WISCONSIN HOSPITAL ASSOCIATION, INC.

January 16, 2017

Representative Joe Sanfelippo
Chair, Assembly Health Committee
Room 306 North
State Capitol
Madison, WI 53708

Dear Chairman Sanfelippo,

We appreciate you reaching out to the Wisconsin Hospital Association (WHA) for thoughts on responding to a request made to Speaker Vos from U.S. House Chairman of the Committee on Oversight and Government Reform Jason Chaffetz regarding unfunded mandates and requirements established by the federal government. The purposes of this communication is to identify requirements and regulations that create a financial and human resource commitment for compliance, which may outweigh the benefits of the regulation to the general public, taxpayers and payers of health care services.

We have identified a list (though not all-inclusive of our federal regulatory concerns) of items that you may be interested in sharing with Speaker Vos as he develops his response to Chairman Chaffetz' letter.

- Under the current audit landscape, hospitals are faced with any number of oversight programs and contractors at both the state and federal level for both Medicare and Medicaid, including the: Comprehensive Error Rate Testing (CERT) program, Office of Inspector General (OIG), Medicaid Integrity Contractors (MIC), Medicaid Integrity Program (MIP), Payment Error Rate Measurement Program (PERM), Medicare Administrative Contractor (MAC), Zone Program Integrity Contractors (ZPIC), and the Recovery Audit Program (RAC) to name a few. While WHA does not question there is a need for *appropriate* oversight and compliance related to government programs, we believe these programs are not coordinated, are redundant and burdensome. Unfortunately, this creates an unfunded burden on health care providers. One particular example that has been problematic for years is the RAC program. It was created under The Tax Relief and Healthcare Act of 2006 and implemented nationwide in 2010. RACs are paid on a contingency basis, have aggressively and inappropriately recouped millions of dollars from Wisconsin hospitals.

- The Centers for Medicare and Medicaid Services (CMS) has any number of burdensome and restrictive regulations that create financial and access to care hardships. One such provision is known as "shared space" or "mixed use" space. While there is no codified provision, CMS has nonetheless cobbled together a policy that is being interpreted differently within the agency. In the absence of clear, flexible guidance from CMS on this issue, hospitals are concerned that their mixed use areas – spaces where, say, a visiting specialist can see patients at the hospital – must have separate entry doors, waiting rooms or other structural/building requirements. Not only does this reduce access to care, particularly in rural areas, it increases the costs for hospitals if they can even afford to build out to these requirements.

- Under the Medicare EHR Incentive Program, hospitals that fail to meaningfully use certified EHR technology are subject to significant Medicare reimbursement penalties. Not only do many of the "meaningful use" reporting requirements entail investments and workflow disruptions that

outweigh potential health care cost savings or improvements in outcomes, but CMS regulations have made program success—and successful avoidance of Medicare penalties—unnecessarily difficult. Many of CMS' mandated reporting standards are not experience-based or shown to positively affect clinical outcomes, and CMS takes an "all-or-nothing" approach to compliance, subjecting hospitals to significant Medicare penalties for failing to meet a single measure by even a single percentage point.

- CMS requires hospitals to collect and report 60 quality measures, many with complicated measure definitions. For example, the sepsis measure requires collection of 83 data elements, which takes on average one hour to collect per patient. The complexity of the measures requires highly skilled clinical staff, such as registered nurses. In addition to the staff resource need to collect the measure data, hospitals must have a contract with an approved data vendor for submitting and managing the data. An annual contract for a data vendor can range from $50,000 to $100,000 per year for a mid-size hospital.

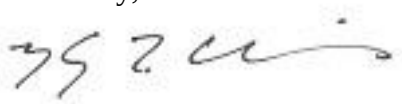
These are only a few of the federal mandates and requirements that are placed on the nation's hospitals and health systems. Hospitals face thousands upon thousands of pages of federal regulatory changes every year which stem from federal laws or changes to governmental programs. The pace of these changes has rapidly increased in recent years and is putting substantial stresses on hospitals and health care staff.

In addition, we wanted to contrast the additional regulatory burden being placed on Wisconsin hospitals at the federal level with the approach that Wisconsin's policymakers have taken to ensure that our state regulations are keeping up with health care delivery and are not a barrier to the rapidly evolving changes taking place within care delivery. As a part of the Red Tape Review process, Wisconsin has modernized the laws regulating hospitals, including a rewrite of DHS 124 which a government report submitted to Governor Walker in 2013 called the regulation **"outdated, duplicative, and confusing for health care operators because of contradictory state and federal regulations**." The reform of this regulation is modernizing the way we regulate hospitals, incentivizing team-based care and acknowledging the evolving scope of practice for different types of health care professionals.

In this current legislative session, we look forward to working with you and members of your Committee to address state regulatory burdens that have resulted in barriers in expanding access to health care by Wisconsin's hospitals and health systems, especially for individuals with mental illness and substance abuse disorders.

If you have any questions, please feel free to contact me at any time. Again, thank you for the opportunity to discuss the regulatory burdens facing Wisconsin hospitals and we appreciate your willingness to partner with us to address these challenges.

Sincerely,



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