

**Legislative Update: End of Session
May 14, 2018
Prepared by: Dodie Wellshear, Ad Astra Government Relations**

Telemedicine Bill Signed by the Governor

[House Bill 2028](#), establishing the Kansas Telemedicine Act, was overwhelmingly adopted by the Legislature and signed into law by Governor Colyer. The bill provides insurance coverage parity between in-person medical visits and those provided via teleconference. An amendment to the bill will also provide for coverage of speech-language pathologist and audiologist services under KanCare, when delivered via in-person contact.

The bill hit a critical roadblock upon the Legislature's first adjournment in early April, primarily over a House-Senate impasse over a controversial "non-severability" clause related to abortion services. The clause states that if the section prohibiting any abortifacient services is struck down, then the entire bill would be struck down – presumably, in court challenges. The Senate did not include the clause, but the House insisted on its inclusion.

At the start of the Veto Session, a new conference committee agreed to a procedural move that allowed the bill to advance.

Some key features of the bill include:

- Services must be provided via a real-time, two-way interactive communication – audio, visual, or audio-visual – that ensures the same requirements of patient privacy and confidentiality under HIPPA. It does not include communications consisting solely of a telephone, email, or fax transmission.
- It provides insurance coverage parity between services covered by in-person healthcare visits and those same services delivered via telemedicine. If a provider's in-person service is covered by insurance, then that same service is to be covered via telemedicine; however, it does not mandate coverage of all services delivered via telemedicine.
- The bill requires the same standards of practice and ethical conduct that apply to healthcare services delivered via in-person visits, and all services delivered via telemedicine must be provided appropriate follow-up care.
- The Board of Healing Arts is charged with adopting rules and regulations concerning the Act. Further, upon consultation with the Board of Nursing and the Board of Pharmacy, the BOHA is required to adopt rules and regulations regarding the prescription of drugs via telemedicine.
- Coverage of speech-language pathology and audiology services by means of telehealth, if covered by Medicaid when delivered in-person, must be covered by KDHE and the Medicaid managed care companies contracting with them.
- No abortion services may be delivered via telemedicine.
- The Act becomes effective on January 1, 2019.

Special thanks should go to the Kansas Medical Society, the Kansas Hospital Association and key legislators who shepherded this from inception to a successful conclusion.

KAFP Priorities Represented in Budget Bill

Subsequent to the governor signing SB 109, which makes adjustments to the FY 2018 and FY 2019 State Budget, two key budget provisions relating to KAFP priorities will take effect.

The first is a proviso that adds \$350,000 for *Medicaid tobacco cessation medications and counseling services* for KanCare enrollees in FY 2019. SB 316, for which KAFP provided testimony this session, would have provided for these changes permanently and was passed by the Senate Public Health and Welfare Committee. However, the bill was not put on the debate calendar for advancement in the Senate.

Provisos have policy effect for one year, but the policy may be carried beyond FY 2019 by KDHE Health Care Finance Department choice or by enacting legislation next year.

The second item relates to **Graduate Medical Education**. In the current fiscal year, FY 2018, \$3 million is to be added to the teaching hospitals associated with the Wichita Center for Graduate Medical Education (WCGME).

In FY 2019, a total of \$5.9 million is to be appropriated for Graduate Medical Education (GME). Of that, \$3 million is to be provided to WCGME teaching hospitals in the first half of the FY 2019 fiscal year and the balance is for increased GME funding to hospitals currently received GME.

The Legislature also added strong language **prohibiting any substantial changes in the KanCare Program**, including eligibility, *without authorization from the Legislature*. The language also requires any CMS waiver request in effect on January 1, 2018 to be extended for three years. It further requires contracts to be negotiated for a term of three years and the option for two one-year renewals.

The provision would allow for policy changes related to federal concerns over mental health hospitals, behavioral health access, and telehealth options.

This provision is the result of ongoing management concerns the Legislature has with the current KanCare Program. The Legislature has been wrestling with administrative agencies since the inception of the current managed care program over serious provider and beneficiary issues – e.g., waiting lists, response times, timely reimbursement and authorization. The Colyer administration was seeking to apply for a new CMS waiver and add further eligibility limitations, of which the Legislature did not approve.

The bill has not been signed as of this date. The governor does have line-item veto authority, so any item provided in SB 109 could be removed by him before signing it into law.

Family Doctor of the Day

KAFP sponsored again this year the Family Doctor of the Day (FDOD) program during the Kansas legislative session. Licensed physicians, including residents, volunteer to provide mostly-minor health needs to legislators and their staff. The Legislature highly values and appreciates access to these services, especially when so many are away from their hometown primary care physicians.

Two members provided services during the last week of the Veto Session: **Bethany Enoch, MD**, Pittsburg; and **Gretchen Irwin, MD, MBA, FAAFP**, Andover. Thank you to all members who volunteered to provide this service to Capitol legislators and staff this session.