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WHA Testimony Supports Bill Enabling APCs to Activate Advance Directives Alongside Physicians

Building upon bipartisan support in the Wisconsin State Assembly, WHA members and staff [testified](#) in favor of legislation updating state law to allow qualified advanced practice clinicians (APCs) to play a needed role to help ensure patient health care wishes are followed through the patient’s advance directive. [Senate Bill 254](#) had a public hearing before the Senate Committee on Health and Human Services Nov. 20; the Assembly approved companion legislation on a bipartisan voice vote Nov. 12.



Fort HealthCare’s Sheryl Krause (right) and WHA’s Ann Zenk testify.

The bill helps to address a problem of delays in following a patient’s documented health care treatment wishes by allowing qualified APCs to serve as one of two health care providers required to make a determination of incapacity or make a diagnosis of terminal condition or persistent vegetative state – such diagnoses are necessary to carry out wishes detailed in an advance directive such as a medical power of attorney or living will. The bill requires that a physician independently examine and concur with the APC’s independent diagnosis in order to activate an advance directive.

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EDUCATIONAL EVENTS

December 4, 2019

CMS Hospital Improvement FINAL RULES
Webinar

December 10, 2019

Enhancing Resilience: Survival of the Kindest
Free Member Webinar Series

December 12, 2019

Discharge Planning: Compliance with the New CMS Hospital & CAH CoPs
Webinar

Governor’s Rx Drug Task Force Holds First Meeting

Governor Tony Evers’ Task Force on Reducing Prescription Drug Prices met for the first time on Nov. 20 in Madison. Door County Medical Center CEO Brian Stephens, nominated by WHA, is a member of the task force.

The task force is charged with making recommendations for reducing prescription drug prices in Wisconsin and will gather and analyze information on the development, pricing, distribution and purchasing of prescription drugs. It will also analyze strategies to reduce prescription drug prices, and survey other states’ initiatives that could be tested in Wisconsin.

The meeting kicked off with video greetings from both Gov. Evers and U.S. Senator Tammy Baldwin. National Governor’s Association staff and Jane Horvath of Horvath Health Policy delivered a primer on the prescription drug supply chain. They also identified challenges within the supply chain and described state and federal government attempts to gain control over rising prescription drug prices. Wisconsin Department of Justice Assistant Attorney General Duane Harlow updated the group on Wisconsin’s involvement in multi-state antitrust lawsuits against certain drug manufacturers.

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Task force members discussed several preliminary ideas that might help consumers struggling with the high cost of prescription drugs. Stephens described how drug discount programs available at Door County Medical Center can help patients but noted that he must allocate two staff within the clinic to help patients maneuver the programs' application processes. He said there is also a feeling that some of the discount programs may be prescription drug sample programs "in disguise" in order to try to get people reliant on name brand drugs in lieu of lower-cost generics.



The task force spent a great deal of time discussing the pros and cons of increasing regulation of pharmacy benefit managers (PBMs). An issue of concern with PBMs is a lack of transparency about rebates PBMs obtain as part of the negotiation process with manufacturers, and whether consumers and insurers are getting maximum benefits from PBMs. Also discussed was the 340B program, a discounted drug program used by certain disproportionate share hospitals and other entities, and how some state Departments of Corrections are starting to leverage this program for drugs used in correctional facilities. Several members of the task force stressed the importance of the 340B in expanding access to affordable prescription drugs. Anna Benton, the task force representative from the state's Department of Health Services, noted the impact of high-cost specialty drugs on the Medicaid budget. The task force generally acknowledged that in addition to examining rising prescription drug costs, it is necessary to look at health care costs overall, and that it is also important to look at the overall management of health conditions by methods other than prescription drugs.

Hospitals have a big stake in the task force's work. A recent study prepared for the American Hospital Association notes, among its many findings:

- Average total drug spending per hospital admission increased 18.5% between FYs 2015 and 2017.
- The growth in expenditures per hospital admission on inpatient drugs exceeded the Medicare reimbursement update five-fold during the study period.
- Hospitals experienced price increases in excess of 80% across different classes of drugs, including those for anesthetics, parenteral solutions, opioid agonists and chemotherapy.

The task force will meet monthly throughout 2020 at various locations around the state, with its next meeting scheduled for Jan. 22 in Milwaukee. Contact WHA Vice President of Policy Development [Laura Rose](#) or Director of Federal and State Relations [Jon Hoelter](#) for more information.

