140 Days (plus plus plus)
Summary of the 83rd Texas Legislature

Texas Legislature 101

- 140 days every odd year
- Specials called by Governor
- 181 + Governor, Lt. Gov.
- Must pass – budget bill
- 6,378 bills filed in 2013
- THA tracked 798 bills
- Sine Die
2013 Legislative Session

- Budget Surplus
  - Thanks to the shales
  - Improving economy
- Focus on Infrastructure
  - Water, Transportation
- Restore 2011 Cuts
  - Education, Higher Ed
- Experienced Leadership at Helm

HHS State Budget Issues

- Medicaid IOU around $5B in General Revenue
- How to Fund Medicaid
  - State Share for Medicaid Supplemental Payments
  - Acute Care Provider Rates
  - Graduate Medical Education
  - Physician Rates and Participation
- Mental Health
- Trauma Funds
- Nursing School Funds
State Budget
Overview of 2014-15 Budget

- 2014-15 –$101.4B in funds available for general-purpose spending
  - 2.4% increase from 2012-13
- $8.8B “surplus” compared to a $27B shortfall last session
- Money available to cover shortfalls in 2011 budget bill
- Rainy Day Fund full – over $10B

State Budget
H.B. 10 - Medicaid IOU

House Bill 10:
- Supplemental Appropriations Bill for 2012-2013 biennium
- Funded $4.5B shortfall in Medicaid
- Also addresses education funding
- Effective March 13, 2013
State Budget
H.B. 1025 – Supplemental, Supplemental Bill

- Another piece of the budget appropriations “package”
- Subsequent appropriations for issues that did not need immediate attention
  - Vehicle for 2013 DSH Funding
    - $138M from the Trauma Fund to be transferred to HHSC as the state match for DSH
    - 6 large public hospitals to IGT ~$318M
  - Provides supplemental funds for several non-healthcare purposes (e.g., wildfires, etc.)

State Budget
S.B. 1 – Hospital Supplemental Payments

S.B. 1 – Biennial budget bill FYs 2014-15

- Rider 86
  - Appropriating as much as $300M in state GR in FYs 2014 ($160M) and 2015 ($140M) to improve Medicaid hospital payments either as DSH or through rate adjustments
  - Developing a framework/plan to improve the system for providing Medicaid payments to hospitals that addresses:
    - Proportional allotment of DSH and UC among:
      - Large public hospitals
      - Small public hospitals; and
      - Non-public hospitals
### State Budget

#### Hospital Supplemental Payments (cont’d)

- **S.B. 1 – Rider 86 – THHSC Plan (cont’d)**
  - Allotment based on care rendered to Medicaid and low income patients and on IGT provided by large public hospitals
  - The impact of Medicaid shortfalls and uncompensated care costs
  - **Methods to:**
    - Flow at least some of these payments through Medicaid MCOs
    - Transition payments from DSH to quality-based payments and **Eliminate the use of state GR for DSH after 2015.**
  - **Linking the appropriation to demonstrable measures:**
    - 2014 – Documenting progress towards development of plan
    - 2015 – Finalizing plan

### State Budget

#### Graduate Medical Education

- **Relative restoration of GME funds**
  - Funding supports and maintains current residency programs and generates up to 100 new first-year residency slots
    - **$9M to increase the Health Related Institution GME formula**
    - **$13M for the Family Practice Residency Program**
    - **$2M to the THECB for planning grants to hospitals that have never had residency programs**
    - **$12.4M to the THECB for GME expansion**
  - **Physician loan repayment program restored**
    - **$28.2M increase for four years of loan repayments to 2 cohorts of 100 physicians** ([www.thecb.state.tx.us/lrp](http://www.thecb.state.tx.us/lrp))
State Budget
Cost Containment Rider

Rider 51: HHSC Cost Containment Initiatives
- Directs HHSC to use a variety of methods to achieve savings up to $400M GR / $963M AF
- Nine of these would impact hospitals up to $185.9M GR / $445.5M AF

State Budget
Cost Containment Rider in S.B. 1

Rider 51 components with direct impact on hospitals:
- Quality-based payment adjustments
- Improve birth outcomes/reduce preterm births
- Transition outpatient payments to prospective payment system that maximizes bundling, including imaging (EAPGs)
- Develop hospital ER rates for non-emergency visits
- Strengthen prior authorization requirements
- Expand initiatives to pay more appropriately for outlier payments
- Adjust reimbursement for labor and delivery services provided to adults at children’s hospitals
- Re-establish hospital 30-day spell of illness limitation in STAR+PLUS
- Enforce appropriate payment practices for non-physician services
State Budget
Nursing and Trauma Funds in S.B. 1

