STATE ADVOCACY UPDATE

In one of the most collaborative, bipartisan legislative spring sessions in recent memory, the Illinois General Assembly adjourned on time on May 31 after passing the state budget for FY2019 – without any Medicaid rate cuts, and with a five-year renewal of the tax credit for investor-owned hospitals.

The collegial tone of the session was set early this year as the bipartisan Legislative Medicaid Work Group worked with IHA, the Department of Healthcare and Family Services and other key stakeholders to develop legislation for the new, redesigned $3.5 billion Hospital Assessment Program (SB1773/PA100-0581) and Medicaid managed care oversight reforms (SB1573/PA100-0580). Both bills passed on overwhelming bipartisan votes in late February and were signed by the Governor in March. On June 20, the redesigned assessment program received final federal approval from the Centers for Medicare & Medicaid Services, effective July 1.

We greatly appreciate the strong support and advocacy of our members that enabled IHA and the hospital community to work through the many challenges and issues we faced during the legislative session.

Thanks to the ongoing advocacy of IHA and the hospital community – speaking with a strong, unified voice – together, we achieved several notable successes during the recently completed spring session beyond the legislation for the redesigned assessment program. Highlights include:

FY2019 State Budget (HB109/PA100-0586): $38.5 billion appropriations bill with no Medicaid rate cuts; IHA opposed the Governor’s proposed 4% Medicaid rate cut (equivalent to $300 million over a full year); in addition, the budget includes a $3 million appropriation for the Illinois Poison Center and more than $6 billion for state employee group health; and it assumes budget savings of nearly $500 million through two public pension buy-out options; Effective: July 1, 2018 (some provisions effective June 4, 2018)

Medicaid omnibus bill (SB1851/PA100-0646): The bill includes key provisions on Medicaid managed care rate transparency; temporary Department of Children and Family Services (DCFS) reimbursement to free standing psychiatric hospitals for children staying in a hospital beyond medical necessity (“DCFS lockouts”); increased oversight as the state moves children with complex conditions and DCFS “youth in care” (i.e., wards) into Medicaid managed care; and ambulance transports from hospitals and nursing homes (with no financial penalties to hospitals); also includes a provision for Hospital Assessment Program “gap payments” to hospitals – which would have been implemented only if federal CMS neither approved the redesigned assessment program nor extended the previous program by July 11 [became unnecessary with CMS approval of the redesigned program on June 20]; Effective: July 27, 2018

Budget Implementation (BIMP) (HB3342/PA100-0587): This bill includes a five-year extension of the tax credit for investor-owned hospitals. There is NO reduction in the prompt pay penalty for late payments of Medicaid and state employee group health insurance bills; Effective June 4, 2018

Below are other bills of interest to the hospital community, supported and opposed by IHA this session.
Telehealth

**SB3049/PA100-1019** (Sen. Andy Manar/Rep. Sue Scherer) – Medicaid Telehealth Services
Signed into Law
An IHA initiative, this legislation expands reimbursement for the originating site at the time of service—where the patient is located—to all Medicaid-eligible facilities. The bill also allows mental health professionals authorized to provide services in Illinois to be reimbursed for delivering services via telehealth, including licensed clinical psychologists, licensed clinical social workers and advanced practice registered nurses certified in psychiatric and mental health nursing. Language is broadened in the existing Medicaid statute referring to access needed for "telepsychiatry" and "psychiatric mental health services" specifically to "telehealth" and "behavioral and medical services," creating more inclusive language for continued expansion through future legislation or the regulatory process.

**HB5070/PA100-0644** (Rep. Patricia Bellock/Sen. Pamela Althoff) – Telehealth-Definition
Signed into Law
Effective Date January 1, 2019
This legislation amends the Telehealth Act to include dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, and hearing instrument dispensers, within the definition of healthcare professional, clarifying practice authority for services delivered via telehealth. The bill also changes the reference to "advanced practice nurses" within the definition of healthcare professional to "advanced practice registered nurses". No reimbursement changes would be made.

Signed into Law
This legislation creates conditional reimbursement parity if an individual or group policy of accident or health insurance provides coverage for telehealth services, then it must also provide coverage for licensed dietitian nutritionists and certified diabetes educators who counsel senior diabetes patients in the patients' homes to remove the hurdle of transportation for patients to receive treatment. The legislation would also amend the Public Aid Code so these aforementioned healthcare professionals will be authorized to counsel senior diabetes patients in their home for Medicaid services.