CMS Finalizes Transparency Rule on Hospitals, Proposes Similar Rule on Insurers *Concerning mandates remain, but effective date delayed a year.*

President Donald Trump joined Health and Human Services Secretary Alex Azar, the Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma, and other senior administration and Congressional leaders on Nov. 15 to announce his administration had [finalized](#) its proposed rules mandating hospitals make public their privately negotiated payment rates. While CMS delayed the effective date by a year to Jan. 1 of 2021, the actual effective date remains uncertain, as the American Hospital Association and other hospital groups [announced a lawsuit](#) to block implementation.

The final rule requires hospitals to post in machine-readable format all standard charges for all services a hospital provides, and expands the definition of a standard charge to include five different types:

1. Gross charges
2. Payer-specific negotiated charges
3. Deidentified minimum charges
4. Deidentified maximum charges
5. Cash-discounted charges

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Additionally, hospitals would be required to post in an online consumer-friendly format, 300 shoppable services, of which 70 would be chosen by CMS and 230 would be chosen by individual hospitals based on the services they offer. Hospitals that currently have an online cost-estimator tool covering these services would be deemed to be compliant by CMS. Hospitals that are found to be in non-compliance would be subject to corrective action and could face civil monetary penalties of up to \$300 per day.



While WHA has long been a leading proponent of consumer transparency through its [PricePoint](#) and [CheckPoint](#) websites, in its [comment letter](#) to CMS on the proposed rule, it echoed concerns identified by the Federal Trade Commission that the rule could actually lead to anticompetitive behavior that results in higher prices for consumers.

In addition to the final rule impacting hospitals, CMS also [proposed a new rule](#) targeted at insurers that mirrors many of the required mandates for hospitals. Health insurance plans would be required to create consumer-friendly online tools allowing individuals to see:

- Their cost-sharing liability and expected out-of-pocket costs for any service performed by a specific in-network provider.
- The amount the individual has spent toward their deductible, along with their out-of-pocket maximum.
- The negotiated rate for in-network providers and allowed amount for out-of-network providers.
- A list of items covered if the service is for a bundled payment.
- Any prerequisites for care, such as prior authorization.

Health plans would also be required to display this information in machine-readable format, and also in a paper copy if requested by a beneficiary. Health plans would also be rewarded via their medical loss ratio for incentivizing consumers to select “lower-cost, higher-value” providers. The rule contains a request for information on how they should measure provider quality.

As previously mentioned, litigation is expected to delay implementation of the final rule applying to hospitals. In the meantime, WHA is exploring ways to assist member hospitals with implementation and will provide updates in future communications to members. For additional information, contact WHA Director of Federal and State Relations [Jon Hoelter](#) or Senior Vice President of Finance/Chief Operating Officer [Brian Potter](#).

CMS Proposes New Rule on Medicaid Supplemental Payments

Could have far-reaching impact on state-level Medicaid financing

The Centers for Medicare & Medicaid Services (CMS) [proposed a comprehensive new rule](#) on Nov. 12 looking to address fiscal accountability in the Medicaid program. The rule is intended to address perceived weaknesses in Medicaid integrity identified by the Office of Inspector General (OIG) of Health and Human Services, Government Accountability Office (GAO), and the Medicaid and CHIP Payment and Access Commission (MACPAC). CMS Administrator Seema Verma described some current payment arrangements as “shady recycling schemes [that] drive up taxpayer costs and pervert the system.”

The proposed rule defines supplemental payments as any payment that is not tied to a specific service or is not a Disproportionate Share Hospital (DSH) or base payment. In order to better track supplemental payments, it proposes that states report provider-level payment details for CMS to compare to the currently required aggregate reporting of upper payment limit (UPL) of supplemental payments. CMS would cap supplemental payments at 50% of the fee-for-service base payments or 75% in designated health professional shortage areas. Approved payment methodologies would sunset and have to be reapproved every three years.

States would also have to identify the non-federal source of Medicaid funding (that make up the required state match), and CMS proposes clarifying how providers are able to help fund this share. For instance, the rule would no longer allow private providers to donate to state entities to trigger an intergovernmental transfer (IGT), while traditional IGTs that are derived from state or local government providers would continue to be allowed. CMS also proposes a number of new requirements that apply to certified public expenditures, state provider taxes or assessments, and DSH audit requirements.

WHA has long taken a prudent and conservative approach to Medicaid supplemental payments, with the recognition that they can be volatile from one administration to another at both the state and federal levels. WHA is continuing to analyze this rule to determine potential impacts to Wisconsin in anticipation of the mid-January comment deadline.

