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**June 2021**

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Dear Members,

The 2021 NH legislative session is winding down. The House and Senate met on June 3 and June 4 (House only) to hold final votes on the bills that had crossed over in April. The Senate Finance committee spent the month of May working on the SFY 22/23 State Budget and concluded with a vote of the full Senate on June 3, 2021. The budget passed on a straight party line vote (14-9). There were many attempts to amend the budget bill to remove provisions in both the spending portion ([HB1](#)) as well as the policy trailer bill ([HB2](#)), but they failed. The next step is for the House to vote on the changes the Senate made to the budget. If they do not “concur” with the Senate version of the budget, which is the expected action, they will request a Committee of Conference. That process will conclude by mid-June with final votes in both chambers occurring on June 24, 2021.

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 Hospital (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. These concerns were raised when we [testified](#) on the budget, during both the House and the Senate phases.

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. Priority focus areas for NHHA are workplace safety, updates to the advance care planning statute, codification of the immunity provisions in the Attorney General’s Opinion Letter 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



# 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.

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### 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 ultimately decided to “rerefer” the bill and essentially retain it in committee. The expectation is the language of the bill could be inserted in another bill. If it is not, the committee will act on the bill later in the Fall.

**NHHA position: Support**

#### ***SB 157, relative to funding of children's mental health services and making an appropriation to fund positions in the department of health and human services contracts and procurement unit.***

This bill extends a prior appropriation to the Department of Health and Human Services for child welfare behavioral health services, requires that the New Hampshire 10-year mental health plan include a report on implementation of 2019, 44 (SB 14), relative to child welfare and establishes positions in the Department of Health and Human Services contracts and procurement unit and makes an appropriation for this purpose. The bill was heard in Senate HHS committee in mid-February and then was amended slightly and was passed by the full Senate in early March but was then Laid on the Table with the intent of considering the bill during the Senate phase of the budget. Ultimately, that is what occurred, and the provisions of SB 157 were inserted into the Senate version of the budget and was voted on (and passed on a straight party line vote 14-9) by the full Senate on June 3, 2021.

**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 was 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 decided to rerefer the bill back to the Commerce committee. It was determined that there were issues with the bill and the full Senate chose to not act on the bill at this time.

**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. The bill was amended by the committee and by Senate Finance. Ultimately, the full Senate chose to not pass the bill at this time, and it was "Laid on the Table". This bill will likely be considered later in the session and/or during the budget deliberations. A couple provisions were included in the budget bill (HB 2) but no provision that was of interest to NHHA. The first part of the bill, employer payment of required COVID-19 testing bill, ended up being inserted into SB 123, which the House voted to table on June 4, 2021.

**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 voted to retain the bill. It will be discussed and acted on later this Fall.

**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 was 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, convened a working group that NHHA participated in, along with several members of the Foundation of Healthy Communities' (FHC) Health Care Decisions Coalition. An amendment, drafted by the full stakeholder workgroup, was introduced to the committee. The amended bill passed the Senate HHS committee on a 5-0 vote on March 25, 2021 and passed the full Senate by a 24-0 vote on April 1, 2021. The bill was heard in House HHS committee on May 3, 2021. The bill was passed by the House HHS committee in mid-May and ultimately by the full House on June 3, 2021. There was a friendly floor amendment that was drafted with stakeholder input to provide clarification to several provisions. The bill now will go back to the Senate for concurrence, which is expected.

**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 voted 14-7 that the bill was Inexpedient to Legislate, and the full House was unable to act on the bill by the House deadline so ultimately the bill died.

**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 services 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 voted 14-5 that the bill was Inexpedient to Legislate, and the full House was unable to act on the bill by the House deadline so ultimately the bill died.

However, the provisions of the bill (modified slightly) were also included in HB 2 as a late amendment that was opposed by the minority party but ultimately was added to the budget trailer (HB 2) bill. The Senate Finance committee modified the provision in HB 2 further and it remains in the budget trailer bill.

**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. Ultimately the full House voted to lay the bill on the table where it remains. It could get taken up at the end of the session.

**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 an opportunity 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 was rescheduled for March 8 and there was limited testimony. Ultimately the committee voted to retain the bill to be considered/acted on in the Fall.

