



Legislative Newsletter

Keeping members informed on federal & state legislative priorities.

May 17, 2023

Dear Members,

The 2023 NH legislative session has been very busy with many hearings and session days in both the House and Senate during the last four months.

A major focus of this session has been the State Fiscal Year (SFY) 2024/2025 Budget. The House completed their work on the budget ([HB 1](#) and [HB 2](#)) on April 6, 2023, on a bi-partisan basis after the House leadership negotiated with House Democrats on a number of key provisions to ensure a strong vote on the House floor. The House Finance Committee removed some problematic aspects of the budget that NHHA opposed. The budget bills were referred to the Senate Finance Committee where the committee members have been working diligently on the budget for the last month. NHHA [testified](#) on the budget in the Senate Finance Committee and outlined the key priorities for hospitals. NHHA has been working with Senate Finance Committee members to address an area of continued concern in HB 2: changes made to the Health Care Violence Prevention Commission. In addition, NHHA testified in opposition to the inclusion of Medicaid Expansion in the budget with a two-year sunset. The Senate Finance Committee will complete its work on the budget by late May with a final vote by the full Senate scheduled for June 7, 2023.

Currently, Medicaid Expansion is scheduled to end in December 2023. NHHA is coordinating our advocacy efforts with other stakeholders to ensure that Medicaid Expansion is reauthorized, without a sunset provision, so that the Legislature will not have to come back to reauthorize Medicaid Expansion again and again. We need the Legislature to pass SB 263 to ensure the Granite Advantage program continues without disruption.

While NHHA has been following many bills of interest to our members, the priority focus areas this year have been on Medicaid Expansion reauthorization, the state budget, bills to address workforce shortages, and legislation that will work to alleviate challenges related to discharging patients from hospitals. In addition, we continue to work on workplace safety with the introduction of SB 58, workplace violence protections.

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



State Update

Recent Legislative Activity

ENERGY/ENVIRONMENT

[HB 300, prohibiting the disposal of certain food waste.](#)

HB 300 defines food waste and prohibits its disposal in certain circumstances. The bill was heard in the House Environment and Agriculture Committee on January 24, 2023. NHHA has been following the bill closely since the requirements outlined in the bill could impact our members. The bill passed the full House on February 14, 2023, and has been referred to House Finance, Division I, where a couple of work sessions have occurred. The bill has been retained in House Finance, Division I while other bills that could impact HB 300 are considered in the coming weeks.

5/2023 UPDATE: The House added the language of HB 300 in the budget trailer bill (HB 2) and now the Senate Finance Committee will consider the language when they debate the budget.

NHHA Position: Neutral

HEALTH CARE ACCESS

[HB 69, relative to direct payment and membership-based health care facilities](#)

HB 69 exempts facilities operating with membership-based or direct payment business models from the special health care licensing requirement that the facility adopt a policy to assure that it provides services to all persons who require the services of the facility regardless of the source of payment. The bill was heard in the House Health, Human Services and Elderly Affairs Committee on February 15, 2023. NHHA [testified](#) against the bill. The bill was considered by the full committee during the executive session on March 8, 2023, and the bill came out of committee without a recommendation since the vote was 10-10 Ought to Pass and a subsequent vote was 10-10 Inexpedient to Legislate (ITL). The full House will consider this bill in their upcoming session.

5/2023 UPDATE: The full House voted to table the bill on March 22, 2023. Now that the crossover has occurred, it will require a two-thirds majority to remove HB 69 from the table, which likely will not occur, due to the make up of the House. However, there is a floor amendment that has been introduced on SB 263

(Medicaid Expansion) that adds this language back. The House will vote on SB 263 and any related floor amendments on May 18, 2023, during their next House session.

NHHA Position: Oppose

HEALTH CARE INFORMATION/PRIVACY

HB 406, relative to parental access to children's medical records.

HB 406 would expand parents' access to their 13 to 18-year-old children's medical records without their children providing a release to each medical provider. The bill was heard in the House Health, Human Services and Elderly Affairs Committee on February 16, 2023. NHHA testified in opposition to the bill, as drafted. The bill was considered during a recent executive session in committee, and they voted to retain the bill. The bill will remain in the committee and may be considered at a future date.

