

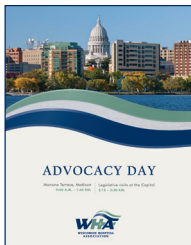
January 19, 2018

Volume 62, Issue 3

## **State Lawmakers Circulate Care Coordination Medicaid Pilot Legislation Reps. Rodriguez, Sanfelippo and Sen. Darling see “promising results” in provider care coordination**

Three Republican lawmakers circulated legislation January 16 to establish an intensive care coordination pilot program aimed at better managing care for Medicaid enrollees who frequent hospital emergency departments. The legislation, modeled closely after a WHA priority provision that was adopted in the Legislature’s version of the 2017-2019 biennial state budget, would provide a payment to hospitals and health systems that agree to provide a set of services to curb emergency department utilization to an identified population of Medicaid recipients.

“In partnership with the legislative authors of LRB 4332, Wisconsin’s hospitals and health systems are identifying a utilization and care management gap in our Medicaid program and developing a proactive solution to address that problem,” said WHA President/CEO Eric Borgerding and WHA Senior Vice President, Government Relations Kyle O’Brien in a January 17 memo to lawmakers in support of the legislation. “These types of innovative reforms from Wisconsin’s hospitals and health systems should come as no surprise, since Wisconsin consistently ranks as having the highest quality health care in the country and has led the nation in health care delivery reform.” *(continued on page 5)*



### **2018 Advocacy Day: Register Today! March 21, 2018 \*\*\* Monona Terrace, Madison**

Make an impact in Madison for your hospital by attending Advocacy Day on March 21, 2018.

Register today at: [www.whareg4.org/2018AdvocacyDay](http://www.whareg4.org/2018AdvocacyDay).

## **Courtroom Advocacy: WHA Files Brief with Supreme Court Supporting Medmal Cap**

On January 16, the Wisconsin Hospital Association (WHA) filed an amicus brief with the Wisconsin Supreme Court in *Ascaris Mayo v. IPFCF* supporting the constitutionality of Wisconsin’s \$750,000 medical malpractice non-economic damage cap enacted with bipartisan support in 2006. WHA’s Supreme Court amicus brief can be found at <http://bit.ly/2EYF8IQ>.

“Wisconsin’s unique, balanced medical malpractice system that includes a cap on non-economic damages is a key policy that has helped Wisconsin retain and attract high-quality physicians to Wisconsin communities,” said WHA President/CEO Eric Borgerding. “The Legislature understood in 2006 and understands today that without a sufficient supply of physicians in communities throughout the state, Wisconsin’s high rankings in health care quality and access would not be achievable.”

“To protect access to quality care, WHA fought hard 12 years ago to enact the bipartisan legislation establishing the current cap, and we are continuing that advocacy effort by supporting the Legislature’s sound policy decision in the courts,” said Borgerding. *(continued on page 2)*

## **Continued from page 1 . . . Courtroom Advocacy: WHA Files Brief with Supreme Court Supporting Medmal Cap**

This is WHA's second amicus brief in this case. In 2015, WHA and the Wisconsin Medical Society jointly submitted an amicus brief to the Court of Appeals in support of the cap (see at <http://bit.ly/2mVaeEc>). In July 2017, a three-judge panel of the Wisconsin Court of Appeals held that Wisconsin's \$750,000 cap on non-economic damages in medical malpractice cases is unconstitutional for all injured patients because the Legislature lacked a rational basis for enacting the non-economic damage cap. The defendant, the Wisconsin Injured Patients and Families Compensation Fund (IPFCF), then appealed that decision to the Supreme Court.

Timothy Feeley and Sara MacCarthy, attorneys with Hall, Render, Killian, Heath & Lyman P.C., who wrote WHA's Supreme Court brief, argued that contrary to the Court of Appeals' conclusion that the Legislature had no rational basis for creating the cap, the caps are not only rational but are enabling Wisconsin to achieve multiple goals.

"The Legislature's efforts have borne fruit," wrote Feeley and MacCarthy in WHA's brief. "Wisconsin leads the nation in health care quality. Furthermore, for more than a decade after *Ferdon*, Wisconsin's statutorily enacted comprehensive medical liability system has guaranteed injured patients full compensation for economic damages and allowed recovery for noneconomic damages up to \$750,000, something both unique from other states and to other plaintiffs in Wisconsin."

"The Legislature's actions have continued the viability of a medical liability system that helps protect all Wisconsin communities' needs for accessible health care. That accessibility to quality health care is not just a good unto its own, but it is also a key economic development asset for Wisconsin communities," stated WHA's brief. "To conclude that the Legislature's bases for implementing the cap bear no rational relationship to providing access to affordable, quality health care for all Wisconsin residents ignores the evidence and the rational basis test."

"Disregarding the Legislature's informed judgment about the way to reduce the disincentives for physicians to practice in Wisconsin jeopardizes the continued viability of Wisconsin's medical liability system....[and] impairs the ability of WHA members to recruit and retain health care professionals in the communities they serve," wrote Feeley and MacCarthy.

