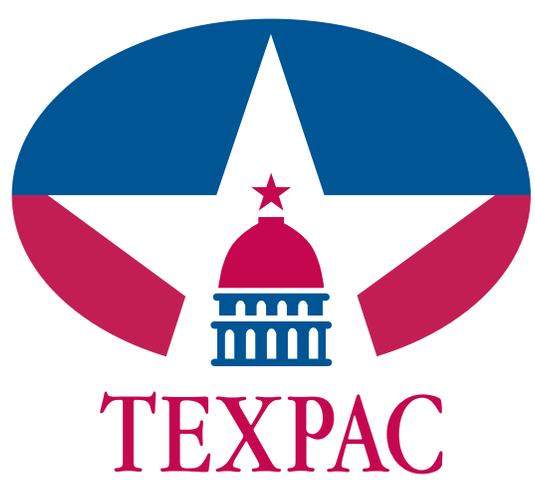




86TH LEGISLATIVE SESSION

CANDIDATE
BRIEFING
DOCUMENT





TEXAS MEDICAL ASSOCIATION
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January 2018

Dear Candidate:

Congratulations on your decision to lend your skills, background, and commitment to improving the lives of Texans by running for public office.

The Texas Medical Association Political Action Committee (TEXPAC) is the political voice of more than 51,000 Texas Medical Association physician and medical student members, and nearly 4,000 Texas Medical Association Alliance members. Organized more than 55 years ago, TEXPAC is one of the oldest and largest bipartisan PACs in the state and ranks first nationally among all state medical association PACs.

TEXPAC provides financial and campaign support to candidates running for state and federal office who will stand up for patients and their physicians and the sacred patient-physician relationship. We need candidates who will put Texas patients before Texas politics. We cannot continue to procrastinate, put off making difficult decisions, or focus on issues that do little to improve the health of Texans.

Legislators, physicians, hospital systems, and community leaders must create a more sustainable and efficient health care system. A viable Texas economy must ensure every Texan has access to affordable and quality care when he or she needs it. It's incumbent upon us to create and support that system.

You have the opportunity to make real, substantive changes in 2019. Texas physicians look forward to working with you to make that happen. These are the four items TEXPAC examines to determine the level and type of support we put behind endorsed candidates:

- A candidate's philosophy and positions on legislation affecting physicians' ability to care to their patients,
- Recommendations from local TMA physicians and alliance members,
- Demographics of the district, and
- The candidate's chances of winning the election.

Please review Texas medicine's top legislative issues and questions. We look forward to visiting with you and learning firsthand what your position is on these topics, and your commitment to improving the health of Texans in your district.

Please contact the TEXPAC office at (512) 370-1361 if you would like to learn more about our organization.

