Before beginning a brief summary of the session, please know that LSMS did have a good session – an excellent session, in fact. Both pieces of prior authorization legislation requested by the Society were passed and have now been signed by the Governor. Congratulations and thank you to all of you who invested your time and resources to help the Society succeed!
Now for that summary...

From beginning to end, this legislative session was fast paced to the point of being manic. As a fiscal session, it is constitutionally both shorter and limited in number of general bills available to legislative authors. Specifically, a fiscal session is earmarked for:

- Measures to enact a general appropriation bill; enact the comprehensive capital budget; make an appropriation; levy or authorize a new tax; increase an existing tax; levy, authorize, increase, decrease, or repeal a fee; dedicate revenue, legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits; or legislate with regard to issuance of bonds.

- Local bills (those that are constitutionally required to be, and have been, advertised).

- Any other subject matter not covered above. However, any bill in this category MUST be PREFILED, and no member may prefile more than 5 such bills.

Predictably, fiscal sessions see a lower number of instruments introduced for consideration. This year was no exception. Not including resolutions in the total, there were 661 House Bills and 223 Senate Bills introduced.

What was not predictable were the highly emotional, controversial issues that were included and subsequently debated. To name a few, there was legislation on abortion, gender affirming care, foreign property ownership and spending cap increases. These issues further impacted the session by spilling over into other debates by virtue of authors being forced to support (or oppose) or refusing to support (or oppose) varying bills. The result of this was to have legislators on edge throughout the session.

In the end and over the objection of legislators from both parties, the budget bills (three in total) received a combined less than 30 minutes of debate before being finally passed and sent to the Governor. Retrospectively, how and why this was allowed to happen, as well as the impacts associated with the unknown aspects of each bill is being discussed in various legislative committees. The questions everyone is left trying to answer are:

Can the budget bills be fixed?

- If so, will it require a special session?

- Or could the Governor utilize line-item vetoes to make the needed changes?

- And how will what happened impact the elections this fall?

These are wait and see questions. What isn’t wait and see is outlined below in our “By The Issues” report.
2023 REGULAR SESSION – BY THE ISSUES
LSMS Requested Legislation

**ACT 312 (HB 468)** creates an infrastructure and minimum standards for health insurance issuers requiring a utilization review process for healthcare services and pharmaceuticals.

This legislation was offered by Rep. Thomas Pressly at the request of LSMS. Our thanks to Rep. Pressly for going above and beyond in his support of physicians and this legislation! Joining him on our list of thank you’s for this Act are Senators Gary Smith and Katrina Jackson who pushed hard to keep important components of the legislation intact as it moved through the Senate.

**ACT 312**

- **Requires** health insurance issuers to:
  - Maintain documented PA programs utilizing evidenced based clinical review criteria.
  - Acknowledge receipt of and maintain information submitted by providers throughout the appeals process.
  - Provide specific clinical review criteria within 72 hours.
  - Allow providers to submit requests for utilization review outside normal business hours.
  - **Establishes** timeframes shown in chart below:

<table>
<thead>
<tr>
<th>EXPEDITED</th>
<th>STANDARD</th>
<th>CONCURRENT REVIEW</th>
<th>RETROSPECTIVE REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urgent but not emergent * Medications</td>
<td>Knee Surgery Colonoscopy * Medications</td>
<td>Inpatient hospital</td>
<td>Service already performed</td>
</tr>
<tr>
<td>2 business days</td>
<td>5 business days</td>
<td>24 hours</td>
<td>30 days</td>
</tr>
</tbody>
</table>

- **Prohibits** claim denial based solely on failure to obtain PA when PA request is not determined timely.

- **Limits** the reasons for the claim denial when the PA for the service was approved (guarantee of payment).

- **Requires** a PA to be valid for a minimum of 3 months.

- **Prohibits** additional utilization review requirements during the perioperative period when a PA was not required or had already been approved.

- **Establishes** a process for adverse determinations.

