

WHA-Developed Medicaid ED Care Coordination Program Signed into Law



WHA staff join lawmakers, hospital members to see Gov. Walker sign 2017 AB 871 into law.

Legislation designed to incentivize Wisconsin hospitals to offer care coordination services for high utilizers of hospital emergency departments (EDs) was signed into law by Gov. Scott Walker April 16. The legislation, now known as 2017 Act 279, was recommended to the legislative authors, Rep. Jessie Rodriguez (R-Oak Creek), Rep. Joe Sanfelippo (R-New Berlin) and Sen. Alberta Darling (R-River Hills), through work done by WHA members as part of WHA's 2016 Medicaid Workgroup. The program provides a payment of up to \$1,000 per patient for a 12-month period to provide intensive care

coordination services to certain Medicaid enrollees, as well as a shared savings component for hospitals and health systems that are able to demonstrate savings to the Medicaid program. (See 2017 Act 279 at <http://docs.legis.wisconsin.gov/2017/related/acts/279.pdf>.)

Over the next several weeks, WHA will work with the state's Medicaid program to discuss implementation of this legislation. WHA staff will also develop an Act summary of the legislation, which will be made available in the member portal soon.

Contact WHA's Kyle O'Brien at kobrien@wha.org or Lisa Ellinger at lellinger@wha.org or 608-274-1820 for more information about the legislation or if your organization is interested in applying to be an eligible provider in the program.

Public Policy Council Discusses Dental Workgroup, PA Legislation *Top political operatives debate outcome of November elections*

Ticket splitters are going to decide Wisconsin's statewide elections in November, according to two of Wisconsin's top political operatives with Republican and Democratic campaigns who joined a meeting of WHA's Public Policy Council April 19. Tanya Bjork, a consultant to campaigns like the Presidential campaigns of Barack Obama and Hillary Clinton, and Keith Gilkes, a top consultant to conservative candidates and longtime adviser to Gov. Scott Walker, offered their perspectives in an engaging 90-minute question and answer session with Council members.



Keith Gilkes and Tanya Bjork at WHA's Public Policy Council Meeting April 19, 2018.

The two spent most of their time discussing Wisconsin's gubernatorial race in 2018, where Walker faces an opponent who will come out of a crowded field of potential Democratic candidates. Gilkes pointed
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Register Today for 2018 Wisconsin Rural Health Conference, June 27-29

Plan now to attend the 2018 Wisconsin Rural Health Conference, June 27-29 at The Osthoff Resort in Elkhart Lake. This annual event is *the* statewide forum for examining the issues that impact small and rural hospitals most, networking and collaborating with colleagues, and bonding with your team of senior staff and members of your hospital board of trustees.

Each year, WHA's Council on Rural Health acts as the planning committee for this conference, and once again in 2018, they have crafted an interesting and diverse education agenda. This year's opening keynote speaker is Benjamin Anderson, CEO of Kearny County Hospital in southwest Kansas. Since arriving at Kearny County Hospital in 2013, Anderson has received national acclaim for his work in physician recruitment, health promotion, women's health initiatives and rural health care delivery innovations.

A variety of breakout sessions will give attendees the opportunity to examine and discuss models changing the delivery of and access to rural health care, public policy issues affecting rural health care and ways in which data and technology are improving health care for rural populations. The conference will once again include the popular education track focused on governance issues, including new ways for boards to approach strategic planning, essential components for a successful and sustainable hospital foundation and understanding some of the future reimbursement models that will impact hospitals.

Make attendance at this year's conference a priority by registering today. A full brochure is included in this week's packet, and online registration is available at www.cvent.com/d/3gqkxj.

WI Supreme Court Hears Arguments on Medical Liability Cap

On April 19, the Wisconsin Supreme Court heard oral arguments in *Ascaris Mayo v. IPFCF*, which focuses on the constitutionality of Wisconsin's \$750,000 medical malpractice non-economic damage cap enacted with bipartisan support in 2006.

During oral arguments, Attorney Kevin St. John and Solicitor General Misha Tseytlin defended the constitutionality of the Legislature's policy decision to enact a \$750,000 non-economic damage cap, and emphasized the real and demonstrated impacts that having a cap on non-economic damages has on physician recruitment and access to care in Wisconsin communities.

