



2019 Legislative Session Report

Michelle S. McOmber, MBA, CAE,
CEO, Utah Medical Association

2019 Legislative Session

- SB264 – Medical Treatment Authorization Amendments (Sen. Vickers)
 - This is the UMA prior authorization bill that we asked Vickers to run based on UMA HOD resolution.
 - If Insurer has given prior authorization for a specific service, procedure, or drug, they may not come back and claw back payment or deny the care given
 - Requires insurers to be transparent about their prior authorization requirements including posting on their website which drugs, devices, and procedures require prior auth and all the information that needs to be submitted to get authorization.
 - Prohibits post-care review for medical necessity.
 - Authorization now will include verification of the patients' insurance coverage to make it a complete review before giving prior auth.
 - Requires 30 day notice for changes to prior auth requirements.
 - Requires prior auth for needed care for after emergency or urgent care to be done within 72 hours and for regular non-urgent care to be done within 15 days.
 - Requires insurers to report to the DOI on how long it takes them to do non-urgent prior auth on an annual basis.
 - When a physician requests an appeal on a determination, requires a physician or a pharmacist (for a drug) to review a medically based appeals. **Passed**



2019 Legislative Session

- Balance Billing

- Representative Dunnigan once again wanted to run a balance billing bill to restrict or prohibit balance billing by ED physicians and specialists who were out-of-network for patients who were treated in the emergency room or for emergency care by specialists. UMA proposed a concept that was accepted but we could not come to an agreement on the amount CAP on how much could be balance billed for out-of-network care. While UMA came down on the amount the physicians were willing to take, the Representative would not come up. Final result, no bill. Will continue to work on issue.
- Feds also working on issue



2019 Legislative Session

- HB77 - Health Information Exchange Amendments (Rep. Daw)
 - Exempts a health care provider, or a qualified network that accesses or reviews clinical health information from or through the electronic exchange (UHIN) in accordance with the requirements of the section is not subject to civil liability for the access or review. Use of data must be for treatment, payment or health care operations as defined in federal statute. UMA supported. **Passed**
- HB147 - Physician Certification Amendments (Rep. McKell)
 - Prohibits the following persons from requiring that a physician have maintenance of board certification: a health care facility, for purposes of employment, privileges, or reimbursement; a managed care organization or other third party for purposes or reimbursement; or the Division of Occupational and Professional Licensing, for purposes of licensing. UMA gave soft support but asked the Representative to amend. He did not push the bill and it **Failed**



2019 Legislative Session

- HB186 – Opioid Prescription Regulation Amendments (Rep. Ward, MD)
 - Originally the bill would have required all physicians (prescribers) who gave a controlled substance to a patient in the last three months, if that patient died and a possibility of the controlled substance contributed to the death, to receive a one on one mandatory visit from DOPL asking what they might have done wrong, meet with physician office and staff to ask them what they thought might have been done better and give them information about prescribing for patients, etc. It would not have allowed physician or offices to refuse to meet with DOPL and it would not have protected the information sent from the Medical Examiners office from discovery.
 - UMA worked with sponsor to amend. The final bill gives DOPL the instruction to offer one on one education to a provider that a prescribed a controlled substance when a patient dies from a controlled substance or the death has been contributed to by a controlled substance. Provider does not have to accept the education. Makes records on these deaths protected from a GRAMA request and from medical malpractice. After amending bill, UMA supported. **Passed**



2019 Legislative Session

- HB251 – Drug Diversion Reporting Requirements (Rep. Eliason)
 - Makes it a crime to knowingly fail to report the diversion of a significant amount (equal to or more than 500 morphine milligram equivalents) of drugs by a licensee or employee that a person knows about. Concerned about liability and significant amount not defined, once defined, supported bill. **Passed.**
- HB324 – Tobacco Age Amendments (Rep. Eliason)
 - Raises the minimum age for obtaining, possessing, using and providing tobacco products, including e-cigarettes, in annual steps from age 19 to 20, then from 20 to 21. Something UMA has been working on for years – HOD resolution. Exempts those in the military from the higher age requirement. UMA supported bill. **Passed**



2019 Legislative Session - Scope

- SB157 – Acupuncture Licensing Act Amendments (Sen. Harper)
 - Allows Acupuncturists to inject into Acupuncture points (into the muscle and subcutaneous). Restricted to nutritional supplements, local anesthetic, autologous blood (if licensed in phlebotomy), sterile water, dextrose, sodium bicarbonate and sterile saline. They must have extra training. They can also obtain these substances only for injection onsite. Originally bill would have allowed the to inject anywhere and would have given them ability to inject all prescription and controlled substances they wanted. They were injecting by DOPL rule before running this bill. UMA worked to amend and then was neutral on the amended version of bill. **Passed**
- HB 445 – Health Care Debt Collection Notice Amendments (Rep. Miles)
 - For collection or sending patients bill to credit agency, allows a healthcare provider to provide notice by first class mail instead of just by certified mail with return receipt or text. UMA pushed bill. **Passed**



