

The 2018 Legislative Session

Submitted by Patty and Jonathan Seib, WAFP Public Policy Consultants

The 60-day regular session of the 2018 Washington State legislature came to an end the evening of March 8. For the first time since 2014, and only the third time in the past 10 years, lawmakers finished their work in the constitutionally allotted time without going into special session. Legislators introduced 1,410 new bills in 2018. A total of 308, including some which were among the 2,303 initially introduced in 2017, made it through the legislative process to Gov. Jay Inslee's desk. Completing his review and action on bills on March 31, the governor vetoed all or part of 16 while signing the remainder.

What follows is a brief description of bills considered in the 2018 legislature in which the Washington Academy of Family Physicians played an active role or which otherwise may be of interest to family physicians and their patients. For ease of reference, the bills are in numerical order simply as "Senate Bill" (SB) or "House Bill" (HB) rather than the more cumbersome notation (such as "Engrossed Second Substitute House Bill") that reflects procedural steps taken by a given bill to get through the process. We have also noted parenthetically the legislator who was the prime sponsor of the bill when introduced.

These brief summaries are taken from reports written by legislative staff, and reference only those sections of the legislation likely to matter to primary care and family medicine. You are encouraged to go to the legislative website (leg.wa.gov) or the budget website (fiscal.wa.gov) for more details and to read enacted legislation in its entirety.

New laws: Bills passed by the legislature and signed by Gov. Inslee.

HB 1047: Disposal of unwanted medications (Peterson)

- Requires manufacturers that sell drugs in Washington to operate a drug take-back program to collect and dispose of prescription and over-the-counter drugs from residential sources.

HB 1523: Health plan coverage of preventive services (Robinson)

- Requires health plans to cover the same preventive services required by federal law as of Dec. 31, 2016.
- Requires the insurance commissioner to enforce the requirement consistent with federal rules, guidance and case law in effect on Dec. 31, 2016.

HB 1570: Homeless housing and assistance (Macri)

- Increases the temporary \$40 local homeless housing and assistance surcharge to \$62, makes the surcharge permanent, and reserves \$10 of the surcharge specifically for use by counties for local homeless housing and assistance purposes. This will generate approximately \$26 million each year to fight homelessness.

HB 2143: Expanding opportunities for higher education students (Haler)

- Creates the Medical Student Loan Program to provide low-interest loans to students in doctor of medicine or doctor of osteopathic medicine programs who declare an intention to work in a rural underserved area in Washington.
- Expands the Washington State Opportunity Scholarship to students in eligible advanced degree programs who commit to a required service obligation in a service obligation area.

HB 2257: Maintenance of certification (McBride)

- Prohibits the Medical Quality Assurance Commission and Board of Osteopathic Medicine and Surgery from requiring that allopathic and osteopathic physicians complete a maintenance of certification as a condition of licensure or renewal.

HB 2443: WSU College of Medicine/Family Medicine Residency Network (Riccelli)

- Adds the Elson S. Floyd College of Medicine at Washington State University to the Family Medicine Residency Network and the Family Medicine Education Advisory Board.

HB 2578: Ensuring housing options (Riccelli)

- Prohibits landlords from refusing to rent property, expel tenants, discriminate or discourage a rental to a tenant based on the tenant's source of income.

HB 2671: Behavioral health of people in the agricultural industry (Wilcox)

- Establishes a task force and pilot program to address behavioral health and suicide prevention for people in the agricultural industry.

SB 5084: Providing women with timely information regarding their breast health (Rolfes)

- Requires that information identifying a patient's individual breast density classification be included on mammography reports sent to a patient.
- Requires a notice to patients that encourages them to communicate with their health care providers about breast density and other breast cancer risks.

SB 5179: Coverage for hearing instruments (Bailey)

- Requires coverage for hearing instruments for enrollees in Medicaid and Public Employee's Benefit Board health plans.

SB 5553: Preventing suicide by permitting the voluntary waiver of firearm rights (Pedersen)

- Provides a procedure for the voluntary waiver of firearm rights and the revocation of the voluntary waiver.
- Requires entry of a voluntary waiver into the national instant background check system within 24 hours.
- Prohibits transfer of a firearm to a person who has a voluntary waiver in effect.

SB 5683: Health care for Pacific Islanders residing in Washington under a compact of free association (Saldaña)

- Creates a premium assistance program for Washington residents who are citizens of the republic of the Marshall Islands, the federated states of Micronesia or the Republic of Palau.

SB 5722: Restricting conversion therapy (Liias)

- Makes it unprofessional conduct for a licensed health care provider to perform conversion therapy on a patient under the age of 18.

SB 6163: The collaborative for the advancement of telemedicine (Becker)

- Extends the termination date for the collaborative for the advancement of telemedicine to Dec. 31, 2021.
- Requires the collaborative to submit a final report by Dec. 1, 2021.