NHHA Position: Oppose

SB 253, relative to parental access to a minor child's medical records.

SB 253 is similar in intent to HB 406 (see above); however, it is not as detailed as HB 406. The bill was heard in the Senate Judiciary Committee on February 21, 2023. NHHA testified against the bill. The bill was re-referred to the committee, which essentially holds the bill in the committee for the time being and will likely wait to see if HB 406 crosses over to their committee and then they will consider the two bills together.

5/2023 UPDATE: The bill was passed out of the Senate, with a floor amendment introduced by a Senator. The amended bill was heard in House Children and Family Law Committee on April 25, 2023, and was retained in committee. The committee decided to work on the bill, in conjunction with the House HHSEA Committee members re: HB 406 to ensure that the language is consistent and hopefully addresses the concerns raised by stakeholders.

NHHA Position: Oppose

SB 105, relative to information collected by the division of vital records administration as part of the live birth worksheet.

SB 105 removes the possibility that omission of certain information on a live birth worksheet may result in a violation or criminal penalty; requires that the mother affirmatively consent to the inclusion of certain identifiable health information on the live birth worksheet; and repeals the requirement that the birth worksheet be retained permanently. The bill was heard in the Senate Executive Departments and Administration Committee on February 1, 2023. NHHA testified on the bill. While we did not take a position on the bill, we did raise concerns about the opt-in requirements of the bill. The bill was voted Ought to Pass (OTP) out of the committee without the opt-in language being changed and will be considered by the full Senate in the coming days. There was an effort to reverse the OTP motion to allow the stakeholders to continue to work on the bill to address the ongoing concerns with the requirements of the mother to affirmatively consent to provide important health statistics for public health purposes. However, the bill ultimately passed the full Senate on a 21-3 vote. The bill now goes to Senate Finance where we will continue to work with stakeholders and the committee to make necessary changes to the bill to address our concerns.

5/2023 UPDATE: SB 105 was amended by the Senate Finance Committee and

passed the full Senate in late March. House Executive Departments and Administration heard the bill in late April with the vast majority of the [testimony](#) being opposed to the amended bill. The committee held a work session on May 10, 2023, where an amendment to remove the controversial sections of the bill was considered and voted Ought to Pass. The full committee will consider the bill and proposed amendment on May 24, 2023.

NHHA Position: Neutral

HEALTH INSURANCE/OTHER INSURANCE

[SB 72, relative to provider credentialing procedures.](#)

SB 72 would provide that a demographic change shall not result in a disruption in the network participation status of a health care provider. The bill also provides that the insurance commissioner may adopt rules relative to dispute resolution involving provider credentialing procedures. This bill was heard in the Senate Executive Department and Administration Committee on January 25, 2023. NHHA [testified](#) in support of the bill. We asked the sponsor to introduce this bill on our behalf to ensure that delays in provider credentialing are reduced. The bill was amended to respond to concerns raised by the health carriers that addressed potential unintended consequences. The amended bill was considered and voted on by the entire committee on March 8, 2023. The full Senate will vote on the bill on March 16, 2023.

5/2023 UPDATE: SB 72 passed the Senate and was heard by the House Executive Departments and Administration Committee on April 12, 2023, and was subsequently voted ought to pass and placed on the consent calendar by the full committee. SB 72 will be considered by the full House during their upcoming session.

NHHA Position: Support

[SB 82, relative to prompt payments for managed care.](#)

SB 82 would further the notice requirements for denial or pending claims made by health carriers subject to the managed care law. The bill has been assigned to the Senate Health and Human Services Committee and is scheduled for a hearing on March 15, 2023. NHHA requested this bill be filed to address ongoing concerns raised by our members regarding the delays in prompt processing and payment of claims by insurance carriers.

5/2023 UPDATE: SB 82 passed the Senate on a voice vote and then the bill was referred to House Commerce Committee and was heard in mid-April with no substantive opposition to the bill. The committee held a work session in early May whereby the subcommittee voted to retain the bill in committee and have the Department of Insurance provide additional information in September after they have done a review of concerns raised by the NHHA regarding Anthem's outstanding accounts receivable claims. The full committee subsequently voted to retain the bill and it will be discussed later in the fall.

