

# 2021 LEGISLATIVE REPORT

Update on ISMS Legislative Activity  
in the Illinois General Assembly

June 2021

[www.isms.org](http://www.isms.org)



@ISMSLegislative

800-782-4767



Illinois  
State  
Medical  
Society

Dear Colleague,

COVID-19 created significant challenges for our governmental affairs team during the 2021 spring legislative session as legislators returned to Springfield to convene their work. While legislators were allowed to return to the Capitol, lobbyists were not and were limited to advocating for and against bills remotely.

The challenges of not being able to connect with legislators in person were felt in early January when, during the final hours of the previous General Assembly's lame duck session, the Illinois Trial Lawyers Association pushed through a bill that would institute prejudgment interest at 9% annually starting at the notice of injury in all personal injury and wrongful death cases.

After learning that Governor Pritzker was likely to veto that bill, they again pushed through another prejudgment interest bill, this time with the Illinois Health and Hospital Association being a neutral party in the fight after small changes were made from the original bill. ISMS continued to fight the bill, but with the governor's signature we are moving to explore other avenues to mitigate its impact.

Despite our initial challenges, our governmental affairs team did end this session with significant wins. Most important, **ISMS' initiative to reform prior authorization processes passed the General Assembly unanimously**. This victory will bring much-needed relief to physicians and patients who are part of state-regulated health plans.

ISMS also supported other health insurance reform bills, including a bill to ensure that all Medicaid MCOs' and commercial insurers' **medical necessity determinations** concerning mental health and substance use disorders are fully consistent with generally accepted standards of care. ISMS also supported a **comprehensive telehealth policy** that brings coverage and payment parity with services delivered in person.

Equally important are the bills that ISMS successfully pushed back on, such as bills expanding other health care professionals' **scope of practice** and bills that would establish **onerous mandates** on physicians.

ISMS' work to effectuate positive changes for our practices and our patients continues as we prepare for the fall veto session and the 2022 spring legislative session.

On behalf of the Board of Trustees, I would like to thank every physician member who makes ISMS' advocacy efforts possible.

