

## LEGISLATIVE UPDATE

February 29, 2020

Prepared by: Dodie Wellshear, Ad Astra Government Relations

---

### Legislative Turnaround

The Legislature has hit the official midpoint of the 2020 regular session, at which most bills must have been passed by their original chamber to advance for further action. Any bills not originating in an “exempt” committee or run through an exempt committee “blessing” by leadership will die. Exempt committees include House and Senate Federal and State Affairs, House Appropriations, Senate Ways and Means, House Taxation, and Calendar and Printing. Any bills introduced in or referred to these committees remain eligible for action until first adjournment of the Legislature, in early April.

Most health-related bills have been held back in both chambers, due to the Senate President’s and House Speaker’s opposition to Medicaid expansion, which could be amended into any bills opening that portion of Kansas Statutes. A few other bills related to KAFP legislative priorities, referred to other committees, have received some action. Those bills cover issues such as vaccinations and tobacco/vaping usage and purchase, and are discussed further below.

Legislators will take a break until Wednesday, to allow legislative staff to process all bills that received action by the chambers and ready them for action by the second chamber.

### Action on KAFP Policy Priorities

Following is a briefing on the status of a number of bills relating to KAFP’s policy priorities.

#### ➤ Medicaid/KanCare Expansion

[SB 252](#) is a bipartisan bill negotiated between Governor Laura Kelly and Senate Majority Leader Jim Denning (R-Overland Park). The joining of these two political leaders provided, what seemed like, a smooth glide for Medicaid expansion, perhaps early in the session.

That effort seemed to begin well, with the Senate Public Health and Welfare Committee holding extended hearings on SB 252 in January. The bill seemed well-positioned for passage in that committee, with five of the nine members signing on among the bill’s 22 Senate sponsors. Twenty-two sponsors also represented the majority of the 40-member Senate, seemingly ensuring its passage. *Until it all fell apart.*

It’s hard to identify where it exactly began unraveling, but the issue quickly became linked by Senate President Susan Wagle (R-Wichita) to passage of a constitutional amendment related to abortion. The amendment measure passed the Senate, but fell four votes shy of passage in the House. Following that, the Senate president pulled all health-related bills from the Senate Calendar and sent them back to the Public Health and Welfare Committee. Further, she declared she would prevent Medicaid expansion from being debated in the Senate, until the House passes the constitutional amendment on abortion.

In the final week before Turnaround, the Senate committee did take action on SB 252, adding a number of amendments that included: a provider conscience exemption; a reinforced prohibition on any public funding of abortion; a provision saying the bill would not be implemented until the Supreme Court rules on a pending ACA case; and a prohibition on implementation until passage of the constitutional amendment on abortion. Following that extended action, the same members favoring for those amendments voted against advancing the bill.

During the upcoming legislative break, Governor Kelly and Majority Leader Denning will join together in championing SB 252, in Wichita. They have planned two gatherings, one with hospital administrators and another with members of the faith community in Kansas. The hope is to put enough pressure on reluctant legislators to break the stalemate on passing Medicaid expansion this year.

As noted in previous updates, the battle has become “capital P” political now and the best action KAFP members can take now is to continue communicating to legislators just how important this is to physicians and the patients they serve.

While SB 252 has itself been defeated, there remain other options for advancing Medicaid expansion legislation this year. Last year's HB 2066, which gutted a bill providing APRN independent practice and replaced it with Medicaid expansion, passed the House and remains available for amendment and action by the Senate. Or the Senate could choose to introduce the contents of SB 252 through the Ways and Means Committee or another exempt committee for further action. The battle for expansion may yet be won this session.

➤ **APRN Independent Practice**

If there is any silver lining to the legislative stalemate on debating Medicaid expansion, it is perhaps that it has also stalled action on [HB 2412](#). This bill would provide for the independent practice of medicine by APRNs, *under the regulatory authority of the Board of Nursing*.

The stall has provided the opportunity to reset discussion on what would be a significant departure from regulating the practice of medicine in Kansas. Two weeks ago, House Health and Human Services Chair Brenda Landwehr (R-Wichita) held a roundtable on the issue, reported in last week's update.

The chair and other committee members have expressed strong concerns about HB 2412, primarily the APRNs' refusal to consider regulation by the Kansas Board of Healing Arts. During the roundtable discussion between family physicians and APRNs, the APRNs highlighted their desire to practice medicine aligning to that of family physicians, but also stated repeatedly they'd be practicing *nursing* – because, of course, they are nurses – and should, therefore, be licensed by the Board of Nursing. The contradiction became increasingly clear as the roundtable progressed.

Chair Landwehr has expressed a desire for the APRNs to resume outside discussions with physicians, in hopes a joint compromise can be reached. House Majority Leader Dan Hawkins (R-Wichita), who has in the last year become a strong champion of APRN independent practice, also seems to be taking a step back and encouraging negotiation between the interested parties.

Time has proven itself to be a friend of resetting what seemed like a runaway train early in the session. This reset also provides a renewed opportunity for family physicians to engage with their legislators, explaining why holding the line on the practice of medicine is so critical to patient care quality and safety across our state.

➤ **T21, Curbing Tobacco and E-cigarette Usage**

Two key tobacco-related bills received action this session. HB 2450 was requested by Attorney General Derek Schmidt and would have added electronic cigarettes to the Kansas Clean Indoor Air Act. The bill did receive a hearing in House Judiciary, but was stricken from further consideration prior to Turnaround.

