2022 Legislative Wrap Up

California Hospital Association

Welcome

Bob Mion

Director, Publishing & Education

Questions and Continuing Education

California Hospital Association

Questions

At any time, submit your questions in the Q/A box at the bottom of your screen, press enter. We will take questions throughout the presentation.

CEs

Click the link in the email you will receive following the webinar to attest to your participation and claim your CEs.

Presenters

California Hospital Association

Kathryn Scott – Kathryn serves as the association’s head lobbyist in Sacramento and directs the California lobbying team. Previously, Kathryn was a partner at Capitol Partners, a Sacramento lobbying firm that she founded over ten years ago. She has over 20 years of experience in public policy and served as a contract lobbyist to CHA for 15 years.

Gideon Baum – Gideon Baum is CHA’s lead on labor and human resources issues. Prior to CHA, Mr. Baum served as Staff Director for the Senate Committee on Labor, Public Employment and Retirement and served as a Committee Consultant with the State Senate for nearly 15 years.

Jackie Garman – Jacquelyn Garman, JD, is Vice President, legal counsel for California Hospital Association. Ms. Garman oversees and coordinates the association’s legal representation on litigation critical to the hospital industry and assists with the legal impact of legislation and regulations on hospitals.

Presenters

Kirsten Barlow – Kirsten is Vice President, Policy for the California Hospital Association, and manages behavioral health policy issues. Prior to joining CHA Kirsten had established an independent consulting practice providing policy, finance, and strategic expertise to clients.

Kiyomi Burchill – Kiyomi Burchill is Group Vice President, Policy, at the California Hospital Association. In this role, she leads CHA's policy team in developing and executing priority policy initiatives. Before joining CHA, Kiyomi spent over a decade in California state government in both the Legislature and the California Health and Human Services Agency.

Legislative Highlights and CHA Sponsored Bill

Kathryn Scott

Senior Vice President, State Relations and Advocacy

Highlights of the 2022 Legislative Session

California Hospital Association

Several high impact legislative proposals:

- **Single Payer**
- Health Care Consolidation
- Workers Compensation Presumption
- Office of Health Care Affordability
- Significant One-Time Budget Funding
- Hospital Seismic Reform
- Pressure of 10 local $25 minimum wages

Unusually Unstable Political Environment

California Hospital Association

Political Pressures:

- Incredible numbers of electeds leaving office in 2022
- Potential Speakership change in June
- Changing Committee Chairs
- Carry over to 2023
- Over 25% change over in the legislature

SB 979 (Dodd, D-Napa)

California Hospital Association

- Expands the state's authority to quickly respond and compel insurers to authorize critical health care services during a declared state of emergency
- Includes the ability for Department of Managed Health Care(DMHC) and California Department of Insurance(CDI) to extend the time that prior authorizations, precertification, and referrals remain valid
- Permits DMHC and CDI to issue guidance through all-plan letters

Questions for Kat

If you have questions for Kat, please enter them in the Q & A box. (Usually located at the bottom of your screen.)

Retention Pay and COVID Leave

Gideon Baum

Vice President, Policy

SB 184 (Budget)

California Hospital Association

- State-funded program (nearly $1.1 Billion)
- Full-time eligible employees will receive up to $1,500 ($1,000 base retention payment with a $500 state retention payment match)
- Part-time eligible employees will receive up to $1,250 ($750 base retention payment with a $500 state retention payment match)
- Eligible physicians will receive up to $1,000 (not eligible for state match)
- State can REDUCE payments on a pro rata basis

What types of workers are eligible for retention payments?

