IHA Legislative Position 2017
Public Hospitals

★ Overview

Hospitals are faced with many challenges in maintaining Iowa’s high quality and efficient health care system. Further, approximately half of Iowa’s hospitals are publicly owned and operated and therefore are subject to additional administrative and regulatory challenges. These requirements can restrict a public hospital’s ability to operate successfully and efficiently within the modern health care environment.

During the 2016 legislative interim, the Iowa Hospital Association facilitated a workgroup consisting of representatives from all types of public hospitals to evaluate sections of the Iowa Code that affect public hospitals. The group did a thorough review of present statutes and administrative decisions governing public hospitals and public bodies, specifically examining areas needing legislative changes in order to assist public hospitals with effectively functioning in today’s health care environment. It’s also important to note that half of Iowa’s hospitals are private not-for-profit institutions and this review revealed several issues that place public hospitals at operational disadvantages.

Public Construction Bidding

★ Background

Public hospitals are currently prohibited from utilizing design/build contracts in construction projects. Such arrangements are commonly used in the private sector, where they have proven to be cost-effective and more efficient than traditional sealed bid contracting methodologies. Traditional public contracting is also both administratively cumbersome and expensive, failing to account for current construction practices. Because public hospitals receive the majority of their financing from non-tax revenues, they should be allowed to utilize the same construction methodologies as their private not-for-profit peers.

However, recognizing there is still a public interest in municipal or county hospital construction, IHA supports the utilization of design/build processes for public hospitals with the caveat that the projects are financed with capital on-hand or general obligation revenue bonds (rather than tax dollars).

Additionally, IHA supports increasing the public hospital bid threshold from $135,000 to a minimum of $500,000 for projects financed with tax dollars. The current threshold has been in place since 2006 with minimal inflationary increases and no longer reflects the costs associated with small-scale construction projects. This low bid threshold requirement automatically prevents public community hospitals from utilizing local contractors due to the administrative barriers in place for public bidding. In addition, public hospital remodeling or renovation projects should be exempt from the public bid threshold altogether as such projects don’t contemplate any significant changes in hospital capacity.

★ Action Needed

IHA supports legislation to increase the public hospital bid threshold to at least $500,000 when projects are financed with tax dollars. When projects are financed with capital on-hand or general obligation revenue bonds, public hospitals would not be subject to public bid thresholds and can utilize design/build and other construction management techniques.

Hospital Volunteers

★ Background

Public governmental bodies, which include public hospitals, are subject to Iowa’s open meetings and open records laws (Code Chapters 21 and 22). The Iowa Public Information Board (IPIB) is a nine-
member board that receives complaints from the public for alleged violations of Chapters 21 and 22 and issues decisions regarding the complaints. Recently, IPIB ruled that public hospital volunteers are considered the same as employees under the open records law and, therefore, the names of volunteers are not confidential under Iowa Code section 22.7.

IHA’s public hospital workgroup expressed concern regarding the IPIB decision and the potential chilling effect on hospital volunteerism that could result. Unlike public employees, volunteers do not have an expectation that their information will be disclosed. With all hospitals legally responsible for actions taken by volunteers in their capacity as volunteers, there is no public policy in support of disclosure of uncompensated members of the public volunteering their time at their community hospital.

**Action Needed**

*IHA supports legislation in 2017 that exempts public hospital volunteers from Iowa Code Chapter 22.*

**Chapter 347**

**Background**

Iowa’s public hospitals are governed by several chapters according to their charter as county, municipal or memorial hospitals. Iowa Code Chapter 347 governs Iowa county hospitals. Chapter 347A was added to provide an alternative method of financing debt for county hospitals through the sale of a hybrid species of revenue bonds. Municipal hospitals are considered city administrative agencies and are governed by Section 392.6 and the law governing memorial hospitals is found in Chapter 37. Many of the chapters refer to Chapter 347 as it is the most specific in terms of the guidance offered for public hospitals and their elected trustees. There are, however, inconsistencies among the chapters and old language that should be clarified and updated to provide flexibility for public hospitals.

Public hospitals are governed by uncompensated, publicly elected trustees. Members of IHA’s public hospital workgroup noted difficulty in finding people to run for their boards of trustees. Chapter 347 requires county hospitals to have seven members on their boards of trustees with six-year terms. County public hospitals would like the flexibility to locally determine the number of trustees and length of terms based on local population, similar to the flexibility Iowa Code affords to municipal hospitals. In addition, the workgroup expressed concern regarding absent and negligent trustees and the ability to remove the trustee or implement term limits in the public hospital’s bylaws.

**Action Needed**

*IHA supports legislation in 2017 that revises Chapter 347 to allow county hospitals to have five or seven-member boards of trustees and decrease the trustee term length to four years. IHA also encourages the adoption of legislation allowing local control for a public hospital to remove absent and negligent trustees and implement term limits in its bylaws.*

**Transition to not-for-profit**

**Background**

In 2015, Skiff Medical Center, a municipal hospital, transitioned to a not-for-profit hospital status in light of the added difficulties in running a public hospital in the modern health care environment. Throughout the transition, there were many questions regarding the proper level of approval necessary to allow for the affiliation. Iowa Code does not specify a process or level of authority necessary for such a transition.

**Action Needed**

*The General Assembly should clarify that the locally elected board of trustees for a public hospital has the authority to determine the terms of an affiliation agreement in transitioning to a not-for-profit hospital.*