NANCY VANDERMEER

STATE REPRESENTATIVE • 70TH ASSEMBLY DISTRICT

TO: Honorable Members of the Senate Committee on Health

FROM: State Representative Nancy VanderMeer

DATE: March 17, 2021

SUBJECT: Testimony in Support of Senate Bill 202/Assembly Bill 148

Thank you Chairman Testin for holding a hearing on SB 202 today. What we have in front of us is another piece of legislation related to the state's COVID-19 response. Specifically, this bill addresses some of the ongoing needs that hospitals across the state have at this time. The provisions in this bill were included in Assembly Bill 1 this session as part of a larger COVID response package that, as we're all aware, was subsequently amended multiple times by both legislative houses, passed, and then ultimately vetoed by the governor. To reiterate, the language in Assembly Bill 148 was included in Assembly Bill 1, as amended, and passed by the Assembly and the Senate. I'd like to note that the provisions in this bill, with language taken from the original version of Assembly Bill 1, has previously received support from the governor and the Legislature.

Primarily, this bill addresses five issues. First, the bill allows for medical assistance payments for hospitals for nursing facility care and allows payment for certain outpatient services provided by hospitals. Second, it addresses Medicaid claims data – utilization data in the Medical Assistance (M.A.) Program. Next, the bill sets standards for our state to participate in the Centers of Medicare and Medicaid (CMS) Hospital at Home Program. Additionally, the bill permanently allows out of state health providers to start practicing in our state more expeditiously. As I understand it, some/all of these provisions in this bill have both formal and informal support from both caucuses in both the Assembly and the Senate.

The Wisconsin Hospital Association strongly supports this legislation and was integral in advocating for this language and these provision's initial inclusion in Assembly Bill 1. I believe they're testifying today and will let them hone in with more detail related to how each of the primary provisions here will benefit health care providers throughout the state, but that said, I've had the chance to speak with and hear from at least two primary health care providers in and around my district on this bill, Gundersen Health System and Mayo Clinic. Both of these organizations are also strongly supportive of this legislation for a variety of reasons, but they have both specifically mentioned the licensure provisions and Hospital at Home provisions as especially important to them to aid in efficiency of care. Moreover, the Marshfield Clinic Health Care System, who has a large footprint throughout the Northern, Central, and West part of the state, applied for and received federal approval from CMS earlier this year to offer Hospital at Home services because of the benefit they're able to provide to their patients with this service option.

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It will not come as a huge surprise to some of you that I'm especially partial to the licensing provisions in this bill because I know how valuable they are. As a former hospital board member in my home community of Tomah, WI, and as a legislator that has had multiple opportunities to work with and work on healthcare licensing legislation, I know how valuable it is for health care providers to be able to streamline bureaucratic hurdles to recruit, vet, hire, and retain quality professionals for their organization so that they're in turn able to continue to provide quality care, close to the communities they serve.

We've proven over and over, first with the Nurse Licensure Compact, then with the Interstate Medical Licensure Compact, and most recently with the Enhanced Nurse Licensure Compact, that we're able to continue to maintain high quality of care standards and provide adequate oversight of professionals, all while creating efficiencies for providers and professionals that want to provide care in our great state. This is something that's important under any circumstance, but it's also something that has been particularly important during unique and challenging times, like those experienced since early last year. I believe the provisions in this proposal will provide benefits to each one of the health care providers in your districts and throughout the state. I respectfully ask for your support to move this bill forward in the legislative process. Thank you again, Chairman, for the opportunity to have this bill heard today.

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WHCA / WiCAL

Wisconsin Health Care Association Wisconsin Center for Assisted Living

Testimony by the Wisconsin Health Care Association/Wisconsin Center for Assisted Living (WHCA/WiCAL) on Senate Bill 202/Assembly Bill 148 before the Senate Committee on Health

March 17, 2021

Good afternoon, Chairman Testin and Members of the Senate Committee on Health:

My name is Rick Abrams, and I have the privilege of serving as the President & CEO of the Wisconsin Health Care Association and Wisconsin Center for Assisted Living (WHCA/WiCAL). Our organization represents long-term care facilities in Wisconsin, including approximately 190 nursing facilities across the state. It is a great pleasure to address you all today for the first time. I look forward to many more future opportunities to work with you on advancing quality care for our state's long-term care residents.

This past year has been very difficult for all of us, but particularly so for families who have lost loved ones and for our health care heroes. While so many of us were "running out of the burning building" and sheltering at home, our health care heroes "ran into the building" to care for and protect our most vulnerable. I am honored to represent so many selfless and caring providers.

I have come before you today to discuss Senate Bill 202 (SB 202). As you may know, WHCA/WiCAL has raised concerns with **section 9119 (1)** pertaining to paying hospitals a Medicaid nursing facility custodial daily rate if they are not able to find a nursing facility placement in the community for the patient.