California Hospital Association

- Full-time employees who work in-person at a covered entity for 400+ hours
- Part-time employees who work in-person at a covered entity for 100+ hours
- Physicians (no hourly requirement)

- **THIS INCLUDES CONTRACTORS…**
  … but you only need to worry about the folks on your payroll

Retention Payment Timeline

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- **October 21, 2022 to December 21, 2022**: Covered entities must register with DHCS during this time period in order to be qualified and receive an application
- **November 29, 2022 to December 30, 2022**: Covered entities will receive a link to an application, applicants are encouraged to apply early
- **December 30, 2022:** Retention payment application is due
- **January 2023**: DHCS expects to issue payments during this time

AB 152 (Budget): COVID-19 Supplemental Paid Leave

California Hospital Association

- In February, the Governor signed SB 114. SB 114 created a new pool of COVID-19 paid leave until September 30, 2022
- AB 152 extends the same pool of COVID-19 paid leave to December 31, 2022
- Wait and See Approach? Or the beginning of the Post-COVID Era?

- **Take home message**: Stay tuned.

Additional Bills Impacting Hospitals

Jackie Garman

Vice President, Legal Counsel

AB 1278 (Nazarian, D-North Hollywood): Physician Payments Notice

California Hospital Association

- Physician must provide, at patient's initial office visit, a written or electronic notice of the CMS Open Payments database
  - Applies to MBC- and OMBC-licensed physicians except those who work in hospital ED
  - Written notice must be signed and dated by patient/representative
  - Must be kept in patient record with a copy given to patient/representative
- Physician must post a specified notice of the Open Payments database in each location where they practice and in area likely to be seen by all who enter the office
- Starting 1/1/2024, requires physician to conspicuously post notice of the Open Payments database on any website for the physician's practice
- If physician is employed by a health care employer, the employer is required to comply with these posting requirements

Adds Article 6.5 to Chapter 1 of Division 2 of the Business & Professions Code

AB 2626 (Calderon, D-Whittier): Licensee Discipline: Abortion

California Hospital Association

- Applies to Medical Board, Osteopathic Medical Board, Board of Registered Nursing, and Physician Assistant Board
- Prohibits suspending or revoking the certificate, or denying an application for licensure, of a health care provider solely for performing an abortion in accordance with licensee's practice act and California's Reproductive Privacy Act
- Prohibits boards from disciplining licensees if they are disciplined or convicted in another state in which they are licensed or certified solely for performing abortions in that state

Business and Professions Code: amends §§2253 and 3502.4; adds §§2746.6 and 2761.1—URGENCY LEGISLATION EFFECTIVE 9/27/2022

SB 988 (Hueso, D-San Diego): Fixing Ryan's Law

California Hospital Association

- Repeals requirement that health facilities comply with drug and medication requirements applicable to Schedule II, III, and IV drugs when permitting patient use of medicinal cannabis
- Deletes provision requiring health facility to "reasonably restrict the manner in which a patient stores and uses medicinal cannabis" as specified
- Health facility must:
  - Require patient or primary caregiver to be responsible for acquiring, retrieving, administering, and removing medicinal cannabis;
  - Require secure storage at all times in a locked container in patient's room or other designated area, or with patient's primary caregiver; and
  - Prohibit health care professionals and facility staff from administering or retrieving medicinal cannabis from storage

Health & Safety Code: amends §§1649.1, 1649.2, 1649.4, 1649.5; repeals and adds §1649.3

SB 988 (Hueso, D-San Diego): Fixing Ryan's Law

California Hospital Association

- Upon discharge, any remaining cannabis is to be removed by patient or patient's primary caregiver
- If patient/patient's caregiver do not remove the cannabis, it is to be stored in a locked container until it is disposed of in accordance with health facility policy and procedure governing medicinal cannabis
- Enforcement by CDPH

Health & Safety Code: amends §§1649.1, 1649.2, 1649.4, 1649.5; repeals and adds §1649.3

SB 1419 (Becker, D-Menlo Park): Health Information

California Hospital Association

- Expands current requirement that health care professionals provide the results of clinical laboratory tests to also include **imaging scans**
- Expands existing prohibition on the ability of a representative of a minor to inspect or obtain copies of the minor's patient records to include **clinical notes**
- Prohibits access by the representative of a minor to records relating to medical services for which the minor is authorized to consent under existing law
- Clarifies that current law restricting the disclosure of HIV test results by electronic means does not prevent the disclosure of HIV test results to a patient living with HIV by secure internet website or other electronic means if the patient has previously been informed about the results of a positive HIV test

