CONSENT CALENDAR

May 2, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Criminal Justice and Public Safety to which was referred SB 58,

AN ACT relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. David Meuse

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Criminal Justice and Public Safety**
Bill Number:	**SB 58**
Title:	**relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.**
Date:	**May 2, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2023-1490h**

STATEMENT OF INTENT

As amended by the unanimous agreement of the committee, this bill will help New Hampshire hospitals and healthcare facilities address a growing workforce violence problem that is driving healthcare workers out of the industry at a time of workforce shortages. Currently, patients committing misdemeanor level assaults on healthcare personnel in hospitals and residential facilities cannot be arrested without a warrant unless a police officer personally witnesses the offense. Obtaining a warrant is often a time consuming process that can expose medical personnel to additional risk. During the public hearing, stakeholders supported the need to expand the warrantless arrest powers of police in situations where a patient is interfering with the delivery of medical services. But they also expressed objections about the wording of the bill as it came to us from the Senate, including the violation of due process, the likelihood that more people with mental illness would be jailed instead of treated, and unintended negative consequences over language that effectively deputizes health care providers to physically detain patients until police arrive, a provision at odds with federal rules around the use of restraint by medical providers that could not only put healthcare workers at additional risk, but also jeopardize Medicaid and Medicare funding. As amended, this bill addresses these concerns and creates a narrow addition to our warrantless arrest statute that would allow police to arrest a person who interferes with medically necessary services through threats or actual violence and poses a risk to continue to interfere unless they are arrested. NAMI-NH, The New Hampshire Disability Rights Center, and the New Hampshire Hospital Association all supported the changes.

Vote 20-0.

Rep. David Meuse
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

SB 58, relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility. **OUGHT TO PASS WITH AMENDMENT.** Rep. David Meuse for Criminal Justice and Public Safety. As amended by the unanimous agreement of the committee, this bill will help New Hampshire hospitals and healthcare facilities address a growing workforce violence problem that is driving healthcare workers out of the industry at a time of workforce shortages. Currently, patients committing misdemeanor level assaults on healthcare personnel in hospitals and residential facilities cannot be arrested without a warrant unless a police officer personally witnesses the offense. Obtaining a warrant is often a time consuming process that can expose medical personnel to additional risk. During the public hearing, stakeholders supported the need to expand the warrantless arrest powers of police in situations where a patient is interfering with the delivery of medical services. But they also expressed objections about the wording of the bill as it came to us from the Senate, including the violation of due process, the likelihood that more people with mental illness would be jailed instead of treated, and unintended negative consequences over language that effectively deputizes health care providers to physically detain patients until police arrive, a provision at odds with federal rules around the use of restraint by medical providers that could not only put healthcare workers at additional risk, but also jeopardize Medicaid and Medicare funding. As amended, this bill addresses these concerns and creates a narrow addition to our warrantless arrest statute that would allow police to arrest a person who interferes with medically necessary services through threats or actual violence and poses a risk to continue to interfere unless they are arrested. NAMI-NH, The New Hampshire Disability Rights Center, and the New Hampshire Hospital Association all supported the changes. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: SB 58 Date: 4/19/23

Committee: CRIMINAL JUSTICE AND PUBLIC SAFETY

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
~~Sen Rosenwald~~	~~Nashua~~		~~SD-13~~		
Kasey Corey Fox	- St. Joseph Hospital	617-212-7791		✓	
Catrina Watson	NHMS	603-224-1909	NHMS	✓	
Celina Frost	Convenient MD	978-866-9992		X	

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill SB58 on 2023-(

Support: 48 Oppose: 119 Neutral: 0 Total to Testify: 0

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Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane
Fulone, Paul	Nashua, NH pfulonesr@covh.org	A Member of the Public	Myself and St Joseph Hospital	Support	No	No
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No
Trudel, Karen	Penacook, NH tktrudel1@gmail.com	A Member of the Public	Myself	Oppose	No	No
Scott, Stella	Keene, NH stelsco@gmail.com	A Member of the Public	Myself	Oppose	No	No
Pugh, Barbara	Amherst, NH barbara.pugh@comcast.net	A Member of the Public	Myself	Oppose	No	No
Arabas, Jill	Hollis, NH jaarabas@yahoo.com	A Member of the Public	Myself	Oppose	No	No
Morrison, Carol	W. Lebanon, NH carol.r.morrison917@gmail.com	A Member of the Public	Myself	Oppose	No	No
Morrison, William	W. Lebanon, NH wamcrm@gmail.com	A Member of the Public	Myself	Oppose	No	No
Grossi, Anne	Bedford, NH adgrossi7982@gmail.com	A Member of the Public	Myself	Oppose	No	No
Antonucci, Amy	Barrington, NH amyla226@gmail.com	A Member of the Public	Myself	Oppose	No	No
Pike, Heather	Pittsfield, NH benson-adults0j@icloud.com	A Member of the Public	Myself	Oppose	No	No
Burk-McCoy, Lisa	Exeter, NH lburkmccoy@gmail.com	A Member of the Public	Myself	Oppose	No	No
Smith, Jennifer	Pembroke, NH jaycmd7699@gmail.com	A Member of the Public	Myself	Oppose	No	No
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Support	No	No
Jordan, Brittany	nashua, NH ibritjordan@gmail.com	A Member of the Public	Myself	Support	No	No
Podlipny, Ann	Chester, NH apodlipny57@comcast.net	A Member of the Public	Myself	Oppose	No	No
Peters, Jordan	Sunapee, NH Jordanpeters521@gmail.com	A Member of the Public	Myself	Support	No	No
Murray-Duchesne, Jillian	New London, NH jduchesne19@gmail.com	A Member of the Public	Myself	Support	No	No
Blanchard, Nicholas	Claremont, NH Nickb1498@gmail.com	A Member of the Public	Myself	Support	No	No
Canfield, Delia	Laconia, NH deliagrace21@yahoo.com	A Member of the Public	Myself	Support	No	No
Moynihan, Megan	Rochester, NH emmy7984@hotmail.com	A Member of the Public	Myself	Support	No	No
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Oppose	No	No

CLARK, LEZLI	Pembroke, NH lezli.gail.clark@gmail.com	A Member of the Public	Myself	Support	No	No	
Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Nossiff, Virginia	center conway, NH ginnossiff@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Wyatt, Timothy	Hudson, NH timwyattone@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Farnum, Ellen	Tamworth, NH ellenlynnfarnum@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Radun, Jennifer	Colebrook, NH jlradun@gmail.com	A Member of the Public	Myself	Support	No	No	
Smith, Katharine	Bedford, NH katie.meinertz@yahoo.com	A Member of the Public	Myself	Support	No	No	
Keegan, John	BOscawen, NH peoresnada@tds.net	A Member of the Public	Myself	Oppose	No	No	
Kutz, David	Concord, NH dkutz87@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Baker, Deb	Concord, NH deborahba@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
flagg, david	Sanbornville, NH daflagg@gmail.com	A Member of the Public	Myself	Support	No	No	
Flagg, Deborah	Sanbornville, NH deborah.lee.256@gmail.com	A Member of the Public	Myself	Support	No	No	
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Kusch, Scott Daniel	Center Sandwich, NH dan.kusch@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Ducret, Marci	Colebrook, NH mducret74@gmail.com	A Member of the Public	Myself	Support	No	No	
Blair, David	Harrisville, NH orionblair@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Lafreniere, Leanne	Rochester, NH Lafreniere_leanne@yahoo.com	A Member of the Public	Myself	Support	No	No	
Spielman, Kathy Sue	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Bushueff, Catherine	Sunapee, NH agawamdesigns@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Sherman, Kathleen	Gilford, NH kathleensherman@icloud.com	A Member of the Public	Myself	Support	No	No	
Cote, Lois	Manchester, NH lcote06@outlook.com	A Member of the Public	Myself	Oppose	No	No	
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Bolton, Julie	Colebrooj, NH jbolton61978@gmail.com	A Member of the Public	Myself	Support	No	No	
Noether, Lauren	Tilton, NH Winirivr@myfairpoint.net	A Member of the Public	Myself	Oppose	No	No	
Osmund, Dominic	Manchester, NH dominic@350nh.org	A Lobbyist	350NH Action	Oppose	No	No	
Vecchiotti, Dorothea	Peterborough, NH div@ocs-oe.com	A Member of the Public	Myself	Oppose	No	No	

Hatcher, Phil	Dover, NH phil.hatcher@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Walker, Deborah Klein	Meredith, NH deb.publichealth@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Sturke, Terry	BOW, NH its20@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Reed, Barbara	North Swanzey, NH BDReed74@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Roy, Taylor	Litchfield, NH Taykroy@gmail.com	A Member of the Public	Myself	Support	No	No	
harris, justin	Grantham, NH harrisj@apdmh.org	A Lobbyist	Myself	Support	No	No	
Lane, Betty	Dover, NH bquality@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Jacques, Jessica	Dunbarton, NH jjacques@elliot-hs.org	A Member of the Public	Myself	Support	No	No	
Satterfield, Peter	Pembroke, NH psatterfield@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Straiton, Marie	Pembroke, NH m.straiton@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Townsend, Carol	Weare, NH catownsend85@gmail.com	A Member of the Public	Myself	Support	No	No	
Merlone, Lynn	Rindge, NH prulone@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Thomas, A	Rindge, NH annekerosie@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Bissex, Hannah	Rindge, NH berardi.h@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Martin, Patricia	Rindge, NH pmartin2894@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Emus, Joanne	Hollis, NH jremus0322@aol.com	A Member of the Public	Myself	Oppose	No	No	
Paxton, Patricia	Amherst, NH pat.toland11@gmail.com	A Member of the Public	Myself	Oppose	No	No	
HALLOCK, LINDA	Cornish, NH lindash@mail.com	A Member of the Public	Myself	Oppose	No	No	
Weber, Jill	Mont Vernon, NH jill@frajilfarms.com	A Member of the Public	Myself	Oppose	No	No	
Campbell, Karolyn	Epsom, NH kkcampbell43@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Widger, Barbara	Manchester, NH b.UUidger@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Holt, David	Somersworth, NH davholt@aol.com	A Member of the Public	Myself	Oppose	No	No	
Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Oppose	No	No	

Benham, Linda	Greenland, NH benhamblab@outlook.com	A Member of the Public	Myself	Oppose	No	No	
Cormier, Jennifer	Dunbarton, NH nhgencourt@jcsmotif.com	A Member of the Public	Myself	Oppose	No	No	
Ragen-Coffman, Debra	Concord, NH debrarcoffman@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Greenwood, Nancy	Concord, NH nancgreenwood@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Kishinevsky, Rebecca	Wilton, NH rp.kishinevsky@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Smith, Hayden	Hanover, NH hayden@nhyouthmovement.org	A Lobbyist	New Hampshire Youth Movement	Oppose	No	No	
Zaenglein, Barbara	Amherst, NH bzaenglein@gmail.com	A Member of the Public	Myself	Oppose	No	No	
DeJoy, Heidi	Raymond, NH htharpe12@yahoo.com	A Lobbyist	Myself	Support	No	No	
Johnson, Kathryn	Manchester, NH tognaccik@yahoo.com	A Member of the Public	Myself	Support	No	No	
Day-Lewis, Heather	Bedford, NH hstickney221@icloud.com	A Member of the Public	Myself	Support	No	No	
DiNapoli, Pamela	Manchester, NH ppdn@unh.edu	A Member of the Public	NH Nurses Association	Support	No	No	
Frank, Paul	Nashua, NH pmfrank7@gmail.com	A Member of the Public	Myself	Support	No	No	
Schofield, Kristen	East Hampstead, NH Kristen.schofield18@gmail.com	A Member of the Public	Myself	Support	No	No	
Hatch, Sally	Concord, NH sallyhatch@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Jones, Gisela	Lebanon, NH Gisela1142@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Donovan, Reilly	Meredith, NH reillydonovan96@gmail.com	A Member of the Public	Myself	Support	No	No	
Nixon, Sherrill	Exeter, NH sherri.nixon1@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Harris, Abigail	Manchester, NH Abbyharris2244@gmail.com	A Member of the Public	Myself	Support	No	No	
Hickox, Melissa	Manchester, NH dreamingofstars13@yahoo.com	A Member of the Public	Myself	Support	No	No	
Mower, Robin	Durham, NH melodyofharpists@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Chevrette, DeAnna	Manchester, NH Dchevrette1@gmail.con	A Member of the Public	Myself and all healthcare workers	Support	No	No	
Blesso, Michelle	Enfield, NH michelle.blesso@cmc-nh.org	A Member of the Public	Myself	Support	No	No	
Padmore, Michael	Concord, NH michael.padmore@nhms.org	A Lobbyist	NH Medical Society	Support	No	No	
Gaudreault, Nikki	Concord, NH nikkimgood@gmail.com	A Member of the Public	Myself	Support	No	No	
Zajano, Emily	Exeter, NH emzajano@aol.com	A Member of the Public	Myself	Support	No	No	
Austin, Suzanne	Brentwood, NH suzanne321@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Willing, Maura	Concord, NH Maura.Willing@Comcast.net	A Member of the Public	Myself	Oppose	No	No	