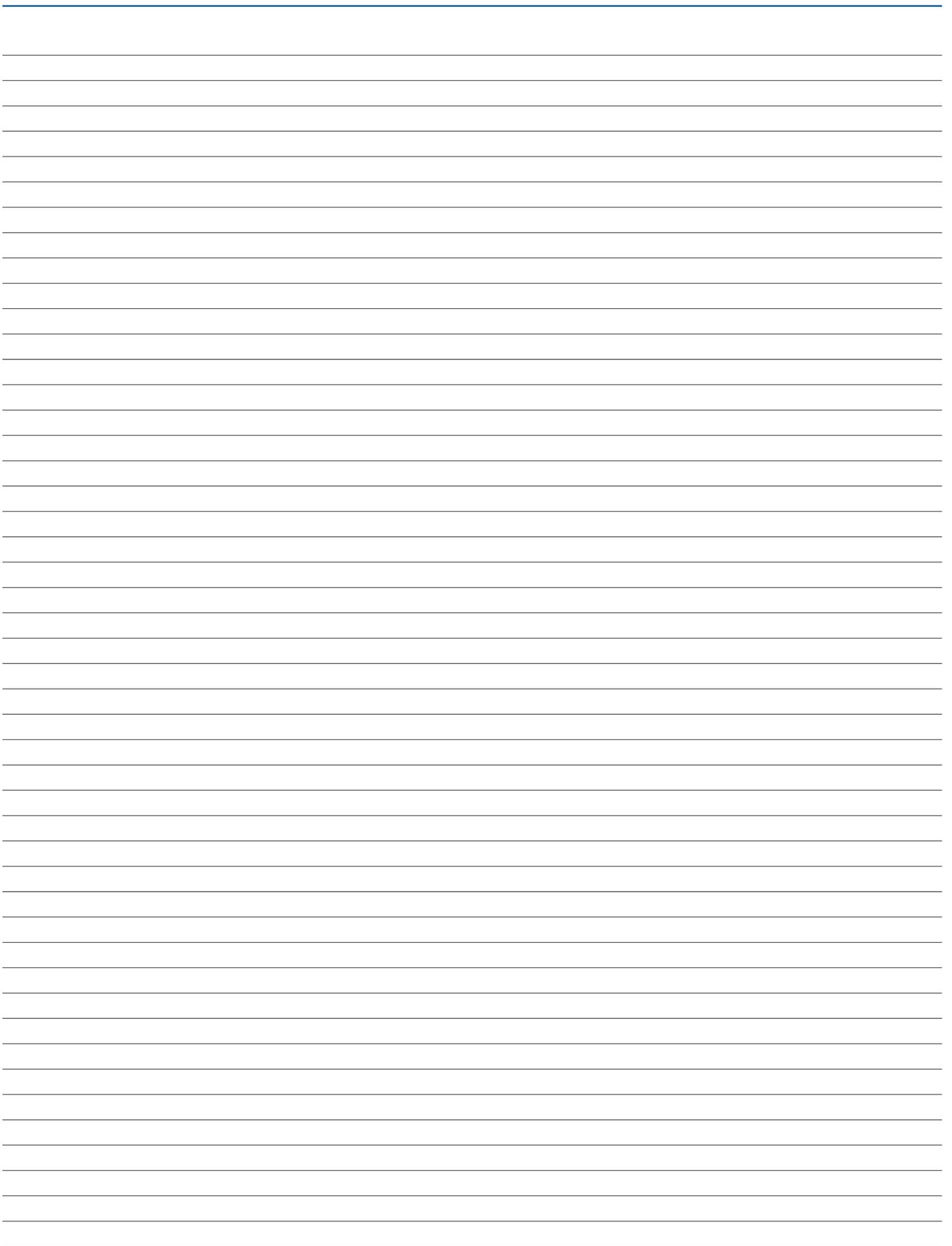
Sincerely,

Robert Rogers, MD

Chair, TEXPAC Board of Directors
Fort Worth

Alexander B. Kenton, MD

Chair, Candidate Evaluation Committee
San Antonio



Caring for Patients in a Time of Change: TMA's 2019 Legislative Priorities

Protect the Trusted Patient-Physician Relationship

The patient-physician relationship is unique in modern American life. Patients place their lives in their physicians' hands. Not only must they trust in their doctor's knowledge, experience, and skill, but also they must trust that their physician is acting in their best interest — neither motivated nor distracted by competing interests. In return, the physician is responsible for recommending and applying the most appropriate, science-based treatments for the patient's individual circumstances and medical conditions.

Protecting the patient-physician relationship lies at the heart of Texas' legal doctrine banning the corporate practice of medicine. Patients must be able to trust that the tests and treatments their physicians recommend are tailored to their individual medical needs and are shielded from improper lay influence. Each patient encounter must be governed by the ethics of the medical profession, the integration and application of advancing medical knowledge, and the partnership with the patient in making good decisions for that patient's health.

At TMA's urging, the 2011 Texas Legislature passed groundbreaking laws that protect patients and their physicians' ability to exercise independent medical judgment free from interference by a hospital administrator or corporate officer. At the same time, we preserved Texas' ban on the corporate practice of medicine with several carefully delineated expansions for physician employment. These included strong protections for physicians employed by or associated with hospital-controlled health care corporations, rural county hospital districts, large urban hospital districts, and the evolving delivery systems propelled by the Affordable Care Act.

Texas is the first state in the country to take the critical step of protecting physicians' clinical autonomy. The laws place responsibility for monitoring and enforcement with the Texas Medical Board (TMB), which is the agency responsible for upholding the standards of medical practice in the state. These laws remained firmly intact during the intervening legislative sessions. Moving forward, it's critical these laws are protected.

Medicine's Recommendations

- Support strong statutory provisions that protect independent medical judgment for physicians in all employment relationships.
- Strengthen state laws to ensure that corporate entities cannot dictate medical decisions to the detriment of patient care.
- Strengthen statutory provisions to protect physicians' due process rights and prohibit retaliation for patient advocacy in all professional relationships.
- Oppose legislation that allows the government to dictate care or that prevents physicians from exercising their moral or ethical conscience or from providing medically appropriate care.

