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ISSUE BRIEF

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2022 KANSAS LEGISLATIVE RECAP

Child Welfare, COVID-19, Scope of Practice and the Sales Tax on Food were priorities for the 2022 Legislature

Session Overview

The 2022 legislative session began on January 10 with all legislators and participants back inside the Capitol for the first time since the start of the COVID-19 pandemic. They returned to work on bills focused on the authority of state and local governmental authorities when responding to contagious or infectious diseases and also spent much time and effort on the rights and interests of children, the scope of practice for health care professionals in several areas of practice, and responding to the calls for a reduction of the sales tax on food.

Because 2021 was the first year in a legislative biennium, many bills from that session were still active for legislative action this year, and 560 new bills were introduced, including more than 100 health-related bills. By the end of the session, 100 bills became law, including more than 20 health-related bills. Although the Governor again announced during her State of the State address that Medicaid expansion

KEY POINTS

- ✓ For the third straight year, legislators introduced and worked bills related to COVID-19 and the Kansas Emergency Management Act (KEMA), sending four to the Governor's desk.
- ✓ Senate Sub. for HB 2495, signed by Gov. Laura Kelly on May 12, amended several laws concerning the disclosure of confidential information to law enforcement related to reports or investigation of cases of abuse and neglect of children.
- ✓ Legislators overrode the Governor's veto of HB 2387, which prohibits any state agency or the governor from issuing a request for proposal for the administration of benefits under KanCare or entering into any contract with managed care organizations for administration of the program prior to January 31, 2023.
- ✓ Senate Sub. for HB 2279, signed by the Governor on April 15, allows advanced practice registered nurses to prescribe drugs without a written protocol authorized by a responsible physician and requires them to maintain malpractice insurance.
- ✓ House Sub. for SB 28, signed by the Governor on April 11, enacted the Pharmacy Benefits Manager Licensure Act, to be regulated by the Commissioner of Insurance. The Act replaces the previous registration-only requirement.
- ✓ HB 2106, signed by the Governor on May 11, will eliminate the 6.5 percent state sales tax on food and food ingredients over the next three years, beginning on January 1, 2023.

was one of her top priorities, one bill to expand Medicaid, introduced in early February, failed to receive a hearing.

COVID-19/KEMA

While legislators continued to introduce and work bills related to COVID-19 and the Kansas Emergency Management Act (KEMA), only four made it to the Governor's desk. Throughout the session, there were numerous bills related to limiting the actions of governmental entities and public officials in response to contagious or infectious disease, vaccination exemptions, off-label use of medications to prevent and treat COVID-19 infections, compensation to businesses for loss or destruction of property as a result of governmental actions, continuing the expanded use of telemedicine, and immunity from civil liability for certain healthcare providers and businesses for COVID-19 claims.

An urgent hearing was held during the first week of the session on **HB 2477** to codify provisions in executive orders (EOs) issued by Gov. Laura Kelly on January 6 that authorized expanded practice by certain health care professionals and suspended certain licensure and other requirements for adult care homes, in conjunction with her State of Disaster Proclamation. The bill, which was rushed to Final Action on January 20 and signed by the Governor on January 21, became effective immediately following its publication in the Kansas Register. The provisions of the bill expired on May 15, 2022. The bill:

- Provided several opportunities for the extension of deadlines, for occupational licenses, certificates, or registrations issued by KDADS;
- Allowed KDADS to issue temporary licenses, certificates, or registrations under certain conditions to persons who were previously licensed;
- Allowed KDADS to extend the deadline for continuing education requirements;
- Allowed the waiver of late fees associated with any license, certificate or registration;
- Allowed temporary aide authorizations for persons with minimum training or those who were not previously licensed, certified, or registered by any state if the person is competent to perform the duties of the position;
- Reinstated the use of temporary aides in adult care homes that meet minimum requirements in limited, specific circumstances, with adult care home residents that require minimal assistance with activities of daily living;
- Allowed KDADS to issue a provisional license to an adult care home that submits a checklist and a detailed plan for isolation and cohorting of residents in response to the COVID-19 pandemic;
- Relaxed some restrictions for supervision requirements for mid-level providers, such as physician assistants;
- Allowed a health care professional licensed in another state and in good standing to receive expanded practice privileges without going through normal reciprocity provisions; and
- Allowed those with licensure that has lapsed in the last five years in good standing, to be licensed, registered, renewed, or reinstated without satisfying regulatory or statutory requirements such as examination, fingerprinting, and license fees.

