

January 13, 2021

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION  
STATE ADVOCACY UPDATE**

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

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

SUBJECT: **IHA Summary: General Assembly's Lame Duck Session**

Late this morning, the outgoing 101<sup>st</sup> General Assembly adjourned its "lame duck" session, one of the more volatile and fast-moving legislative sessions in recent memory. In the midst of legislative business, majority House Democrats have also been focused the past several days on choosing a successor to long-time Speaker Michael Madigan. Earlier this afternoon, Representative Emanuel "Chris" Welch was elected the new Speaker of the Illinois House of Representatives for the 102<sup>nd</sup> General Assembly.

During the abbreviated five-and-a-half day session, IHA engaged in intense round-the-clock discussions and meetings with key legislators and legislative leaders and testified at numerous hearings on several critical issues of importance to the hospital community. Those include: hospital and healthcare transformation; the Illinois Legislative Black Caucus' Healthcare Pillar legislation aimed at addressing inequities in healthcare and human services; and prejudgment interest payments in civil cases. The following is a summary of these issues and the legislative outcomes. In the coming days, we will be issuing IHA Member Updates and Analyses with more details.

**Hospital and Healthcare Transformation**

The General Assembly overwhelmingly passed IHA supported legislation to authorize the Hospital and Healthcare Transformation program (*Senate Bill 1510*), which passed the House 112-0 and the Senate 57-0. The Department of Healthcare and Family Services (HFS) will administer the Transformation program which is supported by an annual transformation funding pool of \$150 million. The Governor is expected to sign the bill and HFS is expected to issue information and guidance on implementation in the near future, which is likely to be substantially similar to the *HFS Transformation Program Proposal*.

This legislation closely aligns with IHA's principles for meaningful and systemic healthcare transformation, as reported in *IHA Hospital and Healthcare Transformation Update No. 3*, November 17, 2020. In short, this program provides the opportunity for vulnerable communities to receive state Medicaid funds to implement strategies to reduce health disparities, advance health equity and improve the health and healthcare of their community.

We commend and express our deep appreciation to the Medicaid Legislative Work Group (MLWG), in particular the bill's sponsors, House Majority Leader Greg Harris and Senator Heather Steans, HFS Director Theresa Eagleson, the IHA Board of Trustees as well as many hospital leaders across the state, all of whom invested countless hours and resources to develop this innovative program. In particular, we commend IHA Board Chair Karen Teitelbaum, President and CEO, Sinai Chicago; Jose R. Sanchez, President and CEO, Norwegian American Hospital; and George Miller, President and CEO, The Loretto Hospital, who testified before the MLWG at 7:30 a.m. on Saturday, January 9, 2021.

Over the past week, HFS Director Eagleson engaged in numerous discussions with legislators, particularly with Rep. Camille Lilly on behalf of the Black Caucus and Sen. Omar Aquino on behalf of the Latino Caucus. As a result, the bill was revised to assure that the Transformation program will prioritize distressed communities, address health disparities, including the impact of COVID-19 on Black and Latino communities, and recognize their need for post-COVID care. The final legislation also directs HFS to convene a Workgroup to make recommendations on several issues, including the potential creation of a new class of "Community Safety Net Hospitals".

#### **Legislative Black Caucus Healthcare Pillar**

Late last night, different versions of the Illinois Legislative Black Caucus' Health Care Pillar legislation advanced in each chamber of the General Assembly (Senate: *HB3840/SA3*; House: *SB558/HA4* and *HA5*). However, the Senate and House were not able to reconcile certain provisions concerning MCOs so final legislative action was not taken on either bill. We anticipate that this legislation will be taken up in the new General Assembly during the Spring session, and we are well positioned as the result of intense negotiations with the bills' sponsors.

As initially introduced (*HB 3840 SA1* / *HB 5548 HA1*), there were several provisions of the proposal that IHA supported, some that we wished to modify, and some that we opposed.

**Original language in the legislation that would have imposed a three-year moratorium on hospital and service line closures and a requirement that hospitals revert to their Jan. 1, 2020 bed capacity levels was removed and replaced in revised legislation.** Under both negotiated versions, the Health Facilities and Services Review Board *may* defer action on a new hospital closure application until at least July 1, 2021 – and no later than the end of the state COVID-19 disaster declaration or the federal COVID-19 public health emergency, whichever occurs first.

For a hospital closure application that is currently pending, the Board *may* defer action on it for up to 60 days from the effective date of the legislation. This is significantly better language than a 3-year moratorium on both hospital closures and service line closures which would have been unworkable and burdensome, and could have put patient safety at risk.

The mandated MCO rebidding provisions in the original legislation that could have resulted in a loss of more than \$1 billion of Medicaid funding have also been removed from the bills.

Other key provisions of the original proposal were amended to address the hospital community's concerns, including:

- Credentialing of physicians, residents and interns
- N-95 mask requirement
- Reporting of COVID-19 data
- Posting of charity care information in the Emergency Department
- Health disparities impact statement as part of the CON process
- FQHCs in hospitals
- Legionella testing
- Implicit bias continuing education
- Health Facilities and Services Review Board members

IHA and the hospital community are strongly committed to continuing our work with the General Assembly on developing solutions to reduce the disparities in health and healthcare experienced by people and communities of color.

### **Prejudgment Interest Payments in Civil Cases**

Despite the vehement objections of IHA and other stakeholders, such as the Illinois State Medical Society and the Illinois State Chamber of Commerce, *House Bill 3360/Senate Amendment 1* passed during the lame duck session with votes only from Democratic lawmakers. The bill amends the Code of Civil Procedure to mandate *prejudgment* interest charges on defendants (at a rate of 9% a year) in *every* personal injury and wrongful death case. These rapacious interest charges begin to accrue from the date the defendant has notice of an alleged injury (i.e., when an incident occurs), through the two years plaintiffs are allowed to wait to file a lawsuit and the sometimes years-long litigation in the courts, until the court renders a final judgment in the case.

HB 3360 is a punitive measure that undermines the civil justice system and will drive up healthcare costs, compel physicians, including specialists, to leave the state, and jeopardize access to care. IHA is already considering steps to overturn and/or mitigate this harmful legislation.