

South Dakota State Medical Association

LEGISLATIVE ACCOMPLISHMENTS

2016 South Dakota Legislature

Overview

South Dakota's 2016 Legislative Session opened Jan. 12 and continued through March 11, with the 38th legislative day being held on March 29. Legislators brought forward 419 pieces of legislation – 58 had the potential to impact health care delivery in South Dakota.

During the nine-week session, the South Dakota State Medical Association (SDSMA) worked on a wide range of issues to protect the practice of medicine and to enhance the delivery of medical care. Some highlights of the important issues the SDSMA was involved in include the following:

Promoting the art and science of medicine

HB 1029, an act to make an appropriation to the Department of Health to fund the rural residency program and to declare an emergency, was introduced by the Committee on Appropriations at the request of the South Dakota Department of Health (SDDOH). This legislation will appropriate \$205,000 or the amount necessary, to the SDDOH to support the development of a rural family medicine residency track for six medical students. HB 1029 was passed by the legislature and signed into law by Gov. Dennis Daugaard. The SDSMA supported this legislation.

Protecting and improving public health

HB 1110, an act to provide medical care for certain unborn children, will require the creation of a separate health assistance program under Title XXI of the federal Social Security Act to provide for the medical care of unborn children whose mothers are ineligible for coverage based on their citizenship. Gov. Daugaard signed this legislation into law. The SDSMA supported this legislation.

Because lay midwives lack the necessary clinical training and skills to handle problematic births in non-clinical settings, the SDSMA strongly opposed HB 1162, an act to provide for the practice and regulation of midwives, and SB 117, an act to permit the practice of midwifery by certain persons. HB 1162 passed the House but died in the Senate; SB 117 was killed in committee. The SDSMA was joined by the SDDOH, South Dakota Board of Nursing, the South Dakota Association of Health Care Organizations and others in opposing HB 1162 and SB 117.

SB 28, An act to require meningococcal immunization for school entry, was introduced into the Senate Health and Human Services committee on behalf of the SDDOH. As passed, any child entering school or an early childhood program will be required to have the following immunizations prior to admission: poliomyelitis, diphtheria, pertussis, rubella, mumps, tetanus, meningitis, and varicella. Gov. Daugaard signed SB 28 into law. The SDSMA supported this legislation.

Improving access to and delivery of quality medical care

The SDSMA supported Gov. Daugaard's plan to expand Medicaid, which would provide access to care and expand coverage for an estimated 50,000 South Dakotans, including 15,000 American Indians. For more than a decade, South Dakota has advocated for the Centers for Medicare and Medicaid Services (CMS) to fulfill its federal responsibility related to Indian Health Services (IHS) funding and Medicaid. In December 2015, CMS announced a proposal to update its interpretation of the Federal Medicaid Assistance Percentage (FMAP) formula, and subsequently expand the services in which it reimburses the state of South Dakota 100 percent. The state currently pays \$139 million for services for Medicaid-eligible American Indians receiving care outside of IHS facilities. The plan proposed by CMS will allow the state to recoup significant dollars and to expand Medicaid coverage to

all South Dakotans up to 138 percent of the federal poverty level at no additional cost to the state. While slowed negotiations with CMS prevented the introduction of legislation to expand Medicaid during the 2016 legislative session, a coalition established by the governor will continue to meet regarding this effort.

If passed, HB 1067, an act to promote quality, competition, and freedom of choice in the health insurance market place would have deemed health plans as being in compliance with Initiated Measure 17 provided the insurer offers at least one health plan which is open to all health care providers. The House Commerce and Energy Committee voted to defer this legislation to the 41st legislative day – killing the bill. The SDSMA was opposed to HB 1067.