NHHA Position: Support

LICENSING/CERTIFICATION

[HB 426, relative to the regulation of pharmacists-in-charge and pharmacies.](#)

HB 426 would adjust how pharmacy permit holders are defined.

The bill was heard in the House Commerce and Consumer Affairs Committee on January 18, 2023. NHHA [testified](#) in support of the bill. There was a subcommittee work session on the bill and the full committee voted to pass the bill. The full House will take up the bill in their upcoming session.

5/2023 UPDATE: HB 426 was passed by the full House in late March and then was referred to the Senate Health and Human Services Committee where it was heard in early April. The bill was passed unanimously out of committee and passed on a voice vote out of the Senate. The bill now heads to the Governor's desk for consideration (i.e. Sign into law, let it go into effect without his signature, or veto).

NHHA Position: Support

HB 445, relative to the operational funds of OPLC.

HB 445 would make the Office of Professional Licensure and Certification Fund a non-lapsing fund, a portion of which shall be used for capital expenditures and to lower fees.

The bill was heard in the House Executive Departments and Administration Committee on January 25, 2023. The bill was passed by the full committee and the full House, then referred to the House Ways and Means committee. The House Ways and Means Committee held a public hearing on March 7, 2023, and will be holding an executive session in the coming days.

5/2023 UPDATE: HB 445 was amended by the House Ways and Means Committee and was voted Ought to Pass but ultimately the bill was laid on the table by the full House due to the fact that there are other bills that included this same language that will be moving forward, to include SB 49 (see below).

NHHA Position: Support

HB 454, relative to the membership and reporting responsibilities of the examining board of medicine.

HB 454 designates one of the public members of the Examining Board of Medicine as the public transparency advocate. The advocate is responsible for increasing public transparency of certain board functions and is directed to provide an annual report to the Oversight Committee on Health and Human Services. The bill was heard in the House Health, Human Services and Elderly Affairs Committee on February 8, 2023. The committee considered the bill during their executive session on March 8, 2023, and passed the bill. The full House will take up the bill in their upcoming session.

5/2023 UPDATE: The full House passed the bill in late March and referred the bill to the Senate Executive Departments and Administration Committee. The bill was heard in mid-April and ultimately was voted Inexpedient to Legislate (ITL) because the committee was concerned with adding members to the Board of Medicine with no medical training, education, or background. The full Senate will consider this bill during their upcoming session on May 18, 2023.

NHHA Position: Neutral

HB 500, relative to prescribing opioids via telehealth medicine.

HB 500 modifies the procedure for physicians, physician assistants and APRN's to prescribe certain non-opioid and opioid controlled drugs by means of telemedicine. The bill was heard in House Health, Human Services and Elderly Affairs in February. It was amended slightly and passed unanimously by the committee. The full House passed the bill on a voice vote in late February and referred the bill to Senate

Health and Human Services Committee. The bill passed out of committee and was voted on by the full Senate on May 11, 2023, and was signed into law by the Governor on May 12, 2023.

NHHA Position: Support

[HB 655, relative to the office of professional licensure and certification.](#)

HB 655 redefines the roles and responsibilities of the Office of Professional Licensure and Certification (OPLC) and for the boards and commissions. OPLC issues licenses, sets fees, provides legal and investigatory services, and presents administrative rules as advised by the boards and commissions. The bill consolidates administrative authority for OPLC in a new chapter and repeals redundant provisions of law. The House Executive Departments and Administration Committee heard the bill on February 8, 2023. There were numerous work sessions on HB 655, and it was amended to focus solely on OPLC operations. The full committee passed the amended bill on March 8, 2023. The full House will take up the bill in their upcoming session.

5/2023 UPDATE: HB 655 was passed by the full House on a voice vote in mid-March and referred to the Senate Executive Departments and Administration Committee. The hearing was held on March 29, 2023, and the committee voted to pass the bill. The full Senate voted to pass the bill and refer to the Senate Finance Committee.