- Professional Nursing Shortage Reduction Fund
  - To increase nurse graduates and nurse faculty: $34M in 2014-15 at the THECB

- Trauma Fund - $59M in 2014-15
  - Includes SDA trauma add-on amounts

State Budget
Mental Health in S.B. 1

Attention given to need for better funded and coordinated mental health services:

- $259M GR and $298M AF for expansion of mental health services, including funding for reduction of waiting lists and increased services from local mental health authorities

- DSHS Rider 78: Withholds 10% of GR funding from each local mental health authority as performance-based incentive payment; payment contingent upon achievement of outcome targets set by DSHS

- DSHS Rider 79: Requires that $183M in GR funding be used to draw down additional federal funds through Medicaid 1115 Transformation Waiver
## State Budget
### Mental Health Funding

<table>
<thead>
<tr>
<th>Program</th>
<th>Description</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mental Health Treatment</td>
<td>Provides funding for YES Waiver, community mental health services and collaborative projects</td>
<td>$69.4M</td>
</tr>
<tr>
<td>Waiting List Reduction</td>
<td>Serves an additional 6,242 adults and 286 children currently waiting for services</td>
<td>$48.2M</td>
</tr>
<tr>
<td>Behavioral Health/Substance Abuse</td>
<td>Housing and rental assistance for individuals with mental health disorders at risk of homeless; Substance abuse provider rate increase and increased service capacity</td>
<td>$49.0M</td>
</tr>
<tr>
<td>Crisis Services</td>
<td>Provides funding for increased supports available to individuals in crisis situations</td>
<td>$25.0M</td>
</tr>
<tr>
<td>LMHA Expansion</td>
<td>Provides funding for increased service levels for individuals that are currently receiving limited services, including clients of NorthSTAR</td>
<td>$23.0M</td>
</tr>
</tbody>
</table>

### State Budget
### Mental Health Funding (cont’d)

<table>
<thead>
<tr>
<th>Program</th>
<th>Description</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patient Safety</td>
<td>Initiatives for patient safety, facility repairs, and staff retention</td>
<td>$18.3M</td>
</tr>
<tr>
<td>Alternative Treatment</td>
<td>Harris County contracted beds, jail-diversion pilot program, and jail-based competency restoration program</td>
<td>$15.4M</td>
</tr>
<tr>
<td>Prevention and Identification</td>
<td>Public awareness campaign and school-based training for early identification</td>
<td>$6.6M</td>
</tr>
<tr>
<td>Veteran’s Mental Health</td>
<td>Veterans mental health program for counseling and suicide prevention</td>
<td>$4.0M</td>
</tr>
<tr>
<td>Total General Revenue</td>
<td></td>
<td>$259.0M</td>
</tr>
</tbody>
</table>
Reduce Medicaid Fraud  
S.B. 8

- General focus on reducing unnecessary or inappropriate services through THHSC OIG
- THHSC must:
  - Develop regional managed transportation delivery model
  - Strengthen ambulance provider policies
- Strengthens Medicaid exclusions:
  - Provider ineligible if court determines committed Medicaid fraud
  - Permanent exclusions for certain injuries and other program violations

Medicaid  
S.B. 1623

- Permits provider participation assessment in TX/MEX border counties
- Districts are county subdivisions so no new governmental entity solely to impose assessment
- Can impose assessment on nonpublic hospitals’ net patient revenue
- Can fund
  - 1115 Waiver payments
  - Indigent programs
  - District’s admin expenses

The Number of Provider Taxes by State, FY 2013

[Map showing the number of provider taxes by state, FY 2013]
Medicaid in the ER
H.B. 3426 by Rep. Lavender

- Would prohibit State from paying hospitals for non-emergency medical services
- THA opposed:
  - Difficult to stop treatment mid-stream
  - EMTALA
  - MCO responsibility
  - Prior reductions
- Did not pass

Medicaid Reform
S.B. 7

- Establishes a process to move Medicaid enrollees and nursing facility services into managed care
- Prohibits Medicaid MCOs from implementing significant, non-negotiated, across-the-board provider rate reductions without State approval/action
- Potentially preventable event report disclosure permissive after one year; will be redacted
- Prohibits Medicaid expansion without legislative approval
Medicaid Expansion
Increase Coverage under the PPACA