Boyle, Elijah	Penacook, NH Eliboyle1998@gmail.com	A Member of the Public	Myself	Support	No	No	
Rettew, Ann	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Mott-Smith, Wiltrud	Loudon, NH wmottsm@worldpath.net	A Member of the Public	Myself	Oppose	No	No	
Goldsack, Katie	Hudson, NH Ktcherico@icloud.com	A Member of the Public	Myself	Support	No	No	
Holbrook, Holli	Manchester, NH holli_holbrook@yahoo.com	A Lobbyist	Myself	Support	No	No	
Albanese, Leigh-ann	Manchester, NH Albanese612@gmail.com	A Lobbyist	Myself	Support	No	No	
Marchand, Jessica	Hooksett, NH Jfontmarch@gmail.com	A Member of the Public	Myself	Support	No	No	
Higgins, Irina	Pembroke, NH Spb534@gmail.com	A Lobbyist	Myself	Support	No	No	
Anderson, Sarah-Elizabeth	Concord, NH sarah_elizabeth@mac.com	A Member of the Public	Myself	Oppose	No	No	
Jakubowski, Deborah	Loudon, NH dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Almy, Susan	Lebanon, NH susan.almy@comcast.net	An Elected Official	Myself	Oppose	No	No	
Ferrier, Carlene	Concord, NH carleneferrier@comcast.net	A Member of the Public	Myself	Support	No	No	
Kettinger, John	Northfield, NH jkettinger@hotmail.com	A Member of the Public	Myself	Support	No	No	
Chickering, Frances	Dover, NH fchickering1@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Lambert, Bruce	Nashua, NH BruceL6901@msn.com	A Member of the Public	Myself	Support	No	No	
Mink Covello, Lucy	Hopkinton, NH Lucyminkcovello@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Weymouth, Charles	West ossipee, NH Weymouthcharles@yahoo.com	A Member of the Public	Myself	Support	No	No	
eaton, sharon	pembroke, NH sharon.eaton@unh.edu	A Member of the Public	Myself	Oppose	No	No	
Anderson, Daina	Barrington, NH dainaski@msn.com	A Member of the Public	Myself	Support	No	No	
Hoyt, Justin	Raymond, NH justinhoyt27@gmail.com	A Member of the Public	Myself	Support	No	No	
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Brennan, Arthur	Weare, NH arete201314@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Brennan, Jane	Weare, NH janelb@gsinet.net	A Member of the Public	Myself	Oppose	No	No	
Sweeney, Margaret	Campton, NH MS975@protonmail.com	A Member of the Public	Myself	Oppose	No	No	
Cushman, Leah	Weare, NH leah.cushman@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	
Cushman, Stephen	Weare, NH cstephen521@hotmail.com	A Member of the Public	Myself	Oppose	No	No	

Panek, Charles	Pelham, NH fullmet460@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Panek, Taylour	Windham, NH taylourpanek@criptext.com	A Member of the Public	Myself	Oppose	No	No	
Panek, Thomas	Windham, NH yzspanek@gmail.com	A Member of the Public	Myself	Oppose	No	No	
McCartney, Michelle	Concord, NH michelleredmond2000@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
McCartney, Evan	Concord, NH bebop0505@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Bowers, Danielle	Concord, NH bktime777@protonmail.com	A Member of the Public	Myself	Oppose	No	No	
Bowers, Steven	Concord, NH cpcliberty70@protonmail.com	A Member of the Public	Myself	Oppose	No	No	
Mason-Bogue, Angela	Concord, NH acmbogue@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Bogue, Michael	Concord, NH bogue27th@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Merner, Kelly	Wilton, NH kellyamerner@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Minehart, Will	Wilton, NH sylvandream@gmail.com	A Member of the Public	Myself	Oppose	No	No	
McKinney, Carolyn	Amherst, NH carolyn.mckinney@gmail.com	A Member of the Public	Myself	Oppose	No	No	
O'Donnell, Kristy	Dublin, NH theodonnellzoo@aol.com	A Member of the Public	Myself	Oppose	No	No	
O'Donnell, Brian	Dublin, NH bod1976@icloud.com	A Member of the Public	Myself	Oppose	No	No	
Trexler, Larisa	Stoddard, NH trexlah@icloud.com	A Member of the Public	Myself	Oppose	No	No	
Trexler, Ryan	Stoddard, NH trexlers@gmail.com	A Member of the Public	Myself	Oppose	No	No	
McLeod, Thomas	Mont Vernon, NH chair@ldfnh.org	A Member of the Public	Myself	Oppose	No	No	
McLeod, Ferngold	Mont Vernon, NH fern@mcleodsoft.net	A Member of the Public	Myself	Oppose	No	No	
McLeod, Raphaella	Mont Vernon, NH chantokangaeru@protonmail.com	A Member of the Public	Myself	Oppose	No	No	
Moore, Kristen	Milford, NH kristen_cotsifas@hotmail.com	A Member of the Public	Myself	Oppose	No	No	
Bemis, Amanda	Litchfield, NH apells88@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Comstock, Nancy	Litchfield, NH njcomstock@protonmail.com	A Member of the Public	Myself	Oppose	No	No	
Rojas, Emily	Manchester, NH emilyrojas27@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Rojas, Cali	Manchester, NH calianne321@gmail.com	A Member of the Public	Myself	Oppose	No	No	
LaLone, Edward	Epping, NH lalone.edward@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Cedolin, Alexandra	Epping, NH ahwhyte@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Cedolin, Bradley	Epping, NH bbcedolin@gmail.com	A Member of the Public	Myself	Oppose	No	No	

Wilson, Audra	Alstead, NH h3islife@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Wilson, Rock	Alstead, NH fullermachine@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Porter, Jandee	Alstead, NH jandeeporter@live.com	A Member of the Public	Myself	Oppose	No	No	
White, Melissa	Peterborough, NH marino_melissa@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Seigars, Kathleen	Greenfield, NH kseigars5@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Seigars, Linette	Greenfield, NH earthandstones8@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Davison, Ruth Ellen	Keene, NH livemoveinyou@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Dudak, Breanna	Marlow, NH bdudak8820@icloud.com	A Member of the Public	Myself	Oppose	No	No	
Dudak, Colemann	Marlow, NH dudak93@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Billingham, Carla	Salem, NH billingham2@comcast.net	A Member of the Public	Myself	Oppose	No	No	

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION on SB 58

BILL TITLE: relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.

DATE: April 26, 2023

Subcommittee Members: Reps. Roy, Rhodes, A. Murray, Pratt, Sytek, Proulx, Janvrin, D. Mannion, Reid, Stone, Tenczar, Harriott-Gathright, Meuse, Bouldin, Bradley, N. Murphy, R. Newman, Newell, Selig and Wheeler

Comments and Recommendations: ACTION
• After testimony and discussion, Rep. Meuse submitted amendment 2023-1490h, which replaces the Senate bill as amended with the full language of the original bill along with the text of the Rosenwald amendment.
• Rep. Meuse made the motion to recommend the amendment to the full committee. The motion was seconded by Rep. Proulx.
• The subcommittee unanimously voted the amendment OTP 6-0.

TESTIMONY
Summary: Stakeholders supported the need to expand the warrantless arrest powers of police in situations where a patient is interfering with the delivery of medical services as a means of addressing a growing workplace violence situation in New Hampshire hospitals and medical facilities. But they expressed concerns about the Senate bill (as amended) over language that deputizes health care providers to physically detain patients they suspect have committed one of several misdemeanor offenses, including simple assault, "as long as necessary to surrender the person to a peace officer."

John Patti—Catholic Medical Center Security
• 120 hour training for hospital security personnel that includes use of force training.
• When there are assaults security is tasked with maintaining order and ensuring safety and decorum.
• If a clinician suspects something may happen, they are instructed to take a proactive approach and immediately contact Security. During an assault, they are instructed to follow procedure and activate mobile safety pendants. There are roughly 40,000 calls for security at CMC each year. Security is not continually/always present in the ER.
• "We have the authority to maintain safety and decorum anyway. The intention of this bill is to give police more authority to act."
• "Everyone has the right to defend themselves. But CMS has specific guidelines re. restraint and detention." Doesn't think clinicians would be interested in detaining anyone themselves.
• Intention of this bill is to protect the safety of clinicians. Bill provides clarity to police that they can arrest in this particular situation.
• Speed you can get a warrant varies greatly.
• Estimates a half-dozen felony-level assault arrests (with serious bodily injury) over the years. But majority of assaults in medical facilities are misdemeanor level.

Karen Rosenberg—Policy Director, NH Disability Rights Center
• This is not the solution to the workplace safety issue in hospitals.
• Most incidents involve people with mental health issues who are involuntarily transported.
• One of the primary recommendations of the study committee was to put de-escalation techniques into practice.
• Need to address the root cause of the problem. If these people flail to avoid a restraint but then calm down, why are we criminalizing this?
• Need for more training on de-escalation.
• "We don't want our patients to be unnecessarily diverted to the criminal justice system."

• Lack of transitional housing and community based treatment often forces longer stays in NH Hospital—which impacts the availability of treatment beds.
• Hospital workers are already authorized remove unruly people under RSA 627:6 VIII ("An employee authorized by a hospital or other health care facility may use non-deadly force when and to the extent that he or she reasonably believes it necessary to maintain decorum or safety and may use deadly force only when he or she reasonably believes it necessary to prevent death or serious bodily injury.")
• "There is a problem but is this legislation a solution to this problem?"
• Expressed concern that deputizing healthcare workers to hold/restrain patients is a potential violation of Medicaid/Medicare/CMS reimbursement rules that only allow restraint to ensure the immediate physical safety of the patient , a staff member or others, and must be discontinued at the earliest possible time.
• "This is why we should let the SB459 commission do its work."
• The language in the original bill plus the Rosenwald amendment is acceptable to the disability rights center.

Holly Stevens, NAMI
• The bill as originally written is a solution to the concerns that have been raised.
• Suggests that if the committee decides to move the Senate bill (as currently amended) the committee add a provision requiring hospitals to keep track of arrests and what the patient's medical issue was.
• Expressed concern that the bill disproportionately impacts people in mental health crisis because it would allow people in mental health crisis to be brought to county jails for misdemeanor offenses even if they are completely calm when police arrive.
• Prefers the original bill with the Rosenwald amendment. The Rosenwald language still affords protections under due process. If there is a continued threat, an arrest may be made. But under current amended version, an arrest may be made regardless of whether there is a continuing threat. Bill as currently written doesn't protect due process rights of patients.

