

# 2022

## ADVOCACY AGENDA





Since the beginning of 2020, hospitals, health systems and post-acute care providers – along with our doctors, nurses and so many other team members – have been on the front lines of the COVID-19 pandemic, working tirelessly to provide the best care for patients, families and communities. Their steadfast mission of caring and compassion has saved lives, healed families and helped to protect communities.

As this unprecedented public health emergency continues to produce new and daunting challenges, it is clear that we will be co-existing with COVID-19 for the foreseeable future with no hard stop in sight.

That’s why the American Hospital Association in 2022 will continue to work with Congress and the Administration to focus on providing relief, ensuring a necessary recovery and rebuilding a better health care system for the future. In addition, we need to address ongoing challenges that have been further exacerbated during the pandemic, including issues related to workforce resilience and supply, health equity, and behavioral health.

Our 2022 Advocacy Agenda seeks to continue to positively influence the public policy environment for patients, communities and the health care field.

Our agenda focuses on:

- Supporting the fight against COVID-19
- Protecting patients’ access to care and coverage
- Enhancing quality, patient safety and equity
- Strengthening the health care workforce
- Advancing affordability in health care
- Advancing health system transformation

We will work hand in hand with our members; the state, regional and metropolitan hospital associations; national health care organizations; and other stakeholders to develop and implement an advocacy strategy to fulfill our vision.



Please see our advocacy priorities below, as well as links to background documents and more resources. You also can visit the Advocacy Agenda webpage online to easily access the advocacy priorities related to specific interest areas, as well as updated information.

## Specifically, we urge Congress and the Administration to...

### SUPPORT THE FIGHT AGAINST COVID-19

- Ensure the **Provider Relief Fund (PRF) appropriately reimburses** hospitals and health systems for increased expenses and lost revenue due to the pandemic, including through the Delta and Omicron surges in 2021 and 2022, and work to extend the deadline for providers to use PRF dollars. In addition, ensure that the rules governing the use of these funds provide needed flexibility.
- Make permanent certain **telehealth flexibilities**, including lifting geographic and originating site restrictions, allowing Rural Health Clinics and Federally Qualified Health Centers to serve as distant sites, expanding practitioners who can provide telehealth, and allowing hospital outpatient billing for virtual services, among others.



- ▶ Sustain enhanced **payments for telehealth services** rendered during the pandemic.
- ▶ Ensure certain critical **1135 waivers** are made permanent and others are extended beyond the public health emergency (PHE) to allow for appropriate transitions and improvements in patient care.
- ▶ Ensure **state Medicaid programs have the resources** they need during and after the PHE, especially to protect against the loss of coverage that may occur as states adjust to reduced funding and conduct coverage redeterminations after the conclusion of the PHE.
- ▶ Ensure every individual has **coverage for COVID-19** vaccination, prevention, testing, and treatment in order to remove any financial barriers to care.
- ▶ Support state efforts to expand **scope of practice** laws, allowing non-physicians to practice at the top of their licenses.
- ▶ Extend the flexibilities allowing certain acute hospital care to be provided in a patient's home, and explore creation of a permanent "**hospital-at-home**" program.
- ▶ Substantially increase annual appropriations for the **Hospital Preparedness Program (HPP)** to ensure that the health care infrastructure is ready to respond to future crises and continue efforts to ensure that the majority of the HPP funding is awarded to hospitals and health systems in order to better enhance their emergency preparedness and surge capacity.
- ▶ Ensure the declaration of a **PHE** continues through the duration of the COVID-19 crisis to safeguard needed flexibilities, including critical 1135 waivers.
- ▶ Support application of the **Public Readiness and Emergency Preparedness (PREP) Act** immunity from liability in Congress and the courts for measures taken by hospitals and other caregivers during the PHE attributable to the COVID-19 virus.
- ▶ Provide **flexibility in quality measure programs** by temporarily waiving quality reporting for hospitals when they are experiencing surges during the pandemic, and advocating that the Centers for Medicare & Medicaid Services (CMS) adjusts the measures to account for the atypical performance on readmissions and Hospital Acquired Conditions resulting when that performance period was affected by COVID-19.
- ▶ Partner with the Centers for Disease Control and Prevention and other stakeholders to ensure hospitals and health systems are empowered and have resources to participate effectively in the **national effort to vaccinate** Americans against COVID-19.
- ▶ Continue to advocate on behalf of hospitals in response to the CMS and Occupational Safety and Health Administration **employee vaccination mandates**.
- ▶ Implement **communication efforts on vaccine safety**, particularly among segments of the population who justifiably mistrust such efforts.
- ▶ Ensure the **availability of personal protective equipment, breathing support devices, treatments and other resources** needed to fight the pandemic.





