

## LEGISLATIVE UPDATE

July 12, 2021

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### FEDERAL

#### *Congress*

This week is another great virtual advocacy event for the 340B drug pricing program!

The 340B program allows hospitals that treat a large number of Medicaid patients to buy expensive, high-cost outpatient drugs at a discount, using the savings to maintain the ability to care for all patients, regardless of their insurance or ability to pay. This virtual advocacy week will be especially unique as all 340B Nebraska hospitals will together be advocating for Congress to preserve and protect the 340B program as an essential part of the safety-net that does not rely on taxpayer dollars.

Children's will meet with all five of Nebraska's federal lawmakers and will share [Children's impact statement for 340B](#) to highlight the importance to our organization.

On July 9, President Joe Biden signed an [executive order](#) (EO) establishing an effort to promote competition in the American economy, specifically in the healthcare sector. The EO includes 72 initiatives by more than a dozen federal agencies to tackle competition issues across the economy, including in health care, financial services, technology and agriculture. The EO does not have the force of law, but rather serves to provide direction to federal agencies to contain a number of provisions directed at drug manufacturers, hospitals and health insurers. Of particular mention-

#### **Hospitals**

- The Department of Justice and Federal Trade Commission (FTC) are encouraged to vigorously enforce antitrust laws, even on past mergers that previous administrators haven't challenged. Enforcement of antitrust laws should focus specifically on healthcare.
- The EO calls on the Justice Department and the FTC to review and revise their guidelines on hospital mergers to limit harm to patients.
- The order also directs HHS to support hospital price transparency rules and implement surprise hospital billing legislation.

#### **Health Insurance**

- Directs HHS to standardize plan options in the marketplace, simplifying the options for the American people

#### **Prescription Drugs**

- Directs the FDA to work with states to import prescriptions from Canada.
- Calls on HHS to increase support for generic and biosimilar drugs and to create a plan within 45 days to address high drug prices and price gouging.
- Asks the FTC to ban "pay for delay" agreements, under which brand-name drug makers pay generic drug makers to keep out of market.

#### **Hearing Aids**

- Would allow hearing aids to be sold over-the-counter and asks HHS to issue a rule on the matter within 120 days.

#### ***Centers for Disease Control and Infection (CDC)***

The Centers for Disease Control and Prevention (CDC) released information last week, encouraging schools to open for in-person learning this fall. Additionally, the CDC supports fully vaccinated students and teachers without masks indoors.

[The updated CDC guidance eases recommendations for kindergarten through 12th grade](#) and calls returning to school in-person a “priority.”

The CDC noted that while COVID-19 outbreaks have occurred in school settings, multiple studies have shown that school transmission rates are typically lower than- or similar to- community transmission levels when multiple prevention strategies are in place.

### ***Occupational Safety and Health Administration (OSHA)***

The Occupational Safety and Health Administration (OSHA) published an Emergency Temporary Standard (ETS) for occupational exposure to COVID-19 that requires health care employers to take certain steps to protect their workers in settings where suspected or confirmed COVID-19 patients are treated. The ETS is effective immediately, and employers must comply with most provisions as of July 6, and with the physical barriers, ventilation and training requirements by July 21. While Children’s has been convening to make sure we are in compliance of the ETS, the American Hospital Association (AHA) requested a delay in enforcement. The delay was ultimately denied by OSHA, who hasn’t enforced an ETS in nearly four decades. The administration also released its [field inspection and enforcement procedures](#) for enforcing the ETS.

## **STATE**

### ***Nebraska Legislature***

As we enjoy the “lazy days of summer,” Speaker of the Legislature Matt Hilgers sent a memo to his colleagues in the Legislature outlining their return to work in September. It appears the Special Session of the Legislature will occur September 13 through September 30, including Saturdays, as senators need ample time to sort through redistricting requirements. While this may not impact us at Children’s directly, it could change our legislative district or even change the map on congressional districts in Nebraska.

It also means all 49 state senators are in Lincoln, therefore you can anticipate a lot of deals and decisions are being made. The Appropriations Committee will be using this time to regroup and begin outlining their proposal for the nearly \$1 billion federal COVID-19 relief dollars. A formal hearing over their budget recommendations is rumored to occur the following month (Oct. 7) where the public is invited to testify.

This new timeline is encouraging as we continue to work closely in stakeholder sessions to earmark the funds toward pediatric specific initiatives.

Meanwhile, members of the HHS Committee met in Lincoln last Friday to discuss the St. Francis contract for child welfare in the eastern service area. Little information has been given on how long Nebraska DHHS will give St. Francis to fulfill its contract obligations, nor do we know the plans for the management of child welfare cases when the current 25-month, \$147.3 million contract ends.

From now until the contract ends in February 2023, St. Francis leadership claims they are committed to hiring quality case managers to facilitate the concerning caseload volumes on current staff that exceed Nebraska law, resulting in extreme cases of children falling through the cracks of the existing child welfare system.

Adding to the disruption is the action taken against St. Francis’ license as a child placing agency. State health inspectors put the license on probation in May after the nonprofit failed a September inspection and had not corrected its problems by mid-April. HHS has given St. Francis until Aug. 1 to correct its deficiencies.

Losing the child placing agency license would prevent St. Francis from carrying out a core part of its contract — placing children in foster or adoptive homes. Inspectors initially found St. Francis deficient on 25 items. It remained deficient on 14 as of April, state records show. Most involved a lack of documentation, such as records of the required monthly case manager visits with children, proof that children got a medical examination within 14 days of entering foster care and inventories of foster children’s belongings. Also missing were financial records and reports that were to have been submitted to the board of directors for St. Francis’ Nebraska operations, a board required under the state contract. According to the notice of disciplinary action, that board did not meet in 2020.

Children’s is awaiting a St. Francis stakeholder survey from Chairman of the HHS Committee John Arch to offer expertise, concerns and opportunities to better support the existing contract.

(Sources: CHA, CDC, Nebraska Legislature, DHHS)