In January, WHA filed an amicus brief with the Supreme Court in support of the cap. A significant emphasis of that brief focused on the impact of the cap on access to care in Wisconsin.

"Disregarding the Legislature's informed judgment about the way to reduce the disincentives for physicians to practice in Wisconsin jeopardizes the continued viability of Wisconsin's medical liability system....[and] impairs the ability of WHA members to recruit and retain health care professionals in the communities they serve," stated WHA's amicus brief, authored by Timothy Feeley and Sara MacCarthy, attorneys with Hall, Render, Killian, Heath & Lyman P.C.

"The Legislature's actions have continued the viability of a medical liability system that helps protect all Wisconsin communities' needs for accessible health care," said WHA's brief. "To conclude that the Legislature's basis for implementing the cap bears no rational relationship to providing access to affordable, quality health care for all Wisconsin residents ignores the evidence and the rational basis test."

Consistent with other arguments made in WHA's amicus brief, Attorney St. John and Solicitor General Tseytlin also emphasized that unlike other plaintiffs in Wisconsin and unlike any other state in the nation, plaintiffs in medical liability cases in Wisconsin are guaranteed recovery of economic damages, such as lost wages and medical expenses, that are awarded by a jury due to the Legislature's decision to have both a non-economic damage cap and a mandatory, unlimited Injured Patients and Families Compensation Fund. The attorneys argued that the constitutionality of the non-economic damage cap should not be reviewed as if the unique benefit to injured plaintiffs of guaranteed recovery of economic damages did not exist. *(continued on page 3)*

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“Wisconsin’s unique, balanced medical malpractice system that includes a cap on non-economic damages is a key policy that has helped Wisconsin retain and attract high-quality physicians to Wisconsin communities,” said WHA President/CEO Eric Borgerding. “The Legislature understood in 2006 and understands today that without a sufficient supply of physicians in communities throughout the state, Wisconsin’s high rankings in health care quality and access would not be achievable.”

“To protect access to quality care, WHA fought hard 12 years ago to enact the bipartisan legislation establishing the current cap, and we are continuing that advocacy effort by supporting the Legislature’s sound policy decision in the courts,” said Borgerding.

WHA is anticipating a decision in the case this summer.

Marquis Named WHA Vice President, Communications

The Wisconsin Hospital Association (WHA) has named Stephanie Marquis vice president, communications. Marquis joins WHA May 14.

“Stephanie is a highly regarded professional whose extensive experience in strategic, public policy-focused communications is perfectly suited for the advocacy mission of WHA,” said WHA President/CEO Eric Borgerding. “WHA is the voice of the nation’s top-ranked hospitals and health systems, and we are very pleased to welcome Stephanie to our talented team where she will help tell the Wisconsin health care story in new ways and in new places.”



Stephanie Marquis

Marquis joins WHA from the University of Wisconsin System, where she has served as director of communications since July 2016. Since 2003, Marquis has served in executive communication roles at several of the largest and most complex agencies in state government, including the Department of Administration and Department of Revenue under Gov. Scott Walker, and the Department of Health Services and the Public Service Commission of Wisconsin under Gov. Jim Doyle.

“I am thrilled to be joining the WHA team, and look forward to supporting WHA in its advocacy efforts,” Marquis said. “Healthy communities create a thriving, healthy economy and I’m both honored and proud to be part of an organization with such a strong reputation in working tirelessly for its members. It’s an exciting time in the health care industry, and I am eager to work collaboratively with partners statewide to build upon WHA’s success.”

Prior to working for the State, Marquis worked in the private sector at both for-profit and non-profit organizations, and has experience in broadcast journalism. She earned her bachelor’s degree in journalism from UW-Madison.

WHA Workforce Council Considers Apprenticeships, Grants and Data Resources and support essential for health care workforce development

The April 16, 2018 WHA Council on Workforce Development meeting covered a broad array of topics, including new WHA-spearheaded training grants, legislative accomplishments and priorities related to workforce, Wisconsin’s Youth Apprenticeships in health care, and data for workforce planning.

Council members appreciated gaining knowledge about available resources to recruit and retain health care professionals. John Keckhaver from Wisconsin’s Department of Workforce Development noted, “Wisconsin is one of only a few states that has kept their Youth Apprenticeship program, and our state program is growing in number of youth and employers participating.” Keckhaver provided resources hospitals and health systems can use to start youth apprenticeships, and members were pleased to hear that regional coordinators are ready, willing and able to provide support to local employers.

