WISCONSIN HOSPITAL ASSOCIATION
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THE VALUED VOICE
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Senate Health Committee Hears WHA Telehealth Bill

WHA members and staff appeared in front of the Senate Committee on Health and Human Services on Oct. 9 to speak in favor of Senate Bill 380, telehealth modernization legislation spurred by WHA's Telemedicine Work Group.

As previously covered in *The Valued Voice*, the legislation includes four main recommendations from WHA's Telemedicine Work Group:

- Reimburse telehealth the same as in-person care when the quality of the care provided is functionally equivalent.
- Catch up to Medicare in the number of telehealth-related services that are covered.
- Cover in-home or community services.
- Increase access to behavioral health.

WHA Director of Federal and State Relations Jon Hoelter joined Chris Meyer, director of virtual care at Marshfield Clinic; Shana Kettunen, director of business development and telemedicine for Hospital Sisters Health System (HSHS) Eastern Wisconsin Division; and Dr. Thomas Brazelton and Rachel Zorn from UW Health. The group discussed the various ways Wisconsin hospitals and health systems are using telehealth to provide more efficient care to Wisconsinites, as well as how the legislation would help remove barriers currently preventing expansion of telehealth services for our state's Medicaid population. In addition to WHA members, the Wisconsin Department of Health Services and a number of other groups and private citizens spoke in support of the legislation. No organizations at the hearing expressed opposition.

Above left: Shana Kettunen, Chris Meyer, and Jon Hoelter. Above right: Rachel Zorn and Dr. Thomas Brazelton. Below: Attendees at the Senate hearing.

WHA is urging both the Assembly Committee on Medicaid Reform and Oversight and the Senate Committee on Health and Human Services to promptly hold votes on the legislation so it can be scheduled for a vote in the full Assembly and Senate chambers.

Contact Jon Hoelter or WHA General Counsel Matthew Stanford with questions.

WHA Physician Leaders Council (PLC) Provides Input on Key Advocacy Issues and WHA's Future Physician-Focused Initiatives

WHA advocacy to reduce regulatory barriers impacting physician and clinical practice, and WHA physician engagement efforts were key discussions at the October 14 meeting of the WHA Physician Leaders Council.

The Council discussed several ongoing advocacy efforts impacting WHA members' physician workforce and regulatory burden, including:

- WHA-proposed changes enacted in the state budget providing for sustainability and flexibility in the state graduate medical education grant program;
- A WHA proposal to the Wisconsin Medical Examining Board to establish licensure processing metrics and other changes to address medical licensure delays;
- WHA-developed legislation removing regulatory barriers in the Medicaid program that limit the provision of telehealth services;
- WHA-developed legislation to address delays in transitions of care and fulfill patient advanced directives by enabling advanced practice clinicians with sufficient education, training, and experience to activate advanced directives with a concurrence by a physician;
- WHA support for better aligning physician assistant supervision requirements under state law with CMS oversight requirements for physician assistants;
- WHA's opposition to legislation that would deviate from CMS requirements for nurse practitioners and remove physician collaboration requirements for nurse midwives that deliver babies outside of a hospital setting;
- WHA's opposition to legislation that would create unnecessary, redundant and burdensome new hospital discharge planning requirements;
- WHA-proposed legislative amendments to provide enhanced criminal penalties for individuals that assault any health care worker; and
- WHA-developed legislation to continue Wisconsin's participation in the Interstate Medical Licensure Compact.

Council members particularly noted the work on addressing violence against caregivers and WHA's efforts to propose metrics and process-based reforms to address the increasing delays physicians and hospitals are experiencing in the processing of Wisconsin physician licensure applications.

Physicians leaders also provided valuable insights and perspective regarding WHA's past, current and future physician engagement efforts. WHA Chief Medical Officer Mark Kaufman, MD, highlighted some of WHA's 2019 physician engagement efforts including PLC membership growth, enhanced outreach to physician leaders throughout the state, work to reduce the EHR burden on caregivers including an ongoing collaboration with Epic, creating a Senior Physician Leaders track at the annual Kohler Physician Leadership Development Conference, and co-sponsoring, with the Wisconsin Medical Society, a Health Care Workforce Resiliency monthly webinar series through the Duke University School of Medicine.

