



Legislative Newsletter

Keeping members informed on federal & state legislative priorities.

February 2021

Dear Members,

The 2021 NH legislative session has begun, albeit much differently than in past years given the ongoing pandemic and the need for a virtual format for most Committee meetings. Both the House and the Senate have been busy holding many hearings on a variety of bills during the last month. While the format is challenging, both the House and Senate have provided sufficient opportunity for stakeholders to weigh in on bills. The inability to connect in person with legislators remains an ongoing challenge and barrier to more effectively communicating our concerns or support for a bill with legislators.

The Governor unveiled his State Fiscal Year (SFY) 2022/2023 Budget proposal on Thursday, February 11, 2021. While HB 1 (operating budget and capital budget spreadsheets) is now available, HB 2 (trailer bill with detailed policy proposals) has not been posted for the public yet. It is expected imminently, and once we receive the document; we will have a better understanding of the details behind the Governor's budget proposals.

The House Finance Committee's work on the next biennium State Budget for SFY 2022/2023 is beginning with agency presentations scheduled for the coming weeks. The State Budget 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 few 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 the Senate Finance and Senate Ways and Means Committees.

While NHHA has been following many bills of interest to our members, the priority focus area continues to be ensuring that the settlement agreement signed in 2018 regarding the Disproportionate Share Hospitals (DSH) payments due to hospitals is properly funded in the budget, that the Medicaid rate increase passed in 2019 and implemented in 2020 and 2021 remain at the current levels, and solutions to the

ongoing mental health crisis are sustainably created to ensure patients are able to get the care they need.

Since many bills from the 2020 legislative session were not passed due to the pandemic, many of those bills were re-introduced in this current session. While NHHA has been following many bills of interest to our members, the priority focus areas are workplace safety, updates to the advance care planning statute and improvements in the prior authorization process. There are also several health professional licensing bills that we are working on to ensure consistency and efficiencies in the licensing processes as well as improvements to the Prescription Drug Monitoring Program (PDMP) to allow for integration with hospital medical record systems.

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

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 70, relative to insurance coverage for emergency behavioral health services for children and young adults

SB 70 requires commercial insurance carriers to cover the initial assessment and intervention without prior authorization for children in psychiatric distress. The bill also delays any prior authorization requirements on longer term treatment for children in psychiatric distress for 72 hours. SB 70 was heard in Senate Commerce committee on February 8, 2021. There was significant support for the bill. The committee has not acted on the bill to date.

NHHA position: Support

EMERGENCY MANAGEMENT

SB 63, relative to business liability protection for exposure to coronavirus and COVID-19

SB 63 limits the liability of business organizations for claims based on exposure to COVID-19. SB 63 was heard in the Senate Commerce Committee on February 8, 2021. NHHA signed in support of the bill. While there is support for the bill from the business community, there was a fair amount of opposition to the bill by the legal community that represent injured workers. They argued the bill is unnecessary. The committee has not acted on the bill to date.

NHHA position: Support

SB 132, adopting omnibus legislation relative to COVID-19

SB 132 is a Senate omnibus bill that would adopt legislation relative to:

1. Employer payment of required COVID-19 testing.
2. Establishing a COVID-19 micro enterprise relief fund.
3. Requiring a COVID-19 needs assessment of nursing homes and long-term care facilities and making an appropriation therefor.
4. The support and promotion of New Hampshire's live performance industry by the council on the arts.

The bill was heard in Senate Health and Human Services Committee on February 10, 2021. NHHA is specifically focused on Section I of the bill relative to coverage for COVID-19 testing. The committee heard a similar bill, SB 123 (see Health Insurance/Other Insurance below), on the same day. The two bills will likely be combined with an amendment to ensure consistency with the intent of coverage for COVID-19 testing with no out of pocket costs for members/patients.

NHHA position: Neutral

HEALTH COSTS

HB 264, requiring health care providers to provide cost quotes for non-emergency services

HB 264 would require health care providers to provide a cost quote for non-emergency medical services offered to a patient. The bill was heard in House Commerce and Consumer Affairs Committee on February 3, 2021. NHHA **testified** in opposition to the bill because of current federal requirements to share price information and the ongoing work our hospitals do to provide meaningful price transparency information to their patients. The NH Insurance Department also testified that they have concerns about the bill and it would be very difficult for providers to comply with the provisions of the bill. The committee has not acted on the bill to date.

NHHA position: Opposed

HEALTH CARE DECISION MAKING

SB 74, relative to advance directives for health care decisions

SB 74 would make several changes to the current advance directives for health care decisions statute to include:

- I. Defines "attending practitioner" and "POLST."
- II. Redefines "near death" as "actively dying."
- III. Further defines the role of a surrogate.
- IV. Repeals the applicability of certain advanced directives.

