



Kentucky
Hospital
Association

Working together to form . . .

ONE Powerful Voice

Welcome to
**HOSPITAL DAY AT THE
LEGISLATURE**
Please join us for the
LEGISLATIVE LUNCHEON

CAPITOL ANNEX BUILDING

**12:00 PM - ROOM 154
FRANKFORT, KENTUCKY**



Hospital Day at the Legislature

February 20, 2020 • Frankfort, Kentucky

7:30 AM

Breakfast and registration

8:00 – 9:00 AM

Nina Eisner, KHA Legislative Chair

Senator Ralph Alvarado, Chair, Health and Welfare Committee

Representative Kim Moser, Co-Chair, Health,
Welfare and Family Services Committee

9:00 AM

Eric Friedlander, Deputy Secretary, Cabinet for
Health and Family Services

9:20 AM

Lisa Lee, Commissioner
Department of Medicaid Services

9:40 AM

Brian Brezosky, KHA Senior Vice President

Jim Musser, KHA Vice President

10:15 AM

Adjourn

*Continuous shuttle service provided from
10:15 AM – 3:00 PM to and from
Frankfort Country Club and the Kentucky State Capitol.*

DIRECTIONS TO THE CAPITOL

Turn left from Frankfort County Club parking lot onto Duntreath Street

Turn left onto Country Lane

Turn left on US 421

Turn right on KY-676 (East-West Connector)

Turn right on KY-420 (Old Lawrenceburg Road)

Parking garage on your left about 1 mile



LEGISLATIVE TALKING POINTS

KHA PRIORITY BILLS

■ REDUCE NUMBER OF MEDICAID MCOS

SB 30 – Please ask your State Representative to **vote YES on SB 30**.

SB 30, sponsored by **Senator Steve Meredith**, passed the Senate 29-7 and has moved to the House. SB 30 would require the Cabinet for Health and Family Services to limit the number of Medicaid managed care organizations (MCOs) they contract with to no more than three. KHA has long supported a reduction in the number of MCOs to reduce provider burden and administrative costs. **Please explain the burden on your hospital in having to hire more staff to keep up with five different sets of rules for each of the five MCOs around such things as preauthorization, claims processing and denials management.** Explain that these dollars could be better spent on taking care of patients. Talking points are below:

- Data produced by the Medicaid Department and an external review organization shows significant differences between the five MCOs in denial rates, grievances and appeals, contract compliance and quality.
- All of the MCOs receive the same capitation rates; therefore, the state would pay the same amount in total capitation payments if the number of MCOs is reduced. The commonwealth should reduce the number of MCOs by contracting only with those with the best historical performance.
- Limiting the number of MCOs would reduce “red tape” and administrative burden on providers as well as costs to the state by eliminating redundant payments to five MCOs for the same core functions.

■ MEDICAID PHARMACY CARVE-OUT

SB 50 – Please ask your State Senator and House Member to **Vote NO on SB 50 in its current form**. Instead, **ask them to SUPPORT the COALITION ALTERNATIVE to implement PBM REFORM**.

SB 50, sponsored by **Senator Max Wise**, would implement a “partial” carve out of the \$1.6 billion pharmacy program from Medicaid managed care. All pharmacy claims, except 340B, would move back to fee-for-service payment while 340B would remain under managed care. SB 50 passed the Senate Health and Welfare Committee and is awaiting a full Senate vote.

No other state in the country has implemented this type of partial carve out, and no in-state or national 340B expert has indicated it can be implemented.

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MEDICAID PHARMACY CARVE-OUT - CONTINUED

SB 50, in its current form, would likely end the ability for 340B hospitals to use contract pharmacies since it would be virtually impossible for a pharmacy to know when an MCO-covered patient presents for their medication whether the medication would qualify as 340B – and thus be billed to the MCO – or whether it doesn't qualify for 340B and must be billed to fee-for-service (FFS) Medicaid.