Going forward, PLC members endorsed four pillars for WHA's physician engagement efforts:

- Physician leader development
- Education and learning
- Physician Leaders Council evolution
- Advocacy

More specifically, PLC members were enthusiastic about an enhanced focus on rural physician leaders, providing greater support for emerging physician leaders, and expanding efforts in the physician burnout and wellness space beyond the current and future work planned to reduce the EHR burden on physicians and other care team members. Physician leaders agreed that the planned update to WHA's 2017 Physician and Engagement Toolkit should include a new section on "Maximizing Physician Wellness," including a set of self-assessment questions and resources from the medical literature. Council members also discussed the opportunity to reduce redundant annual physician compliance training requirements when individual physicians care for patients at multiple hospitals and have to take the same training at each hospital.

The PLC discussed and recommended some changes to its meeting format including rotating at least one meeting outside of Madison, shortening the meeting length, and piloting a "learning session" in 2020.

Physician leaders interested in learning more about the WHA Physician Leaders Council should contact Mark Kaufman, MD, at 608-843-6046.

CMS Releases Long-Awaited Changes to Stark/Antikickback Proposed Rule

Goal of incentivizing more value-based payments

On Oct. 9, the federal Centers for Medicare & Medicaid Services (CMS) released two long-awaited proposed rules that would update the Stark Law and Antikickback Statute (AKS). Both laws were intended to ensure physicians refer patients for services and tests based on necessity rather than on financial incentives for referrals. However, critics have widely noted that the burdensome, decades-old rules implementing the laws have not kept up with a changing Medicare environment. With many hospitals and health systems looking to participate in more value-based payment arrangements, the complexity of these federal rules has greatly inhibited hospitals from entering such contracts. As the Stark Law is a strict liability statute, even unintentional violations can lead to millions of dollars in retroactive repayments.

The proposed rule appears to respond to many of the concerns WHA highlighted in its comment letter to CMS in August 2018. In that letter, WHA recommended CMS focus on four main areas to alleviate the growing burdens with Stark Law compliance:

1. Clarifying confusing definitions.
2. Providing clearer exceptions from the law.
3. Prioritizing intentional, rather than unintentional violations.
4. Harmonizing the Stark Law with the Antikickback Statute.

The proposed rule on Stark Law creates three new exceptions for value-based payment arrangements that either require participants to take on a degree of financial risk or advance "value-based" purposes. CMS also proposes amending the definitions of "fair market value" to mean the generally-accepted meaning of arms-length transactions between two parties, and redefining "commercial reasonableness" to include arrangements that further a legitimate business purpose, even if it does not result in profit for either of the parties. The rule also excludes services that do not affect a hospital's Medicare inpatient prospective payment system payments from being considered "designated health services."

CMS is also making attempts to harmonize the Stark Law and AKS in these proposed rules. In the AKS rule, CMS proposes to add safe harbor exceptions for value-based arrangements in which participants take on financial risk or offer only in-kind benefits to participants. It would also create a new safe harbor in the AKS for value-based arrangements which offer in-kind patient engagement tools directly to a target patient population, of up to $500 per patient per year. Both rules also would allow exceptions for cybersecurity technology and services, so long as they are not conditioned on future referrals or business.

WHA intends to offer comments on these rules before the Dec. 31 comment deadline and encourages members to contact Jon Hoelter, WHA director of federal and state relations, or Matthew Stanford, WHA general counsel, with any questions or suggested comments for CMS.

President Trump Issues Executive Order "Protecting and Improving Medicare"

Promotes Medicare Advantage while warning against "Medicare for All"

President Trump released a new executive order October 3 that aims to promote Medicare Advantage while warning "Medicare for All" would threaten access to a Medicare program that seniors overwhelmingly favor today. The executive order aspires to further improve growing participation in Medicare Advantage plans by directing executive agencies to reduce the federal regulatory burden on health care providers and plans. Agencies are also directed to promote innovation and increase plan choices for seniors.