Amends §§123115 and 123148, and adds §1374.196 to Health & Safety Code; adds §10133.12 to Insurance Code

SB 1419 (Becker, D-Menlo Park): Health Information

California Hospital Association

- Clarifies that current law restricting disclosure by electronic means of test results relating to routinely processed tissues that reveal a malignancy only applies to test results that reveal a new or recurrent malignancy.
  - Also includes imaging scans
- Requires health plans and health insurers to establish and maintain specified application programming interfaces to facilitate patient and provider access to health information (beginning 1/1/2024).

Amends §§123115 and 123148, and adds §1374.196 to Health & Safety Code; adds §10133.12 to Insurance Code

AB 2338 (Gipson, D-Carson): Health Care Decisionmakers and Surrogates

California Hospital Association

- Allows patient to designate a **surrogate** by personally informing a **designee of the health care facility** caring for the patient
  - This designated surrogate takes preference over an agent under a power of attorney for health care
- Establishes an order of priority for who may make health care decisions for a patient who lacks capacity. In descending order of priority:
  - Patient's surrogate to make health care decisions
  - Patient's agent pursuant to advance health care directive or health care power of attorney
  - Patient's conservator or guardian having the authority to make health care decisions

Probate Code: amend §4711, add §4712

AB 2338 (Gipson, D-Carson): Health Care Decisionmakers and Surrogates

California Hospital Association

- If no legally recognized decisionmaker, health care provider/designee of the health care facility caring for the patient may choose a surrogate from among the following:
  - Spouse or domestic partner
  - Child
  - Parent
  - Sibling
  - Grandchild
  - Relative or close personal friend
- Qualifications for surrogate:
  - Adult
  - Familiar with patient's personal values and beliefs to extent known
  - Reasonably available and willing to serve

Probate Code: amend §4711, add §4712

SB 864 (Melendez, R-Lake Elsinore): GACHs: Drug Screening (Tyler's Law)

Requires a GACH treating a patient who is receiving a "urine drug screening" to include testing for fentanyl in the screening.

- "Urine drug screening": chemical analysis testing for the presence of multiple drugs, including cocaine, opioids, and phensyclidine
- Requirement in effect only until 1/1/2028, and is then repealed

Adds and repeals Health & Safety Code §1259.3

AB 2091 (Bonta, D-Alameda): Disclosure of Information: Reproductive Health

California Hospital Association

- Addresses subpoenas/requests based on either:
  - Another state's laws that interfere with a person's rights as set forth in CA's Reproductive Privacy Act, or
  - A "foreign penal civil action", a civil action authorized by the law of a state other than CA in which the sole purpose is to punish an offense against the public justice of that state
- Prohibits health care provider, health care service plan, contractor, or employer:
  - From releasing medical information related to an individual seeking or obtaining an abortion
  - From releasing medical information related to an individual seeking or obtaining an abortion unless release is pursuant to a subpoena not otherwise prohibited
  - Possible fines for insurer violation

Add §56.108 to Civil Code; amends Code Civ. Proc. §§2029.200, 2029.300, and 2029.350; amend H & S Code §123466; amend Ins. Code §791.29; amend Penal Code §3408—URGENCY LEGISLATION effective 9/27/2022

AB 2091 (Bonta, D-Alameda): Disclosure of Information: Reproductive Health

California Hospital Association

- Prohibits compelling a person to identify, provide information that would identify, or that is related to an individual who sought or obtained an abortion
  - Applies to state, county, city, or other local criminal, administrative, legislative, or other proceeding
- Prohibits prison staff from disclosing identifying medical information related to incarcerated person's right to seek and obtain an abortion
- Prohibits Superior Court or a CA-licensed attorney from issuing a subpoena based on a foreign subpoena that:
  - Relates to a foreign penal civil action and would require disclosure of information related to sensitive services (Ins. Code §791.02); or
  - That is based on a violation of another state's laws that interfere with a person's right to allow a child to receive gender-affirming health care/mental health care (Welf. & Inst. Code §16010.2)

