

Gov. Walker Signs WHA-Championed Emergency Detention Bill Bill implements recommendations by WHA Behavioral Health Task Force



WHA staff join Governor Walker, Rep John Jagler, Sen Rob Cowles' staff Heather Moore, Columbus Community Hospital CEO John Russell and Rogers Behavioral Health CMO Jerry Halverson, MD for a bill signing ceremony on WHA-priority legislation reforming Wisconsin's emergency detention statutes – Assembly Bill 538.

On March 7, Gov. Scott Walker signed Assembly Bill 538, which enacts recommendations made by WHA's Behavioral Health Task Force to better define in statute hospitals' and physicians' roles in Wisconsin's mental health emergency detention process.

Signed into law as 2017 Act 140, the new law addresses liability concerns raised by hospitals and physicians when a health care provider disagrees with a law enforcement officer or county crisis agency determination to not proceed with an emergency detention of a patient. The new law also addresses a regulatory inconsistency between Wisconsin's emergency detention law

and the federal Emergency Medical Treatment and Active Labor Act (EMTALA), and more clearly aligns Wisconsin law and HIPAA regarding disclosures to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. (2017 Act 140 can be found at <https://docs.legis.wisconsin.gov/2017/related/acts/140.pdf>.) *(continued on page 5)*

Wisconsin Hospitals Leading the Way Toward Safer Patient Care

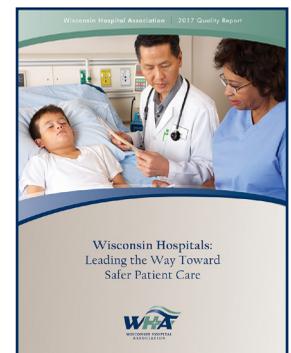
Wisconsin's hospitals have been ranked among the best in the country for safe and satisfying health care, according to a new report released March 8 by the Wisconsin Hospital Association (WHA).

"The delivery of effective, high-quality patient care creates healthy communities where people want to live and work," according to WHA's Chief Quality Officer Beth Dibbert. "There is always more work to do, and knowing that our hospitals have a positive effect on people's lives gives us the encouragement to do even better."

The report cites Wisconsin hospital rates of hospital-acquired Methicillin-Resistant Staphylococcus aureus (MRSA), central line, and Clostridium difficile infections dropped in 2017, and are now below the national rates, referencing WHA's CheckPoint website.

Improving physical health is only part of the success story. Patient satisfaction with their hospital experience and staff also indicates that patients are actively engaged and participating in discharge instructions and communication with their providers. Wisconsin is better than the national average in

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overall patient satisfaction and whether the patient would recommend the hospital to others. The report details how hospitals are improving patient and family engagement through the increased use of the patient voice and perspective in strategies like shift change huddles and patient advisors on governing boards. The report includes examples of how Wisconsin hospitals have improved their patient-centered approach to positively affect health outcomes.

In 2017, Wisconsin received the #1 ranking by the Agency for Healthcare Research and Quality (AHRQ), and has consistently ranked among the top five states since 2010. Also in 2017, Wisconsin's critical access hospitals were ranked #1 in their peer group by the Health Resources and Services Administration for quality reporting and levels of improvement.

The report describes the link between high-quality health care and an economic advantage for Wisconsin. In late 2017, WHA held a legislative briefing at the state capitol, along with representatives from the Aurora, Ascension, and Bellin health systems. Each of the system leaders described innovative programs that improved patient outcomes, reduced costs, and improved access across care settings.

Gov. Scott Walker, during a visit to the February 2018 WHA Board of Directors meeting stated, "Wisconsin is a national leader in health care quality in large part because of the work of the Wisconsin Hospital Association."

"WHA is pleased to support the outstanding work of our member hospitals, and our strong presence in the nation is further evidence of a commitment to transparency and improvement," according to WHA President/CEO Eric Borgerding. "This work is far from over, but we are renewed in our shared mission to deliver the right care to each patient, each time."

