WISCONSIN HOSPITAL ASSOCIATION

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July 29, 2024

The Honorable Tammy Baldwin
United States Senate
Washington, DC 20510

Dear Senator Baldwin,

While we support your goal of protecting communities from hospital closures and service losses, WHA has serious concerns about the *Hospital Stability and Health Services (HSHS) Act*. This legislation does not address the root causes of hospital closures, particularly the closure of those HSHS hospitals which appears to be the impetus for the HSHS Act.

While the legislation seeks new regulation of hospitals, it is existing federal government policy, namely, reimbursement from the federal Medicare program and its billions in unfunded health care costs, that is the primary reason safety-net hospitals operate in the red. Indeed, as hospital leaders must make difficult decisions every day about sustaining services in their communities, reimbursement decisions for Medicare, which have a growing impact on hospital viability in an aging state like Wisconsin, are made by our elected officials.

Far from putting profits over patients, in 2022, 65 Wisconsin hospitals had a negative total margin – including HSHS Sacred Heart (-47.9% margin) and HSHS St. Joseph's Hospital (-16.0% margin) in the Chippewa Valley. These negative margins were the result of government payment policies, massive inflationary costs to operate non-profit safety-net hospitals and services being driven by insurance companies to for-profit entities. It is worth noting that a for-profit surgical hospital in the Chippewa Valley enjoyed a 34.3% profit margin in 2022.

HSHS tried diligently to maintain operations after years of losses, including $56 million in losses over the last two years at Sacred Heart and St Joseph's alone. Unfortunately, mounting pressures from Medicaid and Medicare, combined with the loss of revenue and patients to for-profit competitors less burdened with Medicare, Medicaid and the uninsured, made sustaining these facilities unviable.

Instead of shoring up or mitigating these losses, the HSHS Act proposes to further regulate safety-net hospitals, including threatening them with losing the ability to care for Medicare patients. It is difficult to comprehend how prohibiting hospitals from caring for Medicare patients will help protect Medicare patients, many of whom already experience delays in care. It is also unclear whether this proposal would have meaningfully changed the recent HSHS hospital closures.

For instance, the legislation creates an exception to the requirement that hospitals operate for at least 90 days before closing or discontinuing services if continuing to operate would pose a clear harm to patient or employee health or safety. HSHS did provide a 90-day closure notice and worked with the Wisconsin Department of Health Services on patient care transitions. It ended up moving up its closure date after staff began leaving and taking new jobs within that 90-day window. Without adequate staff, it was not possible to safely deliver patient care. It is unclear whether this would have met the exception laid out in the HSHS Act or how that judgement would be rendered. If they had not met the exception, how would HSHS have been

expected to maintain these services?

Instead of focusing on regulating how hospitals close, we should be working to keep hospitals open, and WHA has been a long-time proponent of fixing inadequate Medicare and Medicaid reimbursement rates. As you know, Wisconsin hospitals are reimbursed an average of 62 cents on the dollar of cost by Medicaid and 73 cents under Medicare. In April, when we visited your Washington, DC office, we warned of the effects of Wisconsin's aging population moving onto Medicare (see attached position paper from that meeting). Grossly inadequate reimbursement coupled with Wisconsin's growing Medicare population drove Wisconsin hospitals' Medicare losses to $3.3 billion in 2022 - a staggering number that does not even include the millions hospitals must spend to navigate the bureaucracy and care-denying red tape plaguing Medicare Advantage.

In addition, over the last few years we have seen several hospitals (both rural and urban) announce the cessation of OB labor and delivery services due to workforce challenges. This includes difficulty recruiting OB physicians willing to be on-call during nights and weekends as well as a dearth of anesthesia providers that are essential for many deliveries. The HSHS Act does not attempt to address these problems.

Lastly, we must acknowledge and address the impact of for-profit facilities that are increasingly present in Wisconsin, cherry-picking patients and siphoning profitable services away from safety-net hospitals. This growing challenge is making it even more difficult to sustain the (often money-losing) care that no one else will provide and that your constituents depend on.

The challenges for safety-net hospitals are numerous and complex. Rather than piling on even more regulations, it is my hope that we can work together on public policy that improves Medicare reimbursement, significantly realigns incentives within Medicare Advantage, eases workforce shortages and acknowledges the unlevel expectations and inequities in the health care delivery system and market. We look forward to partnering with you to create solutions to these and many other challenges facing our hospitals and the patients and communities who need them more than ever.

Sincerely,

Eric Borgerding
President & CEO