



Legislative Newsletter

Keeping members informed on federal & state legislative priorities.

April 11, 2024

Dear Members,

The legislative session began on January 3, 2024 and the New Hampshire Hospital Association (NHHA) is tracking over 250 bills, including 2023 retained bills and new 2024 bills. As the legislature approaches “crossover,” when House bills move to the Senate and vice versa, we are focusing on several priority topics, such as removing barriers to discharge that are keeping individuals in acute care settings longer than necessary, prior authorization, health information privacy and informed consent, and investments in the health care workforce.

Hearing directly from local healthcare professionals is the most effective influence on health care policy. NHHA staff appreciates members’ continued active involvement and input. In February and March, multiple hospitals hosted legislative breakfasts with their local congressional and state delegations to connect on the issues that matter most to their unique regions of the state.

Below you will find a number of NHHA’s highest priority bills, by category, with a brief description of each bill. For more information on all our tracked bills please visit <https://www.nhha.org/resources-reports/nh-legislation/>. Additionally, NHHA staff is available for any of your questions and would welcome an opportunity to share additional insight.



State Update

Recent Legislative Activity

BEHAVIORAL HEALTH

SB 410-FN, (New Title) making appropriations to the department of health and human services to support community and transitional housing through community mental health centers

Prime Sponsor: Sen. Rebecca Whitley (D)

SB 410 would make \$1,500,000 in appropriations to the NH Department of Health and Human Services (DHHS) for community and transitional housing through community mental health centers (CMHCs) in the form of housing grants. The grants would be issued to approved applicants up to \$25,000 per bed. The bill passed as amended out of the Senate Health and Human Services committee and is now before the Senate Finance committee.

Position: Support

SB 457, relative to inpatient psychiatric services authorization and utilization review

Prime Sponsor: Sen. Bill Gannon (R)

This bill would require the commissioner of DHHS to establish uniform guidelines for inpatient psychiatric services authorizations and utilization review. The guidelines would prohibit utilization reviews by insurance carriers for the first 30 days of inpatient or residential behavioral health admission. The bill was voted Interim Study on the Senate floor.

Position: Support

ENERGY/ENVIRONMENT

HB 1207, relative to single-use disposable plastic foodware accessories

Prime Sponsor: Rep. Tony Caplan (D)

HB 1207 would prohibit large food or beverage facilities, food service establishments, and retail food stores from having self-serve disposable plastic foodware dispensers, and only provide such foodware upon request. NHHA testified in opposition due to the need for many patients in the hospital environment to have straws and other single-use foodware items for accessibility and/or prevention of spread of illness.

The bill was referred for interim study on February 22, 2024.

Position: Opposed

HB 1649, relative to prohibiting certain products with intentionally added PFAS

Prime Sponsor: Rep. Karen Ebel (D)

HB 1649 as introduced would restrict the use of per- and polyfluoroalkyl (PFAS) in certain consumer products sold in the state of New Hampshire, including personal protective equipment (PPE), effective July 1, 2028. The amended bill includes exemptions from the requirements, such as products regulated as drugs or medical devices by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act. This exemption reduces the potential impact on hospitals and health facilities.

Position: Neutral as amended

HEALTH CARE ACCESS

HB 619, (New Title) to require a person to attain the age of majority for genital

gender reassignment surgery

Prime Sponsor: Rep. Terry Roy (R)

This retained bill from 2023 would restrict minors from receiving gender-affirming care. The bill, as amended, prohibits gender reassignment surgery for minors under 18 years of age. It also would subject a provider to disciplinary action by their governing board for referring a minor for gender reassignment surgery. NHHA testified in opposition to the bill in a public hearing on October 31, 2023. The bill passed the House and now moves to the Senate for consideration.

Position: Opposed

SB 355, relative to newborn screening for cytomegalovirus

Prime Sponsor: Sen. Dan Innis (R)

SB 355, as amended, would direct DHHS to provide information on the importance of early detection of cytomegalovirus (CMV). The introduced bill would have added CMV to the Newborn Screening Program and mandated providers perform an amniocentesis to screen for CMV before birth. NHHA testified in support of the Newborn Screening Program, but with concerns about legislating a mandate for CMV screening via amniocentesis in the public hearing on Wednesday, January 24, 2024 in the Senate Health and Human Services committee. NHHA is neutral on the amended language, which replaces the entire bill with language directing the Department of Health and Human Services to provide an update to the Health and Human Services Oversight Committee on newborn CMV screening in New Hampshire. The amended bill passed the Senate and had a public hearing in House Health, Human Services and Elderly Affairs committee on Wednesday, April 10, 2024.