Visit WHA's www.WICheckpoint.org site to see the rates for individual hospitals on many quality-related measures.

Read WHA's report at http://www.wha.org/Data/Sites/1/pubarchive/reports/2017qualityreport_web.pdf.

OCI Moving Forward on 1332 Waiver Proposal

At a March 8 meeting of the Office of the Commissioner of Insurance (OCI) Health and Life Insurance Advisory Committee, Deputy Insurance Commissioner J.P. Wieske provided an update on Wisconsin's 1332 waiver proposal (see previous *Valued Voice* article at www.wha.org/wha-newsletter-3-2-2018.aspx#s1). The waiver would establish a reinsurance program to assist with claims costs for individuals covered through the Insurance exchange in order to keep premium cost increases reasonable for exchange policies. According to Wieske's presentation (www.wha.org/pdf/2018ReinsuranceWieske1-29.pdf) to the Committee, the agency expects premium increases to be 15 percent without the reinsurance program, but just 2 percent with the reinsurance program.

At the meeting, Wieske indicated OCI plans to release a draft of the waiver early the week of March 12. He also indicated OCI plans to hold a series of public hearings around the state, starting as early as March 14, and concluding by the end of the first week in April. The exact dates and locations for the hearings are not yet available.

OCI plans to submit the final waiver request to CMS in mid-April, and is hopeful for a decision on CMS approval by September. OCI expects insurers will submit rate filings for the 2019 benefit year by July 2. Final 2019 rates will likely be announced by OCI in October.

WHA-Backed Rural Training Grant Applications Available Soon ***Webinar Informs WHA members on new advanced practice clinician training opportunities***

The Department of Health Services is in the process of developing a Request for Applications (RFA) for new advanced practice clinician training grants. The new grant program, spearheaded by WHA, is modeled after the successful WHA-led matching grant GME initiative that has spurred a nearly \$22 million investment by state and private sector partners to create more physician residency capacity, especially in rural Wisconsin. WHA President/CEO Eric Borgerding notes, "Applying this same concept to training for advanced practice clinicians and allied health professionals will expose more individuals to rural communities and help address rural workforce shortages."

As currently envisioned, the grants will encourage partnerships among small rural hospitals and clinics, education providers and health systems. Hospitals and clinics in communities with populations of less than 20,000 will receive priority for funding. Year one funding is designed for developing the infrastructure to facilitate quality training. The grants are capped at \$50,000 per applicant per year and require a dollar for dollar match. The release of the RFA is tentatively scheduled for mid-March.

WHA will hold an informational webinar about these new grant opportunities and the application process March 19 from 10:30 – 11:30 a.m. There is no cost to participate in this webinar, but pre-registration is required. To register for this webinar, visit www.whareg4.org/RWIGrantWebinar. For content questions, contact Ann Zenk at 608-274-1820 or azenk@wha.org. For registration questions, contact Kayla Chatterton at kchatterton@wha.org or 608-274-1820.

Don't Miss the 2018 PAC Breakfast at WHA Advocacy Day

A special 2018 Wisconsin Hospitals PAC & Conduit launch breakfast will take place the morning of Advocacy Day at 8:00 a.m. at the Monona Terrace. The event is invite-only for individuals who contribute a minimum of \$250 to the Wisconsin Hospitals State PAC or Conduit by March 21.

For those of you who have attended in previous years, you know it's a great event with a special speaker (or two!) and a chance to network with your peers while enjoying a full breakfast before the official start of Advocacy Day at 9:00 a.m.

To attend this invite-only breakfast, make your 2018 contribution today by logging onto www.whconduit.com or by calling Nora Statsick at 608-239-4535 or Kari Hofer at 608-274-1820. RSVP via email to Nora at nstatsick@wha.org or Kari at khofer@wha.org.

