

GNYHA FALL 2024 LEGISLATIVE PRIORITIES

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Hospitals, health systems, and long-term care providers continue to endure workforce shortages, rising costs, government underpayment for services, and enormously burdensome regulations. Greater New York Hospital Association (GNYHA) estimates that New York hospitals had an average operating margin of -2.5% in 2023. In 2024 and beyond, additional harmful legislative and regulatory proposals would significantly worsen their already precarious condition. **GNYHA therefore requests that Congress prevent dangerous provider cuts, deliver much-needed provider financial relief, invest in the health care workforce, extend important COVID-19 waivers and flexibilities that broaden access to care, and hold commercial health insurers accountable for abusive practices that harm patients and health care providers.**

PREVENT DANGEROUS PROVIDER CUTS

Eliminate Medicaid Disproportionate Share Hospital (DSH) Cut and Reform DSH Cap Calculation

Safety net hospitals rely heavily on Medicaid DSH payments to offset uncompensated and undercompensated care costs associated with treating a high volume of Medicaid beneficiaries and uninsured patients. The Affordable Care Act cut Federal Medicaid DSH funding under the assumption that fewer uninsured Americans would result in less uncompensated care, but that has not been the case. Under current law, a catastrophic \$8 billion DSH cut will begin on January 1, 2025, and continue annually through Federal fiscal year (FY) 2027. As projected by a FY 2017 Centers for Medicare & Medicaid Services (CMS) rule to allocate Medicaid DSH reductions among states, New York would absorb a \$1.8 billion cut—a devastating 17% of the national reduction. *Congress should eliminate the Medicaid DSH cut for at least two years.*

The Federal government caps the amount of DSH funding that individual hospitals can receive at the amount of their losses from treating Medicaid patients and the uninsured, known as their “DSH cap.” The new DSH cap calculation in the Consolidated Appropriations Act of 2021 (CAA, 2021) excludes services provided to Medicaid-eligible beneficiaries who are dually eligible for Medicare or other coverage from Medicaid shortfalls. The policy, effective spring 2024, will eventually reduce New York hospitals’ Medicaid DSH caps by an estimated 25% retroactive to October 2021. *Congress should pass the Save Our Safety Net Hospitals Act (H.R. 9531), which would eliminate the cut to hospital DSH caps by reinstating the previous DSH cap calculation.*

Stop Medicare Site-Neutral Cuts and New National Provider Identifier (NPI) Policies

GNYHA strongly opposes two proposed cuts to hospital outpatient departments (HOPDs), which are extremely important to medically complex and underserved patients. Site-neutral cuts to HOPDs unfairly reduce hospitals’ reimbursement rate for outpatient services to the significantly lower rate paid to physician offices, despite the unequal types and volume of services offered. Site-neutral cuts to drug administration services in the House-passed Lower Costs, More Transparency Act will cut hospitals by nearly \$4 billion and could quickly escalate to nearly \$40 billion in cuts if Congress expands the scope of the policy. GNYHA projects that New York hospitals would absorb a \$40 million annual cut, over twice any other state’s cut.

The national provider identifier (NPI) is a unique 10-digit number that helps providers efficiently transmit information about health care services in their administrative and financial transactions. The Lower Costs, More Transparency Act would re-



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.

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quire off-campus HOPDs (“provider-based” sites) to overhaul their billing practices and obtain a new NPI separate from the parent hospital location. This change would needlessly increase hospitals’ compliance costs, as hospitals are transparent about where they deliver services and provide significant documentation to bill at the provider-based rate. This proposal would cut payments to hospitals by \$400 million and increase payments to commercial health insurers by an estimated \$1.8 billion. *GNYHA urges Congress to reject site-neutral cuts and NPI changes for HOPDs.*

Protect the 340B Drug Pricing Program

The 340B drug pricing program is an essential tool for safety net hospitals to stretch scarce financial resources to deliver better care to the underserved. Hospitals use savings from purchasing discounted drugs under the program to provide free and low-cost prescription drugs and vaccines to uninsured patients, enhance primary care services, offer low-cost mammograms, and preserve many other vital community services. *Congress should preserve the 340B drug pricing program, curtail drug manufacturers and other for-profit entities’ efforts to undermine access to 340B drugs, and oppose changes that diminish its benefit to safety net hospitals.*