**SB458** (Sen. Andy Manar) – Telehealth Omnibus
Held on 3rd Reading in the Senate
This bill would have amended the Illinois Insurance Code and Public Aid Code to create structural requirements so that if commercial insurers and Medicaid fee-for-service or managed care organizations cover telehealth, that coverage aligns with the manner/reimbursement for in-person services in Illinois. Existing telepsychiatry reimbursement requirements in statute for federally qualified health centers and psychiatrists is removed. It is anticipated a conversation between interested stakeholders will occur this summer for possible action during the Fall Veto Session.

Certificate of Need

**SB 33, SA 1** (Sen. Michael Hastings) – HFSRB Advisory Opinions
Returned to Senate Assignments
This legislation would have amended the Health Facilities Planning Act to remove the right of the Health Facilities and Services Review Board (HFSRB) staff to issue advisory opinions on changes of ownership. It also would have required the Board to go back to 2006 to review any advisory opinions related to changes of ownership and to notify healthcare facilities that received an advisory opinion that they may be operating without a permit or exemption. IHA opposed this legislation as unfairly penalizing hospitals retroactively for working within what they believed were the confines of the CON process. After subject matter testimony was heard in committee, the sponsor did not move forward with the legislation.

**HB 4645** (Rep. Will Davis/Sen. Napoleon Harris, III) – 10-Year Extension of CON
Vetoed by Governor
This legislation amends the Health Facilities Planning Act, the Act that houses the Certificate of Need (CON) program by extending the sunset of the Act by 10 years to December 31, 2029. This legislation was supported by IHA, although we believe
that the program needs to be modernized in areas to address the changing healthcare delivery system in Illinois. IHA will work with interested stakeholders to update the program in the 2019 legislative session.

Health Care Payment & Financing

HB4933 (Rep. David Welter) - Health Care Cost Estimates
Returned to House Rules
This bill would have required health providers to provide the contracted amount or estimated charge for a service within two days upon request of a patient and supply sufficient information to allow the patient to obtain from their insurance plan the estimated or maximum allowed amount and estimated amount the patient would need to pay, including any facility fee, copayment, deductible, co-insurance or other out-of-pocket amount. IHA provided the sponsor with information on the current law requiring hospitals to provide estimates, the 50+ hospital-specific average charges by diagnosis posted on the Illinois Hospital Report Card website and that most health plans have cost estimators that provide the estimated price and out-of-pocket financial obligations. The bill was not advanced.

HB4679 (Rep. Justin Slaughter) - Surprise Out-of-Network Bills
Returned to House Rules
This bill was an attempt to protect patients from “surprise” bills from out-of-network providers giving service at in-network providers. The patient would only have to pay in-network out-of-pocket obligations and the provider would be paid the “average network rate” as payment in full unless another agreement is reached. IHA provided the sponsor with information that Illinois had already addressed this issue in PA96-1523, which holds the patient harmless for any increased out-of-network financial obligations. The bill was not advanced.

Re-referred to Rules Committee
This bill sought to amend the Health Care Services Lien Act by providing that the hospital or healthcare professional should submit the claim to the patient’s health plan before filing the lien. The health plan would not be able to deny for other third party insurance. If denied the payer would be required to provide the healthcare professional and patient a statement of what the plan would have paid and patient’s responsibility if not denied. This amount then limits what the hospital or professional can obtain under the lien. Hospitals would be required to pay a share of legal and administrative expenses from any share of the judgement.

This bill would be in contradiction to industry norms that the medical payment component of automobile and homeowners insurance policies has primary responsibility. By making traditional health insurance primary, it potentially inflates the cost of healthcare coverage, as insurers have traditionally not factored in payments that have been the responsibility of liability plans. In turn, employers and taxpayers would now bear these medical costs instead of the liability plans that are collecting premiums to explicitly cover these costs. This bill was opposed by many advocacy groups, including IHA, and did not advance.

SB2807 (Sen. Jim Oberweis) – Right to Shop Act
Returned to Senate Assignments
This bill would have required that effective January 1, 2019, carriers offering health benefits in Illinois develop and implement programs that provide incentives for enrollees seeking “comparable healthcare services” from providers whose reimbursement is less than the average in-network amounts. The incentives range from cash rebates to gift cards to credits for enrollee’s deductibles or out-of-pocket costs.