- **Establishes** a “truer” peer-to-peer review.
**ACT 333 (SB 188)** closely tracks transparency requirements proposed by the Centers for Medicare and Medicaid Services relative to Medicare Advantage organizations expected to go into effect January 1, 2026. Our thanks to Sen. Jeremy Stine for offering this LSMS requested legislation. Further thanks to Rep. Brett Geymann for handling the bill for us on the House side.

**ACT 333 In its final form:**
- Requires health plans to annually report certain prior authorization metrics to the Department of Insurance including:
  - A list of all items and services requiring PA.
  - Percentages of expedited and standard PA requests approved, denied, approved after appeal, approved after the review timeframe was extended and the average and median timeframes between submission and a decision.
  - Requires health plans to annually publish to their website (and timely update) items and services requiring PA.
- Requires health plans to provide a list of all items and services that require PA and their policies and procedures used to make PA decisions to health care providers seeking to participate with the health plans.

We’ve included a one-page pullout on our prior authorization legislation that can be found on page 11.

**INSURANCE Legislation**

As always, the legislation introduced to impact what is covered under insurance and how insurance companies operate is varied.

In addition to our prior authorization legislation, Sen. Kirk Talbot introduced **SB 110** for the Louisiana Oncology Society. It closely mirrors Rep. Pressly’s **Act 312** and includes some nuanced language specific to cancer. It did pass and has become **Act 254**. Unfortunately, Sen. Heather Cloud’s transparency legislation that focused on the Office of Group Benefits and mirrored Sen. Stine’s **Act 333** ran out of time while in conference committee.

In maternal health areas, legislation requiring coverage of doulas **(Act 270)** and midwives **(Act 207)** did pass. There are some limitations in both bills, but we would encourage our OB/Gyn community to monitor what occurs and provide feedback on how implementation of both is affecting you and your practice.

**SCOPE OF PRACTICE Legislation**

Scope remains one of LSMS’ top priorities. This year saw two significant scope of practice bills filed. Both dealt with specific issues we’ve seen before.

**HB 471 by Rep. Barbara Frieberg** was filed at the request of corporate pharmacies. If passed, it would have allowed any licensees of the Louisiana State Board of Pharmacy (LaBOP) to give any vaccination to any child aged 7 and older. Licensees of LaBOP include pharmacists, their techs and their interns. Proponents of the legislation continue to tout this effort as an increase in access, though this has not proven true when you consider the loss of access to primary care that results from removing children from a pediatric medical home. This bill went to the wire receiving three votes on the final day of the session. It died on the calendar after the House refused to approve the conference committee report which stripped two key amendments from the bill offered by **Sen. Jay Morris**. Thank you to Sen. Morris and to the many members who replied to our calls to action on this legislation.

**Act 296 (HB 599)** was reported by substitute from the House Health and Welfare Committee as **HB 652**. The original legislation was filed by Rep. Dustin Miller and encompassed components of the Global Signature Authority legislation we have fought in years past. Rep. Miller, who is an Advanced Practice Registered Nurse, met with a number of stakeholders before stripping everything but the ability for a nurse practitioner and physician assistant to “certify the existence of an illness of a teacher, school bus driver, or teaching staff for the purpose of using sick leave or extended sick leave.” All parties agreed to work with Rep. Miller outside of the legislative session to address other concerns that were removed from the bill.

**MEDICAL MALPRACTICE Legislation**

Last year, legislation was brought related to standard of care under emergency declarations. The author of the 2022 legislation, Sen. Jimmy Harris, sought to shift the burden of proof to the physician and/or other provider and tie the care specifically to the emergency. After testimony was provided in the Senate Committee, Sen. Harris agreed to pull the bill for 2022 and work with varying stakeholders to review the statutes and identify any potential areas that the parties could agree need clarifying. LSMS, LAMMICO and others did have multiple conversations on the statutes but ultimately could not arrive at a consensus. This led to **Sen. Harris offering SB 139** which:

- Removed premises liability (general liability).
- Prohibited attorney chair from raising the gross negligence standard of care in review panel.
• Shifted the burden of proving nexus to the physician.

