Illinois Health and Hospital Association

August 28, 2017

ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
STATE ADVOCACY UPDATE

TO: Chief Executive Officers, Member Hospitals and Health Systems
Chief Financial Officers
Government Relations Personnel
Public Relations Directors

FROM: A.J. Wilhelmi, President & CEO
David Gross, Senior Vice President, Government Relations

SUBJECT: **IHA Summary: Key Bills from 2017 Spring Legislative Session**

During the state's more than two-year-long budget impasse, IHA worked aggressively and proactively on your behalf, employing multiple strategies, to prevent harmful cuts. Thanks to IHA's and the hospital community's ongoing advocacy – speaking with a strong, unified voice – we successfully blocked many harmful proposals, including proposals to cut Medicaid provider rates by five percent or $1 billion and to increase the hospital assessment by $175 million. The final budget does not impose any Medicaid cuts, and importantly, it includes funding for state employee group health for the first time in two years.

We were also successful in securing new and sustainable revenues that were desperately needed to stabilize the state's precarious financial position. Over the last two weeks we have seen the benefits of having a state budget in place as the Office of the Comptroller has paid out more than $1 billion to Medicaid providers and MCOs.

But we know our work is not done. We are now urging the Administration to implement a multi-billion dollar borrowing plan as soon as possible to help pay down the backlog of unpaid bills for Medicaid and state employee group health, which total more than $8 billion.

We continue to focus on a replacement plan for the Hospital Assessment Program. This critical state and federally authorized health care financing plan, which provides more than $3 billion in annual Medicaid funding to Illinois hospitals, is scheduled for repeal in state law in 2018.

Over the coming months, IHA will continue to work with our members to reach consensus on a replacement Assessment Program. Our goal is to have a redesigned model for review and consideration by the IHA Board of Trustees at its September 2017 meeting, followed by regional hospital meetings in October, so that state legislation authorizing the new program can be adopted during the fall legislative session in November.

Looking back at the Spring Session of the General Assembly, we are pleased to provide this snapshot on the key budget and healthcare bills that IHA worked on this spring. Since the beginning of the session in January, IHA tracked and analyzed several hundred bills and amendments that could impact hospitals and healthcare positively or negatively. IHA successfully advanced many important initiatives on behalf of hospitals and health systems, and amended or stopped bills that would have harmed hospitals and health systems or the healthcare delivery system.

If you or members of your team have questions on any legislation, please contact Nichole Magalis at nmagalis@team-iha.org or 217-541-1162.

Budget & Revenues

During the extended legislative session, the Illinois House and Senate passed and ultimately voted to override vetoes issued by the Governor on appropriation, revenue and budget implementation bills. These actions ended Illinois' more than two-year long budget impasse. IHA supported the enactment of all three bills, which includes sufficient appropriations and revenues to support healthcare. Click here to access the Commission on Government Forecasting and Accountability's (CGFA) FY2018 State Budget Summary.

***SB6* (Sen. Heather Steans/Rep. Greg Harris) – Appropriations**
Public Act 100-0021

This $36 billion appropriations bill does not include any cuts to Medicaid and funds state employee group health in FY2018.

***SB9* (Sen. Toi Hutchinson/Rep. William Davis) – Revenues**
Public Act 100-0022

This bill raises $5 billion in new revenues, increasing individual income tax from 3.75 to 4.95 percent and corporate income tax from 5.25 to 7 percent. Click here to access CGFA's complete revenue bill analysis.

***SB42* (Sen. Donne Trotter/Rep. Greg Harris) – Budget Implementation**
Public Act 100-0023

This bill includes a $6 billion increase in the state's general obligation debt to begin paying down the state's $15 billion bill backlog. The borrowing plan is required to be implemented prior to Dec. 31, 2017 and is to be used to pay vouchers incurred by the state prior to July 1, 2017.

