

Legislative Update

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2016 Legislature Adjourns

The 2016 Legislature wrapped up its work at about 4:00 a.m. on Monday, May 2. Legislators returned on Wednesday, faced with news of an estimated budget shortfall of nearly \$300 million for fiscal years 2016 and 2017.

The governor presented recommended options for closing the budget gap, including securitizing the tobacco settlement fund, making more one-time transfers from the highway program and KPERS fund, and 3-5% budget cuts to various entities that included universities and K-12 education. Again, he reiterated that restoring some of the 2012 business income tax cuts was not an option.

Legislators expressed frustration over continued downward revenue trends, trying to find even deeper budget cuts, while having their hands rather tied on trying to restore a more stable revenue stream – especially in an election year.

In the end, they provided some authority to the governor to solve the budget shortfall, but filled the Omnibus budget bill – [CCR for SB 249](#) – with restrictions and guidance on how he might balance the state budget.

There is still a school finance case looming in the courts, which some fear may bring legislators back to town for a special session, but that won't be known until after May 10 court arguments. In the end, the Legislature was able to wrap up their work in under their statutory 90 days and, while they didn't balance the budget themselves, they left the governor options for doing so.

Nurse Midwifery Legislation Passes

A bill providing certified nurse midwives a path for practicing independent of a collaborative physician agreement was passed in a conference committee report ([CCR on HB 2615](#)). In the health “mega-bill,” those wishing to practice independently will be regulated under the Board of Healing Arts.

Nurse midwives, who wanted independent practice under the continued regulation of the Board of Nursing, ardently opposed this. The bill actually was a true compromise between physician groups, who wanted the CNMs to continue practicing with a collaborative agreement, and CNMs, who did not want to be regulated by the Board of Healing Arts as are all others practicing medicine in the state.

The mega-bill had a number of other pieces of legislation, as follows:

- **Continuing education credits for charitable healthcare providers**, formerly in HB 2615. The bill allows for those providing healthcare services to indigent patients to receive one hour of education credit for every two hours of service, up to 20 hours of credit, if they have a signed agreement with the Kansas Dept. of Health and Environment. It also exempts those providing the service from liability under the Tort Claims Act.
- **Certified nurse midwives**, formerly in SB 402, allows those CNMs desiring to practice independent of a collaborative physician agreement to do so, but requires those to be regulated

by the Board of Healing Arts. CNMs who do not practice independently will continue to practice as they have, with a collaborative agreement and under the regulatory authority of the Board of Nursing. The bill specifies their scope of practice will be limited to normal, uncomplicated pregnancy and delivery. Related to this, the following are included: prescribing drugs and diagnostic tests; performing an episiotomy or repairing a minor vaginal laceration; initial newborn care; and family planning services, including treatment or referral of a male partner for sexually transmitted diseases. In conference committee discussions, language was added clarifying CNMs could not perform abortions or prescribe abortive drugs.

- **Interstate Licensure Compact**, formerly in HB 2456, allows member states to develop a streamlined process under the existing licensing and regulatory authority of state medical boards for physicians to become licensed in multiple states, enhancing license portability and patient safety. Physicians will be regulated under the jurisdiction of the state medical board where the patient is located.
- **Acupuncture Practice Act**, formerly in SB 363, provides for the licensing of acupuncturists by the Board of Healing Arts and exempt licensed physical therapists from the Act when performing dry needling, trigger point therapy or other services specified under the Physical Therapy Practice Act. The Board would be required to adopt relevant rules and regulations for acupuncture.
- **Behavioral Sciences Regulatory Board**, formerly in SB 449, relating to regulation of professionals under their licensing authority.

The [CCR HB 2615](#) was nearly derailed Saturday, because of conflicts over the language relating to CNMs not being allowed to engage in the practice of abortion. The conflict was not as much over the provision itself, but an objection by some House members that it had been added in conference committee negotiations and not been debated by either chamber. The Senate refused to pass it without the abortion provision.

On Sunday, KAFP sent an urgent message to House members urging their support of HB 2615, highlighting the importance of the legislation to physicians. The legislation ended up passing the Senate, 40-0, and the House, 115-7.

Step Therapy for Medicaid

[CCR on SB 402](#) applies a step therapy protocol to prescription drugs provided to patients in the KanCare (Medicaid) program, but provides key patient protections as well. The bill requires KDHE and MCOs to make a decision on a prescribing physician's request for an override within 72 hours of receiving a request if:

- The required drug usage or drug therapy is contraindicated for the patient or will likely cause an adverse reaction by or physical or mental harm to the patient;
- The required drug usage or therapy is expected to be ineffective based on the known relevant clinical characteristics of the patient and the known characteristics of the required drug usage or drug therapy;
- The patient has tried the required drug usage or drug therapy while under his or her current or previous health insurance or health benefit plan, and such use was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event. For purposes of the step therapy exemption, use of pharmacy drug samples would not constitute use and failure of such drug usage or drug therapy; or
- The patient has previously been found to be stable on a different drug usage or drug therapy selected by the patient's physician for treatment of the medical condition under consideration.

Additionally, it includes the following patient exemptions from step therapy:

- If drug usage or drug therapy commenced on or before July 1, 2016; or
- If drug usage or drug therapy is used for the treatment of multiple sclerosis for a period longer than 30 days.

The CCR also contained measure relating to the HOPE Act, which made changes to those receiving cash assistance under the Temporary Assistance to Needy Families (TANF) Act.

After strong debate in both chambers, it was adopted by the House, 79-43, and the Senate, 27-13.

Family Doctor of the Day

Appreciation goes out to two KAFP members who served as Doctor of the Day at the Kansas Capitol in the final week of the Veto Session: *Vance Lassey, MD, Holton; and Melissa Rosso, Manhattan*. The gift of service provided by family physicians makes a difference to so many, especially those who are away from their hometown physicians and needing medical attention. Thank you to all who donated your time and skills in the 2016 legislative session.