Contact WHA Director of Federal and State Relations [Jon Hoelter](#) for more information.

Troy of Children's Wisconsin Wins 2019 WHA Distinguished Service Award

Nominated by a wide array of public officials, health care leaders and the grateful mother of a patient, Children's Wisconsin President and CEO Peggy Troy was awarded this week a WHA 2019 Distinguished Service Award, which recognizes senior executives who have made an exemplary commitment to both WHA and the communities they serve.

"I've seen Peggy in action many times, and can unequivocally say that I've never met or worked with anyone more committed to expanding and improving access to health care for underserved kids, and there is no stronger advocate for the resources to do that work – including successfully advocating for increased and sustained funding for the CHIP program in Washington and the DSH program here in Wisconsin," WHA President and CEO Eric Borgerding said when presenting Troy with the award on Nov. 19 at a meeting of 500 Children's Wisconsin staff leaders in Waukesha. "She is a tireless champion and impactful voice for children and their families in front of the media and our elected officials.

"And not just in southeast Wisconsin," Borgerding continued, "but across the state and, quite frankly, the country."

Troy is the first female president and CEO of Children's Wisconsin – a role she began in 2009. She has served on the WHA Board of Directors since 2012 and is deeply engrained in the Milwaukee-area's community, serving as a board member for the Greater Milwaukee Committee, Marquette University, Metropolitan Milwaukee Association of Commerce, Versiti Blood Center of Wisconsin, Teach for America, and the United Way of Greater Milwaukee and Waukesha County.



WHA President Eric Borgerding takes a "selfie" with the crowd behind him, Peggy Troy and Michelle Mettner.



L to R: Children's Wisconsin Corporate VP of Government and Legal Affairs Michelle Mettner, Children's Wisconsin President/CEO Peggy Troy, Eric Borgerding

Nominations supporting Troy all cited how her fierce advocacy for children and teen health makes her deserving of such an award:

"Peggy's career has been characterized by putting the needs of children and families at the center of her professional and personal passion." – Mark Wietecha, President and CEO of Children's Hospital Association, which represents more than 220 children's hospitals in the U.S.

"I know when it is time to make decisions on state budget, Medicaid access and reimbursement, injury prevention, telehealth or any other WHA or Children's priority, I will hear from Peggy." – State Senator Alberta Darling, co-chair of the Joint Committee on Finance

"It has been such an honor for my daughter to witness the kind of commitment, passion and leadership that Peggy embodies. We are both inspired by her." – Linda Bevec, whose daughter Claire has received treatment at Children's since 2005 for a rare disease.

Along with her Board of Directors position, Troy's involvement with WHA's policy development and advocacy has been extensive. Under her leadership Children's received WHA's 2017 Advocacy All-Star Award – that award is presented annually to a hospital or health care system exemplifying dedication to grassroots advocacy. Troy also serves on the WHA Board's Subcommittee on Health Care Reform and is an eager participant in face-to-face meetings with elected officials.

WHA congratulates Troy for her dedication to improving Wisconsin's health care and truly values her involvement in WHA. We will make a \$250 donation to the charity of her choice as a recipient of the 2019 WHA Distinguished Service Award.

Last month, HSHS-Eastern Wisconsin Division President and CEO Therese Pandl [was also presented](#) with the 2019 WHA Distinguished Service Award, marking only the second time in its 60-year history that the award has been given to two leaders in the same year.

Multi-state Quality Collaboration Effort Earns Federal Approval

The Centers for Medicare & Medicaid Services (CMS) has awarded Superior Health Quality Alliance its first task order, a five-year contract, to promote patient safety in Wisconsin and across the region. WHA is a founding member of Superior Health and will be involved with other partner organizations in the state and region to:

- Improve Behavioral Health Outcomes - Including Opioid Misuse
- Increase Patient Safety
- Increase Chronic Disease Self-Management
- Increase the Quality of Care Transitions
- Improve Nursing Home Quality

SUPERIOR HEALTH
Quality Alliance

WHA WISCONSIN
HOSPITAL
ASSOCIATION

METASTAR

“This new era of quality improvement work follows the patient beyond the walls of the hospital and focuses on health care providers and consumers in a variety of populations, settings and circumstances,” said WHA President and CEO Eric Borgerding. “WHA welcomes the opportunity to contribute our proven history of successful collaboration and impactful results to benefit people across the state and the region.”

Specifically, Robert Redwood, MD – a part of the quality team at WHA since 2016 – will provide subject-matter expertise related to opioid use and misuse in nursing home and community settings.

