

HCCI 2011 End of Session Report

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FY12 Budget

As the final days of session came to a close, many big picture items were being finalized after months of debate and negotiation. As with past sessions the usual big ticket issues were in flux, education reform, gambling expansion, and electricity regulation among them. In addition to these, a number of issues overshadowed all else through the course of the session: the legislative redistricting process, workers compensation reform, and crafting a budget in the face of huge revenue holes. Legislative redistricting will ultimately impact us going forward in future election cycles and the budget, as always, shapes the majority of the policy making for the nursing home profession in the Statehouse, so both items were followed carefully.

A number of budget proposals were proposed as the session took shape. Indeed, as early as the beginning of May the budget measures floated by each chamber were taken for a vote and passed to the other chamber for consideration:

- The Governor's introduced budget called for 6 percent across-the-board cuts, meaning \$140 million lost to long term care.
- The Senate Democratic Caucus floated a proposal which halved the cuts introduced by the Governor as well as decreased appropriations. The 3 percent rate reduction would mean a loss of \$70 million to the long term care line. Additionally, this proposal would mean a payment cycle extension of approximately 60 days on average.
- The House Democratic Caucus scenario would place no statutory rate cuts in place for long term care; however the amounts appropriated would be less. The upshot of this would be an extended payment cycle for providers of nearly 40 days on average.

One marked difference in the deliberations on the budgeting process was a decision by leadership to place the decision making into the hands of their respective appropriations committee members. In the House this led to some compromise between the Democrats and Republicans with their budget plan enjoying some bipartisan support. In the Senate the Republicans were kept largely out of the process and the various appropriations bills were passed on partisan lines. Though the budget measures introduced in each chamber enjoyed a majority vote, allowing them to pass forward, they still needed to have a vote in the other chamber to become law.

The competition in the different budgets wasn't simply a matter of where and how to deep to make cuts. Further complicating the budget process was the fact that each chamber, as well as the Governor's Office of Management and Budget, utilized different revenue projections. As the last two days of the first year of the 97th General Assembly unfolded it was the House budget plan served as the basis for the budget which gained the backing necessary to pass muster and be voted on by the Senate. The changes were contained in the capital re-appropriation bill to add spending to core human service and education programs. Unfortunately the House did not pass these changes.

The language in the budget package will still require the Governor's signature to take effect by the beginning of the next fiscal year. However, due to the conflict between the chambers on the final language and perceived unwillingness on the part of the administration to pass a budget which is believed to have shortfalls, the final outcome of the FY12 budget is uncertain.

Further communications will be forthcoming as this situation progresses.

Legislative Agenda

As in previous years, the HCCI legislative agenda was shaped as much by the needs of the moment as by ongoing pressures and concerns faced in day-to-day facility operations. The majority of our legislative initiatives were successful, though some of them did not turn out quite as envisioned. As budget considerations and other negotiations were taken into account, adjustments were made to legislation to assure passage of the issues below.

SB145 – Provider Assessment Approval

Recent legislative initiatives and court decisions have shined a media spotlight on the various models of care provided to residents of facilities in Illinois. Last year this culminated with the passage of SB326, and subsequently the passage of the increased provider assessment (bed tax) to fund some of the unfunded mandates contained in the 'reform' legislation. As this session unfolded, it became apparent that there was a problem at the federal level with the bed tax. **The single most important piece of legislation which HCCI staff worked on this session, SB145 will rectify the calculation error in the bed tax, allowing the federal government to proceed with approval of the amended state Medicaid plan to allow the tax to proceed.**

This correction is accomplished through removal of the five Subpart T facilities from the Nursing Home Care Act. This action essentially takes those facilities out of the calculation of the bed tax and corrects the error in the plan. The language also contained the follow up language which places additional regulations on developmental disability facilities in line with those placed on long term care geriatric facilities by SB326 last year.

The provisions of the bill are broadly as follows:

- Removes certain facilities that specialize in caring for individuals with mental illness from the provisions of the Nursing Home Care Act and creates a new Act to regulate these facilities.
- Retains all of the protections currently in place under the Nursing Home Care Act in the new Act. There will be no changes in regulatory oversight or governing responsibilities of the agencies responsible for oversight of these facilities.
- Facilities serving the mentally ill have little in common with those serving the elderly and therefore they require a distinctly different regulatory framework.
- Furthers the intents of the Nursing Home Safety Reform Task Force legislation – SB326 in the 96th G.A. – that addressed how to provide better care for individuals with mental illness.
- Corrects an error in P.A. 96-1530, enabling the state to secure \$215 million in federal funding through a nursing home assessment increase which could otherwise be lost.

