The chapter is focused on several issues during the 2020 Minnesota legislative session including: reducing access to tobacco, e-cigarettes and vaping cartridges for those under age 21; reducing gun injuries and deaths; reducing suicide deaths; supporting effective interventions to reduce the opioid crisis; supporting healthy climate initiatives; improving patient affordability and access for health insurance, behavioral health services and essential medications; and prior authorization reform. Thank you to our new legislative monitor Eric Dick for these updates.

MN Legislative Update in brief:

- **Tobacco 21 has cleared MN House and Senate committees.** Also, the House HHS Policy Committee passed a bill prohibiting the sale of flavored tobacco and e-cigarette liquid but the Senate has not scheduled a hearing on the bill. Due to legislative rules, policy bills that don't make it out of a committee by Friday, March 13th are unlikely to pass this year.
- **Firearm background checks and Red Flag laws were passed in the House.** However, Senate action is not expected.
- **COVID-19 funding passes.** The MN legislature approved this on March 9th. Other bills addressing the epidemic are on a fast track. National funding was approved.
- **Insulin Access Bills are being considered.** There have been hearings in House and Senate on different bills with access for emergency situations. However, the Senate proposal that insulin be dispensed in physician offices was dropped.
- **Postpartum Coverage Extension Proposed.** Bills to extend postpartum Medicaid coverage from 60 days to 12 months have been introduced in the House and the Senate.
- **Prior Authorization reform bills introduced in House and Senate.**
- **Bills to prohibit Midyear Formulary Changes introduced.** Hearing in House.
- **Scope of Practice expansion for Physician Assistants, Physical Therapists, Pharmacists and Optometrists proposed.**

1. **Improve Public Health**

- **Tobacco Issues**
  
  Legislation to reduce the harms of nicotine and nicotine has seen movement in both the House and Senate in recent weeks. Legislation to prohibit the sale of tobacco and nicotine products to those under the age of 21 has cleared committees in both bodies and appears on track for passage this session. While federal law already sets the age to purchase at 21, Minnesota’s tobacco control advocacy community has sought passage of a Minnesota law to strengthen enforcement and compliance provisions in existing law. The bills have been championed by Sen. Carla Nelson (R – Rochester) and Rep. Heather Edelson (DFL – Edina).

  Also moving in the House is legislation to prohibit the use of tobacco and e-cigarette devices in vehicles where minors are present. The legislation, authored by Rep. Rena Moran (DFL – St. Paul) would only allow law enforcement to issue a fine if stopping a vehicle for another offense such as speeding, distracted driving, or failure to yield. The bill awaits action by the entire House of Representatives. The Senate bill is carried by Sen. Dan Hall (R – Burnsville) and has not yet been scheduled for a hearing.

  Under a bill passed by the House HHS Policy Committee on February 28th, the sale of flavored tobacco and e-cigarette liquid would be prohibited. The legislation, authored by Rep. Laurie Halvorson (DFL – Eagan) would also prohibit the sale of menthol cigarettes, an ingredient that serves to mask the harshness of tobacco smoke, leading to quicker addiction and deeper inhalations by users. The House Commerce committee took testimony on March 4 but delayed a committee vote until next week. Sen. Jeff Hayden (DFL – Minneapolis) is the author of the Senate companion, though it has not been scheduled for a hearing.
• **Firearm Background Checks and Red Flag Laws Clear House**

Legislation to expand background checks to include most sales and transfers of firearms passed the House of Representatives on a largely party line vote on February 27. The House similarly voted in support of a “red flag” law that would authorize law enforcement to temporarily seize firearms from individuals deemed to be a threat to themselves or others. While the GOP-led Senate will not be considering these bills in committee, it is likely that DFL members of the Senate will offer amendments to bills to mirror the House’s actions. Those efforts face very long odds of success in 2020.

• **COVID-19 the Subject of Hearings, Legislation**

The rapidly expanding threat of COVID-19 was the subject of hearings at the Capitol in recent weeks. Jan Malcolm, Commissioner of the Minnesota Department of Health (MDH), briefed legislators in the House and Senate. Bills that appropriate more than $20 million to fight the pandemic in Minnesota passed on March 9th. Nationally, with Congress also funding investments, it is yet to be determined how much state money will be required to battle the spread of COVID 19. During a hearing on the subject in the Senate HHS Finance and Policy Committee last month Sen. Matt Klein, MD (DFL – Sunfish Lake and Internist) pressed MDH to work to protect health care providers from patient-to-provider transmission of the coronavirus.