Paula Minnehan (NHHA) /John Patti (Dir. Of Security CMC)
• SB459 (passed in 2022) already outlines that hospitals are responsible for training and de-escalation and data-gathering related to incidents. These component are already part of the law. The warrantless arrest provision was removed from the bill to allow the Criminal Justice Committee to evaluate it at a later time. SB58 would add that provision.
• SB459 also authorized the appointment of the NH Healthcare Workplace Safety Commission, whose members will include DHHS, labor, AG, hospitals, NH Hospital, and 3 at large members, but it hasn't started its work yet.
• The language of SB58 (as introduced) was negotiated by all stakeholders.
• The Rosenwald amendment clarified "medical necessity".
• Bottom line: "We need something to pass."
• We know there were concerns in Senate around determination of "medically necessary" services so that the application of the statute would be limited. Some senators had an issue that the original bill was too narrow.
• Ms. Minnehan and Mr. Patti supported amending the bill to return to the original version with the addition of the Rosenwald amendment.

NEW HAMPSHIRE NURSES' ASSOCIATION

25 Hall St. Unit 1E, Concord, NH 03301
PHONE: (603) 225 -3783
EMAIL: office@nhnurses.org
WEBSITE: www.NHNurses.org

April 18, 2023

Dear Chairman Roy and Members of the House Criminal Justice and Public Safety Committee

I am writing on behalf of the members of the NH Nurses Association in support of Senate Bill 58 relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility. During the summer of 2022, a study, funded by a grant from the Endowment of Health to the NH Nurses Association, surveyed 233 emergency department health care workers. Seventy-five percent of responding healthcare staff (75% of 233) reported they had experienced some form of violence (verbal aggression, physical aggression, sexual aggression, harassment, or intimidation) during the previous six months. Further, the survey results indicate that fewer than half of participants felt safe in their work environment. When asked whether they felt protected from the threat of violence at work, only 46% of 212 responded positively. Based on these results we ask that the Criminal Justice and Public Safety Committee support the Senate recommendation and pass SB58 for the protections provided to healthcare workers against workplace violence.

When surveyed, participants were asked if they felt protected from the threat of violence at work. Of those that did not feel protected, concerns raised included (n=79): lack of sufficient security (30%) and lack of effective policies/ follow-up to address aggression. Comments from those surveyed included:

"…I worked in a prison setting for three years. I felt more secure while there than I do sometimes in the hospital. I think it is imperative there be consequences to the actions of patients, including their assault of others and destructive of property, regardless of their reason for admission..."

"Law enforcement and EMS need to collaborate with hospital systems ……. Hospital systems also need to adopt zero tolerance policies for violence that include removal of patients and visitors exhibiting such behavior. Healthcare systems also need to advocate at the state and federal level for laws that penalize violence against healthcare workers."

"Emergency departments are one of the high-risk locations for violence to occur……..It is a major problem that needs fixing!"

Passage of SB 459 during the 2022 legislative session was the first step towards improving processes to protect health care workers. SB 58 takes that additional step that acknowledges the dangers of violence in the workplace and supports those nurses who are looking for policies and processes that may provide necessary protections

Thank you in advance
Pamela P DiNapoli PhD, RN, CNL
Commission on Government Affairs
ppdn@unh.edu

Jordan Peters

As a registered nurse, I have been verbally and physically assaulted on many occasion. This is an important step in protecting healthcare workers. Abuse by competent patients is not a “part of the job” and should not be tolerated.

Nicholas Blanchard

I am an ER nurse at a local critical access hospital. I have been assaulted while working several times. Each time, the police have come and taken a report but the patient remains in the ER. Several patients have assaulted multiple people with no repercussions for the patient that assaulted staff. This needs to stop.

Megan Moynihan

I have been an er nurse for 17 years- I have personally been assaulted 10+ times and have witnessed my colleagues assaulted countless times- this needs to stop- we need to do something to keep healthcare professionals safe

LEZLI CLARK

I am an Emergency Department RN who has been hit, kicked and punched by patients. I feel this would limit the amount of violence in healthcare. Also will hold patients and families accountable for their actions.

Thank you for your consideration

Jennifer Radun

I am an emergency room nurse in a rural community. There is 1 nurse on at any given moment and 1 police officer to serve several towns. We often see violent patients in the ER and are forced to continue care or repeatedly care for individuals that hit, threaten and assault workers. This bill would allow our police officers to mitigate direct threats to hospital staff until a long term plan can be established. This is the safest route for both the assailant and the staff. I have personally be hit and had a metal tray thrown at my face.

Deb Baker

This bill is a danger to people experiencing a mental health crisis. We do poorly enough by people with mental health issues in this state already, please don't make it worse.

david flagg

Health care workers need better protection from patients and their families. Too many nurses are injured by patients. It shouldn't be dangerous to work in health care.

Deborah Flagg

Health care workers need better protection from patients and their families. Too many nurses are injured by patients. It shouldn't be dangerous to work in healthcare.

Scott Daniel Kusch

As a clinician providing mental health assessments in an Emergency Department setting, I am concerned that SB58 would violate the already tender alliances hospital staff seek to build with individuals who are in the ED to seek care for mental anguish. Long term recovery from psychosis, depression, and suicidality is best supported when individuals feel that they can trust their health care professionals and be forthcoming about what is truly happening in the lives. By opening the door to arrest for misdemeanors in the hospital, SB58 would reduce or betray this trust. This would have 3 negative outcomes: 1) individuals may forgo seeking needed care for themselves or a loved one due to fear of arrest; 2) if arrested while in crisis, individuals could be prevented from receiving critical, timely care; 3) individuals who experience such an arrest in the hospital may forgo future needed treatment. All of these outcomes reduce the likelihood of sustained recovery or stability living with mental illness - and may increase stressors that contribute to repeated offenses. Individuals should be held accountable for their actions and develop the character to hold themselves accountable. We support this process best by keeping hospitals a place of non-judgmental care, where people can seek and receive help, rather than a place where they fear arrest.

Kathleen Sherman

As a nurse, I have worked in many healthcare environments in the last 26 years: hospitals, homecare healthcare, and education. While have I experienced situations of aggression in many of these environments, none has been more dangerous than the emergency department (ED) environment. Patients, family members and/or companions of the patients, may be facing very stressful situations in the ED, which may increase aggression and violence. The psychiatric hold patients have been very difficult. I have experienced verbal as well as physical violence taking care of these patients. I have also experienced violence and aggression from other patients, as well. I have been kicked, hit, pinched, and verbally threatened and abused. This is all too frequent and has increased over the years. This is unacceptable.

In the ED, police may be standing by, especially with psychiatric patients, see violence happening against healthcare workers and they just stand by. "They are not allowed to touch the patients." This bill would help to reduce incidents of violence when we are providing necessary healthcare services by giving police more ability to arrest individuals that are interfering with healthcare workers providing care.

I strongly support this bill, though this is only a beginning. More needs to be done to end violence against healthcare workers.

Kathleen Sherman, MSN, RN
Gilford, NH

Julie Bolton

I am a registered nurse that’s been assaulted in the er 4 times. This bill will help protect healthcare workers.

Lauren Noether

Honorable Committee Members:

Whenever a proposed law seeks to restrict one class of citizens over another, we must have grave concerns. SB 58 is a violation of equal protection and due process by eliminating our sacrosanct warrant requirement for persons in a mental health crisis purported to have committed a misdemeanor in front of hospital staff. This is ripe for abuse, at worst, or mistaken belief by lay persons as to what constitutes a misdemeanor (as opposed to a violation level offense), at best. I respectfully request and urge that my trusted representatives oppose this misguided bill.

Sincerely.

Lauren Noether, JD
(A former Belknap County Attorney)

Dominic Osmund

I write in strong opposition to this bill.

The people this bill applies to belong in the medical, not the judicial, system, as is evidenced by their already having sought or been brought to medical care. SB58 would take people suffering from illness out of the care of trained doctors and nurses and give them over the penal system.

It would be a sick violation of individual liberties to allow warrantless arrests of patients suffering medical crises. A person who is already in the process of seeking treatment must not be arrested and removed from a treatment facility into a jail cell. I strongly urge this committee to vote to recommend this bill as ITL.

Susan Moore

justin harris

I am in support of this bill that authorizes a law enforcement officer to arrest a person without a warrant for interfering with the provision of medically-necessary health care services.

Jessica Jacques

17yrs ER Nurse.
Been assaulted or threatened many times.
So very thankful for the MPD and the security guards who protect us while at work, however behaviors like that should never be tolerated- especially when we are there to care for you or your loved one.

Heidi DeJoy

I work in the emergency department and support this because of violent patients all the time

Kathryn Johnson

My name is Kathryn and I'm an ER nurse in Manchester NH. I care for patients who are verbally, emotionally, and physically abusive every single day. Despite the threats and vulgarity I still show up to work and have to care for said patients knowing there are no repercussions. I don't know any other place that would allow someone to physically assault a staff member and not face charges for it. Healthcare workers selflessly spend their lives making sure other people are okay. I feel it's time the government takes a stand and starts making that sure WERE okay.

Heather Day-Lewis

My name is Heather and I work in the Emergency Room in Manchester, NH. We have to take care of patients everyday who physically and verbally assault us. These patients continue to come back to the ER without any consequences. We NEED to be have rights and we need to be able to press charges. I am a mother and wife. My children and husband need me and I need to know that the government supports me while I am working.

Thank you

Paul Frank

I work in the Emergency Department and there have been many times where I have seen staff assaulted or verbally threatened of harm and when police were called to deal with said individual, they simply take them off hospital grounds and set them free. This is unacceptable as there is nothing stopping those individuals from harming us once we leave work, our hospital security can only cover so much ground and have only so much force authorized. Individuals that harm staff or make death threats should be dealt with swiftly and derisively by law enforcement.

Kristen Schofield

As a registered nurse currently working in an emergency department, we are faced with potential violence from the patients we are trying to care for on nearly a daily basis. I support this bill and love to see that there is action being taken to support health care workers for abuse!

Reilly Donovan

I am in favor of supporting this bill. I have worked in healthcare as an LNA and tech level 2 in our local emergency room of 4 years now. Its unprofessional the lack of humanity health care works are given after caring for those who seek our help.

We have laws in place to protect police officers who care for others, please let us protect our nurses, LNA/ tech, doctors against those who assault and violate our profession.

Abigail Harris

I support the protection of nurses against the violence of patients. As an ER nurse, there are too many times I have seen fellow nurses and staff assaulted by patients who we are only there to help. From these attacks, no legal action is ever taken because we are told “we don’t have a case” or “it won’t go anywhere, it’s just a waste of time”. I am done being told my protection and safety is “just a waste of time” and I believe all nurses would agree that they feel the same way. I support the protection of nurses against violence in the workplace from patients.

Katie Goldsack

I am a registered nurse that has been assaulted by a patient and had many other close encounters or threats. I want I do my job and feel safe. I want to provide care to my patients without worrying for my safety and well being.

Jessica Marchand

I have been personally assaulted multiple times over my 17 years in Healthcare. The vast majority have occurred in the last 8 years of emergency medicine.
If you want skilled nurses to be at the bedside to help when emergencies occur, we need and deserve protection.

Carlene Ferrier

Nurses and all healthcare professionals need a safe working environment to do their jobs and take care of their patients. Violence in our country is escalating and there needs to be safety measures in place to address such incidents. SB 58 provides one safety mechanism. Thank you, Carlene Ferrier, RN

John Kettinger

I work as a nurse in an emergency department. All too often violence against staff is seen as “part of the job.“. Which is incorrect. People need to be held accountable for their actions, especially when they’re finally actions are against those dedicated to help them. I have seen police not press charges because of the limitations currently in place. This will empower the Frontline workers that have been herald over the past few years to be safer in their work

Daniel Richardson

WTH does this mean: "... provided such detention is conducted in a reasonable manner"?