MEDICINE'S RECOMMENDATIONS

- Strongly oppose any efforts to expand scope of practice beyond what is safely permitted by nonphysician practitioners' education, training, and skills.
- Support only those changes to scope of practice laws that protect patient safety, are consistent with team care, are based on objective educational standards, and improve patient care services with appropriate regulatory oversight by TMB.

Support the Physician-Led Medical Team Model of Care

Texas needs more physicians and other health care professionals working in all parts of the state, especially in rural and border Texas. But the real gains in improving access to and coordination of patient care will come largely from solidifying and expanding the use of physician-led teams. Team-based care capitalizes on the efficiencies of having the right professional providing the right services to the right patient at the right time ... but with overall direction and coordination in the hands of physicians.

In 2013, lawmakers strengthened this model by passing legislation that set up a more collaborative, delegated practice among physicians, advanced practice registered nurses (APRNs), and physician assistants (PAs). That law reinforces the importance of physician-led medical care teams, recognizes the skills all practitioners bring to patient care, and allows the delegating/supervising physician greater flexibility. At the same time, it recognizes that independent prescribing is the practice of medicine. Nurse practitioners are valuable members of the patient care team. They bring valuable skills from a foundation of care and comfort, but our training is very different. The typical physician completes between 12,000 and 16,000 hours of clinical training grounded in diagnosis and treatment, compared with 500 to 1,500 hours for APRNs.

In the coming decade, integrating the talents of a diverse medical team under physician leadership will be a key challenge. Without physician direction, supervision, and management (or if the system devolves to accommodate teams led by practitioners with lesser training), medical care will trend toward even more fractured care, higher-than-necessary utilization, and creeping inefficiencies. This will lead to even higher costs, duplication of services, and lower-quality patient care. These inefficiencies in turn will hamper efforts to improve access to care.

QUESTIONS

- 1 Would you oppose any efforts by nonphysicians to practice beyond their education, training, and skills?
- 2 Would you stand by agreed-to legislation among physicians, APRNs, and PAs that was passed into law in 2013?
- 3 Do you believe that nonphysician practitioners who seek legislation to allow them to perform a medical diagnosis and independently prescribe should be licensed and regulated by TMB?

Improve Access to Care

Physicians are critical to Texas' health care system if it is to be cost-effective. Otherwise, the state's efforts to increase preventive care, improve medically necessary treatment for the chronically ill, and reduce inappropriate emergency department utilization will falter.

Of paramount concern to our members and the patients we care for is that Texas enact a compassionate budget that rejects deep cuts in the state's health care safety net, including the state's public and mental health systems, as such cuts ultimately will cost Texas taxpayers more, harm physicians' ability to care for Texans, and make our state a less advantageous place to do business.

Of primary importance to physicians is ensuring our patients have access to effective, timely, and high-quality health care. Despite progress, too many Texans — more than 15 percent — still lack health insurance, complicating efforts to provide medically necessary care, particularly for patients with chronic diseases. And as more people make Texas their home, the backbone of the state's health care system — physicians — is straining to hold up. Texas must preserve investments made in 2015 and 2017 to expand graduate medical education (GME) capacity to ensure medical students who study here can train here, increasing the likelihood they'll ultimately practice here, too.

In recent years, lawmakers have championed investments in Texas' mental health system. Yet rapid population growth and the continued opioid crisis are straining Texas' mental health system, meaning too many Texans forego much-needed mental health and/or substance abuse services, contributing to higher health care, criminal justice, and societal costs. Likewise, improving women's health has been a high legislative priority, resulting in vital funding to enhance women's preventive and primary care services. But Texas still has the nation's highest rate of maternal death and morbidity, necessitating additional resources to ensure women receive appropriate care before, during, and following pregnancy.

MEDICINE'S RECOMMENDATIONS

- Ensure Texans of all income levels have access to preventive, primary, specialty, and emergent care.
- Ensure adequate funding of maternal and behavioral health services.
- Improve state services aimed at preventing premature births and maternal morbidity and mortality.
- Expand Medicaid's maternal postpartum coverage from 60 days to a full year.
- Fully fund graduate medical education slot expansion.
- Restore funding to physician loan repayment programs.
- Increase funding for mental health and substance abuse services.

