

## Government Relations Update – October 20, 2020

### Pennsylvania Issues

#### Legislation

- **HB 100**: Modernization of the Professional Nursing Law. In order to practice in Pennsylvania, a nurse practitioner must secure business contracts, called collaborative agreements, with two physicians. On July 27, 2020, Representative Jesse Topper (R-Bedford) reintroduced legislation to remove this requirement. The bill was co-sponsored by Representatives Robert Freeman (D-Northampton) and Jack Rader (R-Monroe). On September 29, 2020, the House Professional Licensure Committee amended the bill to include a six year pilot program allowing nurse practitioners to practice independently and without collaborative agreements if: (1) they provide services within a Health Professional Shortage Area (HPSA); and (2) their practice is limited to primary care, gynecology, pediatrics or psychiatry. After the fifth year of the pilot program, the Joint State Government Commission would study, among other things, health outcomes and emergency room utilization in the HPSAs to determine whether the program should continue. Low income areas within Lehigh, Northampton and Schuylkill Counties are within HPSAs. St. Luke's University Health Network and The Hospital and Healthsystem Association of Pennsylvania (HAP) support the legislation, since it would increase access to care.
- **SB 870 and 871**: Physician Assistant Modernization of Practice. On September 27, 2019, Senator Thomas Killion (R-Chester) introduced bills to: (1) place a physician assistant on the Pennsylvania Medical Board and Osteopathic Board with a permanent seat; (2) remove the requirement of a physician countersignature on all patient files completed by a physician assistant; (3) allow the required written agreement with physician assistants to be "filed" instead of "approved" by the Medical and Osteopathic Boards so that physician assistants could begin working immediately following the filing; and (4) provide greater clarity on the supervision requirements for physician assistants. The bills were co-sponsored by Senators Lisa Boscola (D-Northampton) and John Yudichak (I-Carbon). HAP and St. Luke's support this legislation.
- **HB 2779**: Retaining Health Care Innovations Act. On August 18, 2020, Representative Chris Quinn (R-Delaware) introduced legislation to extend healthcare related waivers for one year beyond the conclusion of the COVID-19 emergency declarations established by Governor Tom Wolf (D). The legislation was co-sponsored by Representatives Doyle Heffley (R-Carbon), Pete Schweyer (D-Lehigh) and Mike Schlossberg (D-Lehigh). The bill would allow for telephonic visits in the event that a patient does not have the means to connect via video, require payments for telehealth visits at the same rate that would be paid for a similar in-person visit, streamline facility licensure, and suspend prior authorization requirements for selected services in both the Medicaid fee-for-service and managed care delivery systems. Unfortunately, on September 16, 2020, the House Health Committee amended the bill to reduce the extension to 90 days. HAP and St. Luke's are supportive of the legislation but are seeking a longer extension.
- **SB 1239**: Pandemic Liability Protections. On July 27, 2020, Senator Lisa Baker (R-Luzerne) introduced legislation to provide limited immunity for healthcare practitioners and facilities, EMS providers and agencies, nursing homes and manufacturers and distributors of personal protective equipment relating to products manufactured and services rendered in response to COVID-19. Senators Dave Argall (R-Schuylkill) and Bob Mensch (R-Bucks) are co-sponsors. The legislation is currently being considered in the Senate Judiciary Committee.

## Miscellaneous

- **Health Reform Initiative.** On October 2, 2020, Governor Wolf announced a plan to pursue reforms focused on affordability and accessibility in Pennsylvania's health care system by establishing the following: (1) an Interagency Health Reform Council, which would cause multiple Commonwealth agencies and the Governor's Office to jointly recommend ways to achieve efficiencies in the health care system through initiatives like value-based purchasing; (2) five Regional Accountable Health Councils intended to identify health disparities and opportunities to improve health care access and quality of care in their region; and (3) a Health Value Commission intended to hold health care payors and providers accountable for health care cost growth. HAP and St. Luke's are currently evaluating these initiatives.

## Federal Issues

### Regulations

- **21<sup>st</sup> Century Cures Act Implementation.** On December 13, 2016, President Donald Trump (R) signed the 21<sup>st</sup> Century Cures Act into law. The Act defines interoperability requirements for electronic health information (EHI) and prohibits information blocking, a practice that interferes with or prevents access to EHI. The Act includes fines of up to \$1 million per violation for prohibited information blocking.

On February 11, 2020, the Office of the National Coordinator for Health IT (ONC) released its proposed rule to implement provisions of the 21<sup>st</sup> Century Cures Act related to EHI blocking and interoperability. During the public comment period, St. Luke's sent a letter to the United States Health and Human Services (HHS) Secretary Alex Azar supporting efforts to increase the interoperability of health information technology but expressing concerns that ONC's proposed rule on interoperability would be overly burdensome on health systems and endanger patient privacy.

On May 1, 2020, the ONC released its final rule, which requires that EHI be accessible without restriction unless it meets very narrow exceptions and prohibits providers from creating policies restricting or delaying the release of information. St. Luke's is working to ensure compliance by the effective date of November 2, 2020.

- **Radiology Oncology Price Bundling:** On September 18, 2020, the Centers for Medicare & Medicaid Services (CMS) published a final rule for a mandatory five year radiation oncology bundle payment program, effective January 1, 2021, for randomly selected zip codes. Most St. Luke's radiation oncology sites are included within those targeted areas. The bundled payment model, part of a final rule on specialty care models, is expected to save Medicare about \$230 million over the five year period. CMS will also be retaining a 4.75% fee for implementing the model. On October 15, 2020, St. Luke's sent comments to the American Hospital Association and our federal legislators outlining concerns with the program, including the short time frame given to prepare, the negative impact to patients' access to care, the lack of guidance provided for complex clinical scenarios, and the cost of program administration.

## Miscellaneous

- **Public Health Emergency Extension.** On October 7, 2020, HHS Secretary Azar issued an extension for the COVID-19 public health emergency. The extension is effective as of October 23, 2020 and continues through January 21, 2021, meaning all waivers and flexibilities authorized under the federal public health emergency will remain in place through the extension.