2. **Improve Affordability and Health/Behavioral Health Access for Patients**

• **Insulin Access Bills Continue to See Action** - Efforts to pass legislation to provide access to insulin for low-income, uninsured, and underinsured Minnesotans continued to move quickly through the House and Senate. The House passed their proposal on February 26 by a margin of 75-52. The Senate bill cleared the Senate HHS Policy and Finance Committee and was referred to the Senate Finance Committee. That bill is expected to be considered on the Senate floor soon. Given the differences in the two bills, a conference committee of members of the two bodies will need to negotiate a single bill for final passage. Both parties have made passage of the bill a priority. The bills are authored by Rep. Mike Howard (DFL – Richfield) and Sen. Scott Jensen, MD (R – Chaska).

Both bills provide insulin in emergency situations, as well as providing longer-term access. And while the original Senate proposal used physicians’ office as distribution points for insulin, both bills now allow patients to pick up the drug at their pharmacy or, if the manufacturer allows it, to have the insulin shipped directly to the patient. The chief difference between the House and Senate bills is how the program is funded. The House proposals places a levy on insulin manufacturers who sell in Minnesota, while the Senate proposal uses insulin manufacturers’ patient assistance programs to make the drug available.

• **Postpartum Coverage Extended Under Bill** - The House HHS Policy Committee passed legislation to extend postpartum coverage from 60 days to 12 months. Current law provides Medical Assistance coverage for eligible mothers for 60 days, the minimal length allowed by federal law. The bipartisan legislation, authored by Rep. Kelly Morrison, MD (DFL – Deephaven), would allow eligible women to seek MinnesotaCare coverage for up to 12 months postpartum, while also instructing the state’s Department of Human Services (DHS) to begin work to craft a waiver request to the Centers for Medicare and Medicaid to allow Minnesota to use federal matching dollars to support the state’s share of the cost. Proponents of the legislation spoke of the worsening trends for maternal health in the U.S., particularly among women of color, as well as the clear link between maternal health and healthy babies. Sen. Jeff Hayden (DFL – Minneapolis) is carrying the Senate companion. It has not yet been scheduled for a hearing.
3. **Support Minnesota Physicians’ Ability to Practice**
   - **Prior Authorization (PA) Reforms Introduced in House, Senate.** Continuing an ongoing effort to better ensure that patients can receive pharmaceuticals, medical procedures and services, and diagnostic testing without undue interference from third-party payers, legislation has been introduced in both bodies to ensure patients receive the care they have prescribed or ordered for their patients without undue interference from third-party actors, including health insurers and pharmacy benefit manufacturers. The bills are authored by Sen. Julie Rosen (R – Vernon Center) and Rep. Kelly Morrison, MD (DFL – Deephaven), and include an impressive group of bipartisan coauthors. The proposal has many important patient protections, as well as measures to reduce the administrative burden of prior authorization (PA). Among the dozens of provisions, several more notable pieces include:
     a. PA determinations to be made in 36 hours instead of 10 business days
     b. The appeal process to be streamlined to one process and a decision must be made in 72 hours instead of up to 30 business days
     c. If a patient changes health insurance plans, the new plan will cover existing PA from the previous plan for 60 days to allow for a safer transition to a new treatment plan
     d. A health insurance plan will not be able to change coverage terms or clinical criteria during the plan year
     e. Health insurers will not be able to deny or limit coverage of a service that a patient has already received solely based on lack of PA or second opinion, to the extent that the service would otherwise have been covered had PA been obtained
     f. A physician who has experience treating patients with the illness, injury, or disease for which the health care service has been requested will decide the PA
     g. The health plan company will post on its public website the PA requirements and restrictions in detailed and easily understandable language.
   
   The effort to pass these reforms is led by the Minnesota Medical Association and supported by the Minnesota Hospital Association, the Minnesota Association of Ambulatory Surgery Centers, the Minnesota Medical Group Managers Association, the Center for Diagnostic Imaging, as well as dozens of individual clinics.

   - **Midyear Formulary Changes Prohibited Under Legislation**- Legislation to prohibit health plans and PBMs from changing their drug formulary in the middle of a patient’s contract year cleared the House HHS Finance Division on February 27 and was referred to the Ways & Means Committee. The bill, authored by Rep. Hunter Cantrell (DFL – Savage), would allow health plans and PBMs to change formularies in the middle of a patient’s contract year, but not for anyone who is currently taking a successful drug therapy. Testifying in support was Renee Crichlow, MD, the President of the Minnesota Academy of Family Physicians, as well as Sue Abderholden, the executive director of the National Alliance for Mental Illness’s Minnesota (NAMI) chapter. Both spoke to the tremendous risk to patients of abruptly changing a successful drug therapy. The Minnesota Council of Health Council testified in opposition. The Senate bill is authored by Sen. Carla Nelson (R – Rochester) and has not yet been scheduled for a hearing.