You KNOW this will be taken way too far and will involve "authorized violence"!

Such AMBIGUITY can get people killed. Amend to define "reasonable manner" or kill bill.

Daina Anderson

Anyone who assaults a healthcare worker must be arrested and held accountable for their actions under the law.

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New Hampshire Hospital Association

HOUSE CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE

Tuesday, April 19, 2023

SB 58 – Relative to Arrests Without a Warrant While in the Care of a Medical Professional on the Premises of a Residential Care or Health Care Facility

Testimony

Good morning, Mr. Chairman, and members of the committee. My name is Paula Minnehan, Senior Vice President, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals. I am here today with John Patti, MHA, Executive Director, Support Services, at Catholic Medical Center in Manchester.

The NHHA is in strong support of SB 58, and we appreciate Senator Gray sponsoring the bill as well as all the cosponsors, to include Committee Chair Carson, Senators Gannon, Rosenwald and Bradley. The language in SB 58 was originally included in the language of SB 459-FN, Relative to a Health Care Facility Workplace Violence Prevention Program, which passed and was signed into law in 2022. The language of SB 58 was removed from SB 459-FN during the House phase of the legislative process because the House committee that heard the bill, House Health, Human Services and Elderly Affairs, expressed concern that this language should have been heard and considered in this committee, House Criminal Justice and Public Safety Committee.

To provide some brief background on this bill: it is the result of SB 100, that passed in 2021, which established a Committee to Study Workplace Safety in Health Care Settings. This legislation before you today, along with the statute that was signed into law in 2022, is extremely important due to the growing incidences of violence in health care settings and the need to protect our health care workforce. The 2021 study committee was chaired by Senator Gray and Senator Rosenwald also was on the committee, along with Representatives McMahon, Greene, and Litchfield. In addition to the numerous study committee meetings that were held we had several work sessions on both the development of the workplace violence prevention program as well as the changes to the arrests without a warrant statute.

As you can see by the bill before you, SB 58 was amended in the Senate. It was actually amended on the Senate floor, so the amended language was not considered by all stakeholders that worked on the original SB 58 language. We are certainly willing to work with the committee to try and address any concerns or questions individuals have with SB 58 as amended. It is our position that we need to pass something that ensures that health care workers are protected when they are assaulted while they are performing their work. We owe it to them to ensure that we provide law enforcement with another tool they can use when

they are called to a hospital to respond to an incident. Without the ability to arrest without a warrant for misdemeanor offenses, when appropriate, the health care professional is not protected and remains vulnerable when they are treating patients.

I would like to have John Patti explain to the committee why the changes to the warrantless arrest statute are so important to ensuring that law enforcement can properly respond to violent incidences in a health care setting. There are other individuals here today, including Michelle Dodd, CNO at Portsmouth Regional Hospital that can also address why SB 58 is needed.

Thank you for the opportunity to provide our comments in support of SB 58. We are happy to answer any questions you may have.

The Senate of the State of New Hampshire
107 North Main Street, Concord, N.H. 03301-4951

April 19, 2023

Representative Terry Roy, Chair
Criminal Justice and Public Safety Committee
Legislative Office Building Room 204
33 North State Street
Concord, NH 03301

Dear Chairman Roy and Members of the Committee,

As a co-sponsor of SB 58, I write in strong opposition to the bill in its current form. The original language of the bill represented a thoughtful, careful compromise worked out with hospitals, NAMI, the Disability Rights Center, the ACLU, and law enforcement; much work was done last year over a period of several months with these groups to reach this compromise. The language in SB 58 as introduced this year is the exact same language of this compromise, which passed the Senate unanimously last year.

Unfortunately, SB 58 in its current form will lead to exactly what we set out to last year: the criminalization and arrest of individuals suffering from mental illness.

For example, this proposal would allow for a warrantless arrest of basic, simple assault under RSA 631:2-a, which can simply constitute knowingly causing unprivileged physical contact with someone. This arrest would be allowed even without the important limitations of the current warrantless arrest statute that ensures people are not arrested improperly. Current law in RSA 594:10, I (c) limits the warrantless arrest to situations where there is evidence that, "if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, or will cause further personal injury or damage to property."

This critical limitation, which is now eliminated in SB 58, is especially important in the context of those who may be experiencing a mental health crisis over the course of days or even weeks in a hospital emergency room, as these are individuals who need treatment, not criminalization.

In addition to the limitation outlined above, the original bill also further protects against criminalizing people experiencing a mental illness crisis: It stipulates that a warrantless arrest can only occur if the person's action was "through actual or threatened violence." SB 58 as amended by the Senate also removes that important limitation.

Unfortunately, not only does this this bill not solve the problem at hand; it also does even more damage to patients. In addition to expanding the warrantless arrest law, making more patients subject to arrest, it would permit, and perhaps even push, health care providers to engage in physical confrontations with individuals who are at the facility for medical treatment, instead of having them contact the police or a security officer at the facility.

Healthcare providers are not law enforcement. Doctors and nurses should be providing treatment, not getting physical with their patients. Even if the patient's behavior is dangerous, do we really want nurses or other healthcare providers to grab someone who is behaving that way?

In amending a statute about movie theaters and retail shops, SB 58 requires health care providers to determine if a crime has been committed. It doesn't take much training to look at security footage and see someone put merchandise into a pocket or watch someone illegally record a movie. It's much more complicated to determine whether there are "reasonable grounds to believe a person has committed a crime"

(RSA 594:10, II (c)). We trust police know when to arrest people; we cannot require nurses to make such determinations.

This bill may jeopardize hospital certification by Medicare and Medicaid and place federal funding at risk. CMS allows restraint of patients only for their care, treatment or safety, and only for a limited period of time. The bill would allow for continued restraint of a patient who has calmed down but is still restrained waiting for the arrival of law enforcement. The department of health and human services suggests this might violate CMS standards.

As harmful as this bill is to patients with mental illness or disabilities, the plain language of the bill also lacks clarity. What does it mean to actively receive treatment? Is having an IV in your arm actively receiving treatment or passively receiving treatment?

In summary, while the original bill had the support of a broad coalition of stakeholders with divergent perspectives, the version now before you has lost support. Groups that advocate for individuals with mental illness or disabilities oppose it because it removes an important limitation on law enforcement's warrantless arrest authority and would cause people in psychiatric crisis to be arrested during their time in a hospital and potentially moved to county jails where they will definitely not get the treatment they need.

I hope the House Criminal Justice & Public Safety Committee will reject criminalizing mental illness. The legislature has taken many steps to do our absolute best to help providers give sick patients the care they need, when they need it, and where they need it. Those efforts surely do not lead to putting more people in jail because they suffer from a mental illness. Please return this bill to the original, agreed-to, compromise version with the attached clarifying language. Thank you.

Cordially,

Cindy Rosenwald

Cindy Rosenwald
Senate District 13
State House 120
107 North Main Street
Concord, NH 03301
Cindy.Rosenwald@leg.state.nh.us
(603) 271-3207

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NAMI New Hampshire

National Alliance on Mental Illness

April 19, 2023

Honorable Chairman Terry Roy
House Criminal Justice and Public Safety Committee
Legislate Office Building Room 204
North Main St., Concord, NH 03301

RE: NAMI NH Opposition to SB 58

Dear Chairman Roy and Committee Members:

Thank you for the opportunity to testify today. My name is Holly Stevens, and I am the Director of Public Policy at NAMI New Hampshire, the National Alliance on Mental Illness. NAMI NH is a non-profit, grassroots organization whose mission is to improve the lives of all people impacted by mental illness and suicide through support, education and advocacy. On behalf of NAMI NH, I am here today to speak in opposition to SB 58, relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.

By way of background, for the past two years, NAMI NH has been involved with a stakeholder group discussing the issue that is the subject of SB 58 and was the subject of study for the Committee to Study Workplace Safety in Health Care Settings. At that time, the stakeholders agreed to statutory language regarding the use of warrantless arrests in healthcare settings that could be added to the current warrantless arrest statute. The Committee's final report contains the language all stakeholders agreed to, which is also the language of SB 58 as introduced:

> "... or while in the care of a medical professional on the premises of a residential care or health care facility, as defined in RSA 151:2, through actual or threatened violence, interfere in the provision of medically necessary health care services."

Despite all stakeholders being in agreement on this language, Senate Judiciary introduced an amendment that no stakeholders were able to provide input on as it was brought on the floor of the Senate. This amendment makes changes to the detainment statute, allowing for hospital personnel to detain a person who is suspected of committing a misdemeanor assault.

Under current law, the police cannot arrest a person for a misdemeanor offense unless it is committed in front of the officer, or if certain conditions are met (concealment of evidence of the offense or belief the person will cause further personal injury or property damage). SB 58, as amended, would eliminate this due process protection for individuals in hospitals. As previously mentioned, SB 58 seeks to amend the detainment statute and allow hospital personnel to detain a person who they believe has committed a misdemeanor assault offense while waiting for the police to show up, and then allows police to arrest the person even if there is no indication that there will be concealment of evidence or that the person will cause further personal injury or property damage. Due to the emergency room boarding crisis, where people in psychiatric crisis are waiting for an

inpatient bed for days to weeks, many times being held against their will, SB 58 will disproportionately affect individuals experiencing a mental health crisis.

Recently, NAMI NH has heard from six families whose loved ones have been arrested while on an IEA in an emergency room. Their stories are heartbreaking and speak of long waits in the ER (ranging from a few days to two weeks) while receiving little to no treatment. Due to this, several of these families describe situations where their loved ones, many of whom are experiencing symptoms of psychosis, have become agitated, resulting in the hospital engaging in a physical restraint which ends with the patient assaulting a hospital staff or destroying hospital property. These loved ones were then brought to the local county jail where they remained while still waiting for a hospital bed. If SB 58 as amended by the Senate passes, more and more individuals and families will have to endure this same result. People experiencing a psychiatric crisis need treatment, not jail cell confinement.

It is important to note, an officer can arrest a person for any felony level offense whether observed by the officer or not. Therefore, we are not talking about offenses rising to that level, only misdemeanors. It is paramount that people psychiatrically boarding in emergency rooms continue to have the due process protections afforded to them under law. If SB 58 passes, people in a mental health crisis would be brought to county jails for misdemeanor offenses even if they are completely calm when the police arrive, exacerbating the crisis they are experiencing. For these reasons, NAMI NH opposes SB 58. I am happy to answer any questions.

Sincerely,

Holly A. Stevens, Esq.



In 2018, my loved one, a young man living with a number of medical conditions including a life threatening and pervasive mental illness, schizoaffective disorder, which is schizophrenia and bi-polar together had his first experience of being arrested while in the emergency room. My loved one had many psychiatric hospitalizations starting at age 16, but in October of 2018 was the first episode of illness that was so severe and long lasting. Pittsfield PD brought him to the ER on an IEA on or about October 13th.
He was held in the Concord Hospital's "yellow pod", which is the locked (secure) psychiatric holding area in the ER for 13 days before being transferred to New Hampshire Hospital (NHH).

If you have not been inside it, I can share about yellow pod, which is operated by Riverbend. There are a few about 8x9 or so sized windowless rooms, with a door to each, and a bed, and nothing is allowed that can be used to harm self or others. No personal clothing, pens, or anything like that. It is quite cold in there but everyone has to deal with that. You can sit, lie down or move about in the room assigned to you. You are supposed to keep quiet but there is often stressful sounds; people yelling or crying and screaming and sometimes it is somewhat more quiet. Only certain staff are allowed in an out with a badge, who have the right to access it and at times, limited visitors. It is for only people deemed at imminent risk to themselves or others due to psychiatric illnesses. In yellow pod, you wear paper scrubs and gripper socks and you are monitored 24x7 by staff in this area, who do status evaluations and provide transitional psychiatric nursing care to the patients as they wait to be discharged or transferred to a "designated receiving facility" or DRF. There is also a common shower toilet which patients can use, to which they are escorted and monitored during use. Three is a nurses station by the door and lockers for personal items people were wearing or had when brought in as these are not permitted in there. This gives you an idea of what it looks like to be held in yellow pod.