While IHA supports transparency of pricing, the encouragement to focus exclusively on cost when seeking medical care eliminates any alignment with physician experience, expertise or other factors related to quality of care and does nothing to increase price transparency, truly lower healthcare costs or generate improved quality outcomes. This proposed model also does not account for existing models in private contracting arrangements between insurers and providers to develop incentive or quality programs within the construct of their business relationship. This bill would be disruptive to furthering insurer/provider collaboration on new healthcare payment models. After a subject matter hearing, the bill did not advance.
HB 4383/PA100-950 (Rep. Sara Feigenholtz) – MCO – Disenrollment Requirements
Signed into law
This bill makes needed changes to the Medical Assistance Article of the Illinois Public Aid Act to ensure that the disenrollment of a Medicaid enrollee from any MCO under contract with the Department of Healthcare and Family Services is done in accordance with any specific federal requirement addressing terminations.

This change ensures that terminations between a Medicaid managed care plan and a primary care provider does not result in a disruption to the Medicaid enrollee’s provider-beneficiary relationship.

HB 5251/PA100-687 (Rep. Laura Fine) – Illinois Life and Health Guaranty Association Act
Signed into law
This bill merges the Health Maintenance Organization Guaranty Association Article of the Health Maintenance Act into the Illinois Life and Health Insurance Guaranty Association law.

This change aligns with the National Association of Insurance Commissioners (NAIC) to have one consolidated Guaranty Association handle insolvencies in the state; it also implements other changes recommended by NAIC to make the Illinois Life and Health Insurance Guaranty Association law consistent with laws governing other state guaranty associations.

HB 5345 (Rep. Camille Lilly) – Hospital Workforce Insurance Coverage
Returned to House Rules
This legislation would have mandated that hospitals provide health insurance to its entire workforce, even part-time and temporary workers. IHA vehemently opposed this legislation as an unfair burden on the hospital community that is not put on any other employers. IHA successfully prevented the bill from being called for a vote in the House.

Workers Compensation

SB 904 (Sen. Michael Hastings) – Worker’s Compensation Act
Amendatory Veto by Governor
IHA and the Illinois State Medical Society joined together in support of SB 904. This legislation will allow providers to collect interest for late Workers’ Compensation bill payments; require Workers’ Compensation insurance companies to send an EOB to providers explaining why they have denied authorization of medical care; and require WC insurance companies to accept electronic bills for Workers’ Compensation claims.

Patient & Workplace Safety

Signed into law
This legislation includes provisions on training and procedures to protect healthcare employees, such as protocols to be developed between hospitals and law enforcement agencies to provide notice to hospitals when potentially violent prisoners or justice-involved individuals will be presented for medical care, as well as training requirements for law enforcement and corrections personnel related to high-risk prisoners. IHA will develop a memo and additional information to assist hospitals on compliance.

HB 4831 (Rep. Jeanne Ives) – ASTC Physician Surgical Privileges
Returned to House Rules
This legislation sought to amend the Ambulatory Surgical Treatment Center Act to remove the requirement that a physician, dentist or podiatrist performing surgeries at an ambulatory treatment center (ASTC) have surgical privileges at an Illinois hospital. IHA opposed this legislation citing that such a measure would reduce both quality and continuity of care in those cases where a patient must be transferred to a hospital for further treatment. Through IHA’s advocacy efforts, the legislation failed to pass out of committee.

This bill amends the Illinois Controlled Substance Act's sections 316 and 320 to allow licensed prescribers or pharmacists who have registered to access the Prescription Monitoring Program (PMP) to authorize a licensed or non-licensed designee employed in that licensed prescriber's office or licensed pharmacist's pharmacy and who has received HIPAA training to consult the Prescription Monitoring Program on their behalf. The revision also adds a dentist to the PMP Advisory Committee.

Prescription Monitoring Program (PMP) Designee & Advisory Committee
Signed into law

Similar to HB4907, this bill makes additional revisions to the Illinois Controlled Substance Act's sections 318 and 320. It provides that the Department of Human Services, in consultation with the PMP Advisory Committee, adopts rules allowing licensed prescribers or pharmacists who have registered to access the Prescription Monitoring Program (PMP) to authorize a licensed or non-licensed designee employed in that licensed prescriber's office or licensed pharmacist's pharmacy and who has received HIPAA training to consult the Prescription Monitoring Program on their behalf. It designates the PMP Clinical Director to approve all PMP data requests and institutes an Illinois Department of Public Health continuous PMP data review to determine if patients with sports- or accident-related injuries may be at risk of opioid addiction and alert the patient's prescriber as to the addiction risk. It also adds additional members, physician specialties, and term limits to the composition of the PMP Advisory Committee.

Vetoed by Governor
Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act by raising the age for which tobacco products, electronic cigarettes, and alternative nicotine products may be sold to and possessed from 18 years of age to at least 21 years of age. The legislation also provides that a person shall not distribute free samples of any tobacco product to any other person, regardless of age, except for smokeless tobacco in an adult-only facility.

