

Issue Brief

STATE ISSUE BRIEF • MAY 22, 2018

LEGEND

HB = House Bill

HCB = House
Committee Bill

SB = Senate Bill

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Status of Selected Health Care Legislation Summary of the 2018 Session of the Missouri General Assembly

The Missouri General Assembly’s 2018 legislative session ended Friday, May 18. The following describes the outcomes of various legislative proposals affecting hospitals and health care. The governor has until Saturday, July 14, to approve or veto most of these enacted bills.

LEGISLATION TRULY AGREED AND FINALLY PASSED

State Budget

- Appropriates funds to support Medicaid hospital payments. Medicaid hospital payment cuts of as much as \$138 million were proposed by the Greitens administration; the legislative budget process winnowed the cuts to \$32 million for Missouri hospitals – \$11 million short of an advocacy target based on the distribution of Medicaid General Revenue funding. ([HB 2011](#))
- Restores funding for three staff in the Time Critical Diagnosis section of the Department of Health and Senior Services. The funding was eliminated in the governor’s budget proposal. ([HB 2010](#))

Federal Reimbursement Allowance

- Upgrades a 17-year-old safeguard in current law for hospital payments funded by the FRA. The new safeguard emphasizes greater transparency and accountability, particularly for FRA-funded payments flowing through Medicaid managed care plans. ([SB 775](#))
- Reauthorizes the hospital FRA and the other state provider taxes for one year. ([SB 775](#))

Hospital Regulations

- Allows state hospital licensure regulations to automatically update to synchronize with federal standards. Current state law prevents state regulations from staying current with external standards such as the Centers for Medicare & Medicaid Services’ Medicare Conditions of Participation. The change dovetails with a 2017 law to block duplicative or inconsistent federal and state hospital standards as of July 1, 2018. ([HB 2183](#), [SB 951](#))
- Allows a hospital to redefine its premises to encompass property that is “[catty-corner](#)” across an intersection from the main hospital property. ([HB 2183](#), [SB 951](#))
- Requires the posting of signs regarding human trafficking in a variety of locations, including emergency departments. ([HB 1246](#))

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continued

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LEGISLATION TRULY AGREED AND FINALLY PASSED

Insurer Practices

- Clarifies that the “prudent layperson” law requiring coverage of hospital emergency services based on the patient’s symptoms will be applied without regard to the final diagnosis. ([SB 982](#))
- Requires insurers to pay providers, rather than patients, for out-of-network services to screen and stabilize an emergency medical condition and for follow-up care authorized by the insurer. ([SB 982](#))
- Establishes new billing and insurer payment standards for out-of-network practitioners in network facilities when the patient needed emergency treatment. ([SB 982](#))
- Specifies that an insurer’s payment denial based on the absence of an emergency medical condition must involve a medical record review by a board certified physician. ([SB 982](#))
- Requires health insurers regulated by the state to reimburse for services delivered by an assistant physician on the same basis as for comparable mid-level practitioners. ([SB 951](#), [SB 718](#))
- Requires insurance coverage of annual mammograms for women age 40 and older. Under current law, coverage of annual examinations begins at age 50. ([HB 1252](#))
- Removes language excluding chemical dependency from a statutory definition of mental health conditions for which insurance coverage is required. ([SB 718](#), [SB 951](#))

Telemedicine

- Expands and clarifies Medicaid coverage of services delivered via telemedicine. ([SB 951](#), [HB 1617](#))

Consent to Treatment

- Requires patient consent or a court-approved search warrant for law enforcement to compel practitioners to take blood samples as forensic evidence to prosecute crimes of impaired driving. Retains current law precluding blood draws that would endanger the patient’s life or health. ([SB 951](#), [SB 870](#))

Collaborative Practice Arrangements

- Allows geographic proximity standards for physician assistants and their collaborating physicians to be set by regulation, reflecting a new regulatory proximity standard of 75 miles established for advanced practice registered nurses. ([SB 718](#))
- Allows a physician to concurrently supervise as many as six APRNs, assistant physicians and physician assistants, with elimination of specific caps for each type of provider. The caps do not apply to hospital employees in inpatient settings or to physician-supervised certified registered nurse anesthetists. ([SB 718](#))
- Applies physician assistant supervision standards of federally-designated rural health clinics to certified community behavioral health clinics and federally-qualified health centers. ([SB 718](#))

Medical Liability

- Requires a court to dismiss a medical malpractice or wrongful death lawsuit if service of process is not made within 180 days after the lawsuit’s filing and the statute of limitations has expired. The first such dismissal will permit refiling the lawsuit. ([SB 871](#), [HB 2562](#))
- Creates more stringent liability protections for hospitals and practitioners using hemp oil in medical treatment. ([SB 718](#))