However, through productive conversations, I believe we were able to arrive at a consensus on the issue at this time on SB 202's companion bill in the Assembly, AB 148, to find a solution that increases accountability and is acceptable to all. We greatly appreciated the opportunity to share our perspective and work with bill authors and other stakeholders to find some common ground.

I want to also make it very clear that we continue to find section 9119 (1) inadequate to address the important issue of finding suitable community placement for medically and/or behaviorally complex patients as a long term solution, and that the issue is best addressed outside of a bill meant as a response to COVID-19. Therefore, please know that WHCA/WiCAL would strongly oppose the policy included in section 9119 (1) as a long-term policy, as it is not a permanent solution to this serious and very vexing problem. With that in mind, we will continue to engage stakeholders in an effort to find comprehensive solutions to this issue. On the reverse side of this testimony, please find additional background which explains in greater detail our concerns with the underlying approach, and our conclusion that the policy is not a long-term solution to this issue.

Mr. Chairman and members of the Committee, thank you for all of your time and attention. I am happy to answer any questions that you may have.

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BACKGROUND:

In the fall and into the winter of 2020, a crisis arose in which a number of hospitals in Wisconsin were nearing or reaching surge capacity levels. At that time, one significant challenge which exacerbated this problem was that, due to COVID-19 outbreaks across the state, many nursing facilities were temporarily prohibited from admitting new patients/residents out of abundance of caution for the vulnerable residents our providers serve. WHCA/WiCAL worked with many stakeholders, including DHS, hospitals, and LTC providers, to find solutions – including regulatory and financial relief to better position facilities to be able to safely admit new residents during a pandemic.

In response to these COVID-19 related admissions challenges, in early January 2021, AB 1 was introduced and included a provision to allow hospitals to receive reimbursement for nursing facility level of care when nursing facility placement was not possible. At the time of AB 1's introduction, COVID vaccines were only just beginning to arrive in the state and tragically, infection rates, hospitalizations and deaths were rising almost every day. Given the urgency of the situation, WHCA/WiCAL was not going to stand in the way of the COVID responses set forth in AB 1, almost all of which were scheduled to sunset on June 30th.

As of today, our situation has remarkably improved. While we need to maintain our vigilance, the light at the end of the tunnel becomes brighter each and every day. Just recently, the Milwaukee Journal Sentinel reported that COVID-19 cases in Wisconsin nursing homes have dropped 97% since vaccines have become available. **This is wonderful news on all accounts, and a relief to providers to know that the risk of transmission to residents and staff has dropped considerably. It also means that COVID-19 related admissions challenges are greatly reduced.**

The proponents of this provision 9119(1) point to a systemic concern of finding placement for complex hospital patients. We agree that this has always been an issue. We even agree that this issue was exacerbated during the worst days of COVID-19, as facility outbreaks at the time created admissions challenges. However, this issue did not suddenly arise **because of COVID-19.** Accordingly, the appropriate approach to address this issue is to convene all impacted parties, including our hospitals and nursing facilities, to develop a comprehensive approach to this problem so that patients receive care in the most appropriate setting and in the most cost-effective manner. Nursing facility providers need to be at the table.

Nursing facilities are ready and willing to find solutions, because nursing facilities want to be good health care continuum partners and also want to accept new residents whenever it is possible to do so safely and appropriately. Wisconsin's health care system is dependent on all providers – acute care and post-acute care alike – working together to ensure patients and residents are in the appropriate care setting. We are certainly ready to continue discussions on finding and implementing solutions.

Testimony Before the Senate Committee on Health
COVID-19 Legislation – 2021 Senate Bill 202

Dr. Narayana Murali, Chief Clinical Strategy Officer
Marshfield Clinic Health System

March 17, 2021

Good Afternoon Chairman Testin and members of the Senate Committee on Health, my name is Dr. Narayana Murali and I am the Chief Clinical Strategy Officer for the Marshfield Clinic Health System (MCHS). MCHS is an integrated health system serving northern, central and western Wisconsin. Our 1475 providers accommodate 3.5 million patient encounters each year across our 9 hospitals and almost 60 clinical sites. The Marshfield Clinic Research Institute is the largest private medical research institute in Wisconsin with more than 30 Ph.D. and M.D. scientists and 150 physicians engaged in medical research. We also are a teaching health system, providing over 1,300 students with over 2,300 educational experiences throughout our system. We also have an insurance subsidiary known as Security Health Plan providing coverage throughout Wisconsin in commercial, Medicare and Medicaid markets. Security Health Plan serves more than 225,000 members throughout Wisconsin.

We are a leader in rural healthcare, providing care in some of the most rural portions of our state.

As Eric Borgeding mentioned in his testimony on behalf of the Wisconsin Hospital Association, I am testifying in support of the provision in Senate Bill 202 related to "hospital services provided in a home setting."