SB 34, vetoed by the Governor on May 13, was introduced during the first week of the session to address the adoption of administrative rules

and regulations, but was amended and passed in April as Substitute (Sub.) for Senate Bill (SB) 34 to create law regarding actions by governmental entities or public officials affecting face mask requirements as a response to a contagious or infectious disease. The bill would have prohibited a COVID-19 vaccination passport from being required by any governmental entity or public official. It would have also amended the Kansas Emergency Management Act (KEMA) and public health statutes regarding face mask requirements and judicial review of governmental action in response to state of disaster emergencies and state of local disaster emergencies. In addition, the bill would have removed the authority of the secretary of the Kansas Department of Health and Environment or a local health officer to order any law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases and amended student health statutes regarding certification of tests or inoculations for first-time enrollment in a school or preschool or day care program operated by a school to specify that the secretary could not deem a test or inoculation necessary if it had not received full approval by the FDA for the age of students to whom the requirement applied. The Governor's veto was sustained on May 23.

House Sub. for Sub. for SB 286, vetoed by Gov. Kelly on April 15, would have extended the expanded use of telemedicine, amended certain healthcare provider immunity provisions related to the COVID-19 public health emergency; created the crime of interference with the conduct of a hospital; and increased the penalty for the crime of battery when committed against a healthcare provider. In her veto message, Gov. Kelly expressed her support for expanding the use of telemedicine and the criminal penalties for violence against health care workers but stated she did not support the provision added to the bill that "indiscriminately broadened protections for health care providers, substantially reducing protections for Kansas patients." Her veto was sustained on April 26.

Senate Sub. for House Bill (HB) 2280 would have authorized the prescribing and dispensing of drugs approved by the U.S. Food and Drug Administration (FDA) — including hydroxychloroquine sulfate and ivermectin — for the off-label use of preventing or treating COVID-19 infection. The bill also would have provided that recommendations, prescriptions, uses or opinions of a prescriber related to the treatment of COVID-19, including treatment that is not recommended or regulated by the Kansas State Board of Healing Arts, KDHE or the FDA, would not be considered unprofessional conduct. In addition, the bill would have amended the Kansas Pharmacy Act to prohibit pharmacists from refusing to fill or refill any prescription on the basis of such prescription being used to treat or prevent a COVID-19 infection. It also would have amended law relating to child care facilities and schools to provide that children and students enrolling in a child care facility, school or preschool or day care facility operated by a school, would be exempt from immunizations required by the secretary of KDHE if such immunizations would violate sincerely held religious beliefs and such an exemption would be granted without inquiring into the sincerity of the request. The bill was passed by the Senate but died in conference committee.

Senate Sub. for HB 2280, which died in conference committee, would have authorized the prescribing and dispensing of drugs approved by the FDA for the off-label use of preventing or treating COVID-19 infection.

Senate Sub. for HB 2062 would have prohibited long-term care facilities and healthcare facilities managed by the state or local government from restricting a resident's or patient's right to receive or refuse visitors in their private room or restrict any other reasonable accommodation to receive visitors for the purpose of controlling or preventing the transmission of an infectious disease. The bill also would have provided that residents of city- or county-established and operated homes for the aged or patients of county hospitals, or their legal representatives, would have the right to waive, in writing, any restrictions imposed to control or prevent the transmission of an infectious disease by any state, local or federal governmental agency at any time, including during a state or local disaster emergency declared pursuant to statute. The bill died on General Orders in the Senate.

HB 2136, signed by the Governor on June 2, was introduced in 2021 and originally related to the investigation powers of the commissioner of insurance and other insurance matters. The bill, as amended by the second conference committee, enacted the COVID-19 Retail Storefront Property Tax Relief Act to provide for claims for refunds to be paid for tax years 2020 and 2021 for certain claimants that were operationally shut down or restricted at their retail storefront by a COVID-19-related order or action imposed by the State, a local unit of government, or a local health officer. The refund will be equal to 33.0 percent of the sum of the COVID-19 ordered shutdown days gross rebate amount and the COVID-19 ordered restricted operations days gross rebate amount, as defined by the bill and refunds will be limited to $5,000 per tax year per retail storefront. The bill provides that claimants are required to be for-profit businesses in operation as of July 1, 2019, and March 1, 2020, and filing a 2019 tax return with annual revenues of at least $10,000 in 2019, with less gross revenue in 2020 or 2021 than in 2019. Businesses are not permitted to be claimants if they received more than a total of $150,000 in prior COVID-19-related local,

state, or federal funding, or any combination thereof and the bill excludes as claimants grocery stores, pharmacies, hardware stores or home improvement businesses, retail liquor stores, manufacturers and food processors, schools from pre-kindergarten through postsecondary, hospitals and health care providers (not including dentists), property management and real estate services, professional services, agricultural and aquaculture producers, hosts or operators of vacation or short-term rental units, passive businesses, financial businesses primarily engaged in the business of lending, cable companies, telephone companies, utilities, and energy production, generation, and distribution companies. The bill requires claims to be filed with the Department of Revenue on or before April 15, 2023, to be paid or allowed and provides for refunds to be paid out of the American Rescue Plan-State Fiscal Relief-Federal Fund.