QUESTIONS

- 1 Would you support improving access to coverage to the most vulnerable Texans?
- 2 Would you support enhancing systems of care to prevent maternal illnesses and mortality? Would you support continued investments in Texas' behavioral health system to improve availability of services?
- 3 Would you support fully funding GME slots and loan repayment programs?
- 4 Would you support requiring established medical schools to increase the number of GME positions offered?

MEDICINE'S RECOMMENDATIONS

- Protect the 2003 health care liability reforms, including caps on noneconomic damages and protections for emergency services.
- Oppose any effort that would dilute Texas' medical liability reforms, liability safe harbors, or misguided proposals that would weaken the Texas Medical Board.
- Oppose attempts to eliminate dispute resolution pathways through hospital ethics committee reviews.
- Oppose attempts to increase physician liability and seek to escalate conflict in end-of-life care.
- Ensure physicians are not forced by law to violate the ethical standard of "First do no harm" nor have their moral and ethical conscience usurped.
- Oppose attempts to legalize physician-assisted suicide or "euthanasia."

Protect and Promote a Fair Civil Justice System

In 2003, the Texas Legislature passed sweeping liability reforms to combat health care lawsuit abuse, reverse skyrocketing professional liability insurance premiums, and ensure Texans' access to high-quality medical care. The centerpiece of those reforms was a \$750,000 stacked cap on noneconomic damages assessed against physicians and health care facilities (hospital system, nursing home, and such) in a liability judgment. There is no cap on economic damages. Texas voters then approved Proposition 12, a constitutional amendment that ratified the legislature's authority to impose these important reforms.

The reforms have worked. They've lived up to their promise. Sick and injured Texans have more physicians to deliver the care they need, particularly in high-risk specialties like emergency medicine, obstetrics, neurosurgery, and pediatric intensive care. Physicians also have benefited from much lower liability insurance rates and fewer nonmeritorious lawsuit filings.

While Texas leads the nation in medical liability reform legislation, some would like to see the law weakened and/or destroyed. Since 2003, adversaries have tried to discredit the reforms with aggressive media outreach and misleading research. Each session, bills are introduced that would lift the caps on noneconomic damages and protections for emergency services.

Another issue that often surfaces during the session is increasing physician licensure fees. Right now, physicians pay \$470 every two years for licensure, generating more than \$22 million in revenue. These funds originally were to help fund TMB. However, only about one-half, or a little more than \$11 million goes to TMB. The rest goes into general revenue. A larger portion of the monies already collected should go to TMB for more efficient administration, licensing, and enforcement efforts. While the number of licensed physicians continues to grow by more than 4,000 per year, TMB's appropriation has been pretty flat over the last several funding cycles. It must increase to keep up with sector growth.

In the most recent session, improvements were made to secure liability protections for physicians who may be called upon to write do-not-resuscitate orders. In previous years, there have been drastic proposals that, if passed, would have set a dangerous precedent for the legislature to mandate physician services and treatments that could be medically inappropriate, outside the standard of care, or worse: They are harmful, unethical, and immoral. Because medicine is an art and no human can dictate the final stages of disease, physicians need clear pathways to resolve conflict with surrogates of our sickest patients, especially in their final days when additional care may be futile and/or conflict with a physician's morals and ethics.

MEDICINE'S RECOMMENDATIONS

- Require insurers to identify and label clearly and conspicuously any insurance product they market that limits access to certain physicians or health care providers through the use of narrow or limited networks.
- Prohibit insurers and health plan administrators from paying claims to a physician via the use of virtual credit cards unless the physician has proactively and voluntarily “opted-in” to accept that form of payment.
- Require health plans to ensure network listings are correct and up to date.
- Oppose new regulations that raise costs related to electronic transactions.
- Support the ability of physicians to bill their patients and collect monies owed for services not covered by insurers.

Provide Access to Quality Care via Telemedicine

TMA has long supported telemedicine and believes that harnessing advancing technologies to deliver quality care holds great promise for both patients and physicians in the coming years. Fundamentally, telemedicine is the practice of medicine and must adhere to state licensure requirements. And most importantly, patient care provided through telemedicine should be held to the same standards of care as in-person care. TMA continues to support the concept that medicine is practiced where the patient is being treated, not where the physician is located.

In 2017, TMA worked closely with the Texas Academy of Family Physicians and the Texas E-Health Alliance to craft legislation to modernize the definition of telemedicine and streamline the regulatory climate consistent with the core principles related to licensure and adhering to accepted standards of care.