NHHA Position: Support

[SB 49, relative to creating a dedicated, non-lapsing fund, and a biennial report of such fund, for OPLC.](#)

SB49 would make the Office of Professional Licensure and Certification Fund a non-lapsing fund, a portion of which shall be used for capital expenditures and to lower fees, and mandates a biennial report be made on the expenditures of the fund. The bill was heard in the Senate Executive Departments and Administration Committee on January 18, 2023. The committee amended the bill slightly and it was passed by the full committee and the full Senate. Senate Finance also considered the bill, and it passed out of Senate Finance and the full Senate on March 9, 2023. The bill will now move over to the House for consideration.

5/2023 UPDATE: SB 49 was referred to the House Executive Departments and Administration Committee and a hearing was held on April 5, 2023. The committee amended the bill to include language from HB 445 (see above). The full House passed the amended bill on a voice vote on May 4, 2023, and referred the bill to the House Ways and Means Committee. The bill will be heard in committee in the coming weeks.

NHHA Position: Support

MEDICAID

[HB 282, relative to including certain children and pregnant women in Medicaid and the children's health insurance program.](#)

HB 282 directs the Department of Health and Human Services to submit state plan amendments under the Medicaid and Children's Health Insurance Program (CHIP) to provide coverage to children and pregnant women lawfully residing in the United States. The bill also makes an appropriation to the Department of Health and Human Services for this purpose. The bill was heard in the House Health, Human Services and Elderly Affairs Committee on February 1, 2023. NHHA signed in support of the bill. The committee passed the bill, and the full House passed it on

February 22, 2023. The bill was referred to House Finance for further consideration.

5/2023 UPDATE: HB 282 was heard in House Finance and was retained in committee but the language in HB 282 was included in the budget trailer bill (HB2) and will be considered by the Senate Finance Committee during their review of the budget in the coming weeks.

NHHA Position: Support

HB 565, relative to expanding Medicaid to include certain postpartum health care services.

HB 565 would expand Medicaid to include certain postpartum health care services and makes an appropriation to the Department of Health and Human Services for this purpose. The bill was heard in the House Health, Human Services and Elderly Affairs Committee on February 1, 2023. NHHA signed in support of the bill. The full committee could not reach consensus, so the bill left the committee without a recommendation. The full House passed the bill and it was referred to the House Finance Committee for further consideration.

5/2023 UPDATE: HB 565 was heard in House Finance and was retained in committee but the language in HB 565 was included in the budget trailer bill (HB2) and will be considered by the Senate Finance Committee during their review of the budget in the coming weeks.

NHHA Position: Support

SB 36, relative to systems of care for healthy aging.

SB 36 would expand the state's systems of care for healthy aging, increase access to home and community-based services, and expand the role of the Office of the Long-Term Care Ombudsman. The bill was heard in the Senate Health and Human Services Committee on January 18, 2023. NHHA signed in support of the bill. The committee voted to amend the bill and pass the bill. The full Senate will take the bill up in their upcoming session.

5/2023 UPDATE: SB 36 was passed by the full Senate and then voted to be laid on the table, to be considered during the Senate Finance Committee's budget deliberations, due to the appropriation included in the bill.

NHHA Position: Support

SB 175, relative to Medicaid coverage for mothers.

SB 175 would:

- Mandate that the Department of Health and Human Services extend Medicaid coverage for pregnant women to 12 months postpartum, to cover doula services, to cover lactation services, and to cover donor breast milk for eligible infants, and creates appropriations thereof.
- Establish minimum workplace supports for nursing mothers.
- Appropriate money to the Department of Health and Human Services to support healthy outcomes for caregivers and children.
- Establish a commission to study home visiting programs for all parents of newborns and young children.
- Mandate the Department of Health and Human Services establish a network of early childhood behavioral health supports.

The bill was heard in the Senate Health and Human Services Committee on February 8, 2023. NHHA signed in support of the bill. The committee passed the bill with an amendment. The full Senate passed the bill and referred the bill to Senate Finance.

5/2023 UPDATE: SB 175 was passed by the full Senate and then voted to be laid on the table, to be considered during the Senate Finance Committee's budget deliberations, due to the appropriation included in the bill.

NHHA Position: Support

SB 263, extending the New Hampshire granite advantage health care program and reestablishing the commission to evaluate the effectiveness and future of the New Hampshire granite advantage health care program.

