

**2019-
2020**

California
Orthopaedic
Association

**2019 – 2020 LEGISLATIVE
SESSION WRAP-UP**

FALL 2020

The California Legislature has finished its two-year session, one that was shut down for two months due to COVID. A large number of bills that did not move this year due to COVID may return next session.

CALIFORNIA LEGISLATIVE/REGULATORY UPDATE

AB 5 (Gonzalez) Dynamex ABC Test

The ABC Test defines whether an individual working for a company is an employee or an independent contractor. This was a very controversial bill. If the individual was suddenly considered an employee under this bill, the employer was liable to carry Workers' Compensation and unemployment benefits – significantly increasing employer costs.

Physicians were exempted from the bill, so they can work as an independent contractor in a medical group. Individuals with whom a physician practice might contract, e.g., billing services, transcriptionists, etc. still must meet the ABC Test. The test involves whether the individual is free from control and direction of the employer, performs work that is outside the usual course of services of the entity, and is in an independent trade or business in a separate location from the medical group. Generally, speaking these individuals can still be considered an independent contractor; although each medical office needs to evaluate their unique arrangements.

COA Position: Oppose Unless Amended – as amended COA moved to Watch
STATUS: Signed by Governor – Chapter 296

AB 138 (Bloom) California Community Health Fund

Tax on sugary beverages to go to a fund to promote health. Died due to COVID.

COA Position: Support
STATUS: Dead

AB 149 (Cooper) – Controlled Substances: Prescriptions

Existing law classifies certain controlled substances into designated schedules. Existing law requires prescription forms for controlled substance prescriptions to be obtained from security printers approved by the department. Existing law requires those prescription forms to be printed with specified features, including a uniquely serialized number.

This bill delayed the requirement for those prescription forms to include a uniquely serialized number until a date determined by the Department of Justice that is no later than January 1, 2020. The bill would require, the serialized number to be utilizable as a barcode that may be scanned by dispensers. The bill would additionally make any prescription written on a prescription form that was otherwise valid prior to January 1, 2019, but that does not include a uniquely serialized number, or any prescription written on a form approved by the Department of Justice as of January 1, 2019, a valid prescription that may be filled, compounded, or dispensed until January 1, 2021. The bill would authorize the Department of Justice to extend this time

period for a period no longer than an additional 6 months, if there is an inadequate availability of compliant prescription forms.

COA Position: Support
STATUS: Signed by the Governor – Chapter 4
 Emergency Legislation – Sponsored by CMA

AB 241 (Kamlager Dove) Implicit Bias: Continuing Education Requirement

This bill, by January 1, 2022, would require all continuing education courses for a physician and surgeon to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment. The bill, by January 1, 2022, would require associations that accredit these continuing education courses to develop standards to comply with these provisions.

COA Position: None
STATUS: Signed by the Governor – Chapter 417

AB 329 As introduced (Rodriguez) Assaults at Hospitals; later (Kamlager) Victim Compensation: Use of Excessive Force by Law Enforcement

As introduced, the bill, which COA supported, would have added to the criminal code assault against a doctor, nurse or health care worker in a hospital. The bill was later amended to switch authors and to deal with law enforcement use of force, and COA had no position on the bill at that time.

COA Position: Support (as introduced)
STATUS: Dead

AB 370 (Voepel) Physicians and surgeons: forms: fee limitations.

This bill would limit the amount that a physician and surgeon may charge a patient for filling out medical forms, including applications for state disability insurance at \$25.00. COA opposed this restriction and obtained amendments to the bill to allow a physician to charge a reasonable fee based on the actual time and cost of filling out the form.

COA Position: Oppose – as amended Watch
STATUS: Dead

AB 379 (Maienschein) Youth Athletics Concussion Protocol

Assembly Maienschein, who just switched from being Republican to Democrat, carried several feel-good bills this year. This was one of them. This bill expands California's concussion prevention protocols from 27 designated youth sports to all youth sports. COA believes that this expansion will help reduce youth head injuries. So did several other health and youth organizations. The bill received no "no" votes.

COA Position: Support
STATUS: Signed by the Governor – Chapter 174

AB 387 (Gabriel) – Physician and Surgeons: Prescriptions

This bill would have required a prescribing physician to write on the prescription, the condition or purpose for the prescription, unless the patient opt-ed out of this option.

