occupational licensure (HB 1466, SB 829)

Employee Background Checks

- Prohibits public employers from seeking or considering an employment applicant's criminal record before a conditional offer of employment is made (SB 724)

Abuse and Neglect Reporting

- Mandates two hours of training annually for all hospital workers regarding child abuse reporting (SB 1101)

Insurance Regulation

- Directs that a managed care plan's network will be deemed sufficient by regulators if it meets specified accreditation standards (HB 1712, SB 778)

Hospice Care

- Repeals the obligation for notification and investigation of the death of a hospice patient by a local coroner or medical examiner (HB 2617)

Motorcycle Helmets

- Permit adults motorcyclists with \$50,000 of health insurance coverage to ride without a helmet (HB 1464 and others)

Medical Records

- Revises standards of access to the medical records of deceased patients (HB 2482)
- Restricts access to records of sexual abuse of children (HB 2202)

Emergency Dispatch

- Addresses the organization and funding of 911 emergency contact and dispatch services (HB 1904)

Medical Marijuana

- Authorizes the medical use of marijuana for specified conditions (SB 912, HB 2213 and others)

Abortion

- Revises the state's regulation of abortion services (HB 1953 and others)

State Agencies

- Abolishes the Department of Health and Senior Services, transfers its functions to other agencies and creates a new state Department of MO HealthNet (HB 2407)