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Testimony Before the Senate Committee on Organization COVID-19 Legislation – Assembly Bill 1

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Chairman LeMahieu, Ranking Member Bewley and members of the Senate Committee on Organization. My name is Eric Borgerding and I am the President/CEO of the Wisconsin Hospital Association (WHA). We appreciate this opportunity to testify.

WHA represents 140 member hospitals and health systems of all shapes and sizes, from all across the state. 2020 marked WHA's 100th anniversary, and we have never been prouder of our team or the members we serve than we have been during this past year. Our team has been working seven days a week for the past ten months to assist Wisconsin's hospitals and health systems, which, under immensely difficult circumstances, have all done a remarkable job for Wisconsin. For everyone in health care this has been and remains the single largest challenge they've ever faced and hopefully ever will face ... and they have unhesitatingly answered the call despite the challenges both inside and outside the walls of their hospitals.

We understand, very well, that this pandemic has been stressful, not just politically, but also among families, businesses, customers, constituents, patients and health care providers. We are mindful of the impacts COVID has had on them all. We are well aware of the differing opinions, policies and politics permeating nearly everything COVID-related, even within your caucuses, yet we have worked extremely hard to find balance and common ground wherever possible, with the goal of moving forward and putting COVID safely behind us as soon as possible.

WHA continues to focus on how we can move forward together, in both public policy and public messaging. On the latter, we have led a diverse coalition from all segments of the economy to share a common message around slowing the spread of COVID-19. WHA, along with the WI Counties Association, Wisconsin Grocers Association, WMC and the Wisconsin Restaurant Association, created the *Stop the COVID Spread!* coalition. The group now counts over 125 organizations as members, including the Green Bay Packers, Milwaukee Brewers and Milwaukee Bucks. Since October, we aired six different safe practices ads on TV, radio and digital platforms that have been viewed, seen or heard an estimated 30 million times. We believe this work, as well as similar efforts by the state and many others, including many of our elected officials, have helped slow down the spread of COVID-19 in Wisconsin. We thank many of you and your colleagues for amplifying that message and we thank so many of the people of our great state for listening. *But we cannot stop now.*

On the public policy front, again, thank you for the legislation that is before us today, and thank you to the Governor for the legislation he has also put forward. WHA and our team remain in daily communication with the Legislature and the Evers' Administration. As evidenced by some of the provisions included in both bills, we appreciate, very much, that the voices of WHA and our members are being heard, and we remain as committed as ever to helping find and craft common ground and moving forward.

To that point, on November 19, I wrote to Governor Evers and leaders in the Senate and Assembly asking for their help and urging them to come together. While the situation in Wisconsin has improved since mid-November, we make no assumptions about where COVID is headed and the pressure on our state's hospital capacity and staff remains. Today, even though we have seen a welcome drop in COVID hospitalizations, they are still three times higher than the daily average this past summer. We must remain vigilant and prepared in our response to this pandemic, and that includes adopting legislation that will allow our state and health care providers to do so.

As noted, we have been in regular dialogue with our state's elected leaders, and are very pleased to see the framework for agreement on important new policies. Initiatives that will help create additional capacity for both COVID and non-COVID care in hospital outpatient settings, provide resources to hospitals when a Medicaid patient is ready for discharge but no post-acute care provider is willing or able to take them, and permanently streamline licensure processes for out-of-state providers in good standing. We want to recognize that these proposals received support from Governor Evers and leaders in both houses of the legislature - and are now incorporated into AB 1. We ask for your support of these provisions, as well, and believe we can do more.

We understand this Committee is entertaining an amendment to Assembly Bill 1 that will adopt several of the above mentioned provisions but remove others in Assembly Bill 1 that were adopted by the Assembly. We would encourage you not to remove these provisions in the bill as they are important forward-looking tools to help our hospitals innovate, take advantage of federal regulatory flexibilities and use data to improve care delivery. I believe it is worthwhile for the Committee to understand the value of each of these provisions.

One of the underappreciated benefits of the pandemic has been expediting, out of necessity, certain temporary regulatory reforms. As time has passed, there has been a realization that many of these reforms are working well and should either be made permanent or become the basis for more changes.

