IHA Summary of Illinois General Assembly’s 2019 Spring Session

June 3, 2019

Illinois General Assembly Adjourns: Managed Care Reforms Approved, No Medicaid Cuts, No Nurse Staffing Ratios

The Illinois General Assembly adjourned its spring session Sunday, two days beyond its regularly scheduled adjournment. Considering the volatile political environment and the many challenges we faced this spring, we believe IHA and the hospital community achieved the best possible outcomes on our key issues, which we briefly summarize below.

Speaking with a strong, unified voice, we were able to achieve several notable successes. Highlights include:

Medicaid Managed Care Reforms (Senate Bill 1321): This comprehensive legislative package, which was the result of intense advocacy and negotiation by IHA over the past several months, lays the foundation for reducing inappropriate payment denials and significantly easing administrative burdens on hospitals and health systems. Key provisions include: (1) reimbursement for stays beyond medical necessity; (2) expedited payments; (3) timely payment interest penalties; (4) a dispute resolution process; claims rejection/denial management; (5) timely filing extension for eligibility errors; (6) provider effective dates; (7) provider directory updates; (8) operational standardization; (9) medical loss ratios; and (10) value-based payment models.

FY2020 State Budget (Senate Bill 262/Senate Bill 689/Senate Bill 1814): $40 billion state appropriations with no Medicaid rate cuts, and with a $3 million appropriation for the Illinois Poison Center. The state budget is partly funded by an MCO tax which IHA supported.

Other important budget items:

- An increase in the hospital assessment tax that had been scheduled to take effect this July 1 to cover increased state costs related to declining ACA federal matching rates has been delayed by one year, saving hospitals $12.5 million.
- $1.2 billion in bonding is included to help pay down the state’s multi-billion dollar backlog of unpaid bills.
- No reductions in the prompt pay interest rate. IHA defeated proposals to significantly decrease the prompt pay interest penalty that the state pays to providers, including hospitals.
- $500,000 is appropriated for the Medical Licensing Division of the Illinois Department of Financial and Professional Regulation to hire additional staff for more timely processing of licenses for physicians and other healthcare professionals, which IHA advocated for.
- Although not part of IHA’s advocacy agenda, the final budget includes an assortment of appropriations for specific hospitals championed by individual legislators. These healthcare earmarks, along with a significant number of earmarks throughout other sectors of the state budget, were added late in the process as part of final budget negotiations between the legislative caucuses and the Governor’s Office.

Mandatory Nurse Staffing Ratios (House Bill 2604/House Bill 3585/Senate Bill 1908): Each of these bills would have imposed nurse staffing ratios on hospitals, ASTCs and long-term acute care hospitals. IHA strongly opposed nurse staffing ratios and successfully argued that a one-size-fits-all approach to nurse staffing levels overrides the expertise and judgment of local hospital nurse professionals and would not improve patient outcomes. None of these bills were called for votes.

Hospital and Healthcare Transformation Capital Investment Grant Program (House Bill 62/Senate Bill 690/Senate Bill 1814): The General Assembly also passed a major capital infrastructure program, which includes $200 million for the Hospital and Healthcare Transformation Capital Investment Grant Program. This program would be established by the Capital Development Board, in coordination with the Department of Healthcare and Family Services. Under this program, grants would be awarded
on a competitive basis to hospitals and other healthcare providers. Utilizing data available to it, HFS would establish standards for determining the priority of needs concerning health care transformation based on projects located in communities with the greatest utilization of Medicaid services or underserved communities, including, but not limited to, Safety Net Hospitals and Critical Access Hospitals. This program is substantially similar to IHA’s proposal for a Hospital Transformation Capital Program, so we greatly appreciate the Governor and General Assembly for embracing this proposal. Revenues to fund the capital program include a $1/pack cigarette increase, which was supported by IHA, and sports betting and a major expansion of gaming.

Nonprofit Hospital Sales Tax Exemption and Critical Access Hospital Assessment Rates (Senate Bill 1469/PA100-1181): In early March, Governor Pritzker signed IHA-backed legislation to: 1) extend the sunset on nonprofit hospital sales tax exemptions to July 1, 2022 and retroactively validate any previous sales tax exemptions granted under the 2012 hospital property and sales tax exemption law; 2) direct the Department of Healthcare and Family Services (HFS) to make a $55 million correction in the Outpatient rates retroactive to July 1, 2018 for all Critical Access Hospitals, and to prospectively adjust the rates for non-CAHs, to reflect the model authorized in the spring 2018 legislation for the redesigned Hospital Assessment Program.

