



Legislative Bulletin

March 7, 2014

NH Senate Passes Medicaid Expansion Bill

After months of working out potential compromises on Medicaid expansion, the Republican-led New Hampshire Senate passed [SB 413](#) yesterday. This bill will use federal Medicaid funds to pay premiums for private insurance for approximately 50,000 newly-eligible Medicaid participants up to 133% of the FPL. The bill passed by a vote of 18-5. The bill is being fast-tracked and will have a House hearing on March 10. Gov. Hassan is eager to sign this bill into law.

House Kills Tax on Non-profits

An attempt to impose the State's Business Enterprise Tax on non-profit organizations was killed in the House of Representatives on Wednesday, by a surprisingly close vote of 173-163. GSHHA joined other non-profits in opposing this legislation. Gina Balkus [testified](#) against the bill during its hearing in the House Ways & Means Committee in late January. [HB 1509](#), targeted to hospitals and universities, would have imposed a tax of 0.68% on the payroll, interest and dividends of any non-profit with revenues of \$1,500,000 or more. Twenty non-profit member agencies would have been impacted, with taxes ranging from \$8,000 to \$96,000 annually.

House Committee Recommends Passage of Surrogate Decision-Making Bill

When a patient's condition prevents them from having the capacity to make medical decisions, and when they don't have a legal agent or guardian, who decides about their care? Health care providers usually turn to family members, but families actually have no legal authority. **HB 1434, relative to surrogate decision-making by a family or friend**, was introduced by Rep. Laurie Harding (D- Lebanon.) It would create a hierarchy of relatives or friends who could be appointed a surrogate by a physician or APRN. The surrogate would have the same authority as that granted to an agent under New Hampshire's advance directive laws. This subject has been debated by the NH Legislature several times over the years but has failed to gain passage. This week, the House Health, Human Services & Elderly Affairs Committee unanimously recommended

HB 1434 as “ought to pass with [amendment](#).” The bill will head to the House floor for a vote in the next few weeks. GSHHA supports this bill and submitted written [testimony](#) during the hearing phase. Stay tuned.

Palliative Care a Hot Topic

The 2013 Legislature passed [SB 17](#), which created a Palliative Care Study Commission to examine the availability of services, education and awareness of palliative care. Carla Braveman, VP of Home and Community Services at VNA of Manchester and Southern NH, was the Home Care Association’s appointee to that Commission. The Commission chairman, Senator John Reagan (R-Deerfield), introduced several bills this session to address palliative care issues.

- [SB 259](#), **establishes a palliative care center for health care consumers and providers and continually appropriates a special fund.** This bill was passed by the Senate this week and was referred to the Senate Finance Committee for further consideration. If the bill passes to the House, GSHHA will request a home care seat on the Commission.
- [SB 213](#), **establishes a registry for physician orders for life-sustaining treatment (POLST)** This bill was amended and passed by the Senate then recommended for interim study by the Senate Finance Committee. The bill is currently “laid on the table” in the Senate. GSHHA has no position on this bill. Most healthcare providers support the concept of a registry, but feel it is too soon given that POLST has not yet been implemented throughout the state.
- [SB 256](#), **would require all licensed health facilities, including home care agencies, to implement a process to inform patients on palliative care options** and refer them to appropriate resources. The GSHHA Legislative Committee reviewed this bill and had concerns about implementation. The Senate referred this bill to interim study.

Other Bills of Interest

[SB 297](#), **relative to apportionment of damages**, would increase potential liability for parties in a lawsuit that may be only partially at fault. GSHHA joined many groups, including the BIA, the NH Hospital Association, the NH Medical Society and other business advocates in opposing this bill. The Senate Judiciary Committee referred this bill to interim study.

[SB 308](#), **relative to innovation in the delivery of health care**, would establish a voluntary state anti-trust process for health care organizations proposing to affiliate. This review would grant state action immunity that could preclude federal anti-trust review. The bill was initiated by hospitals. The GSHHA Board has reviewed this bill and supports the concept. The Senate Health Committee has recommended this bill as “ought to pass with [amendment](#).”

[HB 1189](#), **relative to temporary worker rights**, requires temporary staffing agencies to provide employee rights and disclosure notices each time a temporary employee takes a

new assignment. While the bill is aimed at temp agencies, GSHHA is concerned that this bill could impact home health agencies that employ per diem workers. A House Labor Committee report is pending, but the bill is expected to pass the House. GSHHA will work with other business groups on the Senate side to oppose the bill or seek exemptions for home health agencies.

FEDERAL ISSUES

At the end of March, several Association members will participate in the **National Association for Home Care and Hospice's "March on Washington."** Senator Shaheen will address the NAHC group at a special policy breakfast on March 25. We have Capitol Hill visits scheduled with health policy staff members for the NH Congressional Delegation on March 24 and 25. GSHHA will raise the following issues:

- We will seek Congressional assistance **to retroactively delay implementation of the recently-imposed 3.5% rebasing cut to the Medicare Home Health PPS rates.** GSHHA estimates that one-third of New Hampshire's Medicare-certified agencies will have negative Medicare margins in the first year of the 4-year rebasing initiative. By year 4, two-thirds of our agencies will be in the red on Medicare.
- We will continue to **oppose Medicare co-pays for home health.** Both MEDPAC and the Obama administration continue to propose co-pays, despite the fact that most seniors who rely on home health are over 85, extremely vulnerable and poor.
- We will continue to continue to bang the drum about the **administrative burden of the home health F2F requirement,** which goes far beyond what Congress ever envisioned. The increasing number of ADRs and denials for F2F and the recent suspension of Administrative Law Judge Medicare appeals point to major problems with this requirement.
- The 3% **Medicare rural add-on** to the HHPPS rates is set to expire at the end of 2015. This would impact all New Hampshire counties except Hillsborough, Rockingham and Strafford counties. We will ask our delegation to support legislation to continue the rural add-on.

Congresswoman Carol Shea-Porter recently expressed concerns about home health issues in a [letter](#) to CMS Administrator Marilyn Tavenner. This letter was requested by GSHHA, Cornerstone VNA, and the Visiting Nurse Association of America. We appreciate Congresswoman Shea-Porter's support on these issues.

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