COA Position: Watch
STATUS: Dead

AB 407 (Santiago) Fluoroscopy and Radiography

COA and the California Podiatric Medical Association (CPMA) sponsored this bill, which would have allowed Joint Commission required radiation safety training to substitute for taking and passing the state-mandated fluoroscopy and radiography supervisor’s certification tests. This radiation safety training was required of all Joint Commission accredited facilities (hospitals, ASCs, physician offices) as of January 1, 2019. This bill was particularly important for orthopaedic surgeons moving to California to practice, who often were unaware of the certification requirements. Currently, it can take 6 months to apply for the state-mandated testing, sit for the test, and be notified of the results. During this time, the surgeon is unable to use fluoroscopy in their surgeries and they cannot supervise radiology techs.

Due to opposition from the American College of Radiology whose members did not want to be required to take the annual radiation safety training, the Joint Commission rescinded their accreditation standards on fluoroscopy radiation safety. Facilities are now able, but not mandated to offer this training. The California Radiology Society and radiology technologists opposed AB 407.

Despite this opposition, AB 407 enjoyed widespread legislative support and passed the Legislature with only a couple of no votes. The California Department of Public Health then weighed in with their opposition citing a fiscal impact of implementing the bill. They also did not believe that the facility-based radiation safety training would be comparable to the state tests. The bill was held in the Senate Appropriations Committee. COA is working to remove the Department’s opposition to the bill, so that the bill can move in January 2020. COA had a different sponsored bill about fluoroscopy in 2020 but it did not move due to COVID.

COA Position: Sponsor and Support
STATUS: Dead

AB 528 (Low) Controlled Substance – CURES Database

This bill will require pharmacies to report Schedule V prescriptions to the CURES database. Previously only Schedule II through IV controlled substances were reported. The bill also requires that pharmacies report controlled substance prescriptions to CURES in one working day. Previously, they had 7 days to report the prescription.

COA Position: Watch
STATUS: Signed by the Governor – Chapter 677

AB 613 (Low) Regulatory Fees for Doctors and Other Professionals

AB 613 would increase fees that doctors (and all other professionals, actually) must pay to be licensed by the state, by allowing the licensing board to increase fees each year by the amount of the consumer price index (CPI), with no required justification. COA was the first professional group to oppose the bill. CMA and other medical groups joined COA in our opposition.

The Dental Board and Board of Pharmacy also supported the bill, as did many of the other licensure Boards who didn't want to come back to the Legislature to justify and ask for increased fees. Interestingly, this bill passed the Assembly easily (50-21-9) and then died in the Senate Business and Professions Committee, where it was never brought up for a vote. That usually happens if the Chair (Glazer) dislikes the bill, or if there were insufficient votes. Assembly Member Low, the author of the bill, Chairs the Assembly Business and Professions Committee, so it's surprising that his bill died in the same policy committee in the Senate.

COA Position: Oppose
STATUS: Dead

AB 714, Wood. Opioid prescription drugs: prescribers.

Existing law requires a prescriber to offer to a patient a prescription for naloxone hydrochloride or another drug approved by the U.S. FDA for the complete or partial reversal of opioid depression when certain conditions are present, including if the patient presents with an increased risk for overdose or a history of substance use disorder, and to provide education on overdose prevention to patients receiving a prescription and specified other persons.

This bill would make those provisions applicable only to a patient receiving a prescription for an opioid or benzodiazepine medication and would make the provisions specific to opioid-induced respiratory depression, opioid overdose, opioid use disorder, and opioid overdose prevention, as specified. The bill, among other exclusions, would exclude from the above-specified provisions requiring prescribers to offer a prescription and provide education prescribers when ordering medications to be administered to a patient in an inpatient or outpatient setting.

COA Position: Watch
STATUS: Signed by the Governor – Chapter 231

AB 744 (Aguiar-Curry) Telehealth

COA supported AB 744 because it requires commercial health insurers to cover telehealth services as they would an in-person visit. Since California has a provider shortage, particularly in rural and low-income areas, COA supports encouraging telehealth services. The bill was sponsored by the CMA and supported by many health providers. Health plans and the Chamber

of Commerce opposed the bill. The bill enjoyed widespread bipartisan support, even with potential additional Medi-Cal costs.

COA Position: Support
STATUS: Signed by the Governor – Chapter 867

AB 764 (Bonta) Sugar Sweetened Beverages: incentives

This was another of the multiple bills regarding sugar-sweetened beverages that COA supported. This bill would promote good health by prohibiting grocery stores from deeply discounting soda. Also, supported by CMA and several other health groups, the bill was opposed by the Chamber of Commerce, the Grocers' Association, and many business groups.