Position: Neutral as amended

SB 400, relative to patient access to medical records

Prime Sponsor: Sen. Regina Birdsall (R)

SB 400 reduces the maximum cost for paper medical records from \$15 for the first 30 pages or \$0.50 per page, whichever is greater; to \$5 for the first page and \$0.45 per page for pages 2 through 50 and \$0.30 per page for pages 51 and higher, up to a maximum of \$250 for the entire record. Electronic copies would be required to be provided at no more than \$6.50. NHHA testified with concerns about changing the fees allowable for medical record requests by third parties including plaintiff's attorneys. Hospitals provide patients their medical records at little or no cost. However, many hospitals in New Hampshire use a vendor to handle medical records requests by third parties. By changing the allowable fees, NHHA shared concerns about disrupting the existing structure hospitals use to fulfil records requests by third parties. The bill passed the full Senate and is now being considered by the House Health, Human Services and Elderly Affairs committee.

Position: Opposed

HEALTH CARE DECISION-MAKING

HB 1283-FN, relative to end-of-life options

Prime Sponsor: Rep. Marjorie Smith (D)

HB 1283-FN would allow for terminally ill individuals with less than six months projected to live to be prescribed a medication to end their life. NHHA signed in as opposed during the public hearing on Thursday, February 15, 2024 in the House Judiciary committee. The committee voted Ought to Pass as Amended on Wednesday, March 6, 2024 by a split of 13 to 7. The full House voted to pass HB 1283 179-176 on March 21, 2024. A motion to reconsider the vote failed the full

House on March 28, 2024. The bill now moves to the Senate for consideration.

Position: Opposed

HB 1280, relative to informed consent and patient rights

Prime sponsor: Rep. Leah Cushman (R)

HB 1280 would add informed consent requirements and patient rights provisions to RSA 329:51, “Physicians and Surgeons.” The NHHA **testified** in House Health, Human Services and Elderly Affairs with concerns about legislating informed consent requirements when CMS, DNV, and Joint Commission have existing guidelines that could conflict with state statute. Additionally, NHHA shared concerns about adding patient rights provisions separate from the existing Patient Bill of Rights in RSA 151:21, “Patients’ Bill of Rights.” The House passed HB 1280 (189-181) on March 28. The bill moves to the Senate for consideration.

Position: Opposed

HEALTH CARE INFORMATION/PRIVACY

HB 1663-FN, relative to the confidentiality of medical records and patient information

Prime Sponsor: Rep. Erica Layon (R)

HB 1663-FN would repeal and replace **RSA 332-I**, “Medical Records, Patient Information, and the Health Information Organization Corporation.” The bill would require patient written consent for any transfer or sharing of medical records. This conflicts with the treatment, payment, and healthcare operations flexibilities allowed in the Health Insurance Portability and Accountability Act (HIPAA). NHHA gathered subject matter experts and stakeholders, all of whom expressed concern with the bill. NHHA **testified** in opposition at the public hearing on February 7, 2024 in the House Health, Human Services and Elderly Affairs committee. The committee voted Interim Study on the bill in executive session on March 6, 2024.

Position: Opposed

SB 484-FN, relative to completion of the birth worksheet for hospital or institutional birth

Prime Sponsor: Sen. Cindy Rosenwald (D)

SB 484 repeals and reenacts RSA 5-C:19 to separate the information gathered for a birth certificate and statistical information gathered after a hospital or institutional birth. NHHA shared concerns about removing personal identifiable information from the statistical information gathered after learning from DHHS that doing so could jeopardize federal funds that support maternal health. The Senate Executive Departments and Administration committee voted Ought to Pass on the bill unanimously on February 21, 2024. In the full Senate the bill was laid on the table by a vote of 20 to 4.

Position: Oppose

HEALTH INSURANCE/OTHER INSURANCE

SB 173-FN, relative to surprise medical bills

Prime Sponsor: Sen. Sharon Carson (R)

SB 173, a 2023 bill that was retained, was a request of the New Hampshire Department of Insurance to codify into state law the federal No Surprises Act (NSA). The amended bill creates a separate state independent dispute resolution (IDR) process from the existing national IDR process administered by the Centers

for Medicare and Medicaid Services (CMS), which could be used as an alternative to resolving payment disputes between providers and carriers. CMS recently acknowledged the proposal would allow providers to select either the state IDR process or the existing federal IDR process, which helps to resolve previous NHA concerns. The bill passed the Senate and now moves to the House for consideration.