CMS Announces Future Overhaul of Meaningful Use Requirements ***Changes to federal payment programs will focus on reducing regulatory burden and increasing EHR interoperability***

The Centers for Medicare & Medicaid Services (CMS) intends to implement a "complete overhaul" of federal payment programs that require hospitals and many physicians to demonstrate meaningful use of electronic health record (EHR) technology in order to avoid Medicare penalties. This announcement was made by CMS Administrator Seema Verma March 6 during her remarks at an annual conference hosted by the Healthcare Information & Management Systems Society (HIMSS).

Verma told conference attendees CMS is planning to make changes to the EHR Incentive Programs and to the Advancing Care Information performance category of the Quality Payment Program in order to reduce the time and cost required for providers to comply with these CMS programs and to focus on "increased interoperability and giving patients access to their data across all [CMS] programs."

CMS's announcement comes less than a month after enactment of the federal Bipartisan Budget Act of 2018, which removed the statutory requirement that CMS make the meaningful use requirements of the

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Medicare EHR Incentive Program more stringent over time. (See 2/16/18 *Valued Voice* article at www.wha.org/wha-newsletter-2-16-2018.aspx#s7.)

Over the years, WHA has engaged CMS on the meaningful use reporting requirements of the EHR Incentive Programs and Quality Payment Program, expressing support for Congress's and CMS's vision of widespread use of interoperable EHRs to support improved clinical care, better coordination of care, and fully informed and engaged patients. As CMS implements changes to the EHR Incentive Programs and Quality Payment Program in 2018 and future years, WHA looks forward to continuing to engage CMS in the development of policies that provide hospitals and physicians with greater flexibility and less regulatory burden.

Also during her remarks at the HIMSS conference, Verma unveiled "MyHealthEData," a new CMS initiative for EHR interoperability. As explained in a press release issued by CMS March 6 (www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2018-Press-releases-items/2018-03-06.html), "MyHealthEData will help to break down the barriers that prevent patients from having electronic access and true control of their own health records from the device or application of their choice." As part of this new initiative, Verma announced a new CMS tool called "Blue Button 2.0." CMS describes this tool as "a new and secure way for Medicare beneficiaries to access their personal health data in a universal digital format." According to CMS, more than 100 organizations have agreed to use Blue Button 2.0 to develop applications "that will provide innovative new tools to help [Medicare] patients manage their health."

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

Nursing Career Pathways Focus of Wisconsin Fast Forward funds *Request for Proposals for collaborative recruitment and retention projects due April 16*

Nurses make up 52 percent of the hospital workforce in Wisconsin, and this week the Wisconsin Department of Workforce Development (DWD) announced the availability of Fast Forward funds to recruit students to the nursing workforce.

DWD Secretary Ray Allen announced up to \$1.5 million in available Wisconsin Fast Forward (WFF) funds to help community-based organizations in a public-private partnership prepare Wisconsin middle and high school students for high-demand careers in the nursing profession. Allen said, "By reaching out to students early, we hope to add another talent development tool to support our state's leading health care industry and support their workforce for years to come." High school students interested in pursuing nursing career pathways will be allowed to accumulate technical college credits in pursuit of certifications such as certified nursing assistant.

Wisconsin has invested over \$200 million over the past four years and over \$140 million in the current biennial budget to support workforce development, including additional support to expand the WFF program. Ann Zenk, WHA vice president, workforce and clinical practice, encourages organizations to apply, noting "Programs, like Wisconsin Fast Forward and the Rural Wisconsin Initiative, enhance our ability to maintain and sustain the workforce we need to meet the growing demand for medical services in communities across Wisconsin."

The Fast Forward Nursing Training in High School and Middle School RFP is available online at <http://bit.ly/2DdUxNT>, and is due Monday, April 16, 2018. For questions regarding the process for submitting proposals, contact DWD Senior Purchasing Agent Barbara Hoffhein at Barbara.Hoffhein@dwd.wi.gov.

