2019 Legislative Session Recap
Friends, Pediatricians and Advocates —

The Texas Legislative Session has once again come to a close. Enclosed, you will find our Texas Pediatric Society 2019 Legislative Recap, and we are happy to report that TPS secured many big legislative victories for Texas children and the pediatricians who care for them!

Thanks to the amazing work of our Executive Legislative Committee, TPS advocacy staff, and to all the TPS members who took the time to speak with their representatives and to come to Austin to testify on behalf of or against relevant bills, many of our goals were accomplished this year. Additionally, none of this would have been possible without the numerous child advocacy coalitions that partner with TPS or without the everlasting partnership with the Texas Medical Association and other specialty societies within the House of Medicine.

The 86th Session was once again a fast and furious 140 days with upwards of 6,000 bills filed and many competing priorities for lawmakers to grapple with. It was TPS’ crucial role to ensure that lawmakers focus on the needs of children. To do this, you may remember that we outlined several key priority areas at the start of session, which included:

- Strengthening Texas Medicaid and CHIP;
- Investing in early childhood programs;
- Increased access to mental health services;
- Enhancing newborn screening;
- Implementing best practice immunization policies;
- Refocusing and improving our child welfare system;
- Alleviating child abuse and neglect;
- Reducing childhood injury;
- Promoting child health and wellness; and
- Investing in the medical education pipeline.

Some of the big wins for kids and pediatricians detailed in the following report include the passage of Tobacco 21 legislation, better payments for newborn screening, markedly improved funding for Early Childhood Intervention, and the total stonewall of all anti-vaccination bills. In addition, we saw the passage of one of the most comprehensive mental health services bills ever in the passage of SB 10 (as amended to SB 11), as well as forward movement in the streamlining of Medicaid managed care and in the implementation of the Family First Preventive Services Act.

While we celebrate successes, we must also continue to be alert for the strong influence that certain groups are wielding on issues such as the role of child protective services, anti-vaccination bills, and the seemingly innocent rear facing car seat bill, which ended up being vetoed by Governor Abbott despite broad bipartisan support.

None of this would have been possible without the more than 40 instances of pediatricians testifying at the Capitol and the countless phone calls, emails, and meetings with our state representatives. Even though we are now entering the interim, this is a great time for you to reach out to your legislators and get to know them while things are relatively calm in advance of the 87th Legislative Session in 2021. If you do not know who represents you, it is easy to find that information here: https://capitol.texas.gov.

As always, it is our privilege to have led our Society’s advocacy efforts this session. We hope you value the enclosed summary and encourage you to reach out to us with any questions, concerns or policy ideas as we all strive to ensure that the practice of pediatrics in Texas is both fulfilling and economically viable and that the children of Texas are safe and healthy.

Sincerely,

Seth D. Kaplan, MD
Executive Legislative Committee Co-chair

Joyce Elizabeth Mauk, MD
Executive Legislative Committee Co-chair

Ben G. Rainer, MD
President
Strengthen Texas Medicaid and CHIP

**PRIORITY:** Improve network adequacy by increasing Medicaid rates to Medicare levels.

- Medicaid/CHIP Program Funding: Medicaid and CHIP funded caseload growth in 2020-21, but not cost growth (patient acuity and healthcare inflation). **Cost growth to be included in the Supplemental Budget passed next session.**

- Medicaid Physician Rate Increases: The House of Medicine requested Medicaid rate increases to Medicare levels. **$0 for increased physician payments included in final budget.**

**PRIORITY:** Streamline Medicaid managed care by eliminating unnecessary administrative burdens.

  - Requires the Texas Health and Human Services Commission (HHSC) to establish a standard definition of grievance across all Medicaid divisions, standardize grievance reporting and tracking, develop expedited process for resolution of grievance related to access to care, and ensure a “no-wrong-door” policy for patients or physicians to submit a grievance;
  - Directs HHSC to phase out use of the Texas Provider Identifier and to use only physicians’ National Provider Identifiers to eliminate Medicaid hassles;
  - Requires Medicaid MCOs to be accredited by a nationally recognized accrediting entity, such as NCQA, by 2022; and
  - Requires HHSC, to the extent feasible, to publicize easy to read data on the quality of health care provided by Medicaid MCOs.