[HB 2563](#) would codify the federal government's recent action to raise the age of purchasing cigarettes, e-cigarettes, and other tobacco products to 21. KAFP testified in support of this bill, which was the result of negotiated work between House Federal and State Affairs Committee Chair John Barker (R-Abilene) and committee member and family physician, John Eplee (R-Atchison).

The bill was amended in committee deliberations and contains the following key provisions:

- Raises the age of purchase of tobacco and vaping products to 21;
- Aligns e-cigarette and flavors language with federal guidelines. It bans most vape flavors, exempting menthol, which also aligns with federal law. "Alternative nicotine products" was added to the regulation;
- Imposes a penalty on youth caught possessing these products of \$25 and a mandatory court appearance;
- Maintains the retailers' regulatory fee at \$25, rather than raising it to \$100 requested by anti-tobacco advocates;
- Sets mandatory implementation at July 1, 2021, to allow a smoother transition for retailers; and
- Bans smoking in state-owned casinos, which are currently exempt from the Clean Indoor Air Act.

While it is arguably an imperfect bill, its passage would nonetheless represent a decisive step forward in curbing the growing epidemic of teen smoking and vaping in Kansas. The bill is from an exempt committee and, therefore, remains alive for further action this session.

### ➤ **Vaccinations**

A vaccination bill opposed by KAFP and other health advocates, [HB 2601](#), received a public hearing in February, but was not acted upon by the House Education Committee. The bill would have weakened the ability of the Kansas Secretary of Health and Environment to regulate mandatory vaccinations and provided greater oversight to the Kansas Legislature.

The bill set up a contentious battle between those believing vaccines to be potentially harmful and/or believing parents should have full authority over the vaccinations of their children, and public health professionals, who maintain the authority should remain with KDHE, where it is not as likely to be controlled by political whims and persuasions.

HB 2601 did not gain the support needed to pass the House Education Committee, much less the full House. It is not an exempt bill and is dead for this session.

### **Family Doctor of the Day**

KAFP is again sponsoring 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.

Appreciation goes out to the following members, who provided FDOD care this past week: **Dr. Mike Kennedy**, Lenexa; **Dr. Jennifer Bacani-McKenney**, Fredonia; and **Dr. Keith Ratzlaff**, Olathe. Thank you for your gift of service!

### **Blessing a Bill**

Bills being “blessed” is a common reference used at the Kansas Capitol, but what does that actually mean? While it allows bills the opportunity to stay alive for further legislative consideration, there is actually a formal process attached to that blessing.

Legislative leaders cannot just pass a blessing on bills and allow them to receive further legislative action. Remember, bills introduced or referred to an exempt committee can receive action by the Legislature at any point in the session.

The actual blessing occurs by the leaders in each chamber re-referring a bill housed in a non-exempt committee, to an exempt committee – most often the House Appropriations or Senate Ways and Means Committee. That action exempts or “blesses” the bill and, most often, the bill is then re-referred back to its committee of origin.

### **KAFP Priority Bills**

- [HB 252](#) – bipartisan bill expanding Medicaid to 138% FPL and implementing a health plan reinsurance program  
*Status: amended, then voted down in S-Public Health & Welfare; non-exempt*  
**KAFP provided proponent testimony**
- [SB 350](#) - Amending healthcare stabilization fund coverage requirements and membership on the board of governors and providing for the dissolution of the fund, should the Supreme Court rule that caps on non-economic damages in medical cases is unconstitutional. This is a proactive response to the Hilburn ruling.  
*Status: re-referred to S-Ways & Means; exempt*  
**Bill introduced at request of KMS**

- [SB 381](#) – Authorizing medical student and residency loan assistance to encourage the practice of obstetrics and gynecology in medically underserved areas of the state (separate fund from primary care MSLP)  
*Status: passed by Senate, 25-15; moves to House*  
KAFP provided neutral testimony, with recommendation to ensure it does not interfere with MSLP for primary care
- [HB 2412](#) – a bill providing independent and expanded scope of practice to APRNs  
*Status: referred to H-Health & Human Services; roundtable discussion on 2/19; exempt bill*
- [HB 2450](#) – a bill request by the Kansas Attorney General to add electronic cigarettes (vapes) to the Clean Indoor Air Act  
*Status: passed favorably in H-Judiciary; on H-General Orders; stricken from Calendar & no further action this session*
- [HB 2563](#) - Increasing the minimum age to purchase or possess cigarettes and tobacco products from 18 to 21; prohibiting cigarette vending machines and flavored vaping products  
*Status: passed, as amended, by H-Federal & State Affairs on 2/13; on H-General Orders*  
KAFP provided proponent testimony, with recommendation to remove menthol exemption
- [HB 2570](#) – Limiting certain Schedule II, III and IV opioid prescriptions to a seven-day supply, with certain exceptions, and allowing pharmacists right to refuse any prescriptions of more than seven days  
*Status: re-referred to H-Appropriations; re-referred to H-Health & Human Services*
- [HB 2601](#) - Specifying the required childhood immunizations for childcare facility and school attendance; more limited control by KDHE  
*Status: hearing in H-Education on 2/13; dies in committee; non-exempt*  
KAFP provided opponent testimony

Note: many of the bill web links go to their fiscal notes (FN) or supplemental notes (SN), rather than the actual bill, as these notes provide more brief and clear descriptions of the bills. Following this update, non-exempt or defeated bills will no longer be listed.

### **Week of March 2<sup>nd</sup>**

The Legislature returns from a short break on Wednesday, March 4<sup>th</sup>, with few hearings scheduled the balance of the week.