2019 Legislative Session

- HB337 – Professional Competency Standards Amendments (Rep. Daily-Provost)
 - This bill attempted to repeal requirement for age testing that passed last year that did not allow age testing unless national standards proposed by AMA were followed.
 - UMA amended this repeal bill and added that the AMA Council on Medical Education recommendations for age testing must be met if testing based on age. Did put in a few amendments for Intermountain allowing cognitive testing but only if it applies to physicians specifically and the testing must apply specifically to a physician's ability to practice as a physician and in their practice setting. After amending, UMA supported bill. **Passed**
- HB393 – Suicide Prevention Amendments (Rep. Eliason)
 - Originally this bill would have required physicians to take 2 hours of suicide prevention CME each licensing cycle but UMA amended so now the DOH in conjunction with the Division of Substance Abuse and Mental Health (the Division) shall create a series of suicide prevention videos that are web-accessible and no longer than **20 minutes** in length. They shall include information about individuals at-risk for suicide, suicide prevention and invention, and provide on the Division's website educational materials or courses that relate to suicide prevention that a primary care provider may complete at no cost and apply towards CMS. Primary care providers are defined at MDs, DOs, NPs, and PAs. Each have to watch the 20 minute video each licensing cycle to be licensed. After amending, UMA was neutral on the bill. **Passed**



2019 Legislative Session

- HB430 – Prohibition of Genital Mutilation (Rep. Ivory)
 - Prohibits any procedure (girl under 18) that involves partial or total removal of the external female genitalia or any harmful procedure to the female genitalia, including: a) clitoridectomy; b) the partial or total removal of the clitoris or the prepuce ; c) excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora; d) infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without the excision of the clitoris; e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or f) any other actions intended to alter the structure or function of the female genitalia for **non-medical reasons**.
 - UMA pushed to amend – and this was added: **A surgical procedure is not a violation of Section 76-5-701 if the procedure is performed by a physician licensed as medical professional in the place it is performed and is medically advisable or necessary to preserve or protect the physical health of the person on whom it is performed. Originally would have permanently revoked a physician's license for violation.**
 - There is also an exception for sex reassignment surgery by the person on whom it is performed.
 - UMA also pushed an amendment that said that it would go through the regular pre-lit medical malpractice system unless and until it becomes a criminal case. **Passed**



2019 Legislative Session

- HB441 – Tax Equalization and Reduction Act (Rep. Quinn)
 - Would have reduced minimum tax from 4.95% to 4.75% for corporations but would have taxed professional services including cosmetic medical procedures at 3% and insurance premiums at 1%.
 - Cosmetic medical procedures were defined as a “medical procedure performed in order to improve a human subject’s appearance without significantly serving to prevent or treat illness or disease or to promote proper functioning of the body.”
 - May include “cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peels, hair laser removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, cosmetic dentistry” and it would tax any stays in facilities (or clinics) related to the above services.
 - It would not include: reconstructive surgery or dentistry to correct or minimize abnormal structures caused by: congenital defects, developmental abnormalities, trauma, infection, tumors or disease or other procedures performed to improve proper functioning of the body. UMA and many others opposed bill because needs more work. **Failed**



2019 Legislative Session – Transparency Bills

- SB265 – Truth in Healthcare Costs (Sen. Anderegg)
 - Would have required physicians to tell a patient how much their care would cost before any service and would have required that physician to see the patient. The physician could not have charged the patient anything different than the original estimate given to the patient. UMA opposed. **Failed**
- SB29 - Health Care Malpractice Act Sunset Extension (Sen. Christensen)
 - Extends the sunset date for provisions regarding medical malpractice arbitration agreements for 10 years. UMA supported bill and having multiple options for defending lawsuits and requiring patients to sign arbitration agreements if they wish. **Passed**



2019 Legislative Session

- SB96 – Medicaid Expansion Adjustments (Sen. Christensen)
 - Expands Medicaid up to 100% of Federal Poverty level for everyone who qualifies
 - Requires DOH to obtain a waiver to allow the state to limit the eligibility and still get the 90/10 federal match if exceeds expected costs and budget
 - Gives enrollees automatic continuous eligibility for 12 months
 - If no waiver received by certain date, expands to 138% of FPL but requires DOH to cut budgets for everything by 10% (including reimbursements) – also if appropriated funds don't cover cost of even those enrolled
 - Allow federal Medicaid funds to be used for housing support for certain individuals
 - Require a work requirement (that matches what is required under TANFF program)
 - If individual is eligible for private insurance through employer, require them to enroll with that plan (state pay premium). Original bill was different and would have just repealed the full expansion but put in place expansion to 100% of FPL if wavier received. UMA had grave concerns about original bill and talked with Legislators about those concerns. After the Legislature amended, it. **Passed**

The DOH received approval on their first waiver at the end of March, started enrolling patients April 1.



2019 Legislative Session

- SB188 – Consent for Medical Procedure Amendments (Sen. McCay)
 - UMA amended from original version which would have required consent in all circumstances of care when a physician had contact with an anesthetized or unconscious patient’s “pelvic region.” – name all possible providers, meet all of them, consent to each separately or agree to only those they chose to agree to, etc.
 - A medical provider or emergency medical service provider must receive consent from a patient or the patient’s representative in the following circumstances, if they perform an exam or procedure on an anesthetized or unconscious patient that requires contact with the patient’s “sexual organs”:
 - If not immediately necessary for diagnosis or treatment of the patient
 - If a Resident or medical student is involved in the exam, even if only observing.
 - Either electronically or in 18-point bold face type on a completely separate consent form that says “Consent for Examination of Pelvic Region”:
 - Specifies the nature and purpose of the patient examination
 - Names one or more primary health care providers whom the patient (or Representative) authorizes to perform the exam
 - Consent to exam for diagnosis or treatment and additional exam by student or resident for educational or training purposes; or consent only for diagnosis or treatment; or refuse to consent to the patient exam
 - Must be witnessed by a third party and Doc must sign. **Passed**



Thank you.

Questions?