  » **Passed both chambers and signed by the Governor; effective September 1, 2019.**

  - Directs the STAR Kids Advisory Committee to evaluate feasibility of adopting an assessment tool for children requiring Private Duty Nursing to help streamline prior authorization for PDN services;
  - Specifies that HHSC shall conduct a review at least every two years on a sample of STAR Kids cases to assess whether prior authorization criteria used by the STAR Kid MCOs are based on publicly available data and are not being used to negatively affect patient care;
  - Restricts HHSC from imposing prior authorizations or other barriers to prescription drug services for children enrolled in STAR Kids, except for prior authorizations to ensure patient safety, such as if a drug is contraindicated, or to prevent waste, fraud or abuse. Additionally, HHSC must ensure that children on STAR Kids receive continued access to prescription medication even if the drug is not on the Medicaid formulary and may not impose any protocol to require a STAR Kids’ enrollee to use a prescription drug or sequence of drugs not recommended by the child’s physician.

  » **Passed both chambers and signed by the Governor; effective September 1, 2019.**

  - Increases transparency and accountability relating to Medicaid prior authorizations (PA), including requiring MCOs to provide explicit clinical rationale for PA denial, a clear, specific list and description of the documentation needed to fulfill a PA request, and a reasonable opportunity for the physician requesting the PA to speak to a medical director within the same or similar specialty and with experience treating the same patient population on whose behalf the PA was submitted.

  » Codifies current MCO contract requirement that MCOs issue a decision on a PA request for a non-hospitalized patient within 3 business days of receipt of the request. Additionally, HHSC must establish, with input from the Statewide Medicaid Managed Care Advisory Committee, a separate process and timeframe wherein MCOs will review and issue determinations for PA requests lacking sufficient documentation, not to exceed federal timeframes (generally 14 calendar days). The provision states that “it is the intent of the legislature that these provisions allow sufficient time to provide necessary documentation and avoid unnecessary denials without delaying access to care;”

  » Requires MCOs to maintain on their websites a current catalogue of PA requirements and to annually review all PA requirements to ensure each is up-to-date, evidence-based, and distinguishes between categories of patients;

  » Improves coordination of benefits for patients with Medicaid as secondary coverage, with emphasis on improving wrap around medical and prescription benefits for children with disabilities who are dually-enrolled in commercial insurance and STAR Kids;

  » Establishes an External Medical Review process, similar, though not identical, to commercial Independent Review Organizations, to allow Medicaid patients to request an independent review of an MCO’s decision to reduce or deny a medical service based on medical necessity or an HHSC denial of eligibility based on functional or medical need;

  » Requires HHSC, in collaboration with the STAR Kids Advisory Committee, to consider changes to the initial and subsequent assessment tools for STAR Kids enrollees with the goal of reducing the time needed to complete the assessment and to improve training and consistency in the assessment tool across different MCOs and care coordinators. Furthermore, HHSC must streamline the STAR Kids annual care needs assessment, for children without significant change in function; and

  » Directs HHSC to develop a clear and easy process to allow patients with complex medical needs to continue receiving care from a specialty physician or provider with whom the patient has an established relationship.

  » **Passed both chambers and signed by the Governor; effective September 1, 2019.**
Strengthen Texas Medicaid and CHIP (continued)

**PRIORITY:** Improve access to contraception for teens enrolled in the CHIP program.

- **HB 800 (Rep. Howard/Sen. Rodriguez):** The bill would have included contraceptives for family planning as a benefit under the CHIP program. The bill did not receive a hearing in the Senate Health and Human Services Committee after being passed out of the House.

Other notable passed Medicaid/CHIP riders and legislation:

- **HB 1 (Rep. Zerwas/Sen. Nelson), HHSC Medicaid Cost Containment Rider:** $350M General Revenue ($900M All Funds)1 deducted from Medicaid for cost containment. Rider specifies that savings must be achieved “without impacting amount, scope, or duration of services or otherwise impacting access to care.” Included in final budget.
- **HB 25 (Rep. M. Gonzalez/Sen. Zaffirini):** Directs HHSC to establish a medical transportation pilot program allowing pregnant and postpartum women to request rides to and from medical appointments more quickly and to bring their children with them rather than having to secure childcare. Passed.
- **HB 1063 (Rep. Price/Sen. Buckingham):** Requires HHSC to provide home telemonitoring services to pediatric patients who are diagnosed with end-stage solid organ disease, have received an organ transplant, or require mechanical ventilation. Also repeals the September 2019 sunset date for Medicaid coverage of home telemonitoring services. Passed.
- **HB 1111 (Rep. S. Davis/Sen. Kolkhorst), passed as an amendment to SB 748 (Sen. Kolkhorst/Rep. S. Davis):** Instructs HHSC to test innovative strategies to improve maternal health. Specifically, the amendment establishes multiple pilot initiatives to test opportunities to improve prenatal, pregnancy and postpartum services. Passed.
- **HB 1576 (Rep. Phelan/Sen. Buckingham):** Allows Medicaid MCOs to schedule on-demand transportation for their enrollees (unofficially referred to as the Uber for Medicaid bill). Establishes driver requirements to ensure patient safety. Passed.
- **SB 670 (Sen. Buckingham/Rep. Price):** Requires HHSC to encourage health care providers and health care facilities to provide telemedicine medical services and telehealth services. Requires HHSC to implement many changes to ensure that Medicaid managed care organizations reimburse for telemedicine and telehealth services at the same rate as in-person medical services. Passed.
- **SB 750 (Sen. Kolkhorst/Rep. Button):** Directs HHSC to develop, in collaboration with Medicaid MCOs, cost-effective, enhanced prenatal services for high-risk pregnant women and evaluate postpartum services available under Healthy Texas Women’s Program, and based on that evaluation, develop an enhanced but narrow postpartum benefit available for certain women for no longer than 12 months following a woman’s enrollment. Passed.

**Increase Access to Mental Health Services**

**PRIORITY:** Create a Texas Child Psychiatry Access Network (CPAN) to support primary care pediatricians and alleviate mental health workforce challenges.


Other notable passed mental health legislation:

- **HB 18 (Rep. Price/Sen. Watson):** The omnibus school mental health bill which includes multiple ways in which to bolster the capacity of schools to help children who are struggling with mental health concerns. Includes school professional training, suicide prevention, implementation of trauma-informed care, and social-emotional best practices. Passed.
- **SB 11 (Sen. Taylor/Rep. G. Bonnen):** The omnibus school safety bill that provides schools a “school safety” funding allotment to support locally driven approved safety and security activities including support for student mental health and suicide prevention. Passed.

**Implement Best Practice Immunization Policy**

**PRIORITY:** Address the rising numbers of exemptions and delinquencies from school vaccination requirements.

- **SB 329 (Sen. Seliger/Rep. Sheffield):** Makes de-identified campus level vaccine exemption rates publicly available on the DSHS website. Left pending in Senate Health and Human Services Committee; failed to pass.
- **HB 1 (Rep. Zerwas/Sen. Nelson), Department of State Health Services Rider (Sheffield):** Instructs DSHS to study and assess the direct and indirect economic costs incurred by the department and local public health organizations in responding to vaccine preventable diseases outbreaks. Included in final budget, but was removed during Conference Committee.

**PRIORITY:** Continue to protect our state’s immunization policies and educate lawmakers about the importance of community immunity.

- **HB 1 (Rep. Zerwas/Sen. Nelson), Department of State Health Services Rider (Sheffield):** Instructs DSHS to study and assess the direct and indirect economic costs incurred by the department and local public health organizations in responding to vaccine preventable diseases outbreaks. Included in final budget.
- **HB 1490 (Krause):** Relating to claiming an exemption from required immunizations for public school students. Never received a Committee hearing; failed to pass.
- **HB 3458 (Dutton):** Relating to the administration of an immunization or vaccination by a pharmacist. Left pending in House Public Health Committee; failed to pass.
- **HB 4274 (Zedler):** Relating to informed consent to immunizations for children. Never received a Committee hearing; failed to pass.
- **HB 4418 (Stickland):** Relating to the authority of an advanced practice registered nurse to sign or issue certain documents. Never received a Committee hearing; failed to pass.
- **SB 2350 (Hall):** Relating to the prohibited administration of certain vaccinations. Never received a Committee hearing; failed to pass.
- **SB 2351 (Hall):** Relating to discrimination by a health care provider based on immunization status. Left pending in Senate Health and Human Services Committee; failed to pass.