Add §56.108 to Civil Code; amends Code Civ. Proc. §§2029.200, 2029.300, and 2029.350; amend H & S Code §123466; amend Ins. Code §791.29; amend Penal Code §3408—URGENCY LEGISLATION effective 9/27/2022

Behavioral Health: Key Legislative Actions

Kirsten Barlow

Vice President, Policy

Interoperability Opportunities

California Hospital Association

- AB 1394 (Levine) Suicide Screening
- AB 2242 (Santiago) LPS Care Coordination
- AB 2275 (Wood) LPS Due Process
- SB 929 (Eggman) LPS Oversight
- SB 1338 (Umberg) CARE Court
- AB 988 (Bauer-Kahan) Suicide Prevention Lifeline
- Child & Youth Behavioral Health Initiative

AB 1394 (Irwin, D-Thousand Oaks)

California Hospital Association

- Requires general acute care hospitals to have suicide prevention policies, procedures, and routine screening for patients ages 12 and older, by Jan. 1, 2025.
- CHA worked with the author to ensure hospitals would be able to meet these requirements and that the requirements are in accord with existing Joint Commission guidance on suicide screening.

AB 2242 (Santiago, D-Los Angeles)

California Hospital Association

- Requires health care payers to provide individuals being released from involuntary psychiatric holds with a care coordination plan and first follow-up appointment.

- Department of Health Care Services is required to include CHA representatives in a stakeholder process to develop a model care coordination plan to be used by health care payers in the future.

- CHA worked with the author to ensure the bill holds managed care plans, not hospitals, responsible for carrying out care coordination responsibilities for their enrollees.

AB 2275 (Wood, D-Santa Rosa)

California Hospital Association

- Specifies that the start of a 72-hour involuntary psychiatric hold begins **when a person is first detained**
- Conforms California statutes to case law entitling individuals to a certification hearing and contact with Patients' Rights Advocate if they are not released from an involuntary detention within 7 days
- CHA worked closely with the author, consumer rights advocates, and counties on earlier versions of the bill, which would have established new data reporting requirements for hospitals

SB 929 (Eggman, D-Stockton)

California Hospital Association

- Increases state oversight of involuntary psychiatric holds and conservatorships by expanding the scope and content of DHCS' annual report on the Lanterman-Petris-Short (LPS) Act
- Expands quarterly reports to be provided to counties, which counties will submit to DHCS
  - # involuntarily detained **or** admitted
  - patient demographics
  - clinical outcomes
  - services provided
  - waiting periods
- CHA will work with DHCS and counties to ensure smooth implementation

SB 1338 (Umberg, D-Santa Ana)

California Hospital Association

- Community Assistance, Recovery, and Empowerment (CARE) Court program
- First 7 counties:
  - Glenn
  - Orange
  - Riverside
  - San Diego
  - Stanislaus
  - Tuolumne
  - San Francisco
- Hospitals are authorized to petition a civil court to begin CARE Court proceedings to order counties to evaluate and treat adults with a psychotic disorder who are unlikely to survive safely in the community and are substantially deteriorating

For more information: https://www.chhs.ca.gov/care-act/

AB 988 (Bauer-Kahan, D-Orinda)

California Hospital Association

- Follows passage of federal 988 legislation
- AB 988 is “The Miles Hall Lifeline and Suicide Prevention Act”
- Dialing 988 intended to promote a non-police response to calls for help when someone is in a mental health emergency
- Dedicated revenue source $0.08 per phone line per month for the first two years. Lifetime cap of $0.30 per line per month
- Office of Emergency Services (OES) will create a technical advisory board to inform the integration of 988 and 911
- Health and Human Services Agency (HHS) must develop a 5-year implementation plan for 988
- Governor’s signing message directs CA Health & Human Services Agency to propose cleanup language as part of the 2023-24 Governor's Budget to reduce funding restrictions in the bill