SB 263 would:

- Reestablish and revise the membership and duties of the Commission to Evaluate the Effectiveness and Future of the New Hampshire Granite Advantage Health Care Program. The commission is repealed November 1, 2028.
- Extends the New Hampshire Granite Advantage Health Care Program by removing the prospective repeal of the program that was to take effect on December 31, 2023, and does not set a future sunset date.
- Removes the transfer of funds from the alcohol abuse prevention and treatment fund to the Granite Advantage Health Care Trust Fund.

The bill was heard in the Senate Health and Human Services Committee on February 22, 2023. NHHA **testified** in support, along with the Chair of the NHHA Advocacy Task Force. The full committee passed the bill, and the full Senate passed the bill (24-0) on March 9, 2023, and referred the bill to the Senate Finance Committee.

5/2023 UPDATE: the Senate Finance committee passed the bill and the full Senate voted to pass the bill on March 23, 2023. The bill was referred to the House Health, Human Services and Elderly Affairs Committee and a public hearing was held on April 4, 2023. NHHA **testified** in strong support of the bill. The committee did not reach a consensus, so the bill will move to the full House for consideration on May 18, 2023, without a recommendation. This means there will be a motion to pass the bill as it came out of the Senate and there will be a vote on that motion, then there will be a motion to pass the bill with amendments. There are a number of floor amendments that will be considered.

NHHA Position: Support

MEDICAL LIABILITY

SB 65, relative to screening panels for medical injury claims.

SB 65, as introduced, would establish a committee to study the medical screening panel process and temporarily suspends the medical screening panel process. The bill was heard in the Senate Health and Human Services Committee on January 25, 2023. NHHA **testified** in support of the bill. Unfortunately, the committee chose to amend the bill to completely repeal the medical screening panels. The full Senate voted to pass the bill, as amended, in early February. The bill now moves over to the House for consideration.

5/2023 UPDATE: SB 65 was referred to the House Judiciary Committee and a public hearing was held on April 19, 2023. The committee voted to support the bill, as amended by the Senate. The bill will be considered by the full House at their upcoming House session on May 18, 2023.

NHHA Position: Oppose as amended

PUBLIC HEALTH/HEALTH PROMOTION

[HB 222, to require the use of seat belts during the operation of motor vehicles.](#)

HB 222 would require the use of seat belt restraints for all occupants when operating motor vehicles. The bill was heard in the House Transportation Committee on February 21, 2023. The full committee considered the bill during their executive session on March 7, 2023, and voted 11-9 to not pass the bill. The full House will take this bill up in their upcoming session.

5/2023 UPDATE: HB 222 was voted Inexpedient to Legislate by the full House during the March 16, 2023 session.

NHHA Position: Support

[SB 118, requiring children under the age of 2 years to be restrained in a motor vehicle.](#)

SB 118 requires children under the age of 2 years old to be restrained in a rear facing child restraint in a motor vehicle. The bill was heard in the Senate Transportation Committee on January 24, 2023. NHHA signed in support of the bill. The bill was voted Ought to Pass by the full committee. The full Senate voted to pass the bill and now the bill moves on to the House for their consideration.

5/2023 UPDATE: SB 118 was referred to the House Transportation Committee and a public hearing was held on April 18, 2023. The committee plans to hold their executive session in the near future.

NHHA Position: Support

[SB 145, relative to New Hampshire housing champion designation for municipalities and making appropriations therefor.](#)

SB 145 establishes a New Hampshire housing champion designation program, including a housing production municipal grant program, and a housing infrastructure municipal grant and loan program. The bill also establishes positions within the Department of Business and Economic Affairs and makes appropriations for the programs. The bill was heard in the Senate Commerce Committee on February 14, 2023. NHHA signed in support of the bill. The bill was voted Ought to Pass by the full committee. The full Senate will take this bill up during their upcoming session.

5/2023 UPDATE: SB 145 was passed by the full Senate and then voted to be laid on the table, to be considered during the Senate Finance Committee's budget deliberations, due to the appropriation included in the bill.