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Opioid Abuse Treatment

- Authorizes as much as 12 additional months of Medicaid coverage of substance abuse and mental health treatment for post-partum women who receive substance abuse treatment within 60 days of giving birth and who adhere to the treatment program. The added coverage is contingent on federal approval. ([HB 2280](#))
- Revises standards for the prescribing of buprenorphine in medication-assisted treatment of opioid addiction under collaborative practice arrangements. ([SB 951](#), [SB 718](#))
- Subject to appropriations, creates an opioid abuse treatment and prevention program involving advanced practice registered nurses, physician assistants and assistant physicians in collaboration with physicians. ([SB 951](#), [SB 718](#))
- Limit initial prescriptions of opioids to a duration of seven days, with specified exceptions. ([SB 826](#))
- Blocks the inclusion of pain scores in quality of care and patient satisfaction data the Department of Insurance is authorized to collect. ([SB 951](#), [SB 718](#))
- Requires health insurers to offer their enrollees coverage of medication-assisted treatment of substance abuse disorders for an additional premium. ([SB 951](#), [SB 718](#))

Discharge Planning

- Allows patients admitted to a hospital or treated at an ambulatory surgical center to designate a caregiver to perform post-discharge tasks at the patient’s residence. Facilities will notify the caregiver of the patient’s discharge or transfer and provide the discharge plan or care instructions. ([SB 718](#))
- Protects hospitals and ambulatory surgical centers from liability and state licensure sanctions related to post-discharge caregivers and bars the state caregiver law from requiring actions inconsistent with, or duplicative of, federal or accreditation standards. ([SB 718](#))

Obstetrical Care

- Waives required administration of prophylactic eye drops in newborns if the parent or guardian objects, as well as eliminates required reporting of such administration. ([SB 951](#), [SB 718](#), [SB 826](#))
- Creates standards governing the shackling of pregnant prisoners in the state corrections system. ([SB 870](#))
- Permits a long-acting reversible contraceptive prescribed to, but not used by, a MO HealthNet enrollee may be transferred to another enrollee. ([SB 826](#))

Pharmacy

- Permits authorized persons and entities to collect and dispose of unused controlled substances from ultimate users or hospice or home health providers. ([SB 951](#), [SB 826](#), [SB 718](#))
- Supersedes local ordinances on the collection and disposal of unused controlled substances. ([SB 951](#), [SB 826](#), [SB 718](#))
- Mandates a state education and awareness program regarding the disposal of drugs, including controlled substances. ([SB 951](#), [SB 826](#), [SB 718](#))
- Waives statutory limits on the quantity and timing of prescription refills of maintenance medication if the prescription is issued by a practitioner in another state or dispensed to a patient who is serving in the military outside of the U.S. ([SB 826](#), [SB 718](#))
- Revises standards governing pharmacy benefit managers. ([SB 826](#))
- Eliminates the expiration date on a state law on refills of prescription eye drops. ([SB 826](#), [SB 718](#))
- Expands the ability of pharmacists to administer vaccines under physician-approved protocols. ([SB 826](#))
- Expands the capacity of pharmacists to dispense less expensive generic versions of prescription drugs. ([SB 826](#))

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Medicaid

- Authorizes Medicaid coverage of chiropractic services, with an annual limit of 20 visits per patient. The coverage is contingent on state funding. ([HB 1516](#))
- Sets common standards for the state departments of Social Services and Mental Health in using data to identify sources of third-party payment to offset state payments for services. ([SB 951](#), [SB 660](#))

Treatment of Crime Victims

- Directs the Attorney General to develop protocols for an electronic system for tracking kits used to collect forensic evidence to prosecute alleged sexual crimes. ([HB 1355](#))
- Directs the Department of Public Safety to develop standards for the transmittal and storage of kits used to collect forensic evidence to prosecute alleged sexual crimes. ([HB 1355](#))
- Directs providers to notify law enforcement of a completed kit to collect forensic evidence to prosecute alleged sexual crimes. Law enforcement is to take possession of it within 14 days and transmit it to a laboratory within the next 14 days. ([HB 1355](#))
- Revises standards for payments from the state Crime Victims' Compensation Fund. ([HB 1355](#))
- Authorizes HIPAA-permitted disclosure to health care providers of information in law enforcement records to enable treatment of those in contact with law enforcement. ([HB 1355](#))

Medical Records

- Clarifies how a state medical records copying fee cap applies when no records or health history exist. [SB 951](#) also corrects a technical flaw that reduces the current copying fee cap by 2 cents per page. ([SB 951](#), [SB 826](#), [SB 718](#))