Child Welfare

In 2022, the welfare of the state's children was a priority for legislators. They considered bills addressing issues related to the legal rights and interests of children and parents and the investigation of reported cases of abuse and neglect.

SB 343, signed by Gov. Kelly on April 25, was originally introduced to update the terms "hearing impaired" to "hard of hearing" in various statutes but amended late in the session when provisions from SB 276 were added to establish procedural safeguards, in compliance with the federal Americans with Disabilities Act, to protect the interests of children parented by blind individuals or who could be parented by blind individuals and protect the rights of parents and prospective parents who are blind. SB 343 prohibits a parent's blindness from serving as a basis for denial or restriction of legal custody, residency or parenting time in actions brought under the Kansas Parentage Act or law related to the dissolution of marriage. The bill requires clear and convincing evidence that the parent's blindness is not in the best interest of the child and provides an opportunity to present evidence that, with the implementation of supportive parenting services, placement with such parent is in the best interests of the child. The bill also provides that an individual's blindness does not serve

The Mega budget bill provides $7.5 million SGF for workforce and retention incentives for child placing agencies and licensed facilities, including qualified residential treatment programs.

as the basis for the denial or restriction of licensure as a family foster home. In addition, the bill provides that in any action brought under the Revised Kansas Code for Care of Children, an individual's blindness does not serve as the basis for an order of temporary custody, adjudication, disposition, finding of unfitness, or termination of parental rights and requires the court, if it issues such an adverse order, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable preventative accommodation.

Senate Sub. for HB 2495, signed by the Governor on May 12, created and amended law related to fingerprinting, surveillance, and search warrants in criminal law cases, but also amended law governing the disclosure of Child In Need of Care (CINC) information to law enforcement agencies. The bill requires the secretary of the Department for Children and Families (DCF) to disclose confidential agency records of a child alleged or adjudicated to be a child in need of care to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation. The bill specifies the types of records that must be included, such as the name and contact information of the reporter or persons alleging abuse or neglect and the case managers, investigators or contracting agency employees assigned to or investigating abuse or neglect reports, and states that the investigating law enforcement agencies shall also have access to the official and social files of CINC proceedings.

Senate Sub. for HB 2567, signed by Gov. Kelly on May 16, which makes appropriations for the Kansas State Department of Education for Fiscal Years (FYs) 2022 through 2024, also includes a provision requiring Kansas State High School Activities Association board members, officers, and employees to be mandatory reporters of child abuse or neglect.

SB 12 would have required DCF to collaborate with community partners and stakeholders to jointly develop a plan for implementation of performance-based contracts by January 31, 2023, to provide an array of evidence-based prevention and early intervention services for families at risk for out-of-home placement, families that have a child in out-of-home care, and children awaiting adoption. It was passed by both chambers but died in conference committee. However, legislators later inserted similar provisions into **HB 2510**, the Omnibus budget bill signed by the Governor on May 16 for FYs 2023 and 2024. Under HB 2510, services required to be delivered must be described in such a way that providers have the ability to provide adequate, appropriate and relevant evidence-based services to individual families. The law also requires outcome measures that will be used to evaluate the effectiveness of provider performance under such contracts and requires procedures for how families will be referred to contracted providers, including the protocols for continued communication or coordination between providers and the agency to assure child safety and wellbeing and to promote such family's engagement and the optimum balance of shared responsibility for child protection and child welfare between the agency and such providers, including a description of the core functions to be performed by each.

House Sub. for Sub. for SB 267, the Mega budget bill signed by Gov. Kelly on April 19, provides $7.5 million in State General Funds (SGF) for workforce and retention incentives for child placing agencies and licensed facilities, including qualified residential treatment programs.

KanCare

House Sub. for Sub. for SB 267 provides $3.5 million, including $1.4 million SGF, to increase the availability of adult dental services provided through KanCare; $2.9 million, including $886,200 SGF, to raise provider reimbursement rates for pediatric primary care services; $12.5 million, including $5 million SGF, to provide a 4.0 percent reimbursement rate increase for

2022-2023 BUDGET

House Substitute for Substitute for Senate Bill 267 (the Mega bill), approved by Gov. Kelly on April 19, 2022, with two line-item vetoes related to legislator participation in the Kansas Public Employees Retirement System and funding for a Benedictine College engineering program, provided funding for FY 2022 and FY 2023.

