Dear Members,

The 2019 NH legislative session is in full swing, with a lot of energy around multiple bills. While the Senate is on Winter break this week, the House chose not to do the same, in part, due to the significant number of bills introduced in the House this year, and the fact that the House Finance Committee is beginning their work on the SFY 20/21 State Budget. Both the House and the Senate have been busy dealing with many hearings on a variety of bills during the last month and a half.

The Governor unveiled his SFY 20/21 State Budget proposal on February 14, 2019. While HB 1 (operating budget and capital budget spreadsheets) is out, HB 2 (trailer bill with detailed policy proposals) is not currently available to the public. It is expected imminently and once we receive the document, we will have a better understanding of the Governor's budget proposals.

The House Finance Committee's work on the next biennium State Budget (2020/2021) is beginning with agency presentations underway. The State Budget for FY 2020/2021 will take several months of review and changes before it is finalized. The House Finance Committee divides their work into three divisions for the purposes of their budget review work. Division III is our priority, as they are solely focused on the Department of Health and Human Services (DHHS). The House Finance divisions will finalize their review and provide their recommendations on changes (increases/decreases) to the Governor's proposed budget in the next couple of weeks. The full Finance Committee will vote on the budget recommendations by early April, with their recommendations going to the full House soon after. Then the process starts all over in Senate Finance and Senate Ways and Means Committees.

While NHHA has been following many bills of interest to our members, the priority focus areas continue to be ensuring that the settlement agreement signed in 2018 regarding the Disproportionate Share Hospitals payments due to hospitals is properly funded in the budget, that the behavioral health crisis continues to be addressed by implementation of meaningful reforms to include
increased inpatient capacity at New Hampshire Hospital, adequate reimbursement for designated receiving facilities (DRFs), funds to renovate DRFs and reimbursement for emergency room boarding and various reimbursement statutes are modified, among many other provisions, to ensure that hospitals are able to provide the patient care and access to services that are most needed. The Critical Access Hospitals (CAH) also must be protected by strengthening existing licensing statutes to ensure fair and reasonable requirements are adhered to for new licensees opening new services in the CAH service area.

All of the bills that NHHA is following can be found on our web site here and includes links to bill language, the prime sponsor, hearing dates/times and the status of the bill.

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STATE UPDATE

RECENT LEGISLATIVE ACTIVITY

Listed below are bills of particular importance to hospitals and health systems this year. NHHA is following many more bills, which will be included in future updates of the NHHA Legislative Newsletter.

BEHAVIORAL HEALTH

**SB 11, Relative to Mental Health Services and Making Appropriations Thereof**

SB 11 has several components relative to addressing the immediate behavioral health crisis to include:

- Authorizes the department of health and human services to use general surplus funds for increasing funding to Designated Receiving Facilities (DRFs) and voluntary inpatient psychiatric admissions
- Makes an appropriation to the department of health and human services for the purpose of renovating certain existing facilities.
- Provides for rulemaking for involuntary admission hearing requirements.
- Requires insurers to reimburse hospitals for emergency room boarding.

SB 11 was heard on January 22, 2019 in the Senate HHS Committee. NHHA testified on the bill. The bill was amended slightly and was passed by the full Senate on January 31, 2019 then was referred to Senate Finance where additional modifications were made to address our concerns. The amended bill
was passed 24-0 by the full Senate on February 21, 2019. The bill now moves on to the House Health and Human Services (HHS) Committee for a hearing and further debate.

NHHA position: Support

COMMUNITY BENEFITS/CHARITABLE TRUSTS

**HB 552, Relative to Transparency and Standards for Acquisition Transactions in Health Care**

HB 552 attempts to clarify the standards for acquisition transactions involving health care charitable trusts and the review required by the director of charitable trusts. NHHA testified that the bill, as introduced, would add additional criteria to the standards of review that the Director of Charitable Trusts would use to evaluate transactions involving health care charitable trusts. It is NHHA's position that the Director already possesses the ability to review all applicable aspects of a transaction and questions the need for this legislation. NHHA is also concerned about the potential for the bill's requirements to increase the cost of the transactions if outside expertise is required. This bill is quite similar to the bill that was introduced last year, SB 502, but was retained in House Commerce. HB 552 was amended by the House Judiciary committee and voted as Ought to Pass (OTP) as amended on a partisan vote of 11-8. The bill now heads to the full House on March 7, 2019. NHHA continues to have concerns with the bill and will work with the Senate to ensure that necessary changes are made to mitigate these concerns.