Disease-Specific Initiatives

- Creates an “Advisory Council on Rare Diseases and Personalized Medicine” in the MO HealthNet Division. ([HB 1953](#), [SB 718](#), [SB 826](#))
- Promotes patient awareness of, and participation in, the bone marrow registry. ([HB 1953](#))
- Designates November as Diabetes Awareness Month. ([SB 718](#), [SB 951](#))

Mental Health

- Expands the statutory definition of mental health professional to include advanced practice registered nurses, physician assistants and assistant physicians who have specified training or experience in providing psychiatric care. ([SB 951](#), [HB 1719](#), [SB 660](#), [SB 718](#))
- Allows Department of Mental Health attorneys to seek and participate in hearings regarding involuntary medication of patients committed to the department because of lack of mental fitness to stand trial for a criminal offense. ([SB 660](#))
- Requires psychologists and other behavioral health providers to have training in suicide risk assessment and response. ([HB 1719](#))
- Waives the 12-hour shift limit for workers in DMH maximum or intermediary security facilities for the November Daylight Savings Time change. ([SB 660](#))

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Practitioner Licensure

- Revises the standards for licensure as an assistant physician. ([SB 951](#), [SB 718](#))
- States that assistant physician laws will not limit the authority of hospitals and their medical staffs to make employment or credentialing decisions. ([SB 951](#))
- Authorizes Missouri’s participation in an interstate compact regarding the regulation of psychologists providing services via telemedicine. ([HB 1719](#), [SB 660](#))
- Authorizes Missouri’s participation in an interstate compact regarding occupational licensure of emergency medical services practitioners. ([SB 870](#))
- Sets legislative criteria for deciding whether to license additional occupations. ([HB 1719](#))
- Recognizes an additional accreditation organization in psychologist licensure laws. ([SB 951](#), [SB 660](#))
- Adds to the grounds for disciplinary action against a nurse’s license and revamps the State Board of Nursing’s program for licensees or applicants impaired by substance abuse. ([HB 1719](#))

Emergency Medical Services

- Establishes new standards for funding and implementing a statewide 911 emergency response system. ([HB 1456](#))
- Revises state standards regarding EMS medical directors and treatment protocols, as well as EMS practitioner training. ([SB 870](#), [HB 1355](#))
- Establishes a process for paramedics to temporarily hold and restrain patients who pose a serious likelihood of harm to self or others or are significantly incapacitated by substance abuse for purpose of transporting them. ([SB 870](#), [HB 1355](#))

Employee Criminal Background Checks

- Establishes a “Rap Back” employee criminal background check option permitting employer notification of subsequent arrests in Missouri or other states of a screened employee. ([HB 1350](#))
- Bars a hospital’s failure to use the “Rap Back” option from being used as evidence in a civil lawsuit. ([HB 1350](#))
- Revises employee criminal background check requirements for in-home and personal care providers. ([HB 1350](#))
- Directs provider referrals of families in which a child may have been exposed to alcohol or a controlled substance to the Children’s Division rather than DHSS. ([SB 819](#))

Insurer Regulation

- Designates a specified accreditation organization’s standards as sufficient to meet managed care network adequacy standards. ([SB 982](#))
- Adds digital mammography and breast tomosynthesis to the definition of low-dose screening mammography in a state law requiring insurance coverage of mammography. ([HB 1252](#))

Organ Donation

- Directs governing boards of public and charter schools to hear presentations requested by recognized state or national programs providing unbiased information about organ, eye and tissue donation. The boards will consider whether and how such information will be presented to students and their parents. ([HB 2129](#))

Disaster Preparedness

- Creates a legislative Joint Committee on Disaster Preparedness and Awareness. ([HB 1355](#))

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Prevailing Wage

- Revises the “prevailing wage” law, which dictates minimum payment rates for labor in governmental construction projects. ([HB 1729](#))

Certificate of Need

- Allows long-term care facilities licensed under chapter 198 to qualify for Certificate of Need nonapplicability reviews of bed capacity increases only if they meet quality of care and occupancy standards. ([HB 2183](#), [SB 951](#))

Nursing Home Investigations

- Requires that suspected incidents of sexual assault of a resident of a long-term care facility licensed under chapter 198 must be reported to local law enforcement. ([HB 1635](#))

State Boards and Commissions

- Repeals the Missouri Area Health Education Centers Council and gives its duties to DHSS. ([SB 843](#))
- Transfers oversight of the umbilical cord blood bank program to the newly-constituted State Board of Health and Senior Services from the Life Sciences Research Board. ([SB 843](#))
- Directs DMH, rather than the governor, to appoint certain members of the Commission on Autism Spectrum Disorders. ([SB 843](#))
- Requires that one member of the State Board of Nursing will be an APRN rather than a licensed practical nurse. ([SB 843](#))