NHHA Position: Support

[SB 234, directing the department of health and human services to develop a public awareness campaign on brain health, Alzheimer's disease, and related dementias and making an appropriation therefor.](#)

SB 234 directs the Department of Health and Human Services to develop a public awareness campaign on brain health, Alzheimer's disease, and related dementias and makes an appropriation to the department for this purpose. The bill was heard in the Senate Health and Human Services Committee on February 16, 2023. NHHA signed in support of the bill. The bill was amended slightly, and the full committee voted Ought to Pass. The full Senate passed the bill, referred it to the Senate Finance Committee, which also passed it. The full Senate will take the bill up at their upcoming session.

5/2023 UPDATE: SB 234 was passed by the full Senate and then voted to be laid on the table, to be considered during the Senate Finance Committee's budget deliberations, due to the appropriation included in the bill.

NHHA Position: Support

QUALITY/PATIENT SAFETY

[SB 58, relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.](#)

SB 58 authorizes a law enforcement officer to arrest a person without a warrant for interfering with the provision of medically necessary health care services. The bill was heard in the Senate Judiciary Committee on January 17, 2023. NHHA had requested this bill be re-introduced this year since it did not pass in 2022. NHHA [testified](#) in strong support of the bill, as did a number of our hospital security professionals. The bill was voted ITL by the majority of the committee (3-2), however, efforts to clarify the intent of the bill have resulted in an agreement to reverse the committee's recommendation on the Senate floor so that an amendment can be introduced and voted on.

5/2023 UPDATE: SB 58 was amended on the floor of the Senate in a manner that raised concerns by the stakeholders that had supported the original bill. SB 58 was referred to the House Criminal Justice and Safety Committee and was heard on April 19, 2023. After the [testimony](#) during the hearing and a work session at the end of April, the committee chose to amend the bill to revert back to the original language of SB 58 with a minor change. The committee voted unanimously to pass the bill, as amended, and was placed on the consent calendar. SB 58 will be considered by the full House during their upcoming session on May 18, 2023.

NHHA Position: Support

WORKFORCE

[HB 74, relative to an employee's unused earned time.](#)

HB 74 would require an employer to pay an employee for unused earned time. The bill was heard in the House Labor Industrial and Rehabilitative Services Committee in January. It came out of the committee without a recommendation and narrowly passed the House and then was referred to House Finance committee where it was voted Inexpedient to Legislate (ITL) along party lines, but the ITL motion was defeated on the House floor and the bill passed by a narrow margin. The bill was referred to the Senate Commerce Committee, where a hearing was held in mid-April. NHHA [testified](#) in opposition to the bill. The bill will be considered by the full committee in the coming weeks.

NHHA Position: Oppose

[SB 86, relative to health care workforce development and making appropriations therefor.](#)

SB 86 is a complex, multi-section bill. It would:

- Direct the Department of Health and Human Services to increase Medicaid provider rates and makes an appropriation for this purpose.
- Establish a community health worker certification program in the Office of Professional Licensure and Certification and make an appropriation to OPLC for this purpose.

- Direct the Department of Health and Human Services to issue an RFP to expand access to health services in rural and underserved areas of the state and makes appropriations to the department for this purpose.

The bill was heard in the Senate Health and Human Services Committee on February 1, 2023. NHHA [testified](#) in support of the bill. The bill was amended quite significantly by the full committee and will be considered by the full Senate in their upcoming session.

5/2023 UPDATE: The Senate voted to pass the bill and voted to table the bill so that this bill could be considered during the Senate phase of the budget due to the appropriation outlined in the bill.

NHHA Position: Support

[SB 149, relative to nurse agencies.](#)

SB 149 establishes a licensing and application process for nurse agencies. The bill was heard in the Senate Executive Departments and Administration Committee on February 2, 2023. NHHA [testified](#) in support of the bill. The bill was amended and passed by the full committee. The full Senate will take up the bill in an upcoming session.

5/2023 UPDATE: SB 149 was passed by the full Senate in mid-March then was referred to the House Executive Departments and Administration Committee. A hearing was held on March 30, 2023. After a work session, the bill was amended slightly and passed by the full committee. The full House considered the bill during their May 4, 2023, session. Due to some confusion on the part of some House members, the bill was tabled so that their concerns could be addressed. Based on advocacy efforts of stakeholders there will be an attempt to remove the bill from the table and vote on the bill at the May 18, 2023 House session.