COA Position: Support
STATUS: Dead

AB 765 (Wicks) Healthy Checkout Aisles

AB 765 was another of the sugar-sweetened beverage bills that COA supported. This bill would promote good health by prohibiting the display of soda and sweets at the checkout lines. Supported by health groups and opposed by business groups, this bill didn't even get a first hearing.

COA Position: Support
STATUS: Dead

AB 845 (Maienschein) Continuing Education: Physicians: Maternal Mental Health

This bill would require the Medical Board of California, in determining the continuing education requirements for physicians and surgeons, to consider including a course in maternal mental health. The bill also required the Board to periodically update any curricula developed pursuant to the bill to account for new research. As introduced, the bill would have required all physicians and surgeons to receive CME in maternal mental health.

COA Position: Watch
STATUS: Signed by Governor – Chapter 220

AB 888 (Low) Opioid Prescriptions – Non-Pharmacological Referrals

Sponsored by the California Chiropractic Association, AB 888 was an attempt to address over-utilization of opioid medications by requiring physicians to offer a referral to a nonpharmacological pain management option – like chiropractic, yoga, meditation, etc.- every time they wrote a prescription for a controlled substance. COA opposed the bill because we did not believe these alternative treatments would be effective in managing post-surgical pain. The bill would have been impossible to implement since prescribing physicians would not have been aware of providers who could have offered these alternative treatments either in-network or out-of-network.

COA Position: Oppose
STATUS: Dead

AB 890 (Wood) Nurse Practitioners

Sponsored by the California Association for Nurse Practitioners, this was going to be one of THE BIG FIGHTS of 2019, but the bill died quickly in the Assembly Appropriations Committee. As introduced, the bill would have allowed nurse practitioners to provide services under their scope of practice without physician supervision. COA opposed NPs working independently because nurse practitioners have not received the same level of training and education as medical doctors. They receive between 500 and 1500 hours of clinical training; whereas, medical doctors receive over 15,000 hours of clinical training; a difference of at least 13,500 hours of training and experience. We support the appropriate use of nurse practitioners; but, believe that they are best used when part of a physician-led team. CMA and the medical community came out in full opposition as well. In January 2020, the bill was amended to move the NPs under the nursing board, thereby reducing the cost to the state. Additionally, as the bill moved through the process it was amended to provide additional requirements before the NP could practice independently. Proponents argued that NPs could help address the need for primary care, especially in rural and poor areas. The bill, however, contains no requirements that any NPs practice in underserved communities. COA continued to oppose the bill because the final version of the bill did not tie their independent practice to their clinical experience. They could work 3 years in a primary care setting and then open up an independent practice in orthopaedics. In spite of opposition from several health care organizations including the California Medical Association, the bill passed with large margins and bipartisan support and was signed by the Governor.

COA Position: Oppose
STATUS: Signed by the Governor – Chapter 265

AB 1268 (Rodriguez) Health Care Coverage Prospective Review

This COA supported bill would have been a step towards a more streamlined prior authorization process. The bill requires reporting of UR denials to the appropriate regulator. Despite being voted out of Assembly Health 15-0, the bill died in Assembly Appropriations Committee. COA supported the bill because prior authorizations requirements infringe on physicians' ability to treat patients and adds unnecessary costs to the health care system.

COA Position: Support
STATUS: Dead

AB 1404 (Santiago) Kaiser Compensation

This is the anti-Kaiser Permanente bill that the unions were sponsoring to help leverage their stalled union contract negotiations. AB 1404 required nonprofit sponsored healthcare entities (essentially just Kaiser Permanente) to publicly disclose a contracted physician's personal compensation/retirement arrangements. COA believes this public disclosure of private information may be in violation of both Federal and California privacy laws. Additionally,

disclosure of compensation information could have antitrust implications. There is a real possibility that publishing compensation data could be used in a coordinated fashion to drive physician compensation down. This would create yet another disincentive for surgeons to practice in California and would harm public health.

COA Position: Oppose
STATUS: Dead

AB 1490 (Carrillo) Medical Assistants

COA took a support position on this bill which would have updated a medical assistant's scope of practice. The bill was never even scheduled for a hearing, so it has become a two-year bill.