Health Care Payment & Financing

HB 311 (Rep. G. Harris/Sen. L. Holmes) – Network Adequacy

Sent to the Governor on July 21, 2017

An initiative of the Illinois State Medical Society and strongly supported by IHA, this bill establishes standards for commercial health plans to have greater transparency on their provider networks. The bill provides the Illinois Department of Insurance a framework to promulgate rules that enact standards to ensure that patients have access to necessary healthcare professionals, facilities and specialists in part by requiring health insurers to provide notice to patients when their healthcare professional is no longer in a network and allows patients to change plans if this occurs. Furthermore, the measure permits patients with serious health conditions or who are pregnant to stay with their healthcare professional for a designated period of time if the network changes. The bill also ensures network directories are accurate and kept up-to-date for patients to make informed decisions about selecting their health insurance plans, professionals and facilities.

HB2959 (Rep. Laura Fine/Sen. Daniel Biss) - Preexisting Conditions
Public Act 100-0386

Under HB2959, health insurance policies for individuals or groups sold in Illinois may not contain any provisions that impose exclusions for people with pre-existing conditions. The bill overwhelmingly passed the General Assembly on bipartisan votes.

SB1702 (Sen. Terry Link/Rep. Rita Mayfield) – Investor-Owned Tax Credit
Returned to House Rules – Planned action in November veto session

An initiative of IHA, the bill would extend the investor-owned hospital tax credit until 2022. The original tax credit was enacted in 2012 as part of the SMART Act package that included both not-for-profit hospital property tax exemption legislation and the investor owned credit. Without the extension, the investor owned component sunsets this year. The bill enjoys bipartisan support and passed the Senate 56-0. The bill is positioned in the House where we expect it to be acted on during the veto session.

SB2027 (Sen. Laura Murphy) – Fair Patient Billing
Returned to Senate Assignments

The rationale for SB2027 was to address complaints about physician billing of patients. However, amending the Fair Patient Billing Act, which only applies to hospitals, would not address physicians nor solve the issue. SB2027 would create an increased burden on hospitals to provide additional contacts to patients regarding supplemental policies to pay for deductibles and coinsurance when they already go to great lengths to support patients through the billing process. IHA met with Senator Murphy several times, and she agreed to allow IHA time to address these issues in the billing process with our membership to ensure patients have ample opportunity to share supplemental policy information.

HR100 (Rep. Fred Crespo) – MCO Audits
House Adopted

This resolution directs the Auditor General to conduct an audit of Medicaid Managed Care Organizations and to include in that audit a comparison of state expenditures between MCOs and fee-for-service entities. IHA supported this measure.

HB2693 (Rep. Greg Harris) – Cardiac Fund
Returned to House Rules

This bill would have imposed a $3,500 annual fee on the majority of Illinois hospitals to support data collection and report activity aimed at improving cardiac arrest care and survival rates. While IHA and the hospital community are committed to improving cardiac survival rates, IHA opposed this legislation and sought an amendment to make participation voluntary. In lieu of legislation, IHA collaborated with bill proponents to offer educational outreach for our members with an informational webinar for Illinois Heart Rescue that occurred on July 13, 2017.

Workers' Compensation

SB12, SB 198 & HB4068 (Sen. Christine Radogno/Sen. Kwame Raoul/Rep. Jim Durkin) – Workers' Compensation Cuts
HB4068 never called for a vote – SB12 & SB198 held on 3rd Reading in the Senate

As introduced, and with numerous amendments, these bills sough to impose further substantial cuts to providers by linking payments to Medicare. IHA advocated that Workers' Compensation payments should not be linked to Medicare as Medicare is meant for an older, sicker population and the Workers' Compensation system is intended to get younger, healthier working men and women back to work, as soon as possible.

Six years ago, hospitals absorbed a 30 percent reduction in the Medical Fee Schedule under the 2011 reform law. Since the 2011 reforms, the National Council on Compensation Insurance (NCCI) reduced its recommended costs for Illinois workers' compensation insurance by 28.7 percent – but that reduction never materialized for employers.

IHA continues to oppose rate cuts and linkage to Medicare rates as rate cuts will reduce access to care. IHA will work to mitigate any fee schedule reductions as well as advocate for inclusion of provider protections such as enforcement of interest payments from workers' compensation carriers, and development of a process that enables providers to appeal incorrect payments and denials and a potential cap on the timeframe in which further rate reductions are sought. IHA will continue to work closely with the Illinois State Medical Society and other providers to oppose additional fee schedule reductions.