NHHA Position: Support

Federal Update



April 26th was a big day in Washington DC with several House committees holding hearings or receiving testimony on many topics of importance to hospitals.

The **US House Energy and Commerce Subcommittee on Health's** hearing focused on a number of legislative proposals that would affect hospitals and other parts of the health care system. Before the hearing, the subcommittee released 17 bills and discussion drafts covering a range of topics, including price transparency, the 340B Drug Pricing Program, physician-owned hospitals, and Medicaid disproportionate share hospital reductions, among others. Specific topics discussed included:

Site Neutral: “There is nothing ‘neutral’ about site-neutral policies,” Ashley Thompson, AHA senior vice president of public policy analysis and development said. Compared to other health care settings, hospital outpatient departments treat patients who are often older, poorer, sicker and with more complex medical conditions. HOPDs also must comply with more comprehensive licensing, accreditation and regulatory requirements. Additionally, hospitals are required to maintain standby capacity for disasters, public health emergencies and unexpected traumatic events, as well as deliver emergency care, regardless of insurance status.

Price Transparency: Hospitals have made significant [progress complying with the price transparency regulations](#). According to CMS, 70% of hospitals have adhered to both components of the rule. “Hospitals are eager to continue their compliance efforts, and the Transparent PRICE Act affords an opportunity to continue to work together toward this goal,” Thompson said.

340B: The AHA and NHA strongly [support the 340B program](#), which is crucial to helping hospitals stretch limited federal resources and expand health services to patients and communities. By participating in the program, 340B hospitals already must attest to meeting all program requirements; recertify their eligibility annually; participate in audits conducted by the Health Resources and Services Administration and drug manufacturers; and maintain records and inventories of all 340B and non-340B prescription drugs. “The AHA would oppose efforts to create significant new reporting requirements for 340B hospitals,” Thompson said. “In addition, any measures that increase transparency for 340B providers also should include greater transparency for drug companies.”

Also on 4/26/23, the **House Ways and Means Subcommittee on Oversight** held a [hearing](#) on tax-exempt hospitals and the community benefit standard. AHA General Counsel and Secretary Melinda Hatton [testified](#) that tax-exempt hospitals both meet and exceed any requirements and expectations that attach to the privilege of tax exemption. In 2019, which is the most recent tax year that comprehensive information is available, tax-exempt hospitals devoted nearly 14% of their total expenses to [community benefit programs](#). In addition, a [report](#) by the international accounting firm EY demonstrated that the return to taxpayers for hospitals’ federal tax exemption is 9-to-1. “That means for every one dollar of tax exemption, taxpayers receive \$9 of community benefits,” Hatton said. “That is a remarkable return by any standard.” Hatton also spoke about how one of the greatest accomplishments of the community benefit standard is the flexibility it gives to hospitals to meet the individual needs of the communities they serve. “Hospitals and health systems do more than any other sector of health care to support the communities they serve and more than enough to support their tax-exempt status,” Hatton said.

Lastly, AHA submitted a [statement](#) on 4/26/23 to the **House Education and Workforce Subcommittee on Health, Employment, Labor, and Pensions** for a hearing on ways to reduce health care costs. The statement included detailed information about price transparency, surprise medical billing, telehealth, and hospital mergers and acquisitions.

OTHER NEWS

CMS, on 5/1/23, published a [memorandum](#) directed to state surveyors outlining the regulatory requirements set to be reinstated when the public health emergency (PHE) ends including expiration of hospital and health system staff vaccination requirements, EMTALA waivers, discharge planning, swing beds,

Critical Access Hospital (CAH) 96-hour length of stay requirement, CAH personnel qualifications and licensing flexibilities and certain waivers of quality assessment and performance improvement requirements.

In the memorandum, CMS announced that it intends to end the requirement that covered providers and suppliers establish policies and procedures for staff vaccination. Since Nov. 5, 2021, these policies and procedures were used to ensure that staff were fully vaccinated against COVID-19. Because this requirement is codified in a Condition of Participation, undoing it may require notice and comment rulemaking. As the PHE ends, the agency will be releasing more details regarding the termination of this requirement.