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Some members of the Council were among the more than 20 organizations that submitted letters of intent to apply for Wisconsin Department of Health Services administered training grants for advanced practice clinicians. Ann Zenk, WHA vice president, workforce and clinical practice, noted "Success builds on success, and the fact that WHA was able to accomplish both increased funding for the grow our own GME program, and create a new grant program to increase clinical training opportunities for advanced practice clinicians and in-demand allied health professionals, is a credit to the successful public-private partnerships created by such programs." Council members shared plans to apply for allied health professional training grants to expand, enhance or create new training options for health care team roles with high vacancy rates, such as nursing assistants and surgical technicians.

In their discussion of data needed and utilized for workforce planning, Council members recognized WHA's annual workforce report (www.wha.org/Data/Sites/1/pdf/2017workforcereport_web.pdf) as "a resource to reference over and over in workforce planning," and stressed the importance of "keeping an eye on workforce data and proactive planning to prevent critical workforce shortages." A Council member noted, and the Council agreed, "We are good at finding and having the data, but need help on the projections and analytics." The Council recognized the work done by WHA and the WHA Information Center, and the potential to build on the available data and analytics for workforce planning. Zenk notes "High-quality high-value health care relies on a high-quality, adequately supplied workforce, and WHA continues our commitment to provide workforce information relevant to WHA, members and policymakers for proactive workforce decision-making."

WHA Staff Meets with WI Congressional Delegation in Washington, D.C.

Jon Hoelter, who recently joined WHA as director of federal and state relations, traveled to Washington, D.C. last week to meet with Wisconsin's Congressional Delegation. The visit was an opportunity for introductions with Wisconsin's congressional delegation staff as well as several key committee staff. Among the many topics discussed were current federal issues like 340B, opioid treatment, health care workforce, hospital reimbursement and health insurance market stability. As a testament to the hard work WHA and its members have done over the years advocating for our issues at the federal level, staff were well versed on issues important to Wisconsin hospitals and expressed a desire to continue their strong working relationship with WHA.



WHA's Jon Hoelter (right) with Congressman Sean Duffy after meeting to discuss issues important to rural WI, like the critical access hospital designation.



Jon Hoelter is joined by Keith Snider who is part of WHA's federal lobbying effort at Health Policy Source in Washington. The two met with House Ways and Means Committee Staffer Carla DiBlasio to discuss upcoming health care reform initiatives the Subcommittee on Health is focused on.

Hoelter also met with committee staff that work on a variety of key health care packages introduced by the Congress. Carla DiBlasio, a staffer for the House Ways and Means Health Subcommittee described her previous experience working for the Centers for Medicare and Medicaid Services (CMS) as an asset in her new role. She said her time there gave her a better appreciation of the burdens hospitals face due to CMS's reporting and compliance requirements, and she referenced CMS's recent "Patients Over Paperwork" initiative aimed at examining that. One of challenges she recognized during her time at CMS was that they often lacked statutory authority to make some of the reforms they were interested in

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pursuing. She also mentioned that she was particularly interested in hearing feedback from WHA and its members on any of the opioid treatment legislation Congress is currently working on.

WHA will be back in Washington, D.C. in a few weeks to lead Capitol Hill visits for the AHA Annual Membership Meeting, May 6-9. Anyone interested in attending is encouraged to email Hoelter at jhoelter@wha.org.

CMS Creates New Website for Determining MIPS Eligibility Status WHA and WCHQ-created Physician Compass can help navigate MIPS program

The federal Centers for Medicare & Medicaid Services (CMS) has launched a new website, <https://qpp.cms.gov/participation-lookup>, for clinicians to determine whether they must report in 2018 under the Merit-Based Incentive Payment System (MIPS) to avoid Medicare payment penalties.

Under MIPS, which was created by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), physicians and certain other clinicians must report measures on four performance categories. A clinician's weighted score on the reported measures results in downward or upward Medicare payment adjustments.

In a given year, a clinician is exempted from participating in MIPS if he or she participates in a qualifying Alternative Payment Model or does not exceed a low-volume threshold. For 2018, the low-volume threshold is Medicare Part B-allowed charges less than or equal to \$90,000 or provision of care for 200 or fewer Part B-enrolled Medicare beneficiaries. CMS estimates that nearly 1 million clinicians will be exempt from MIPS reporting in 2018.