With the passage of Senate Bill 1107 — sponsored by Sen. Charles Schwertner, MD, and Rep. Four Price — the 85th Texas Legislature took a huge step forward in recognizing telemedicine as a legitimate means for physicians to provide medical care to patients so long as the care is consistent with standards of care. In addition, SB 1107 provides a useful and flexible regulatory framework that will encourage wider use and innovation in adopting these emerging technologies.

In contrast, telephone- or text-only services operate in the absence of an established patient-physician relationship. These services have been described as more akin to internet prescribing. Increasingly, these services are attempting to present as telemedicine and/or telehealth services and thus are excluded from the definition of telemedicine and are not covered services.

At the same time, the law recognizes that health plans must provide more guidance to physicians and other providers about their payment practices and cannot discriminate in payment for covered services provided to their insureds by contracted physicians regardless of whether the service was provided via telemedicine or in person.

While rulemaking by the Texas Medical Board and other agencies has not been finalized, one of the legislative goals of SB 1107 has been to provide a regulatory footprint that is broad enough to ensure patient safety and adherence to quality standards but flexible enough to allow the adoption of emerging technologies and innovations.

Moving to the 2019 session of the Texas Legislature, TMA and others will look to expanding the types of service availability to patients through telemedicine and promoting equitable payment for these services.

MEDICINE'S RECOMMENDATIONS

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Help Physicians Continue to Provide Jobs and Quality Care by Increasing Health Plan Accountability

Physicians are small, midsize, and large employers. Solo practices often run on a shoestring, with only a nurse and one or two staff; group practices use a larger support staff for medical and administrative functions. Regardless of practice size, physicians are important businesses who make significant contributions to state and local economies. Physicians' practices must remain viable to continue providing quality patient care in both rural and urban Texas.

Health plans have increased their use of “narrow networks” of physicians and providers as a cost containment strategy to offset their risk for high-cost patients with chronic and preexisting conditions. It has been said that narrow networks have become the new form of medical underwriting by insurers. Conversely, these plans have proven popular with consumers and employers because they carry lower premiums. Yet, consumers have little information to guide them on the tradeoff between lower premiums and network size when shopping among the various plans offered either by their employer or in the individual marketplace. These narrow networks leave consumers vulnerable to the financial burden of out-of-network care. Surveys by various policy institutes suggest that many consumers who select narrow network plans on the basis of lower premiums are unaware of the network size of the plan they selected. By requiring health insurers to disclose network limitations, consumers can make better decisions when purchasing health insurance coverage. Consumers must clearly understand what their health insurance covers. It saves time and money.

Furthermore, insurers provide online directories and by law update them monthly with network status for patients and physicians. In practice, changes occur more frequently to health insurance networks, and monthly updates often lead to incorrect information being provided to the patient and the physician as it relates to coverage. Patients deserve to know what the health coverage they are paying for covers so they can plan accordingly for any procedure that may be out of network.

Physicians, as business men and women, deserve compensation for their services provided, just as any other business. Therefore, any effort that impedes payment to physicians or their ability to bill for uncompensated care is detrimental both to the practice of medicine and to the physician caring for the patient.

As the use of paper checks by health plans to pay for services dwindles, insurers are opting for other electronic payment methods. Physicians and health care providers certainly appreciate administrative simplification efforts by insurers, including those that allow payments for services to be delivered in a timely and efficient manner. Unfortunately, virtual credit card (VCC) payments increase costs and have unintended consequences for physicians and health care providers because VCCs mask unexpected hidden costs.

Insurers and their contracted vendors are increasingly using VCCs to pay physicians, hospitals, and providers for health care services. VCC

MEDICINE'S RECOMMENDATIONS

- Oppose measures creating additional red tape and hassles that don't contribute to or add value to patient care, such as onerous enrollment and billing procedures, inconsistencies across health plans, and government agency regulations and penalties that disrupt medical practices.
- Support legislation that creates user-friendly databases that help physicians' practices streamline and enhance routine patient intake.

Reduce Red Tape and Regulations

To improve physician Medicaid participation, we need legislative solutions to cut through the red tape, regulations, and other unproductive elements that do nothing to improve quality and everything to interfere with doctors' ability to practice medicine efficiently and effectively.

