

Governmental Affairs Interim Report  
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Despite the 89<sup>th</sup> legislative session only starting on January 14<sup>th</sup>, the GAC never stops. The new and continuing items that we have addressed since the fall meeting until submission of this document on January 31, 2025 are numerous. I purposely stated the date of submission of this document as by the time the board reads this report, there are sure to be more developments. Below is a summary of topics the committee is addressing and our respective actions for each.

New Staff:

In November, we welcomed Richard Evans as our new TSA Governmental Affairs Director and in December, Natalia Ovcharenko joined as our TSA Governmental Affairs Assistant. Welcome Richard and Natalia! They have jumped in quickly and we have had a great transition thus far.

Physical Status modifier (PS modifier):

As of July 15<sup>th</sup> 2024, and August 14<sup>th</sup> 2024 respectively, Aetna and Blue Cross Blue Shield of Texas announced that they will no longer recognize the anesthesia PS modifier when calculating approved payments for anesthesia providers. Despite strong efforts by both TSA and ASA, the policy has not been reversed. TSA and ASA leaders met with representatives from BCBS in July for an hour-long conference call. The goal was to educate BCBS about why the PS modifier is so crucial to our current billing system and to get their perspective of why they were making this change. While the conversation was productive, unfortunately it did not lead to a change.

After multiple requests for a meeting had been ignored, in August, TSA leadership met with Aetna for a conference call. The conversation was adversarial, (Aetna) brief and did not lead to a reversal.

In September, TMA and TSA submitted a joint letter to the Texas Department of Insurance asking them to weigh in on this policy change. Questions posed in this document addressed the following:

- 1) Does this policy change potentially impact access and delivery of care?
- 2) Given that this change would affect the carrier payments, does this policy change impact both the federal No Surprises Act or Texas's SB 1264 (86<sup>th</sup> legislative session)?
- 3) Since HB 3359 (88<sup>th</sup> legislative session) "the network adequacy bill" amends Chapter 1301 of the Texas Insurance code, does the policy change violate aspects of Texas's network adequacy?
- 4) We asked TDI to monitor this policy change on Texas's surprise billing arbitration process.
- 5) Can an insurance carrier deny or retroactively deny an in process or already processed claim based on this policy?

TDI acknowledged they received the letter and are looking into the situation.

Currently, we are looking into how we can restore an acuity (and codify a) payment for the state health plans regulated by Employment Retirement System and Teacher Retirement System (ERS/TRS).

#### Anthem “Anesthesia Time Limit” Issue:

As we all are aware of in late 2024, Anthem proposed to place arbitrary time limits for anesthetic payments in Colorado, Connecticut, Missouri and New York. This policy was quickly rescinded after the backlash the company received. However, once these companies propose these ideas, they typically do not go away. TSA is keeping abreast of the issues and working on ways to combat this during the legislative session for the any Texas regulated plans. Currently, there is proposed legislation in the Texas Senate to address this for the state regulated plans.

#### Opt-out:

Texas Conservative Coalition Research Initiative (TCCRI) issued a letter asking the Governor to opt out of the conditions of CMS participation on September 12<sup>th</sup>, 2023. In response, TSA hired contract lobbyist Luis Saenz to address this issue specifically. Our goal was to receive in writing that the Governor would not be opting out of CMS participation. We continue to regularly receive verbal confirmations of no opt out, however our understanding is the Governor does not plan to write a formal letter. Our GAC team is in weekly communication with Mr. Saenz to monitor updates.

#### Network Adequacy

TMA wrote a letter last fall addressing concerns regarding the rule making process of HB 3359 (88<sup>th</sup> R). TSA and TMA collaborated heavily on the letter. TDI incorporated many of our suggestions and there is nothing new to report on the rule making process as of now. Please see the section on the PS modifier for additional information on network adequacy.

#### TMB Office Based Anesthesia Rules:

The TMB recently revised their office-based anesthesia rules. While the TSA Office Based Anesthesia Committee was primarily tasked to provide comments, the GAC provided feedback to their committee. The committee helped shaped issues regarding regulations of Ketamine clinics and ensuring that physicians remain responsible for in-office anesthetics (i.e when utilizing/delegating to sedation nurses, nurse anesthetists and any other APP's). We particularly thank Drs. Penelope Duke, Jeremie Perry, Debbie Plagenhoef and Jeff Plagenhoef for their significant work on this endeavor.

