Advocating for Children: Pediatrics in the 85th Legislative Session
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Disclosure
Clayton Travis, MSSW, has no relationships with commercial companies to disclose.

Learning Objectives
At the end of this presentation the participant will be able to:
• Discuss the range of TPS advocacy activities and ways for member pediatricians to engage in advocacy on behalf of the best interest of children and the practice of pediatric medicine
• Describe the legislative process in Texas as well as the current political context as it pertains to advocating for children
• Provide updates on changes in policy and laws in Texas which effect the care of children and the ethics of pediatric practice

Why Advocate?

“Every physician is by destiny a ‘political being’ in the sense which the ancients defined the term, -viz., a citizen of a commonwealth, with many rights and great responsibilities. The latter grow with increased power, both physical and intellectual. The scientific attainments of the physician and his appreciation of the source of evil enable him to strike at its roots by advising aid and remedies.”
Abraham Jacobi, MD

“...it is not enough, however, to work at the individual bedside in the hospital. In the near or dim future, the pediatrician is to sit in and control school boards, health departments, and legislatures. He is the legitimate advisor to the judge and the jury, and a seat for the physician in the counsel of the republic is what the people have a right to demand.”
Abraham Jacobi, MD
Children and Pediatric Medicine in the 85th Legislative Session

Significant News Cycles

The Big Three’s Priorities

Revenue Estimate and Budget Negotiations

And of course... Politics

- Texas Privacy Act
- School vouchers
- Property tax relief
- Voter ID
- and 25 more

- Emergency items:
  - Child Protective Services
  - Ethics reform
  - Sanctuary city ban
  - Constitution of states

- Mental health
- Child Protective Services
- School finance reform
- Cybersecurity

Revenue Estimate and Budget Negotiations

And of course... Politics

- Senate vs. House
- Straus Republicans vs. House Freedom Caucus
- Democrats with little power to stop controversial bills
Physicians have an ethical responsibility to respect the law as well as an ethical responsibility to avoid changes in their requirements which are contrary to the best interests of their patients.

---AMA Principle of Medical Ethics

1. Improve Healthcare for Children in Foster Care
2. Invest in Children's Health Programs
3. Reduce Childhood Obesity through Nutrition and Physical Activity
4. Support Best Practice Immunization Policy
5. Prevent Unnecessary Childhood Fatalities
6. Address Families' Mental Health Needs to Improve Child Well-being
7. Invest in Effective Child Abuse Prevention and Early Intervention

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**Priority:** Ensure children receive an initial health exam within 72 hours of entering DFPS conservatorship to enhance the health and safety of children entering foster care.

**Priority:** Notify a child’s primary care physician or medical treatment team when a child changes foster care placements to ensure continuity of care for children in foster care.

- 58 11 (Schwertner): Ensures children entering foster care receive an initial health exam within three business days of entering care only if the child:
  - Is removed because of sexual or physical abuse or obvious physical injury; or
  - Has a chronic medical or medically complex condition or diagnosed mental illness.

Also ensures that the child’s primary care physician and treating physicians are notified when the child changes foster care placements. Signed by the Governor.

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**Identify the Problem**

**Craft the Policy Solution**
**Prioritize:** Strengthen provider participation in Medicaid and CHIP by fully funding the programs and creating a sustainable process in which physician fees increase to match the cost of delivering services.

- **Medicaid/CHIP Program Funding:** Medicaid funded for caseload growth in 2018, but not 2019. CHIP caseload growth funded for both 2018 and 2019. Additionally, cost growth (patient acuity and healthcare inflation) was not funded for the biennium.
- **Medicaid Physician Rate Increases:** No change or meaningful discussion regarding physician payments.
- **Medicaid Cost Containment Riders:** $350M GR ($830M AF) deducted from Medicaid for cost containment to:
  - Conduct an audit and review of Medicaid managed care premiums;
  - Use a competitive procurement process with price as one component of the evaluation;
  - Continue to strengthen and expand prior authorization and utilization reviews;
  - Incentivize appropriate neonatal intensive care unit utilization and coding, and
  - Seek flexibility from the federal government to improve the efficiency of the Medicaid program.
- In addition, $77M GR ($194M AF) reduced from managed care premium by shrinking the managed care risk margin.
**Priority:** Ensure children with autism can receive the range of medically appropriate services in the Medicaid program.