A decision in the case is expected sometime in 2018.

## **Governor Walker Calls for Special Session on Welfare Reform**

Gov. Scott Walker put forward an executive order January 18 calling on the state Legislature to come into special session for the purposes of passing legislation impacting various welfare programs in Wisconsin, including Medicaid.

Among the provisions, the Governor calls on the Legislature to pass a bill that would require the Department of Health Services (DHS) to limit Medicaid eligibility for certain individuals who are not complying with paternity or child support orders and a bill directing DHS to seek a waiver of federal law to allow the state to create savings account programs for individuals enrolled in the Medicaid program.

The Governor announced the proposals in Executive Order #271, drafts of the legislative language were released by the bill authors, including Assembly Speaker Robin Vos (R-Rochester) and Sen. Chris Kapenga (R-Delafield).

LRB 5216 would require adults who are not elderly and not disabled to cooperate in providing or obtaining support for their child in order to be eligible for the Medicaid program. Under the proposal, the child would remain eligible for Medicaid even if the adult is ineligible because he or she did not comply with those requirements. *(continued on page 3)*

## Continued from page 2 . . . Governor Walker Calls for Special Session on Welfare Reform

LRB 5246 would require DHS to seek a Medicaid waiver to establish and implement a health savings account program for Medicaid recipients. The proposal specifies that recipients of Medicaid who are elderly, blind, disabled, or a child would not be required to have a health savings account. No other details of the program are specified in the proposal, giving DHS significant flexibility on how the program would be structured. As described previously in *The Valued Voice* (See [www.wha.org/wha-newsletter-1-12-2018.aspx#s2](http://www.wha.org/wha-newsletter-1-12-2018.aspx#s2)), DHS has submitted a waiver request seeking federal approval to implement new policies in the Medicaid program including premiums, copayments and work requirements. The request has not yet been approved by CMS.

## Enhanced Nurse Licensure Compact is “Live”

On January 19, 2018, Wisconsin and other compact states belonging to the enhanced Nurse Licensure Compact (eNLC) will begin issuing and recognizing eNLC multi-state nurse licenses. Colorado became the 28th state to join the enhanced compact this week, just under the wire before implementation. Wisconsin became the 27th state December 11, 2017 when Gov. Scott Walker enacted eNLC in Wisconsin as Act 135. (See *Valued Voice* article at [www.wha.org/wha-newsletter-12-15-2017.aspx#s2](http://www.wha.org/wha-newsletter-12-15-2017.aspx#s2).)

Since 2000, Wisconsin has been a part of an interstate nurse licensure agreement that reduces regulatory burden on nurses looking to practice in Wisconsin and provides nurses with license portability to treat patients in other states.

“High-quality health care attracts high-quality professionals, and Wisconsin health care is ranked at or near the top by many national measures,” according to Ann Zenk, WHA vice president, workforce and clinical practice. “Sustaining membership in a nurse licensure compact by joining the enhanced compact benefits high-quality health care by making it easier for patients to access care by Wisconsin nurses and removing regulatory barriers for nurses successfully recruited to work in Wisconsin’s high-quality health care facilities.”

WHA legal and government relations staff have prepared a summary on eNLC, available in the WHA members only portal. This summary will help WHA members better understand this newly implemented legislation. On January 16, WHA held a member forum webinar entitled “Enhanced Nurse Licensure Compact (eNLC): A Voluntary, Alternative & Expedited Process for Nurse Licensure.” For a recorded copy of the webinar, or for questions about eNLC, contact Ann Zenk at [azenk@wha.org](mailto:azenk@wha.org) or 608-274-1820.

## Physician Leadership Development Conference – Early Bird Discount Expires Jan. 31

As new physician leaders are moving beyond their clinical training, they have the need to learn and employ a new approach to managerial decision making and problem solving. To assist with this transition, WHA will host its 13th annual “Physician Leadership Development Conference” Friday, March 9 and Saturday, March 10, 2018, at The American Club in Kohler. This highly regarded event offers high-quality education from nationally recognized American Association for Physician Leadership faculty with less travel expense and less time out of the hospital or clinic and away from patients, than the national offerings.



Hospital leaders are encouraged to identify several new hospital and clinic physician leaders who would benefit from this popular, proven, in-state option for physician leadership development training, and get those physicians registered by January 31 to take advantage of the early bird discount.

Conference information and online registration can be found at [www.cvent.com/d/ktq19j](http://www.cvent.com/d/ktq19j). The conference brochure is also included in this week’s packet.

## WHA Quality Forum Focuses on Engaging Physicians for Quality Improvement

On March 6, as part of the WHA Quality Forum, a series of day-long education events that address high-priority topics for hospital quality leaders, WHA is offering the session titled “Medical Staff Quality.”

“Medical Staff Quality” is the second session in WHA’s Quality Forum and will focus on key strategies for identifying, engaging and retaining physician champions for clinical quality improvement and performance management. Faculty includes Beth Dibbert, WHA chief quality officer; Bobby Redwood, MD, WHA physician improvement advisor; and Shelly Egstad, director of quality, risk and compliance for Tomah Memorial Hospital.