NHHA position: Oppose

HEALTH INSURANCE/OTHER INSURANCE

**HB 528, Relative to Insurance Reimbursement for Emergency Medical Services**

HB 528 is a bill that NHHA requested be filed. The bill requires insurers to consider the presenting symptoms in addition to the final diagnosis when determining whether to cover and pay for emergency services. NHHA testified to the challenges hospitals have faced relative to patient's access to emergency services and coverage for such services. The House Commerce committee amended the bill, but the bill's original intent remains intact. The committee passed the bill unanimously and the full House passed it on February 27, 2019. It will now move on to the Senate Commerce committee

NHHA position: Support

**SB 58, Relative to Reimbursement Rates for Low-dose Mammography Coverage**

SB 58 clarifies the reimbursement rates for low-dose mammography screenings. NHHA requested this bill be introduced to further clarify that the intent of the law to cover 3-D mammograms is consistently being followed by
all carriers. NHHA **testified** in strong support of the bill. This bill ensures that providers of low-dose mammography screening shall be reimbursed at rates accurately reflecting the resource costs specific to each modality, including any increased cost of a 3-D breast tomosynthesis. The bill was passed unanimously by the Senate Commerce committee and then by the full Senate on February 14, 2019. The bill now heads to the House Commerce committee.

**NHHA position: Support**

**LICENSING/CERTIFICATION**

**HB 509, Relative to a Graduate Physician Pilot Program**

HB 509 establishes a pilot program for the regulation and licensure of graduate physicians each year by the board of medicine. Practice of a graduate physician is limited to medically underserved areas and rural health clinics. NHHA **testified** in opposition to the bill as did all the other stakeholders. Based on the testimony, the House HHS committee voted the bill was Inexpedient to Legislate (ITL) and the bill failed to move forward. The sponsor requested the ITL motion as he cited the two new medical residency programs being developed in NH as a positive step forward, hence the bill was no longer needed.

**NHHA position: Oppose**

**HB 615, Relative to the Regulation of Pharmacies and Pharmacists**

HB 615 makes various changes to the regulation of pharmacies and pharmacists by the board of pharmacy, including procedures of the board, exceptions to possessing prescription drugs, license expirations and renewals, and establishing the licensure of drug distribution agents. NHHA **testified** in support of the bill, as introduced. We did suggest some changes to the bill regarding the timing of biennial license renewals. The House Executive Departments and Administration (ED&A) Committee is considering various amendments to the bill and it will be voted on by the full committee in the coming week.

**NHHA position: Support**

**SB 273, Relative to the Regulation of Nursing Assistants by the Board of Nursing**

SB 273 would change the regulation of licensed nursing assistants to certified nursing assistants and makes administrative changes for the board of nursing. NHHA **testified** that we have concerns with the bill, as introduced, specifically that we were concerned about the unintended consequences of changing this position from licensed back to certified and the potential financial impact on all nurse licensees. The vast majority of the testimony from stakeholders was not in support of the bill. Testimony suggested the issue be further studied. The Senate ED&A committee heard the bill on February 6, 2019 and will vote on the bill in the coming weeks.

**NHHA position: Oppose**
MEDICAID

**HB 725, Including Medicaid Care Organizations Under the Managed Contractor Requirements for Provider Care Law**

HB 725 would insure that the Medicaid managed care organizations are following the relevant prompt payment and credentialing standards. NHHA requested this bill be introduced. NHHA testified in support and that we would work on an amendment with the committee and sponsor due to a drafting error in the original bill text. The House Commerce committee amended the bill and passed it out of committee with a very strong vote of 19-1. The bill will be voted on by the full House on March 7, 2019.

*NHHA position: Support*

**SB 5, Making an Appropriation to the Department of Health and Human Services for Medicaid Provider Rates for Mental Health and Substance Misuse and Emergency Shelter and Stabilization Services**

This bill makes an appropriation to the department of health and human services for Medicaid provider rates for mental health and substance misuse and emergency shelter and stabilization services. NHHA signed in support of the bill. The Senate HHS committee amended the bill and passed it unanimously. It also passed the full Senate on a unanimous vote. The Senate Finance committee amended the bill further and the full Senate passed it unanimously on February 14, 2019. The bill now moves on to the House HHS committee.

*NHHA position: Support*

**PRESCRIPTION DRUGS**

**HB 284, Relative to Biennial Controlled Substance Inventories Conducted Under the Controlled Drug Act**

HB 284 would align NH's statutory language for biennial inventories of controlled substances with federal regulatory language. NHHA requested this bill be introduced. NHHA testified in support of the bill. The bill was heard in House Health, Human Services and Elderly Affairs and was amended, with NHHA's support, by the committee and passed unanimously. The bill was passed by the full House on February 14, 2019. The bill now moves on to the Senate HHS committee.

