



MISSOURI STATE MEDICAL ASSOCIATION

Legislative Report

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YOU COULD HAVE READ THIS YESTERDAY ON WWW.MSMA.ORG

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GENERAL ASSEMBLY GOES ON SPRING BREAK

Well gee whiz. Just when things were beginning to liven up, the legislature had to go and leave town. The annual spring recess commenced this afternoon and lawmakers won't be back until March 31. This gives us a much appreciated opportunity to catch our breath, assess our options, and lay plans for the final stretch of the session. Seven weeks remain and there is much to be done. The best news is that you'll not have to endure this tommyrot next week; the next *Legislative Report* will appear on April 3.

SENATE TORT REFORM PACKAGE GOES TO HOUSE!

Yesterday morning, after 36 punishing hours of floor time, the Senate voted 21-12 to give final approval to SB 280 and send it on to the House. The House could begin working on the measure soon after the spring recess concludes. There will be endless discussions in the coming days with regard to the bill's future. Do we make the bill stronger by reattaching the provisions the Senate removed? Do we keep the package as is and send it to the Governor, thus avoiding the considerable peril of going back to the Senate? Do we try to weaken the bill further to win the Governor's imprimatur? We're having conversations with the House and Senate leadership about this, and have had some preliminary discussions with the Governor's office. We'll let you know how it goes.

Beware the old Divide and Conquer maneuver! In the very last hours of the Senate's protracted floor fight on SB 280, the Governor and the Missouri Association of Trial Attorneys (MATA) desperately offered MSMA "everything the doctors want" on tort reform in exchange for jettisoning SB 280's general tort provisions and thus betraying some of our coalition partners. This was no surprise. But their vision of "everything we want" consisted only of a \$450,000 cap on non-economic damages (SB 280 started at \$250,000 and is now at \$350,000), a *Scott* decision fix, affidavit of merit language that requires the expert to have a "like area of expertise" (SB 280 requires the same license and specialty), immunity for benevolent gestures, an end to venue shopping, and a four-year moratorium on any future tort reform legislation. Among the issues not on the table were the statute of limitations on minors, caps on attorney contingency fees, caps on punitive damages, and a cap on awards arising out of the provision of trauma care. Moreover, the offer was only conceptual; there was no specific language to consider. Being only hours away from a certain Senate victory, and not being in a position to abandon our supporters in the Senate, the offer was declined.

This is not the last you'll hear of this. We fully expect the Governor and MATA to make a similar but more public offering to the physicians. You might get a letter, you might see ads in the newspapers, you might even get a phone call. But beware gifts from the lawyers! Know full well that their only priority is to kill this bill, and they will make every attempt to divide the tort reformers - and even the physicians - amongst themselves. After almost 36 hours of bare-knuckled brawling on the Senate floor, it is quite evident that we wouldn't be where we are without the coalition we built last fall. We're perfectly willing to talk, and expect to engage in long and serious negotiations with the Governor. But we'll not casually dismiss our coalition allies and our partners in the House and Senate. We might not be able to do so even if we want to; a lot of interests are deeply invested in this fight. For now, we ask you to write to the Governor and urge him to support SB 280 as is. And we ask you to be ever so wary of any offer that might have the plaintiff bar's fingerprints on it.

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A BRIEF STATUS REPORT

With the long-awaited spring recess upon us, we thought we'd provide a brief status report on some of the more noteworthy bills we've worked on this year. As a rule of thumb, any bill not out of committee by the spring break faces long odds for passage. But rules of thumb have a large margin of error. Be forewarned that the language of any bill (or even language you haven't yet seen) can appear at any time in the process as part of a substitute package or as an amendment to another, faster-moving bill. Here's where we stand as of today:

The two big **tort reform** bills, HB 273 and SB 280, have cleared their house of origin and are awaiting committee action on the other side. This is a very good position to be in at the spring break. None of the various **alternatives to tort reform** (e.g., SB 257, which would create a Patient Compensation Fund; HB 274 and SB 387, which would give insurance rate-making authority to the Department of Insurance; SB 551, which would establish a Joint Underwriting Association for professional liability insurance; and SB 658, which would create a state Physicians Mutual Insurance Company) are getting any traction. The various budget items, such as **CHIP funding**, **Medicare crossovers**, and **Medicaid copayments**, are in limbo because the House voted this week to eliminate most budget bill line items and send every state department a lump sum of money to spend as they see fit. That plan now goes to the Senate which most observers believe will restore the traditional line items. House Bill 233, the **mental health parity** proposal, has won committee approval but is not yet on the House Calendar. Two MSMA-supported bills to **license and regulate Anesthesiologist Assistants** are moving nicely. The House version (HB 380) is out of the House and pending in the Senate, and the Senate version (SB 300) is out of committee and awaiting Senate floor action. Bills to implement the Governor's plan to **increase the tax on cigarettes** have yet to enjoy a committee hearing and appear to be DOA. Senate Bill 372, which would **license naturopaths and grant them broad latitude to practice medicine**, is still in committee, and its House companion, HB 522, has not yet had a committee hearing. Two bills (HB 460 and SB 201) to **prohibit insurers from bundling and down-coding your claims** remain in committee. Two more, HB 121 and SB 685, which would **require insurers to cover chiropractic and reimburse chiropractors at the same rate they do physicians**, have been heard but are still in committee. Another bill, HB 415, which would **designate chiropractors as primary care providers**, was successfully amended and approved by committee without the PCP language. A Senate bill (SB 112) to allow a "**philosophical belief**" **exemption from required childhood immunizations** is languishing on the Senate Calendar, and its House companion (HB 112), was killed by a House committee. And HB 432, which would **eliminate what's left of the CON program**, was approved by a House committee last night. Its companion in the Senate, SB 449, is still in committee.

PHYSICIAN OF THE DAY

Many thanks to **Katherine Jahnige, M.D.**, of St. Louis, **Norman P. Knowlton, III, M.D.**, of Springfield, and **Erik Lindblum, M.D.**, of Columbia, who served as MSMA's Physician of the Day in the Capitol this week.