The order directs federal agencies to issue new proposed regulations that could alter provider payments, such as exploring more widespread use of alternative payment methodologies that link payment to value, something WHA has long supported as Wisconsin is a national leader in high-quality health care. The U.S. Department of Health & Human Services (HHS) is also encouraged to adjust Medicare reimbursements to account for time spent with patients and the care provided rather than the clinician's occupation. To encourage more price competition into Medicare, the order requires HHS to produce a report on how to modify Medicare fee-for-service payments to more closely reflect prices paid for services in Medicare Advantage and commercial insurance. It also directs HHS to ensure Medicare provider payments reward care through site neutrality by encouraging competition and a diversity of sites for patients to access care.

One of the main themes of the order is reducing burdensome federal requirements on health care providers, such as:

- Regulatory billing requirements
- Conditions of Participation
- Supervision requirements
- Benefit definitions
- Licensure requirements that prevent providers from working at the top of their scope of practice

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(President Trump Issues Executive Order "Protecting and Improving Medicare" . . . continued from page 3)

The executive order also calls for incentivizing savings and options for Medicare Advantage beneficiaries. One way it proposes to do this is by adjusting network adequacy requirements to improve access to care. Such requirements would be required to account for the competitiveness of health markets and enhanced access to care made possible through telehealth and other innovative technologies. It also calls for more widespread use of Medicare Medical Savings Accounts that can be used in conjunction with high-deductible Medicare Advantage plans, similar to Health Savings Accounts. Lastly, it proposes regulatory changes streamlining the approval process for breakthrough medical devices and telehealth services.

It remains unclear how the administration will attempt to implement the various policy changes called for in the executive order. Some changes could be announced along with already presumed authority, while others will likely require either new rulemaking or would be implemented in conjunction with regular annual proposed rules.

If you have questions, contact WHA's Director of Federal and State Relations, Jon Hoelter.

WI Physician Wins Stephen F. Brenton Health Policy Scholar Award

Allison Couture, DO

Allison Couture, DO has won this year's Stephen F. Brenton Health Policy Scholar Award, which honors a La Follette School graduate candidate demonstrating a career interest in advancing health care policy in Wisconsin. The annual award is $8,000, which can be used to pay for tuition while pursuing advanced studies.

A 2015 medical school graduate who completed her residency at the UW School of Medicine and Public Health's Department of Family Medicine and Community Health, Dr. Couture currently works part-time at UW Health Verona Family Medicine Clinic and expects to obtain her Master of Public Affairs degree in May 2020.

"This past year of studying public affairs while simultaneously being at the front line of clinical care has been a stimulating and informative experience," Dr. Couture said in her thanks for receiving the award. "This allows me to focus on studying and to continue serving in the community, as I am committed to improving the health of all Wisconsin residents now and through their lives."

"We're thrilled to help Dr. Couture further enhance her dedication to Wisconsin patients and our health care system," said WHA President and CEO Eric Borgerding. "She embodies exactly what the Brenton Award is all about – a drive to further improve Wisconsin's health care and the aptitude to make a real difference in shaping and advancing health care policy in Wisconsin."

First awarded in 2015, the Stephen F. Brenton Health Policy Scholar Award was created to honor former WHA President Stephen Brenton, himself a UW-Madison graduate (BA '76, Political Science) and a steadfast advocate for sound health care policy in Wisconsin.