- **Coalition to Protect Rural Healthcare PBM Reform Alternative**

A carve out is the wrong approach when what is really needed is pharmacy benefit manager (PBM) reform. A PBM Reform alternative has been offered by the Coalition to Protect Rural Healthcare – a group comprised of KHA, the Kentucky Primary Care Association and the Kentucky Association of Health Plans. The coalition alternative offers solutions to solve the issues raised by independent pharmacies to stop egregious practices of PBMs while not harming 340B-covered entities. They include:

- Raising payments to rural, independent pharmacies
- Prohibiting PBMs from using “Spread-pricing” and requiring the use of “pass through pricing” – meaning they must pay the money they receive from MCOs for pharmacy services to pharmacies
- Prohibiting PBMs from imposing ANY FEES to retrospectively reduce payment to a pharmacy after the claim is paid (except for fraud or payment errors)

- **Senator Wise's Alternative**

Senator Wise is working on possible changes to SB 50 that would require the Cabinet for Health & Family Services to contract with a **single PBM**, which would administer the pharmacy benefit for fee-for-service (FFS) Medicaid and each of the MCOs. The co-mingling of claims administration for both FFS and managed care through one PBM could result in managed care reimbursement at FFS levels for 340B-covered entities which would **eliminate ALL 340B savings. KHA estimates safety net hospitals stand to lose \$200 million in Medicaid savings ANNUALLY which is being used to serve their patients.** KHA has offered suggested amendments to protect 340B-covered entities and cannot support the single PBM alternative unless all of KHA's suggested amendments are adopted. **Hospitals that are 340B-covered entities should specifically discuss the many programs being supported by your 340B savings which would have to be discontinued if SB 50 or a single PBM that could pay FFS rates to 340B entities passes.**

- **Please ask your Senator and State Representative to support the PBM Reform alternative offered by the Coalition to Protect Rural Healthcare as the best way to address the issues raised by independent pharma-**

cies while protecting 340B entities. Please stress that the single PBM approach (Senator Wise's alternative) must contain ALL of KHA's suggested amendments or else ALL 340B savings could be put in jeopardy!

■ SURPRISE BILLING

SB 150 (Alvarado) is legislation to address surprise billing – when an insured patient receives unanticipated out-of-network care from a nonparticipating provider at an in-network hospital. The bill would ensure patients are held harmless at their in-network rate. KHA, the Kentucky Medical Association and the Kentucky Association of Health Plans have been meeting for several weeks and working with Senator Alvarado on the legislation in order to reach a consensus. The approach taken in SB 150 is in line with KHA's position to use market forces to address out-of-network payment, rather than a government set rate. Under SB 150, an insurer would pay their median in-network rate to the out-of-network provider; however, the provider would have the ability to dispute that payment. First, the parties would try to reach a settlement through negotiation, and if that was unsuccessful, it would move to independent dispute resolution (IDR). The IDR would be handled by an independent reviewer (through the Department of Insurance), who would consider a variety of information and select the rate to be paid to the out-of-network provider. The bill currently contains a threshold of \$675 in total charges to be considered under the IDR process; with costs of that process split between the parties. Multiple charges may be bundled in a single IDR. KHA continues to work with Senator Alvarado and has offered suggestions to improve the bill. SB 150 passed the Senate Health & Welfare Committee and is awaiting a full Senate vote.

KHA supports SB 150 with additional changes to **(1)** define the median in-network rate, including when there is insufficient information because the insurer fails to have an adequate provider network; **(2)** assure all payments, regardless of the dollar amount, have the opportunity to be settled through negotiation, and **(3)** allow the IDR to select a rate in between the provider's charge and the insurer's median in-network rate as the final payment.

■ SMOKE FREE RELATED LEGISLATION

KHA supports each of the following bills as they would reduce youth smoking and, particularly, vaping (the most commonly used form of tobacco among youth). Each of these is in the House.

Please ask your State Representative to **VOTE YES on the following bills:**

- **SB 56 (Alvarado)** raises the age to 21 for legal purchase of tobacco, vaping and other nicotine products. SB 56 passed the Senate 28-10 and is in the House Judiciary Committee.
- **HB 32 (Miller)** would tax vaping products. HB 32 passed the House Appropriations and Revenue Committee and is awaiting a full House vote.

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SMOKE FREE RELATED LEGISLATION - CONTINUED

- **HB 69 (Miller)** would require sellers of vaping products to pay a \$500 annual fee and would prohibit sales to anyone under age 18. HB 69 passed out of the House Licensing and Occupations Committee and is awaiting a House Floor vote.