**SB 2334** (Sen. Laura Murphy) – Mandatory Metal Detectors at Hospitals
Returned to Senate Assignments
This legislation would have mandated that all hospitals have metal detectors at all of its public entrances and screen any non-employee prior to entering the hospital unless via an ambulance. IHA opposed this legislation citing high costs and operational challenges to implement such legislation. Furthermore, IHA advocated such legislation would actually put patients at risk who might suffer undue injury while waiting in line for screening. After months of discussion, the bill was not called for a vote.

**Behavioral Health**

**HB4438** (Rep. Linda Chapa LaVia) – Department of Corrections Transfer Act
Referred to Rules
This legislation sought to amend the Unified Code of Corrections to create an allowance to send justice-involved patients 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. These patients are currently sent to state-operated hospitals for treatment. IHA advocated that state-operated hospitals should be the location to treat this population.

Signed into law
This legislation amends the Firearm Owners Identification Card Act to, among other changes, clarify which patients receiving mental health treatment are required to be reported by hospitals or healthcare providers to the Department of Human Services (DHS), without impacting the extent or frequency of hospital reporting. IHA will be coordinating a webinar with DHS for members on required hospital reporting.

**HB4886** (Rep. Laura Fine) – Access to Mental Health Information
Returned to House Rules
This legislation would have created the Access to Basic Mental Health Information Act separate from the Mental Health and Developmental Disabilities Confidentiality Act, providing an avenue for adult relatives to obtain a variety of diagnosis and
treatment information of patients at a mental health facility (including hospitals) under certain conditions that were less restrictive than HIPAA. While the bill allowed broad interpretation by providers, it also included monetary damages for patients and relatives aggrieved by the use or disclosure of patient information. The bill was not advanced.

HB4949/PA100-1058 (Rep. Sara Feigenholtz/Sen. Heather Steans) – Consumer Fraud-Mental Health
Signed into law
An initiative of the Illinois Association for Behavioral Health, as introduced, this legislation would have applied the Consumer Fraud and Deceptive Business Practices Act to the Health Care Worker Self-Referral Act and the Medical Practice Act, creating additional and duplicative oversight for hospitals. After seeking member input and guidance, IHA worked to remove hospitals and their affiliates from the duplicative requirements and oversight in the bill.

Signed into law
This legislation creates the Emergency Opioid and Addiction Treatment Access Act, removing certain commercial and Medicaid insurance restrictions around substance use disorder services, but does not require coverage mandates for these benefits. It removes prior authorization restrictions around hospital-based intensive outpatient and partial hospitalization services, as well as residential substance use disorder treatment and opioid maintenance therapy (such as Medication Assisted Treatment), with some restrictions. External reviews would be allowed following a treatment denial by an insurer, which can be expedited. Healthcare providers (including hospitals) are required to reach out to insurers when treatment is initiated and seven days prior to planned discharge, with no direct penalty if the estimated date of discharge changes. Other diagnoses would not be a basis for insurers to reduce or deny benefits described in this legislation.

Signed into law
A multi-year initiative of the Kennedy Forum Illinois and supported by IHA, the legislation amends various statutes to strengthen mental health and addiction coverage parity with physical health coverage across payers.

SB2655/PA100-978 (Sen. Mattie Hunter/Rep. Sara Feigenholtz) – Custody Relinquishment Prevention
Signed into law
This legislation ensures access to behavioral health treatment and transitional Medicaid services that stabilize a child with serious mental illness and their family, preventing a psychiatric lockout or custody relinquishment that leads to a psychiatric hospital stay beyond medical necessity. The bill requires the Department of Healthcare and Family Services to provide a one-year awareness campaign to educate hospitals with inpatient psychiatric units for children on the availability of services through the Family Support Program and the Specialized Family Support Program.

Policy Regulation - Various

HB5245/PA100-775 (Rep. Michael Unes/Sen. Julie Morrison) - Sexual Assault Treatment
Signed into law
In what began as a bill last year to allow pediatric resource centers to treat pediatric sexual assault survivors, the bill evolved this session into a major rewrite of the Sexual Assault Survivors Emergency Treatment Act (SASETA). It requires that by January 1, 2022, all treatment hospitals to initiate treatment by a Sexual Assault Nurse Examiner (SANE) or a child abuse pediatrician within 90 minutes of a survivor presenting to the ED. Additional new mandates include ongoing sexual assault treatment education of ED staff, the required use of photo documentation as part of treatment and storage of the photos, a memorandum of understanding with a rape crisis center, reporting of statistics to the Illinois Department of Public Health every six months, restrictions on becoming a transfer hospital and creation of a Task Force addressing implementation issues. It does allow pediatric resource centers to treat children as part of an area wide treatment plan.