- HHSC LAR Exceptional Item #26: $14M GR ($32M AF) to create a benefit within Medicaid to provide Intensive Behavior Intervention (IBI) to treat deficient or maladaptive behaviors among clients with Autism Spectrum Disorder (ASD). Exceptional item was struck from HHSC LAR when Legislature asked agency to revise LAR early on in budget discussions.

**Priority:** Fund the Early Childhood Intervention (ECI) program to ensure all eligible children with delays and disabilities can receive services without reducing functional eligibility.

- HB 2 (Zerwas): The supplemental budget bill included $4.5M GR for to cover caseload growth for the current biennium’s (2016-2017) caseload growth needs. Signed by Governor.
- HHSC LAR Exceptional Item #6: $45M AF to maintain 2017 services and fund caseload growth for 2018-2019 biennium. HHSC revised the ECI exceptional item to $19.8M AF (50 GR). The final Senate Bill 1 ECI line item includes $18.4M for caseload growth which falls short of projected need.

**Priority:** Ensure all Texas schools provide adequate, quality physical education and activity to reduce the risk for obesity and related chronic diseases so that students are better equipped to succeed academically and socially

- SB 1873 (Hinojosa): Utilizes existing data collected from school districts to create a Texas Education Agency report detailing physical education requirements at each campus. Signed by Governor.
- SB 355 (Watson): Requires each school district to develop a recess policy after reviewing policy recommendations of their School Health Advisory Committee (SHAC), Left pending in Committee.
- HB 2884 (Allen): As filed, increased middle school PE from four to six semesters, increased high school PE from one to one and half credits, added a half credit of health class in high school and required TEA to develop and institute policies related to recess. The bill was amended to only include the recess policy requirement. Bill was withdrawn from the Local House Calendar before passage.

**Priority:** Ensure children served by licensed childcare providers receive nutritious foods and drinks to help them develop healthy eating and physical activity habits while in early care environments

- HB 2664 (Miller): Updates and clarifies DFPS minimum standards for child care centers and homes related to nutrition, physical activity and screen time. Provides training opportunities for child care workers to learn new tools and skills to help children maintain a healthy weight and incorporate play throughout the day. Failed passage on House floor.

**Priority:** Establish a grocery store access initiative to increase families’ access to healthy foods in all communities.

- HB 3324 (Rodriguez): Establishes a grocery access investment fund program to provide financing to construct, rehabilitate or expand grocery stores, mobile markets, farm stands or other eligible projects to increase food access in underserved low-income and moderate-income areas. Did not receive vote on House floor.
Priority: Ensure parents have the right to access data on their child’s school campus immunization exemption level.

- HB 2249 (Sheffield): Makes de-identified campus level vaccine exemption rates publicly available on the Department of State Health Services (DSHS) website. Did not receive vote on House floor.

Priority: Address the rising numbers of exemptions and delinquencies from school vaccination requirements by educating parents on the benefits of disease prevention through immunization.

- HB 126 (Davis of Harris): Requires those seeking an exemption from school immunization requirements for non-medical reasons to complete an immunization educational module developed by DSHS. Failed to receive a Committee hearing.

- HB 1124 (Krause): Increased the ease in which a parent could obtain a non-medical exemption form by allowing it be printed online. Left pending in Committee.

Priority: Support a statewide ban on texting while driving.

