



Legislative Bulletin

May 20, 2013

HOUSE VOTES THIS WEEK ON SB 87

The Association's top-priority bill, SB 87, relative to the Patient Bill of Rights, is scheduled for a House vote on May 22nd. The House Health, Human Services and Elderly Affairs Committee unanimously recommended the bill as "ought to pass with amendment." SB 87 has been placed on the "consent calendar", which means it will likely be voted upon without debate.

SB 87 bill clarifies that home health agencies are not subject to RSA 151:21 (the Patient Bill of Rights for facilities) and are only subject to RSA 151:21-b, (the Home Care Clients' Bill of Rights.) The [House amendment](#) requires that clients create an environment that is safe and free from sexual and other forms of harassment. It stipulates that an environment is "unsafe" if conditions in and around the home imminently threaten the safety of the home care providers or jeopardize their ability to provide care.

Under the new discharge provisions in the bill, home health discharges will require 14 days written notice (as opposed to the 30-day notice that was sometimes construed to apply to home health agencies.) However, the 14-day notice requirement *will not* apply in the following instances:

- the client discontinues services or moves
- the client needs other emergency care,
- the client no longer needs home care services,
- workers' safety or their ability to provide care is threatened
- the client or payor ceases payment or authorization for payment

"Imminent threat to safety" includes actual or probably physical assault, severe verbal threats, other circumstances likely to cause injury, or verbal or sexual abuse.

SB 87 states that agencies can discharge clients:

- if the client or others in the home are non-compliant or interfere with the plan of care;

- if the availability of home care community support services no longer meet the clients changing needs;
- if qualified personnel are no longer employed by the agency and no other personnel are available.

In the above instances, agencies are expected to make reasonable attempts to resolve the circumstances leading to discharge. All clients have the right to appeal discharges, including the right to request an expedited administrative hearing at DHHS, which is similar to nursing home appeal rights. The bill requires rule-making for the administrative appeal process.

The House amendment was the product of several weeks of give-and-take drafting by the Association, a committee of its members, the Bureau of Health Facilities Licensure and opponents of the bill, including the Disability Rights Center, Granite State Independent Living Foundation and independent case managers. All parties involved supported the final House amendment.

SB 87 has already passed the Senate, but will require additional Senate concurrence because of the House amendment. GSHHA will continue to work with the bill's sponsors over the next several weeks to shepherd the bill to Governor Hassan's desk. The Association will provide a special member briefing on the bill prior to its effective date of January 1, 2014.

House Recommends Expanded Palliative Care Commission

The House will also vote on an amended bill to expand the duties of a Palliative Care Commission that was passed by the Senate. If passed by the House on Wednesday, **SB 17 will create a "Commission to Study Palliative Care and Associated Quality of Life Initiatives."** The commission will include legislators, a physician, nurses, a social worker, a pastoral care professional and representatives of several health care associations, including the Home Care Association. **GSHHA supported this bill.**

The Commission's charge is to:

- assess the general knowledge in NH of palliative and hospice care;
- evaluate access, effectiveness, utilization and timeliness of palliative and hospice care;
- consider continuing education requirements for health professionals,
- review options for increasing the use and knowledge of advance directives and POLST,
- discuss potential deficits in third party payments for palliative and hospice care

If passed, SB 17 will also require Senate concurrence prior to final passage.

Simplified Advance Directives Law Passes Both Chambers

[SB 170](#), relative to advance directives pertaining to life-sustaining treatment, has passed both the House and Senate with minor amendments. The Senate is expected to concur with the House's version of the bill. SB 87 simplifies New Hampshire's advance directives statutes by including "medically administered nutrition and hydration" in the broad definition of "life-sustaining treatment" and repealing confusing questions in the advance directive form. **GSHHA supported this bill.**

GSHHA Cautions Senate Finance Committee about CFI Caseloads

The Senate Finance Committee held public hearings on the House version of HB 1 and HB 2 on May 9. Gina Balkus [testified](#) on behalf of GSHHA, expressing concern about the House's estimates for home care caseloads in the Choices for Independence. The Association has also met individually with Senate Finance Committee members.

The House trimmed Governor's Hassan's budget request for CFI for the next two years by reducing caseloads estimates to levels that are below SFY 13. With New Hampshire's aging population and the State's BIP grant, which is designed to encourage citizens to choose home-based long term care options, it's unlikely that caseloads will remain level. In addition, Association members are reporting long waits for CFI eligibility determinations, indicating a potential backlog in cases.

The Association cautioned the Senate Finance Committee that **if the CFI appropriation does not cover the actual caseloads in SFY 14 and 15, access to home and community-based care could be negatively impacted.** DHHS has the authority to institute a "proportionate discount factor" – a rate cut -- if the caseloads exceed the appropriation in the budget. With CFI rates already below the cost of care, home care agencies are unable to sustain further cuts.

If you have questions about state or federal legislative issues, call GSHHA at 603-225-5597 or email [Gina Balkus](#).