Sincerely,

J. Regan Thomas, M.D.  
President, Illinois State Medical Society

**Contents**

2022 FISCAL YEAR BUDGET ..... 3

2022 ELECTION CHANGES ..... 3

INSURANCE AND MEDICAL PRACTICE REGULATION ..... 3

    Alzheimer’s CME Mandate ..... 4

    Health Records ..... 4

    Maternal Care – CME Mandate ..... 4

    Maternal Care ..... 5

    Mental Health – Medical Necessity ..... 5

    Health Surrogate Act – POLST Program ..... 5

    Medical Implicit Bias Training ..... 5

    Prior Authorization Reform ..... 5

    Telehealth ..... 9

LICENSURE & SCOPE OF PRACTICE ..... 10

    Advanced Practice Registered Nurses (APRNs) ..... 10

    Licensure of Certified Professional Midwives ..... 10

    Licensure of Naturopathic Physicians ..... 11

    Certified Registered Nurse Anesthetists (CRNAs) ..... 11

    Pharmacists ..... 11

    Physician Assistants (PAs) ..... 12

    Podiatric Physician Vaccine Expansion ..... 12

    Radiation Administration ..... 12

    Psychologist Prescriptive Authority ..... 12

    Medical Practice Act ..... 12

MEDICAID ..... 13

    Medicaid Work Group Omnibus Bill/Budget Implementation ..... 13

    Medicaid Expansion for Pregnant Women ..... 13

MEDICAL LIABILITY ..... 13

PRESCRIBING SCHEDULE II OPIOIDS, OTHER CONTROLLED SUBSTANCES & NALOXONE 14

    Electronic Prescribing ..... 14

    Co-prescribing Naloxone ..... 14

    Controlled Substances: Opioids and Minors ..... 15

    Controlled Substances: Opioids ..... 15

PUBLIC HEALTH ..... 15

    Ban on Flavored Tobacco ..... 15

    Prohibition on Youth Vaping ..... 15

    Reducing Medical Waste; Facility-Based Medications ..... 15

    Regulation of CBD ..... 15

## **2022 FISCAL YEAR BUDGET**

With higher-than-expected post-COVID incoming revenues, federal COVID relief, and stimulus checks direct to residents, Illinois' finances look much better than expected going into Fiscal Year 2022. The \$42 billion budget pays off the remaining \$2 billion loan from the Federal Reserve during the pandemic and spends another \$1 billion on capital projects. Democrats presented what they consider a balanced budget **that does not include tax increases or fund sweeps**, yet pays down the unpaid bill backlog and funds the \$350 million in the school funding formula.

Total categories for this budget are:

- K-12 Education - \$9.2 billion
- Higher Education - \$1.9 billion
- Public safety- \$1.9 billion
- Human Services - \$7.4 billion
- Government General Services - \$1.4 billion
- Medicaid - \$7.5 billion
- Debt services - \$1.781 billion

Roughly \$1.5 billion of the federal American Rescue Plan Act of 2021 (ARPA) funds from the federal government are allocated this year for programs including violence prevention, youth programming, mental health and substance abuse programs, economic recovery and small and impacted business support, public health services response support, building stronger community programs like affordable housing, and education programs. Remaining funds will be allocated over the next three years.

## **2022 ELECTION CHANGES**

Senate Bill 825 (Sen. Harmon/Rep. Welch) amends the Illinois Election Code to make the following changes for the 2022 Elections:

- the date of the 2022 Primary Election is moved from March 15 to **June 28, 2022**;
- voters will be able to request a 2022 mail-in ballot between March 30 and June 23;
- the date for candidates to begin circulating candidate petitions is changed to January 13, 2022;
- sheriffs in counties with fewer than 3 million people are allowed to open temporary polling places for detainees in county jails;
- Election Day is made a state holiday for schools and universities; and
- on-site voter registration is allowed at high schools.

Senate Bill 825 also requires the Illinois State Board of Elections to establish a system by which mail-in ballots can be sent electronically, and allow those with disabilities to mark their ballots with assistive technology. This bill was signed into law as Public Act 102-0015

## **INSURANCE AND MEDICAL PRACTICE REGULATION**

***Alzheimer's CME Mandate*** – Legislation was introduced in 2020 that would have required physicians, regardless of specialty, to take an initial six hours of continuing medical education (CME) on dementia-related conditions, including Alzheimer's, and then two hours every licensure cycle thereafter. ISMS aggressively opposed this legislation. This year, Senate Bill 677 (Rep. Willis/Sen. Villivalam) was introduced to mandate that all physicians take an initial three hours of continuing medical education (CME) on dementia-related conditions, including Alzheimer's. ISMS opposed this bill as well. Because this is an initiative by the Lt. Governor, ISMS was asked to negotiate a compromise. ISMS successively reduced the number of hours to one hour of training on the diagnosis, treatment, and care of individuals with Alzheimer's disease and other dementias per licensure cycle, and have it apply to all relevant healthcare professionals who treat adult patients. This has passed both chambers and awaits further action by the Governor.

***Health Records*** – House Bill 714 (Rep. Gong-Gershowitz/Sen. Fine) as originally introduced would have allowed agents or representatives of patients seeking certain benefits to obtain free copies of medical records. ISMS opposed the bill as introduced, and along with the Illinois Health and Hospital Association, amended the language to provide that a health care facility or health care professional shall provide one complete copy of a patient's record at no cost to the patient's representative. The amended bill also:

- Requires that an authorized representative of the patient must provide documentation of their authority to act for the patient.
- Provides that records may be released to a requester authorized by statute if the patient is deceased.
- Provides that the records may be provided for the purposes of supporting a claim for Aid to the Aged, Blind, or Disabled benefits.
- Provides that, upon request, and if the records are for at least one of the approved purposes, the requester may obtain updated medical records not included in the original medical record free of charge if the request is accompanied by a valid authorization for the release of records signed by the patient, the patient's legally authorized representative who has provided documentation of authority to act for the patient, or such other requester as is authorized by statute if the patient is deceased.