SB 6219: Health plan coverage of reproductive health care (Hobbs)

- Establishes contraceptive coverage requirements for health plans, to include coverage for all contraceptive drugs, devices, products and services, with minimal or no cost-sharing depending on the type of health plan.
- Establishes an abortion coverage requirement for health plans that provide coverage for maternity care.
- Directs the governor's Interagency Coordinating Council on Health Disparities to do a literature review of disparities in access to reproductive health.

SB 6399: Telemedicine payment parity (Becker)

- Directs the collaborative for the advancement of telemedicine to review the concept of telemedicine payment parity, develop recommendations and report to the legislature by Dec. 1, 2018.

SB 6514: Suicide prevention and behavioral health in higher education (Brown)

- Requires the University of Washington School of Social Work to develop a statewide resource for behavioral health and suicide prevention for postsecondary institutions.
- Creates a grant program to fund postsecondary institutions' behavioral health and suicide prevention.
- Requires postsecondary institutions to submit annual reports to the University of Washington School of Social Work regarding information related to behavioral health and suicide on their campuses.

SB 6452: The children's mental health services consultation program (Brown)

- Removes the pilot designation for currently existing Partnership Access Line (PAL) consultation services.
- Establishes a two-year PAL pilot program for moms and kids, beginning Jan. 1, 2019, to expand the activities of PAL to include support for health care professionals who provide

care to pregnant women and new mothers, and assist parents or guardians with making mental health service connections.

SB 6580: Human Immunodeficiency Virus (HIV) testing (Rolfes)

- Repeals state laws specific to consent for HIV testing and voluntary HIV testing.

Bills not passing in 2018. The following bills, although actively considered, failed to pass the legislature in 2018. While the bills themselves will not automatically carry over to next year, many of the issues are bound to resurface in new legislation introduced when the 2019 session gets underway in January.

HB 1054: Smoking age (Harris)

- Prohibits the sale of cigarettes, tobacco products and vapor products to persons under the age of 21.

HB 2114: Balanced billing (Cody)

- Modifies requirements related to coverage of emergency services provided at an out-of-network emergency department.
- Regulates the practice of balance billing by out-of-network providers and facilities; authorizes arbitration and mediation of balance billing disputes.
- Requires health care facilities, providers and carriers to provide patients with information about network status.
- Requires insurance companies to treat hospitals and ambulatory surgical facilities as out-of-network if a certain percentage of providers who provide surgical or ancillary services do not contract with the same carrier.

HB 2489: Opioid use disorder treatment, prevention and related services (Cody)

- Modifies the protocols for using medication-assisted treatment for opioid use disorder.
- Requires the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), and the Department of Health (DOH) to partner on initiatives that promote a statewide approach in addressing opioid use disorder.
- Permits the secretary of health to issue a standing order for opioid reversal medication.
- Establishes new requirements for how electronic health records integrate with the prescription monitoring program (PMP) and how PMP data can be used.
- Requires the DSHS, in conjunction with others, to develop strategies to support rapid response teams in certain identified communities and to create a program to connect certified peer counselors (CPCs) with individuals who have had a nonfatal overdose.
- Allows hospital emergency departments to dispense opioid overdose reversal medication when a patient is at risk of opioid overdose.
- Permits pharmacists to partially fill a prescription for a Schedule II controlled substance.
- Requires certain health care practitioners to complete one hour of continuing education regarding best practices in opioid prescribing, register for the PMP and sign an

attestation that the practitioner has reviewed the rules for prescribing opioids, in order to prescribe opioids.

- Requires practitioners who prescribe an opioid for the first time during the course of treatment for outpatient use to discuss risks of opioid use with the patient.
- Removes approval and verification requirements for electronic prescription systems.
- Clarifies that the board and the commission may adopt additional continuing education requirements related to prescribing opioids, if necessary.
- Clarifies that prescribers must complete the required one-time best practices in opioid prescribing continuing education class during the first reporting period after or Jan. 1, 2019, or during one's initial reporting period upon initial licensure.

HB 2660: Access to Medicaid Services (Stonier)

- Increases the mandatory health care coverage requirement for children from 250 percent to 312 percent of federal poverty level.
- Requires the state to provide health care coverage for pregnant women who would otherwise be eligible for the Medicaid program except for the citizenship requirements.

SB 6015: Actions for wrongful injury or death (Hasegawa)

- Makes a number of changes to statutes governing wrongful death and survival causes of action, including changes to the beneficiaries entitled to recoveries and the damages that may be recovered under these actions.

SB 6028: The prescription drug monitoring program (Van De Wege)

- Requires practitioners prescribing an opiate or benzodiazepine to review the patient's controlled substance history in the prescription monitoring program.
- Exempts practitioners from the requirement to consult the prescription monitoring program if the medications are for inpatient use or to provide emergency care or the prescription monitoring program cannot be accessed.

SB 6050: Restrictions on prescriptions for opiates (Cleveland)

- Provides that practitioners prescribing an opiate to a patient for the first time for outpatient use may only issue a prescription for no more than a seven-day supply for patients 21 and older and a three-day supply for those under 21.
- Exempts prescriptions treating pain associated with cancer or for palliative, hospice or other end-of-life care.
- Allows a practitioner to prescribe the quantity needed to treat the duration of severe pain, if the practitioner determines a greater quantity of opiates is necessary.

