

Legislative Update as of June 23, 2017

This year KPhA, and pharmacy in general, was extraordinarily successful during the Legislative Session. We went into the session with three major agenda items:

1. the restoration of cuts to the professional dispensing fee in KanCare (the State's Medicaid Program);
2. the creation of a statewide protocol that would make emergency opioid antagonists more readily available to those experiencing opioid overdoses, thereby saving lives; and
3. reducing the minimum age of patients that pharmacists could provide all immunizations for from 18 to 12 years.

The 2017 Legislative Session began on Monday January 9th, and concluded on Saturday, June 10th. At 113 days, this session tied the record for the longest session in Kansas history. The two chambers completed their work on a tax plan, education plan, and funding plan as the last pieces of business in the last week of the session.

During the session we focused on our goals and picked up some additional work as other issues came to the Legislature for consideration.

Issues that we at KPhA were paying particular attention to this year and their outcomes are:

Restoration of the cuts to KanCare Professional Dispensing Fees (PDF)- all FY 2016 cuts to professional dispensing fees will be restored to their pre-cut levels on July 1, 2017. This means that businesses with fewer than 30 locations will see their PDF increased from \$9.25 to \$10.50 and those with more than 30 locations will see their PDFs go from \$4.50 to \$10.50. These restorations are being funded through an increase to the Health Maintenance Organization Privilege Fee in FY 2018. The privilege fee will increase from 3.31% to 5.77%. Originally, this legislation was in two bills, HB2180 and SB94.

[Click here to view KPhA Testimony - HB 2180](#) [Click here to view KPhA Testimony - SB 94](#)

Emergency Opioid Antagonists (HB 2217)-HB 2217 creates the first ever statewide protocol in Kansas related to pharmacy. The bill includes standards to govern the use and administration of emergency opioid antagonists. These standards include necessary education for pharmacists, first responders, and those receiving the products to ensure safe usage and appropriate follow up after administration of one of these products to someone experiencing an opioid overdose. Having passed both Chambers, HB 2217 was sent to the Governor and signed into law on Friday 4/7/17. The Kansas Board of Pharmacy went through a collaborative process to ensure that stakeholders had an opportunity to provide input on both the creation of Rules & Regulations and the protocol itself. The final product is modeled after other successful programs around the country and is protective of the public health without being unnecessarily burdensome to those involved in the distribution or administration of the products. The effective date of the legislation is July 1, 2017.

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Expanded Pharmacist Vaccination Authority (HB 2030) -Originally in HB2030, KPhA and its partners were asking for, and hoping to get, the minimum age at which pharmacists could vaccinate children to

be reduced to 6 years of age. After days of negotiation with Legislators and the Kansas Medical Society, HB 2030 expands a pharmacist's authority to vaccinate children down to age 12 (other than flu vaccinations which current law allows at 6 and older), amend vaccine reporting requirements to require all vaccine providers participate with the state's vaccination register WebIZ effective 7/1/2020, and allow a person (or parent of a minor) to opt out of the registry reporting requirement. The Governor signed HB 2030 on April 12, 2017 and the effective date is July 1, 2017.

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Pharmacy Act Amendments (HB 2055)- HB 2055 amends the Pharmacy Practice Act to comply with the Federal Drug Supply Chain Act, create regulations for compounding and automation, updates to the pharmacy technician qualifications and education requirements, allow biological products to be substituted for FDA-approved interchangeable biological products (Biosimilars provisions from HB 2107), and a clarification that current law allows Pharmacists to fill a prescription without requiring a physician/patient "in-person" relationship. On April 12th, Governor Brownback signed HB 2055 and the bill took effect April 20th, 2017.

KanCare Process and Contract Requirements (SB 69 / HB 2169, passed as a substitute for HB 2026)-SB 69 and HB 2169 (identical bills) would have amended the state's requirements for the KanCare MCOs by improving health/claim data reports, establishing a 3rd party claims appeal process, capping administrative spending, and establishing uniform standards for credentialing, prior authorization, and appeals. The final versions of these bills included a provision that is very important to pharmacy in Kansas. This provision would ensure that any willing provider in Kansas can be part of the KanCare network. In the past there have been attempts to exclude certain providers from the network, even if they were willing to accept the rates the at which the MCOs were willing to contract. This added provision makes sure that all that want to participate in KanCare as a provider will be allowed to participate.