Since 2016, MCHS has run a Home Recovery Program, operated through the Personalized Recovery Care, LLC, that seeks to take patients out of the inpatient setting whenever appropriate and allow them to be treated for over 100 conditions at home through home visiting and telehealth services. This program has been effectively deployed in our service area, demonstrated high rates of patient satisfaction, and improved outcomes and meaningful reductions in costs. In fact, it was highlighted in the August New England Journal of Medicine Catalyst.

In order to increase capacity for the care of patients across our system because of the COVID-19 pandemic, MCHS requested and with bipartisan support from the congressional delegation that represents our service territory (attached) was granted a Section 1135 waiver from CMS to more broadly implement the Acute Hospital Care at Home program. MCHS was one of the first 9 health care institutions in the country granted this waiver by CMS.

The Acute Hospital Care at Home program is an expansion of the CMS *Hospital Without Walls* initiative launched in March 2020 as a part of a comprehensive effort to increase hospital capacity, maximize resources, and combat COVID-19 to keep Americans safe. This program creates additional flexibility that allows for certain health care services to be provided outside of a traditional hospital setting and within a patient's home.

CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic

obstructive pulmonary disease (COPD) which can be treated safely at home with proper monitoring and treatment protocols.[1]

The *Acute Hospital Care at Home* program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than a traditional home health care service line The Acute Hospital Care at Home program provides hospital-level care in patients' homes through use of telehealth, in-home nursing visits, and virtual visits by hospitalist after ascertaining needs for durable medical equipment, home safety check, arranging for home meals, physical blocks of time for nursing care and prompt availability.

Medical research demonstrates the efficacy of treating patients in their homes utilizing the home hospitalization clinical model.

- 44% reduction in readmissions
- 50% reduction in ED visits
- 35% reduced length of Stay
- 22% increase in patient satisfaction

These strong clinical outcomes are largely due to rigorous safety protocols and procedures incorporated into the care model to ensure patient safety is always at the highest standard. Escalations/changes in condition are identified early with care coordination calls, incoming patient calls, and from remote monitoring alerts/trends. Care coordinators manage concerns with the treating provider based on individual escalation concerns. Our care team is equipped with tools to provide best practice support for change in condition and easy access to treating providers for more urgent needs. Care team members have established protocols for identifying urgency of presenting symptoms and are able to engage support as indicated. Mobile phlebotomy, imaging, and urgent visiting nurses are all utilized to support patient needs in the home.

Thank you in advance for your consideration and support of this provision that will allow us to create additional capacity options for our hospitals by utilizing technology to care for someone in their home and the regulatory certainty this clarification provides that our system will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies, if they are providing hospital-level services in someone's home, as approved and regulated by Medicare.

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[1] Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge [Press Release].* Retrieved from: *https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge*

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Testimony Before the Senate Committee on Health
2021 Senate Bill 202

Eric Borgerding, President/CEO
Wisconsin Hospital Association

March 17, 2021

Chairman Testin, Ranking Member Erpenbach and members of the Committee thank you for the opportunity to testify today on the important proactive initiatives included in Senate Bill 202 and for supporting our state's hospitals, health systems, providers, staff and most importantly, the patients they all serve. We want to thank all of you who have already, in one way or another, publicly expressed your support of these provisions and/or voted for them as part of Assembly Bill 1. We also want to thank Senator Testin for authoring Senate Bill 202.

Our state's hospitals, who have been both the front line of the fight and the last line of defense during the pandemic, have served as the COVID safety net for all Wisconsin. They also understand, very well, that this pandemic has been stressful for families, businesses, customers, constituents, patients and health care providers. WHA is mindful of the impacts COVID has had on everyone. In fact, we had the honor of being invited to brief both Assembly caucuses on COVID, and are well aware of the differing opinions, policies and politics permeating nearly everything COVID-related. Yet, we have worked extremely hard to find balance and common ground wherever possible, with the goal of moving forward and putting COVID safely behind us as soon as possible. SB 202 is an example of this common ground.

With that in mind, we are pleased to note that all five provisions in Senate Bill 202 have previously received support by Republicans and Democrats in the legislature and Governor Evers. And for good reason – they are proactive ideas largely born out of, or highlighted by, the pandemic, they leverage and apply lessons learned, and enable better utilization of resources by improving care.

One of the underappreciated silver linings of the pandemic has been expediting certain regulatory reforms. As time has passed, there has been a realization that many of these reforms are working well and should either be made permanent or become the basis or next steps for more changes.