COVID-19 reporting requirements: CDC announced at the end of April that it will streamline hospital COVID-19 reporting requirements shortly after the May 11 conclusion of the COVID-19 public health emergency, including a reduction in the number of data elements that hospitals must report and the reporting frequency from daily to weekly reporting. The CDC will provide updated guidance and confirm the date for the reporting transition in the weeks ahead.

- CDC will reduce the number of required COVID-19 data elements from 62 to 44.
- All data elements will be submitted once weekly on Tuesdays.
- The compliance enforcement period will be lengthened from 14 days to 28 days.
- Detailed guidance and start date will be provided in the weeks ahead. Until then, hospitals should continue following [current guidance](#).

CMS Price Transparency Enforcement: CMS [announced changes](#) at the end of April to its enforcement process for the hospital price transparency rule. The rule allows CMS to use several enforcement tools, including issuing warning letters, requesting a corrective action plan (CAP), and imposing civil monetary penalties (CMPs) when hospitals are deemed noncompliant with the rule's requirements. CMS asserts it has the authority to choose the process and timelines for using these enforcement mechanisms. The guidance provides new information on the monitoring and enforcement process and timelines that CMS has been using to date, as well as several changes moving forward.

The new guidance makes three changes to the enforcement process:

1. **CMS will no longer issue warning letters to hospitals that do not appear to have made any attempt to comply with the rule and instead will go straight to requesting a CAP.** In other words, if CMS cannot find a machine-readable file or a shoppable service file/price estimator tool on a hospital's website, CMS will request a CAP as the first enforcement step, significantly shortening the timeline for the hospital to come into compliance.
2. **CAPs will now need to be completed within 45 days** Previously, CMS allowed hospitals to propose a completion deadline (typically between 30-90 days) in their CAP.
3. **CMS will automatically impose CMPs if CAPs are not submitted or completed by their deadlines.** Going forward, CMS will impose a CMP if the agency has not received a requested CAP within 45 days. In addition, CMS will actively review hospital compliance at the 45-day deadline following CAP submission and, if the violation(s) cited in the CAP request still exists, will impose a CMP.

DEA and SAMHSA to extend COVID-19 telehealth prescribing flexibilities:The DEA and SAMHSA released a [temporary rule](#) extending telehealth prescribing flexibilities for buprenorphine and other controlled substances through Nov. 11, 2024, while they develop final regulations “consistent with public health, safety, and effective controls against diversion.” Without the extension, these telehealth prescribing flexibilities were to end when the COVID-19 public health emergency expires on May 11.

DOJ Seeks Stay On Federal Court’s Ruling Striking Down Free Preventive Care Under ACA: [Reuters](#) reported the Justice Department filed an appeal with the US Circuit Court of Appeals for the Fifth Circuit requesting a “hold on a judge’s ruling striking down the Affordable Care Act’s mandate that insurers cover preventive care, including screenings for certain cancers and pre-exposure prophylaxis against HIV, at no extra cost to patients.” DOJ argued the lower-court ruling from a federal judge in Texas “has no legal justification and threatens the public health.” The Health and Human Services Department estimates the ACA covered preventive services for more than 150 million people in 2020.

US House Dear Colleague Letter to Stop Medicaid DSH Payment Cuts A bi-partisan Dear Colleague Letter urging House leadership to take action to prevent the pending cuts to Medicaid Disproportionate Share Hospital (DSH) payments, scheduled to take effect on October 1, 2023, **has been signed by both NH congressional delegation members Representatives Annie Kuster and Chris Pappas.** Specifically, the letter says the House should pass recently introduced bipartisan legislation [H.R. 2665](#), which eliminates Medicaid DSH cuts for fiscal years 2024 and 2025. “This legislation is a reasonable and responsible path to take in order to avoid the disastrous consequences to our safety net hospitals if the Medicaid DSH cuts were to take effect,” the letter to House leadership states. “It is imperative we continue to protect access to Medicaid beneficiaries who heavily rely on the essential services provided through Medicaid DSH program.” NHHA truly appreciates the ongoing support of hospitals and health systems by both NH congressional delegation members.

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