The most recent example comes from the federal Centers for Medicare and Medicaid Services (CMS), which, on November 25, announced new Medicare regulatory and payment flexibilities allowing hospitals to continue providing hospital care in a patient's home, prior to discharge from an inpatient service. CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic obstructive pulmonary disease (COPD), which can be treated safely at home with proper monitoring and treatment protocols.¹

¹ Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge* [Press Release]. Retrieved from: <https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge>

The purpose of this program is to create additional capacity options for our hospitals by utilizing technology to provide a higher level of care for someone in their home. Besides the surge planning benefits of this model, CMS also recognizes the added benefits of allowing non-COVID patients to be visited by more family members safely at home, and also thus eliminating the risk of virus transmission within the walls of a hospital.

This program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than traditional home health, as they should be for a program that is designed to continue hospital level care in a patient's very own home. So far, Wisconsin has [two Medicare-approved Acute Hospital Care at Home](#) programs, with more likely on the way.

Some Wisconsin hospitals and health systems have been hesitant to implement this federal program due to perceived uncertainty in related state law, and they are eagerly awaiting clarification. Assembly Bill 1, as adopted by the Assembly, provides that clarity, assuring that as hospitals seek innovative ways to expand and improve care that they will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies. We respectfully ask that you add this important provision back into your version of Assembly Bill 1.

While many of you know WHA for our advocacy work, since COVID many more have become familiar with our work in health care data. The Wisconsin Hospital Association Information Center (WHAIC) has been a trusted source for health care data and analytics for nearly two decades. WHAIC is the organization that brought us the nationally-acclaimed [WHA COVID-19 dashboard](#); a resource that many of you, like me, check daily, use to track the status of COVID in Wisconsin and have shared on social media with your constituents.

The WHAIC dashboard team collects, proofs and uploads 12 separate data elements from 155 hospitals into the dashboard ... *every single day, including Thanksgiving, Christmas and New Years Day*. Entirely staffed and funded by WHAIC, the COVID dashboard has now been viewed over 850,000 times and has become a trusted, "go to" daily information staple for legislators and many others monitoring the status and impact of COVID in Wisconsin.

The Information Center is regulated under Ch. 153 of the Wisconsin statutes and for over 18 years has collected and disseminated all Wisconsin hospital and ambulatory surgery center discharge data under a contract with the state executed in 2003. It runs transparency websites PricePoint, CheckPoint, has received no state dollars, has been entirely self-sufficient since day one, and is an excellent example of public-private partnership.

In the summer of 2016, only four months after enabling legislation was signed into law, the WHA Information Center quickly stood-up the state's inpatient mental health bed tracker, an initiative advanced by WHA and that has proven a critical tool in improving access for patients in need of inpatient mental health care.

Assembly Bill 1, as adopted by the Assembly, includes an important new data tool for the Information Center known as Medicaid claims data. Just as we have been able to inform decision making with the COVID dashboard, the WHA Information Center can use Medicaid claims data to improve care for the Medicaid population inside and outside the walls of the hospital.

In 2016, Democratic and Republican members of the legislature worked together in a bipartisan fashion with WHA to enact the Health Care Data Modernization Act, greatly improving our ability to analyze hospital and ambulatory surgery center discharge data. I want to thank two members of this Committee, Majority Leader LeMahieu and Minority Leader Bewley for co-sponsoring the Data Modernization Act back in 2016. This legislation was a critical step for the Information Center to use data to help providers “put water where the fire is” as we all strive to improve population health, deliver better care outcomes and lower Medicaid costs.

Assembly Bill 1’s provision on Medicaid claims data, as adopted by the Assembly, is the next critical step to help better understand care patients receive across the continuum, better understand social determinants of care, direct resources where needed most, and improve care outcomes in all circumstances, including COVID-related care during the pandemic. It will better inform strategies to prevent birth complications, reduce hospital readmission rates for patients discharged to post-acute care facilities and reduce the number of patient’s using a hospital emergency department as their primary mental health care provider, to name a few examples. We respectfully ask that you also add this important provision back into your version of Assembly Bill 1.

It should be noted that the federal Medicare program has already recognized the value of providing claims data to organizations like WHAIC, and in October 2019, WHAIC was named a Medicare Qualified Entity for the purpose of receiving Medicare claims data. It is now time for the state to do the same with Medicaid data.

We ask the Committee to amend Senate Substitute Amendment 1 to include both provisions, along with other payment and licensure regulatory flexibilities already included in the substitute amendment.

Thank you.