RURAL HOSPITAL LOAN PROGRAM

HB 387 (Bentley, Osborne) would establish a loan program for rural hospitals located in a county with a population less than 50,000. There are 63 Kentucky hospitals that would meet this criteria. This legislation could help provide needed financial assistance to struggling rural hospitals. HB 387 has been posted for a vote in the House Appropriations and Revenue Committee. **Please ask your State Representative to vote YES on HB 387.**

ALCOHOL AND OPIOID USE DISORDER TREATMENT

HB 389 (Moser) would prohibit utilization review by insurers or Medicaid MCOs for drugs to treat alcohol or opioid use disorder. KHA supports this legislation because it would remove a potential barrier to treatment, particularly since the utilization review process can delay access to care. HB 389 has been assigned to the House Banking and Insurance Committee. **Please ask your State Representative to VOTE YES on SB 389.**

OTHER OPPOSITION BILLS

EXEMPT BIRTHING CENTERS FROM CERTIFICATE OF NEED (CON)

HB 311 (Nemes) would exempt birthing centers from CON and establish a committee, primarily of midwives, to re-write Kentucky's birthing center licensure regulations. Kentucky should not loosen its oversight by repealing CON or re-writing its licensure standards for birthing centers. HB 311 has been assigned to the House Health & Family Services Committee. **Please tell your State Representative to OPPOSE HB 311.**

Reasons to Oppose:

- The Kentucky CON program has minimal, but important, standards for freestanding birthing centers.
- Birthing center CON applications qualify for non-substantive review – an expedited process where the applicant is required to demonstrate a need in the community for the facility; however, the process gives a presumption of need to these applications. Therefore, unless there is substantial evidence the facility is not needed, the application would be approved.

- Demonstrating need is vitally important to keeping Kentucky's health care costs low, since two out of every three births are covered by Medicaid, which is 100% funded by federal and state tax dollars.
- The Kentucky CON program has been effective at keeping costs low for Kentuckians, as multiple studies show Kentucky's hospital costs are one of the lowest in the nation.
- The CON program assures adequate geographic and financial access to services for Kentuckians. Hospitals treat all patients, including Medicaid (which pays below cost) and the uninsured; CON helps assure that same access is afforded by services seeking to compete with hospitals.
- The CON program protects the health of mothers and babies. Today, more babies are born to older women, making those deliveries higher risk where hospital resources may be needed at a moment's notice, and one in every 43 babies born in Kentucky have neonatal abstinence syndrome (NAS), where most experience withdrawal, which requires intensive monitoring and care in a hospital. Kentucky has one of the highest rates of NAS in the nation. Birthing centers are not equipped to provide these services.
- Licensing standards for birthing centers have been in place for many years; however, HB 311 would establish a committee of midwives – including non-nurse midwives (certified professional midwives licensed in 2019 who are not supervised by physicians) – to re-write the standards.

■ FETAL REMAINS

HB 370 (Tate) would require hospitals to inform parents when a miscarriage occurs about their right to determine the disposition of fetal remains. The bill establishes a class D felony for failure to properly dispose of such remains. KHA is opposed to this legislation as it would increase costs and potentially subject hospital personnel and parents to criminal penalties. HB 370 has been posted for a vote in the House Judiciary Committee. **Please ask your State Representative to OPPOSE HB 370.**

■ LEGALIZE MARIJUANA

HB 136 (Nemes) would legalize medical marijuana. HB 136 passed the House Judiciary Committee and is awaiting a House floor vote. **KHA opposes this bill** as clinical researchers have expressed there is no scientific evidence to support the benefits of medical marijuana as a standard of care; and in the absence of such evidence, legalization could exacerbate the state's existing substance abuse problems.

For further information about this legislation and KHA's Government Relations, please contact:

Nancy Galvagni, KHA President, at ngalvagni@kyha.com or 502-426-6220

Earn ACHE Face-to-Face Credits This Afternoon

**EMERGENCY DEPARTMENT SERVICE STANDARDS:
*Best Practice Approach for SANE***

ACHE 1.5 Face-to-Face Credits

February 20, 2020 – 2:00-3:30 PM

**Frankfort Country Club - 101 Duntreath Street
Frankfort, KY 40601**

***Held in conjunction with
KHA's Hospital Day at the Legislature.***



REGISTRATION FEES:

\$35 ACHE members

\$70 Non-members

Students are free

On-site registration available

SAVE THE DATE

Working together to form . . .

ONE Powerful Voice

KHA 91st Annual Convention

May 21-22, 2020

**Northern Kentucky
Convention Center**