ISMS was neutral on the language as amended. This bill was signed into law as Public Act 102-0183.

***Maternal Care – CME Mandate*** – House Bill 2376 (Rep. Mah) would mandate that all physicians take a course on maternal mental health as part of their required CME. ISMS opposed this bill. The sponsor did not call the bill for a vote.

**Maternal Care** – Senate Bill 967 (Sen. Castro/Rep. Greenwood) provides support for pregnant and new mothers for pregnancy-related conditions, including mental health and substance use disorders, by requiring private insurance plans to cover postpartum complications up to one year after delivery among other requirements. According to an IDPH report, these kinds of disorders are the leading cause of death in new mothers. Additionally, it requires Medicaid to cover multiple postpartum visits. ISMS supported this bill, which passed both chambers and will be sent to the Governor for further action.

**Mental Health – Medical Necessity** – House Bill 2595 (Rep. Conroy/Sen. Fine) is an initiative of The Kennedy Forum and was introduced to fix current inequities in how health plans cover mental health care. Many insurers use flawed and discriminatory guidelines to avoid paying for the mental health care and treatment services granted under existing federal law. Specifically, HB 2595, which ISMS supports, protects patients by:

- establishing clear definitions and standards for when services and treatment qualify as medically necessary;
- requiring insurers to rely on transparent criteria published by non-profit clinical societies for mental disorder medical necessity determinations;
- requiring insurers to cover all medically necessary mental health and substance use disorder care and explicitly prohibiting limiting benefits to short-term, acute treatment or refusing to cover whole levels of care; and
- encouraging compliance with Illinois' mental health parity law by making sure illegal practices are appropriately penalized.

HB 2595 passed both chambers and will be sent to the Governor for further action.

**Health Surrogate Act – POLST Program** – Senate Bill 109 (Sen. Feigenholtz/Rep. Gabel) will update the POLST standards by removing the witness signature requirement. The patient and the patient's treating health care professional still will be required to sign the form. Illinois is one of two states that have this requirement, and by removing the witness signature, Illinois' POLST form will align with national standards. ISMS supported this bill, and it was signed into law as Public Act 102-0140.

**Medical Implicit Bias Training** – Public Act 102-0004 (Rep. Lily/Sen. Hunter) is the Legislative Black Caucus' health care pillar. Part of the new law requires all healthcare professionals to complete one hour of training on implicit bias awareness per licensure cycle. This is in response to health care disparities noted in a report on maternal health, as well as disparities uncovered during the COVID-19 pandemic.

**Prior Authorization Reform** – House Bill 711 (Rep. Harris/Sen. Holmes), an ISMS initiative, creates the Prior Authorization Reform Act. This comprehensive legislation, which applies to most state-regulated health plans, including private commercial plans and Medicaid managed care companies, institutes a number of protections for both health care professionals and patients to reduce interference by onerous prior authorization requirements in prescribing and accessing health care treatment.

HB 711 creates the following protections:

**Transparency:**

- Health insurance issuers are required to make any current prior authorization requirements and restrictions, including written clinical review criteria, readily accessible and conspicuously posted on its website. The clinical review criteria:
  - must be based on nationally recognized standards, except where State law has its own standards;
  - must be developed in accordance with current standards of national medical accreditation entities;
  - must ensure quality of care and access to needed health care services;
  - must be evidence based;
  - must be sufficiently flexible to allow deviations from norm on a case by case basis;
  - must be developed with input from actively practicing physicians; and
  - must be evaluated and updated annually.
  
- Utilization review organizations must update their websites with new or amended requirements prior to implementation, and provide written notice to contracted health care professionals and contracted health care providers at least 60 days prior to implementing the change.
  
- Entities using prior authorization must make statistics related to prior authorization approvals and denials available on their web site, including:
  - the number of prior authorization requests received and denied during the previous plan year;
  - the top five reasons for denial;
  - the number of requests that were appealed, and the number of appealed requests that were upheld or overturned; and
  - the average time between submission and response.