This is the first of three task orders that we expect CMS will award in the next six months.

“Collaboration with the state hospital associations from Illinois, Michigan and Minnesota on these federally-funded efforts is a wonderful opportunity for WHA and our interstate partners to lead the way on improving health care quality,” Borgerding said.

For more information about Superior Health, visit www.superiorhealthqa.org or contact WHA’s quality team at 608-274-1820.

WHA’s Dibbert Joins UW-Madison Root Cause Analysis Advisory Board



Beth Dibbert

WHA Chief Quality Officer Beth Dibbert has joined the University of Wisconsin-Madison’s Department of Industrial and Systems Engineering’s Advisory Board, supporting a new approach to Root Cause Analysis – a foundational investigative tool used by hospitals and health systems when trying to identify the underlying reasons for a patient harm event.

The project, “Implementing a Human Factors Approach to RCA²: A Mixed Methods Multi-Site Study,” is led by Douglas A. Wiegmann, PhD, an associate professor at the department. The initiative will bring researchers, clinicians and quality improvement specialists together to work collaboratively to improve the use of the Root Cause Analysis tools and study the effects of integrating human factors into the process.

The Advisory Board will guide important aspects of the work, including design of the tools and implementation protocols, scalability of the process for large and small hospitals, measurements of the effectiveness of the process and disseminating findings for WHA membership.

“WHA is proud to again be tapped to provide leadership and guidance to incredibly important work that will positively impact Wisconsin providers and patients and beyond,” Dibbert said. “Improving root cause analysis processes will help hospitals and health systems shift from a reactive to proactive posture, preventing harm and saving systems of care real dollars.”

Doctor Wiegmann is also applying for funding through the Agency for Healthcare Research and Quality.

**SAVE
THE
DATE!**

ADVOCACY DAY
MARCH 18, 2020

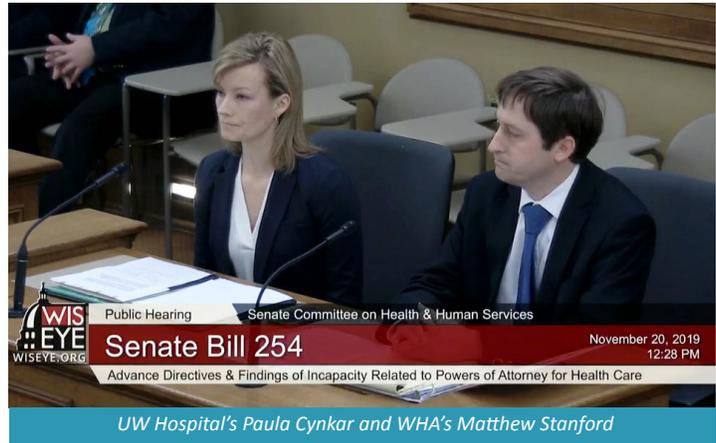
Watch for registration information

(WHA Testimony Supports Bill Enabling APCs to Activate Advance Directives Alongside Physicians . . . Continued from page 1)

WHA and APCs working in WHA member organizations helped provide legislators with real-world examples of how current law’s requirement that two physicians must concur on an advance directive-related diagnoses is needlessly interfering with patient care, especially in rural communities.

“I see these situations play out every day,” said Fort HealthCare’s Director of Emergency Services and former state nursing board chair Sheryl Krause, MS, RN, CEN, ACNS-BC, pointing out how current law bars otherwise-qualified APRNs and physician assistants (PAs) from assisting the patient in this specific area. “In this situation, hospitals are forced to find a second physician,” Krause said, “perhaps even pulling that physician away from an emergency department that could become inundated with patients at any moment, resulting in further delay to activating the advance directive, or delay to patients waiting for care in a busy emergency room.”

In addition, Paula Cynkar, MPAS, PA-C, in partnership with WHA and the Wisconsin Academy of Physician Assistants, testified alongside Krause in support of the legislation, covering the didactic and clinical training PAs currently receive. Cynkar, a hospitalist PA at UW Hospital, also discussed her interactions with patients and their families who need to have decisions made regarding the patient’s care, consistent with the patient’s wishes.



State Assembly Reps. Patrick Snyder (R-Schofield) and Steve Doyle (D-Onalaska) and State Senators Howard Marklein (R-Spring Green) and Janis Ringhand (D-Evansville) are the lead bipartisan authors. Contact WHA General Counsel [Matthew Stanford](#) or Vice President of Workforce & Clinical Practice [Ann Zenk](#) for more information.

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