***HB2525* (Rep. Jay Hoffman/Sen. Kwame Raoul) – Workers' Compensation Reforms**
Governor Vetoed August 25, 2017

HB2525 makes needed reforms to both the Illinois Insurance Code and Illinois Workers' Compensation Act. The Insurance Code would be modified to provide a mechanism by which proposed workers' compensation rates are reviewed prior to obtaining approval as well as assessing whether the proposed rates are considered excessive.

Changes to the Workers Compensation Act would 1) provide more clarity around traveling employees in determining compensability; 2) further define "accidental injuries" not related to employment; and 3) allows for employers to demonstrate the availability of workers' compensation safety or return to work programs that are certified as a means to reduce rates or receive premium credit. Additional changes allow for the implementation of electronic claim billing requirements; requirement of the Workers' Compensation Commission to submit annual reports documenting the state of self-insurance with regard to workers' compensation; use of information in the process for making permanent partial disability determinations.

These needed insurance reforms require the development and implementation of an evidence-based formulary by the Illinois Workers' Compensation Medical Fee Advisory Board, an annual evaluation by the commission of codes that have no established rates; maintain the existing Workers' Compensation fee schedule structure and rules; and allow the commission to make adjustments as appropriate if access to care issues are documented.

***HB2622* (Rep. Laura Fine/Sen. Daniel Biss) – Workers' Comp Insurance Providers**
Governor Vetoed August 18, 2017

HB2622 establishes a new nonprofit workers' compensation insurance provider, the Illinois Employers Mutual Insurance Company. This legislation can increase competition among workers' compensation insurers to provide lower premium cost options for employers.

Health Care Regulation

HB 384 (Rep. David Harris) – CON Repeal
Returned to House Rules

As introduced, the legislation would have repealed the Certificate of Need process and the Health Facilities and Services Review Board, turning over all powers or responsibilities to the Illinois Department of Public Health. IHA raised significant opposition to this legislation for not allowing a thorough vetting of the impact the CON repeal would have on the hospital community less than two years before the statutory sunset of the Health Facilities Planning Act. IHA shared these concerns at a House subject matter hearing and advised that IHA would lead a review of the CON process through the IHA's Transforming Illinois Health Care Task Force.

HB2762 (Rep. William Davis/Sen. Mattie Hunter) – Hospital Do Not Admit Lists
Public Act 100-0306

The legislation amends the Hospital Licensing Act and University of Illinois Hospital Act prohibiting hospitals from maintaining a list of individuals who may not be admitted for treatment at the hospital. IHA collaborated with the bill sponsor to ensure that this provision does not prohibit a hospital or a member of the hospital's medical staff from recommending an alternate provider, coordinating an appropriate transfer, or arranging access to care services that best meets the needs of an individual patient.

HB2798 (Rep. Jerry Costello) – Opioid Overdose Reporting
Returned to House Rules

As introduced, the legislation would require all hospitals to report the age, gender, race, and county of residence, if known, of each patient diagnosed as having an opioid overdose to the Illinois Department of Public Health within 48 hours of the diagnosis. Contained in omnibus opioid legislation in 2015, hospitals already report similar data to IDPH. In light of this, IHA drafted language to remove hospitals from a duplicative requirement.

HB 2800 (Rep. Mary Flowers/Sen. Donne Trotter) – Perinatal HIV Prevention
Public Act 100-0265

As introduced, the bill would have required any healthcare provider or facility that provides services to a pregnant woman to offer HIV counseling and testing on an opt-out basis if the woman did not have a previous HIV test or status in the third trimester of the current pregnancy. This requirement would have included pregnant women who presented in the emergency department for non-pregnancy related issues. In addition, the bill would have required an initial offer of HIV testing and counseling on an opt-out basis as early in the pregnancy as possible. While IHA supports efforts to increase early HIV testing, the bill was overly broad and unmanageable, particularly as applied in a hospital emergency department. IHA opposed the bill as introduced. After seeking member input and guidance, IHA drafted an amendment limiting the responsibility of offering testing and counseling on an opt-out basis to those healthcare professionals and facilities that provide prenatal medical care or labor and delivery services to the pregnant woman and her newborn infant. This significantly reduces the burden in areas such as emergency departments that are not equipped to handle such responsibilities, and focuses attention in the primary care setting and labor and delivery where better outcomes can be achieved for the mother and baby. IHA supported the bill as amended.