So, the first arrest in 2018 happened when my loved one was waiting for NHH to call Concord Hospital and announce they could take him. (Note: usually this is done by a call and after the call within an hour, you are handcuffed and transported to New Hampshire Hospital after that call comes in)

Towards the end of the 13 days he was in yellow pod, in the ER in Concord Hospital, he wouldn't sit quietly and was jumping around in his room and doing karate kicks and did not obey the staff to cease. I still don't know why they didn't just shut and lock his door, which they often do at their discretion. Anyhow, during a resulting struggle with two Concord Hospital security men as they tried to control him, he stepped hard on one security guard's foot, and my loved one was also injured in the shoulder when they were tying him down to the bed "4 points" legs and hands spread out, is how it was explained. Concord hospital called Concord PD to have him arrested for this incident. Again this was in October 2018. I was notified they restrained him that time but not of the incident or the arrest, I became aware of the arrest sometime in the early spring of 2019 when Concord PD came to my house one afternoon looking for him to take him into custody, and as he was still in NHH, they went there to find him. So that was the first time.

On to 2022, for the second time he was arrested in the ER while being held on an IEA.

My loved one went to the ER 9 times in 9 months in 2022, for psychiatric distress and crisis, and spent at least 30 days boarding there, without any hospital space to send him to, sometimes just over night, sometimes in yellow pod, but there were not hospital beds at NHH on these other times so he was discharged home on the first 8 times.

However, the last 9th time on Dec 23, 2022, when he was taken to the ER by Concord PD, he had lost 30 pounds from not eating due in part to "poison" in the food, so into yellow pod he went, his illness was " severely acute" and there he stayed, his symptoms not abating. He was held 13 days again this time until he was sent to NHH and it surprised me, as I was told he was still 7th in line wait list for NHH, but for some reason they took him on that 13th day. I was relieved. So was he. I'll bet the staff in yellow pod were also. It was a rough 13 days.

Backing to the arrest of Dec 2022. Towards the end of that time he was held in yellow pod in Dec 2022he punched a hole in the wall of the room he was being held in. Concord Hospital called Concord PD and filed charges for this.

We found out about it after he was discharged from NHH on Feb. 3, 2023, as about a week or two later Concord PD called him to tell him there was warrant out for him and to come in to the PD and be served, which he and I promptly did within the hour. I am his guardian but I did not know and he didn't know, so he was pretty scared to find out what it was, until we got to the station and the PD explained the charge and circumstance, which they would not do over the phone. He as afraid he had done something he couldn't recall, and we were both relieved when he recalled punching the wall.

(I should note both of these times I describe above, he went willingly with the PD to the ER because he was too sick to care but did not know he was "sick". I had brief experience myself with full psychosis, as a side effect resulting from long anesthesia and deliriums of infection, as I had a spinal infection and spine surgery in Mass General, and I can tell you, if I could have moved (I could not because they had a paralytic drug in me for the surgery that had not worn off yet) I would have run out of mass general hospital and done anything to escape, because I "knew" I was being held underwater in a secret lab to be experimented upon and I was terrified. Luckily for me it all wore off in a few hours and all I had to cope with as the reality of the pain, and being unable to walk for a while)

It should be said, my loved one has been treated inpatient at in NHH many times. During that time, staff have helped him deal with what they call "personal safety emergencies" and they use many methods, all documented carefully and they are trained for this. These are hard for a lay person to witness, I can tell you, but these are the protocols and once he was recovering and had his reason restored to him, he reports he has a lot of respect for the staff at NHH. The NHH Campus police even tased him once in December of 2018 before the hospital could get the acute psychosis under control. But importantly, they never once arrested him. Which is how it is supposed to work.

I want to say both times he was arrested while in ER psychiatric boarding, as a result of his conduct while being held, he really, really ill, and the stress of being in that little cell is too much for a sick person waiting for NHH. I have been told the hospitals must file insurance claims and so they make the police complaint and arrest as part of that process. I have heard many things about these type arrests, actually, including trying to force people to be held accountable, which makes no sense to me, if the people they are trying to hold accountable were at that moment certain the government and other people were poisoning them, and controlling their thoughts, and the walls are talking to them - the list is long of what people are experiencing when they are severely ill in the brain functions. That said, I hold no professional health or social work training, it is important to note. I do what I do and think what I think, just average person.

Heather Pike

Heather Pike
94 Prescott Rd.
Pittsfield, NH 03263
603-573-8468

(4)

ACLU
New Hampshire

Statement by Gilles Bissonnette, Legal Director of the ACLU-NH
House Criminal Justice and Public Safety Committee
Senate Bill 58
April 19, 2023

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (ACLU-NH)—a non-profit organization working to protect civil liberties throughout New Hampshire for over fifty years. On behalf of the ACLU-NH, I appreciate the opportunity to testify today in opposition to SB58, as amended by the Senate. SB58, as amended by the Senate, removes vital protections in the health care context for warrantless arrests for violation and misdemeanor-level offenses and, in so doing, would criminalize those experiencing mental health crises.

For this reason, I respectfully urge the Committee to vote SB58, as amended by the Senate, *inexpedient to legislate*. Alternatively, this Committee should amend the bill to reflect the language in SB58 that was originally introduced in the Senate and that reflects a compromise agreed upon by stakeholders.

I. BACKGROUND: SB58, As Amended on the Senate Floor, Altered a Compromise That Had Been Agreed to By Multiple Stakeholders and That Was Reflected in SB58, As Introduced.

In 2021, through SB100, the New Hampshire legislature established a Committee to Study Workplace Safety in Health Care Settings. The Committee was tasked with: (1) reviewing past history of incidents of violence in the health care workplace that have been instigated by the public, including patients, against health care workers; (2) exploring barriers to reporting incidences; (3) exploring creating a culture that supports reporting by reviewing of best practices; (4) determining a structure for reporting incidences and effective mechanisms for responding to incidences; (5) identifying education and other strategies to identify risks, and reduce vulnerabilities in order to prevent workplace violence; (5) reviewing other states' workplace safety policies; (6) reviewing current statutes regarding penalties for assaulting a health care worker and consider changes to the statutes; and (7) considering other matters deemed relevant.

This Committee met extensively during the autumn of 2021. As part of this Committee process, the ACLU-NH and other stakeholders (including NAMI NH and the Disability Rights Center - New Hampshire) testified on the need to avoid enacting any policies—particularly through unnecessary changes to New Hampshire's warrantless arrest statute (RSA 594:10)—that would criminalize those who are experiencing mental health crises.

Notwithstanding our reservations with modifying the warrantless arrest statute reflected in RSA 594:10, the ACLU-NH, the Disability Rights Center - New Hampshire, and NAMI NH ultimately negotiated language modifying RSA 594:10 that recognized the hospitals' safety concerns, but would not needlessly criminalize those going through mental health crises. The final report of the Committee to Study Workplace Safety in Health Care Settings is attached as *Exhibit A* (without the appendix) and discusses this compromise language, along with the need for more data and the need for the use of de-escalation techniques.

This compromise language was memorialized in 2022 SB459 that was passed by the Senate last year. However, the House Health, Human Services and Elderly Affairs Committee removed the section reflecting this compromise language in SB459. In response, SB58 was introduced this session containing this compromise language that the House removed. The original version of SB58, as introduced, that contains this compromise is attached *Exhibit B*.

The ACLU-NH and others were amenable to this compromise language reflected in both SB459 and SB58 (as introduced) because it only allowed for a warrantless arrest for a violation or misdemeanor offense when—

"through actual or threatened violence"—a person "interfere[d] in the provision of medically-necessary health care services." This language was on par with the language in existing law, which is attached as *Exhibit C*, that allows for a warrantless arrest for a violation or misdemeanor offense where the person "will cause further personal injury or damage to property." *See* RSA 594:10, I(c). (It should not be noted that, under current law, a person can already be arrested for a felony offense without a warrant even where there is no evidence that the person will cause further personal injury or damage to property. *See* RSA 594:10, II.)

However, on the Senate floor, the Senate amended this compromise as reflected in the introduced version of SB58 by, among other things, removing the "through actual or threatened violence" limitation for when a warrantless arrest could be conducted in a healthcare setting. Because this amendment occurred on the Senate floor, the ACLU-NH and other stakeholders were not able to voice their opposition to this removal to this important language.

II. SB58, As Amended, Would Allow for a Warrantless Arrest for a Violation or Misdemeanor Offense in The Absence of a "Serious Bodily Injury" or Imminent Threat to Life or Property.

At the outset, it is important to note that New Hampshire law at RSA 594:10 already allows a warrantless arrest for an assault occurring outside an officer's presence in the following circumstances: (i) if there is "serious bodily injury"[1] (which would be felony assault under RSA 631:2 and RSA 632:1 and, thus, would allow for a warrantless arrest under RSA 594:10, II); and (ii) if, absent such "serious bodily injury," the person committed misdemeanor simple assault and "will cause further personal injury or damage to property" without an arrest (which would allow for a warrantless arrest under RSA 594:10, I(c)). It is unclear why a warrantless arrest should be permitted without these criteria.

Indeed—in the instance of a violation or misdemeanor offense—the requirement that there be evidence that the person "will cause further personal injury or damage to property" for a warrantless arrest to occur (*see* RSA 594:10, I(c)) is a key civil liberties protection to ensure that people are not being needlessly detained. Accordingly, to ensure that people are not needlessly detained, people should generally be arrested with a warrant (which requires judicial oversight) and that requirement should only be discarded if the crime is serious (i.e., a felony) or where there is an imminent likelihood of injury or damage if the arrest is for a lower-level offense.

The compromise language in SB58 negotiated by stakeholders struck this balance and preserved this protection—and, in so doing, helped ensure that people in crisis are not needlessly funneled into the criminal justice system—while recognizing the hospitals' safety concerns. The compromise language in SB58, as introduced, did so by including language that, for a warrantless arrest to occur, there must be "*actual or threatened violence*" while a person is "interfer[ing] in the provision of medically-necessary health care services.[2]

But the amended version of SB58 removes this important "actual or threatened violence" limitation for violation and misdemeanor offenses where there is no "serious bodily injury" and where there is no evidence of future injury or damage to property. Furthermore, before the legislature considers removing this vital protection from our warrantless arrest statute, we should wait to see whether SB459—which was enacted last year and requires hospitals to have workplace safety programs and collect data on workplace incidents—has been effective. This

---

[1] "Serious bodily injury" means "any harm to the body which causes severe, permanent or protracted loss of or impairment to the health or of the function of any part of the body." *See* RSA 625:11, VI.

[2] Moreover, current law already allows a hospital to ask a person who has been medically cleared to leave the premises. And, if they do not, that person can be charged with criminal trespass. *See* RSA 635:2. Criminal trespass is a misdemeanor for the first offense. Thus, if police officer arrives at the scene and the person is still remaining in the hospital without permission from the hospital, such offense would be in the presence of the officer, and that officer then would be allowed to engage in a warrantless arrest under RSA 594:10, I(a).

bill also establishes a health care workplace safety commission. This bill emanated from the 2021 Committee and is attached as *Exhibit D*.

III. SB58, As Amended, Would Allow for the Criminalization of Those Experiencing Mental Health Crises.

Again, this proposal would allow for a warrantless arrest of basic, misdemeanor simple assault under RSA 631:2-a (i) even where there is no "actual or threatened violence" as reflected in the original compromise bill, and (ii) even where there is no evidence to indicate that, "if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, or will cause further personal injury or damage to property"—language in RSA 594:10, I(c) which is designed to ensure that people are not arrested improperly.