COA Position: Support
STATUS: Dead

AB 1815 (Daly) Medical Legal Fee Schedule

This would have updated the medical legal fee schedule. Died due to COVID.

COA Position: Support
STATUS: Dead

AB 1832 (Salas) – DWC – Medical-Legal Fee Schedule

This bill would have increased the pay of Qualified Medical Examiners in Workers Comp. It was a two-year bill from 2019 that did not pass committee in January 2020, so it died.

COA Position: Support
STATUS: Dead

AB 2157 (Wood) – DWC – Medical-Legal Fee Schedule

This bill Improves the independent dispute resolution process for disputes over surprise balance billing by allowing a party to introduce into evidence a document that they wish to keep confidential from the other party.

COA Position: Support
STATUS: Signed by the Governor – Chapter 278

AB 2164 (Rivas R) Telehealth

This bill creates infrastructure to support telehealth during COVID. Because COA supports telehealth, we supported the bill. The Governor vetoed the bill because the Department of Health Care Services is addressing the issue.

COA Position: Support

STATUS: Vetoed by the Governor

AB 2410 (Cunningham) Certified Athletic Trainers

This bill helps professionalize Athletic Trainers by prohibiting people who have not become Certified Athletic Trainers from calling themselves that. It did not move due to COVID.

COA Position: Support

STATUS: Dead

AB 2464 (Aguiar-Curry) Project ECHO Grant Program

This bill would create pediatric mental health hubs for telemedicine, which COA supported because we support infrastructure for telehealth. It did not move due to COVID.

COA Position: Support

STATUS: Dead

AB 2544 (Santiago) Fluoroscopy: Temporary Permit

This was COA sponsored bill to create a temporary permit for fluoroscopy. It was different from AB 407 of 2019. This bill is a simpler solution, allowing a one-time, temporary permit to use fluoroscopy for up to nine months, allowing a doctor time to take the test and receive the permit. Even though the bill did not move, the Radiologic Health Branch of the California Department of Public Health expressed reservations about any changes to the test and permitting process.

COA Position: Sponsor and Support

STATUS: Dead

AB 2604 (Carrillo) Nurse autonomy

As introduced, this bill would have allowed nurses to override clinical guidelines if they believed it was in the best interests of patients to do so. The bill was sponsored by CNA but did not move forward because of COVID.

COA Position: Support

STATUS: Dead

AB 2948 (Wood) Song-Brown Health Care Workforce Training Act

This bill would have provided additional funds to the Song-Brown Family Physician Training Program. It died due to COVID.

COA Position: Support

STATUS: Dead

AB 3095 (Mullin) Health Care Practitioners: Stem Cell Therapy

This bill would have required doctors who advertise for stem cell therapy to put in their ads that stem cell therapy is not approved by the FDA.

COA Position: Support
STATUS: Dead

AB 3118 (Bonta) Medically Supportive Food

This bill would have created a pilot project for food as medicine. Because having a healthy weight and healthy diet improves orthopedic outcomes, COA supported the bill.

COA Position: Support
STATUS: Dead

SB 275 (Pan) Personal Protective Equipment for Health Workers

As introduced, this bill required all health care employers to maintain a 90-day supply of PPE. COA was the first group to oppose the bill due to the financial burden this would have created for our members. Later, CMA and other specialty groups also opposed. The bill, sponsored by SEIU, was designed to address the problem of non-medical workers in health care who did not have PPE during COVID. CMA and COA removed opposition when bill was amended to:

- Require the state to maintain a stockpile of PPE
- Require health system employers (like Kaiser, UC Davis, etc.) to maintain a stockpile of PPE:
 - 20 days by January 1, 2022
 - 45 days by January 1, 2023
- No longer include solo or small groups if not part of a larger system

Dr. Pan is usually very helpful to COA and the physician community, and he did ultimately fix many of the problems with the bill, which became law when the Governor signed it.

COA Position: Oppose then Neutral
STATUS: Signed by the Governor – Chapter 301

SB 276 (Pan) Vaccinations

This bill makes it harder for doctors to write exemptions for children regarding mandatory vaccinations. Because vaccines are life-saving and necessary for general public immunity, some crackdown on the doctors who are overly liberal with exemptions is necessary. COA, CMA and many medical organizations supported the bill. Many individuals and anti-vaccine groups adamantly opposed the bill.

