

Government Relations Update – December 3, 2019

Pennsylvania Issues

Legislation

- **SB 857:** Telemedicine. As previously reported, on September 19, 2019, Senator Elder Vogel (R–Lawrence) reintroduced legislation to define key components of telemedicine, set telemedicine licensing requirements and require that insurers pay for telemedicine services if they cover the same service provided in person. Senators Bob Mench (R–Bucks), Lisa Baker (R–Pike), John Yudichak (I–Carbon, Luzerne) and David Argall (R–Schuylkill) serve as co-sponsors of the bill. On October 29, 2019, the Senate Banking and Insurance Committee amended the legislation to remove the payment parity provision and instead require payment at a rate negotiated between the insurer and the provider for telemedicine services if the service is otherwise covered in person. The amended bill was passed by the Senate on October 30, 2019, and it was referred to the House Insurance Committee.

The House Insurance Committee further amended the bill in response to concerns from a group of Republican legislators that a telemedicine encounter might make it easier for patients to receive a prescription for mifepristone, a medication typically used in combination with misoprostol to bring about an abortion during pregnancy. On November 21, 2019, amended legislation limiting drugs prescribed through a telemedicine visit passed in the House along party lines, with all Republicans voting in favor of the bill. The Hospital and Healthsystem Association of Pennsylvania (HAP) is neutral on the amended bill. Governor Wolf (D-PA) is expected to veto the bill if approved by the Senate, because he opposes the limitations in the House version. St. Luke’s University Health Network is advocating for the Senate to remove the prescription drug limitations and return the bill to the House for further consideration.

- **SB 842:** Photo Identification in Health Care Facilities. Pennsylvania law requires that a healthcare employee wear a photo identification tag that includes a recent photograph of the employee, the employee’s name, the employee’s title and the name of the health care facility or employment agency. On September 3, 2019, Senator Kristin Phillips-Hill (R–York) introduced legislation which would allow employees to omit their last names from their identification badges to help prevent stalking or other threatening behavior inside and outside the workplace. On November 19, 2019, the Senate passed the legislation, and it has been referred to the House Health Committee. HAP and St. Luke’s support this legislation.
- **HB 533:** Insurer Credentialing. On February 19, 2019, Representative Clint Owlett (R–Tioga) introduced legislation requiring that health insurers: (1) accept a standard form designated by the Pennsylvania Insurance Department for the credentialing of physicians practicing in the Commonwealth; and (2) issue a credentialing determination within 60 days following receipt of a complete credentialing application. The bill passed the House on November 21, 2019, and it has been referred to the Senate Banking and Insurance Committee. The Pennsylvania Medical Society, HAP and St. Luke’s support this legislation.
- **SB 572:** Opioid Treatment Agreements. On April 18, 2019, Senator Ryan Aument (R–Lancaster) introduced legislation requiring any patient needing a prescribed opioid regimen to enter into a treatment agreement with a prescriber to ensure the patient understands the risks of addiction and dangers of overdose associated with the medication. The agreement would also require patients to undergo baseline and periodic drug testing to monitor adherence to the treatment plan. The legislation passed the House and Senate and was presented to Governor Wolf for signature on November 22, 2019.
- **HB 1220:** Newborn Cytomegalovirus Screening. On April 15, 2019, Representative Angel Cruz (D–Philadelphia) introduced legislation requiring testing for cytomegalovirus (CMV) in newborns that fail their required newborn hearing screening or if testing for CMV is otherwise requested by a parent or guardian. The bill passed the House on November 20, 2019, and it has been referred to the Senate Health and Human Services Committee. St. Luke’s supports this legislation.
- **HB 410:** Medicaid Coverage for Anti-Obesity Drugs. On February 6, 2019, Representative Donna Oberlander (R–Clarion) introduced legislation requiring Pennsylvania’s medical assistance program to cover any anti-obesity drug approved by the United States Food and Drug Administration. The bill passed the House on November 21, 2019, and it was referred to the Senate Health and Human Services Committee. St. Luke’s supports this legislation.

- **SB 79: Minimum Wage Act.** On January 23, 2019, Senator Christine Tartaglione (D–Philadelphia) introduced legislation to increase the minimum wage in the Commonwealth from \$7.25 per hour to \$8.00 per hour on July 1, 2020, \$8.50 per hour on January 1, 2021, \$9.00 per hour on July 1, 2021 and \$9.50 per hour on January 1, 2022. The legislation passed the Senate on November 21, 2019, and it was referred to the House Labor and Industry Committee.

Federal Issues

Legislation

- **HR 1309: Workplace Violence Prevention for Health Care and Social Service Workers Act.** On February 19, 2019, Representative Joe Courtney (D-CT-2) introduced legislation requiring that the Occupational Safety and Health Administration establish an interim standard for workplace violence prevention for healthcare and social services workers within one year, with a final standard established within four years. Congresswoman Susan Wild (D-PA-7), Congressman Brian Fitzpatrick (R-PA-1) and Congressman Matt Cartwright (D-PA-8) serve as co-sponsors of the bill. The final standard would require written workplace violence prevention plans developed with employee participation, emergency response procedures for mass casualty incidents, training and education, violent incident logs and an annual summary of each logged violent incident. Employers also would be required to perform an annual evaluation of their workplace violence prevention programs with the participation of covered employees. The bill contains an anti-retaliation clause to protect employees who report an incident or threat of violence. The bill was passed in the House on November 21, 2019, and it was referred to the Senate Committee on Health, Education, Labor and Pensions. If the legislation passes in its current form, it would place significant burdens on St. Luke’s.

Miscellaneous

- **Price Transparency Executive Order:** As previously reported, on June 24, 2019, President Donald Trump (R) signed an Executive Order on price and quality transparency in health care that aims to lower rising health care costs. On November 15, 2019, the Trump Administration released a final rule requiring hospitals to make “standard charge” information available online, to post this data for a limited set of “shoppable services” in a “consumer-friendly” manner and form, and to disclose contract rates with health plans. For the last year, hospitals have been required to post on the internet a list of their standard charges. The final rule, which becomes effective on January 1, 2021, offers a substantial widening of this obligation for hospitals.

The final rule codifies the proposed definition of a “standard charge” as the regular rate established by a hospital for an item or service provided to a specific group of paying patients, including both (1) gross charges for an individual item or service reflected on the hospital’s chargemaster, and (2) payer-specific negotiated charges that a hospital has negotiated with a payer for an item or service. Hospitals will be required to make a list of their standard charges for these items and services available online in a single, machine-readable digital file. This information must be free of charge, available to view without registering or establishing an account, searchable by service description, billing code and payer, and displayed in a prominent manner that also identifies the hospital’s location associated with the standard charges.

Hospitals are required to post this information for at least 300 shoppable services, defined as a service that can be scheduled by a healthcare consumer in advance, including 70 CMS-selected shoppable services and 230 additional hospital-selected shoppable services. CMS categorizes the 70 CMS-selected shoppable services as evaluation and management (E&M) services, laboratory and pathology services, radiology services and medicine and surgery services. As for the 230 hospital-selected shoppable services, hospitals may select these services based on the utilization or billing rate of the services in the last year. Standard charge information must be updated at least annually with the date of the last update clearly indicated. Hospitals face a fine of \$300 per day for failure to comply.

The American Hospital Association (AHA), HAP and other hospital organizations and insurers specifically objected to the requirement to disclose confidential payer rates. On November 18, 2019, the AHA announced its plan to sue to prevent implementation of the final rule. The Association of American Medical Colleges, the Children’s Hospital Association, the Federation of American Hospitals and others plan to join the challenge.