

Government Relations Update – June 14, 2022

Pennsylvania Issues

Legislation

- **HB 1644**: Medicaid Care Transition Program. As previously reported, on April 29, 2019, Representative James Struzzi (R-Indiana) sponsored a resolution directing the Joint State Government Commission to study the impact of the Commonwealth's behavioral health needs and possible solutions for better access to care and referrals for treatment. Based on the results of the study, on June 16, 2021, Representative Struzzi introduced legislation directing the Pennsylvania Department of Human Services (DHS) to develop a statewide process to place patients enrolled in Medicaid with behavioral health or other long-term care needs in appropriate care settings in a timely matter. On May 25, 2022, the bill passed in the House and was sent to the Senate Health and Human Services Committee. St. Luke's University Health Network and the Hospital and Healthsystem Association of Pennsylvania (HAP) support this legislation.
- **HB 889**: Updating International Nursing Licensure Exam Requirements. As previously reported, on March 15, 2021, Representative Brett Miller (R-Lancaster) introduced legislation to amend the Pennsylvania Professional Nursing Law by allowing all graduates of an international nursing education program to sit for the registered nurse licensure examination, provided the Pennsylvania Board of Nursing determines the program meets Pennsylvania's standards. The Professional Nursing Law had allowed graduates of nursing programs in foreign countries to sit for the licensure examination only if they had first been licensed in the foreign country. The bill passed both chambers and was signed into law by Governor Tom Wolf (D) on June 10, 2022. St. Luke's and HAP supported this legislation, which will be effective in 60 days.
- **HB 2401**: Home Health Care Regulatory Relief. As previously reported, on March 16, 2022, Representative Jeff Wheeland (R-Lycoming) introduced legislation to allow certified registered nurse practitioners and physician assistants to order home health services. The bill would also allow registered nurses to conduct required bimonthly supervisory visits with patients remotely, which has been permissible for the past two years through COVID waivers. The Centers for Medicare and Medicaid Services also recently updated the federal home health regulations to make permanent the remote supervision option. On April 12, 2022, the House passed the bill, and it awaits consideration by the Senate. St. Luke's and HAP support this legislation.
- **HB 2660**: Venue Rules Change. As previously reported, on December 22, 2018, the Civil Procedural Rules Committee of the Pennsylvania Supreme Court announced that it was considering whether to eliminate a Pennsylvania Rule of Civil Procedure requiring medical malpractice actions against healthcare providers to be filed only in the county where the cause of action occurred. The rule was originally adopted in 2002 in reaction to Pennsylvania's medical liability insurance crisis. If the rule is eliminated, legal actions against providers could be brought in any county where a defendant could be served, which allows personal injury attorneys significant flexibility to choose a favorable venue for suit. St. Luke's has been working with HAP and local legislators to voice its concern regarding the potential repeal of the venue rule. St. Luke's also joined the Pennsylvania Coalition for Civil Justice Reform (PCCJR), which is leading a coalition of healthcare providers, insurers and other businesses, to oppose the change.

On February 1, 2019, Senate Judiciary Chair Lisa Baker (R-Luzerne) introduced Senate Resolution 20, directing the Legislative Budget and Finance Committee (LBFC) to conduct an analysis of the proposed rule change, and it was passed by the Senate on February 7, 2019. On February 5, 2020, the LBFC released its report, which was largely inconclusive concerning the impact the change in venue rules would have on medical malpractice rates and the cost of healthcare. The PCCJR has argued that the lack of an actuarial analysis in the report led to the inconclusive result and began petitioning Senator Baker for a new study that included this analysis. After much discussion, PCCJR decided to pursue the adoption of a constitutional amendment to maintain the current venue rules. On June 6, 2022, Representative Rob Kauffman (R-Franklin) introduced a bill to amend the constitution to allow the General Assembly to establish venue rules, rather than the judiciary. The House Judiciary Committee is expected to approve the bill. HAP and St. Luke's support this legislation.

Miscellaneous

- **Primary Election 2022:** On May 17, 2022, Primary Elections were held to determine state and national candidates for the fall General Election. In the race for United States Senate, the winners were Dr. Mehmet Oz (R) and Lieutenant Governor John Fetterman (D). In the race for Pennsylvania Governor, the winners were Pennsylvania Senator Douglas Mastriano (R) and Attorney General Josh Shapiro (D). In the PA-7 Congressional District, Republican Lisa Scheller secured the nomination and will run against incumbent Congresswoman Susan Wild (D). In the Republican Primary for the PA-16 Senate District, Parkland School Board Member Jarrett Coleman defeated Senator Pat Browne by a 19-vote margin, and he will face Democrat Mark Pinsley, who serves as the Lehigh County Auditor, in the General Election.
- **Outpatient Emergency Departments:** On March 2, 2022, the Pennsylvania Department of Health (DOH) issued guidance specifically permitting the creation of microhospitals, tele-emergency departments, and outpatient emergency departments (OED) as methods to increase access to care in medically underserved areas. A microhospital is defined as an acute care hospital that offers emergency services and maintains at least 10 inpatient beds with a narrow scope of inpatient acute care services, without a requirement to offer surgical services. A tele-emergency department is defined as an acute care or critical access hospital emergency department located in a rural area that is staffed by advanced practitioners with a physician available through telecommunications. An OED is defined as an outpatient hospital department located in a rural area that offers only emergency services and is not located on the grounds of the main licensed hospital. Pennsylvania legislative leaders have informed HAP that they will introduce legislation preventing the licensure of any OED within 35 miles of a general acute care hospital. HAP will be convening a task force to determine its position on this issue.
- **HealthChoices Work Stoppage Language:** Earlier this year, the hospital community became aware that DHS included language in its HealthChoices contracts prohibiting Medicaid managed care organizations from including in their network any provider with a history of one or more work stoppages during the preceding five years, unless the provider is or becomes a signatory to a valid collective bargaining agreement or labor peace agreement. On May 2, 2022, HAP filed a complaint in Commonwealth Court seeking declaratory relief that the contract provision is void and unenforceable. On May 25, 2022, HAP reported that DHS deleted the provision from its contracts, and HAP has agreed to withdraw its lawsuit. St. Luke's supported HAP's position on this issue.
- **COVID-19 Licensing Waivers Expiring:** At the outset of the COVID pandemic, Pennsylvania authorized nearly 100 waivers related to the use of telemedicine, professional licensing, and online continuing education, among other areas. On May 5, 2022, the Department of State announced the expiration of the professional licensing waivers on June 30, 2022. Once these waivers expire, certified registered nurse practitioners (CRNPs) will be required to obtain and file with the state executed collaborative agreements, CRNPs must practice only within their specific clinical specialty, most clinical supervisory requirements will be required in person rather than virtually, issuance of temporary licenses to practitioners from other states will no longer be expedited, and the practice of telemedicine will be significantly restricted. St. Luke's and HAP support several bills designed to extend these waivers, including the expanded use of telemedicine.

Federal Issues

Legislation

- **S.4009:** Rural Hospital Support Act. Statutory authority for the Medicare-dependent, Small Rural Hospital (MDH) program is set to expire on September 30, 2022. On April 6, 2022, Senator Robert Casey, Jr. (D-PA) introduced legislation to make permanent the payment adjustments for hospitals enrolled in the program. St. Luke's Hospital – Miners Campus, St. Luke's Hospital – Upper Bucks Campus, St. Luke's Hospital – Easton Campus, and St. Luke's Hospital – Warren Campus are among the 160 hospitals in 32 states benefiting from the MDH program. If the MDH program expires, St. Luke's will lose approximately \$8 million in annual reimbursements.