COA Position: Support
STATUS: Signed by the Governor – Chapter 278

SB 347 (Monning) Warning Label on Soda

This bill would have required a warning label on sodas and other sugar-sweetened beverages. COA and other health groups supported the bill because it may have encouraged consumers to make healthier choices. Opposed by the soda manufacturers, the Chamber of Commerce, and many business groups, this bill passed the Senate 22-11 but then was not brought up for a vote in the Assembly Health Committee.

COA Position: Support
STATUS: Dead

SB 441 (Galgiani) Electronic Health Records

COA supported this bill, which would have enacted the California Interoperability Enforcement Act to regulate electronic health record vendors operating in California to allow for the easier sharing of information between EHR systems. California lacks a meaningful way to enforce existing standards. This bill will provide that enforcement mechanism. The bill was never even set for a hearing.

COA Position: Support
STATUS: Dead

SB 480 (Archuleta) Radiologist Assistants

This bill would create Radiologist Assistants who could only be supervised by radiologists. The proposed scope of practice would have allowed them to perform all services that could be performed by an MD radiologist, including Evaluation and Management services. COA and CMA questioned this broad scope of practice and objected to allowing only radiologists to be able to supervise this new category of radiology assistants and asked that other physicians also be able to supervise these individuals. The California Radiological Society resisted these amendments. The bill was never set for a hearing. In 2020 the bill was amended to deal with law enforcement uniforms. COA did not have a position on that bill, which ultimately became law.

COA Position: Oppose as introduced; then Neutral
STATUS: Signed by the Governor – Chapter 336

SB 537 (Hill) Workers' Compensation

The bill requires MPNs to publish a list of participating providers starting in July 2021. The bill also prohibits an MPN from altering a treatment plan established by the treating physician or physical therapist if it complies with the Medical Treatment Utilization Schedule (MTUS). It also prohibits networks from altering, addition or deleting common procedure codes on bills without permission from the provider. Finally, the bill requires the Division of Workers' Compensation, to publish utilization data on physicians who treat at least 10 injured workers in the previous year – like Medicare's reporting of utilization data on physicians.

Originally, the bill also set the Official Medical Fee Schedule for Physician and Non-Physician services at Medicare reimbursement levels. This was an effort to curtail severe discounting experienced by physical therapists and radiologists by third party entities such as One-Call. While COA was sympathetic to this issue, we strongly opposed setting the floor for OMFS reimbursement levels at Medicare rates, fearing that payors would move reimbursements for other services down to Medicare rates. Currently, the reimbursement rate is at approximately 128% of Medicare. This fee schedule language was removed from the bill.

COA Position: Oppose to a Watch Position as amended
STATUS: Signed by the Governor – Chapter 647

SB 697 (Caballero) Physician Assistants: Scope of Practice

This bill removes the requirement that the Physician Assistant Board make recommendations to the Medical Board of California concerning the formulation of guidelines for the consideration and approval of applications by licensed physicians and surgeons to supervise physician assistants. The bill removes the requirements that the medical record identify the responsible supervising physician and surgeon and that those written guidelines for adequate supervision be established. The bill instead authorizes a physician assistant to perform medical services authorized by the act as amended by this bill if certain requirements are met, including that the medical services are rendered pursuant to a practice agreement and the physician assistant is competent to perform the medical services. The bill also requires a practice agreement between a physician assistant and a physician and surgeon to require a practice agreement to establish policies and procedures to identify a physician and surgeon supervising a physician assistant rendering services in a general acute care hospital.

The act authorizes a physician assistant, under the supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device, subject to specified requirements.

This bill would revise and recast these provisions to, among other related changes, authorize a physician assistant to furnish or order a drug or device subject to specified requirements, including that the furnishing or ordering be in accordance with the practice agreement and consistent with the physician assistant's educational preparation or for which clinical competency has been established and maintained, and that the physician and surgeon be available by telephone or other electronic communication method at the time the physician assistant examines the patient. The bill would also authorize the physician assistant to furnish or order Schedule II or III controlled substances in accordance with the practice agreement or a patient-specific order approved by the treating or supervising physician and surgeon.

The bill would provide that any reference to "delegation of services agreement" in any other law means "practice agreement," as defined by the bill. The bill would provide that "supervision," as specified by the bill, does not require the supervising physician and surgeon to be physically

present, but does require adequate supervision as agreed to in the practice agreement and does require that the physician and surgeon be available by telephone or other electronic communication method at the time the physician assistant examines the patient. The bill would prohibit this provision from being construed as prohibiting the board from requiring the physical presence of a physician and surgeon as a term or condition of a PA's reinstatement, probation, or imposing discipline. This was a negotiated agreement between the CMA and California Academy of Physician Assistants.