Position: Neutral as amended

SB 407-FN, relative to direct pay for ambulance services

Prime Sponsor: Sen. Suzanne Prentiss (D)

SB 407 would require carriers to directly reimburse ambulance providers despite whether the ambulance provider has a contract with the insurance carrier. Currently, when an ambulance provider is out of network, the carrier will send payment for ambulance services directly to the patient, which often does not get forwarded to the ambulance provider to pay the bill. This bill would require direct pay from the carrier to the ambulance provider even if the provider has not contracted with the carrier. NHA has heard from members about the challenges with securing interfacility transport in their communities, thus, to support our ambulance and emergency response infrastructure, NHA **testified** in support of the bill at the public hearing on February 7, 2024. The bill is now being considered by the Senate Finance committee.

Position: Support

SB 561-FN, relative to prior authorizations for health care

Prime Sponsor: Sen. Denise Ricciardi (R)

SB 561, a bipartisan, bicameral sponsored bill that NHA strongly supports, would require public reporting of insurance carrier-specific prior authorization metrics in line with Centers for Medicare and Medicaid Services (CMS) rules, provide a maximum of seven calendar days for determination of non-urgent electronic prior authorizations and 72 hours for urgent prior authorization, and codify the peer-to-peer process for providers to communicate with a carrier's clinical personnel about prior authorization requests. NHA **testified** in support in the public hearing in the Senate Health and Human Services committee on February 7, 2024. The full Senate passed SB 561 by voice vote and the bill now moves to the House for consideration.

Position: Support

LICENSING/CERTIFICATION

HB 1427-FN-A, establishing the regulation and licensure of deputy physicians

Prime Sponsor: Rep. Brian Cole (R)

HB 1427-FN-A was introduced with the intent of mitigating the shortage of physicians in the state by allowing for the regulation and licensure of deputy physicians. Deputy physicians are medical school graduates who have not been placed in a residency through the traditional system. NHA **testified** in opposition, noting that hospitals throughout the state maintain the highest standards of certification and accreditation for their physicians. NHA also referenced the state of Missouri, which has a similar program to the one the bill is trying to implement, and health insurance companies will not reimburse for services provided by a deputy physician. The bill was voted Inexpedient to Legislate 20-0 by the House Executive Departments and Administration committee and again by the full House on February 15, 2024.

Position: Opposed

MEDICAL LIABILITY

SB 462, relative to removing the cap on damages for wrongful death loss of consortium claims

Prime Sponsor: Sen. Sharon Carson (R)

SB 462 would remove the \$150,000 non-economic cap on damages to a surviving spouse, and the \$50,000 non-economic cap on damages to the minor child or children in wrongful death cases. NHA **testified** in opposition at the public hearing on Tuesday, February 6, 2024, explaining that New Hampshire maintains a cap on damages to ensure stability of medical liability insurance costs, and expressing concerns that the removal of the cap could increase meritless lawsuits and an increase in the cost of liability insurance. Additionally, changing the cap for non-economic damages in wrongful death cases could adversely affect coverage for high-risk specialties including obstetrics. The Senate Judiciary committee voted Ought to Pass 4-1. The bill will now be considered by the full Senate.

Position: Opposed

QUALITY/PATIENT SAFETY

HB 1590, relative to training regarding child abuse and neglect for licensed physicians, advance practice nurses, and physician assistants

Prime Sponsor: Rep. Patrick Long (D)

This bill would put into law the requirement that all employers of licensed physicians, advance practice nurses (APRNs), or physician assistants must provide at least two hours of training regarding child abuse and neglect and mandated reporting requirements. NHA **testified** with concerns about mandating topic specific training for providers in statute. The bill was referred to Interim Study.

Position: Opposed

SB 185-FN, establishing a committee to study the various barriers to discharge for patients to be safely discharged from acute care facilities

Prime Sponsor: Sen. Sue Prentiss (D)

This retained bill from 2023, as introduced, would have added the definition of “abandonment” to the protective services to adults subdivision of **RSA 161-F** on elderly and adult services. NHA worked extensively with Senator Prentiss and cosponsors on the bill. It was amended to create a committee to study the barriers to discharge for patients who require post-acute care. NHA continues to support the bill and plans to participate in the committee as an interested stakeholder. The bill passed the Senate and is now in the House Judiciary committee for consideration.

Position: Support

WORKFORCE

SB 403-FN, relative to health care workforce investments

Prime Sponsor: Sen. Cindy Rosenwald (D)

SB 403 began as a comprehensive healthcare workforce investment bill, which directed the state to reallocate unspent ARPA (federal) dollars towards investments in New Hampshire’s healthcare workforce. Given 2024 is not a budget year, the bill was pared down in the Senate but includes the provisions of the original bill that license community health workers. The bill is now in the House

Health, Human Services, and Elderly Affairs committee for consideration.