## PROTECTING PATIENTS' ACCESS TO CARE AND COVERAGE

- ▶ Ensure that essential health care services are available in all communities by protecting **vital federal funding** for Medicare, Medicaid, the Children's Health Insurance Program and the Health Insurance Marketplaces.
- ▶ Ensure that **Medicaid hospital supplemental payments**, including Medicaid Disproportionate Share Hospital (DSH), Upper Payment Limits (UPL), Directed Payments and other payment options, as well as the financing sources that support them, continue to be available in order to help hospitals serve the Medicaid, uninsured and structurally marginalized populations in their communities.
- ▶ Ensure patients can rely on their coverage by **disallowing health plans from inappropriately delaying and denying care**, including by making mid-year coverage changes.
- ▶ Protect **rural communities' access to care** by making permanent critical programs, including the Medicare-dependent Hospital (MDH) designation, Low-volume Adjustment, ambulance add-on payment and Conrad State 30 Program.
- ▶ **Improve rural health programs** by reopening the necessary provider designation for Critical Access Hospitals (CAHs), reversing cuts to Rural Health Clinic payments, removing the 96-hour condition of payment for CAHs and further strengthening MDHs and Sole Community Hospitals by allowing participating hospitals to choose from an additional base year when calculating payments.
- ▶ Pursue a new designation of **"metropolitan anchor hospitals"** to ensure sufficient funding to certain hospitals that provide critical health care and social services to marginalized and underserved populations.
- ▶ Hold **commercial health insurers accountable for ensuring appropriate patient access to care while reducing clinician burnout**, including by reducing the excessive use of prior authorization, ensuring adequate provider networks, ensuring prompt payment, and stopping policies like specialty pharmacy "white-bagging" that limit patients' ability to see their preferred providers.
- ▶ Ensure patient access to primary care and other outpatient services by rejecting additional payment cuts that don't recognize legitimate differences among provider settings (also known as **site-neutral payment policies**), as well as policies that restrict patient access to certain sites of care (also known as **site of service policies**).
- ▶ Increase targeted funding for facilities that **provide pediatric mental health services** and invest in the pediatric behavioral health workforce.
- ▶ Modernize the Improving Medicare Post-acute Care Transformation (**IMPACT**) Act of 2014 to ensure the **unified payment model for post-acute care** is required to reflect both new insights from the pandemic and the major payment reforms underway for the existing post-acute care payment systems.





- To help ensure access to care, ensure that **long-term care hospital site-neutral cases** are reimbursed in alignment with the actual cost of treating this high-acuity patient population.
- Ensure stability for providers in **post-acute care settings** by avoiding new payment reductions or administrative burdens that would magnify the challenges of managing the COVID-19 response plus the major payment reforms currently underway.
- Continue to fight for improvements to **Office of Inspector General audits**, including of inpatient rehabilitation facilities (IRFs), which routinely contain significant errors and inaccurate recommendations.
- Encourage CMS to change its approach to its recently proposed **Review Choice Demonstration for IRFs**. Rather than using an across-the-board approach that impacts all IRFs in the four initial target states, CMS should use data analysis to forgo auditing providers with no indication of inappropriate practices.
- Call upon the Department of Justice's Antitrust Division to take advantage of the elimination of the McCarran-Ferguson Act antitrust protection for **commercial health insurers by more actively challenging their anticompetitive conduct**.
- Protect not-for-profit hospitals' **tax-exempt status**.
- Prevent and mitigate **drug shortages** by strengthening requirements for drug manufacturers to disclose the root causes and expected duration of shortages; extending reporting requirements to active pharmaceutical ingredients manufacturers; and requiring manufacturers have contingency plans to ensure ongoing supply.
- Protect access to care by preserving the existing ban on the growth and expansion of **physician-owned hospitals**.
- Preserve the gains in **health coverage** made over the past decade and further expand coverage.
- **Expand Medicaid** in states that have not yet expanded.
- Ensure the stability and affordability of the **Health Insurance Marketplaces** by permanently expanding eligibility for and the level of subsidies, implementing a reinsurance program, ensuring sufficient federal outreach and enrollment efforts, and protecting consumers from health plans that do not meet all of the consumer protections established in federal law, such as health sharing ministries and short-term limited duration coverage products.
- Ensure patients can access all of the services necessary to get and stay healthy by protecting access to a minimum set of **essential health benefits**.
- Improve the enforcement of existing **federal parity laws** to ensure coverage for physical and behavioral health benefits, including substance use disorder treatment. This includes enhancing the oversight of commercial plans' use of administrative barriers to care and increasing penalties for non-compliance.
- Encourage states to extend coverage and care to their population through expansion of **innovative state waivers** (section 1115 and 1332 waivers) with appropriate safeguards against eligibility reductions and cost-sharing increases as well as better integration of social and health services.





