

Government Relations Update – May 21, 2024

Pennsylvania Issues

Legislation

- **HB 2200: Implementation of Licensure Compacts.** As previously reported, Pennsylvania joined several interstate licensure compacts over the last decade, yet the two largest – the Nurse Licensure Compact (NLC) and the Interstate Medical Compact – have never become fully operational, since background checks required by Pennsylvania were deemed unacceptable by the FBI, the United States Department of State, and the Pennsylvania State Police. On August 22, 2023, Governor Josh Shapiro (D-PA) announced the Commonwealth would permit a partial implementation of the NLC, allowing registered nurses and licensed practical nurses who hold a multistate license through the NLC to practice in the Commonwealth.

On April 9, 2024, Representative Frank Burns (D-Cambria) introduced legislation to require applicants for a multi-state compact license to obtain FBI background checks with fingerprints, which would finally allow the interstate compacts to be fully implemented in Pennsylvania. On April 30, 2024, the bill was approved unanimously in the House and sent to the Senate for consideration. The Hospital and Healthsystem Association of Pennsylvania (HAP) and St. Luke's support the legislation.

- **HB 2247: Workplace Violence Prevention Committee.** On April 29, 2024, Representative Leanne Kruger (D-Delaware) introduced legislation to mandate workplace violence prevention committees in hospitals, long-term care facilities, and home health agencies. The bill would empower the committee to create programs designed to prevent workplace violence, perform annual assessments of the factors that may place a healthcare employee at risk, meet quarterly to review all cases of workplace violence, and establish a workplace violence prevention program. The committee would be chaired by one manager and one non-management employee, and at least half of the committee members would be non-managers who interface with the public. On May 7, 2024, the bill was approved by the House Committee on Labor & Industry. St. Luke's and HAP oppose the bill, since the issues are already covered by Joint Commission regulations and the committee would be difficult to administer.
- **SB 559/SB 560: Modernizing the Scope of Athletic Trainers.** On March 28, 2024, Senator Lisa Baker (R-Luzerne) introduced a bill updating portions of the Medical Practice Act and Osteopathic Medical Practice Act to expand the scope of practice of athletic trainers to permit intramuscular and subcutaneous medication injections, capillary finger sticks to assess blood glucose levels, use of airway adjuncts and nasal plugs, administration of naloxone, and removal of superficial foreign bodies. The Senate passed the bill on March 20, 2024, and it was approved by the House Professional Licensure Committee on May 7, 2024. St. Luke's and HAP support this legislation.

New Jersey Issues

Legislation

- **A-3681/S-2806: Louisa Carmen Medical Debt Relief Act.** On February 27, 2024, Assemblywoman Verlina Reynolds-Jackson (D-Hunterdon) and Senate President Pro Tempore Shirley Turner (D-Hunterdon) introduced legislation to limit medical billing and debt collection. The bill would require creditors and debt collectors to wait 180 days after sending a bill before engaging in any collection actions and prohibit health care providers from billing a patient if a patient appeals coverage within the prior 60 days. Failure to comply would result in a violation of the Consumer Fraud Act (CFA), which carries treble damages, allows a private right of action, and could lead to class action lawsuits.

St. Luke's and the New Jersey Hospital Association oppose the bill, because state and federal guidelines already exist to protect patients. Moreover, the CFA does not currently apply to medical bills, and extending the CFA in this manner could lead to significant lawsuits against hospitals and other healthcare entities.

Federal Issues

Legislation

- **H.R. 8261: Preserving Telehealth, Hospital, and Ambulance Access Act.** As previously reported, during the COVID-19 public health emergency, the Centers for Medicare & Medicaid Services (CMS) worked with Congress to waive Medicare's restrictions on telehealth utilization, such as geographic restrictions, originating site requirements, and limits on provider reimbursement. Without Congressional action, many of these key telehealth flexibilities will expire on December 31, 2024.

On April 10, 2024, the House Energy and Commerce Health Subcommittee held a legislative hearing to discuss continued telehealth utilization. The hearing evaluated 15 telehealth bills, including several with overlapping provisions. During the hearing, Democrats and Republicans indicated support for maintaining expanded telehealth payment for older adults but raised several issues, including cost. A key question raised during the hearing is whether virtual visits would be reimbursed at the same rate as in-person care.

On May 7, 2024, Representatives David Schweikert (R-AZ) and Mike Thompson (D-CA) introduced legislation to extend telehealth flexibilities through December 31, 2026. On May 8, 2024, the House Committee on Ways and Means approved the bill. The American Hospital Association and St. Luke's support the bill.

Miscellaneous

- **Federal Trade Commission (FTC) Ruling on Noncompete Contract Language:** On April 23, 2024, the FTC issued a final rule banning noncompete clauses between workers and employers as "unfair method[s] of competition" under Section 5 of the FTC Act, subject to only a few exceptions. The final rule defines "noncompete clause" broadly to include any term or condition of employment that "prohibits," "penalizes" or "functions to prevent" a worker from seeking or accepting work or operating a business in the United States after the conclusion of employment. Key features of the final rule include: (1) prohibition of new noncompete clauses between employers and workers on a go-forward basis; (2) rendering unenforceable existing employer noncompete clauses with workers other than pre-existing noncompetes for workers qualifying as "senior executives"; (3) requiring employers to provide notice to employees subject to prohibited noncompetes that the clauses will not be enforced; and (4) establishing narrow exceptions for worker noncompete clauses entered into in as part of a bona fide "sale of business," as well as for existing causes of action under worker noncompetes that accrued prior to the issuance of the final rule.

The FTC final rule does not apply to not-for-profits, so there is no direct impact to St. Luke's. Many legal experts agree the FTC does not have jurisdiction to issue a rule banning restrictive covenants, and this rule already has been challenged and will continue to be challenged in the courts. St. Luke's will continue to monitor the ruling.

- **Department of Labor (DOL) Overtime Rule:** On April 23, 2024, the DOL released a final rule increasing the salary threshold for overtime from \$35,568 to \$43,888 as of July 1, 2024 and \$58,656 as of January 1, 2025.