**Timelines for urgent and non-urgent care:**

- Utilization review organizations are required to respond to prior authorization requests for non-urgent services within five calendar days of receiving all the necessary information, notwithstanding any other provision of law.
  
- Utilization review organizations are required to respond to prior authorization requests for urgent services within 48 hours of receiving all the necessary information, notwithstanding any other provision of law. Utilization review organizations must also establish a mechanism to ensure health care professionals have access to someone able to make prior authorization decisions related to urgent care services.

**Personnel qualified to make adverse determinations:**

- All adverse determinations must be made by a physician when the request is by a physician or on behalf of a physician. The physician must:
  - possesses a current and valid non-restricted license; and
  - have experience treating and managing patients with the medical condition or disease for which the health care service is being requested.

**Requirements for adverse determination:**

- A health insurance issuer or its contracted utilization review organization must provide specific information to the enrollee, the enrollee's health care professional, and the enrollee's health care provider when an adverse determination is made, including:
  - the reasons for the adverse determination and related evidence-based criteria, including a description of any missing or insufficient documentation;
  - the right to appeal the adverse determination;
  - instructions on how to file the appeal; and
  - additional documentation necessary to support the appeal.

**Personnel qualified to review appeals:**

- All appeals submitted by or on behalf of a physician must be reviewed by a physician who:
  - possesses a current and valid non-restricted license;
  - practices in the same or similar specialty as one who typically manages the medical condition or disease;
  - is knowledgeable of, and has experience providing, the health care services under appeal;
  - was not directly involved in making the adverse determination; and
  - considers all known clinical aspects of the health care service under review.

**Review of prior authorization requirements:**

- Health insurance issuers must periodically review their prior authorization requirements and consider removal of prior authorization requirements in the following circumstances:
  - where a medication or procedure prescribed for a patient is customary and properly indicated or is a treatment for the clinical indication as supported by peer-reviewed medical publications; or
  - for a patient currently managed with an established treatment regimen.

**Denial:**

- Utilization review organizations are prohibited from denying supplies or health care services that are routinely used as part of the service for which a prior authorization has been obtained.

- Health insurance issuers and utilization review programs are prohibited from revoking or further limiting, conditioning or restricting a prior authorization while it remains valid.
- Health insurance issuers must make payment according to the terms of coverage on properly coded and submitted claims for services for which prior authorization approval was received, with certain exceptions applying such as misrepresentation or fraud committed by the treating health care professional.
- Nothing shall preclude a utilization review organization or a health insurance issuer from performing post-service reviews of health care claims for purposes of payment integrity or for the prevention of fraud, waste, or abuse.
- Utilization review organizations are prohibited from denying a claim for failure to obtain prior authorization if the prior authorization requirement was not in effect on the date of service.

**Length of prior authorization for acute conditions:**

- Prior authorization approvals shall be valid for six months or the length of treatment as determined by the patient’s health care professional or the renewal of the plan, including any potential dosage reductions for prescription drugs. This does not apply to benzodiazepines or Schedule II narcotics. Health insurance plans are not required to cover any care, treatment or services that the terms of coverage would otherwise exclude from the policy’s covered benefits.

**Length of prior authorization for treatment for chronic or long-term conditions:**

- Prior authorization approvals for chronic or long-term conditions shall be valid for the lesser of 12 months or length of treatment as determined by the patient’s health care professional. This section does not apply to benzodiazepines or Schedule II narcotics. Health insurance plans are not required to cover any care, treatment or services that the terms of coverage would otherwise exclude from the policy’s covered benefits.

**Continuity of care for enrollees**

- Utilization review programs are required to honor prior authorization approvals for at least the initial 90 days of an enrollee’s coverage with a new health insurer. Except to the extent required by medical exceptions processes for prescription drugs, health insurance plans are not required to cover any care, treatment or services that the terms of coverage would otherwise exclude from the policy’s covered benefits, subject to the terms of the member’s coverage agreement.

HB 711 passed both chambers unanimously and will be sent to the Governor for final action.