- Hospitals agreed to $155B in cuts in Medicare and Medicaid over 10 years
- In return for more insured patients
  - Marketplaces with subsidies to make affordable
  - Medicaid expansion to 133% of FPL ($30,657 for a family of 4)
  - Coverage mandate
  - Insurance reforms (lifetime limits, preexisting conditions, medical loss ratios, etc.)
  - Movement to quality-based payment system
- Full expansion financed by $500B in cuts to hospitals, home health, nursing homes and Medicare advantage plans

THA Supports Medicaid Expansion

www.GetTexasCovered.com
Medicaid Expansion
Debate During 2013 Session

- Is Medicaid “broken” and how to fix it?
  - Desire for more flexibility for states in admin of Medicaid
- Value of Medicaid
  - People with coverage have better health outcomes and are less expensive
  - Employees are healthier and more productive
- How to expand coverage to adults under 100% of FPL ($30k) and address subsidy doughnut hole
- What is the potential “Texas” solution?
- Growth of HHS portion of the budget
  - 32% is HHS; 42% is Education

Impact of “Texas Solution” in Medicaid
Debate on Expansion of Coverage

- Employers would save up to $448M in penalties. (Source: Jackson Hewitt Tax Service)
- Texas would draw down average of $6B in federal funds each year during 2014-2017. (Source: THHSC)
- $300.8B (in 2012 dollars) in output = cumulative net benefit to Texas economy over 10 years. (Source: The Perryman Group)
- Market-based approach for expansion pop and enrollment of current Medicaid eligibles is 24% more efficient in use of public resources than traditional Medicaid. (Source: The Perryman Group)
Medicaid Expansion Legislation

- H.B. 3791: Rep. John Zerwas (R-Fulshear) sought to use federal funding intended for Medicaid expansion to create subsidies that increase private market access to those who do not receive health coverage benefits through an employer
  - Bill did not make it out of House Calendars Committee
  - NOT a Medicaid expansion bill
  - Requests federal flexibility to use federal funds for Texas Medicaid program in a block grant
  - If unsuccessful, requires development of a new, cost-neutral program to provide low-income individuals with premium assistance in private market using federal matching funds, premium tax revenue and general revenue offsets
- Leach Amendment to S.B. 7: only provide Medicaid to those eligible prior to ACA implementation

Payment Issues for Hospitals
Payment Issues
Health Care Pricing Transparency

- Multiple bills filed on hospital and other health care provider pricing practices (H.B. 2700, H.B. 2838, H.B. 3020)
  - Hospitals and other providers would have to provide patients with estimate of amount to be paid by patients' health plan for services and copayment and coinsurance amounts owed by patient
- THA testified in opposition to legislation
- Bills died; issue likely will resurface next legislative session

Hospital Regulation

- Increased interest in creating level of care designations
  - H.B. 15: Requires HHSC and DSHS to develop/assign level of care designations to each hospital for neonatal and maternal services
    - Must be designated to receive Medicaid payment
    - Neonatal designation required by 08/31/17
    - Maternal designation required by 08/31/19
  - Creates Perinatal Advisory Council to recommend criteria for designation and includes 4 specific hospital representatives
Hospital Regulation (cont’d)

- S.B. 1177: Would have established designation levels for ST segment elevation myocardial infarction (STEMI) facilities
- Opposed by THA and Texas Chapter of the American College of Cardiology
- Died in House

Hospital Regulation (cont’d)

- Due to media attention, legislation filed to ensure rape victim can get forensic medical exam at every emergency room
- S.B. 1191 requires hospitals to provide sexual assault victim with name/location of any regional hospital designated to treat rape victims or treat victim upon request
  - Person performing rape kit exam must have been trained in forensic evidence collection
  - Hospitals must have plan to ensure staff is trained
  - Includes exemption for treatment of minors if affiliated with a Children’s Advocacy Center or its multidisciplinary team
  - Effective Sept. 1, 2013
Hospital Regulation (cont’d)

- Efforts to increase hospital employee and patient safety were successful
  - Hospitals now authorized to access criminal history information for students in clinical training, contract employees and volunteers at hospitals
  - General hospitals must check criminal history information on unlicensed personnel who want to work on mental health units (H.B. 729)
  - Hospital direct care providers, including students and interns, must wear photo identification badge during patient encounters unless precluded by isolation/sterilization protocols
  - Includes specific elements required to be listed on badge (S.B. 945)

Workforce
Nurse Licensure and Practice (cont’d)

After a decade of fighting over scope of practice issues, APRNs and PAs, physician and nursing associations reached a compromise regarding APRNs’ and PAs’ prescriptive authority that will ensure greater access to care across Texas.