Given that misdemeanor simple assault is defined broadly and can occur for things that may be relatively minor[3], SB58, as amended, would allow for warrantless arrests for assaults that are not necessarily serious or egregious. Thus, the breadth of this new expansive authority would allow warrantless arrests to occur on those who allegedly commit simple assault—including for relatively minor acts and without any evidence that future harm will occur—while suffering from a mental health problem during their treatment, thereby forcing force them into jails. New Hampshire should not be enacting laws that would further stigmatize and criminalize those experiencing mental illness.

IV. SB58 Improperly Deputized Hospital Workers to Detain People.

Finally, SB58 amends a completely different law than the original bill does. While the original bill amends the warrantless arrest statute (RSA 594:10), this amended bill modifies RSA 627:8-a, which addresses "Use of Force by Merchants, Motion Picture Theater Owners." In expanding the ability to engage in warrantless arrests in health care settings under RSA 627:8-a, the bill would allow hospital staff, themselves, to engage in detentions before law enforcement can arrive. As a result, the bill permits—and perhaps even pushes—health care providers towards physical confrontations with individuals who are at the facility for medical treatment, instead of having them contact the police or a security officer at the facility. Healthcare providers should be providing treatment, not getting physical with their patients.

It should also go without saying that hospital settings are different from stores or movie theaters. While the owners of stores and movie theaters can more readily identify whether property has been stolen or a ticket has not been purchased, determining whether a crime has occurred in the context of an alleged hospital altercation is more complex. Moreover, while there is a reasonable fear that a shoplifter of a ticket-evader may flee while waiting for the police to arrive to effectuate an arrest, individuals in hospitals are not seeking to flea—rather, they are seeking medical care.

For these reasons, the ACLU-NH opposes SB58, as amended by the Senate, and we respectfully urge members of this Committee to vote *inexpedient to legislate* on this bill. Alternatively, this Committee should amend the bill to reflect the SB58 language that was originally introduced in the Senate.

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[3] *See* RSA 631:2-a (covering, in part, "purposely or knowingly caus[ing] ... unprivileged physical contact to another"). The New Hampshire Supreme Court has defined "unprivileged physical contact" as "all physical contact not justified by law or consent." *State v. Burke*, 153 N.H. 361, 364 (2006) (holding that shoving a person with enough force to move the person's body backwards could reasonably be viewed as simple assault).

A- report (w/out Appendix)

The Senate of the State of New Hampshire
107 North Main Street, Concord, N.H. 03301-4951

JAMES GRAY
Senate District 6

State House, Room 302
(603) 271-3479

MEMORANDUM

DATE: February 15, 2022

TO: Honorable Chris Sununu, Governor
Honorable Sherman Packard, Speaker of the House
Honorable Chuck Morse, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Senator James Gray, Chairman

SUBJECT: Final Report for SB 100, Chapter 221:11, Laws of 2021

Pursuant to SB 100, Chapter 221:11, Laws of 2021, please find enclosed the findings and recommendations of the Committee to Study Workplace Safety in Health Care Settings.

If you have any questions or concerns regarding this report, please do not hesitate to contact me.

Sincerely,

James P. Gray

Senator James Gray
Senate District 6
Chairman

Enclosures: Final Report, Legislative Recommendations, Committee Meeting Minutes
CC: Members of the Committee, Senator Tom Sherman

AN ACT establishing legislative committees t and to study building a pier over the jetty : for disability access.

SB 100, Chapter 221:11, Laws of 202

COMMITTEE TO STUDY WORKPLACE SAFETY IN HEAL SETTINGS

Final Committee Report

February 15, 2022

COMMITTEE MEMBERS:

- Senator James Gray, Chairman
- Senator Cindy Rosenwald
- Representative Bob Greene
- Representative Melissa Litchfield
- Representative Charles McMahon

MEETING DATES:

- Thursday, September 23rd, 2021
- Thursday, October 14th, 2021
- Thursday, October 28th, 2021
- Thursday, November 18th, 2021
- Thursday, December 2nd, 2021
- Friday, January 14th, 2022
- Friday, January 28th, 2022

DUTIES OF THE COMMITTEE:

Pursuant to SB 100, Chapter 221:11, Laws of 2021, the Committee was tasked with: (1) reviewing past history of incidents of violence in the health care workplace that have been instigated by the public, including patients, against health care workers; (2) exploring barriers to reporting incidences; (3) exploring creating a culture that supports reporting by reviewing of best practices; (4) determining a structure for reporting incidences and effective mechanisms for responding to incidences; (5) identifying education and other strategies to identify risks, and reduce vulnerabilities in order to prevent workplace violence; (5) reviewing other states' workplace safety policies; (6) reviewing current statutes regarding penalties for assaulting a health care worker and consider changes to the statutes; and (7) considering other matters deemed relevant.

LEGISLATIVE BACKGROUND:

In 2020, Senator James Gray filed SB 506 to form a study commission to examine this issue. As a result of the pandemic, the bill died on the table in the House. In 2021, Senator Gray reintroduced the legislation in omnibus bill SB 100. During the Committee of Conference process, the legislation was changed from a study commission to a study committee.

NEW HAMPSHIRE HOSPITAL BACKGROUND:

About five years ago, efforts were made at New Hampshire Hospital to reduce violent workplace incidences. Please refer to Appendix I for a data report submitted by NH Hospital on workplace injuries and patient assaults. Heather Moquin, CEO of NH Hospital, emphasized that their environment is unique and it could not be compared to acute hospitals throughout the state. Support from state police in the State Office Complex (SOC) unit is one of the most unique aspects of NH Hospital.

Staff at NH Hospital are required to attend annual trainings. At those trainings, verbal and physical de-escalation techniques are taught. Physical techniques, which are known as breakaways, allow staff to defend themselves against undesired or unintended contact. Dr. Jeff Fetter, the Chief Medical Officer at NH Hospital, stated that verbal techniques are the centerpiece of training and that they have been tailored specifically to the hospital's clientele.

Daily safety huddles have been implemented to foster a culture of safety and to help increase reporting. During these huddles, staff are able to bring forward safety concerns and report any assaults or injuries that have occurred within the previous 24 hours. Members of the campus state police attend these huddles to listen to staff concerns as well as report their own.

The collaborative approach between clinical staff and state police enables everyone to understand what is going on. If an incident does occur, for example, state police will vet a patient's culpability through Dr. Fetter's team to determine if charges are appropriate. Through the support of the clinical team and their assessments, charges are only pressed in incidents that are a result of bad behavior, not mental illness. This process has become the standard at NH Hospital, which has resulted in only a small amount of people being charged.

Staff safety surveys are conducted frequently and they help to guide ongoing approaches. In addition, sentinel event reviews occur weekly; thus, allowing staff to know that if something does happen it will be looked at by leadership within a week. This reinforces that it matters for a person to report an event when it does occur. Reported events are categorized by their severity; thus, allowing for a wide range of assaults to be captured.

Two important homegrown programs are utilized at NH Hospital. First, the Assaulted Staff Action Program (ASAP) brings in an identified staffer to listen to debriefings after an event has occurred and they provide any support to staff that is needed. Second, the Staying Safe Program brings a team into clinical environments to help prevent assaults. Typically, criminal activity is reduced when more people are present. Through these programs, there was a 75 percent reduction between 2008 and 2018 among injuries that resulted in lost work.

Similar to other organizations, however, barriers to addressing workplace violence do remain. For example, they have struggled with collecting data, which is important to understanding the types of assaults occurring and who is involved in those assaults.

FINDINGS:

The Committee heard that violence in health care settings has become increasingly common across the country. Testifiers stated that violence is increasing as a result of resources decreasing. The Committee also heard that workforce shortages and limited staffing have contributed to the complexity of this issue. Violence can be committed by patients, visitors, or staff. Most violent behavior can be attributed to emotional upset, agitation, personal or family crises, the result of drug and/or alcohol intoxication, or a combination of these things.

According to the Health Care Quality and Safety Commission, there were 2,028 events reported between 2016 and 2019. Events that were reported ranged from mild to serious. The data collected for this analysis did not include all health care settings; instead, it only included acute care hospitals, specialty hospitals, acute rehabs, NH Hospital, and ambulatory surgery centers. The New Hampshire Hospital Association (NHHA) and a few hospital security departments compiled some data as well. Over the past 21 months, 13 hospitals reported 628 assaults, which is roughly 30 assaults per month. There were 123 reports of property damage and 1,400 reports of verbal abuse or threats. The New Hampshire Nurses Association (NHNA) and other groups conducted a limited pilot study focused on health care workers in Merrimack County. In that study, 73 percent of respondents reported verbal, physical, and/or sexual harassment within the past 6 months. They also found that more than half of the reported incidences of violence were during patient care, which is when staff is within close proximity of a patient.

Despite these studies, incidences of violence in health care settings are judged to be significantly underreported. This may be attributed to staff feeling embarrassed or ashamed that if they report an incident, then they are not doing their job properly or they fear that they will cause harm to their patient. Currently, hospitals do not have a standardized way of defining assaults; thus, it is not possible to compare assaults across hospitals. The Joint Commission, which oversees the accreditation of hospitals, is set to release new requirements in 2022. Under those new requirements, hospitals will need to have a consistent definition of workplace violence. By understanding when violence occurs, staff will have a better opportunity to report violent events.

lack of data

Due to the lack of data, many questions remain unanswered. For instance, it is unknown who is responsible for committing incidents of violence, whether an individual has committed violence once or repeatedly in the same visit or throughout multiple visits, or whether the patient is in custody during a medical evaluation. Further, conflicting statements made raised questions too. For example, some testifiers stated that mental illness contributed to violent incidents, while others did not believe that was accurate. Another example was the presence of law enforcement in emergency rooms (ERs). The Committee heard that police in Dover remove individuals from restraints and leave the premises; whereas, in Nashua they stay with the patient until they are given clearance to leave.

RECOMMENDATIONS:

The Committee emphasized that de-escalation techniques need to be practiced first. Testifiers stated that hospitals should already have de-escalation techniques as part of their safety programs. These techniques provide medical staff and law enforcement with the opportunity to evaluate situations to determine whether a patient's actions are related to

mental illness, substance misuse, or a medical problem. If an issue can be resolved through these techniques, then a warrantless arrest would be unnecessary. If a situation cannot be resolved, then law enforcement will have documentation on why a warrantless arrest was necessary.

In instances where de-escalation techniques fail, the Committee felt that RSA 594:10, which is related to arrests without a warrant, should be amended (see Appendix II) to include the following:

> ***(d) He has probable cause to believe that the person to be arrested has committed a misdemeanor or violation, and, if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, or while in the care of a medical professional on the premises of a residential care or health care facility, as defined in RSA 151:2, through actual or threatened violence, interfere in the provision of medically necessary health care services.***

Compromise language

This compromise language was drafted with input from hospitals, NAMI-NH, ACLU-NH, DRC-NH, Senator Cindy Rosenwald, and Senator Tom Sherman. This language is narrowly tailored to provide law enforcement with the flexibility to remove patients who have assaulted staff with criminal intent, while not increasing the criminalization of those suffering from mental illness. If enacted, law enforcement would no longer have to make a prediction of future behavior in order to conduct a warrantless arrest in a medical facility. This change does not create any new crimes and it is applicable only to misdemeanor offenses that are defined in RSA 631, which include simple assault, reckless conduct, and criminal threatening. This proposed language does not eliminate probable cause requirements.

Finally, the Committee felt that data collection was an important component in order to address and understand this issue. Data collected will provide insight into whether communities of individuals with mental illness or disabilities are disproportionately affected by the proposed expansion of warrantless arrests. Further, data collected on the use of de-escalation techniques will provide insight on how clinical staff or law enforcement can better respond, if institutional processes are working or not, and more.

