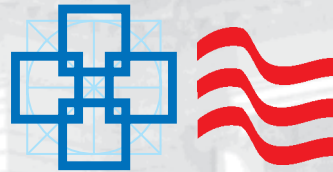


*The Kentucky  
Hospital  
Association's  
Legislative  
Priorities*

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**K E N T U C K Y  
G E N E R A L  
A S S E M B L Y**

November 2008



**Kentucky Hospital Association**  
*Representing Kentucky Health Care Organizations*





# KHA's Legislative Priorities for the

# 2009

## Kentucky General Assembly

### Retention of Certificate of Need

Kentucky is one of 37 states, including the District of Columbia, with a certificate of need (CON) program. Because Kentucky oversees the proliferation of health care services through state wide health planning and CON, Kentucky hospitals have one of the lowest costs per day and costs per stay in the nation.

Each legislative session finds individuals or organizations that seek to repeal CON or seek exemptions for certain providers that compete with hospitals. These providers do not have to meet the same licensure standards, staffing requirements or pay a provider tax to support the Medicaid program as hospitals do.

**KHA supports retaining the current Certificate of Need (CON) program** and will oppose legislation containing CON exemptions for certain facilities or providers as well as legislation proposing CON repeal. **KHA will seek legislation to establish a level playing field** for exempt facilities or any provider group seeking exemptions or repeal, which includes treatment of indigent and Medicaid patients, participation in the provider tax, compliance with comparable quality and safety standards, and prohibiting self-referral of patients to facilities with which the provider has an ownership interest.

### MRSA Collaborative

Kentucky hospitals take infection control very seriously and are engaged in numerous activities to prevent the spread of infection and provide safe care to their patients. This has become more difficult in recent years due to the development of bacteria, such as methicillin-resistant Staphylococcus aureus (MRSA), which is resistant to common antibiotics. MRSA used to occur among hospital, nursing home and dialysis patients, but a new community-acquired strain is now becoming more prevalent among healthy people who have not be associated with the health care

system. This year, **KHA spearheaded an effort to create a statewide MRSA collaborative** to address both health care acquired and community-acquired MRSA. **KHA is partnering with the University of Louisville, University of Kentucky, Department of Public Health and the Kentucky Medicare Quality Improvement Organization (QIO) to prepare a comprehensive plan** that includes conducting educational programs and developing toolkits of model policies, procedures and best practice guidelines for use by health care professionals in hospitals and other health care facilities, as well as in a variety of community settings, such as schools and jails, to combat the spread of MRSA throughout the commonwealth. **Hospitals support this voluntary MRSA statewide collaborative to address this issue. Kentucky hospitals oppose legislation that would mandate massive testing of all hospital patients and reporting of infections** – these mandates would add millions of dollars in costs to the health care system and divert staff time and energy away from implementation of best practices to the gathering and reporting of data – an activity that does nothing to protect patients from the spread of infections.

### State Revenue Raising Measures and the Need to Improve Hospital Medicaid Payments

In the face of revenue shortfalls and a tightening economy, legislators and the Administration may consider revenue raising measures. **KHA supports an increase in the tobacco excise tax** as a means not only of raising needed funds but because it has been shown to reduce the incidence of smoking, particularly among youth. Because smoking contributes significantly to increased health care costs in the form of cancer, heart disease, stroke and other respiratory conditions, **KHA endorses dedicating the proceeds of an increase in the tobacco tax to health care. This should include a specific portion dedicated to increase Medicaid funding to improve the cost coverage of hospital inpatient payments.** Hospital care is a mandatory service under the Medicaid program and hospitals

provide the safety net to persons needing care, regardless of ability to pay, 24 hours each day, 365 days a year. **The present Medicaid payment system, on average, covers only 78 cents of every one dollar of cost** a hospital incurs to treat hospitalized Medicaid patients. Additional funding is needed to raise aggregate hospital inpatient payments to a more reasonable level. Kentucky hospitals, unlike most other providers that receive Medicaid reimbursement, are already paying a substantial provider tax to help fund the Medicaid program. **Kentucky hospitals oppose any additional taxes on hospitals, such as through expansion of the sales tax to selected services, since hospitals are already taxed and additional taxes would raise hospital costs.**

## Medical Liability Reform

**KHA continues to support the need for medical liability reform in Kentucky.** Medical liability insurance premium costs for Kentucky physicians as compared to surrounding states are making it extremely difficult for hospitals to recruit new physicians to the state. In addition, many Kentucky physicians are eliminating high risk services from their practices. **KHA supports legislation to affect the following reforms:**

- A medical review panel to reduce filing of frivolous lawsuits
- Consideration of collateral source medical payments when establishing awards
- Use of periodic payments to pay for future damages in excess of \$250,000
- Peer review protection
- Affidavit of qualified expert witness
- Establishment of a reasonable interest rate on judgments
- Making expressions of sympathy inadmissible in civil actions, arbitration or medical review panel proceedings

These reforms exist in other states and many have been enacted previously by the Kentucky General Assembly only to later be ruled unconstitutional. For that reason, **KHA also supports a Constitutional amendment to assure that these reforms can be implemented.**

**KHA opposes legislation that would inflict further damage to Kentucky's broken liability system through expansions of liability, such as through expansion of the loss of consortium.** This legislation would create unintended consequences that would negatively impact every citizen of the commonwealth by creating a new "cause of action" for more lawsuits to be filed which would, in turn, drive up property and casualty, automobile and other insurance premiums; and subject Kentuckians to more frivolous lawsuits. Passage of this legislation would further threaten patients' access to care and increase the cost of health insurance in Kentucky.

## Workforce Issues

The demand for registered nurses (RNs) and other health care personnel is continuing to rise to meet the growing health care needs of the population that is aging and suffering from chronic disease. According to the 2007 KHA Annual Workforce Shortage Survey, there is an overall RN vacancy rate of 6 percent (equaling approximately 1163 full-time RNs working 12-hour shifts) in Kentucky. KHA continues to work on multiple fronts to ease the pressure of these shortages through providing funding to educational institutions for new and expanded programs and through programs to improve health care professional retention. **Because workforce shortages continue, KHA opposes legislation that would limit hospitals' flexibility to determine appropriate staffing patterns for health care workers by imposing arbitrary staffing ratios or dictating work schedules as well as legislation that would make it easier to organize hospitals for collective bargaining.**



**Kentucky  
Hospital  
Association**

**For more information about KHA's Legislative Priorities, contact:**

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