Medicaid serves 4 million Texans, the vast majority of whom are children. Medicaid patients are people we all know or encounter every day, including hard working, low-income parents; people with disabilities; and seniors. Inadequate physician payment rates have forced many physician practices to limit their Medicaid and CHIP participation or cease it altogether. Coverage is critical — there is no access to care without it.

Texas is headed towards a health care crisis if the legislature will not establish competitive Medicaid payment rates for all physicians. Without higher payments, physician Medicaid participation will continue to free-fall. Physicians support Medicaid and want to participate. Yet, as owners of small businesses —facing ever more costly and demanding federal and state regulatory burdens and stagnant payments from commercial and Medicare plans — many cannot afford to stay in a program paying less than half their costs. Medicaid needs a facelift. We want to work with the legislature to continue to identify commonsense changes that will benefit patients and the physician network while also improving patient outcomes and lowering costs. But we need to establish competitive Medicaid payments now to ensure vulnerable Texans have access to services they need to stay healthy and productive.

State and federal compliance requirements bombard physician practices every day. Unfunded mandates and hidden regulatory burdens threaten the viability of practices and patients' access to care. The average annual cost to staff and run a practice now exceeds \$500,000 per physician, and that's before the physician gets paid. These excessive administrative expenses add to the escalating cost of medical care that is borne by patients, employers, and taxpayers.

Additionally, physicians' practice costs — like any other business' operating costs — continue to march upward, suppressing interest in starting new practices. Consequently, those excessive regulations hurt local economies, which receive more than \$1.6 million in wages and benefits for each physician in practice. Physician offices employ support staff and often work with nonphysician providers, increasing the total number of employees in the industry to well above the count of physicians alone. In 2014, Texas office-based physicians supported more than 676,000 jobs. On average, each office-based physician supported 14 jobs, including his or her own.

Yet for the past decade, covering practice costs has become more difficult, especially for those physicians who care predominantly for patients covered by government insurance programs, such as Medicare and Medicaid. Faced with losses on every service delivered, physician practices often are forced to limit services to Medicare and Medicaid patients if they cannot make up the losses elsewhere.

Other than a temporary federal rate increase from 2013 to 2014 for primary care physicians, Texas Medicaid has not meaningfully increased Medicaid physician payments in more than a decade. Further, Medicaid

MEDICINE'S RECOMMENDATIONS

- Ensure all state buildings, facilities, and higher education campuses are tobacco-free.
- Improve the quality of and/or amount of health education, nutrition, physical education, and physical activity in public schools and early childhood centers.
- Require school districts to report vaccine exemption information to the Texas State Department of State Health Services at the school campus level.
- Allow the storing of first responders' vaccination records in ImmTrac for quick access in disaster situations.

Population Health

We must promote healthy behaviors to ensure more Texans can go to school, live, play, and work in a healthier environment. Our priorities are framed around reducing the unnecessary costs to Texans and protecting our population from preventable diseases.

Tobacco use continues to be the leading cause of preventable death in the United States. In Texas alone, about 24,500 adults per year die of tobacco-related causes, and taxpayers lose an estimated \$12.2 billion annually due to excess medical care expenditures and lost productivity.

In December 2016, the Texas Department of State Health Services released an analysis estimating that raising the tobacco purchase age to 21 could save Texas nearly \$5.6 billion in health care costs over 25 years, and preterm births would reduce by 11.6 percent over 20 years.

Our most effective tool to prevent the spread of many communicable diseases is vaccination. Vaccination is a safe and cost-effective way to prevent many of the most serious infectious diseases — diseases that can lead to illness and long-term disability — and community outbreaks.

The number of Texas children with vaccine exemptions has risen from 2,314 in 2003 to 44,716 in 2016. Studies show that exemptions tend to cluster within schools, quickly creating pockets of under-vaccinated and vulnerable children, and posing greater risk to the entire community. Children who receive exemptions and are not vaccinated against disease are more likely to contract and spread disease.

Parents of a child who may not be able to be vaccinated, such as a child who is immunosuppressed due to a disease like leukemia, should know if their child is at greater risk on their school campus.

Obesity is one of the biggest drivers of preventable chronic diseases and health care costs in the United States. Estimates for these costs range from \$147 billion to nearly \$210 billion per year. It also potentially threatens “citizen-ready” military preparedness because fewer young people now graduate fit enough to serve. It is a risk factor for maternal death and illness.