**Telehealth** – Prior to the COVID-19 pandemic, ISMS had been advocating for coverage and payment parity for telehealth services provided to our patients. ISMS adopted strong guidelines in 2017 that laid a firm foundation for our advocacy efforts, detailing our priorities for providing access to quality affordable healthcare without the lowering of needed patient safety standards lead by physicians. Highlights of ISMS’ policy include: the appropriate use of telemedicine to serve as an alternative to in-patient care, particularly in cases where access to care is limited; state licensing standards **MUST** be maintained; professional standards guiding the practices of telemedicine must be the same for in-person care delivery; and strong regulation of third-party entities providing telemedicine services.

Governor Pritzker has issued executive orders since the start of the COVID-19 public health emergency in 2020 to mandate that telehealth coverage and payment parity be instituted by all commercial and public insurers throughout Illinois. As the COVID threat began to wane with the introduction of the vaccines, a coalition of health care advocacy groups formed to begin the process of codifying these important patient telehealth protections into law and to push back against proposals introduced by the insurance lobby. To ensure that safe and reliable telehealth care that improves patient outcomes by reducing access barriers continues to be provided after the COVID-19 pandemic, the health care coalition urged the General Assembly to pass legislation on both coverage parity and payment parity with in-person services. We believe telehealth must be reimbursed at the same rate as in-person care. The goal of this coalition is to make sure that the progress made in making telehealth accessible for every Illinois resident is not reversed.

Negotiations began in earnest after the new General Assembly was sworn in, as the insurance companies were laser focused on repealing or reversing the gains in patient care established over the last year. In the end, the health care coalition prevailed and established substantial protections in HB 3308 (Jones/Harris). This bill:

- Provides for permanent telehealth payment parity for behavioral health and substance use disorder services, and payment parity for physical health services subject to a sunset to review utilization rates.
- Prohibits geographic or facility restrictions on telehealth services, allowing patients to be treated via telehealth in their home.
- Protects patient preference by establishing that a patient cannot be required to use telehealth services.
- Ensures that patients will not be required to use a separate panel of providers or professionals to receive telehealth services.
- Aligns telehealth practice with privacy laws for in-person practice, while giving healthcare professionals the latitude to determine the appropriateness of specific sites and technology platforms for telehealth services.

- Aligns telehealth coverage and payment with in-person care, making appropriate patient access to care the priority and removing harmful barriers that shift costs to the patient and healthcare professional.
- Instructs the Departments of Insurance and Public Health to commission a study on telehealth utilization; impact on access, outcomes and health equity; and costs to be presented in 2026 prior to the sunset in 2027.
- Provides that coverage for telehealth services is mandatory for clinically appropriate and medically necessary telehealth services. Medicaid plans are not included in HB 3308; coverage and reimbursement provisions for Medicaid are already in permanent regulatory rules at the discretion of the state Department of Healthcare and Family Services (HFS), not dependent upon the timing of the Executive Orders. HFS plans to review its rules this summer.

ISMS supported House Bill 3308 as amended. The bill has been signed into law as Public Act 102-0104.

### **LICENSURE & SCOPE OF PRACTICE**

***Advanced Practice Registered Nurses (APRNs)*** – Senate Bill 105 (Sen. Feigenholtz/Rep. Moeller) as introduced would have allowed APRNs themselves to attest to the additional education required of them to obtain full practice authority, removing the requirement that the collaborating physician sign the attestation form. The bill would have also removed the requirement that full practice authority APRNs maintain a consultation agreement with a physician in order to prescribe Schedule II controlled substances. ISMS opposed this bill as introduced. The bill was later amended to remove the changes opposed by ISMS, and instead enabled the APRN’s employer to attest to the APRNs additional education and training, in addition to retaining the collaborating physician’s ability to do so. This legislation has been signed into law as Public Act 102-0075

***Licensure of Certified Professional Midwives*** – House Bill 3401 (Rep. Gabel/Sen. Castro) is the culmination of stakeholder meetings to address concerns and find consensus on divisive issues with previous iterations of midwifery licensure bills. ISMS was successful in securing strict licensure requirements, clear informed consent provisions providing for risks of home birth as well as who is responsible for liability, limited scope of practice, consultation and transfer protocols when complications arise before and during pregnancy, and liability protections for physicians and hospitals. The plaintiffs’ bar opposed those liability protections. For that reason, the bill was not called in the Senate, despite its almost unanimous passage in the House. We expect discussions on this issue to continue over the summer.