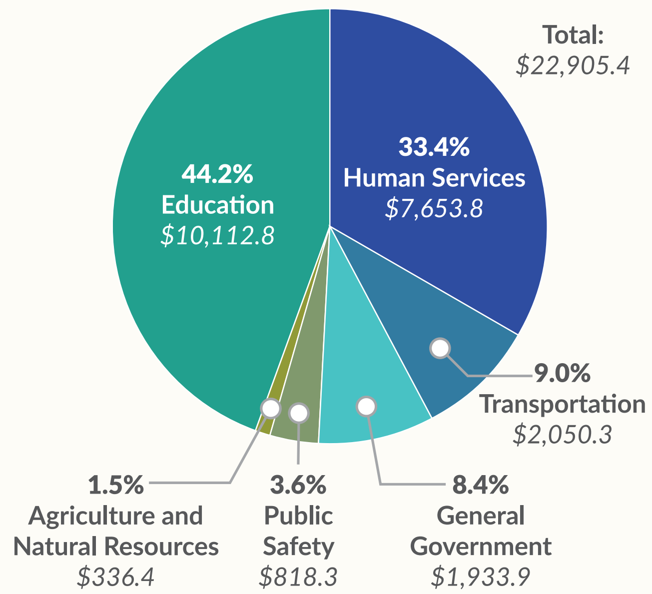
The FY 2022 revised budget included:

- A proviso requiring the State Board of Pharmacy to provide data in the prescription monitoring program to KDHE regarding authorized Medicaid program practitioners.

The FY 2023 approved budget included:

- Adding $7.5 million SGF to DCF for workforce recruitment and retention incentives for child placing agencies and licensed facilities, including qualified residential treatment programs.
- Adding $10 million to KDHE, including $4.5 million SGF, to increase reimbursement rates for Emergency Medical Services provider codes.
- Adding $3.5 million to KDHE, including $1.4 million SGF, to increase the availability of adult dental services provided through the State Medicaid program.
- Adding $2.9 million to KDHE, including $886,200 SGF, to raise provider reimbursement rates for pediatric primary care services.
- Adding $122.2 million to KDADS, including $48.9 million SGF, to provide a 25 percent reimbursement rate increase excluding the T1000 code for specialized nursing, for providers of Home and Community-Based Services (HCBS) Intellectual and Developmental disability (I/DD) waiver services.
- Adding $65.2 million to KDADS, including $26.2 million SGF, to provide for a full rebase of the nursing facility daily Medicaid rate. This amount is the difference between the amount to fully rebase the daily rate and the 3 percent increase already included in the Governor's recommendation for FY 2023.
- Adding $11.8 million to KDADS, including $4.7 million SGF, to provide a 10 percent reimbursement rate increase for providers of HCBS Frail Elderly waiver services.
- Adding $12.5 million to KDADS, including $5 million SGF, to provide a 4 percent reimbursement rate increase for Medicaid behavioral health services.
- Adding $7.7 million to KDADS, including $3.1 million SGF, and adding language to increase the reimbursement rate for the T1000 Medicaid code for specialized nursing care from $43.00 per hour to $47.00 per hour.
- Adding $2.0 million SGF to KDADS to assist with staffing at psychiatric residential treatment facilities.
- $2.5 million to KDADS, including $1.5 million SGF, to increase the amount provided to community developmental disability organizations to fulfill their role in assessing individuals for the HCBS I/DD waiver.

Figure 1. **Fiscal Year 2023 Approved Expenditures From All Funding Sources (In Millions)**



Note: Includes expenditures authorized during the 2022 legislative session. Total may not sum because of rounding.
Source: Fiscal Year 2023 Comparison Report, Kansas Division of the Budget.

- Adding $10.5 million to KDHE, including $4.2 million SGF, to extend postpartum Medicaid coverage to 12 months.
- A proviso requiring the State Board of Pharmacy to provide data in the prescription monitoring program to KDHE regarding authorized Medicaid program practitioners.

House Bill 2510 (the Omnibus Appropriations bill) approved by Gov. Kelly on May 16, 2022, with one line-item veto related to tuition increases by Regents universities, included funding for bills enacted during the 2022 session and various mid-year expenditure adjustments.

FY 2022 adjustments totaling $390.3 million, including $373.7 million from the SGF, included:

- Adding $15 million to the Office of the Governor, from federal American Rescue Plan Act of 2021 (ARPA) funds, to provide funding for nursing facilities to cover rising costs associated with staffing shortages for facilities;
- Adopts the Governor's Budget Amendment (GBA) No. 2, Item 1 for Human Services Caseloads to add $110.4 million, including the deletion of $12.6 million SGF.

FY 2023 adjustments totaling $119.8 million, including $60.1 million SGF, included:

- Adding $10 million SGF to KDADS to fund 988 hotline operations. The bill includes language to lapse the funding if House Sub. for SB 19 were enacted.
- Adding $221.5 million, including $61.3 million SGF, to adopt GBA No. 2 Item 1 for Human Services Caseloads.

behavioral health services; and $10.5 million, including $4.2 million SGF, to extend postpartum Medicaid coverage to 12 months.