The battle for the passage of this bill was hard fought. Both Life Services Network and Lexington Group were in violent opposition to the bill. The lobbying efforts on this bill took the entire HCCI staff working in combination with SEIU the entire final two months of session to win sufficient support to have it called for a vote. Ultimately the language passed along similar votes as the bed tax bill in January.

HCCI Legislation

The bills below were introduced at the behest of HCCI legislative staff. The initiatives in these pieces of legislation originated from a number of sources – follow up to SB326, member concerns, collaborative work with the Administration to implement regulation, and attempts to further our campaign activities in anticipation of the 2012 election cycle among them.

To read the status and full text of each bill simply click on the highlighted bill number.

[HB1380](#) – Rep. Dan Reitz / Sen. William Delgado: Surveyor training and funding – This legislation was introduced to reinstate the surveyor training unit at IDPH. This legislation has passed both chambers and awaits the signature of the Governor to become law. It is expected that the bill will finish its journey through the process with no trouble.

[HB1426](#) – Rep. John Bradley / Sen. Dan Kotowski: Older Adult Services Act Inventory completion This language was developed to assure the long term care rebalancing efforts in the legislature are not done in a vacuum, recognizing the importance of nursing homes in the continuum of care. This bill has passed both chambers and needs the Governor's signature to become law.

[HB1470](#) – Rep. Tom Holbrook / Sen. James Clayborne: DHFS bed tax e-billing. – The provisions of this initiative were the product of negotiations to ensure that when the increased bed tax goes into effect providers are not penalized for billing errors. This bill has passed from both chambers and is expected to be signed into law.

[HB1540](#) – Rep. Dan Beiser: Nursing Home grace period election site. – A follow up to past election work, this language would have instituted nursing homes as grace period registration sites. Due to internal pressures in the House Democrat caucus, this issue was set aside until the legislature takes up a comprehensive elections package. At that time, this issue is slated to be a piece of the negotiations.

[HB3635](#) – Rep. John Bradley / Sen. James Clayborne: Bed tax trailer approval legislation. – This language would assure that the provisions of the bed tax are carried through appropriately. This legislation faced no opposition, was passed from both chambers, and is now is awaiting the Governor's signature.

[SB1894](#) – Sen. Mattie Hunter / Rep. Rita Mayfield: Nursing Home Care Act DD clean-up. – This legislation simply removes unnecessary references to developmental disability facilities from the Nursing Home Care Act. The bill has passed both chambers and awaits the signature of the Governor.

[SB2147](#) – Sen. Jeff Schoenberg / Rep. Louis Lang: Repeal of various provisions in SB326. – One of the more controversial bills in the General Assembly, this language aimed to roll back unfunded mandates contained in last year's nursing home 'reform' legislation in light of proposed budget cuts. The final language in this legislation is postponed while the language in SB145 awaits signature of the Governor and ultimate approval of the increased provider assessment at the federal level.

Opposition Legislative Initiatives

In addition to the preceding bills, over 7000 bills and countless amendments were introduced this year. Each was read and analyzed at introduction and as each amendment was placed on the bill. From this process over 300 of these were identified as being of some impact to the profession and were tracked accordingly.

Below are some of those bills we worked on with the sponsors and proponents either in opposition or to amend the bill with language amenable to the profession:

[HB163](#) – **Rep. Chapin Rose**: This initiative required all recipients of Medicaid to undergo drug testing. HCCI was able to amend the bill to require recipients of Medicaid in a long term care setting to be exempt from this provision. The bill failed to pass muster in the House and died.

[HB1251](#) – **Rep. Deborah Mell**: This legislation originally required an owner of a multi-unit dwelling to notify all residents if a person registered under the Sex Offender Act moved in to their facility. HCCI amended the bill to clarify that facilities licensed under the Nursing Home Care Act would not be considered a multi-unit dwelling under these provisions. The bill did not pass from the House.

[HB1477](#) – **Rep. Mary Flowers**: This bill originally gave unilateral power to the Department of Public Health to impose fines on facilities the Department regulates. HCCI exempted facilities under the Nursing Home Care Act from the provisions. The legislation ultimately failed to pass.