**NHHA position: Opposed**

**[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 the Senate Health and Human Services Committee on February 10, 2021. The bill was amended in the Senate to focus on employers not requiring applicants to pay the cost of a COVID-19 test as a condition of employment. However, the House Labor, Industrial and Rehabilitative Services committee made further changes to the bill that would prohibit an employer from requiring employees or applicants to pay for any medical examination, test or the cost of furnishing any records. In addition, it would be unlawful to require an employee to receive a COVID-19 vaccination that has not been approved by the FDA. The bill was tabled by the full House on June 4.



NHHA position: Neutral

## HEALTH INSURANCE/OTHER INSURANCE

### **SB 58, relative to the administration of occupational regulation by the office of professional licensure and certification**

This bill makes changes to the statutory provisions governing the regulatory boards and commissions for technical professions and health professions in order to conform to oversight and administration by the Office of Professional Licensure and Certification (OPLC). The bill was heard in Senate ED&A in late January and then was amended by the committee. NHHA testified in support of the bill as it strengthens the authority of OPLC to ensure more consistency among the various boards under the OPLC. The House ED&A heard the bill in mid-April and then held a series of work-sessions on the bill and ultimately amended the bill slightly. The full House passed the bill on June 3, 2021. The bill will now head back to the Senate for concurrence, which is expected.

**NHHA position: Support**

## 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 (see below).

**NHHA position: Support**

### **SB 150, establishing a dental benefit under the state Medicaid program**

SB 150 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. SB 150 was heard in Senate HHS committee in mid-February. It was ultimately passed by the full Senate on a 24-0 vote but then was laid on the table, with the expectation that it would be considered in the Senate version of the budget, which it was, and it was included in HB 2.

**NHHA position: Support**

## PRESCRIPTION DRUGS

### **SB 45 relative to the controlled drug prescription health and safety program**

This bill modifies the administration of the controlled drug prescription health and safety program administered by OPLC. The original bill was amended significantly when it was heard in the Senate HHS committee. The committee amendment incorporated the bill (SB 149) that NHHA had requested Senator Giuda introduce this year. The amendment allows for the PDMP/EMR integration and NHHA **testified** in support of this provision when it was heard in the Senate. The bill was ultimately passed by the Senate and then was heard in House HHS committee, where it was further amended but the NHHA requested provision was unchanged. The House HHS committee passed the amendment bill and the full House passed it on June 3, 2021. The bill now heads back to the Senate for concurrence, which is expected.

**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. The committee passed an amendment that addressed the concerns raised by several of the stakeholders. The bill ultimately passed both the House and the Senate and was signed into law in early May 2021.

**NHHA position: Support as Amended**

### **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. The bill passed the House with an amendment in April and then was heard in Senate HHS committee in mid-April. The Senate HHS committee amended the bill further to ensure that private employers are impacted by the provisions of the bill. The bill was ultimately passed by the full Senate in late May. The bill now goes back to the House for concurrence, which is expected.

**NHHA position: Neutral**

### **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 was passed by the full House in early April and then was referred to House Finance and ultimately passed and was heard in Senate HHS. The bill was amended after the stakeholders got together and negotiated clarifying language. The bill was ultimately passed by the full Senate in late May. It now goes back to the House for concurrence, which is expected since the sponsor of the bill was involved in the drafting of the final amendment.

**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 ultimately chose to retain the bill to be considered later in the fall.

**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 full House ultimately passed the bill in early April and then the Senate HHS committee passed it in mid-May and the full Senate voted to pass the bill on a voice vote in late May. The

bill now heads to the Governor for signature and will become law.

**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 ultimately passed the amended bill and then the bill was heard in Senate HHS in May. The bill was further amended by the Senate HHS committee and passed the full Senate on a voice vote in late May. The bill will now be considered by the full House for concurrence or non-concurrence.