DHS Holds Hearing on Trauma Designation Rule

WHA members identify key issues; WHA testifies

On Oct. 11, the Wisconsin Department of Health Services (DHS) held a hearing to receive feedback on the agency's proposed rules for hospital trauma designation, DHS 118. The state's trauma system encompasses the comprehensive care at Wisconsin's level I trauma centers to the crucial care at level IV trauma hospitals. The DHS rules under consideration would provide a long-overdue update to the 2004 rules that guide level III and IV trauma designation. DHS and Wisconsin's Trauma Advisory Committee have been working on these rules since 2015. Hospital and health system trauma experts and WHA have been active participants in seeking to update the rules in a manner that strengthens trauma care without making participation in the trauma system of care unnecessarily burdensome for clinical staff caring for trauma patients, or making it unnecessarily difficult for a hospital to gain or maintain its trauma certification.

WHA Chief Medical Officer Mark Kaufman, MD, and WHA Vice President of Workforce and Clinical Practice Ann Zenk testified at DHS' Oct. 11 hearing, noting WHA's appreciation for the collaborative approach the state has taken as it considers revisions to DHS 118. The current proposal has changed as a result of WHA feedback on previous drafts of the rule and ongoing discussion among WHA, WHA members and DHS. Dr. Kaufman offered an example in his testimony, noting, "Specialty coverage in rural areas is a challenge. DHS acted on this dynamic when it allowed a medical director for a level III trauma care facility be a specialist other than a general surgeon."

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In their testimony and in WHA's written comments, Zenk and Dr. Kaufman requested additional revisions to address key remaining issues. WHA convened a workgroup composed of level III and level IV trauma care facilities (TCFs) which identified five key issues and recommendations to resolve:

- Clarification of orthopedic coverage when gaps in call coverage is needed. WHA suggested that having a collaborative treatment and transfer guideline specific to orthopedic surgery should satisfy the requirement for a backup on-call schedule when an orthopedic surgeon is not available.
- The proposed rule applies level III standards to level IV TCFs that have specialty care "capability" without further definition of "capability." WHA asked that DHS revise the rule so that level IV TCFs offering limited specialty services would not be subject to level III TCF standards.
- The proposed rule would require level III and level IV TCFs to have a formal, written transfer agreement with a higher level TCF in numerous clinical scenarios. The proposed rule also has a requirement for TCFs to have "collaborative treatment and transfer guidelines" which are seen as a more robust and effective way to ensure that trauma patients receive the most appropriate care. WHA asked that DHS remove the requirement for transfer agreements and believes that Wisconsin's TCFs can collaborate and optimally manage patient transfers without the additional regulatory burden of transfer agreements.
- The proposed rule mandates registrar staffing and education for level III trauma centers with more than 500 trauma patients admitted annually. WHA members work to meet many regulatory and practice standards and need the flexibility to determine staffing levels, staff responsibilities and needed education. WHA asked DHS to remove the staffing and education requirements and instead work with TCFs to ensure adequate training is accessible and cost effective.
- The proposed rule also mandates ICU staffing ratios for trauma patients. WHA asked for removal of the staffing ratios, as they do not take into account the many patient and staffing circumstances that can be weighed and addressed only by the staff at the hospital. Too often, mandated ratios can distract from rather than improve patient care.

Zenk pointed to the trauma expertise available throughout the state and the importance of collaboration in her testimony, stating "Wisconsin has a strong tradition of collaboration for improvement, and WHA stands ready to convene and support our members' collaboration to strengthen trauma care for patients wherever they are in our state."

WHA Board Members Highlight WI Health News **Roundtable Event**

Three WHA Board members assembled in Madison October 8 for a Hospital CEO Roundtable event hosted by *Wisconsin Health News* and sponsored by WHA. Dr. Scott Rathgaber, Gundersen Health System CEO; Damond Boatwright, SSM Health Wisconsin president; and Luke Beirl, Hayward Area Memorial Hospital CEO, discussed the most pressing issues facing their entities and shared their thoughts on what can be done to provide Wisconsin's high-quality care to more patients at a reasonable cost.

L to R: Dr. Scott Rathgaber, Gundersen Health System CEO; Damond Boatwright, SSM Health Wisconsin president and Luke Beirl, Hayward Area Memorial Hospital CEO. Photo courtesy of Sean Kirkby, Wisconsin Health News.