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“Wisconsin’s hospitals and emergency departments are often the safety net for patients suffering a psychiatric crisis,” said Eric Borgerding, WHA president/CEO. “This new law takes important steps to ensure patients in need of emergency psychiatric treatment receive the best, most appropriate care.”

“Assembly Bill 538 was crafted through the bipartisan leadership of Representatives John Jagler and Eric Genrich and Senators Rob Cowles and Janis Ringhand from recommendations created by WHA’s Behavioral Health Task Force,” said Borgerding. “WHA has been proud to work with these lawmakers on this important legislation and applauds Governor Walker for signing Assembly Bill 538 into law.”

In summary, Act 140 makes three changes to Wisconsin law:

- *Liability clarification.* Wisconsin is unlike other states that provide health care providers in emergency departments authority to initiate an emergency detention. Instead, in Wisconsin, law enforcement and county crisis agencies have the sole authority to initiate and approve a detention. To address liability concerns and reduce the likelihood of conflicts between medical staff, law enforcement and county crisis staff, the bill provides better clarity in statute that a health care provider’s liability to a patient or other person is limited to the health care provider’s authority under Wisconsin law to seek, but not initiate, an emergency detention. The bill further clarifies that a health care provider may fulfill a duty to warn by contacting law enforcement or the county crisis agency.
- *Regulatory protection/emergency department approval of a transfer.* The bill removes the possibility that an emergency department could receive an EMTALA citation for an inappropriate transfer due to a transfer decision made by law enforcement or a county without the emergency department’s sign off. Specifically, consistent with EMTALA, the bill now requires that the emergency department agree that a transfer to another facility is medically appropriate before law enforcement may transport a patient under an emergency detention from the emergency department.
- *Disclosure of health care information.* The bill also addresses a 2010 Court of Appeals case that concluded that an individual may be prohibited under Wisconsin law from disclosing information in good faith to a person in order to warn the person about a patient’s substantial probability of serious physical harm to the person. The bill explicitly aligns Wisconsin law with HIPAA law by clarifying that a health care provider may disclose health care information in a good faith effort to prevent or lessen a serious and imminent threat to the health or safety of a person or the public to the extent permitted by HIPAA.

“Wisconsin’s emergency detention process is unique, complex, and impacts multiple stakeholders,” said Matthew Stanford, WHA general counsel. “Guided by recommendations from WHA’s Behavioral Health Task Force and following months of conversations and negotiations with stakeholders like the Wisconsin Counties Association to effectuate those recommendations through this bill, these changes are one more step toward a better functioning emergency detention system across Wisconsin.”

WHA detailed summary of the new Act 140 emergency detention reforms now available to members

WHA prepares summaries of new laws passed during the 2017-18 Wisconsin legislative session that could impact Wisconsin’s hospitals and health systems. WHA legal and government relations staff has prepared a more detailed summary of Act 140, available in the WHA members only portal.

The summaries are for WHA members only and will not be generally accessible on its website. Instead, they are posted to the WHA member portal, which can be found either at members.wha.org or by clicking on the “WHA Members Only” icon on the www.wha.org website. Once in the WHA member portal, the summaries can be found in the dropdown menu under the “Legal Resources” tab. The member portal 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 questions about how to register, contact Tammy Hribar at thribar@wha.org or 608-274-1820.

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WHA member forum webinar focuses on Act 140 emergency detention reforms

On March 23, from 12 noon – 12:45 p.m., WHA will offer a WHA member forum webinar entitled “New Wisconsin Emergency Detention Law: Regulatory Reforms Impacting EMTALA, Liability, and Disclosure.” This webinar is complimentary for WHA hospital and corporate members, but pre-registration is required. To register, visit: www.whareg4.org/WIEmergencyDet. For content questions, contact Matthew Stanford at 608-274-1820 or mstanford@wha.org. For registration questions, contact Kayla Chatterton at kchatterton@wha.org or 608-274-1820.