The bill was heard in Senate Health and Human Services Committee on January 28, 2021. NHHA **testified** in support of the bill. There is a lot of interest in this bill and there was a request of stakeholders to work on an amendment to the bill. Senator Sherman, the bill sponsor, has convened a working group that NHHA is involved in, along with several members of the Foundation of Healthy Communities (FHC) Health Care Decision Coalition. An amendment, drafted by the full stakeholder workgroup, will be prepared in the coming weeks. The bill will be considered by the full committee and an amendment voted on in early March.

NHHA position: Support

HEALTH CARE INFORMATION/PRIVACY

HB 221, making the state vaccine registry an opt-in program

HB 221 makes the state immunization registry an opt-in program rather than an opt-out program. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 8, 2021. NHHA **testified** in opposition to the bill. There was a significant amount of testimony that raised concerns about the proposal to change the vaccine registry program to an opt-in program. DHHS specifically testified in opposition to the bill. The committee has not acted on the bill to date.

NHHA position: Opposed

HB 601, relative to the privacy of personal information retained by a health or social service agency and prohibiting the sharing of such information between such agencies

HB 601 requires that the privacy of personal information retained by a health or social service agency be protected and prohibits the sharing of such information between such agencies. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 8, 2021. DHHS testified in strong opposition to the bill. The committee has not acted on the bill to date.

NHHA position: Opposed

HEALTH INSURANCE/OTHER INSURANCE

HB 62, relative to continued in-network access to certain health care providers

HB 62 requires access by a covered person to a provider in the insurer's provider directory at in-network rates for the duration of the contract for health care services. The bill was heard in House Commerce and Consumer Affairs Committee on February 2, 2021. Most of the committee believes that current law allows for an extension of a prior authorization to access care outside of the health insurers network, in the event of a change in coverage. They also had concerns about the potential impact on premiums if the bill were to be passed. Consequently, the committee voted Inexpedient of Legislate (ITL) on February 10, 2021. The bill now goes to the full House for a final vote.

NHHA position: Neutral

HB 191, relative to prior authorizations and patient transfers under managed care group health insurance policies

HB 191 would add requirements for prior authorizations under managed care health benefit plans and the administration of patient transfers to another health care facility. The bill was heard in House Commerce and Consumer Affairs Committee on February 2, 2021. NHHA **testified** in support of the bill. We had asked Representative Marsh to file the bill in response to ongoing concerns our members have had related to Prior Authorization limitations and administrative challenges. Ultimately, the committee determined that more work needed to be done on the bill to achieve a more acceptable legislative solution, so the bill was voted to be retained in committee. The bill will not move forward at this time, but this will give NHHA time to work with the insurance carriers to hopefully negotiate an acceptable amendment that the committee can consider in the Fall.

NHHA position: Support

HB 472, relative to retroactive denials of previously paid claims

HB 472 is intended to clarify the law regarding retroactive denials of previously paid claims under accident and health insurance. The bill was heard in House Commerce and Consumer Affairs Committee on February 2, 2021. Ultimately, the committee voted to retain the bill to allow the sponsor to work on an amendment in the coming

months to hopefully resolve the outstanding concerns raised with the bill during the hearing.

NHHA position: Neutral

HB 602, relative to reimbursements for telemedicine

HB 602 makes changes to the reimbursement limits for telemedicine. The bill also further defines telemedicine. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 2, 2021. NHHA submitted **testimony** in opposition to the bill, primarily because the legislature passed comprehensive changes to telemedicine laws in 2020 that support enhanced access to care as well as establishes a commission to consider future changes to the telemedicine law. There was significant opposition to the bill and the hearing ultimately was recessed. The hearing has not been rescheduled to date.

NHHA position: Opposed

SB 121, relative to a state-based health exchange

SB 121 would require the insurance department to examine the implementation of a state health exchange and implement such an exchange upon approval of the joint health care reform oversight committee. The bill was heard in Senate Health and Human Services Committee on February 10, 2021. The committee has not acted on the bill to date.

NHHA position: Neutral

SB 123, relative to copayments for COVID-19 testing

SB 123 would waive cost-sharing for COVID-19 testing under accident and health insurance policies. The bill was heard in Senate Health and Human Services Committee on February 10, 2021. The bill will be combined with SB 132 (Emergency Management) and one bill will move forward. An amendment will be drafted by the sponsors once additional input from stakeholders is obtained.

NHHA position: Neutral

MEDICAID

HB 103, establishing a dental benefit under the state Medicaid program

HB 103 requires the commissioner of the department of health and human services to solicit information and to contract with dental managed care organizations to provide dental care to persons under the Medicaid managed care program. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 1, 2021. The bill is very similar to SB 150, which is currently scheduled for a hearing in the Senate Health and Human Services Committee on February 18, 2021. The committee has not acted on the bill to date.

NHHA position: Support

PUBLIC HEALTH/HEALTH PROMOTION

HB 157, repealing the state health assessment and state health improvement plan council

HB 157 repeals the state health improvement plan and the state health improvement plan advisory council. The bill was heard in House Health, Human Services and Elderly Affairs Committee on January 26, 2021. NHHA **testified** in opposition to the bill. There was a lot of testimony opposing the bill. There is a committee amendment being drafted that will be presented to the committee that will address the concerns raised by several of the stakeholders. The committee has not acted on the bill to date.

