State of the Healthcare Industry: A Legislative Update

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The Texas Legislative Session

- Citizen Legislature
- Biennial Regular Session for 140 Days
- Special Sessions called by Governor
- Primary Election March 6, 2018
- General Election November 6, 2018
- Nov. 11 bill filing opens
- Second Tuesday of January
- 86th Texas Legislature = January 8, 2019
140 Days Every Other Year

The average legislative office handles the following during the 140-day session:

- 7,000 + bills
- 6,000 telephone calls
- 5,000 drop-in visitors
- 8,000 letters
- 15,000 emails
- 600 event invitations
2017 Legislative Session

In a session lasting 140 days:

- 7,000 bills filed
- THA tracked 1,144
- Affected hospitals’
  - Budget
  - Operation
  - Policy

In a 30-day special session with 20 issues:

- THA tracked 6 issues, plus others not on call
Legislative Process in Theory
Legislative Process in Reality
The Politics at Play

- March Primary Elections
  - May 22 Primary Runoff Elections
- November 6 General Election
  - U.S. Senate (Cruz), Statewides, US House, Texas House, Half of Texas Senate
- Speaker of the House Election
- Biennial Revenue Estimate from Comptroller
- Oil and Gas determines much of our general revenue
- Balanced Budget Requirement
- 1,000 People / Day move to Texas
- Supplemental Budget Passage Required?
- Texas Budget Must-Pass-Bill (Two Years $217 Billion All Funds)
Priorities for 86th Legislative Session

Major Legislative Priorities
- Maintaining Funding for Enhanced Medicaid Payments
- Supporting Texas Trauma Hospitals
- Investing in the Behavioral Health System
- Funding for Health Care Workforce Education and Training

Other Major Issues
- Freestanding Emergency Centers
- Hospital Operations
- Physician Practice

1115 Medicaid Waiver
Maintain Funding for Medicaid Payments

**Goal & Result:** THA secured $336 million in level funding for Medicaid reimbursement rate add-ons and uncompensated trauma care costs.

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Supporting Texas Trauma Hospitals

**Goal:** Preserve trauma hospital funding but replace the source of funding.
- Since 2003 passage of Driver Responsibility Program, 77 NEW designated facilities
- Account 5111 funds used for uncompensated trauma care and Medicaid add-ons
- 14 Bills filed on DRP (6 to repeal the program, 8 to tinker with the program)

**Result:** Killed at the 11th hour, THA’s favored solution would have:
- Repealed the Driver Responsibility Program and the program’s surcharges;
- Implemented new source of revenue for trauma hospitals; and
- Offered local control to municipalities considering cases and fines for certain traffic violations.

**Next Steps:** Continue engaging lawmakers and stakeholders to agree on an alternative source of trauma funding.
Investing in the Behavioral Health System

Goals: Improve access to mental health and substance abuse treatment by:

- Establishing a statewide mental health parity law;
- Growing the substance use provider workforce; and
- Building on 84th Legislature’s behavioral health funding.
Investing in the Behavioral Health System

Results:

• Passed a statewide mental health parity law so that behavioral health conditions are treated the same, in terms of benefits and provider networks, as physical health conditions.

• Passed a bill that grows the substance abuse provider network by making licensed chemical dependency counselors eligible for education loan repayment assistance in exchange for serving low-income and indigent Medicaid and CHIP clients.

• The Texas Legislature invested $7.5 billion in the state behavioral health system.
  • $3.6 billion for Medicaid and CHIP behavioral health services.
  • $63 million to address the current and projected waitlists for community mental health services for adults and children.
  • $366 million for construction and repairs at state hospitals and other inpatient mental health facilities.
Funding for Workforce Education & Training

**Goal:** Address the health professional shortage by increasing education and training opportunities.

**Result:**

- **Physicians:**
  - $90 million (level funding) to continue current GME programs and add new programs at the University of Texas at Austin and Rio Grande Valley.
  - $35 million in hold harmless funding to address decreased formula rates at all institutions.
  - $97 million ($44 million increase) to expand GME opportunities for first-year residents and partnership grants with health facilities.
  - $25 million ($8 million decrease) for the Physician Educational Loan Repayment Program.

- **Nurses:**
  - $20 million ($14 million decrease) for Professional Nursing Shortage Reduction Program.
  - $11 million (level funding) in nursing school grants to recruit and retain students and faculty.
  - Texas Board of Nursing sunset bill allows nurses to have a multistate license with the ability to practice in multiple states.

- **Mental Health:**
  - $2.1 million (level funding) for the Loan Repayment Program for Mental Health Professionals.

*Source: Health Resources & Services Administration*
Other Major Issues
Freestanding Emergency Centers

**Goal:** Help consumers understand with which health plans a FEC contracts in the most effective way.

**Result:** THA improved legislation that would have required FECs to publicly post the list of health insurance companies with which the FEC does and does not contract.

- THA negotiated language to require website disclosure of disclosure of network participation, along with a restatement of an existing law requiring individual confirmation of network status at the time of service.
Hospital Liability and Tort Reform

Goal: Oppose increasing the cap on non-economic damages in tort cases.

