



Pennsylvania Issues

Advocacy

- **State Budget:** The Pennsylvania Constitution requires approval of the state budget by June 30th each year. Nevertheless, the Commonwealth's 2015-2016 spending plan was approved by the legislature nine months late and became law without the Governor's signature on March 23, 2016.

As previously reported, Governor Wolf recently proposed a \$33.3 billion budget plan for 2016-2017, which represents an 11% spending increase compared to the current budget. The Governor seeks an increase in the state income tax, higher taxes on natural gas drillers and new taxes on some consumer purchases, such as cable television and movie tickets, to fund the plan. Funding for public schools, early childhood education, state-related universities and community colleges would increase under the Governor's proposal. The proposed budget would negatively impact funding for critical access hospitals, obstetrical services, neonatal care and burn centers. Leaders in the House and Senate will not commit to any tax increases, but they are optimistic about delivering a timely budget given improved relationships between the chambers and the harmful impact a second consecutive budget impasse would have on their constituencies.

Legislation

- **S.B. 1081:** The Hospital Nursing Staff Report Card Act. On December 17, 2015, State Senator Wayne Fontana (D-Allegheny) introduced legislation which would require hospitals to compile and maintain daily reports of staffing levels and ratios in each patient care unit and shift for registered nurses, licensed practical nurses, certified nursing assistants and any unlicensed personnel responsible for patient care. The report would also include the number and types of complaints filed with a hospital concerning patient care. Hospitals would be required to display the report prominently in a location visible to the public. In addition, the Department of Health would be required to publish quarterly reports on staffing levels for each hospital in Pennsylvania. The bill would include whistleblower protections for employees who report quality of care issues associated with staffing.

Senator Fontana asserts that the legislation would ensure that hospitals are transparent, accountable and responsible for providing the best care possible. The Nurse Alliance of SEIU Pennsylvania strongly supports the bill and argues that nurse staffing levels are directly linked to patient outcomes. The Hospital & Healthsystem Association of Pennsylvania (HAP) adamantly opposes the bill. On May 10, 2016, hundreds of nurses and other caregivers visited individual legislators to demonstrate their support for the bill. The bill has been assigned to the Senate Health & Welfare Committee, but committee discussion has not been scheduled.

- **H.B. 1064:** Medical Malpractice Reform for Emergency Room Providers. As previously reported, on May 6, 2015, State Representative Eli Evankovich (R-Allegheny, Westmoreland) reintroduced legislation which would heighten the standard required to prove the occurrence of medical malpractice arising from emergency medical care, including emergent care provided in an obstetrical unit or surgical suite following evaluation of a patient in an emergency department. The bill would provide that physicians and other providers would not be liable unless it is proven by clear and convincing evidence that the physician or other provider acted intentionally or recklessly, which is a much higher standard than negligence. Supporters of the bill, including HAP and the Pennsylvania Medical Society, argue that emergency providers should be protected when making quick decisions under difficult time constraints. Opponents assert that patients who have been victimized by medical error, in any venue, deserve appropriate financial compensation. On May 17, 2016, the House Insurance Committee passed the bill by a vote of 15 to 12, which included support from Representatives Justin Simmons (R-Lehigh, Montgomery, Northampton) and Gary Day (R-Berks, Lehigh). The bill now awaits consideration by the

full House. Similar legislation has been enacted in Arizona, Texas, Florida, Georgia, South Carolina, Utah and West Virginia.

Miscellaneous

- **Legislative Visit:** On May 19, 2016, Gary Tennis, Secretary of the Pennsylvania Department of Drug and Alcohol Programs, held a roundtable discussion at St. Luke's Center concerning the opioid epidemic, together with Representatives Mike Schlossberg (D-Lehigh), Peter Schweyer (D-Lehigh) and Dan McNeill (D-Lehigh, Northampton). Dr. Ric Baxter, Chief of Pain Medicine & Palliative Care for St. Luke's University Health Network, and Heather Alban, a Clinical Nurse Specialist in Palliative Care and Pain Management for St. Luke's University Health Network, presented during the forum and discussed St. Luke's efforts to limit opioid prescriptions. Several members of the community also attended the event.

New Jersey Issues

Legislation

- **A-542:** Palliative Care and Hospice Care Advisory Council. On January 27, 2016, Assemblywoman Nancy Pinkin (D-Middlesex) introduced legislation which would require healthcare facilities to provide information concerning palliative and hospice care to patients with certain illnesses. As currently proposed, the bill would establish the Palliative Care and Hospice Care Advisory Council within the New Jersey Department of Health. The council would ensure that comprehensive and accurate information and education about palliative and hospice care is available to the public, to health care providers and to health care facilities. On May 12, 2016, the Assembly Health and Senior Services Committee unanimously approved the measure. The New Jersey Hospital Association supports the bill, which now awaits consideration by the full Assembly.

Federal Issues

Legislation

- **H.R. 5273:** The Helping Hospitals Improve Patient Care Act of 2016. As previously reported, on November 2, 2015, President Barack Obama (D) signed into law a federal budget agreement which included a new Medicare site-neutral payment policy. The site-neutral payment policy prohibits payments at hospital outpatient rates for services performed at off-campus hospital sites, unless the location was previously billing as a department of a hospital. New sites will be reimbursed under a freestanding fee schedule, principally the Medicare physician fee schedule or the ambulatory surgical center prospective payment system, which are generally significantly lower than Medicare's outpatient hospital prospective payment system (OPPS) rates. Unfortunately, the law failed to clarify whether current outpatient sites that expand or relocate, or sites under construction when the law was enacted, will receive OPPS rates.

On May 18, 2016, Congressmen Pat Tiberi (R-12-OH) and Jim McDermott (D-7-WA) introduced legislation which would permit a hospital to receive OPPS rates for a new outpatient site if the Centers for Medicare & Medicaid Services (CMS) receives a certification from the hospital confirming that it executed a binding agreement before November 2, 2015 for construction of the site. The American Hospital Association, HAP and the Association of American Medical Colleges support the bill, which was approved by the House Ways & Means Committee on May 24, 2016.

On May 24, 2016, Senators Rob Portman (R-OH) and Charles Schumer (D-NY) and Congressmen Devin Nunes (R-22-CA) and Joe Crowley (D-14-NY) sent letters to CMS Acting Administrator Andy Slavitt urging the agency to clarify whether outpatient sites that expand or relocate will receive OPPS rates under the new law. The letters were signed by 51 Senators and 235 Representatives, including Senators Bob Casey (D-PA), Cory Booker (D-NJ) and Bob Menendez (D-NJ) and Congressmen Matt Cartwright (D-17-PA), Charlie Dent (R-15-PA), Mike Fitzpatrick (R-8-PA) and Leonard Lance (R-7-NJ). Despite efforts by HAP and others, Senator Pat Toomey (R-PA) refused to sign the letter.