IHA opposed the legislation but worked closely with the sponsors and Office of the Attorney General (OAG) to negotiate significant improvements to assist hospitals in compliance. The opposition was due to great concern over the timeframe to train the estimated 650 SANEs needed to fulfill the mandate.
See IHA’s extensive memo (click here) on this legislation. IHA will assist members with education and resources to meet the new requirements and work with the OAG to ensure appropriate training opportunities are available.

**HB 5046** (Rep. Chris Welch) - Fair Scheduling Act

Returned to House Rules

This legislation sought to create the Fair Scheduling Act to require employers to provide work schedules to employees at least 72 hours before the start of the first shift of the work schedule; pay an employee when an employee’s work shift is canceled or reduced within 72 hours of the beginning of the shift; and authorize private rights of action. IHA opposed this legislation along with several other employer groups, as it would prohibit hospitals from making changes to its workforce schedule, especially in clinical areas that are dependent on shift patient census which can occur well within the 72 hour guidelines. The bill was not advanced.

**HB 4747** (Rep. David Harris) – Digital Fair Repair Act

Returned to House Rules

This bill would have created the Digital Fair Repair Act, requiring that manufacturers provide independent repair providers or owners of equipment access to certain information such as updated software patches, training and repair manuals and equipment for repair. While IHA supported the underlying legislation, it opposed an amendment that would have exempted medical device manufacturers from the bill. IHA spoke with the sponsor to explain the significant financial burden and competitive disadvantage such an exclusion would have put on the hospital community. After these conversations, the sponsor chose not to include the amendatory language to the legislation. The bill was not advanced.

**SB 35** (Sen. Don Harmon/Rep. Chris Welch) Safe Zones Act

Vetoed by Governor

In response to federal immigration action, SB35, known as the Safe Zones Act was filed, asserting that Illinois is committed to ensuring all residents are treated equally notwithstanding racial, gender, socioeconomic, or immigration status. The impact of the legislation, if enacted, is that by April 1, 2019, the Attorney General’s (AG’s) office will be required to develop model policies to limit assistance with immigration enforcement to the fullest extent possible consistent with federal and state law to ensure that all residents feel safe accessing certain facilities such as: schools, day care centers, colleges, hospitals, nursing homes, libraries, SOS offices and courts. The listed organization can either adopt the AG’s model policies or their own equivalent policy. If the bill becomes law, IHA will provide guidance to members for compliance.

**SB 2913/PA100-665** (Sen. John Mulroe) – Hospital Discharge Planning

Signed into law

As introduced, this legislation would have required the Illinois Department on Aging (IDoA) to develop a public-private partnership with hospitals to train discharge planners as screeners for determining eligibility for nursing homes. It also would have required IDoA to submit to the General Assembly every 90 days a report of how many transfers from hospitals to nursing homes are done without a complete screening and how many hospitals have signed up for the public-private partnership. IHA opposed this legislation as narrowly focusing on ensuring prompt payment for nursing homes and pushing patients into a nursing home setting instead of a home care setting. Through IHA’s advocacy, the final legislation removed any additional requirements or unfunded mandates on the hospital community.

**Patient Advocacy**


Signed into law

This bill amends several Acts pertaining to sexual violence, including the Sexual Assault Survivors Emergency Treatment Act, applicable to hospitals. The bill provides that every hospital providing hospital emergency services and forensic services to sexual assault survivors shall provide after a medical evidentiary or physical examination, access to a shower at no cost, unless showering facilities are unavailable. The Rights of Crime Victims and Witnesses Act is amended to allow the crime victim the right to have an advocate and an additional support person present during any medical evidentiary or physician examination. IHA was able to remove a provision that an attorney could be present during the exam.
Signed into law
This legislation requires hospitals and other applicable healthcare facilities to post contact information for the Guardianship and Advocacy Commission and the agency designated by the Governor under the Protection and Advocacy for Persons with Developmental Disabilities Act. IHA will be developing a guidance memo for members.

Cannabis

SB336/PA100-1114 (Sen. Don Harmon/Rep. Kelly Cassidy) – Cannabis Medical Condition
Signed into law
This legislation adds provisions concerning an opioid alternative pilot program. Under the new pilot program, an individual diagnosed with and undergoing treatment for a medical condition for which an opioid has been or could be prescribed may receive medical cannabis following physician certification for that condition, under specified circumstances.