All three panelists noted that while Wisconsin hospitals and systems – whether large or small – provide high-quality care, the actual services their entities provide makes up only about 20% of the total amount a patient spends on their health. Much more comes from the "social determinants of health," such as diet and exercise, that are not within direct control of hospitals and health systems, but where we can be the best partners. Beirl emphasized that Hayward has "doubled-down on partnerships," noting "we don't control primary care in our community, but we do understand the importance of access in our rural communities and we can and must demonstrate value to keep care local."

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(WHA Board Members Highlight WI Health News Roundtable Event . . . continued from page 5)

Dr. Rathgaber agreed on the importance of partnerships. Because social determinants of health elements aren't generally within a health care provider's wheelhouse, systems such as Gundersen can instead help improvement efforts by collaborating with entities focusing on these areas and "being humble enough to listen to their expertise." He cited how Gundersen's collaboration with almost 40 separate organizations in La Crosse has resulted in measurable improvement in addressing homelessness.

As a leader in one of the nation's largest health systems, Boatwright pointed out that size alone does not ensure success. He cited a quote from Monroe Clinic Hospital President Michael Sanders: "Bigger isn't better – better is better." Boatwright also emphasized how taking advantage of local expertise can have the more direct impact on where improvements are often needed the most. One example is how SSM Health provided a grant in Madison that helped establish the Men's Health Education Center located inside a local barbershop; in the Center's first month more than five dozen visitors visited the Center and learned more about certain chronic health care issues and available resources to combat those problems.

WHA was the major sponsor for the Oct. 8 event and has supported *Wisconsin Health News* since it was first established in January 2011.

Wisconsin Medical-Dental Integration Project: Connecting Oral Health to Overall Health

The burden of dental disease on Wisconsin residents is significant. Currently, Wisconsin is ranked 50th among all states for access to oral health services for children enrolled in Medicaid. According to the Centers for Medicaid & Medicare Services, in 2016 only 1 in 5 Wisconsin Medicaid-eligible children ages 0-5 years received preventive dental services. Frequently, persons affected by dental disease must seek dental care in hospitals – in the emergency department for non-traumatic dental pain, and in hospital operating rooms for special dental needs that can only be addressed surgically.

A new initiative, the Wisconsin Medical-Dental Integration (WI-MDI) Project, aims to address the burden of dental disease in Wisconsin through an innovative model of integrating dental care into regular medical checkups. The WI-MDI is a collaboration funded in part by the Advancing a Healthier Wisconsin Endowment at the Medical College of Wisconsin and will run through 2021.

The MDI Project held its first learning session Oct. 7 and 8 in West Allis. The session included teams from WHA members Gundersen Health System, HSHS St. Vincent Hospital, and Advocate Aurora Health Care, as well as a team from the Waukesha County Community Dental Clinic that is currently seeing pediatric Medicaid patients at Froedtert's Town Hall Medical Center in Menomonee Falls. Additional teams from UW American Family Children's Hospital, Ascension, and Children's Hospital of Wisconsin are expected to participate. These teams will test various strategies to integrate dental hygienists into primary care settings to improve access to primary preventive oral health services.

Integrating dental care into the medical office is a relatively recent trend that reflects growing consensus about the crucial connection between oral and overall physical health. Early childhood caries is the most prevalent pediatric disease and has significant physical health impacts including tooth pain, which makes it difficult for a child to eat, grow and focus in school. Target populations of the WI-MDI project are children ages six months to five years and pregnant women without a dental home during pregnancy. Children visit a physician up to eight times from birth to age five, which provides many opportunities for early prevention of dental disease. Prenatal visits are recommended monthly up to the seventh month of pregnancy and more frequently thereafter until birth. Services provided through the WI-MDI project will be dental risk assessments, fluoride treatments, prophylaxis, referrals for further treatment and case management.

The WI-MDI Project is seeking additional health systems to participate in this initiative prior to the next learning session which will be held in March 2020. For additional information, contact WHA Vice President of Policy Development Laura Rose.

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