COA Position: Support

STATUS: Signed by the Governor – Chapter 707

SB 731 (Bradford) Workers' Compensation Risk Factors

SB 731 as introduced would have prohibited physicians from considering genetic characteristics when performing disability evaluations. COA opposed this bill. Genetic testing should not be mandated, but should be allowed to be considered, when appropriate to the causation of the injury. This bill would have led to inaccurate apportionment determinations. The supporters of the bill claim that bias is rampant in Workers' Compensation system and that this bill is needed to reduce discrimination. This issue has been very controversial in the Legislature. The bill and this issue are likely to return.

There is history to this bill.

In a case titled, the City of Jackson vs Workers' Compensation Appeals Board, the court found that the law governing apportionment of disability permits the determination of causation to include, "heritability and genetics," which may result in the reduction of an individual worker's benefits due to his or her heredity or genetic makeup. The QME in this case, apportioned a high percentage of the injured worker's injury to genetics. This caused concern with members of the Legislature who felt this was unfair. Their concerns prompted a discussion trying to define what would be considered a genetic disease, whether providers would be able to reliably test whether an injured worker had a genetic disease, and whether the Division of Workers' Compensation should develop guidelines for apportioning to the genetic disease.

In 2018, SB 899 (Bradford) became the vehicle for this issue.

COA members educated legislators and their staff regarding the importance of defining what is a genetic disease and providing them with the latest research in this area. We discussed the difficulties in testing to definitively say what portion of an injury should be attributed to genetic disease. Despite stakeholder consensus on the issue, in 2018, the bill was vetoed by the Governor. In the Governor's veto message, he stated:

"I am returning Senate Bill 899 without my signature. Consistent with current law, this measure seeks to preclude a physician from using race, gender, or national origin as a basis for apportionment. I am vetoing this bill for many of the same reasons that I returned a similar measure in 2011 - Assembly Bill 1155. This bill is unnecessary as it would not change existing law and may disturb settled court decisions, which already provide protection from the inappropriate application of the apportionment statutes. Additionally,

the proposed wording of the amended statute may create ambiguities in the law, resulting in increased litigation, costs for employers and confusion for injured workers and their representatives.”

In 2020 the bill was amended to deal with police officer decertification.

COA Position: Oppose as introduced; then neutral
STATUS: Dead

SB 977 (Monning) Attorney General Review of Health Care Mergers

This bill sponsored by the California Attorney General would have given the AG additional powers over health care mergers. The language was very broad and could encompass selling all or part of control of an orthopaedic practice and could also cover changing affiliations. The sponsors and supporters of the bill claimed that health care consolidation increases costs and decreases access, so the AG needs additional authority to counter the anti-competitive effects of health care consolidation. They said the bill was needed to prevent hedge funds from buying hospitals and then prioritizing profits instead of patients. COA opposed the bill because orthopaedic practices are unlikely to affect the overall cost of healthcare in a particular market, and yet even minor ownership changes would be required to receive AG approval if this bill became law. COA, CMA, many other specialty medical groups, the California Hospital Association and a large group of hospital lobbyists worked effectively together against the bill. The Attorney General himself lobbied for the bill, calling individual legislators. Also, both the AG and the author of the bill, Senator Monning, said it was not designed to go after smaller practices or mergers, but they were unwilling to amend the bill to clarify this issue. The bill passed the Senate as another bill, with another author, and then was amended in the Assembly. Since our opposition was so effective, the bill never even came up for a vote.

COA Position: Oppose
STATUS: Dead

SB 1033 (Pan) Health Care Coverage: Utilization Review Criteria

This bill would have clarified that California insurance regulators can and should review health insurers' utilization review criteria to ensure the criteria comply with California law. The bill died due to COVID.

COA Position: Support
STATUS: Dead

SB 1407 (Moorlach) Required Info for Vaccines

This bill would have required doctors providing vaccines to also provide information about vaccine warnings and deaths to the parent of the child getting the vaccine. COA opposed because vaccines save lives and have already passed stringent approvals. The bill died due to COVID.