Result: THA killed legislation that would have raised the cap for non-economic damages awarded in a health care liability claim and tied it to the Consumer Price Index.
1115 Medicaid Waiver
Uncompensated Care Increasing

Importance of UC funds in waiver
- Medicaid shortfall remains high
- Texas continues to have highest percentage and number of uninsured in nation.

![Projected Uncompensated Care Costs 2015-2021](source: THA Calculations Of THHSC Data From June 2015)

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<th>Year</th>
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<td>$9.0</td>
</tr>
<tr>
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Continue the 1115 Medicaid Transformation Waiver

- Redesigned the delivery of health care in Texas
- Saved more than $8 billion over the five year period
- Directs $6.2 billion a year in Medicaid managed care savings to Texas hospitals and other health care providers to:
  - offset some uncompensated care costs - Uncompensated Care (UC) Pool
  - support 1,491 projects that improve access to needed services (BH, primary care, specialty care, chronic care) and reduces health care costs - Delivery System Reform Incentive Payment (DSRIP) Pool
- The waiver was extended through December 2017
- A new five-year waiver was approved on December 21, 2017.
Smart for Texas: Bending the Cost Curve

Texas Medicaid Acute and Long-Term PMPM Costs: FY09-FY16

COST GROWTH LESS THAN 1% ON AVG. PER YEAR

PMPM Costs

Texas Hospital Association
From 2009-2016, Medicaid Per-Capita Cost Growth was 5 TIMES LOWER than the U.S.

- Texas Medicaid Per-Capita Cost Growth: 5.8%
- U.S. Per-Capita Health Care Cost Growth: 30.4%
Medicaid Caseload Growth is a Cost Driver

Texas Medicaid Acute and Long-Term Caseloads: FY02-FY16
(in millions)

FY 2002: 2.1
FY 2003: 2.48
FY 2004: 2.68
FY 2005: 2.78
FY 2006: 2.79
FY 2007: 2.83
FY 2008: 2.89
FY 2009: 3.01
FY 2010: 3.29
FY 2011: 3.54
FY 2012: 3.66
FY 2013: 3.66
FY 2014: 3.75
FY 2015: 4.06
FY 2016: 4.06
New Texas Medicaid 1115 Waiver Approved by CMS

• Level funding for UC and DSRIP for two years.
• Transition to modified S-10 for reporting and calculating UC payments – to take effect 2020.
• Transition out of DSRIP over 5 years - gives the industry and the state time to identify the most effective projects and operationalize them.
• Increases allowable spending amount under “budget neutrality” cap to accommodate other means of increasing hospital reimbursement, such as NAIP, QIPP and the uniform hospital rate increase program (UHRIP).
• Method of finance for the state share of Waiver payments is not addressed in the terms and conditions. Disallowance appeals process still underway. The industry and the state must explore alternative means of financing the state share of payments.
With a new Medicaid 1115 Waiver approved for Texas, hospitals’ uncompensated care (UC) funding will change beginning in 2020:

- Total UC funding available and individual hospitals’ UC payments will be based on charity care costs for uninsured patients reported on a modified 2017 Worksheet S-10.
- For children’s and specialty hospitals that do not use the S-10, allowable costs will come from cost reports.
- UC funding no longer will include costs associated with hospitals’ bad debt or Medicaid shortfall (difference between the cost of providing a service and Medicaid reimbursement for that service).
- Allowable UC costs for pool sizing purposes will not include costs from non-hospital providers, although UC payments can be made to qualifying non-hospital providers, including physician practice groups, government ambulance providers and government dental providers.
- UC payments will be distributed based on reported UC costs without regard to a provider’s intergovernmental transfer payment.
Medicaid 1115 Waiver Next Steps

- To ensure the financial stability of Texas hospitals and their continued ability to serve all Texans, the Texas Hospital Association is:
  - Analyzing potential changes to the Medicaid disproportionate share hospital program to mitigate possible differences in UC payments among different classes of hospitals.
  - Working with the Texas Health and Human Services Commission to ensure that all Texas hospitals’ UC cost data are incorporated and accounted for in the UC pool calculation.
  - Modeling changes to UC payments among all hospitals.
  - Representing all Texas hospitals at THHSC stakeholder workgroup meetings.
Other Bills in 2017 Impacting Hospitals

- Mediation of Hospital Bills (all facility-based providers)
- Open Carry – Guns in Hospitals – 114 bills on guns
- Telemedicine Expansion
- Maintenance of Physician Board Certification
- Disposition of Fetal Remains
- Decrease Workplace Violence
- Sunset Review of Health Licensing Agencies (TMB*, BON)
- Abortion Prohibitions, Reporting *
- Maternal Mortality and Morbidity Review *
- Local Revenue Caps *

* First Called Special Session
Interim Studies in House and Senate Committees

- Behavioral Health (6 charges)
- Opioid Usage (House select committee, 5 other charges)
- Budget: Rainy Day Fund and Budget Deferrals
- Medicaid, Managed Care and Quality Payments
- Transparency in Health Care Payments (3 charges)
- Trauma System Funding (SFC)
- Local Property Taxes (7 charges)
- Health Care Reform
- Maternal Mortality and Morbidity (2 charges)
- Application of Public Information Act
- Hurricane Harvey (8 health care related charges)
Questions?

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