*NHHA position: Support*

**HB 359, Relative to Warning Labels on Prescription Drugs Containing Opiates**

HB 359 would require any drug which contains an opiate dispensed by a health care provider or pharmacy to have a red cap and a warning label regarding the risks of the drug. The bill was heard in House Commerce committee and there was much debate about the bill, as introduced. The bill was amended to require a red sticker be placed on the opiate container instead of a red cap as
originally requested. The bill was passed out of committee as amended but there will be further debate on the House floor since there remain concerns about the bill.

**NHHA position: Oppose**

### QUALITY & PATIENT SAFETY

**SB 26, Relative to the New Hampshire Health Care Quality Assurance Commission**

SB 26 would change the name of the New Hampshire Health Care Quality Assurance Commission to the New Hampshire Health Care Quality and Safety Commission. This bill also removes the prospective repeal of the commission. NHHA requested the bill be introduced and testified in strong support of the legislation. The bill was heard in Senate ED&A and, based on discussion during the hearing, the committee amended the bill to ensure that the New Hampshire Hospital was included as a member of the commission. The bill was passed unanimously by the committee and by the full Senate on February 14, 2019. The bill now heads to the House ED&A committee.

**NHHA position: Support**

**SB 119, Directing Hospitals to Develop an Operational Plan for the Care of Patients with Dementia**

SB 119 requires hospitals licensed under RSA 151 to complete and implement an operational plan for the recognition and management of patients with dementia or delirium in acute-care settings. Under this bill, each hospital shall keep the plan on file and make it available to the bureau of health facilities administration, department of health and human services, upon request. NHHA testified that we support the amendment that was introduced at the hearing. The NHHA worked with the Alzheimer’s Association for several months on the language of the proposed bill and we appreciated the sponsor of the bill agreeing to amend the bill. The bill was heard in the Senate HHS committee on February 19, 2019 and will be voted on by the full Senate on March 7, 2019.

**NHHA position: Support as Amended**

### WORKFORCE

**HB 253, Relative to Criminal Records Checks in the Employee Application**

HB 253 would prohibit employers from asking a job applicant about his or her criminal history prior to an interview. NHHA testified that we had some concerns with the bill language. The bill does exempt hospitals from the prohibition, but the language is not as clear as it could be. The House Labor committee amended the bill and the full House passed the amended bill on February 14, 2019. The bill now heads to the Senate Commerce committee. There is another bill, SB 100, that is similar to HB 253 that will also be heard in Senate Commerce. The two bills will be reconciled in the future.
HB 637, Relative to Criminal Background Checks by Employers and Public Agencies

HB 637 requires the division of state police to maintain an electronic database containing public criminal history record information which would be accessible to an individual, and to a state agency to obtain public criminal history record information about applicants for positions or as a condition for occupational licensure. The bill also removes the notarization requirement for requesting a criminal history records check for purposes of employment and occupational licensing. The bill is being requested by the Department of Safety and is a companion bill to SB 173 (see below). There are minor differences between the two bills, but they will likely get addressed during a committee of conference, if not earlier, when the bills cross over to the other body. NHHA testified in support of the bill. HB 637 was heard in House Criminal Justice and Public Safety and it passed the committee unanimously and then passed the full House on February 27, 2019.

NHHA position: Support

SB 90, Relative to Certain Disclosures by Health Care Provider Facilities

SB 90 is a bill that NHHA requested be introduced. This bill extends immunity to staff licensed by the division of health professions, office of professional licensure and certification, to disclose certain employment information. NHHA testified to the importance of this bill as the current law does not cover other health care entities, such as independent physician practices and hospital-affiliated but separate legal health care entities. The Senate Judiciary committee heard the bill on January 29, 2019 and has not been voted on by the full committee yet.

NHHA position: Support

SB 173, Relative to Criminal History Background Checks by Employers and Public Agencies

SB 173 is the companion bill to HB 637 (see above). The bill was requested by the Department of Safety and would require the division of state police to maintain an electronic database containing criminal history record information which would be accessible to an individual, and to a state agency to obtain public criminal history record information about applicants for positions or as a condition for occupational licensure. The bill also removes the notarization requirement for requesting a criminal history records check for purposes of employment and occupational licensing. NHHA testified in support of the bill. SB 173 was heard in Senate ED&A and is currently being considered by the full committee.