HB 2387, introduced in 2021 related to the operation of aircraft, was vetoed by Gov. Kelly on May 13, after it was amended in conference committee and passed to prohibit any state agency, including the governor, from issuing a request for proposal for the administration and provision of benefits under the medical assistance program (KanCare); or enter into any new contract with managed care organizations for the administration and provision of benefits under the program prior to January 31, 2023. The bill also requires, except to the extent prohibited by federal law, the secretary of KDHE to administer medical assistance benefits using managed care entities. These provisions expire on January 31, 2023. In addition, the bill limits the governor's authority and power under KEMA or any other law related to the sale, ownership or other transactions regarding firearms or ammunition. The bill also states the governor shall not have the power or authority under KEMA or any other law to prohibit attending or conducting any religious service or worship service in a church, synagogue, or place of worship. The Governor's veto was overridden on May 23.

HB 2675, which was introduced in the House Federal and State Affairs Committee in early February but received no hearing, would have created the Kansas Innovative Solutions Affordable Healthcare Act and required the secretary of KDHE to submit a request to the federal Centers for Medicare and Medicaid Services to provide medical assistance eligibility to individuals with modified adjusted gross income that does not exceed 138 percent of the federal poverty level, consistent with the terms of Medicaid expansion under the federal Affordable Care Act. The bill also would have required KDHE to refer unemployed adults seeking coverage under the act to the KANSASWORKS program and directed the secretary of Commerce to certify to KDHE that the referred individuals were complying with this requirement and to track their employment outcomes and progress toward employment. The bill also provided for termination of the coverage over a 12-month period if the federal medical assistance percentage dropped below 90 percent.

SB 440 made several changes to the Occupational Therapy Practice Act, including allowing occupational therapists to initiate treatment on a patient without referral from a heath care provider.

Licensing & Scope of Practice

Legislators worked several bills focused on the scope of practice for pharmacists, occupational therapists, advanced practice registered nurses, in addition to the training of unlicensed employees in adult care homes.

SB 200, signed by the Governor on April 18, expands a pharmacist's scope of practice to include point-of-care testing and treatment of influenza, strep throat, or urinary tract infection, pursuant to a statewide protocol adopted by the Collaborative Drug Therapy Management Advisory Committee. The bill also amends the provisions of the Prescription Monitoring Program Act (Program Act) to add to the list of information a dispenser may submit to the Prescription Monitoring Program (K-TRACS), amends the list of individuals who may request and receive data from K-TRACS, amends how data is stored outside of K-TRACS, and adds one member to the K-TRACS Advisory Committee for a total of 10 members.

SB 440, signed by the Governor on April 1, amends the Occupational Therapy Practice Act to allow occupational therapists (OTs) to evaluate and initiate occupational therapy treatment on a patient without referral from an appropriate health care practitioner and creates conditions under which OTs would be required to obtain a referral from an appropriate practitioner. The bill also allows OTs to provide services without a referral to employees solely for the purpose of education and instruction related to workplace injury prevention; to the public for the purpose of health promotion, education and functional independence in activities of daily living; or to special education students who need occupational therapy services to fulfill the provisions of their individualized educational

For the second year in a row, a bill to amend the definition of short-term, limited duration insurance policies was vetoed by the Governor.

plans or individualized family service plans. The bill does not prevent a hospital or ambulatory surgical center from requiring a physician to order or make a referral for occupational therapy services for a patient currently being treated in such facility; requires licensed OTs actively practicing in the state to maintain professional liability insurance coverage; and requires the Kansas Board of Healing Arts to determine the minimum level of coverage for such insurance.

SB 453, signed by the Governor on April 18, amends law concerning the required completion of 40 hours of training in basic resident care skills for unlicensed employees working in adult care homes who provide direct, individual care to residents, who do not administer medications to residents, and who have not completed or are participating in a course of education and training relating to resident care and treatment approved by the secretary for the Kansas Department for Aging and Disability Services (KDADS). The bill also amends licensure requirements for certain professions licensed by the Behavioral Sciences Regulatory Board (BSRB) and adds an exception requiring the BSRB to accept master's degrees from applicants for licensure who graduate from the Master of Social Work Program at Fort Hays State University, which is currently pending accreditation. The exception would apply retroactively and expire on July 1, 2023. The bill clarifies that the 40 hours of training are part of an approved certified nurse aide (CNA) training course required by the secretary of KDADS for unlicensed employees working in an adult care home and specifies who may prepare, administer, and teach the first 40 hours and remaining hours of CNA training, where the training may be conducted, the timeframe for completion of the training, and who may evaluate the skills demonstration to confirm successful completion of the training course. The bill also prohibits any unlicensed employees not making progress toward completion of the required CNA training within four months following completion of the first 40 hours of CNA training from providing direct, individual care to residents. The bill expands the entities authorized to prepare and administer the training to include a hospital, hospice, Program of All-Inclusive Care for the Elderly (PACE), or qualified course sponsor and expands the premises at which the training can be conducted to include a hospital, hospice, or PACE.