***Licensure of Naturopathic Physicians*** – House Bill 1801/Senate Bill 1951 (Rep. Costa Howard/Sen. Jones) provides licensure for naturopathic physicians. The education and training of naturopaths does not sufficiently prepare naturopaths to provide medical care, which will have adverse effects on patient safety in Illinois. Under these bills, naturopaths would be allowed to provide a full range of medical services to patients. ISMS is opposed to these bills and they remain in their respective Rules/Assignments Committees.

***Certified Registered Nurse Anesthetists (CRNAs)*** – House Bill 1820/Senate Bill 2566 (Rep. Moeller/Sen. Bush) removes the requirement that CRNAs work under a written anesthesia plan and instead only provides for limited consultation with physicians, thus allowing the nurse anesthetist to practice independently. ISMS opposed these bills, both of which remain in their respective Rules/Assignments Committees.

***Pharmacists*** – During the very last hours of the session, the Illinois Retail Merchants Association (IRMA), an entity that represents Walgreens, CVS, Target, and other big box stores that provide pharmaceutical services, secured language in a draft budget implementation bill, Amendment 2 to HB 2499, that would have expanded the scope of practice of pharmacists. This language would:

- Change the minimum age of patients that can be vaccinated by pharmacists from fourteen to seven.
- Expand the list of vaccines eligible for pharmacist administration to include ALL of those listed on the CDC recommended immunization schedule, the CDC’s Health Information for International Travel book, and the FDA list of Vaccines Licensed and Authorized for Use in the US.
- Allow the initiation, ordering and administering of a COVID-19 test by a pharmacist.
- Allow pharmacists to collect specimens, evaluate results, notify patients, and refer patients to other health care providers for follow up care. Pharmacists may also delegate their authority to administer tests to trained pharmacy technicians and pharmacy interns.
- Allows pharmacists to initiate drugs, drug categories or devices that are initiated pursuant to a valid prescription or a standing order for seven specific conditions: influenza; Streptococcus; lice; skin conditions, such as ringworm and athlete’s foot; human immunodeficiency virus pre-exposure prophylaxis; human immunodeficiency virus post-exposure prophylaxis; and minor, uncomplicated infections. Tests ordered and administered in accordance with this provision in the state’s Medicaid program would be reimbursed at no less than 85% of the rates covered and reimbursed when ordered/administered by physicians.

Despite the late hour and the need to pass a budget implementation bill, ISMS aggressively lobbied against the inclusion of the pharmacy language. With the exception of allowing pharmacists to administer vaccines (under either a standing order or prescriptions) to individuals seven years old and older, the language allowing for testing and initiating drug therapies was removed. The budget implementation bill, as amended, passed both chambers in the very early morning hours of June 1. We expect IRMA to introduce legislation either during the fall veto session or next year to finish what it started. ISMS and other groups stand ready to oppose.

***Physician Assistants (PAs)*** – House Bill 1826/Senate Bill 145 (Rep. Willis/Sen. Murphy) would enact considerable changes from the current regulations and practices of PAs by allowing for significant independent practice. Under these bills, the scope of practice of physician assistants is amended to include the practice of medicine, and PAs are allowed to call themselves “physician associates” who practice medicine under an oral collaborative agreement with a physician (which currently must be written). ISMS opposed these bills, both of which remain in their respective Rules/Assignments Committees.

***Podiatric Physician Vaccine Expansion*** – House Bill 3080/Senate Bill 2317 (Rep. Flowers/Sen. Feigenholtz) would allow podiatric physicians to administer the COVID, flu and tetanus vaccines. ISMS opposed this expansion of scope and the bills remain in their respective Rules/Assignments Committees.