NHHA position: Opposed

HB 220, establishing medical freedom in immunizations

HB 220 establishes the policy for medical freedom in immunizations for communicable diseases. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 8, 2021. There is a committee amendment being drafted that will be presented to the committee that will address concerns raised during the public hearing. The committee has not acted on the bill to date.

NHHA position: Opposed

HB 600, relative to funding for newborn screening

HB 600 instructs the Commissioner of the Department of Health and Human Services on the setting of fees for newborn screening tests. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 1, 2021. NHHA had requested Representative Marsh to introduce the bill and we **testified** in support of the bill. The committee voted Ought to Pass on February 3, 2021. The bill now goes in front of the full House when they meet later this month.

NHHA position: Support

HB 604, relative to expanding the New Hampshire vaccine association to include adult vaccines

HB 604 would expand the New Hampshire vaccine association to include adult vaccines. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 1, 2021. The committee has not acted on the bill to date.

NHHA position: Support

QUALITY & PATIENT SAFETY

HB 131 relative to reporting of health care associated infections.

HB 131 clarifies the information that hospitals must report regarding infections. The bill was heard in House Health, Human Services and Elderly Affairs Committee on January 26, 2021. NHHA requested Representative Woods sponsor the bill and we **testified** in support of the bill. The exact same bill was passed by the House Health, Human Services and Elderly Affairs and full House in 2020 but did not cross over to the Senate due to the pandemic. DHHS is supportive of the bill as well. The committee has not acted on the bill to date.

NHHA position: Support

STATE GOVERNMENT

HB 187, relative to the emergency powers of the commissioner of health and human services.

This bill makes various changes to the powers of the Commissioner of the Department of Health and Human Services during a public health emergency; authorizes the Joint Legislative Oversight Committee on Health and Human Services to review, and rescind by a 2/3 vote, emergency orders issued by the Commissioner; gives a person subject to a treatment order for a communicable disease a right to a hearing on the order; and amends the membership and duties of the Ethics Oversight Advisory Committee. The bill was heard in House Health, Human Services and Elderly Affairs Committee on February 1, 2021. The committee considered an amendment to the bill to clarify concerns raised by DHHS. The full committee voted Ought to Pass as amended. The full House will consider the bill when they meet later in the month.

NHHA position: Neutral

WORKFORCE

SB 68, requiring an employer to provide reasonable accommodations for pregnant employees.

SB 68 would require an employer to provide reasonable accommodations to an employee related to the employee's pregnancy or childbirth and makes the failure to provide such accommodations an unlawful discriminatory practice. The bill was heard in Senate Commerce Committee on January 26, 2021. The committee voted Ought to Pass and it will be considered by the full Senate during their next session, which is scheduled for February 18, 2021.

NHHA position: Support

SB69, requiring employers to provide access to a sufficient space for nursing mothers and reasonable break time.

SB 69 would require certain employers to provide access to a sufficient space and a reasonable break period for nursing mothers to express milk during working hours. The bill was heard in Senate Commerce Committee on January 26, 2021. There was significant support for the bill but there was a request to amend the bill slightly to provide clarification on the ability of the employer to provide additional flexibility. The bill was passed out of committee and the full Senate voted Ought to Pass during their February 4, 2021 session. The bill now moves over to the House for a hearing.

NHHA position: Support

SB 120, relative to physician assistant medical services through the Manchester Veterans Administration Medical Center

SB 120 would modify the requirements for out-of-state physician assistants and state-licensed physician assistants to offer medical services through the Veterans Administration Medical Center. The bill was heard in Senate Health and Human Services Committee on February 10, 2021. The bill received support from several providers, including the Manchester Veterans Affairs Medical Center. The committee voted Ought to Pass and it will be considered by the full Senate when they meet on February 18, 2021.

NHHA position: Support

Federal Update



NHHA and its member hospitals continue to engage regularly with our NH Congressional members on COVID-19 related issues and concerns. The Congressional delegation has been supportive and attentive to the many factors affecting them because of the on-going pandemic. Key amongst those issues is financial relief. Congress is currently working on the next COVID-19 relief package that will likely emerge through the budget reconciliation process by mid-March 2021. Working with the American Hospital Association, we continue to push for another round of Provider Relief Funds, additional relief from the Advanced Medicare payment

program and delays in Medicare sequester cuts to be part of that package.

Hospital leaders have been able to connect directly with our delegation members to share how their staff have been faring in caring for their patients during the recent surge in hospitalizations, the hospitals' role in supporting COVID-19 vaccinations for Phase 1a and Phase 1b recipients, their ongoing commitment to providing testing for their community members and their dedication to each other through clinical collaborations to meet the needs of COVID-19 patients throughout the state.

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