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## EDUCATIONAL EVENTS

### March 23

WHA Advocacy Day 2022  
Virtual

### April 6

Patient Financial Engagement Solutions that Drive the Revenue Cycle  
Webinar

### April 6

The CMS Hospital Conditions of Participation (CoPs) 2022 - Session 1  
Webinar Series

## WHA Launches Inaugural Health Care Leadership Academy

The inaugural WHA Health Care Leadership Academy kicked off on Feb. 22 with a three-day in-person event at the Fluno Center in Madison.

Twelve participants in the five-month program were greeted by WHA President and CEO Eric Borgerding, who provided words of encouragement and vision. “Each of you have different roles and responsibilities at your respective hospitals,” related Borgerding. “Each of you bring a different set of skills, experience and education to this program. However, what you all have in common is that you represent the future of Wisconsin hospitals.” Borgerding continued, “Our hope is that this leadership academy will contribute to your success in your current and future roles. This is what will ultimately ensure that our state hospitals continue to serve the members of the community in providing high-quality and accessible care.”

The three-day session covered a wide range of health care management topics: The Business of Health Care: Leadership, Strategy and Understanding the Business; Understanding and Navigating Ethical Issues in Health Care; and Relationship Management: Communication and Influence Across a Matrix.

The group will reconvene virtually on March 8 for the next academy offering: Executive Project Sponsorship: The “Must Know” Essentials for Leading Organizational Projects.

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## DOJ Sues to Block UnitedHealth Group’s Acquisition of Change HealthCare

***The transaction would reduce competition, harm consumers, says DOJ***

On the heels of [last week’s](#) positive court action on the No Surprises Act which corrects the unbalanced playing field that had favored insurers on surprise billing arbitration, the U.S. Attorney General has filed a lawsuit to block a transaction that it says will tilt the playing field in favor of a single insurer—UnitedHealth Group.

Along with the Attorneys General in Minnesota and New York, the U.S. Department of Justice (DOJ) filed a federal lawsuit to stop UnitedHealth Group (UHG) from acquiring Change Healthcare. According to the DOJ press release, “Change markets itself as a valuable partner for insurers, working with them to innovate and problem-solve. United’s acquisition of this neutral player would allow United to tilt the playing field in its favor, harming current competition and allowing United to control and distort the course of innovation in this industry for the foreseeable future.”

UnitedHealth Group owns the largest health insurer in the United States as well as Optum Health, Optum Rx and OptumInsight. UHG’s revenues were \$288 billion in 2021, with a reported \$17.3 billion in profit. Change Healthcare is an independent health care technology company that provides software and services, including claims processing software, to providers, health insurers and other health care firms. Change’s revenues were \$3.4 billion in 2021.

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According to the complaint, the proposed \$13 billion transaction would give UHG access to its rival health insurers' competitively sensitive information, which it could use to gain an unfair advantage and harm competition. Indeed, the complaint indicates that the acquisition would not just harm, but effectively eliminate competition for "first-pass" claims editing technology, giving UHG a monopoly share in the market. This product helps health insurance companies efficiently process claims, saving billions of dollars each year.

"If America's largest health insurer is permitted to acquire a major rival for critical health care claims technologies, it will undermine competition for health insurance and stifle innovation in the employer health insurance markets," said Attorney General Merrick Garland.

Although not addressed directly in the complaint, health care providers have been concerned about a particular aspect of the transaction—namely, that Change owns a clinical decision-making tool called InterQual. InterQual is seen as an independent algorithm that can be used to help providers and clinical staff determine the right level of care for patients. Under the acquisition, there is a concern that the tool would no longer be independent, and the insurer would have an incentive to manipulate the algorithm, fundamentally interfering in the doctor-patient relationship.

"We already see numerous instances where insurers overstep with burdensome utilization management tools because they benefit financially when patients use less care," said WHA Senior Vice President of Public Policy Joanne Alig. "If United were to now own InterQual, it would be a bit like the fox guarding the henhouse."