***Radiation Administration*** – Senate Bill 1949 (Sen. Feigenholtz) would allow APRNs to administer radiation. Currently, this service can only be provided by a physician, and this change could be very dangerous to the patient. ISMS opposed this bill and the legislation remains in the Senate Assignments Committee.

***Psychologist Prescriptive Authority*** – Senate Bill 2272 (Sen. Syverson) would remove current restrictions on psychologists regarding to whom and what they can prescribe. Currently, psychologists are only allowed to prescribe anti-depressants to healthy adults. They cannot prescribe to minors, pregnant women, individuals with underlying health conditions or seniors. ISMS opposes this scope expansion and the bill remains in the Senate Assignments Committee.

***Medical Practice Act*** – Public Act 102-0020 (Rep. Mah/Sen. Jones) provides for a five-year extension of the Illinois Medical Practice Act. ISMS supported this bill, which passed both chambers and has been sent to the Governor for further action.

## **MEDICAID**

***Medicaid Work Group Omnibus Bill/Budget Implementation*** – The legislative Medicaid Working Group is a bi-partisan/bi-cameral working group that was established to provide a thorough review of Medicaid legislation, rules, and policy. This year the Medicaid Working Group developed an omnibus bill (SB 2294 Gillespie/Harris) to include provisions from several bills: bringing CHIP into Medicaid, adding smoking cessation medication to Medicaid coverage, increasing rates for long-term care, increasing supportive living facility (SLF) rates by 10% for one year, increasing dental rates by \$10 million, and extending Medicaid eligibility for those eligible during COVID. This bill has been signed into law as Public Act 102-0043.

***Medicaid Expansion for Pregnant Women*** – ISMS supported Governor Pritzker and Department of Healthcare and Family Services Director Theresa Eagleson’s efforts to seek a federal waiver to provide additional coverage for pregnant women and for additional post-partum care. This waiver was granted and the State of Illinois became the first state to extend full Medicaid benefits for eligible women from 60 days to 12 months after giving birth. The federal CMS approved Illinois’ Section 1115 waiver allowing for the extension, which is aimed at improving health outcomes for new mothers and reducing the rate of maternal morbidity and mortality. Women with incomes up to 208% of the federal poverty level will have continuous Medicaid eligibility through 12 months postpartum, versus the standard 60 days.

## **MEDICAL LIABILITY**

During the very late hours of the end of lame duck session of the 101<sup>st</sup> General Assembly, the Illinois Trial Lawyers Association introduced an amendment to HB 3360 that would add prejudgment interest of 9% per year to all liability and wrongful death cases. The interest would be accruing from the date the defendant has notice of the injury (from the incident itself or a written notice).

The Governor vetoed that bill. Unfortunately, the trial lawyers reintroduced the language with only small changes, which included bringing the interest rate down from 9% to 6% and having the interest penalty start at the time the case is filed. Despite those small changes, the new language, SB 72, will still unfairly punish physicians in medical liability cases and will drive up medical liability insurance rates, which will, in the long run, negatively impact access to care.

ISMS aggressively opposed SB 72. But because it was sold as “comprised language” with the Illinois Health and Hospital Association (IHA), the Governor signed the bill into law.

**PRESCRIBING SCHEDULE II OPIOIDS, OTHER CONTROLLED SUBSTANCES & NALOXONE**

***Electronic Prescribing*** – House Bill 3596 (Rep. Avelar/Sen. Jones) will require that a prescription for a controlled substance must be sent electronically. On the federal level, a requirement that prescriptions of a controlled substance for a covered Medicare Part D drug be sent electronically started on January 1, 2021, although enforcement will not start until January 1, 2022. To ensure that Illinois’ law mirrors federal law, ISMS was able to secure an effective date of January 1, 2023. ISMS was also able to secure language exempting any prescriber from the requirement if that prescriber issues no more than 25 prescriptions during a 12-month period. ISMS will also work with IDFPR in securing, through the adoption of rules, other exemptions that are deemed appropriate. ISMS was neutral on this bill, due to the requirement at the federal level. The bill passed both chambers and will be sent to the Governor for further action.