Last year, CMS mailed letters to clinicians to inform them of their MIPS eligibility status. With the new website, CMS does not intend to mail letters in 2018.

Understanding MACRA and reporting MIPS measures can often be difficult and confusing. Because of this, WHA, along with the Wisconsin Collaborative for Healthcare Quality, created Physician Compass, an organization designed to help put providers on the path to easy reporting, maximized payment incentives, and quality excellence within the MIPS program. For more information on how Physician Compass can help you, go to www.physiciancompass.org.

For more information about MIPS, contact Andrew Brenton, WHA assistant general counsel, at abrenton@wha.org or 608-274-1820.

Transitions of Care Expert Dr. Eric Coleman to Keynote Post-Acute Care Conference, June 5

Nationally known transitions of care expert Eric Coleman, MD, MPH, professor of medicine and head of the Division of Health Care Policy and Research at the University of Colorado, will provide the opening keynote presentation at WHA's statewide conference on post-acute care June 5.

In collaboration with LeadingAge Wisconsin, LeadingChoice Network and the Wisconsin Association for Home Health Care (WIAHC), WHA is hosting the one-day conference to bring together partners in the continuum of care to share best practices for transitions of patients to post-acute care settings.

"Post-Acute Care: Working Together Across the Care Continuum for Positive Patient Outcomes" will include representatives from throughout the continuum of care—hospitals, skilled nursing facilities and home health care providers—as presenters on the day's agenda, sharing their innovative strategies for overcoming obstacles that can impede successful care transitions and result in positive outcomes for discharged patients. *(continued on page 6)*

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This conference will be held Tuesday, June 5, at the Radisson Paper Valley Hotel in Appleton. A full conference brochure and online registration can be found at www.cvent.com/d/rtqb1d. An early bird discount is available to all who register by May 5.

Content questions can be directed to Laura Rose at lrose@wha.org, and registration questions can be directed to Kayla Chatterton at kchatterton@wha.org or call 608-274-1820.

WHA Prepares Additional Summaries of New Laws; Will Discuss Recent Legislation at May 2 Webinar

New summaries of recently enacted laws from 2017-18 legislative session now available

The WHA legal and government relations teams have prepared for WHA members additional summaries of recently enacted state legislation that could impact Wisconsin's hospitals and health systems. Among the new laws for which WHA staff has prepared summaries are the following:

- Act 143: School Safety Plan - Statutory Reporting Obligation of Threats of Serious and Imminent Threat to School Safety,
- Act 201: Mammography Requirement to Provide Notice of Dense Breast Tissue, and
- Acts Related to Pharmacy Practice (Acts 18, 19, 25, 42, 149 & 160).

These new summaries join the list of summaries of laws from the 2017-18 legislative session that WHA has already prepared, including summaries of Act 140 ("Emergency Detention Liability, Disclosure, and EMTALA-Related Clarifications and Reforms"), Act 135 ("Enhanced Nurse Licensure Compact"), and a regulatory update on the status of computerized provider order entry ("CPOE") reporting under federal programs involving the meaningful use of electronic health record technology.

WHA's legislative and regulatory summaries are for WHA members only and will not be generally accessible on the WHA website. The summaries are posted in the member's portal, which is accessible by clicking the "WHA Members Only" icon on the home page at wha.org. Once in the WHA member portal, the summaries can be found in the dropdown menu under the "Legal Resources" tab. This section of WHA's website is a secure location and requires a first-time user to obtain a username and password. If you do not have a member account, go to members.wha.org and click on "Register" to create an account. If you have any questions about how to register, contact Tammy Hribar at thribar@wha.org or 608-274-1820.

Register now for May 2 webinar on recently enacted Wisconsin laws

In addition, on May 2, WHA staff will be presenting a complementary webinar for members that provides an overview of such recently enacted legislation from the 2017-18 Wisconsin legislative session that could impact hospitals and health systems. For more information and to register for the webinar, go to www.whareg4.org/LegSession2018.

For additional information, contact Andrew Brenton, WHA assistant general counsel, abrenton@wha.org, or Matthew Stanford, WHA general counsel, at mstanford@wha.org, or 608-274-1820.