- S.B. 406
  - Allows physicians, APRNs, and PAs to develop/sign a “prescriptive authority agreement” in which physician delegates more or less authority to each APRN/PA under his or her supervision
  - Removes site-based restrictions
  - Increases number of APRNs/PAs a physician may delegate to from four to seven
  - Authorizes prescribing/ordering of Schedule II controlled substances in hospital-based practice under certain conditions
**Workforce**

*Nurse Licensure and Practice*

- **S.B. 1058:** Authorizes changes to Nursing Practice Act including criminal history check on all persons enrolled in RN or LVN programs and mandatory continuing education on jurisprudence and ethics (Most provisions effective 9/1/13)
- **H.B. 2099:** Requires THECB to study feasibility of electronic common application form for nursing programs and establishes nurse faculty loan repayment program (Effective 9/1/13)
- **H.B. 1829:** Brought by National Nurses United union to require lift teams and lifting equipment. Significantly scaled back by THA when filed – required hospitals and nursing homes to expand nurse training in safe patient handling to all direct care staff. (Died in Senate)
- **H.B. 2880:** Filed at request of National Nurses United union for the fourth time; would have established specific nurse-to-patient ratios for units in hospitals much like California. (Died in House)

---

**Emergency Care/Trauma**

- **H.B. 104**
  - Put moratorium on collecting fees under Driver Responsibility Program
  - Made restoration of the program optional
  - Bill died
- **H.B. 705**
  - Enhanced penalty (3rd degree felony) for assault against emergency room nurse/other ER personnel if person knows nurse or other personnel is emergency room personnel
  - Effective 9/1/13
Mental Health

THA's Policy Priorities that Passed
- S.B. 1842: Delegation to RN of evaluation of patient in restraint or seclusion – currently only physician can perform
- S.B. 718: Clarifies that patients 16 and older can consent to treatment
- S.B. 646: Changes to Assisted Outpatient Treatment statute
- Increased Funding: $298M (AF)

THA Policy Priorities that Did Not Pass
- S.B. 937/H.B. 245: Would have permitted physician to hold a person for 4 hours pending emergency detention or order of protective custody or initiate a 24-hour emergency detention
- H.B. 3731: Would have required hearings on involuntary medication orders to occur on same date as commitment hearings to avoid unproductive hospital days
Women’s Health Care
Abortion

General Session saw no abortion bills debated by full house or senate, THEN came Special Sessions #1 and #2.

- H.B. 2 has four pieces:
  - “Fetal pain” = no abortion after 20 weeks – exemption for severe fetal abnormality and life of mother
  - Clinics must meet ASC requirements
  - Additional restrictions on provision of mifepristone (RU-486)
  - Abortion physicians must have active admitting privileges at hospital within 30 miles

Until the Next Session . . .

- 2015 Sunset Review of the HHS Enterprise
  - Sunset Advisory Commission
  - Bills on HHSC and DSHS

- HHSC Rulemaking
  - DSH Rule
  - Transformation Waiver
  - Cost Containment Rules

- THA Ad Hoc Workgroup on Future Funding and Payment Options for Hospital Services under Texas Medicaid Funding

- Interim Studies by Substantive Committees
Always on the Horizon

2014 Elections
- Redistricting of Congress, House, Senate could affect Election Dates (again)
- Primary Election is Mar. 4, 2014
  - Filing Deadline is Dec. 9, 2013
  - Filing Starts Nov. 9, 2013
- General Election is Nov. 4, 2014
- Next Legislative Session starts Jan. 14, 2015

And We’re Off!

2014 Elections
1. Perry won’t run →
2. Enter Greg Abbott + Wendy Davis?
3. Dewhurst v. Patterson v. Staples v. Dan Patrick
4. Openings in Comptroller, OAG, Agriculture, Land Commissioner…
5. Creates Openings in State House & Senate seats
THA Resources

End of Session Summary:
www.THA.org

Questions?

Stacy E. Wilson, J.D.
Associate General Counsel
512/465-1027
swilson@tha.org
www.THA.org