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1 “All funds” (AF) includes all funding streams within the state budget: general revenue (GR), general revenue dedicated, federal, and other, such as the Economic Stabilization Fund, also known as the Rainy Day Account.
Enhance Newborn Screening

**PRIORITY:** Fully fund the Texas Newborn Screening Program to test children for X-ALD
- HB 1 (Rep. Zerwas/Sen. Nelson): Fully funds the Texas Department of State Health Services (DSHS) state laboratory shortfall, repairs, and renovation exceptional item request. **Included in final budget.**
- SB 500 (Sen. Nelson/Rep. Zerwas): The Supplemental Appropriations Bill provides $7.9M GR to implement X-ALD newborn genetic screening. **Passed both chambers and signed by the Governor; effective June 6, 2019.**
- SB 747 (Sen. Kolkhorst/Rep. Lucio III): Establishes a dedicated Newborn Screening Preservation Account, funds from which will be used to support the laboratory and to pay for costs of adding new genetic screening tests to the current panel. **Passed both chambers and signed by the Governor; effective September 1, 2019.**

**PRIORITY:** Address the burden for primary care pediatricians billing for newborn screening kits
- SB 747 (Sen. Kolkhorst/Rep. Lucio III): Directs DSHS to publish on its website the cost of newborn screening kits as well as how to claim the full reimbursement amount for them. Additionally, it amends the insurance code to specify that HMOs must cover the costs of the newborn genetic screening kit and its administration as a component of the newborn well-baby exam and prohibits plans that cover maternity services from limiting or excluding newborn screening services. **Passed both chambers and signed by the Governor; effective September 1, 2019.**

Invest in Early Childhood Programs

**PRIORITY:** Fully fund our Early Childhood Intervention (ECI) program to ensure all eligible children receive services.
- HB 1 (Rep. Zerwas/Sen. Nelson): Increases funding for ECI by $31M GR of the requested $72M GR exceptional item requested by HHSC. **Included in final budget.**

**Other notable passed early childhood legislation:**
- HB 3 (Rep. Huberty/Sen. Taylor): The major school finance legislation from the session includes several early childhood provisions including full day pre-k for qualifying students. **Passed.**
- SB 568 (Sen. Huffman/Rep. G. Bonnen): Provides additional information relating to child care safety records to parents and improves the child care licensing process to protect against bad actors. **Passed.**
- SB 706 (Sen. Watson/Rep. Guerra): Reestablishes an investigation unit at HHSC to find illegal child care operations that may be putting children in danger and avoiding health and safety regulations. **Passed.**
- SB 708 (Sen. Watson/Rep. Raney): Directs HHSC to collect data on child to staff ratios in child care facilities and serious violations such as child injuries. **Passed.**
Promote Child Health and Wellness

**PRIORITY:** Ensure children served by licensed child care providers receive nutritious foods and optimal physical activity to develop lifelong healthy habits.

- **SB 952 (Sen. Watson/Rep. Lucio III):** Clarifies and updates minimum standards for child care centers and homes on nutrition, physical activity and screen time to align with best practices endorsed by the American Academy of Pediatrics. **Passed both chambers and filed without Governor’s signature; effective September 1, 2019.**

**PRIORITY:** Ensure all Texas schools provide adequate, quality physical education

- **HB 455 (Rep. Allen/Sen. Watson):** Requires school districts to adopt a formal recess policy for the district. It does not set out requirements for what the recess policy must be. Rather, the bill requires that the policy specify the number of minutes (decided by the district) for recess and whether recess may be withheld as a form of punishment. To assist with this policy making, the Texas Education Agency will develop model policies for school districts to use. **Passed both chambers and vetoed by Governor.**

**PRIORITY:** Raise the tobacco and e-cigarette sale age to 21 to reduce tobacco use in teens and young adults

- **SB 21 (Sen. Huffman/Rep. Zerwas):** Raises the age to purchase, consume, or possess tobacco or e-cigarette products to 21 except for those in the military. Sent to the Governor. **Passed both chambers and filed without Governor’s signature; effective September 1, 2019.**

Other notable passed child health and wellness legislation:
- **SB 1834 (Sen. Alvarado/Rep. Rose):** Allows HHSC to develop a pilot program in one or more areas of the state for a Supplemental Nutrition Assistance Program (SNAP) beneficiary to receive an incentive when purchasing fresh fruits or vegetables to be used towards additional fruit and vegetable purchases. **Passed both chambers and filed without Governor’s signature; effective September 1, 2019.**

Refocus and Improve our Child Welfare System

**PRIORITY:** Invest in the creation and implementation of a strategic plan to maximize federal dollars made available through the Family First Prevention Services Act.

