



## Pennsylvania Issues

### Advocacy

- **State Budget:** On July 11, 2016, the Commonwealth's \$31.5 billion state budget became law, although it passed without corresponding revenue legislation necessary to fund the bill. For the second year in a row, Governor Wolf allowed the budget to pass without his signature. The Governor refused to sign the budget, since the revenue proposals at the time of passage relied on loans, one-time revenue sources and a plan to shift money from dedicated funds, which the Governor believed would not sustain the spending plan and would have threatened the Commonwealth's credit rating.

On July 13, 2016, the legislature passed a revenue plan that was acceptable to the Governor, and it was enacted on the same day. Although it did not contain broad based increases to the state sales or personal income tax, as requested by the Governor, it included new and increased taxes on cigarettes, a new tax on internet downloads, expanded taxes on gambling and a \$200 million loan from the Pennsylvania Professional Liability Joint Underwriting Association, which is scheduled to be repaid over five years.

The final budget contained no changes to hospital supplemental or trauma center payments compared to the prior state fiscal year. The Commonwealth's fourteen Critical Access Hospitals received funding increases to cover Medicaid losses. Every member of Lehigh Valley and Monroe County delegations supported the legislation, with the exception of Representatives Jerry Knowles (R-Berks, Carbon, Schuylkill) and Ryan MacKenzie (R-Berks, Lehigh).

- **Tobacco Settlement Act:** As previously reported, Pennsylvania joined 45 other states in November 1998 in a Master Settlement Agreement with the tobacco industry, pursuant to which the Commonwealth was scheduled to receive an estimated \$11 billion between the years 2000 and 2025. The Pennsylvania Tobacco Settlement Act allocated these funds to several uses, including a portion to be paid to hospitals by the Pennsylvania Department of Human Services (DHS) for uncompensated care provided by those facilities. The settlement funds available for payment to hospitals were generally less than the total claims submitted, so DHS made estimated payments annually on a pro rata basis to each hospital. Although DHS issued estimated payments to hospitals, the actual amount each hospital was entitled to receive was finally determined after all hospital claims were audited by the Pennsylvania Auditor General.

DHS announced in 2014 that the Tobacco Settlement Act does not require it to comply with the audit, and DHS has refused to reallocate the funds based on its belief that a reallocation could cause unforeseen negative impacts to healthcare providers and the Commonwealth. In response, the Pennsylvania legislature passed a bill requiring DHS to issue a report by December 31, 2016 explaining the impact of a retroactive redistribution of the funds in accordance with the audit. St. Luke's will continue to monitor this issue.

### Legislation

- **S.B. 717:** Modernization of the Professional Nursing Law. Nurse practitioners performing services in Pennsylvania may treat patients and prescribe medications only through collaborations with physicians. As previously reported, Senator Pat Vance (R-Cumberland, York) reintroduced legislation on April 10, 2015 which would allow nurse practitioners to perform these tasks independently and without the requirement to collaborate with a supervising physician. The Hospital & Healthsystem Association of Pennsylvania (HAP) was originally neutral on the proposed legislation. However, the Pennsylvania Coalition of Nurse Practitioners and HAP drafted a proposed amendment to the bill to require that nurse practitioners successfully complete course work and practice hours with a physician as a condition to practicing without a collaboration agreement. On January 29, 2016, HAP announced its support for the amended bill. Several physician groups, including the Pennsylvania Medical Society and the Academy of Family Physicians, still oppose the amended bill.

On July 12, 2016, the amended bill was approved by the Senate. Senators Dave Argall (R-Schuylkill, Berks), Bob Mensch (R-Bucks) and Mario Scavello (R-Monroe) serve as co-sponsors of the bill and voted in its favor. Senator Lisa Boscola (D-Lehigh, Northampton) also supported the bill, which has been sent to the House, where it was assigned to the Professional Licensure Committee. The House Professional Licensure Committee is chaired by Representative Julie Harhart (R-Lehigh, Northampton). The bill has not been scheduled yet for consideration by the committee.

### New Jersey Issues

#### Legislation

- **A. 3888**: Prohibiting Certain Third Party Property Tax Appeals. New Jersey law allows property taxpayers the ability to challenge the assessment or exempt status of any property in their county. On June 6, 2016, Assemblyman Reed Gusciora (D-Hunterdon, Mercer) introduced legislation to prohibit parties from filing tax appeal challenges against properties owned by other persons. The New Jersey Hospital Association strongly supports the bill, since it would protect tax exempt hospitals. The Center for Non-Profits and the League of Municipalities also support the bill. On September 19, 2016, the Assembly State and Local Government Committee approved the measure, and it has been sent to the Assembly for consideration.

#### Miscellaneous

- **Legislative Visit**: On June 28, 2016, Congressman Leonard Lance (R-7-NJ) visited St. Luke's Hospital – Warren Campus to participate in a round table discussion sponsored by the Lehigh Valley Chamber of Commerce. Several other elected officials also attended the meeting, including State Senator Michael Doherty (R-Hunterdon, Warren), State Assemblyman Erik Peterson (R-Hunterdon, Warren), Warren County Freeholder Ed Smith (R), Phillipsburg Mayor Stephen Ellis (D) and Phillipsburg Town Council President Todd Tersigni (R). St. Luke's Hospital – Warren Campus trustees Bob Rumfield and Jim Swick attended.

### Federal Issues

#### Legislation

- **Public Law 114-42 (H.R. 876)**: The Notice of Observation Treatment and Implications for Care Eligibility (NOTICE) Act. As previously reported, the House passed legislation on March 16, 2015 requiring hospitals to provide notice of a patient's observation status when receiving care under observation status for at least 24 hours rather than being admitted as an inpatient. Notice would be made orally, with written notification required within 36 hours. On July 27, 2015, the bill was passed unanimously by the Senate without amendments, and the President signed the bill into law on August 6, 2015. The American Hospital Association (AHA) and HAP had opposed the legislation, since: (1) the bill does not include exceptions for situations beyond control of the hospital, such as subsequent decisions to reclassify a patient; (2) the bill includes an onerous patient signature requirement; and (3) hospital staff may be unable to explain the financial implications, including the cost sharing requirements, associated with the classification, as required by the bill. In addition, the AHA and HAP had argued that the requirement would increase costs and create administrative burdens.

On August 10, 2016, the Centers for Medicare & Medicaid Services (CMS) reported that the NOTICE Act will result in hospitals issuing an estimated 1.4 million notices per year and will cost hospitals about \$23 million annually. Given the impact, the effective date of the NOTICE Act was delayed until October 1, 2016. CMS also indicated that it would delay enforcement of the law, since the Office of Management and Budget was still evaluating public comments on the form of the notice and related instructions. Connecticut, New York, New Jersey, Pennsylvania, Virginia and Maryland have already passed similar laws requiring hospitals to provide oral and written notice to patients placed on observation status for at least 24 hours rather than being admitted as an inpatient.

- **Stark Law Reform**: On June 30, the Senate Finance Committee released a report analyzing issues created by the Stark law that impede Medicare program objectives in implementing new value and quality-based payment models. The Committee suggested that it will continue to monitor Stark law issues and consider reform of the statute to advance healthcare reform initiatives under the Patient Protection and Affordable Care Act. Troy Barsky, the former CMS Director of the Division of Technical Payment Policy, testified in favor of repeal.