- Repeal the **Medicaid Institutions for Mental Disease (IMD) exclusion**, which prohibits the use of federal Medicaid funds to cover inpatient mental health services for patients aged 21 to 64 in certain freestanding psychiatric facilities.
- Eliminate **Medicare's 190-day lifetime limit** for inpatient behavioral psychiatric admissions.
- Protect against reductions in the number of insured by advancing solutions to improve the **sustainability of public coverage** through the Medicaid program and CHIP.
- Ensure care for **veterans** by working with hospitals and health systems and the Department of Veterans Affairs as they implement the next generation of comprehensive community care for veterans.

## ENHANCE QUALITY, PATIENT SAFETY AND EQUITY

- Continue to streamline and coordinate quality measures in national programs to focus on the **"measures that matter"** most to improving health and outcomes while reducing burden on providers. These measures should be based on evidence that demonstrates meaningful improvements in patient outcomes are achievable by improving adherence to the measures.
- Advocate for **improved conditions of participation, interpretive guidance and Joint Commission standards** that hold hospitals accountable for taking actions that lead to higher-quality and safer care. Eliminate additional conditions of participation for behavioral health hospitals.
- Pursue strategies and support public policies aimed at improving **maternal and child health outcomes** with a particular **focus on eliminating racial and ethnic inequities**.
- Enhance the effectiveness of the **physician quality payment program** by advocating for more accurate and meaningful cost measures and appropriately pacing the implementation of new program approaches such as the Merit-based Incentive Payment System Value Pathways.
- Promote inclusion of adjustment for **sociodemographic factors** in quality measurement programs where appropriate to ensure fair performance comparisons and payment adjustments.
- Support **coordinated collection of race, ethnicity and language data** across federal agencies to elevate understanding of health care needs in historically marginalized communities.
- Increase funding for the **health equity infrastructure** in the Department of Health and Human Services, including the National Institute on Minority Health and Health Disparities, to better research and address the needs of communities dealing with sustained hardship.
- Promote **health equity** by incentivizing cultural humility training in medical residency programs and in-service training for health care professionals.
- Support efforts to **increase diversity** in the health care workforce, including through funding for federal scholarship programs.





- Promote **advanced illness management** to better honor patients' wishes at the end-of-life and remove barriers to expanding access to palliative care services.
- Enhance care coordination and improve patient safety by implementing through rulemaking Sec. 3221 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which revises and better aligns the outdated 42 CFR Part 2 regulations with HIPAA, allowing the responsible **sharing of substance use disorder treatment records** for the purposes of treatment, payment and health care operations.

## STRENGTHENING THE HEALTH CARE WORKFORCE

- Help ensure hospitals and health systems have the necessary workforce to continue to care for patients and communities during COVID-19 surges.
- Investigate reports of **anticompetitive behavior from nurse-staffing agencies** during the pandemic that is further exacerbating critical workforce shortages.
- Address nursing shortages and burnout by reauthorizing **nursing workforce development programs** to support recruitment, retention and advanced education for nurses and other allied health professionals.
- Support the health of **physicians, nurses and others** so they can deliver safe and high-quality care by providing additional funding and flexibility to address behavioral health needs and funding for best practices to prevent burnout.
- Address physician shortages, including shortages of behavioral health providers, by increasing the number of residency slots eligible for Medicare funding and rejecting reductions to Medicare funding for **direct and indirect graduate medical education**.
- Promote **medical licensure reciprocity** to allow practitioners to work across state lines.
- Address **faculty shortages** that constrain our ability to meet future nursing needs by investing in nursing schools, nurse faculty salaries and hospital training time.
- Pursue **visa relief for foreign-trained nurses**.
- Extend **loan repayment and forgiveness programs**, and support apprenticeship programs for lower-wage scale positions.
- Support the **National Health Service Corps and the National Nurse Corps**, which award scholarships and assist graduates of health professions programs with loan repayment in return for an obligation to provide health care services in underserved rural and urban areas.