**NHHA position: Neutral**

### **SB 100, adopting omnibus legislation on commissions and committees**

This bill adopts legislation to establish a number of commissions and committees, including a commission to study workplace safety in health care settings and a commission to study payments in lieu of taxes, as requested by the assessing standards board. The Senate Ways and Means committee heard the bill in mid-March. NHHA **testified** in support of Part I of the bill (Commission to Study Workplace Safety in Health Care Settings) and testified in opposition of Part II of the bill (Commission to Study Payments in Lieu of Taxes, as Requested by the Assessing Standards Board). While the committee and the full Senate voted to pass the bill with a minor amendment, the House Legislative Administration committee chose to dismantle the bill and remove most of the provisions of the bill, including Part I and Part II. The amended bill was passed by the full House on June 3, 2021. The bill now heads back to the Senate and NHHA will work to request the Senate non-concur and request a committee of conference so that Part I can be added back to the bill.

**NHHA position: Support Part I**

### **SB 149, adopting omnibus legislation on health and human services**

This bill adopts legislation relative to: clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services; automated pharmacy systems; health facilities providing care in the declared emergency. The bill was heard in Senate HHS committee in mid-February and was amended by both the HHS committee and the Senate Finance committee. NHHA testified in support of the section regarding health facilities providing care in the declared emergency. The full Senate ultimately passed the bill, and the House HHS committee heard the bill in early May. The committee amended the bill to add the ability of long-term care facility or hospice facilities to use an automated pharmacy system. The full House voted to pass the bill on June 3, 2021.

**NHHA position: Support**

## 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 to pass the bill as did the full Senate. However, when the bill was heard in House Commerce there were concerns raised by some of the committee members and ultimately the bill was retained in committee. Despite that action by House Commerce, the Senate chose to attach SB 68 language to a House bill, HB 610, during their last Senate session. HB 610 will now need to go back to the House for concurrence/non-concurrence/committee of conference.

**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 committee voted to pass the bill as did the full Senate. However, when the bill was heard in House Commerce, there were concerns raised by some of the committee members and ultimately the bill was retained in committee. Despite that action by House Commerce, the Senate chose to attach SB 69 language to a House bill, HB 610 during their last Senate session. HB 610 will now need to go back to the House for concurrence/non-concurrence/committee of conference.

**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 was ultimately passed by the full Senate in late February. The House HHS committee passed the bill in early May with a friendly amendment, and it was ultimately passed by the full House on June 3, 2021. The bill now will go back to the Senate for concurrence, which is expected.

**NHHA position: Support**

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## Federal Update



It is vital to ensure that the Biden Administration's Infrastructure Package recognizes that hospitals and health systems are part of our nation's critical infrastructure. Critical infrastructure is defined as protecting and advancing the physical, economic and environmental wellbeing of our country and hospitals and health systems have long been part of the Department of Homeland Security's critical infrastructure sectors. While negotiations are ongoing about the breadth and depth of the package, we can certainly make the case that hospitals' and health systems' infrastructure be included.

The American Hospital Association has identified the following healthcare infrastructure priority areas:

- Investing in Hospital Physical Infrastructure
- Strengthening the Health Care Workforce
- Building Capacity for Emergency Preparedness and Response
- Expanding the Digital and Data Infrastructure for Health Care
- Securing the Health Care Supply Chain

Cross cutting each of these priority areas are support for behavioral health and rural hospital issues. An overall [fact sheet](#) is available that outlines each of these priority areas in more detail.

It will likely be several months before a final package is put together. In the meantime, we will monitor the progress of the negotiations and encourage our NH congressional delegation members to include provisions in support of our hospitals' and health systems' priorities.

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## New Hampshire Hospital Association Advocacy Staff

Steve Ahnen, President  
(603) 415-4250  
[sahren@nhha.org](mailto:sahren@nhha.org)

Kathy Bizarro-Thunberg, Executive Vice President, Federal Relations  
(603) 415-4252  
[kbizarro@nhha.org](mailto:kbizarro@nhha.org)

Paula Minnehan, Senior Vice President, State Government Relations  
(603) 415-4254  
[pminnehan@nhha.org](mailto:pminnehan@nhha.org)

Nick Carano, Director, Financial Policy and Reimbursement  
(603) 415-4253  
[ncarano@nhha.org](mailto:ncarano@nhha.org)

Katie Lesnyk, Legislative Assistant  
(603) 415-4264  
[klesnyk@nhha.org](mailto:klesnyk@nhha.org)