After two committee meetings, SB 139 failed in committee by a vote of 4 to 3.

In the House, Rep. Edmond Jordan offered HCR 57 which requested a study to solicit input, recommendations, and advice from interested stakeholders on the current effectiveness of the medical malpractice limitations on compensation and medical review panels. The make-up of the participants on the committee was very large and included twenty legislators. The resolution was referred to the House Committee on Civil Law and did not receive a hearing before the session adjourned.

**ABORTION Legislation**

Seven bills focused on abortion were filed this legislative session. LSMS has a longstanding policy to remain neutral on abortion legislation that focuses on the societal beliefs regarding the issue. However, the Society does become engaged when the legislation impacts patient safety and/or the practice of medicine. Three of the bills filed attempted to clarify last year’s legislation by developing more medically sound definitions or reducing criminal penalties associated with providing routine medical care to pregnant patients. The bills supported by LSMS this year included:

• **HB 461 by Mary DuBuisson** would have provided to last year’s abortion exceptions through a new definition of “non-viable pregnancy.”

• **HB 522 by Aimee Freeman** would have redefined abortion, eliminated imprisonment of physicians in favor of fines when an abortion has been performed, and reduced physician certification requirements for a determination of medical futility.

• **HB 598 by Candace Newell** would have amended varying definitions relative to the crime of abortion.

None of the bills were passed out of committee.

**OTHER Legislation**

In our catch all category this year, we’ve included four bills that were discussed with many of our members on multiple occasions. Please provide feedback on the ones that successfully passed.

**ACT 35 (SB 29) by Sen. Gerald Boudreaux** was brought at the request of AORN. As introduced, the bill required licensed healthcare facilities which provide surgical procedures to adopt and implement policies for the use of a surgical smoke plume evacuation system to eliminate the surgical smoke plume. The bill was amended to remove the requirement for special systems. It does still require the adoption and implementation of a policy that includes a surgical smoke plume evacuation plan aimed at mitigating and removing the surgical smoke plume.

**ACT 322 (SB 66) by Sen. Fred Mills** changes the term “telemedicine” to “telehealth” in Louisiana statute. LSMS originally opposed the legislation and offered amendments to tighten language that now requires anyone conducting a telehealth visit on a Louisiana patient to create a written record. We have many physicians and other providers in Louisiana who have concerns related to telehealth. We did express those concerns but were met with a lack of interest in how to balance those concerns with the benefits of “easing access to healthcare.”

**SB 172 by Sen. Brett Allain** did not get heard in committee. The legislation focused on noncompete clauses in physician contracts specific to physicians caught by noncompetes when their employing practices are sold. However, as the bill was drafted there were unintended consequences that could not be alleviated in a compressed legislative session.

**ACT 358 (HB 548) by Rep. Chris Turner** prohibits discriminatory practices that limit the monetary benefit that entities participating in the federal 340B Drug Pricing Program receive as result of dispensing drugs discounted by the program.

**RESOLUTIONS as Legislation**

As usual, we have resolutions that are of interest which we are including if they passed.

**HCR 83 by Rep. Michael Echols** creates a task force within the Louisiana Department of Health to study, identify and make recommendations which address the specialist physician shortage within the state. With his resolution, Rep. Echols is continuing a multi-year effort to focus the state on physicians and highlight the need to better develop physician data and incentive programs to retain them.

**HCR 114 by Rep. Kenny Cox** requests the Louisiana State Board of Medical Examiners to study the possible outcomes of allowing supervised practice for previously sanctioned physicians and its effects on the physician shortage in this state.

**SR 160 by Sen. Jay Luneau** urges and requests the Louisiana State Board of Medical Examiners, the Louisiana State Board of Dentistry, and the Louisiana State Board of Nursing to make information regarding collaborative practice agreements publicly accessible to patients.

*To see the outcome of the full list of bills tracked by LSMS during this legislative session please scan the QR code.*