[HB1534](#) – **Rep. Keith Farnham**: As introduced this legislation would have required nursing homes to maintain and provide to any member of the public information on each employee of the facility. HCCI worked with the House Democratic staff to amend the bill to apply only to instances in which there was a complaint with IDPH. This bill failed in the Senate.

[HB1535](#) – **Rep. Keith Farnham**: This language would have required that all facilities publish a list of employees on its website and indicate whether or not the employee had a criminal background. This language was moved out of committee but did not move out of the House of Representatives and ultimately died.

[HB2084](#) – **Rep. Fred Crespo**: Created a task force to create a five year strategic plan in regards to services provided to the mentally ill in Illinois. Originally the task force was slated to have one industry member, but HCCI amended the bill to make sure that all stakeholders could be at the table. The bill has passed and awaits the Governor's signature.

[HB2871](#) – **Rep. Elizabeth Hernandez & [SB128](#)** – **Sen. Martin Sandoval**: These identical bills would mandate businesses to give paid sick days to their employees. HCCI participated in a coalition of business providers to oppose the language. Our opposition centered on the restrictive nature of the language not accommodating the fact that many facilities use different models of providing sick leave. The legislation was not forwarded this session, but is a perennial initiative sure to return next year.

[HB3547](#) – **Rep. Mary Flowers**: This legislation would have created additional screenings, fees and compliance audits that Illinois Medicaid providers would be subject to an attempt to mitigate Medicaid Fraud. HCCI worked with a coalition of human services providers to defeat this bill.

[SB40](#) – **Sen. Susan Garrett**: This language was introduced by the Illinois Health Facilities Planning Board and contained many troublesome provisions for the nursing home profession. Among them were increased fines, stricter reporting requirements, and lessened accountability for the Board. HCCI participated in negotiations with the sponsor and the Board to enact many changes to the language. After arrival in the House, the bill faced opposition from other sources and did not pass.

SB1353 – **Sen. Jeff Schoenberg**: This language moved the Ombudsmen’s program from the Department of Aging to the Attorney General’s Office. HCCI opposed this legislation on the grounds that the original intent of the program was one of cooperation to ensure resident quality of life, not a regulatory or legal oversight authority. Additionally this move would not meet federal criteria for the ombudsmen program and cause Illinois to lose money. The bill did not meet with success and failed to pass the Senate.

SB1667 – **Sen. Heather Steans**: A rollback of the provider assessment language from January, this bill grossly undermined the negotiations held at the beginning of the year. The language additionally provided that any funds from the assessment would go to community services. In the face of staunch opposition from HCCI, this bill did not move.

SB1687 – **Sen. Kyle McCarter**: Similar to HB163 above, this bill required all recipients of Medicaid to undergo drug testing. HCCI was able to amend the bill to require recipients of Medicaid in a long term care setting to be exempt from this provision. The language was not moved from the Senate.

SB1916 – **Sen. Donne Trotter**: Imposed a structure on how many hours and in what instances Certified Nursing Assistants can work overtime. This language was introduced by the labor unions. The bill did not move from committee.

SB1982 – **Sen. Heather Steans**: Creates a definition for IMD and sets forth regulations on what mental health patients can be placed into an IMD or Skilled Nursing Facility. HCCI opposed this legislation on the grounds that these provisions revisit completed negotiations from last year’s SB326, the Nursing Home Safety Task Force ‘reform’ legislation. This language was unsuccessful.

SB2045 – **Sen. Kirk Dillard**: This lapse period spending bill would have scaled back the amount that can be expended during the expiring appropriation period. This language was included in the large Medicaid Reform bill that was passed in January but whereas the Medicaid Reform bill started the scaling back in 2021 Senate Bill 2045 would imposed these regulations that the end of Fiscal Year 2012. At a time when the General Assembly is elongating payment cycles this piece of legislation would have been disastrous to our industry. The bill failed to pass from the Senate.

As noted, the preceding list of bills is simply a sample of those on which HCCI staff worked. Many others were defeated, amended, or simply abandoned in the face of opposition. For a complete list of the legislation tracked by HCCI, please go to the HCCI website www.hccil.org. The most recent tracker is displayed on the front page.

For any questions, concerns, or comments, please feel free to contact Matt Hartman, mhartman@hccil.org or Brianna Hudkins, bhudkins@hccil.org, or call the HCCI offices at 217-544-4224.