HB2392 (Rep. Mary Flowers) – Pharmacy Limits
Returned to House Rules

Driven by a newspaper exposé on retail pharmacy staffing, this bill sought to mandate staffing levels in all pharmacies as well as to establish limits on prescriptions filled per hour, and set parameters with regard to meal times and rest breaks for pharmacists and pharmacist assistants.

HB3287 (Rep. Kelly Cassidy) – FQHC Sexual Assault Treatment
Returned to House Rules

HB3287 would have allowed federally qualified health centers (FQHCs) to treat sexual assault survivors. IHA advocated that any legislation should hold FQHCs to the same standards as treatment hospitals.

HB3852 (Rep. Michael Unes) – Child Advocacy Center Sexual Assault Treatment
Returned to House Rules

HB3852 would have allowed hospitals to transfer pediatric sexual assault survivors to pediatric resource centers and child advocacy centers for treatment and forensic services. IHA worked with the sponsor, the Office of the Attorney General, and the Illinois Department of Public Health to ensure that these centers were held to the same standards as hospitals. IHA will continue to engage with stakeholders as area wide treatment plans are explored.

SB31 (Senate President John Cullerton/Rep. Chris Welch) – The Illinois Trust Act
Public Act 100-0463

Prompted by concerns about President Trump's Executive Order regarding immigration, legislation gained momentum seeking to prevent state law enforcement agencies in assisting in immigration actions unless a warrant was issued. The bill also sought protections in places such as schools, medical facilities and nursing homes. While IHA worked with the proponents to craft amending language to facilitate a smooth and appropriate implementation of the legislation as well civil and criminal immunity from granting or denying access to patients in medical facilities, many segments of law enforcement opposed the legislation. As a result, the bill was significantly scaled down, resulting in the removal of schools, medical facilities and nursing homes from the act. With these changes, IHA moved from support of the legislation to neutral.

SB309 (Sen. William Haine/Rep. Daniel Beiser) – Television Captioning
Held on 2nd Reading in the House

As introduced, the bill would have required hospitals, nursing homes, ambulatory surgical centers and other medical facilities to have the closed captioning feature turned on for all televisions in waiting or common areas as well as in patient rooms. In addition, it would have required hospitals that did not have televisions with closed captioning to obtain a sufficient

number of televisions that include closed captioning as soon as is practicable. IHA opposed this legislation and worked with the sponsor and other key stakeholders to develop an amendment where facilities would make reasonable efforts to have the closed captioning feature on televisions turned on at all times in common areas and patient rooms unless a member of the public or patient turns off the feature, a member of the staff inadvertently turns it off or the staff turns it off at the request of a member of the general public or a patient. In addition, the amended language provides that hospitals that do not have televisions with a closed caption feature need only purchase televisions with this feature when they plan to obtain new televisions (instead of as soon as practicable).

SB 741 (Sen. Emil Jones III) – Mandated Influenza Vaccine
Held on 3rd Reading in the Senate

Grants the Illinois Department of Public Health (IDPH) authority to require local health departments and any facility (including hospitals) licensed by IDPH to implement a mandated influenza vaccine program (versus current law that requires an offer of a vaccine) to ensure that healthcare personnel are vaccinated against influenza.

SB 912 (Sen. Melinda Bush) – Abused Child Reporter Training
Held on 2nd Reading in the Senate

As introduced, this bill would have required four hours of domestic violence training for all mandated reporters under the Abused and Neglected Child Reporting Act. After speaking with the sponsor about her concerns, IHA helped develop an amendment that focused solely on domestic violence training for members of the clergy.

Health Care Licensure/Regulation

SB1585 (Sen. Iris Martinez/Rep. Cynthia Soto) – Illinois Physician Assistant Practice Act
Public Act 100-0453

In anticipation of the Physician Assistant Act's statutory expiration at the end of the calendar year, the bill renews the Act for another 10 years as well as now allowing for a collaborative relationship, rather than supervisory one, with a PA's physician providers.