Throughout 2018, the WHA Quality Forum series will include topics such as survey readiness, meeting external reporting requirements and more. Presenters for each will share topic expertise and best practice applications.

Online registration and information on all WHA Quality Forum sessions can be found at [www.cvent.com/d/f5qhb9](http://www.cvent.com/d/f5qhb9). Registration at each session will be limited, so those interested should register as soon as possible.

For registration questions, contact Kayla Chatterton at [kchatterton@wha.org](mailto:kchatterton@wha.org). Contact Beth Dibbert at [bdibbert@wha.org](mailto:bdibbert@wha.org) for questions about the content of these sessions.

## Member News: HSHS Appoints Bagnall to Lead HSHS Sacred Heart Hospital and Serve as Western WI Division President/CEO

Andrew J. Bagnall, MHA, FACHE, has been appointed to serve as president and chief executive officer for HSHS Sacred Heart Hospital, Eau Claire and HSHS Western Wisconsin Division. Bagnall is currently president and CEO of HSHS St. Nicholas Hospital in Sheboygan. His new role starts February 5.

Since joining HSHS in 2010, Bagnall has helped transform the culture at St. Nicholas by leading initiatives that improved quality, safety, the patient experience and colleague and physician engagement. He also advanced the integration and alignment of Prevea Health and other physician groups. Bagnall also oversaw the financial turnaround of the hospital, the growth of patient services, and major capital projects including the renovation of the hospital’s surgical platform and the ICU.



*Andrew Bagnall*

Prior to joining HSHS, Bagnall was CEO at Select Specialty Hospital in Davenport, Iowa and was vice president for Grinnell Regional Medical Center in Iowa. He earned a Master’s Degree in health administration and Bachelor of Arts Degree from St. Ambrose University in Davenport, Iowa, and is a Fellow of the American College of Healthcare Executives. In 2011, he was named as one of *Modern Healthcare’s* “Up and Comers.”

Therese Pandl, president/CEO, HSHS Eastern Wisconsin, will serve as the interim president/CEO for HSHS St. Nicholas Hospital.

## FDA Update on IV Fluid Shortages

In a statement issued January 16, FDA Commissioner Scott Gottlieb, MD, said his agency expects the shortage of IV fluids to improve in the coming weeks and months. In addition to working with the manufacturers to ensure their Puerto Rico facilities can operate at full capacity, they have been working with manufacturers such as Baxter and B. Braun to import product from their foreign facilities.

The FDA has approved IV saline products from additional companies, specifically Fresenius Kabi and Laboratorios Grifols. The tight supply has been exacerbated by an increased demand for saline as a result of a worse-than-expected flu season. The FDA has also asked companies to submit data to extend expiration dates for these products.

The FDA encourages health care organizations and hospitals to contact the FDA ([www.fda.gov/AboutFDA/ContactFDA/default.htm](http://www.fda.gov/AboutFDA/ContactFDA/default.htm)) first if they are not receiving the products they need. The American Society of Health System Pharmacists (ASHP) has recently released guidance that hospitals could find helpful: <http://bit.ly/2EYw0xv>.

## Continued from page 1 . . . State Lawmakers Circulate Care Coordination Medicaid Pilot Legislation

In a cosponsor memo to their colleagues, Rep. Jessie Rodriguez (R-Oak Creek), Rep. Joe Sanfelippo (R-New Berlin) and Sen. Alberta Darling (R-River Hills) said, “While hospitals continue to work proactively to hold the line on health care costs, inappropriate use of hospital emergency departments continues to be a cost driver in our state’s Medicaid program. While hospitals are not able to control who comes through their emergency room doors, hospitals in Wisconsin have developed models that have shown promising results in lowering inappropriate emergency department utilization by providing intensive care coordination services.”

According to the lawmakers, over 10,000 individuals statewide visited emergency departments (EDs) seven or more times in 2016, at an estimated cost of \$53.5 million—a 36 percent increase since 2014. This small population is commonly referred to as “high utilizers,” and accounted for over 111,000 ED encounters last year.

The three lawmakers pointed to existing intensive care coordination programs operated by Aurora Sinai, Aurora St. Luke’s and Wheaton St. Joseph’s hospitals in Milwaukee to reduce emergency department utilization through intensive care coordination services. The legislative authors said the bill is intended to, “provide support for hospitals to create new programs that would work for their unique populations and support further innovation and refinement of models currently in place.”

The legislation will be formally introduced shortly and likely receive a committee hearing in late January.

See more:

Proposed legislation: [www.wha.org/pdf/17-4332.pdf](http://www.wha.org/pdf/17-4332.pdf)

WHA memo: [www.wha.org/pdf/CareCoordination1-17-18.pdf](http://www.wha.org/pdf/CareCoordination1-17-18.pdf)

Legislators’ cosponsor memo: [www.wha.org/pdf/RodriguezSanfelippoDarling1-16-18.pdf](http://www.wha.org/pdf/RodriguezSanfelippoDarling1-16-18.pdf)