Position: Support

SB 456-FN, relative to establishing a nurse retention school loan debt relief program

Prime Sponsor: Sen. Bill Gannon (R)

As introduced, SB 456-FN would establish, in DHHS, a nurse school loan debt relief program, separate from the New Hampshire State Loan Repayment Program (SLRP). NHHA **testified** in support of SB 456 during the public hearing on Wednesday, January 10, 2024. The bill has been amended to direct DHHS to create a report with a budget proposal for the program, and to appropriate \$300,000 for deposit into the existing SLRP specifically for qualified nursing professionals for the biennium ending June 30, 2025. NHHA continues to support the bill.

Position: Support



Federal Update

Change Healthcare

The impact of the cyberattack on United Health Group (UHG) and Change Healthcare was significant throughout the country, including several New Hampshire hospitals. The inability for hospitals and healthcare providers to effectively manage pre-authorizations, clinical decision making, and claims submissions and reconciliations is still being felt over 6 weeks since the initial attack.

Many efforts are underway to mitigate the impacts on hospitals and healthcare providers, including advanced payments and alternative claims management and revenue support, but the lack of transparency by UHG and Change Healthcare has been a huge impediment. Many investigations are underway including the Justice Department which will be looking into United Healthcare about their consolidation of companies including Change Healthcare, their past and current physician practice acquisitions and the Office of Civil Rights' investigations into the potential breach in access to patient records.

We'd like to thank our congressional delegation, most notably Senator Hassan, for holding UHG accountable and for influencing their decisions to make their advance payment process more open, transparent, timely and flexible for our hospitals. The New Hampshire Hospital Association is committed to responding to high-risk situations such as this one experienced by our hospitals and utilizing all of our resources and relationships to mitigate impacts as much as possible.

Key federal issues of importance to hospitals

The American Hospital Association unveiled their **Advocacy Agenda** for 2024 ahead of their annual meeting in April. Those priority areas are:

- Ensuring Access to Care, Addressing Government Underfunding and Providing Financial

Sustainability

- Strengthening the Health Care Workforce
- Advancing Quality, Equity and Innovation
- Enacting Regulatory and Administrative Relief

These priority areas are wide ranging and reflect the important role that hospitals play in the delivery of health care services for their patients and communities both nationally and here in New Hampshire:

- Ensure that essential health care services are available in all communities by improving vital federal funding for Medicare, Medicaid, the Children’s Health Insurance Program and the Health Insurance Marketplaces as government programs reimburse providers significantly less than the cost of care.
- Ensure patient access to primary care and other outpatient services by rejecting additional payment cuts that do not recognize legitimate differences among provider settings (so-called site-neutral payment policies) and policies that restrict patient access to certain sites of care (site-of-service policies).
- Hold commercial health insurers accountable for ensuring appropriate patient access to care, including by reducing the excessive use of prior authorization, ensuring adequate provider networks, reducing account receivables and limiting inappropriate denials for services.
- Strengthen workplace safety by enacting federal protections for health care workers against violence and intimidation.
- Protect the 340B Drug Pricing Program to ensure that hospitals can maintain vital patient services and expand access to care.
- Address physician shortages in part by increasing the number of residency slots eligible for Medicare funding, and address nursing shortages in part by reauthorizing nursing workforce development programs.
- Make permanent coverage of certain telehealth services.
- Create a permanent Centers for Medicare & Medicaid Services (CMS) hospital-at-home program.
- Protect not-for-profit hospitals’ tax-exempt status.
- Eliminate the proposed minimum staffing requirements for skilled nursing facilities and long-term care facilities.
- Ensure regulation of artificial intelligence enables continued innovation while providing reasonable guardrails to ensure patient safety and improved outcomes for all patients.
- Advance policies that assist in protecting health care services, data and patients from cyberattacks.
- Extend critical rural programs, including the Medicare-dependent Hospital designation, Low-volume Adjustment, ambulance add-on payment and Conrad State 30 Program.
- Pursue a new designation of “metropolitan anchor hospital.”
- Preserve the existing ban on the growth and expansion of physician-owned hospitals.

We Care, We Vote

We Care, We Vote is an American Hospital Association program designed for this campaign cycle to ask questions of candidates to get our issues on the table. It also has resources available to get individuals registered to vote. More information will be shared with the membership as we get closer to the primary and general election this fall.

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