Child & Youth Behavioral Health Initiative

California Hospital Association

- Announced in July 2021 with a $4.4 billion investment
- 22-23 State Budget included $290 million for Youth Suicide Prevention and Behavioral Health
- Eleven components, including but not limited to:
  - CalHOPE Student Services for school communities with training, support, video resources
  - HCAI loan repayment and scholarship programs for psychiatrists, licensed or certified providers, substance use disorder counselors, social workers, marriage and family therapists, others.
  - Create a BH Coach workforce to fill unmet behavioral health needs for children and youth
  - Behavioral Health Virtual Services Platform for children, youth, and families can use
  - A statewide eConsult system to ensure pediatricians and primary care providers in the state have consultation support from licensed behavioral health professionals
  - Many stakeholder groups, listening sessions to hear directly from youth and families

For more information: https://www.chhs.ca.gov/home/children-and-youth-behavioral-health-initiative/

2030 Seismic Compliance Reporting

Kiyomi Burchill

Group Vice President, Policy

AB 1882 (Rivas, D-Hollister)

California Hospital Association

- Sponsored by the California Labor Federation
- CHA took an Oppose Unless Amended position on the bill as introduced and was only able to get a Neutral position after the author took significant amendments
- Specifically, CHA was able to secure amendments that:
  - Removed annual attestations by hospital boards of directors that they are aware of the 2030 deadline
  - Substantially streamlined the reporting requirements
  - Replaced erroneous descriptions of seismic building ratings, instead aligned the descriptions of buildings that have not yet met the 2030 seismic requirements with existing state regulations– in both public notices and communications to HCAI
- CHA seeking clarification on implementation by HCAI, key components of bill language for hospitals to begin planning on next slides

AB 1882 (Rivas, D-Hollister)

California Hospital Association

- Provisions apply to hospitals that have not yet met the 2030 requirements (Health and Safety Code Section 130065 and associated regulations in Title 24 of the California Code of Regulations), for those buildings:
  - Structural Performance Category-1 (SPC-1) or SPC-2
  - Nonstructural Performance Category-2 (NPC-2), NPC-3, NPC-4, or NPC-4D

- Components:
  1. Communications by and to Department of Health Care Access and Information (HCAI) (Section 2)
  2. Emergency and Capital Outlay Plans (Section 3)
  3. Public Notices (Section 4)
  4. Annual Status Update (Section 4)

AB 1882 (Rivas, D-Hollister)

California Hospital Association

1. Communications by and to Department of Health Care Access and Information (HCAI):

- Shall identify SPC-2 buildings with a description from regulations
- May identify SPC-5 and NPC-5 buildings as “earthquake resilient”
- *By July 1, 2023*

2. Emergency and Capital Outlay Plans:

Annually include information regarding the building’s expected earthquake performance in:

- emergency training, response, and recovery plans and
- capital outlay plans
- *By July 1, 2023*

AB 1882 (Rivas, D-Hollister)

California Hospital Association

3. Public Notices: Post a notice in the lobbies and waiting areas of hospital buildings that have not yet met the 2030 seismic requirements. HCAI to provide this notice by July 1, 2023.

- *By January 1, 2024*

4. Annual Status Update: Provide an annual status update to: local governments (county board and city council), local office of emergency services and MHOAC, labor unions (for those working in SPC-1 and 2 buildings), fire districts (if applicable), hospital board of directors, and state departments (HCAI, CalOES).

Include:

- The Structural Performance Category ratings of your buildings
- Services in them
- *By January 1, 2024*

Q&A

California Hospital Association

Please submit your questions through the
Q & A box. (Usually located at the bottom of your screen.)

Thank You

California Hospital Association

Thank you for participating in today's webinar.
A recording of the program will be sent to each attendee.

For education questions, contact:
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