SB 6147: Prescription drug insurance continuity of care (Rivers)

- Requires a health carrier to provide its enrollees with notice about its substitution process for prescription drugs.
- Requires a health carrier who grants a substitution request to continue to cover the drug throughout the plan year with no prior authorization.

SB 6522: Noncompetition agreements (Lias)

- Establishes the conditions in which a noncompetition agreement is enforceable and makes certain types of noncompetition agreements void and unenforceable.
- Creates a presumption that an agreement not to compete for one year or longer is void and unenforceable.
- Provides that attempts to enforce an unenforceable or partially enforceable noncompetition agreement is a violation of the Consumer Protection Act.

SB 6620: Improving security in schools and the safety of students (Frocket)

- Addresses school safety in a number of ways including implementing an emergency response system, establishing an anonymous reporting system, expanding regional school safety efforts and facilitating school resource officers.
- Prohibits the sale or transfer of a semiautomatic rifle unless both a federal and a state background check have been completed through law enforcement.
- Prohibits a person under the age of 21 from purchasing a semiautomatic rifle.

The 2018 Supplemental State Operating Budget.

SB 6032 is the 2018 supplemental state operating budget. Supplemental budgets are typically intended only to address oversights or unanticipated developments effecting the state's underlying biennial budget, but for a number of reasons this year's was more substantive. It made no major health care cuts but instead dedicated millions more towards mental health and substance abuse services. Among the particular appropriations or provisos of interest to WAFP are those:

- Increasing the Medicaid Medication Assisted Treatment rate for opioid use disorder.
- Directing the Bree Collaborative to create a workgroup to identify best practices for mental health services for patient treatment and management.
- Restoring the hearing aid benefit for Medicaid-eligible adults.
- Directing the Health Care Authority to complete a study to identify strategies for enhancing access to primary care for medical assistance clients.
- Increasing Medicaid pediatric primary care payment rates.
- Directing the Washington State Institute of Public Policy and the state actuary to complete a study of single payer and universal coverage health care systems.
- Directing the Recreation and Conservation Funding Board to study the economic and health benefits of trail-based activities, including hiking, walking and bicycling.

- Requiring the Joint Select Committee on health care oversight, the Health Care Authority and the Department of Health to collaboratively develop a plan to restructure and strengthen the rural health care system.
- Providing for a collaborative program among public health, the accountable community of health, and care providers to reduce preventable hospitalizations in Pierce County.

WAFP Policy and Advocacy Leadership Institute

Also held during the 2018 legislative session was WAFP’s annual Policy and Advocacy Leadership Institute – Family Medicine Day (PALI), which took place on Wednesday, Jan. 24. This brought more than 50 WAFP members to Olympia to discuss with legislators and other policymakers matters of interest to family physicians and their patients. Courtesy of Sen. Annette Cleveland (D-Vancouver), the group was able to assemble in a conference room on the Capitol campus. Following a discussion of WAFP legislative priorities, they were joined over the course of the morning by:

- **Senator Karen Keiser (D-Seattle), chair of the Senate Labor and Commerce Committee.** Senator Keiser is also a current member, and former chair, of the Senate Health & Long-Term Care Committee. She talked at the intersection of these two committees, referencing in particular two WAFP-supported bills passed in the 2017 session in which she was very involved. SB 5975 provided employees in Washington with paid family and medical leave. SB 5835 required employers to make accommodations for an employee’s pregnancy and pregnancy-related health conditions.
- **Attorney General Bob Ferguson.** The attorney general spent nearly an hour with PALI attendees, engaging in a very frank, thoughtful and robust discussion about his legislative agenda. He made particular reference to legislation he has requested on gun control, raising the smoking age to 21 and addressing the opioid crisis. The latter, which includes a bill placing limits on opioid prescribing and another mandating physician use of the Prescription Monitoring Program, drew the most interest. Attendees expressed a variety of opinions as to their merits, and to alternatives that should also be considered.
- **Governor Inslee’s Senior Health Policy Advisor Jason McGill.** Jason also spent substantial time with the group, centered around a federal health update that he had recently presented to the Senate Health and Long-Term Care Committee. It outlined the state health care programs at risk due to possible action or inaction in Washington, DC, and some of the steps the Inslee administration is taking in response. Although relieved that Congress had finally reauthorized the Children’s Health Insurance Program, Jason encouraged WAFP to continue in its support for state legislation to reinforce the state’s commitment to this program regardless of its future at the federal level. He also touched briefly on the opioid legislation introduced at the governor’s request.

Attendees also spent time in the morning and at lunch discussing the “how-to” of legislative advocacy. They then spent the afternoon meeting individually or in small groups with legislators representing where they practice and/or live. These meetings allowed members to connect personally with legislators, discussing how family medicine contributes to their community and what legislators need to do to support it. Each shared with their legislators WAFP’s key messages for 2018: maintain and enhance the state’s health care safety net; raise the smoking age to 21; and take a balanced, thoughtful and comprehensive approach to the opioid crisis.