For comprehensive data collection to occur, there needs to be an oversight group that collects it, analyzes it, standardizes reporting procedures, and makes best practice recommendations. Importantly, a standardized definition of assault needs to be made to capture the varying types that can occur, such as verbal assault, physical assault, or object aggression. De-identified data is the most appropriate way to recommend best practices. However, if someone is trying to decide a hotspot, for example, then they need to have access to the data collected.

The Committee received two data collection recommendations (see Appendix III) from a working group composed of Senator Tom Sherman, the Department of Health and Human Services (DHHS), the Department of Labor (DOL), the NHHA, urgent cares, and the NH Medical Society (NHMS). In the first proposal, Section 1 would define a health facility and workplace violence. Section 2 would exempt hospitals that have similar programs already in place. Section 3 would outline the program requirements for all hospitals and urgent cares. Section 4 would exempt health facilities accredited by the Joint Commission if they have

similar programs in place. Section 5 would establish a NH Health Care Workplace Safety Commission, which would file an annual report. Section 6 would outline the duties of the Commission. Section 7 would discuss employee protections to encourage reporting. Section 8 would provide urgent cares with additional time to comply with standards. Finally, Section 9 would provide "teeth" to ensure compliance. Compliance would be modeled off of the Prescription Drug Monitoring Program (PDMP). Under this model, the level of reporting would be determined based on how many voluntarily participate. Greater participation will ultimately ensure robust data is collected.

The second recommendation is related to establishing the Health Care Workplace Safety Commission. This Commission would be structured similar to the Health Care Quality and Safety Commission, which would be renamed to the Health Care Quality Patient Safety Commission. The newly formed Commission would have members from each hospital, including NH Hospital. Members would be appointed by the hospitals, not the governor. Additional members would include the commissioners of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS), the attorney general, and 3 members at-large appointed by the governor, the speaker, and the senate president, respectively. The remaining sections would outline the duties and other granular details of the Commission. All information collected would be protected and confidential. Reports will be accessible for both the public and the Legislature. Presently, the only outstanding matter has been what department would be responsible for the Commission. DHHS believed it should be administered by the DOL; however, members of the working group felt that DHHS should be responsible because it deals directly with health care and licensing. It is possible a mutual agreement could be reached to allow both agencies to work together on data and reporting.

B

SB 58 - AS INTRODUCED

2023 SESSION

23-0797
04/07

SENATE BILL 58

AN ACT relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.

SPONSORS: Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Gannon, Dist 23; Sen. Carson, Dist 14; Sen. Rosenwald, Dist 13

COMMITTEE: Judiciary

ANALYSIS

This bill authorizes a law enforcement officer to arrest a person without a warrant for interfering with the provision of medically-necessary health care services.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 58 - AS INTRODUCED

23-0797
04/07

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Arrests in Criminal Cases; Arrest Without a Warrant. Amend RSA 594:10, I to read as follows:

I. An arrest by a peace officer without a warrant on a charge of a misdemeanor or a violation is lawful whenever:

(a) [~~He~~] ***The peace officer*** has probable cause to believe that the person to be arrested has committed a misdemeanor or violation in [~~his~~] ***the peace officer's*** presence; or

(b) [~~He~~] ***The peace officer*** has probable cause to believe that the person to be arrested has within the past 12 hours committed abuse as defined in RSA 173-B:1, I against a person eligible for protection from domestic violence as defined in RSA 173-B:1, has within the past 12 hours violated a temporary or permanent protective order issued under RSA 173-B or RSA 458:16 by committing assault, criminal trespass, criminal mischief or another criminal act, or has within the last 12 hours violated stalking provisions under RSA 633:3-a.

(c) [~~He~~] ***The peace officer*** has probable cause to believe that the person to be arrested has committed a misdemeanor or violation, and, if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, [~~or~~] will cause further personal injury or damage to property, ***or, while in the care of a medical professional on the premises of a residential care or health care facility as defined in RSA 151:2, through actual or threatened violence, interfere in the provision of medically-necessary health care services.***

2 Effective Date. This act shall take effect upon its passage.

C

Section 594:10

594:10 Arrest Without a Warrant. –

I. An arrest by a peace officer without a warrant on a charge of a misdemeanor or a violation is lawful whenever:

(a) He has probable cause to believe that the person to be arrested has committed a misdemeanor or violation in his presence; or

(b) He has probable cause to believe that the person to be arrested has within the past 12 hours committed abuse as defined in RSA 173-B:1, I against a person eligible for protection from domestic violence as defined in RSA 173-B:1, has within the past 12 hours violated a temporary or permanent protective order issued under RSA 173-B or RSA 458:16 by committing assault, criminal trespass, criminal mischief or another criminal act, or has within the last 12 hours violated stalking provisions under RSA 633:3-a.

(c) He has probable cause to believe that the person to be arrested has committed a misdemeanor or violation, and, if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, or will cause further personal injury or damage to property.

II. An arrest by a peace officer without a warrant on a charge of felony is lawful whenever:

(a) A felony has actually been committed by the person arrested, regardless of the reasons which led the officer to make the arrest.

(b) The officer has reasonable ground to believe that the person arrested has committed a felony.

Source. 1941, 163:6. RL 423:25. RSA 594:10. 1979, 377:4. 1981, 344:3. 1989, 297:19. 1990, 241:9. 1993, 173:3, eff. July 26, 1993. 2002, 79:4, eff. Jan. 1, 2003.

Section 594:10-a

D

CHAPTER 340
SB 459-FN - FINAL VERSION

03/17/2022 1051s
21Apr2022... 1678h
4May2022... 1871h
05/26/2022 2104EBA

2022 SESSION

22-3129
12/10

SENATE BILL ***459-FN***

AN ACT relative to a health care facility workplace violence prevention program.

SPONSORS: Sen. Gray, Dist 6; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24; Rep. Greene, Hills. 37; Rep. McMahon, Rock. 7

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill requires health care facilities to implement and maintain workplace violence prevention programs and establishes the health care workplace safety commission.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 340
SB 459-FN - FINAL VERSION

03/17/2022 1051s
21Apr2022... 1678h
4May2022... 1871h
05/26/2022 2104EBA

22-3129
12/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to a health care facility workplace violence prevention program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

340:1 New Subdivision; Workplace Violence Prevention Program. Amend RSA 151 by inserting after section 52 the following new subdivision:

Workplace Violence Prevention Program

151:53 Workplace Violence Prevention Program.

I. In this section:

(a) "Health facility" means an acute care, rehabilitation, psychiatric, or substance abuse treatment hospital, or an urgent care center licensed under RSA 151; provided that a facility with more than one physical location shall be considered a single health facility; and provided that "health facility" shall not include state-operated medical facilities, and voluntary compliance by a state-operated facility shall not subject such facility to the requirements of this section. The term "health facility" shall not include any non-hospital affiliated urgent care with less than 3 clinics in New Hampshire.

(b) "Workplace violence" means any act or threat of physical violence, harassment, intimidation, or other threatening behavior.

(c) "Hostile words" means aggressive and belligerent verbal abuse in which the recipient reasonably believes that the speaker intends to injure or create excessive stress, or in which the recipient suffers actual psychological trauma.

II. Except as provided in paragraph III, health facilities shall implement and maintain a workplace violence prevention program. Said program shall consider the size and complexity of the health facility and shall address the following topics, and others deemed appropriate by the health facility, the goal of which is to encourage participation and address prevention, recognition, response, and reporting of workplace violence:

(a) Policies and procedures to prevent and respond to workplace violence and hostile words.

(b) Appropriate training, education, and resources to employees based on their roles and responsibilities. Said training, education, and resources shall include:

(1) Education on what constitutes workplace violence and hostile words.

(2) Education on the roles and responsibilities of leadership, clinical staff, security personnel, if applicable, and external law enforcement.

(3) Training in de-escalation, nonphysical intervention skills, response to emergency incidents, and at the discretion of the health facility, physical intervention techniques.

(4) The reporting process for workplace violence and hostile words incidents.

(c) A process to report workplace violence and hostile words incidents internally and externally in order to analyze incidents and trends.

(d) A process for follow-up and to support victims and witnesses affected by workplace violence or hostile words, including information about available counseling.

(e) A process to conduct an annual facility-specific risk assessment, which shall:

(1) Examine all existing and potential workplace violence and hostile words risks, including environmental and patient-specific risk factors, the health facility's workplace violence and hostile words incidents, and how the program's policies and procedures, training, education, and environmental design reflect best practices and conform to applicable laws and regulations; and

(2) Be used to develop recommendations to reduce the risk of workplace violence and hostile words.

III. A health facility accredited by the Joint Commission on the accreditation of healthcare organizations may give proof of compliance with Joint Commission standards on workplace violence prevention to the health care workplace safety commission established in RSA 151-J, in lieu of paragraph II.

IV. The commissioner of the department of health and human services shall follow up on participation in the workplace violence prevention program so that participation status is proactively known and that this status is properly reported in the annual report described in RSA 151-J:7.

V. Each health facility shall prepare and submit to the health care workplace safety commission established in RSA 151-J an annual report containing all workplace violence and hostile words incidents reported to the health facility directed at an employee by a patient, coworker, supervisor, manager, or other individuals who have a personal relationship with a patient. The chair of the health and human services oversight committee, established in RSA 126-A:13, with the advice of the health care workplace safety commission, may recommend updates to New Hampshire statutes or recommend updates to the rules adopted for the implementation of this section. The commissioner of health and human services, in consultation with the health care workplace safety commission and the health and human services oversight committee, shall adopt rules pursuant to RSA 541-A deemed necessary for the implementation of this section in coordination with the department of health and human services, including a common reporting form.

VI.(a) The annual report required under paragraph V shall include but not be limited to, for each workplace violence or hostile words incident, a description of:

(1) The incident, including environmental and patient-specific risk factors present at the time of the incident, as well as the appropriate categorization of the incident as workplace violence and/or hostile words.

(2) The date, time, and location of the incident.

(3) The nature and extent of injuries to employees.

(4) A classification, but not any identifiable personal information, of each perpetrator who committed the violence, including whether the perpetrator was:

(A) A patient;

(B) An individual who has or is known to have had a personal relationship with a patient;

(C) A coworker, supervisor; or manager; or

(D) Any other appropriate classification.

(5) How the incident was abated, including any incident response and post-incident investigation.

(6) If the incident involves a patient, the patient's name or other similar identifier shall not be included in the report, provided that the report may include the patient's diagnosis code and whether or not behavioral health or disability were a factor.

(7) The percentage of employees that have participated in the workplace violence prevention program in the reporting year immediately preceding the incident. This percentage shall be an annual point in time percentage and is not intended to be a rolling number calculated upon each incident.

(b) The report shall preserve the reporting distinction between workplace violence and hostile words incidents. There shall not be any identifiable personal information included in any report unless contained within an attached police report or other official report of a governmental entity. No person or health care facility shall retaliate in any manner against any reporting individual acting in good faith, or otherwise discriminate against, a person, employee, or subordinate who exercises any rights under this section or rules adopted pursuant to this section, or by any policy or procedure promulgated under this section or RSA 151-J, including but not limited to reporting of a workplace violence or hostile words incident or otherwise providing notice to the health facility regarding the occupational health and safety of the employee or their fellow employees exposed to workplace violence or hostile words risk factors. Nothing in this section shall be construed to authorize an employee to refuse to discharge his or her ordinary and customary duties in the workplace.

VII. The commissioner of the department of health and human services shall be responsible for maintaining, in an easily navigable, searchable, distinct page on the department's website, a database to share information on the activities of the New Hampshire health care workplace safety commission. Topics included on the page shall include, but not be limited to:

(a) A listing of all health care facilities by name, with their business address included, which are subject to the provisions of the workplace violence prevention program.