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to what he believes is Walker's strongest characteristic, that "when the Governor says he's going to do something, he then does it." Gilkes believes that is a characteristic Wisconsin voters respect. When asked about health care, Gilkes discussed Walker's recent reinsurance proposal as a proactive way that—regardless of Washington's inability to act—Wisconsin can do things to stabilize its own health insurance marketplace.

Bjork responded by saying that health care is an important issue for voters in this election cycle, not just in Wisconsin, but also nationally. She said the Affordable Care Act (ACA) is becoming increasingly popular with the electorate, and she believes the Republican brand is not good on health care issues—most recently because of multiple attempts to repeal and replace the ACA.

Bjork pointed to elections across the country, including Wisconsin's 10th State Senate District, where traditionally Republican legislative and Congressional seats have flipped from Republican to Democrat as a sign that 2018 could be a good year for Democrats.

WHA's 2018 legislative agenda accomplished, Association now prepares for 2019

While the remaining portions of WHA's advocacy agenda for 2018 have been enacted into law, WHA has already begun to shift its focus to develop the Association's proactive agenda for the next legislative session, according to WHA President/CEO Eric Borgerding. Borgerding reviewed the Association's goals for 2018 and pointed to those areas where staff will be working with WHA members to develop policy recommendations, especially in Medicaid reimbursement, workforce and behavioral health care. The Public Policy Council will play an important role in vetting these policy recommendations as they are created by various WHA member workgroups.

Kyle O'Brien, WHA senior vice president, government relations, reviewed several WHA priorities that were achieved in the final weeks of the legislative session. Key among the victories was again defeating a proposed fee schedule in worker's compensation. The legislation, which was a top legislative priority for the Wisconsin Manufacturers and Commerce, was soundly defeated. In the Senate, it received a hearing in committee, but no vote. The proposal was not even considered in the Assembly.

Legislation creating a WHA-backed Medicaid care coordination pilot program was also signed into law after being vetoed in the state budget (see related story on page 1).

Another WHA-initiated proposal enacted in the final weeks of session was a package of important, three-years in the making reforms to the emergency detention process, including important protections for physicians and providers serving at-risk patients.

Borgerding commended the entire WHA public policy and advocacy staff for their tireless efforts and commitment these past 15 months. "The record speaks for itself," Borgerding said. "WHA's members are served by one of the absolute best advocacy teams in Madison."

WHA's Special Needs Dental Workgroup focuses on barriers to care

Laura Rose, WHA vice president, policy development, described WHA's growing involvement in dental access issues, with a focus on dental patients with special needs who require care under general anesthesia in operating rooms. Rose presented to the Council on WHA's Special Needs Dental Workgroup, which has identified barriers to treating patients, including significant financial losses from government payers and locating a dentist or other practitioner who is willing and able to care for the patient. Rose said the workgroup will develop policy recommendations at its next meeting May 11.

Proposal changes supervision relationship between physicians and physician assistants

WHA Vice President of Workforce and Clinical Practice Ann Zenk gave a presentation to the Council on a draft bill designed to change the existing supervision relationship between physicians and physician assistants. During its discussion, the Council reaffirmed the importance of ensuring state clinician

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licensure laws do not become misaligned with Medicare payment rules and the importance of ensuring that hospitals and employers maintain the right to determine the terms of employment for that provider, regardless of any practitioner's licensed scope of practice. Council members also noted this latest proposal may create confusion by creating overlapping or inconsistent obligations for employers. For more information about this proposal, contact Ann Zenk at azenk@wha.org or 608-274-1820.

Wisconsin Hospitals State PAC and Conduit Kicks Off 2018 Campaign

WHA Vice President, Advocacy Kari Hofer reported to the Council that the Wisconsin Hospitals State PAC & Conduit kicked off its campaign in March and has begun fundraising efforts for another important election year. Hofer discussed several statewide elections, including races for Governor, U.S. Senate, Lieutenant Governor, Attorney General, as well as numerous races for the state Senate and state Assembly, indicating 2018 will be a busy year for disbursing funds from the Wisconsin Hospitals State PAC & Conduit.

The Wisconsin Hospitals State PAC & Conduit will only remain the top disbursing conduit in the state with the help of leaders across Wisconsin who support Wisconsin hospitals. If you haven't already done so, please make your annual contribution at www.whconduit.com or contact Hofer at 608-274-1820 or khofer@wha.org.