- HB 62 (Craddick): Creates a misdemeanor fine for using a portable wireless communication device to read, write or send a text-based communication while operating a motor vehicle unless the vehicle is stopped or outside a lane of travel. Signed by Governor.

Priority: Incentivize homeowners to safeguard newly built residential pools with fencing to decrease the rise in childhood drownings across the state.

- HB 1363 (Villalba): Exempts eligible pool safety enclosures from sales tax. Did not receive a Committee hearing.
**Priority:** Decrease infant motor vehicle accidents by requiring all children to be in rear facing car seats until the age of 2

- SB 278 (Zaffirini)/HB 519 (Turner): Updates and clarifies existing child restraint law to ensure children remain rear facing until the age of 2. Did not receive vote on Senate or House floor.

**Priority:** Increase access to mental health screenings for adolescent youth.

- HB 1600 (Thompson of Harris): Allows the child’s health care provider to conduct and bill for annual mental health screenings for children ages 12-19 enrolled in Medicaid. Signed by Governor.

**Priority:** Ensure mothers can be screened for perinatal depression via their child’s well-child or other medical exam in Medicaid and CHIP

- HB 2466 (Davis of Harris):
  - Allows the child’s health care provider to screen the mother for maternal depression as a billable component of the baby’s well-child or other medical visit for up to one year postpartum for children enrolled in Medicaid and CHIP.
  - Allows the state to ask questions on a mother’s Medicaid application regarding receiving prenatal information.
  - Requires the state to apply for federal grant funds for maternal depression screening and treatment services made available through 21st Century Cures Act. Signed by Governor.

**Priority:** Evaluate DFPS Prevention and Early Intervention programs to ensure state funds are going to effective, evidence-based programming to keep children safe

- HB 1549 (Burks): Requires DFPS to partner with institutions of higher education to evaluate Prevention and Early Intervention programs and improves the capacity and effectiveness of local Child Fatality Review Teams by:
  - Providing the review team electronic access to preliminary death certificates
  - Notifying the review team of a child’s death with 120 days
  - Removing restrictions for adjacent counties to establish a combined review team
  - Requiring department to produce an annual report on child fatality and near fatality

Signed by Governor.
1st Called Special Session

Special Session began July 18th and adjourned Sine Die August 16th

TPS helped pass legislation to:
- Extend the maternal mortality task force

TPS monitored:
- TMB sunset legislation
- Texting while driving preemption
- Strengthening patient protections relating to do-not-resuscitate orders

Looking forward to the interim...

Summer 2017
- Analyze legislative successes and problems left unresolved from previous session

Fall Spring 2017-2018
- TPS staff research policy issues related to practicing physicians and in coordination with coalition partners

Spring 2018
- 7th Annual Medical Student, Resident and Fellow Advocacy Day

April 2018
- Call for policy proposals at TPS Committee Chairs at Annual Leadership Planning Summit (ALPS)

Fall 2018
- TPS Executive Legislative Committee prioritizes policy ideas for coming legislative session

Physician workforce funding:
- HB 10 (Hughes): Signed by the Governor
  - Creates federal mental health parity law in state statute
  - Creates a mental health parity ombudsman's office at the Texas Department of Insurance

SB 1148 (Buckingham): Signed by the Governor
- Requires the hospital from differentiating between physicians based on maintenance of certification with regards to pay, reimbursement or contracting.
- Prohibits a hospital from differentiating between physicians based on maintenance of certification unless:
  - Needed by a national certifying or accrediting entity;
  - Time-saving physician members of the hospital's medical staff vote to authorize the differentiation.

SB 3476 (Huberty): Failed to receive a vote on House floor
- Requires all children participating in U.S. extracurricular athletics to receive two EKGs (or echos) before participating.

Other Notable Funding and Legislation
"Pediatricians understand Medicaid is not just an entitlement program; it's an empowerment program."
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Attend the 2017 TPS Annual Meeting!
October 5-8, Renaissance Dallas at Plano Legacy West