#### Maternal Mortality Morbidity Review Committee updates (MMMRC):

Dr. Barbara Orlando is our TSA representative on the MMMRC committee. TSA OB subcommittee for patient safety (lead by Dr. Shridhar) has been primarily reviewing any documents that are related to maternal health or rural/maternal health. We have reviewed and provided suggestions to the documents when needed. We thank Dr. Orlando for her work on the MMMRC committee.

#### Value Based Care:

We are currently monitoring legislation put for in both the House (HB 2254) and the Senate (SB 1014) put for by the TAFP and THA. Dr. Zach Jones is our liaison on this topic as he is part of their TMA value-based care committee.

#### Presentation to the ASA on title misappropriation:

On Thursday, January 23<sup>rd</sup>, Dr. Weiss gave a presentation to ASA leadership on the history and current state of title misappropriation bills in Texas. States that had experience proposing title misappropriation bills shared their successes and failures. It was an informative discussion.

#### ASA Grant:

The GAC applied for a grant from the ASA State Financial Assistance Program to help with lobbyist costs. We received \$5,000 from the assistance program.

#### Texas Coalition for Patients (TCP):

“The Texas Coalition for Patients works to support patients, families and health care providers that care for Texas communities by advocating for greater patient-centered transparency and accountability from all health care stakeholders.” [www.texaspatients.org/about-us](http://www.texaspatients.org/about-us). TCP is a recently created PAC that has several stakeholders that are friends of TSA including TMA and TOA. TSA recently joined as a “collaborator,” which is the highest level of contribution. We are hoping this PAC will help hold insurance carriers accountable for nefarious behavior.

#### Texas 89<sup>th</sup> session and current bills:

TSA lead:

- Nursing Board Transparency: Establishes a nursing board database that would be similar to the TMB database that has school information, supervising physicians and any legal actions. Bill has been drafted by legislative council and we have one sponsor who is interested in filing.
- ERS/TRS: Re-establishes and codifies the PS modifier in the ERS/TRS insurance policy. Bill has been drafted and we a potential sponsor.
- Anti-vertical Integration: We are working off the draft we had from last year. We have a potential sponsor.

#### Bills to Watch:

HB 923/Texas Medical Disclosure Panel: The bill adds two lay people to the panel: one who has a background in healthcare literacy. It also specifies that two lawyers be on the panel: one that specializes in personal injury and one who specializes in health law.

HB 1756/SB 911: Both bills allow independent practice for APRNs.

HB 166: Relates to criminal offenses with controlled substances as it relates to children, elderly and the disabled persons.

HB 1942: Allows APRNs to directly be preferred providers for both HMO's and PPO's.

HB 1948: Expands provisions APRNs to prescribe schedule II drugs in outpatient settings.

HB 1959: Allows health plans to encourage using certain physicians or other providers and allows health plans to rank physicians.

HB 2254/SB 1014: Bills related to value based care.

Title Misappropriation: Texas Dermatological Society is the lead. Bill is drafted and they are currently looking for a sponsor.

TSA Governmental Affairs Bootcamp (Dates): 1/29, 2/5, 2/12, 2/19

Our first bootcamp was last Wednesday evening. We had a good turnout and an informative discussion on the Texas legislature works, how to look up and track bills and why advocacy is important. Our guest speaker was Dr. Tom Oliverson.

TSA Capitol Days: 2/23-2/24

TSA CPR, AED and stop the bleeding training: 2/24, 3:00-4:00 pm, Legislative Conference Center (E2.002)

I want to say thank you to our legislative staff for their hard work thus far in the session. Richard, Natalia, Craig and Mike have been busy with meetings and making our voices heard. Richard and Natalia have stepped right in and are doing amazing work. Our thanks to Clayton Devin for providing his legal expertise. As always, we could not get everything accomplished without the input and work of the GAC. I also want to thank the TSA Office-Based Anesthesia, OB and economics committees for their assistance with issues. Other thanks goes to Dr. Zach Jones for being our liaison to the TMA on value-based care issues and congratulations on his appointment to the TMB. In addition, I would like to thank Dr. Sherif Zaafran for his work as head of the TMB and being plugged into what feels like everything relating to both state and national issues and to Dr. Jeremie Perry for his help with the TMDP. Finally, a big thanks to our vice chair Dr. Kenisha Muse for her insight and work on the committee and for representing us on the TMA Council on Legislation.