

Government Relations Update – February 22, 2022

Pennsylvania Issues

Legislation

- **HB 106: Patient Safety Act.** On February 24, 2021, Representative Thomas Mehaffie (R-Dauphin) introduced legislation mandating minimum nurse staffing ratios in hospitals, requiring hospitals to adopt written policies permitting nurses to refuse assignments for safety reasons, and prohibiting hospitals from retaliating against nurses who take action to protect patients from unsafe conditions within hospitals. Representatives Maureen Madden (D-Monroe) and Jack Rader (R-Monroe) serve as co-sponsors. The legislation is currently in the House Health Committee. The Hospital and Healthsystem Association of Pennsylvania (HAP) and St. Luke's University Health Network oppose the bill and are meeting with legislators to advocate against it.
- **Prioritizing Patient Care in Pennsylvania:** On February 3, 2022, Senator Michele Brooks (R-Crawford) published a Co-Sponsorship Memorandum seeking support for proposed legislation invalidating non-competes for physicians terminated without cause by hospitals or private practices. St. Luke's opposes the proposed legislation.
- **Hospital Acquisitions and Price Transparency:** On February 10, 2022, Representatives Kristine Howard (D-Chester), Melissa Shusterman (D-Chester/Montgomery), and Dan Williams (D-Chester) published a Co-Sponsorship Memorandum seeking support for proposed legislation requiring approval from the Pennsylvania Department of Health (DOH) before hospitals or hospital systems can be purchased. The bill would require DOH to review applications, hold public hearings, and prepare impact statements on the effect of the buying and selling of health care services that the hospital or hospital system is providing. Further, the bill would require price transparency from hospitals or hospital systems so that patients have full access to the costs of items and services provided. The bill is being proposed in response to the efforts by Tower Health to close its Jennersville and Brandywine hospitals. St. Luke's opposes the bill.

Miscellaneous

- **2022-2023 Budget Proposal:** On February 8, 2022, Governor Tom Wolf (D) presented his draft budget for the 2022-2023 state fiscal year. Governor Wolf proposes \$43.7 billion in general fund spending, representing an increase of \$6.2 billion, or 16.6%, compared to the current year. The proposed budget maintains funding for Medicaid supplemental payments for obstetric and neonatal services, critical access hospitals, burn units, and trauma centers. The proposal includes \$36.6 million for county behavioral health services, \$75 million in federal funds to recruit and retain behavioral health providers, \$15 million in federal funds to stabilize payments to substance use disorder treatment providers and assist with pandemic related expenses, \$91.25 million to increase Medical Assistance rates for skilled nursing facilities, \$50 million in supplemental programs for the aging, blind, and individuals with disabilities to increase the personal care home state supplement, and \$200 million to create a need-based scholarships for Pennsylvania state college and community college students who pursue careers in high-need sectors, including health care, and commit to remaining in Pennsylvania after graduation. St. Luke's and HAP will advocate for critical health and human service funding to remain in the spending plan as the budget is negotiated over the next few months.
- **Pennsylvania State Legislative Redistricting Maps:** On February 4, 2022, new Senate and House district boundaries were approved by the Pennsylvania Legislative Reapportionment Commission in a 4 to 1 vote. The City of Allentown will now have three state representatives instead of two, and the new district contains St. Luke's Hospital – Sacred Heart Campus, so Representative Pete Schweyer (D-Lehigh) will no longer have the campus in his district. Senator Pat Browne (R-Lehigh) will represent a small portion of Allentown, including St. Luke's Hospital – Allentown Campus, as well as portions of Bucks County, including St. Luke's Hospital – Upper Bucks Campus.

A new Senate district has been created for the majority of Allentown and portions of Lehigh County, and St. Luke's Hospital – Sacred Heart Campus and St. Luke's University Hospital – Bethlehem Campus are located in the new district. Senator David Argall (R-Schuylkill) will represent St. Luke's Hospital – Carbon Campus, St. Luke's Hospital – Lehigh Campus, St. Luke's Hospital – Miners Campus, and Geisinger St. Luke's Hospital. On February 17, 2022, House Majority Leader Kerry Benninghoff (R-Centre) filed a lawsuit requesting that the Pennsylvania Supreme Court dismiss the new district map and apply the current legislative boundaries. Senator Lisa Boscola (D-Northampton) announced that she plans to challenge the new boundaries, too.

Federal Issues

Miscellaneous

- **CMS Hospital Based Nursing School Funding:** Approximately 120 hospital-based nursing schools throughout the United States receive roughly \$108 million annually in Medicare pass-through funds to support their nursing education programs. On August 21, 2020, the Centers for Medicare & Medicaid Services (CMS) announced that a payment error occurred from 2002 through 2018, necessitating a recoupment of \$307 million from sponsoring hospitals. St. Luke's School of Nursing is one of 15 hospital-based nursing programs in Pennsylvania. If CMS recoups the funds, St. Luke's would owe \$7,768,283.

On February 14, 2022, Congresswoman Lisa Blunt Rochester (D-DE) delivered a bipartisan letter to House Speaker Nancy Pelosi (D-CA) and Minority Leader Kevin McCarthy (R-CA) pledging support for legislation to prevent CMS from recouping these payments. Representatives Brian Fitzpatrick (R-PA-Bucks) and Susan Wild (D-PA-Lehigh/Northampton) both signed the letter and cosponsored the legislation, and Representative Dan Meuser (R-PA-Schuylkill) is a cosponsor.

- **Nurse Staffing Price Gouging:** Nurse Staffing Agency Price Gouging. As previously reported, on February 4, 2021, the American Hospital Association wrote a letter asking the Federal Trade Commission to investigate reports of anticompetitive pricing by nurse staffing agencies. St. Luke's shared the letter with state and federal legislators in Pennsylvania and New Jersey. At St. Luke's request, on November 12, 2021, HAP sent a letter to Pennsylvania Attorney General Josh Shapiro (D) asking his office to investigate price gouging by nurse staffing agencies. HAP and St. Luke's believe that Pennsylvania's price gouging statute, which prohibits the sale of goods or services for an amount representing an unconscionably excessive price, can be applied to address these practices.

On January 25, 2022, Representatives Peter Welch (D-VT) and Morgan Griffith (R-VA) led 195 representatives in a bipartisan letter to White House COVID-19 Response Team Coordinator Jeffrey Zients asking the administration to open an investigation into potential anti-competitive activity or violation of consumer protection laws from nurse-staffing agencies during the ongoing COVID-19 pandemic. Representatives Matt Cartwright (D-PA-Monroe), Brian Fitzpatrick (R-PA-Bucks), Tom Malinowski (D-NJ-Warren), Dan Meuser (R-PA-Schuylkill), and Susan Wild (D-PA-Lehigh/Northampton) signed the letter.

- **340B Challenges:** In May 2021, the United States Department of Health & Human Services (HHS) notified six pharmaceutical companies, including AstraZeneca, that they were violating 340B requirements by unfairly restricting discounts for hospitals using contract pharmacies to dispense drugs. HHS threatened the companies with penalties if they failed to immediately begin applying the discounts. In response, AstraZeneca filed a lawsuit against HHS, and on February 16, 2022, the United States District Court for the District of Delaware ruled that HHS violated procedural rules when issuing the letter. This was the fourth decision involving the HHS responses, two of which were decided for HHS and two of which were decided against HHS. The decisions against HHS received fierce pushback by 340B advocates, who argue that the safety net program is essential for hospitals and assert that pharmaceutical companies are placing onerous burdens on participating hospitals, thereby limiting the benefits of the 340B program.