In order to finish work on the bill, most of the content of the working versions of HB 2169 and SB 69 ended up in Senate Substitute for HB 2026; including provisions requiring the state's KanCare MCOs to establish several uniform standards for providers, establish a 3rd party claims appeal process with a loser pay model, and include "any willing provider" contract and payment requirements. The House and Senate Health Conference Committee agreed to compromise language when working the bill that will require KDHE to provide accurate information within 60-days of a request by a healthcare provider, instead of requiring the MCO's to provide the information. Additional language also created the following requirements:

1. Upon denial of a claim, MCO's must provide the provider documentation including specific reasons and utilization remark codes.
2. KanCare must use of an independent auditor to collect a random sample of all claims paid and denied by the MCO's, which could quickly/efficiently reduce unnecessary/small/systematic billing issues. The state would delay the start of the 3rd-party appeals process until 1/1/2020.
3. Any Willing Provider language was added to cover those "willing to meet the conditions for participation established by the Kansas medical assistance program and to accept reasonable contract terms offered by the MCO's .

On April 24th the Governor signed Senate Substitute for HB 2026 into law.

[Click here to view KPhA Testimony - HB 2169](#) [Click here to view KPhA Testimony - SB 69](#)

Insurance Coverage of Opioid Antagonists (SB 165)-SB 165 would have created standards surrounding the administration and insurance coverage for opioid antagonists. On February 20th, the Senate Health Committee heard proponent testimony focused on prescription opioid abuse and demonstrated how it is a nationwide epidemic, and how the bill could save the lives of addicts and accidental overdose patients from KPhA, the Kansas Board of Pharmacy, the Kansas Bureau of Investigation, the Kansas Emergency Medical Services Association, the Kansas Sheriffs Association, the Academy of Integrated Pain Management, and St. Francis Community Services. Opponent testimony from Blue Cross Blue Shield Kansas and Express Scripts focused on prohibition of step therapy use, requiring coverage of name brand deterrents, lack of readily available generic abuse deterrents, and increased costs of analgesics to patients. The committee did not act on this bill.

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Board of Pharmacy Emergency Scheduling Authority (SB 51)-SB 51 provides the Kansas Board of Pharmacy emergency scheduling authority of controlled substance analogs if a drug poses an imminent hazard to public safety. On April 21st Governor Brownback signed SB 51 which took effect following publication in the Register on May 4th, 2017.

In its final form, SB 51 includes:

- Provisions of SB 51- Allowing the Kansas Board of Pharmacy emergency scheduling authority of controlled substance analogs if a drug poses an imminent hazard to public safety;
- Original Provisions of SB 52- necessary annual updates to the Uniform Controlled Substances Act;
- House Committee of the Whole amended in cannabidiol, when comprising the sole active ingredient of a drug product approved by the FDA to the list of Schedule IV, controlled substances;
- Clarify the definition of "marijuana" would not include any substance listed in Schedule II-V of the act

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Health Insurance Restrictions on Step Therapy Protocols (SB 82)-SB 82 would have placed restrictions on Step Therapy protocols by requiring prescription drugs be dispensed in the sequence recommended by the prescribing provider so long as it is backed by research and medical processes, allowing healthcare providers to request an override of Step Therapy protocols in case of an emergency, and allowing an appeal to any decisions made by an insurance provider. This bill never made it out of the Senate Public Health and Welfare Committee.

KanCare Expansion / Clubhouse Rehabilitation (HB 2044. Expansion originally in HB 2064) – Both Houses of the Kansas Legislature voted to pass Medicaid Expansion this Session. The House passed the bill 81-44, and the Senate passed the bill 25-14.

Medicaid Expansion was amended in to HB 2044 after the original bill, HB 2064 was stalled in the House Health and Human Services Committee.

HB 2044 would have directed the State Medicaid Program to expand Medicaid in Kansas Medicaid Expansion. This bill would have expanded Medicaid eligibility to those Kansas residents between the ages of 18 and 65 who have an annual household income of less than 138% of the federal poverty level. HB 2044 would also have created several additional program requirements including a premium assistance program for enrolled participants with access to employer sponsored insurance, triggered termination of the expansion program if federal match rates fell below 90%, and a mandatory referral to programs for job training and employment services.

On March 30th the Governor vetoed HB2044 and sent it back to the Legislature for consideration. The House attempted to override the veto but fell 3 votes short of the 84 votes necessary to override the veto.

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