Certificate of Need Program (Senate Bill 1739): This compromise legislation, worked out by IHA, Health Facilities and Services Review Board staff and legislative sponsors, makes significant improvements to the originally introduced legislation that would have undone many streamlining provisions that IHA had successfully advocated for in 2015. Key provisions include: (1) requiring a CON, instead of a COE, to close a facility; (2) limiting the use of the COE process to discontinue a service to once every six months; and (3) allowing the Review Board to defer acting on an application to close a facility for six months if litigation that names the Board as a party or alleges fraud is pending. Importantly, SB 1739 does not change the more streamlined COE process for changes of ownership and does not authorize the Governor to override Review Board decisions, as originally proposed.

Ethylene Oxide Regulation (Senate Bill 1852): This legislation increases emission control and air testing requirements for ethylene oxide (ETO), which is used in the sterilization of medical and pharmaceutical products. Hospitals are exempt from the requirements, which include: (1) increased emission controls to capture 99.9% of ETO emissions; (2) annual air testing of ETO sources; and (3) greater requirements on Sterigenics as a facility subject to a seal order, which will make it very difficult for it to reopen. In sum, the bill imposes rigorous environmental protections without disrupting access to necessary medical supplies.

In addition, IHA successfully opposed or favorably modified many bills that would have imposed unnecessary or onerous burdens or requirements on hospitals and health systems, including:

- **Metal Detectors (Senate Bill 1410/House Bill 191):** These bills would have required all hospitals to maintain a metal detector at each point of entry into a hospital and that all members of the public be screened prior to entry. Neither bill advanced.
- **Maternal Health and Mortality:** Last fall, the Illinois Department of Public Health released its first "Maternal Morbidity and Mortality Report," which prompted numerous bills to be introduced this spring to address many of the report’s findings. While well intended, many of those bills were not clinically sound or would not have achieved their intended goal. IHA worked with the legislative sponsors to amend several bills in the package, including House Bill 2, House Bill 3, House Bill 2895, and House Bill 3511. Several other problematic bills on this issue did not advance.
- **Nurse “Show-Up Pay” Bill (House Bill 3361):** This bill would have provided that every nurse who is required to report to work, but is not tasked to work or is provided less than one-half of the nurse’s usual or scheduled day’s work, be paid a minimum of four hours at the nurse’s regular rate of pay. This bill did not advance.
- **Non-Compete Covenants (House Bill 2565):** This bill would have expanded the prohibition against non-compete covenants to all employees, rather than only low-wage employees. The House rejected the bill 62-37.

Also of note, the General Assembly approved:

- **Recreational Marijuana (House Bill 1438):** The legalization of recreational marijuana, including protections permitting employers to adopt reasonable zero tolerance or drug free workplace policies, and policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call. Additionally, nothing in the bill
requires an employer to permit an employee to be under the influence of or use cannabis in the workplace or while performing their job duties or while on call and an employer may discipline an employee or terminate an employee’s employment for violating the employer’s workplace drug policies.

- Expansion of the Compassionate Use of Medical Cannabis Program (Senate Bill 2023): An expansion of the Compassionate Use of Medical Cannabis Pilot Program, by: (1) making this pilot program permanent; (2) allowing licensed advanced practice registered nurses and physician assistants to certify patients with a qualifying condition, in addition to existing physician allowances; (3) adding 11 conditions to the approved list of permitted medical uses allowances as recommended by the Medical Cannabis Advisory Board.

- Graduated Income Tax Ballot Question (Senate Joint Resolution Constitutional Amendment 1): A constitutional amendment for a graduated income tax to be placed on the November 2020 ballot.

- Minimum Wage Increase (Senate Bill): Increases in the statewide minimum wage to $15 an hour by 2025. The minimum wage now at $8.25, increases to $9.25 on Jan. 1, 2020 and to $10 on July 1, 2020; and then increases by $1 each Jan. 1 until 2025.

The strong support and advocacy of our members enabled IHA and the hospital community to work through the many critical issues we addressed during the legislative session. We especially appreciate your outstanding response to our many calls to action on Medicaid managed care, sharing your stories that showed the urgent need for legislative action to address the MCOs’ most abusive practices – and on nurse staffing ratios, contacting and meeting with your legislators many times to explain why ratios would be harmful to patients and healthcare. Just on the nurse staffing ratios issue alone, members filed more than 1,600 witness slips and sent more than 6,000 emails to legislators opposing ratios.