- **SB 355 (Sen. West/Rep. Klick):** Requires the Department of Family and Protective Services (DFPS) to develop a strategic plan for implementing provisions of the Family First Prevention Services Act including foster care prevention services and placement of children in settings eligible for federal financial participation under the Act. **Passed both chambers and filed without Governor’s signature; effective June 14, 2019.**

Other notable passed child welfare legislation:
- **HB 72 (Rep. White/Sen. Paxton):** Allows adoptive parents to opt into STAR Health Medicaid for a child with a chronic health condition and establishes a program that protects the continuity of care for each child following adoption. **Passed.**
- **HB 2363 (Rep. Harris/Sen. Birdwell):** Prohibits DFPS from requiring foster parents to keep firearms unloaded, locked, and stored separately. They must now only be stored in a locked container. **Passed.**
**Alleviate Child Abuse and Neglect**

**PRIORITY:** Invest in regional coordinators to improve the efficacy and capacity of local Child Fatality Review Teams.

- **HB 1** (Rep. Zerwas/Sen. Nelson), Article XI Department of State Health Services Rider (J. Turner): Appropriated $435,000 to DSHS to implement a coordinator position pilot program with two Child Fatality Review Teams to increase their capacity and efficacy. **Included in House budget, but not in the final Conference Committee budget.**

**PRIORITY:** Increase funding for MEDCARES grant program to bolster capacity for assessment, diagnosis, and treatment of child abuse and neglect in existing MEDCARES sites.


Other notable passed child abuse and neglect legislation:

- **SB 195** (Sen. Perry/Rep. Parker): Requires DFPS to publicly report state-level parental substance use and prenatal substance use exposure data relating to abuse or neglect cases. **Passed.**

**Reduce Childhood Injury**

**PRIORITY:** Clarify current state statute to ensure children sit rear facing in their car seat until the age of 2.

- **HB 448** (Rep. C. Turner/Sen. Zaffirini): Updates Texas car seat laws to require children below the age of two to remain rear facing. Changes the current car seat offense to a secondary offense and requires a warning be given prior to a citation. **Passed both chambers and vetoed by Governor.**

**PRIORITY:** Promote awareness of safe firearm storage practices.

- **HB 1** (Rep. Zerwas/Sen. Nelson), Department of Public Safety Rider (Howard): Appropriates $1M to a Statewide Safe Gun Storage Campaign to raise public awareness on current Texas safe storage laws and can include online materials, printed materials, public service announcements, or other advertising media. **Included in final budget.**

Other notable passed injury prevention legislation:

- **HB 496** (Rep. Gervin-Hawkins/Sen. Lucio): Requires all districts to provide for bleeding control stations in easily accessible areas on campus, placed and stocked based on determinations made at the local level. It also requires annual training on the use of bleeding control kits for relevant staff members and students in seventh grade or above. **Passed both chambers and signed by the Governor, effective June 15, 2019.**

**Continue to Invest in the Medical Education Pipeline**

**PRIORITY:** Maintain funding for the Statewide Preceptorship Program to encourage more students to practice in primary care fields including pediatrics.

- **HB 1** (Rep. Zerwas/Sen. Nelson): **Full $3M funding for the Statewide Preceptorship Program in the final budget.**

Other notable passed medical education legislation:

  - Preserves the 1.1. to 1 ratio of first-year residency positions for each Texas medical school graduate;
  - Provides $3 million for Community Psychiatry workforce expansion;
  - Invests $1.5 million for Child/Adolescent Psychiatry fellowships;
  - Adds $4.9 million to increase by $5,000 annually loans available under the Physician Education Loan Repayment Program (PELRP).
  - **All included in the final budget.**
2019 LEGISLATIVE SESSION
ADVOCACY SNAPSHOT

Big policy wins for Texas children!

$31 MILLION
in Additional Funding to Improve Access to Early Childhood Intervention Services

Created the Texas Child Psychiatry Access Network to Support Primary Care Pediatricians and Alleviate Mental Health Workforce Shortages

Strengthened the Texas Newborn Screening Program for Long-term Success and Improve Payment for NBS Testing

Improved Early Childcare Standards Related to Nutrition, Physical Activity, and Screen Time

Championed Major Reforms to Medicaid Managed Care to Improve Access to Care and Reduce Administrative Burden on Pediatricians

Raised the Age of Tobacco and E-cigarette Use and Purchase to 21

86TH LEGISLATIVE SESSION FAST FACTS

7,851 total bills filed during the 2019 session

TPS tracked 450+ bills this session

~1,400 bills passed

35+ TPS pediatricians testified

63 Medical Students/Residents attended 2019 Advocacy Day

TPS recognized as the leading authority on child health in Texas

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