GME AND HEALTH CARE WORKFORCE

The United States faces a shortage of up to 86,000 physicians by 2036, with projected shortages in both primary care and specialty physicians.¹ To meet the needs of our diverse and growing nation, we must increase Federal support for graduate medical education (GME) and physician training. The bipartisan Resident Physician Shortage Reduction Act of 2023 would gradually raise the number of Medicare-supported GME positions by 2,000 per year for seven years, for a total of 14,000 new positions. *Congress should pass the Resident Physician Shortage Reduction Act of 2023.*

All members of the care team—including nurses, physical therapists, technicians, transporters, nutrition staff, and environmental staff—play a crucial role in patient care. The country’s current immigration policies are adversely impacting the nursing and ancillary health care workforce and curtailing its ability to meet growing demand. *Congress should create and streamline immigration pathways for qualified foreign national health care workers to help relieve health care workforce shortages.*

Though hospitals have protocols to protect their employees from violence and intimidation, no Federal law currently protects health care workers from assault or intimidation in the workplace. The Safety from Violence for Healthcare Employees (SAVE) Act, modeled after the Federal law protecting aircraft and airport workers from workplace violence, would make it a Federal crime to assault or intimidate a hospital employee, punishable by up to 10 years in prison. This bipartisan legislation is an important part of the solution to our nation’s health care workforce challenges. *Congress should pass the SAVE Act of 2023.*

COVID-19 PHE WAIVERS AND FLEXIBILITIES

Extend flexibilities for telehealth and the Acute Hospital Care at Home waiver

The CAA, 2023 extended through December 2024 COVID-19 public health emergency (PHE) Medicare-covered telehealth flexibilities. Congress also extended through December 2024 the Acute Hospital Care at Home waiver to allow certain Medicare fee-for-service patients to receive hospital-level care at home. New York hospitals are successfully using telehealth flexibilities and the hospital-at-home waiver to offer quality patient care to more patients. Further extending these policies will improve vital health care access, particularly for high-risk and vulnerable patients, while alleviating some of hospitals’ financial challenges. *Congress should extend telehealth flexibilities and the Acute Hospital Care at Home Waiver for at least two more years.*

¹ “The Complexities of Physician Supply and Demand: Projections From 2019 to 2036.” Association of American Medical Colleges, March 2024.

HOLD COMMERCIAL HEALTH INSURERS ACCOUNTABLE

Pass the Improving Seniors' Timely Access to Care Act

Providers and patients need relief from abusive health insurer practices that increase clinician burnout rates, drive up costs, and create barriers to medically necessary care. Last year, CMS finalized rules that establish important guardrails for Medicare Advantage (MA) plan utilization management programs and require more transparency for patients and providers throughout the prior authorization process. The bipartisan Improving Seniors' Timely Access to Care Act builds on these guardrails to streamline the prior authorization process, reduce delays in care, and increase transparency in MA. *Congress should pass the Improving Seniors' Timely Access to Care Act.*

HEALTH CARE PROVIDER FINANCIAL RELIEF

Expedite Distribution of FEMA Reimbursement Funds

The Federal Emergency Management Agency's (FEMA) Public Assistance (PA) program is the primary reimbursement mechanism to address providers' extraordinary COVID-19 costs. While the assistance received to date is appreciated, GNYHA members have outstanding claims and there are several process and policy issues that have stymied the release of critically needed financial resources. *Congress should pass legislation to prevent funding disruptions for FEMA and urge the Biden Administration to expedite the distribution of FEMA PA funds to providers.*

Invest in Long-Term Care Providers

A recent GNYHA member survey found that 90% of nursing home members had negative operating margins in 2022 and 2023. Long-term care providers need Federal investments that reflect an analysis of all payers, not just Medicare, to maintain high-quality care standards and address workforce challenges. Long-term care providers are already experiencing great challenges meeting the new Federal Minimum Staffing Standards for Long-Term Care Facilities due to the ongoing acute labor shortages and rising labor costs, the misalignment between State and Federal staffing requirements, and the lack of funding to comply. *Congress should support and stabilize not-for-profit and public long-term care providers, not burden these essential providers with inadequate payment rates and unfunded mandates.*