As we entered the pandemic, WHA was pleased to work with the Evers Administration and the state legislature to propose and adopt licensure processes that allowed providers, licensed in good standing in another state, to begin treating patients in Wisconsin while that provider also applied for licensure in Wisconsin. The process leverages the work of other states' licensing agencies, as well as robust credentialing processes already conducted by hospitals/health systems, while an applicant's licensure is being approved in Wisconsin. When patients need care, both during a pandemic and in normal times, regulatory processes should not delay a community's access to a high-quality health care provider.

Another example of regulatory relief experienced during COVID-19 comes from the federal Centers for Medicare and Medicaid Services (CMS), which on November 25, 2020 announced new Medicare regulatory

flexibilities allowing hospitals to continue providing hospital-level care in a patient's home, prior to discharge from an inpatient service. CMS believes that their *Acute Hospital Care at Home* program works well for more than 60 different acute conditions which can be treated safely at home with proper monitoring and treatment protocols.[1]

While CMS' adoption of this program was moved up to create additional capacity options for our nation's hospitals during COVID, Wisconsin hospitals have been leading with this type of care model for years. Marshfield Clinic, for one example, has been operating a home recovery program since 2016 with strong care outcomes and high patient satisfaction. Mayo Clinic Health System had similarly developed an advanced care at home pilot program in Northwest Wisconsin before CMS' announcement. Both Marshfield Clinic and Mayo have already received CMS approval to implement an *Acute Hospital Care at Home* program.

Some Wisconsin hospitals and health systems have been hesitant to implement this federal program due to perceived uncertainty in related state law, and they are eagerly awaiting clarification provided in AB 148. The legislation before you provides that clarity, assuring that as hospitals seek innovative ways to expand and improve care that they will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies. This program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, akin to inpatient hospital care, far broader in scope and depth than traditional home health.

While many of you know WHA from our advocacy work and partnership with you here in the Capitol, since COVID many more have become familiar with our work in health care data. The Wisconsin Hospital Association Information Center (WHAIC) has been a trusted source for health care data and analytics, and a partner with the state, for nearly two decades. WHAIC is the organization that brought us the nationally-acclaimed WHA COVID-19 dashboard; a resource that many of you, like me, check daily to help make informed decisions about COVID and to track and share information with your constituents.

The WHAIC dashboard team collects, proofs and uploads 12 separate data elements from 155 hospitals into the dashboard … every single day, including Thanksgiving, Christmas and New Year's Day. Entirely staffed and funded by WHAIC, the COVID dashboard has now been viewed nearly one million times and has become a trusted, "go to" daily information staple for legislators and many others monitoring the status and impact of COVID in Wisconsin.

WHAIC is regulated under Ch. 153 of the Wisconsin statues and for over 18 years has collected and disseminated all Wisconsin hospital and ambulatory surgery center discharge data and has done so under a contract with the state executed in 2003. WHAIC initiated, created and runs the transparency websites PricePoint and CheckPoint, which have both now been replicated in several other states, with the help of WHAIC. WHAIC has received no state or federal dollars, has been entirely self-sufficient since day one, and is an excellent example of public-private partnership.

Further, in the summer of 2016, only four months after enabling legislation was signed into law, the WHA Information Center quickly stood-up the state's inpatient mental health bed tracker, an initiative advanced by WHA and that has proven a critical tool in improving access for patients in need of inpatient mental health care.

The legislation before you today includes an important new data tool for the Information Center known as Medicaid claims data. Like it has done with the COVID dashboard, the WHA Information Center can use Medicaid claims data to improve care for the Medicaid population inside and outside the walls of the hospital.

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[1] Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge [Press Release].* Retrieved from: *https://www.cms.gov/newsroom /press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge*

I want to thank two members of this committee, Senator Dale Kooyenga and Senator Jon Erpenbach who, in 2016, were both lead co-sponsors to enact the Health Care Data Modernization Act, greatly improving the ability of the WHA Information Center to use data to improve care. This legislation was a critical step for the Information Center to use data to help providers "put water where the fire is" as we all strive to improve population health, deliver better care outcomes and lower Medicaid costs.

Senate Bill 202's provision on Medicaid claims data is the next critical step to help better understand the care patients receive across the continuum, better understand social determinants of care, direct resources where needed most, and improve care outcomes in all circumstances, including during a pandemic. It will better inform strategies to prevent birth complications, reduce hospital readmission rates and reduce the number of patient's using a hospital emergency department as their primary mental health care provider, to name a few examples.

Finally, it should be noted that the federal Medicare program has already recognized the value of sharing its claims data with other organizations to foster collaboration and improvement, and in October 2019, WHAIC was named a Medicare Qualified Entity for the purpose of receiving Medicare claims data. It is now time for the state to do the same with Medicaid data.

Again, thank you for holding this hearing and for working together to help move Wisconsin forward. I also want to thank the many WHA members who have submitted their testimony in support of this legislation. WHA joins them in respectfully requesting your support of Senate Bill 202 and we would be happy to answer any questions.