COA Position: Oppose
STATUS: Died

Budget Bill

The Budget Bill is a comprehensive bill that covers many aspects of state government. One notable change this year is that the Budget Bill restores optional medical services to Medi-Cal beneficiaries. Optional services included services provided by doctors of podiatric medicine. Podiatrists and other health care professionals providing these optional services were eliminated from the Medi-Cal program several years ago when there was a state fiscal crisis.

COA Position: Supported restoring podiatrists to the Medi-Cal system
STATUS: Signed by Governor

REGULATIONS/Governor's Executive Orders**Elective Surgeries**

COA was instrumental in convincing the Governor to allow elective surgeries to resume during the pandemic with appropriate safety measures in place.

In-Person Medical-Legal Evaluations

COA convinced the Division of Workers' Compensation to develop criteria which allowed in-person Medical-Legal Evaluations to resume during COVID-19. The criteria was based on whether other medical offices had been allowed to reopen in the county.

Division of Workers Compensation – Medical-Legal Fee Schedule

COA has developed a more streamlined proposed system for the Medical-Legal Fee Schedule. The current Fee Schedule has not been updated in 13 years and is based on complexity factors which lends itself to controversy.

The COA revised proposal is based on a flat rate system that provides an additional reimbursement for review of medical records. After several years of urging, the DWC convened a joint meeting of stakeholders in October 2019 to discuss the fee schedule. COA will be actively participating in the Work Groups to shape the final Medical-Legal Fee Schedule. The goal is to streamline the system, increase reimbursement to at least provide a CPI increase over the last 13 years, and to remove uncertainty and friction for COA members and payors. To date, the Division has not moved forward with the regulatory changes, although they are still saying that they plan to implement the changes as of January 1, 2021.

Radiologic Health Branch

The RHB held a hearing to receive comments on proposed regulations that would allow an uncertified person (surgical tech) assist a surgeon to move a patient during active fluoroscopy. These regulations are to implement recommendations from the Radiologic Technology Certification Committee. This problem was identified by a Kaiser Permanente facility.

COA was the only health organization to testify in support of the regulations. The regulations have been adopted.

COA Position: Support
STATUS: Adopted - Radiologic Health Branch

FEDERAL LEGISLATION

HR 7059 (Correa) – Liability Protection – COVID-19

COA encouraged members of the California Congressional delegation to sign-on as a co-sponsor of HR 7059, a bill that would have prevented a patient from suing a physician for an adverse outcome during COVID-19. We asked Congressman Correa to consider expanding the bill to provide protection for adverse outcomes as a result of delayed surgery during the pandemic when elective surgeries could not be performed. Expected to be included in the stimulus bill.

COA Position: Support
STATUS: Pending in Congress

CMS Proposed 2021 reductions in physician reimbursement

CMS is proposing 11%-15% reduction for orthopaedic surgeons as a result of implementing changes to the Evaluation & Management codes and reducing reimbursement for total joints – hips and knees. COA adamantly opposed these reductions, communicated that opposition to CMS, sent a Legislative Alert to our members asking them to contact CMS, and asked members of Congress to also send letters of concern.

COA Position: Oppose
STATUS: Pending at CMS

CMS Proposed Increases to ASC reimbursement rates and the elimination of the Inpatient Only List

COA members who have an ownership interest in an ASC benefit from increased facility fees for surgeries performed in an ASC. It's a two-step process, in order for the procedure to be performed in an out-patient setting, the procedure must first come off the Inpatient Only (IPO) list. So, the elimination of the IPO list, would allow the surgeon to decide the most appropriate setting for the surgery. COA supported these changes and sent letters of support to CMS.

COA Position: Support
STATUS: Pending at CMS

HR 3630 (Ruiz) No Surprise Act

COA is working with a coalition of health organizations including the AAOS and CMA to support HR 3630 which would enact a baseball arbitration type system to resolve reimbursement

disputes and protect patients from surprise medical bills when they receive services out-of-network.

COA Position: Support
STATUS: Pending in Congress

HR 2858/S 1556 – Valley Fever

COA supported efforts by Congressman Kevin McCarthy to slow down the spread and ultimately to eradicate Valley Fever. This infectious disease is a serious health problem for U.S. citizens, particularly those working in farming communities. These bills called for increased public awareness, the development of new treatments, and ultimately a vaccine.

The FDA has responded and accepting comments on whether to include coccidioidomycosis in their review of treatments for neglected or rare diseases. COA submitted comments in support of its inclusion.

COA Position: Support
STATUS: Pending in Congress