LEGISLATION DEFEATED

Covenants Not to Compete

- Restricts the capacity to use covenants not to compete in employment contracts with physicians and others. (HB 2088)

Consent to Treatment

- Creates standards for parental notice and consent when “life-sustaining treatment” of a minor is discontinued. (HB 1361)
- Directs DHSS to develop a form allowing patients to refuse opioids in their medical treatment, and authorizes department regulations to dictate how the form will be administered and enforced. (HB 1927)
- Requires DMH to publish a consent form that explains the risks, benefits and side effects of taking opioid medication. (HCB 15)

Obstetrical Care

- Creates a state Maternal Mortality Review Board to review patient records and data and make recommendations. (HB 2303)

Levels of Care Designation

- Requires DHSS to develop levels of care for treating overdoses and opioid use disorder and designating hospitals and emergency departments that meet them. (HCB 15)

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LEGISLATION DEFEATED

Certificate of Need

- Directs that certificate of need applications be reviewed and approved by staff of DHSS rather than the current Missouri Health Facilities Review Committee. (SB 906)
- Repeals CON review of single items of medical equipment costing more than \$1 million. (SB 906)
- Replaces the four state legislators on the MHFRC with additional gubernatorial appointees. (SB 779)
- Revises the standards for reviewing CON applications, including a ban on ex parte communications while the application is pending. (SB 779)

Prisoner Care

- Revises standards for hospital care of prisoners and the payment rates for that care. (HCB 20)

Infection Control

- Requires hospitals to adopt and implement evidence-based sepsis protocols. (SB 723)

Workers' Compensation

- Creates a fee schedule for workers' compensation payments to providers. (SB 601)

Guns in Hospitals

- Allows those with a permit to carry a concealed weapon to do so in the areas of a hospital that are accessible to the public. (HB 1936)

Medicaid Managed Care

- Authorizes a state provider tax on managed care plans to provide funding for the Medicaid program. (SB 775, HB 1410)
- Establishes various reforms of Medicaid managed care. (HB 2199)
- Requires the Department of Social Services to apply for a global waiver to create a block grant for Missouri Medicaid. (SB 562)

Medical Liability

- Requires that punitive damages only may be awarded in lawsuits if there is “clear and convincing evidence” of willful misconduct. (HB 2273, HB 2434)
- Revises standards of liability for damages associated with wrongful death actions. (HB 1684)
- Prevents the Missouri Merchandising Practice law from being used as a basis to recover damages for personal injury or death, augmenting the remedies available through medical malpractice or wrongful death lawsuits. (HB 2108)
- Reduces the statute of limitations for lawsuits alleging personal injury to three years from five years. (SB 934)
- Revises various standards regarding tort liability, such as joinder, venue, and joint and several liability. (HB 1578, HB 2089, SB 546, SB 832)

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LEGISLATION DEFEATED

Transparency

- Creates a “Right to Shop” law creating a complex system of price transparency coupled with allowing insured enrollees to share in the savings if negotiated payments are less than the insurer’s average reimbursement. (HB 2125)
- Requires providers to disclose to patients information regarding every facility where the provider has privileges and to provide treatment at the facility chosen by the patient. (HB 2136)
- Requires providers to disclose the cost of a nonemergency procedure or service to a patient within five business days of receiving a request. (HB 2126)
- Requires not-for-profit corporations to publicize their financial statements if they have contracts with state or local government. (SB 676)

Medical Staff

- Prohibits a hospital from discriminating against a physician based on the physician’s maintenance of certification. (HB 2355)
- Requires health insurers and hospitals to accept continuing medical education or recertification provided by the National Board of Physicians and Surgeons as maintenance of certification. (HB 2355)

Hospice Care

- Eliminates required investigations by coroners and medical examiners of routine hospice patient deaths. (HB 1895, SB 1001)

Advanced Practice Registered Nurses

- Permit APRNs to treat patients with a collaborative practice arrangement with a physician after two years of practice within such an arrangement. (HB 1502, SB 646)
- Provides for APRNs to be licensed separately as such, rather than as a registered nurse with an APRN certification. (HB 1502, SB 646)

Practitioner Licensure

- Establishes a system of occupational licensure for radiation technologists. (HB 2468, SB 926)
- Allows certified nursing assistants to receive their training in hospital-based settings. (HB 2597, SB 1062)
- Prohibits the collection of nursing licensure fees if the applicant fails to meet the licensure criteria. (HB 1719, HB 1261)
- Directs that excess fund balances of various professional licensure boards be transferred to the state General Revenue fund. (HB 2708)