Senate Sub. for HB 2279, signed by the Governor on April 15, amends the Kansas Nurse Practice Act (Act) governing the licensure of advanced practice registered nurses (APRNs) to allow them to prescribe drugs without a written protocol as authorized by a responsible physician, require them to maintain malpractice insurance, and require national certification for initial licensure as an APRN. The bill also modifies the definition of "mid-level practitioner" in both the Pharmacy Act and the Uniform Controlled Substances Act to conform with amendments to the written protocol requirements within the Act.

Health Insurance

During 2022, legislators revisited the operations and practices of pharmacy benefit managers (PBMs) and short-term, limited duration health insurance plans, two issues that had been considered during past sessions.

During the 2021 session, the operations of PBMs rose to the attention of legislators when three bills were introduced to address the regulation of PBMs and their practices when contracting with pharmacies and other providers participating in the federal 340B drug program. Under existing Kansas law PBMs were required to register with the Kansas Insurance Department but the law did not provide the commissioner of insurance with any meaningful regulatory authority over the operations and conduct of PBMs operating in the state. During the 2021 session, none of the bills received a hearing. However, following testimony provided by pharmacists, drug manufacturers, safety net clinics, and hospitals to members of the 2021 Special Committee on Federal 340B Drug Program in October 2021, **HB 2733**, introduced in March of the 2022 session, would have repealed the registration requirement and enacted the pharmacy benefits manager licensure act and significantly increased the commissioner's regulatory authority. While the bill received a hearing but no vote, the House later amended SB 28, a reinsurance bill passed by the Senate, and inserted the provisions of HB 2733 to create **House Sub. for SB 28**, which was signed by Gov. Kelly on April 11. The bill enacted the Pharmacy Benefits Manager Licensure Act to require licensure rather than registration of PBMs; gave the insurance commissioner the authority to oversee the operation of PBMS and hold them accountable to the regulatory structure provided in the bill; and amended the current maximum allowable cost (MAC) appeals process, related to reimbursement rates to pharmacies dispensing generic drugs.

SB 199, vetoed by Gov. Kelly on April 11 and sustained on April 28, was introduced in 2021 to amend the definition of short-term, limited duration insurance policies to specify a policy period of less than 12 months and a policy that offers renewal or extension periods up to a maximum policy period of 36 months total in duration. Similar bills had been introduced every year since 2019 to amend Kansas law to conform to the new definition established by a federal rule issued by the Trump administration in 2018. During the 2021 session, the Legislature inserted the provisions of SB 199 into SB 29 and passed it, but the Governor's veto of that bill was also sustained.

SB 335, signed by Gov. Kelly on March 19, amended K.S.A. 40-2222b to exempt certain business entities that provide health insurance in the state but are not subject to the jurisdiction of the commissioner of insurance (i.e., association health plans subject to regulation by the U.S. Department of Labor), from payment of the annual one percent premium tax. The bill, which was supported by representatives of the Kansas Bankers Association and the Kansas Cooperative Council, is expected to only impact those two organizations, according to testimony provided during the first hearing on the bill.

HB 2110, signed by the Governor on April 7, was introduced in 2021 and requires the State Employee Health Plan (SEHP), for plan year 2023, to provide coverage for the diagnosis and prescribed treatment for pediatric acute-onset neuropsychiatric syndrome (PANS) and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS), for the purposes of studying the utilization and cost of such coverage. The bill also requires the State Employees Health Care Commission to submit a report to the president of the Senate and the speaker of the House of Representatives on or before March 1, 2024, regarding the impact that the mandated coverage for PANS and PANDAS had on the SEHP, data on the utilization of coverage for PANS and PANDAS by covered individuals and the cost of providing such coverage, and a recommendation regarding whether such mandated coverage should continue in the SEHP or whether additional utilization and cost data are required. At the next legislative session following receipt of the report, the bill authorizes the Legislature to consider whether to require coverage for PANS and PANDAS in any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, or health maintenance organization that provides coverage for accident and health services and that is delivered, issued for delivery, amended, or renewed in this state on or after July 1, 2025.

House Sub. for SB 19 includes authorization of the transfer of $10 million SGF to the 988 Suicide and Crisis Lifeline Fund each fiscal year beginning on July 1, 2022.