In a [statement](#), American Hospital Association General Counsel Melinda Hatton praised the DOJ and echoed concerns about the impacts of the acquisition. "Had DOJ allowed this transaction to move forward it would have permitted a massive concentration of sensitive health care data in the hands of a single, powerful owner with an inherent conflict of interest. There is every indication that it is Change Healthcare that constrains UHG's largest subsidiary's (Optum) ability to prejudice payment accuracy in favor of its own financial outcomes by means of increased patient payment denials and coverage restrictions. And, allowing Optum the opportunity to own and then manipulate Change's proprietary evidence-based clinical support criteria (InterQual) also would have allowed UHG to build its corporate profits by increasing patient claim denials."



## **WHA Advocacy Results in Changes to Costly MEB and Physician Assistant Rules**

### ***MEB shelves current iteration of chaperone rule following \$55M cost estimate***

At the Feb. 16 Medical Examining Board (MEB) meeting, Department of Safety and Professional Services (DSPS) staff informed the MEB that their economic impact analysis of a draft proposed Medical Examining Board rule creating new chaperone duties for physical examinations by physicians would result in additional workforce costs of \$55 million annually in Wisconsin. As a result, the MEB began an effort to develop new rule language that would significantly reduce implementation costs. By law, an agency may not promulgate a rule that has implementation costs greater than \$10 million over a two-year period.

The economic impact analysis by DSPS was largely informed by an advocacy effort by WHA to submit estimated workforce impacts and costs to the MEB in November 2021 on the draft rule. Working with WHA, a group of WHA members submitted

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its own comments as part of the MEB's 14-day economic impact comment period. Altogether, that sample size alone indicated annual costs in the tens of millions of dollars and hundreds of new employees to implement the proposed rule.

"WHA has received concerns that as currently drafted, the proposed rule would significantly exacerbate current critical health care workforce shortage challenges and substantially increase health care staffing costs, assuming necessary staff could even be hired to fill the new staffing positions contemplated by the rule," wrote WHA Senior Vice President of Workforce and Clinical Practice Ann Zenk in a November comment letter to the MEB. "It is important to note that Wisconsin and the United States are currently experiencing severe health care workforce challenges. Creating an additional widespread need for ancillary health care staff to provide the contemplated chaperone services will further exacerbate health care workforce shortages."

WHA also noted in its November comment letter that the rule could be revised to drastically reduce its staffing and cost impact and offered to work with the board to discuss potential modifications.

"We believe that the draft proposed rule could be revised to address the board's goals and intents more precisely, and address much of the staffing and cost concerns," wrote Zenk. "As the board develops its economic impact analysis and moves into the next steps in the rulemaking process, WHA welcomes further discussion with the board, including potential modifications of the proposed rule."

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## **New Physician Assistant Licensure Rules Simplified, as Recommended by WHA**

On Feb. 24, the new [Physician Assistant Affiliated Credentialing Board](#) approved new rules that will go into effect on April 1 implementing [2021 Act 23](#), which removed burdensome direct supervision and physician ratio requirements for physician assistants and added additional clarity to physician assistant scope of practice. The new rules will be formally published and enacted in the coming days.

Both Act 23 and the newly approved rules change the nature of the required affiliation with a physician. Specifically, rather than requiring a supervising physician, both the act and the rule specify that a physician assistant may work either under a collaborative agreement with a physician or may demonstrate that pursuant to the physician assistant's employment there is a physician who is primarily responsible for the overall direction and management of the physician assistant's professional activities and for assuring that the services provided by the physician assistant are medically appropriate. In either case, the statute specifies that there is no requirement for the physical presence of a physician at the time and place a physician assistant renders a service.

"During the development of the Act 23 legislation, WHA worked with the Wisconsin Academy of Physician Assistants to have an alternative to a collaborative agreement that enable employers to utilize an administratively simpler oversight process akin to general supervision," said WHA General Counsel Matthew Stanford. "We believe many organizations will find that the employment oversight option will require little or no changes to their current physician assistant practice policies in order to be compliant with the new law on April 1."

In January 2020, WHA testified in support of Act 23, describing it as a "good balance of reducing the regulatory burden on physician assistants, physicians, hospitals and health systems, while also preserving the important role of physicians in a team-based care delivery model and other safeguards to preserve high-quality care in Wisconsin."

However, an earlier version of the draft rules released in late January 2022 by the Physician Assistant Affiliated Credentialing Board would have added requirements that physician assistants track hours of practice and eliminated the distinction between the collaborative agreement option and employment oversight option. In response, WHA worked with both the Wisconsin Academy of Physician Assistants (WAPA) and the new board to remove these new, last minute policy changes.