Poor nutrition can affect alertness, attention, memory, processing, and problem-solving. Research overwhelmingly demonstrates access to healthy foods and physical activity can improve students' academic performance.

Nationally, fewer than three in 10 high school students achieve 60 minutes of physical activity daily, and on average, children aged 8 to 18 spend 7.5 hours per day in front of a screen for entertainment.

Texas stakeholders including state and local health authorities should lead in developing prevention programming to reduce chronic disease morbidity and mortality.

MEDICINE'S RECOMMENDATIONS

- Support tax law that acknowledge physicians' unique role in caring for all patients — including physicians who provide charity care.
- Ensure that any tax legislation that affects health care does not harm patient care or access.

Don't Tax Sickness

Saving lives should not be taxed like other services. Health care is not a traditional business activity and should not be subject to a traditional business activity tax.

Recognizing the unique nature of health care when they rewrote the state's business tax in 2006, legislators included deductions for the free and underpaid care physicians provide to Medicaid, Medicare, Children's Health Insurance Program (CHIP), workers' compensation, military, and charity care patients. Because physicians have contractual and ethical obligations to care for patients, often without regard to their own financial interests, their losses on unpaid and underpaid services are unavoidable and substantial. Those losses merit recognition.

No other profession is required by law to give away its products or services for free. Federal law requires physicians to provide care to patients in emergency settings without regard to ability to pay. Texas physicians deliver almost \$2 billion per year in a hidden tax via unpaid charity care.

Medicaid and CHIP payments to Texas physicians cover less than half the cost of providing care. Each Texas physician, on average, provides almost \$83,000 per year in undercompensated care to Medicaid and CHIP patients (even more in some specialties, in rural Texas, and along the border). Tax increases add to the cost of caring for these patients, forcing more physicians to find ways to limit participation in these government programs.

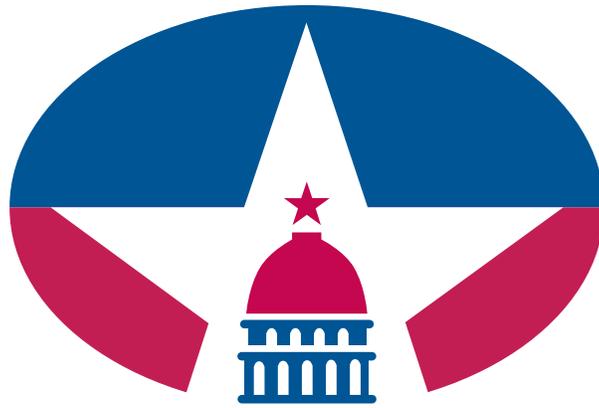
Texas physicians pay their fair share in business and personal taxes. They also pay such additional state taxes as a licensing fee, a patient protection fee, and a state website fee. These fees are in addition to the sales taxes physicians pay on the supplies and equipment they use to care for patients, and the property taxes they pay on all business property and equipment. Additionally, because rates are set by Medicare and Medicaid, and insurers rarely negotiate their payment rates, physicians have little opportunity to offset these costs.

Texas should not place additional taxes on caring for the sick.



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Craig Callewart, MD.....	16		
Les Secrest, MD			



TEXPAC

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Texas Medical Association Political Action Committee (TEXPAC) is a bi-partisan political action committee of TMA and affiliated with the American Medical Association Political Action Committee (AMPAC) for congressional contribution purposes only. Its goal is to support and elect pro-medicine candidates on both the federal and state level. Voluntary contributions by individuals to TEXPAC should be written on personal checks. Funds attributed to individuals or professional associations (PAs) that would exceed legal contribution limits will be placed in the TEXPAC administrative account to support political education activities. Contributions are not limited to the suggested amounts. TEXPAC will not favor or disadvantage anyone based on the amounts or failure to make contributions. Contributions are subject to the prohibitions and limitations of the Federal Election Campaign Act.

Contributions or gifts to TEXPAC or any CMS PAC are not deductible as charitable contributions or business expenses for Federal income tax purposes. Only contributions to the TMA Foundation, any CMS foundation and The Physicians Benevolent Fund are deductible as charitable contributions for Federal income tax purposes.

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 in a calendar year. To satisfy this regulation, please include your occupation and employer information in the space provided. Contributions from a practice business account must disclose the name of the practice and the allocation of contributions for each contributing owner. Should you have any questions, please call TEXPAC at (512) 370-1361.