988 Suicide and Crisis Lifeline

In advance of the launch of the federal 988 Suicide and Crisis Lifeline on July 16, 2022, the House Health and Human Services Committee returned to work on **HB 2281**, which had been introduced early in the 2021 session. The bill, which would have created the Living, Investing in Values, and Ending Suicide (LIVES) Act, established 988 as the Suicide Prevention and Mental Health Crisis Hotline, outlined the responsibilities of KDADS, the hotline centers, and service providers under the Act, also created a 988 fee in the amount of $0.50 per month for subscribers of several types of telecommunications services. The Committee amended the bill to create the substitute bill, which also included the transfer of $3 million SGF to the Hotline on July 1, 2022, and on each July 1 thereafter. The bill was transferred to the Committee on Energy, Utilities, and Telecommunications in early March, and after further amendment, the contents of the bill were inserted into the shell of SB 19 (originally related to the designation of a portion of US-77 in Marshall County as a memorial highway) and **House Sub. for SB 19** was passed favorably out of Committee and passed by the House. The conference committee report was adopted by both Chambers and the bill was signed by Gov. Kelly on June 2. The final version of the bill removed the provisions relating to the remittance and collection of the 988 fees, increased the amount of SGF funds transferred to the Hotline Fund each fiscal year from $3 million to $10 million and added mobile crisis response services for persons with intellectual or developmental disabilities and persons with behavioral health needs to the list of services to be paid from the Hotline fund.

Marijuana Bills

Following the House's passage of House Sub. for SB 158 at the end of the 2021 session, it appeared the Legislature might be ready to move forward with passing medical marijuana legislation during the 2022 session. During the first week of the session the Senate Federal and State Affairs Committee held an informational hearing to learn about medical marijuana and non-medical marijuana legislation in other states and to review the history and provisions of House Sub. for SB 158. In March, the Committee held three days of hearings on **SB 560**, a bill to enact the medical marijuana regulation act, which mirrored many of the provisions in 158, as passed by the House. However, no further action was taken, and the bill died in committee. Legislators, however, worked other bills related to marijuana.

HB 2540, signed by the Governor on June 2, amended the definition of "marijuana" in the Uniform Controlled Substances Act and the Kansas Criminal Code. The amended definition of marijuana exempts U.S. Food and Drug Administration (FDA)-approved drug products containing an active ingredient derived from marijuana. The provisions of **Senate Sub for HB 2262**, which died in conference committee, were inserted into HB 2540. Note: The original provisions of HB 2540, concerning a permanent memorial honoring Kansas Gold Star families, were enacted by SB 330, which was signed by the Governor on April 1.

HB 2708 would have established standards for laboratory licensees that test medical marijuana and required the director of Alcoholic Beverage Control to adopt rules and regulations regarding testing laboratories. The bill also included some provisions of 2021 House Sub for SB 158 related to the definition of medical marijuana and other terminology, laboratory licensure, licensure disqualification, licensee location requirements, and criminal history check requirements. The bill died on the calendar on May 23.

Sales Tax Bills

With the support of both Gov. Kelly and gubernatorial candidate Attorney General Derek Schmidt, several food sales tax relief bills were introduced throughout the session. In the end, a bill introduced in January related to various other types of tax issues became the vehicle for reducing the sales tax on food.

HB 2106, signed by Gov. Kelly on May 11, will eliminate the 6.5 percent state sales tax on food and food ingredients (defined to include bottled water, candy, dietary supplements,

soft drinks, and food sold through vending machines, but exclude alcoholic beverages, tobacco, and most prepared food) over the next three years. The sales tax rate on food and food ingredients will drop to 4.0 percent on January 1, 2023, to 2.0 percent on January 1, 2024, and to zero on January 1, 2025. The bill also provides that sales of food and food ingredients are subject to sales taxes imposed by cities and counties and that all sales subject to sales taxes imposed by cities and counties are subject to sales taxes imposed by Washburn University. In addition, the bill changes the percentage of sales tax revenue distribution to provide the State Highway Fund with 17.0 percent of sales and use tax receipts beginning January 1, 2023, and 18.0 percent of sales and use tax receipts beginning January 1, 2024.

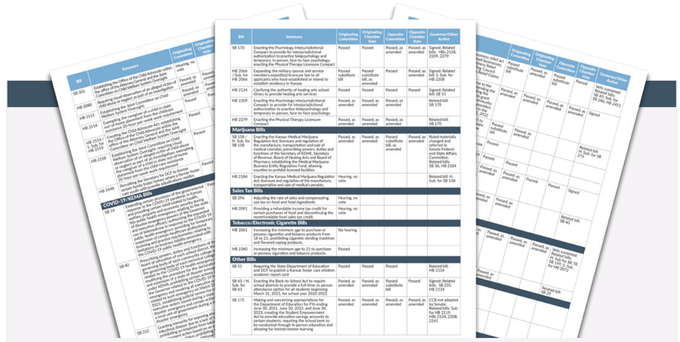
SB 339, which died on General Orders in the Senate, would have reduced the sales tax on food and food ingredients from 6.5 percent to 0 percent beginning on January 1, 2024; would have added food and food ingredients to the list of items expressly subject to sales taxes imposed by cities, counties and Washburn University but would have given cities and counties the authority to exempt all such sales from sales taxes levied by the city or county. Food and food ingredients would have included bottled water, candy, dietary supplements, food sold through vending machines, prepared food (food sold in restaurants) and soft drinks but excluded alcoholic beverages or tobacco. The bill would have also permitted any retailer in Kansas that collects sales tax on admission of viewing movies or films to retain the state portion of sales and use tax collected on sales of movie tickets and concessions sold on site from July 1, 2022, to June 30, 2024. On July 1, 2023, the bill also would have expanded the state sales and use tax rate of 0 percent currently applied only to residential and agricultural sales of gas, electricity, heat, propane gas, coal, wood, and other fuel sources to all sales.