   A similar bill limited to health plans ability to change their formularies for insulin only passed the Senate Commerce Committee on March 3. SF 365, authored by Sen. Matt Little (DFL-Lakeville) passed with bipartisan support and was referred to the Health and Human Services Policy and Finance Committee. Paul Stadum, MD, a second-year family medicine resident testified about the challenges his patients have when their insulin and supplies are no longer covered.

4. **Other Issues**
   - **Scope of Practice Fights Expected Soon**- At least four health professional associations are seeking scope of practice expansion this legislative session, and several are likely to be considered in the coming weeks. The four major scope bills include:
     o **Physician Assistants.** The Minnesota Association of Physician Assistants (MAPA) has sought to expand their scope of practice by repealing existing requirements that require
a “supervisory agreement” between a physician and a PA. Under their bill, PAs would no longer practice under the delegated authority of the physician, but would be required to submit to an annual “proof of review” with a physician licensed anywhere in the country. In addition, the bill repeals the current existing scope of practice language for PAs and replaces it with a more expansive version. The bills are authored by Sen. Mary Kiffmeyer (R – Big Lake) and Rep. Jennifer Schultz (DFL – Duluth). The Minnesota Medical Association and other physician groups have been working with MAPA to try to reach an agreement that addresses the PAs concerns about reducing paperwork and administrative barriers to practice while also ensuring adequate safeguards for the public.

- **Physical Therapists.** Current law allows patients to see a physical therapist for up to 90 days without needing a referral from a physician, chiropractor, or podiatrist. The Minnesota Physical Therapist Association has sought to repeal the 90-day cap, as well as a provision in current law that precludes newly licensed PTs from treating direct referral patients during their first year of practice. The legislation is authored by Sen. John Marty (DFL – Roseville) and Rep. Deb Kiel (R – Crookston). Opposition to the proposal has been led by the Minnesota Orthopaedics Society (MOS), arguing that patients who are not seeing significant improvement or alleviation of symptoms within three months need to consult physician to rule out underlying conditions that may be dangerous. The professional associations of podiatrists and chiropractors have joined the MOS and MMA in opposition.

- **Pharmacists.** The Minnesota Pharmacists Association (MPhA) has sought to grant pharmacists the authority to prescribe oral contraceptives, smoking cessation drugs, and opioid antagonists. Physician’s groups have raised some concern about the proposal, particularly around the prescribing authority for smoking cessation drugs and opioid antagonists. Wellbutrin and Chantix, drugs sometimes used to assist patients in quitting smoking, can often have serious side effects including increased risk of suicide. Likewise, long-term opioid antagonists such as Vivitrol can have serious side effects. The MMA and other physician groups continue to work with the MPhA to expand access to these important drugs while also protecting public health. The bills are authored by Sen. Scott Jensen, MD (R – Chaska) and Rep. Alice Mann, MD (DFL – Lakeville).

- **Optometrists.** Under legislation authored by Sen. Andrew Matthews (R – Princeton) and Rep. Ruth Richardson (DFL – Mendota Heights), optometrists would be eligible to do interocular injections, as well as lifting an existing limit on optometrist’s authority to prescribe oral antivirals and oral carbonic anhydrase inhibitors. The Minnesota Academy of Ophthalmology has led opposition to the proposal, and they have been joined by the MMA and other physician groups.

**MN-ACP Sponsored “Physician’s Day at the Capitol” a Big Success in partnership with MMA**
Over 150 physicians, residents, and medical students from around the state gathered at the Minnesota State Capitol on March 4 for the annual Physicians’ Day at the Capitol. The program featured remarks by Rep. Kelly Morrison, MD (DFL – Deephaven), an OB/GYN, who spoke of her legislation to reform how prior authorization is conducted, as well as her support for other key physician priorities, including increasing vaccination rates, reducing firearm injury and death, and raising the age to purchase tobacco and nicotine products to 21 to align with federal law. In addition, Morrison spoke of her work to protect the Boundary Waters, Mississippi River watershed, and all of Minnesota’s lakes, streams, and rivers from potentially dangerous sulfide mining in Northern Minnesota. Also speaking to the group was Sen. Matt Klein, MD (DFL – Sunfish Lake). Sen. Klein is a hospitalist and later visited with dozens of residents on the floor of the Minnesota Senate. In addition to hearing from physician legislators, MMA legislative staff provided the group with an update on legislative activity related to health care and public health. Following the program, attendees fanned out throughout the Capitol complex to lobby their individual legislators. The event concluded with a reception at the historic Commodore Bar and Grill in St. Paul.