***Co-prescribing Naloxone*** – House Bill 348 (Rep. Conroy) and Senate Bill 2535 (Sen. Bush) would have required a prescriber to offer a prescription for naloxone for the complete or partial reversal of opioid depression to a patient when one or more of the following conditions are present: (1) the prescription dosage for the patient is 50 or more morphine milligram equivalents of an opioid medication per day; (2) an opioid medication is prescribed concurrently with a prescription for a benzodiazepine; or (3) the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant.

The bills would have also required that prescribers not only counsel the patient on the addictive nature of the opioid being prescribed and the benefits of naloxone, but a designee of the patient as well.

This is an initiative of Emergent BioSolutions, a drug company that manufactures naloxone, and is a blatant attempt to increase profits.

ISMS opposed this legislation and worked closely with the sponsors to develop an alternative pathway forward as it relates to increasing access to naloxone for those who need it, as well as ways to educate patients about the dangers of opioid abuse. The sponsors agreed to hold the bills and will have larger stakeholder meetings over the summer. ISMS looks forward to being part of those discussions.

***Controlled Substances: Opioids and Minors*** – House Bill 3355 (Rep. Meier/Sen. Plummer) would amend the Illinois Controlled Substances Act to require a prescriber to, prior to issuing a prescription for a Schedule II opioid to a minor, discuss with the minor the risks of developing a physical or psychological dependence on the opioid. If the prescriber deems it appropriate, he or she must discuss any alternative treatments available. ISMS expressed concerns about the underlying mandate placed on physicians and was able to secure an amendment that creates a public awareness campaign that requires the Illinois Department of Human Services (DHS) to develop and make available on its website information on the risks of developing a physical or psychological dependence on opioids and any alternative, and requires DHS to make available upon request to all prescribers, pharmacists, and patients in the state a pamphlet which explains the risks of developing a physical or psychological dependence on opioids. Prior to dispensing a Schedule II opioid controlled substance, a pharmacist must provide the pamphlet or information developed by DHS and discuss the risks of developing a physical or psychological dependence on opioids. ISMS supported the bill as amended, which passed both chambers and awaits further action by the Governor.

***Controlled Substances: Opioids*** – Senate Bill 86 (Sen. Stoller) and House Bill 3356 (Rep. Meier) would amend the Illinois Controlled Substances Act and provides that an initial prescription for an opioid may only be issued for a seven-day supply. ISMS opposed these bills, which failed to advance.

## **PUBLIC HEALTH**

***Ban on Flavored Tobacco*** – Senate Bill 699 (Sen. Morrison), an ISMS initiative, would ban the sale of all flavored tobacco, including menthol flavored tobacco products. Due to strong opposition from the Illinois Retail Merchants Association, the bill failed to advance.

***Prohibition on Youth Vaping*** – Senate Bill 512 (Sen. Morrison/Rep. Morgan) makes it illegal for persons to sell or distribute specified electronic cigarettes to anyone under the age of 21. ISMS supported this bill, which passed both chambers and awaits for further action by the Governor.

***Reducing Medical Waste; Facility-Based Medications*** – Public Act 102-0155 (Sen. Fine/Rep. Gong-Gershowitz), an ISMS initiative introduced at the request of an ISMS member, allows patients to be discharged from the hospital with certain topical medications (namely eye drops) used in the operating room or emergency department that would otherwise have to be discarded and new prescriptions for the same medication issued. This will improve patient quality of care through increased patient compliance, reduce costs and waste, and mitigate drug shortages by allowing all patients to receive their topically applied OR medications on discharge if needed post-operatively.

***Regulation of CBD*** – House Bill 147 (Rep. Morgan/Sen. Castro) creates the CBD Safety Act. Prohibits the sale or distribution of a cannabinoid product unless the CBD product has labeling and has undergone lab testing that meets labeling and minimum testing requirements pursuant to rules adopted by the Department of Agriculture. ISMS supported this bill, which was held in the Senate. We expect that similar legislation will be introduced next year.