NHHA position: Support

SB 308, Relative to the Health Care Workforce and Making Appropriations Therefor

SB 308 has several components that addresses concerns that impact health
care workforce shortages to include:

- Increases Medicaid provider rates.
- Requires certain health care professionals to complete a survey collecting data on the primary care workforce.
- Requires the department of health and human services to amend the income standard used for eligibility for the "in and out" medical assistance policy.
- Permits the department of safety to contract with a private agency to process background check applications and requires the department to accept and process background check applications online.
- Amends the definitions and services covered through telemedicine.
- Makes appropriations to the department of health and human services, rural health and primary care section to establish new positions and programs to develop and enhance the state's healthcare workforce.
- Makes an appropriation to the governor's scholarship program for scholarships to students majoring in a health care field and to postsecondary educational institutions to develop and enhance programs of study offered in health care.

The bill was heard in Senate ED&A on February 13, 2019. The bill is expected to be voted on by the full committee in the next couple of weeks. There is a lot of support for the bill and NHHA signed in support.

*NHHA position: Support*

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**FEDERAL UPDATE**

The New Hampshire Congressional delegation have been out and about meeting with hospital representatives in recent weeks including Senator Shaheen at Exeter Hospital and Congresswoman Annie Kuster at Southern NH Medical Center. Topics have ranged from protections for pre-existing conditions, healthcare workforce issues, Medicare and Medicaid reimbursement challenges, and mental health and substance use disorder initiatives. If you are interested in hosting a meeting with one of our Senators or House members, please contact Kathy Bizarro-Thunberg at kbizarro@nhha.org or (603) 415-4252 and she can help coordinate those visits. These visits are a great way to share how your hospital and your community are meeting the needs of the patients you serve, as well as provide them with real-life examples of how federal initiatives may help or hinder.

Another way to get engaged with the congressional delegation is to meet them...
Congress looks very different this year with Democrats now in the majority in the U.S. House. Given this split in Congress, we can expect quite a bit of gridlock this year and next on a number of high-profile issues such as Medicare for all and the future of the ACA/repeal and replace. But we can also anticipate that there will be some bipartisan efforts, such as those around surprise medical bills, prescription drug costs, opioid/substance misuse and mental health, among others. Here are the top issues we are following right now:

**Medicare for All:** This is going to be a defining issue in the Democratic presidential primaries and its definition is incredibly broad and vague—what does it mean? Who would be included? How would it be funded? Medicare underpayments are a significant challenge for providers in New Hampshire and it’s what’s lead to the ongoing cost shift. If Medicare were to become the ceiling of payments, it would have a devastating impact on providers in New Hampshire. Attention needs to be paid to educating our delegation as well as healthcare leaders on the implications of a Medicare for All system. AHA President/CEO Rick Pollack recently wrote an article entitled "Is "Medicare for All" the Right Answer?" which provides words of caution.

**Surprise Medical Bills:** This is an issue that has gotten a lot of attention both in NH and nationally. In fact, Senator Maggie Hassan has taken the lead on this issue in Congress. While we were successful in shaping the bill that passed in New Hampshire last year to be less onerous on hospitals, the national drive on this issue is moving pretty quickly and is likely to gain traction quickly on Capitol Hill. AHA recently released principles that will help guide the healthcare field as we advocate on this issue.

**Substance Use Disorder/Behavioral Health:** While Congress has done a lot in the area of substance use disorder and the opioid crisis, we expect that this will continue to be a focus given the significant challenges we face as a nation, and certainly that we are experiencing here in NH. We’ve had discussions with NH Congressional delegation staff that it would be important for Medicare to come to the table on the behavioral health crisis given the large number of elderly patients hospitals see in their emergency departments and within their systems suffering from a behavioral health disorder.

**Affordable Care Act:** It’s not likely that the ACA will see any major attacks on Capitol Hill but, no matter the split political climate, we may still see bills going back and forth to repeal/replace or to support the ACA. One issue that will likely come up is the extension of the cuts that would be applied to the Medicaid DSH program (originally one of the pay-fors for the ACA). What we will see, though, is action in the courts or on the regulatory front. In the courts, the decision in Texas that found the ACA unconstitutional is still in play. NHHA is working with a coalition of about 25 other state hospital associations who will file an amicus brief in that case. On the regulatory front, the Administration could continue to take steps to weaken the ACA such as
Prescription Drugs: NH’s Congressional delegation share our concerns with the high cost of prescription drugs and remains very supportive of the 340B program that many of our hospitals participate in on behalf of their patients.

Rural health Care Delivery: This is another area where our NH Congressional delegation remain strong advocates. We will continue to work with the AHA in identifying opportunities to strengthen the rural health care delivery system. In fact, Congresswoman Kuster has pledged to visit the hospitals in her district as she begins to craft her healthcare agenda. She was recently appointed to the powerful House Energy and Commerce Committee and its Health subcommittee.

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