"Since the enactment of 2021 Wisconsin Act 23 in March 2021, physician assistants and the hospitals and clinics in which they work, have been preparing to practice based on the clear standards set out in Act 23 statutory language," wrote WHA and WAPA in a [February 22 joint memo](#) to the Physician Assistant Affiliated Credentialing Board. "We are concerned that some of the emergency rules as drafted...create new standards not specified in the statutory language and will disrupt care delivery transitions for April 1 already established based on the clear standards in statute. At a minimum...we ask you to simply restate the standards as provided in the statute."

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*(New Physician Assistant Licensure Rules Simplified as Recommended by WHA . . . continued from page 3)*

The Physician Assistant Affiliated Credentialing Board agreed with the recommendations of WHA and WAPA and made the recommended changes to the draft emergency rule before approving the rules for publication. Prior to being formally published and enacted, the rule requires a formal approval by the governor and the creation of a plain language analysis, both of which are expected to occur in the coming days.

WHA has created a PowerPoint summary of Act 23 that can be found [here](#). Contact WHA General Counsel [Matthew Stanford](#) with questions.

## Grassroots Spotlight

### Congressman Grothman Visits Waupun Memorial Hospital and ThedaCare Medical Center Berlin

Congressman Glenn Grothman recently visited SSM Waupun Memorial Hospital and ThedaCare Medical Center-Berlin to get an update from hospital leaders in his district on how they are handling the evolving COVID-19 landscape.

Hospital leaders detailed the many challenges that persisted throughout the COVID pandemic, particularly during the late 2021 and early 2022 delta and omicron surges. Not only did hospitals have to find creative ways to deal with severe staffing challenges, but they also had to retrofit spaces to create appropriate care settings. Grothman was able to see ventilation systems that were installed during the pandemic to create more negative pressure rooms so hospitals could safely care for the steep increase in COVID-19 patients from November 2021 through mid-January 2022.



*Congressman Glenn Grothman toured Thedacare Medical Center-Berlin on Feb. 24. From left to right: Jon Hoelter, WHA Vice President of Federal and State Relations; Congressman Grothman; Jenna Walker, Thedacare Vice President, General Counsel; Cheryl Jenks, Thedacare-Berlin Director of Clinical Operations; and Tom Arquilla, Thedacare Chief Strategy and Business Development Officer.*



*SSM Health Waupun Memorial Hospital President Deanne Thurmer (far left) leads Congressman Glenn Grothman (far right) on a hospital tour in Waupun on Feb. 18. Also joining were Grothman's Chief of Staff Alan Ott (center-left), SSM Waupun Vice President of Patient Care Services & CNO Nicole Gill (center right), and SSM Wisconsin Director of Government Affairs Ben Van Pelt (not pictured).*

Hospital leaders also discussed the challenges created by the dramatic increase in costs for nurses from traveling nurse staffing agencies and thanked Grothman for his recent support of the issue in a letter from Congress to the Biden administration.

Grothman was also interested in hospitals' access to therapeutics like monoclonal antibodies and the new oral pills from Pfizer and Merck and invited discussion on how to address chronic health conditions that might increase someone's risk of severe complications from COVID-19. Grothman also toured the intensive care units and emergency departments, which fortunately have seen a continued decrease in COVID-19 patient volumes in the last few weeks.

## WHA Hosts Blood Drive

WHA kicked off Red Cross Month with a blood drive on March 1, helping the American Red Cross of Wisconsin and Wisconsin hospitals maintain critical blood supplies.

The need for blood donations remains constant, and staff from WHA and neighboring businesses were happy to roll up their sleeves for this great cause.

To schedule an appointment to give blood or to find a blood drive near you, visit <https://www.redcross.org/local/wisconsin.html> or call 1-800-RED CROSS (1-800-733-2767).



Health Care Data Analyst Emily Holden was just one of many WHA staff who donated blood to support Wisconsin hospitals.

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The WHA Health Care Leadership Academy is organized in partnership between the Wisconsin Hospital Association and the Wisconsin School of Business Center for Professional & Executive Development (CPED). For information about the academy's 2023 program, contact WHA Vice President of Education and Marketing [Leigh Ann Larson](#).



WHA Health Care Leadership Academy students learning about ethics in health care management at the Fluno Center in Madison Feb. 22-24

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