

Government Relations Update – February 9, 2021

Pennsylvania Issues

Legislation

- **HB 55/SB 2:** Legislative Approval Requirement for Future Emergency Declarations. On January 11, 2021, Representative Seth Grove (R-York) introduced an amendment to the Pennsylvania constitution to limit the power of the Governor when declaring a disaster. The constitutional amendment would limit any gubernatorial emergency disaster declaration to 21 days, a reduction from the current 90 day standard, and would require approval of the General Assembly to renew the emergency declaration thereafter. Representative Craig Staats (R-Bucks) co-sponsored the bill. On January 20, 2021, Senator Kim Ward (R-Westmoreland) introduced an identical bill in the Senate. Senators Dave Argall (R-Schuylkill), Pat Browne (R-Lehigh), Bob Mensch (R-Bucks), Mario Scavello (R-Monroe) and John Yudichak (I-Carbon) co-sponsored the bill. The House and Senate approved the bills on January 26, 2021 and January 27, 2021, respectively, largely along party lines with the Republicans voting in the affirmative. Senator Lisa Boscola (D-Northampton) broke with her party and voted in favor of the bill, citing the importance of allowing the legislature to approve emergency declarations processed by the state.

During the COVID-19 pandemic, the Governor's emergency declaration has been renewed several times since the first one was issued on March 6, 2020. Emergency declarations provide important waivers and extensions for hospitals and healthcare facilities, including expanding Medicaid coverage of telemedicine. Emergency declarations also provide authorization for state agencies to use emergency funding, resources and personnel and initiate consumer protections against price gouging. Emergency declarations do not allow for the Governor to shut down businesses or prohibit elective medical procedures. Those powers are granted to the Pennsylvania Secretary of Health under different statutes.

An amendment to the Pennsylvania Constitution requires the same bill to pass both chambers in consecutive sessions, followed by a referendum approved by the voters. Identical legislation passed both chambers last session. The referendum will be drafted by Attorney General Josh Shapiro (D-PA) and could appear on the ballot as early as May 2021. The Hospital and Healthsystem Association of Pennsylvania (HAP) is determining its position on the referendum.

- **HB 326:** Pennsylvania National Guard Assistance with Distribution of COVID Vaccine. On January 28, 2021, Representative Timothy O'Neal (R-Washington) introduced legislation directing the Pennsylvania National Guard to establish and operate mass vaccination sites in every county in the Commonwealth. Concerns about the proposal prompted advocacy from stakeholders, including St. Luke's University Health Network and HAP. On February 4, 2021, in response to these concerns, an amendment was adopted on the House floor. The amended bill would permit the Pennsylvania National Guard to work with the Department of Health and the Pennsylvania Emergency Management Agency to develop plans for the establishment and operation of vaccine distribution sites in specific regions of the state. On February 5, 2021, the bill was approved by the House. St. Luke's will continue to monitor this legislation.

Miscellaneous

- **Proposed State Budget:** On January 3, 2021, Governor Tom Wolf (D) presented his proposed fiscal year 2021–2022 state budget of \$37.8 billion, representing a planned spending increase of \$3.78 billion, or 11.1%, compared to the current state fiscal year. The proposed budget would maintain funding levels for Medical Assistance supplemental payments for critical access hospitals, obstetrics/neonatal units, burn care centers and trauma centers. The budget proposal would also preserve hospital payments through the Tobacco Settlement Fund.

The budget proposal would allocate additional funds towards economic recovery initiatives, substantially increase education and infrastructure funding, raise the mandatory minimum wage and provide workforce development and training. The budget would also increase the state's personal income tax from 3.07% to 4.49%, introduce a severance tax on natural gas and legalize recreational marijuana. HAP is still reviewing the details of this plan.

- **Secretary of Health for the Commonwealth of Pennsylvania:** On January 22, 2021, Governor Wolf announced that Alison Beam would be nominated as the next Secretary of Health for the Commonwealth of Pennsylvania. Acting Secretary Beam has already begun work on the COVID-19 vaccine distribution. Prior to her nomination as the Secretary of Health, Ms. Beam served as the Deputy Chief of Staff to Governor Wolf. In this position, Ms. Beam coordinated policy development, fiscal and legal management, legislative initiatives, communications and stakeholder engagement across Pennsylvania's Departments of Health, Human Services, Drug & Alcohol Programs, Aging and Insurance. Additionally, she has led the Governor's Office efforts on Pennsylvania's Medical Marijuana Program and the Commonwealth's strategic response to the opioid crisis. Prior to joining to the Governor's Office, Ms. Beam served as the Chief of Staff to the Insurance Commissioner. In that capacity, she guided interactions with regulators, legislators and national trade associations and developed and implemented internal response strategies. Ms. Beam graduated from Drexel University School of Law and holds a Bachelor of Science in Health Policy and Administration from the Pennsylvania State University.

Federal Issues

Miscellaneous

- **Federal Public Health Emergency:** On January 22, 2021, Acting U.S. Department of Health and Human Services (HHS) Secretary Norris Cochran reported that the federal public health emergency (PHE) will likely be renewed every 90 days through December 31, 2021. The Biden Administration committed to providing states 60 days' notice before the PHE expires. Among other waivers and flexibilities, the PHE requires Medicare to pay for office, hospital and other visits furnished via telehealth. Preliminary data shows that between mid-March and mid-October 2020, 24.5 million of the 63 million Medicare beneficiaries nationally received a telemedicine service. St. Luke's is advocating for these telehealth waivers to be made permanent after the end of the PHE to improve patient access to care, which will require action by Congress.
- **President Biden Executive Orders:** On January 28, 2021, President Biden signed several healthcare executive orders, which, among other initiatives: (1) opened a special enrollment period from February 15, 2021 through May 15, 2021 for Americans to sign up for health coverage under the Affordable Care Act (ACA); (2) immediately re-implemented certain provisions of the ACA; and (3) expanded access to reproductive health care services. The executive orders also directed any federal departments or agencies interacting with the Centers for Medicare & Medicaid Services or overseeing the ACA marketplaces to identify any current policies that may undermine protections for patients with pre-existing conditions, reduce coverage, establish barriers to coverage or reduce coverage affordability, so that these policies can be reversed.
- **President Biden Names New Healthcare Team:** On December 7, 2020, President Biden announced that Xavier Becarra would be nominated as the next Secretary of HHS. Mr. Becarra is a former congressman, and he has served as the California Attorney General since 2017. On January 19, 2021, President Biden announced that Dr. Rachel Levine, the former Pennsylvania Secretary of Health, would be nominated as Assistant Secretary of Health. On January 20, 2021, Dr. Rochelle Walensky, former Chief of the Division of Infectious Diseases at Massachusetts General Hospital and professor of medicine at Harvard Medical School, became the Director for the Centers for Disease Control and Prevention. Senate confirmation is not required for this post.