SB1754 (Sen. Iris Martinez) – Lay Midwives
Held on 3rd Reading in the Senate

This legislation would have allowed a high school graduate with a certificate of midwifery education to deliver babies outside of a hospital, without any supervision or oversight by a physician, advanced practice nurse, or other licensed healthcare professional. As introduced, the bill included critical clarification about when a patient relationship is established with a

physician or hospital. However, an amendment sought to remove that protection and created the potential for vicarious liability for hospitals and physicians for the negligence of a lay midwife in cases where the hospital or physician exercised no supervision or control over the certified professional midwife, and had no prior relationship with the midwife or the midwife's patient. Without this explicit language, the bill raised the real possibility of lawsuits against hospitals and physicians based on "apparent agency" – a theory under which a plaintiff alleges that he or she "was led to believe" that a relationship existed between a midwife and a hospital or physician even though no relationship actually existed. IHA opposed this legislation.

HB313 (Rep. Sara Feigenholtz/Sen. Iris Martinez) – Nurse Practice Act
Sent to the Governor on July 24, 2017

This legislation makes several modernizing changes to the Nurse Practice Act, scheduled to sunset in December 2017. Of note, the bill includes the ability to grant advanced practice registered nurses with full practice authority status (without a written collaborative agreement) upon filing a signed attestation of successful completion of 250 hours of continuing education or training and 4,000 hours of clinical experience. Clinical hours must be in the Advanced Practice Registered Nurses (APRN) area of certification and attested to by a physician. And, the scope of practice for an APRN with full practice authority consists of (1) the current APRN scope; (2) authority to prescribe legend and schedule II-V controlled substances, except for opioids and benzodiazepines; (3) authority to obtain an Illinois controlled substance license without delegation from a physician; and (4) limitation to only the use of local anesthetic and prohibition of operative surgery. In order to prescribe opioids and benzodiazepines, an APRN with full practice authority must (1) have a consulting relationship with a physician recorded in the state prescription monitoring system; (2) participate in at least monthly discussions on the opioids and benzodiazepines prescribed with the physician; and (3) is limited to opioids by mouth or through the skin.

SB 1400 (Sen. John Mulroe/ Rep. Elaine Nekritz) – Health Care Worker Background Check
Public Act 100-0432

This bill amends several Acts to consolidate current requirements from those laws into the State's existing Health Care Worker Background Check Act. Current law requires healthcare employers to check the Illinois Department of Public Health's registry for eligibility prior to an organization retaining any unlicensed person. As passed, the bill expands the mandate so that employers, in addition to checking on all paid employees, will be required to validate eligibility on their volunteers.

Behavioral Health

HB 2907 (Rep. Patricia Bellock/Sen. Pat McGuire) – Telehealth Modernization
Public Act 100-0385

The legislation removes the requirement that a physician or other licensed healthcare professional be physically present in the same room as the patient for the entire time during which the patient is receiving tele-psychiatry services. IHA supported this legislation.

SB1811 (Sen. Pamela Althoff/Rep. Cynthia Soto) – Telehealth Act
Public Act 100-0317

As introduced, the bill amended the Medical Practice Act regarding who could deliver telehealth services. IHA collaborated with stakeholders to amend this bill to ensure definitions were not too restrictive and current professionals reimbursed for services delivered via telehealth are not prohibited from doing so, specifically under Medicaid. Language was also clarified to ensure providers in Illinois were allowed to deliver services via telehealth to patients also in Illinois.

SB696 (Sen. Mattie Hunter) – DOC Psychiatric Treatment
Returned to Senate Assignments

The bill would have amended the Unified Code of Corrections to create an allowance to send an individual from a corrections facility directly to a psychiatric unit of a public or private hospital, subject to approval of the hospital and dependent on whether the unit can provide a "safe and secure environment" for the individual. The Dept. of Human Services currently accommodates these patients for up to 6 months of observation, diagnosis and treatment in designated state hospital units. Safe and secure environment was not defined in the bill, but it did define several hospital and Dept. of Corrections (DOC) responsibilities regarding coordination of a patient to and from DOC custody under various circumstances. IHA and DOC opposed this legislation.