Recruitment and retention of rural health care providers continues to be a challenge. HB 1170, an act to make an appropriation to reimburse certain eligible health care professionals, and SB 120, an act to make an appropriation to reimburse certain family physicians, dentists, physician assistants, and nurse practitioners who have complied with the requirements of the recruitment assistance program, will fund reimbursement to those who have complied with requirements of the state's recruitment assistance program and will provide assistance for rural communities to recruit health care providers. Both bills were signed by the governor. The SDSMA supported HB 1170 and SB 120.

Other legislative issues

HB 1079, an act to permit the prescription and possession of an opioid antagonist in certain instances, was signed by Gov. Dugaard. As proposed, a person who is a family member, friend, or other close third party to a person at risk for an opioid-related drug overdose, may be prescribed, possess, distribute, or administer an opioid antagonist that is prescribed, dispensed, or distributed by a licensed health care professional directly or by standing order. HB 1079 was the third of a package of three bills introduced on behalf of the SDSMA. The SDSMA strongly supported this legislation.

SB 171, an act to authorize limited use of certain types of medical marijuana, was passed by the Senate but died in the House. If passed, a physician could have prescribed the use of cannabidiol in liquid, oil, or pill form for treatment of intractable epilepsy. In addition, a patient in possession of a valid cannabidiol prescription would not have been subject to prosecution nor would have physicians, pharmacists and other medical professionals properly prescribing it. Additionally proposed, a primary caregiver or a custodial parent of the patient could have assisted in the administering of the prescribed cannabidiol to the patient while not being subject to prosecution. While we share the interest of the sponsor(s) of this bill with regard to giving physicians options for the treatment and caring of patients, the SDSMA opposed SB 171 based on the fact that cannabidiol oil has yet to be approved by the FDA and that other solutions being researched may be more fitting for the concerns discussed thus far. An SDSMA task force has been formed to review this issue.

Outcome of other priorities

As proposed, HB 1077, an act to grant limited immunity from arrest and prosecution, proposed that any person who experiences a drug-related overdose and is in need of medical assistance could not be arrested, charged, or prosecuted for any misdemeanor or felony offense of possession, inhalation, ingestion, or otherwise taking into the body any controlled drug or substance if that person contacted law enforcement or emergency medical services and reported that he or she is in need of medical assistance as the result of a drug-related overdose. HB 1077 was deferred to the 41st legislative day in committee. The SDSMA strongly supported this legislation.

Similar to HB 1077, HB 1078 was introduced on behalf of the SDSMA, and was a part of a package of three bills relating to the acts of good Samaritans. HB 1078, an act to grant limited immunity from arrest and prosecution for certain alcohol related offenses to a person who assists someone in need of emergency assistance or who are themselves in need of emergency assistance, was passed by the legislature and signed by the governor.

HB 1122, an act to establish procedures for payment of insurance claims by credit card or electronic funds transfer to health care professions, was deferred to the 41st legislative day in committee. This act would have required insurers who utilize virtual credit card payments to notify the provider, in advance, of fees, to offer an alternative payment method that does not impose fees, and have an agreement to accept payment. The SDSMA strongly supported this legislation.

HB 1124 sought to prohibit the use of tanning devices by minors. Frequent exposure to ultraviolet rays for individuals under 35 increases the risk of developing melanoma – the most aggressive and deadliest form of skin cancer – by 75 percent, and melanoma is currently the second most common cancer after thyroid cancer among women in their 20s. While the SDSMA strongly supported this legislation, HB 1124 did not have sufficient support to pass the Senate.

SB 79, an act to expand the list of professionals authorized to perform certain examinations required for a plea of guilty but mentally ill, was signed into law by Gov. Dugaard. This legislation was based upon the thought that a licensed psychologist, as a mental health professional, is equivalent to a licensed psychiatrist in the training and experience of evaluation and treatment of persons experiencing severe psychiatric illness. The SDSMA strongly opposed this legislation. Going forward, we believe that by allowing psychologists to declare guilty but mentally ill, we will actually see greater delays in the judicial process as well as increased costs for the counties and state through an increased number of appeals, additional evaluations and retrials – the very opposite of the proposed reason for its introduction.