Hospital Billing and Payment

- Caps the amount that can be billed for care of the uninsured to the lowest contracted payment rate among third-party payers. (HB 1518)

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LEGISLATION DEFEATED

Insurance Regulation

- Allows short-term major medical insurance policies to have a duration of less than one year. Currently, the term is less than six months. These short-term policies are exempt from most of the various insurance benefit mandates of state law. (HB 1685, SB 860)
- Creates a state reinsurance program intended to stabilize and reduce premiums in the individual health insurance market. (HB 2539)
- Requires health insurers to post their payment rates on a state website. (HB 2136)
- Lowers the number of participants needed for an association to qualify for group health insurance. (SB 639)
- Revises state standards regarding parity of mental health benefits in health insurance coverage. (HB 2384, SB 1098)
- Requires insurers to post their provider directories on websites. (HB 2612)
- Changes state law on appeals of adverse rulings by health insurers. (HB 1718)

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 2136)

Medicaid

- Expands eligibility for Medicaid coverage as permitted under the federal Patient Protection and Affordable Care Act of 2010. (SB 713)
- Directs DHSS to study the implications of drug importation by state agencies. (SB 722)
- Gives state government a higher priority in recovering from estates its Medicaid and other payments for medical services. (SB 597)

State Regulatory Reform

- Requires that all state regulations be explicitly permitted or required by statute. (HB 1576)
- Requires legislative approval of administrative rules with a projected fiscal effect of more than \$500,000. (HB 1576)
- Revises standards for the promulgation of emergency rules by state agencies. (SB 1039)

Immunization

- Directs school boards to provide information about flu vaccination to parents of students. (SB 986)
- Prohibits discrimination against children who are not immunized against diseases. (HB 1560)
- Requires annual influenza vaccination of employees and volunteers in hospitals and other health care settings. (SB 760)

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Substance Abuse

- Exempts state-registered entities that distribute, manufacture or sell hypodermic needles from drug paraphernalia laws. (HB 1620)
- Mandates training practitioners in opioid prescribing. (HB 1473)
- Requires the state Children’s Division to refer mothers and infants who test positive for illegal controlled substances after childbirth to state juvenile officials. (HB 2175)
- Directs DMH to establish recommended protocols for treatment of opioid abuse. (SB 660, HCB 15)
- Creates a legislative Joint Committee on Substance Abuse Prevention and Treatment. (HB 1253)
- Creates a state task force on opioid abuse. (HCB 15)
- Mandates reporting to DHSS of each administration of Narcan to block an opioid overdose. (HCB 15)

Pharmacy

- Allows hospitals to let patients take unused medications in multi-dose containers with them upon discharge, with the exception of most controlled substances. (HB 1870)
- Creates an electronic “Prescription Abuse Registry” of those who voluntarily list themselves as abusers, with civil and felony criminal penalties for improper disclosure of registry data. (HB 2209)
- Authorizes the creation of a state-operated prescription drug monitoring program. (HB 1619, SB 737, SB 762)
- Allows pharmaceutical companies to truthfully promote off-label uses of prescription drugs. (HB 1524)
- Revises the authority of pharmacy technicians to perform specified services in a hospital setting. (SB 1068)

Mental Health

- Creates a state Coordinating Board for Mental Health Issues in Higher Education. (HB 2354)
- Establishes requirements notification of others when a patient is admitted for treatment to a mental health facility. (HB 1707)

Motorcycle Helmets

- Permits adult motorcyclists and passengers to ride motorcycles without helmets if health insurance coverage standards are met. (SB 556, HB 2158)

Medical Residencies

- Prohibits contractual arrangements that give priority to students of out-of-state medical schools over Missouri medical school students in determining medical residency placements. (HB 1716)

Physical Therapy

- Waives restrictions on physician referral to physical therapy services if the physician has a minority ownership or investment interest in a hospital of less than 5 percent and the hospital offers physical therapy services. (SB 843)
- Adds an exception to state restrictions on physician referral to physical therapy services that mimics a standard in federal law. (HB 1652)

Workforce

- Authorizes a state tax credit for health providers providing services in a rural area. (HB 1604)

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LEGISLATION DEFEATED

Medical Marijuana

- Creates standards for the use of marijuana in treating specific ailments. (HB 1554, HB 2321)

Unemployment Compensation

- Revises standards regarding the state’s unemployment compensation program. (HB 1409)

Cancer Reporting

- Changes standards governing the state’s cancer reporting system. (HB 2731)