HB 2711, which died in committee, would have lowered the sales and compensating use tax rate to 6.3 percent for all sales and 3.5 percent for the sales of food and food ingredients, excluding prepared foods. The bill also would have further reduced the state sales tax rate on food and food ingredients 1.2 percent commencing July 1, 2023, for any fiscal year in which the balance of the Budget Stabilization Fund was $100 million or greater on July 1 and the change in rate would have gone into effect the following January 1. In addition, the bill would have allowed for the continued levying of city and countywide retailers' sales tax by cities and counties and Washburn University, and the nonrefundable food sales tax credit would have been made refundable starting in tax year 2023 and discontinued if the state rate on food and food ingredients was lowered to 0 percent. Under the bill, "food and food ingredients" included bottled water, candy, dietary supplements, food sold through vending machines and soft drinks, and would have reset the state highway fund factor rate to 18 percent effective on or after July 1, 2022.

Other Bills

SB 62, signed by the Governor on April 11, amended state standards for free school-administered vision screenings, established the Kansas Children's Vision Health and School Readiness Commission, authorized the Kansas Commission for the Deaf and Hard of Hearing to adopt rules and regulations, established a sign language interpreter registration process, and provided guidelines for communication access services.

SB 493, vetoed by Gov. Kelly on April 11 and sustained on April 28, would have prohibited municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, prohibits, or regulates the use of auxiliary containers (plastic straws, bags, cups, packages, containers, bottles, or other packaging).



2022 Bill Tracker

Check out our online table with descriptions and progress updates of health-related bills for the 2022 session.
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HB 2524, stricken from the House calendar, would have required KDADS to regulate supplemental nursing services agencies and placed limits on payments to these agencies by adult care homes or hospital long-term care units.

HB 2237, signed by the Governor on May 5, primarily focused on expanding and improving housing development, especially in rural areas of the state, also includes a provision that allows any income or privilege taxpayer to claim the child day care services tax credit and permits taxpayers to claim 50 percent of expenditures paid to an organization providing child care to the taxpayer's employees beginning in tax year 2021.

Senate Sub. for HB 2448, vetoed by the Governor on April 15, requires DCF to assign all adults without disabilities aged 18 to 49 without dependents who are not employed at least 30 hours per week to complete an employment and training program to receive food assistance. The veto was overridden on April 28.

HB 2524, which was stricken from the House calendar, would have required KDADS to regulate supplemental nursing services agencies; established requirements for nursing agency registration; created the supplemental nursing services agency regulation fund; and prohibited supplemental nursing services agencies from billing or receiving payments from an adult care home or hospital long-term care unit higher than 200 percent of the sum of the weighted average wage rate, plus a factor determined by the secretary of KDADS to incorporate payroll taxes for the applicable employee classification for the geographic group. The weighted average wage rates would have been determined by the secretary on an annual basis. The bill also would have required supplemental nursing services agencies to annually report to the secretary the percentage of health care facility dollars they had expended on temporary employee wages and benefits compared to their profits and other administrative cost and the report would have been made public. The bill, which had staunch support from representatives of long-term and adult care homes, and organizations representing hospitals and assisted living facilities, was equally opposed by temporary staffing agencies, certified nurse and medication aides, and professional associations for certified nurse and medication aides and nurses.

'Value Them Both' Constitutional Amendment

House Concurrent Resolution 5003, introduced the first week of the 2021 session and adopted by both chambers in late January 2021, proposed to amend the bill of rights of the Kansas Constitution to reserve to the people the right to regulate abortion through their elected state representatives and senators. The "Value Them Both" constitutional amendment was defeated by Kansas voters on August 2, 2022.

Interim Committees

The Legislative Coordinating Council has approved interim committee meetings for seven health-related committees that will be meeting in August through November, including the Special Committee on Intellectual and Developmental Disability Waiver Modernization, Special Committee on Medical Marijuana, Special Committee on Mental Health Beds, Special Committee on Workforce Development, Child Welfare System Oversight, Home and Community Based Services & KanCare Oversight Robert G. (Bob) Bethell Joint Committee, and the Kansas Senior Care Task Force.

ABOUT THE ISSUE BRIEF

This brief is based on work done by Linda J. Sheppard, J.D. and Emma Uridge, C.H.E.S., with contributions by former KHI colleague Wendy Dang, M.P.H., C.P.H. It is available online at http://khi.org/articles/2022-kansas-legislative-recap.

KANSAS HEALTH INSTITUTE

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