## ADVANCE AFFORDABILITY IN HEALTH CARE

- Ensure that regulations to implement surprise medical billing protections for patients do not inadvertently restrict patient access to care.



- Support **price transparency efforts** by ensuring patients have access to the information they seek when preparing for care, including cost estimates when appropriate, and creating alignment of federal price transparency requirements to avoid patient confusion and overly burdensome duplication of efforts.
- Ensure that **health plans educate their enrollees about their coverage**, including their cost-sharing obligations, and disallow the use of high deductible health plans in instances where consumers cannot afford the associated cost-sharing.
- **Rein in the rising cost of drugs**, including by taking steps to increase competition among drug manufacturers; improve transparency in drug pricing; and advance value-based payment models for drugs.
- Protect the **340B drug savings program** to ensure vulnerable communities have access to more affordable drug therapies by reversing harmful policies and holding drug manufacturers accountable to the rules of the program, especially as it relates to community pharmacy arrangements.
- Test new approaches to delivering high-quality care at lower costs through **alternative payment models**, including expanding access to non-medical services that impact health, experimenting with using technology in new and innovative ways, and moving the field more quickly toward value-based payment.
- Enact technological, legislative and regulatory solutions to reduce administrative waste, **such as by streamlining prior authorization requirements** and processes for hospitals and post-acute care providers, so that clinicians can spend more time on patients rather than paperwork.
- Promote greater efficiency and safeguards against unnecessary burden in **HIPAA administrative standards** and other rules related to billing and ensure an achievable roadmap toward greater adoption of standard transactions.



## ADVANCE HEALTH SYSTEM TRANSFORMATION

- Support additional **risk-based payments**, including capitation or partial capitation payments, to improve the financial stability of hospitals and health systems.
- Sustain the progress in modernizing the Stark Law and Anti-kickback Statute regulations better protect arrangements that promote **value-based care**.
- Prevent unreasonable changes to the **False Claims Act**.
- Expand use of **telehealth, broadband and new technologies** by providing Medicare and Federal Communications Commission funding, coverage, and reimbursement for such services, technology and workforce training.
- Allow providers to determine how best to utilize **electronic health records (EHRs)** and other technologies while promoting **interoperability** and access to health information for clinical care and patient engagement.



- ▶ Provide robust incentives to ensure **electronic communication between acute care hospitals and psychiatric hospitals and providers**, and to encourage psychiatric hospitals and mental health providers to optimally use EHRs.
- ▶ Advance **use of innovative technologies and software** (e.g., artificial intelligence, clinical decision support algorithms) without increasing regulatory burden by supporting policies that enable clinicians to have the data they need to treat patients and improve health outcomes.
- ▶ Invest in **health care infrastructure** by expanding access to virtual care technologies and rural broadband, strengthening the capacity and capability for emergency preparedness and response, assisting hospitals in “right-sizing” to meet the needs of their communities, and ensuring adequate financing mechanisms are in place for hospitals and health systems, including for training the workforce.
- ▶ Address the impact that **social determinants of health** have on patient outcomes by improving care coordination and expanding the tools hospitals can use to meet these needs.
- ▶ Advance **rural health care alternatives** to ensure sustainable care delivery and financing including: exploring rural pre-payment models; supporting additional inpatient/outpatient transformation strategies; promoting virtual care strategies; allowing innovative partnerships; and refining existing models that support hospitals serving historically marginalized communities.
- ▶ Implement policies to better integrate and coordinate **behavioral health services** with physical health services.
- ▶ Assist in **protecting health care services, data and patients from cyberattacks** while supporting efforts to increase government cybersecurity assistance, recruit additional cybersecurity workforce, improve medical device security and improve information sharing.
- ▶ Continue to encourage **regulatory relief for hospitals and health systems that suffer a cyber breach** but have certain recognized cybersecurity practices in place.
- ▶ Promote the value of **coordinated systems of care**.
- ▶ Promote the **contributions of health systems to their communities and fair competition laws and practices** as they are applied to the hospital field.

Please visit [www.aha.org/advocacy/action-center](http://www.aha.org/advocacy/action-center) to get involved and learn more about the American Hospital Association’s 2022 public policy advocacy agenda.