

LEGISLATIVE UPDATE

March 15, 2020

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COVID-19 May Upend Legislative Schedule

The rapidly developing action aimed at “flattening the curve” of the COVID-19 infection rate is already beginning to impact the Kansas Capitol. As confirmed cases began popping up in the state, Governor Kelly announced emergency action that radically restricts those able to enter the Statehouse. Only employees, legislators, registered lobbyists, and those presenting committee testimony are being allowed into the building.

On Friday, the House Appropriations Committee rushed to finalize the FY 2020-2021 “mega” budget bill, in hopes the Senate would enter conference committee negotiations that day and into the weekend. The Senate, however, adjourned early Friday and announced they will return to work on Monday. Later Friday afternoon, the House followed suit.

With the COVID-19 public health emergency mushrooming daily, there is a strong likelihood the Legislature will break for first adjournment later in the week, instead of April 3, and return at its regularly scheduled date at the end of April.

The only item needing passage for state operations to continue is the mega budget bill, which could be finalized as soon as mid-week, in preparation for possible shutdown of the Capitol.

Hearing on HCSF, Hilburn Response This Week

A hearing on [SB 493](#), addressing the Health Care Stabilization Fund (Fund) has been scheduled in the Senate Public Health and Welfare Committee on Wednesday. The bill was drafted at the request of KMS, as a proactive response to a possible application of last year’s *Hilburn v. Enerpipe* decision by the Kansas Supreme Court, to medical malpractice cases in the future.

The bill has two primary features, the first of which is to increase the required minimum coverage limits from the Fund, in response to adequacy concerns identified in the *Miller v. Johnson* ruling several years ago. The bill would increase the required minimum coverage limit to \$1 million per claim, up from \$300K, as well as allowing health care providers the option of obtaining an additional \$1 million excess coverage from the Fund.

The second piece would provide for the orderly dissolution of the Fund by the Kansas Insurance Commissioner, should the Court find the non-economic damages cap unconstitutional, by holding that the *Hilburn* decision applies also to medical malpractice claims. That decision would trigger within one year the dissolution of the Fund and the elimination of mandatory liability insurance coverage requirements for health care providers currently covered by the Fund.

KAFP President Dr. Sheryl Beard will present testimony in support of SB 493 and its immediate passage.

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 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

- [SB 493](#) – 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: hearing in S-Public Health & Welfare on 3/18
KAFP will provide proponent testimony
- [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 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

Note: many of the bill weblinks 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.

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 **Dr. Jennifer Thuener**, Wichita, who provided FDOD care this past week. Thank you for your gift of service!

Note: In the wake of new restrictions related to the COVID-19 pandemic, the Family Doctor of the Day Program has been suspended indefinitely.

Week of March 16-20

Wednesday, Mar 18

9:30 am, S-Public Health & Welfare, Room 118-N

Hearing on: SB 493 – Amending health care stabilization fund coverage requirements & membership on the board of governors and providing for the dissolution of the fund under specified circumstances

1:30 pm, H-Health & Human Service, Room 546-S

Presentations on:

- *Brain Injury Waiver*
- *KDHE Palliative Care Program*