(b) The participation status of each facility as active, inactive, or unknown.

(c) The dates of each meeting of the New Hampshire health care workplace safety commission.

(d) Annually, a press release shall be issued within 60 days of the end of the calendar year, highlighting the active participation of health care facilities and any major findings or recommendations.

VIII. Notwithstanding the requirements of this section, a health facility that is an urgent care center shall not be required to comply with this section before July 1, 2024.

340:2 New Chapter; New Hampshire Health Care Workplace Safety Commission. Amend RSA by inserting after chapter 151-I the following new chapter:

CHAPTER 151-J

NEW HAMPSHIRE HEALTH CARE WORKPLACE SAFETY COMMISSION

151-J:1 Commission Established; Membership.

I. There is hereby established a commission to review and analyze health care workplace violence safety issues including, but not limited to, reports of workplace violence incidents and trends. The commission shall also support the development and implementation of health care workplace violence prevention programs, including training, and propose changes to improve the safety in health care workplace settings.

II.(a) The members of the commission shall be as follows:

(1) One representative of each hospital in New Hampshire, licensed under RSA 151, appointed by the hospital.

(2) The chief executive officer of the New Hampshire hospital, or designee

(3) One representative of each non-hospital affiliated urgent care network of 3 or more clinics in New Hampshire, licensed under RSA 151, appointed by the urgent care network.

(4) The commissioner of the department of health and human services, or designee.

(5) The commissioner of the department of labor, or designee.

(6) The attorney general, or designee.

(7) Three members-at-large, one of whom shall be appointed by the speaker of the house of representatives, one of whom shall be appointed by the president of the senate, and one of whom shall be appointed by the governor.

(b) The governor may remove any member of the commission with cause.

151-J:2 Duties.

I. The commission shall:

(a) Review and analyze health care workplace violence safety issues including, but not limited to, reports of workplace violence incidents and trends.

(b) Support the development and implementation of health care workplace violence prevention programs, including training.

(c) Propose changes to the health and human services oversight committee, established in RSA 126-A:13, and to the commissioner of the department of health and human services that will improve the safety of the health care workplace.

II. Sources of data for the duties described in paragraph I may include, but are not limited to, reviews and reports currently required by or submitted to state or national regulatory and accrediting organizations.

151-J:3 Chair; Vice-Chair. The members of the commission shall elect a chair and vice-chair from among the members at the first meeting. The terms of the chair and vice-chair shall be 2 years, with the initial term for the chair to be 3 years, and until successors are elected. The chair shall be responsible for the orderly proceedings of the commission meetings and for compliance with mandates of this chapter. The vice-chair shall serve in the absence of the chair.

151-J:4 Education. Each member of the commission shall be responsible for the dissemination of commission discussions to his or her institutions. All such information shall be disseminated through each

participant's safety and security program in order to protect the confidentiality of all participants and patients involved in any incident or topic discussed.

151-J:5 Confidentiality.

I. All information, other than police reports, submitted to or collected by the commission, including, but not limited to, written, oral, and electronic information; records and proceedings of the commission, including, but not limited to, oral testimony and discussions, notes, minutes, summaries, analyses, and reports; and information disseminated by the commission or its members to hospitals and urgent care centers shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial, administrative, or other type of proceeding. The provision of information to the commission and the dissemination of information by the commission shall not be deemed to void, waive, or impair in any manner the confidentiality protection of this section or which the information may have under any other law or regulation.

II. Information, documents, or records otherwise available from original sources shall not be construed as immune from discovery or use in any civil or administrative action merely because they were presented to the commission. Any person who supplies information to or testifies before the commission shall not be immune from discovery in any civil or administrative action because the information or testimony was presented to the commission, but such witness shall not be asked about and shall not provide information about his or her testimony before this commission or opinions formed by him or her as a result of commission participation.

III. Notwithstanding paragraph I, if a workplace violence incident involves a patient, the health care workplace safety commission and the health care quality and patient safety commission established in RSA 151-G may share information about the incident for the purpose of reviewing and analyzing incidents involving both a patient and an employee. Nevertheless, the principles of data minimization will be respected to include deidentification of any personally identifiable information.

151-J:6 Administration. The commission may delegate to the department of health and human services the functions of collecting, analyzing, and disseminating workplace violence information, organizing and convening meetings of the commission, and other substantive and administrative tasks as may be incident to these activities or directed by the commission. The activities of the department of health and human services and its employees or agents shall be subject to the same confidentiality provisions and data privacy as those that apply to the commission.

151-J:7 Reports. The commission shall annually report its findings and any recommendations which may include proposed legislation to the speaker of the house of representatives, the senate president, the governor, and the health and human services oversight committee established in RSA 126-A:13. Such report shall describe the activities of the commission, indicate the extent of each institution's participation, state the aggregate relative frequency of workplace violence incidents, the nature and extent of injuries, how incidents were responded to, and, to the extent possible, identify strategies for reducing workplace violence incidents. Any information about processes or outcomes provided pursuant to this section shall be aggregate data only and shall not reference individual incidents, patients, health care providers, or institutions.

151-J:8 Rulemaking. The commissioner of the department of health and human services, with the advice of members of the commission, shall adopt rules pursuant to RSA 541-A, to assure de-identification of all individuals and facilities involved in the incidents received.

151-J:9 Exemption; State Operated Medical Facilities. All medical facilities operated by the state of New Hampshire shall not be subject to the jurisdiction of the health care workplace safety commission established in this chapter.

340:3 New Hampshire Health Care Quality and Safety Commission. Amend the title of RSA 151-G to read as follows:

CHAPTER 151-G

NEW HAMPSHIRE HEALTH CARE QUALITY AND *PATIENT* SAFETY COMMISSION

340:4 Repeal. The following are repealed:

I. RSA 151:53, relative to the workplace violence prevention program.

II. RSA 151-J, relative to New Hampshire health care workplace safety commission.

340:5 Effective Date.

I. Section 4 of this act shall take effect March 1, 2034.

II. The remainder of this act shall take effect July 1, 2023.

Approved: July 25, 2022
Effective Date:
I. Section 4 effective March 1, 2034
II. Remainder effective July 1, 2023

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Good Morning Chairman Roy and members of the committee-

My name is Michelle Dodd and I am the Chief Nursing Officer at Portsmouth Regional Hospital. I come before you today in support of Senate Bill 58.

Our team is composed of dedicated healthcare professionals who chose a career of service to our community. They proudly show up every day to save lives and care for the patients we serve. The pandemic accelerated a workforce shortage into a workforce crisis. Unfortunately, we have also experienced a significant increase in workplace violence since the pandemic began. In 2022, our facility alone saw 58 members of our team physically injured while trying to provide care to patients. This year we have already had 13. One patient in our emergency room injured 6 employees in 2 days. Another medical patient injured three employees in one day. These are not minor injuries: staff are punched, bitten, scratched, choked and have equipment thrown at them. One employee suffered fractured orbital bones. Another has permanent hearing loss from being hit in the head. And, of course, many of you may remember the assault on Richard Semo, the security guard at Frisbie Memorial Hospital – our sister facility – that resulted in his death. An incident that affected all of us deeply.

In order to recruit and retain staff, our employees must feel safe. And they must feel safe to deliver the calm and empathetic care that our patients need and deserve. Our new graduate nurses are young and at the beginning of their careers. They should not have to experience the fear that they may get hurt while providing care. Despite the training and prevention strategies that our facility has put into place, we are limited in our ability to protect our staff with more violent or unstable patients. This bill provides a critical tool to our law enforcement partners to support us. With their partnership, we believe we can reduce the number and severity of injuries and ultimately create a safer environment for healthcare workers and our patients. As such, I ask you to support SB 58. Thank you.

I am happy to answer any questions that you may have.

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Patients' Bill of Rights

Section 151:21

151:21 Patients' Bill of Rights. –

The policy describing the rights and responsibilities of each patient admitted to a facility, except those admitted by a home health care provider, shall include, as a minimum, the following:

I. The patient shall be treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and personal care and including being informed of the name, licensure status, and staff position of all those with whom the patient has contact, pursuant to RSA 151:3-b.

II. The patient shall be fully informed of a patient's rights and responsibilities and of all procedures governing patient conduct and responsibilities. This information must be provided orally and in writing before or at admission, except for emergency admissions. Receipt of the information must be acknowledged by the patient in writing. When a patient lacks the capacity to make informed judgments the signing must be by the person legally responsible for the patient.

III. The patient shall be fully informed in writing in language that the patient can understand, before or at the time of admission and as necessary during the patient's stay, of the facility's basic per diem rate and of those services included and not included in the basic per diem rate. A statement of services that are not normally covered by medicare or medicaid shall also be included in this disclosure.

IV. The patient shall be fully informed by a health care provider of his or her medical condition, health care needs, and diagnostic test results, including the manner by which such results will be provided and the expected time interval between testing and receiving results, unless medically inadvisable and so documented in the medical record, and shall be given the opportunity to participate in the planning of his or her total care and medical treatment, to refuse treatment, and to be involved in experimental research upon the patient's written consent only. For the purposes of this paragraph "health care provider" means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, or psychologist, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services.

V. The patient shall be transferred or discharged after appropriate discharge planning only for medical reasons, for the patient's welfare or that of other patients, if the facility ceases to operate, or for nonpayment for the patient's stay, except as prohibited by Title XVIII or XIX of the Social Security Act. No patient shall be involuntarily discharged from a facility because the patient becomes eligible for medicaid as a source of payment.

VI. The patient shall be encouraged and assisted throughout the patient's stay to exercise the patient's rights as a patient and citizen. The patient may voice grievances and recommend changes in policies and services to facility staff or outside representatives free from restraint, interference, coercion, discrimination, or reprisal.

VII. The patient shall be permitted to manage the patient's personal financial affairs. If the patient authorizes the facility in writing to assist in this management and the facility so consents, the assistance shall be carried out in accordance with the patient's rights under this subdivision and in conformance with state law and rules.

VIII. The patient shall be free from emotional, psychological, sexual and physical abuse and from exploitation, neglect, corporal punishment and involuntary seclusion.
IX. The patient shall be free from chemical and physical restraints except when they are authorized in writing by a physician for a specific and limited time necessary to protect the patient or others from injury. In an emergency, restraints may be authorized by the designated professional staff member in order to protect the patient or others from injury. The staff member must promptly report such action to the physician and document same in the medical records.
X. The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. The charge for the copying of a patient's medical records shall not exceed $15 for the first 30 pages or $.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.
XI. The patient shall not be required to perform services for the facility. Where appropriate for therapeutic or diversional purposes and agreed to by the patient, such services may be included in a plan of care and treatment.
XII. The patient shall be free to communicate with, associate with, and meet privately with anyone, including family and resident groups, unless to do so would infringe upon the rights of other patients. The patient may send and receive unopened personal mail. The patient has the right to have regular access to the unmonitored use of a telephone.
XIII. The patient shall be free to participate in activities of any social, religious, and community groups, unless to do so would infringe upon the rights of other patients.
XIV. The patient shall be free to retain and use personal clothing and possessions as space permits, provided it does not infringe on the rights of other patients.
XV. The patient shall be entitled to privacy for visits and, if married, to share a room with his or her spouse if both are patients in the same facility and where both patients consent, unless it is medically contraindicated and so documented by a physician. The patient has the right to reside and receive services in the facility with reasonable accommodation of individual needs and preferences, including choice of room and roommate, except when the health and safety of the individual or other patients would be endangered.
XVI. The patient shall not be denied appropriate care on the basis of age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, national origin, source of income, source of payment, or profession.
XVII. The patient shall be entitled to be treated by the patient's physician of choice, subject to reasonable rules and regulations of the facility regarding the facility's credentialing process.
XVIII. The patient shall be entitled to have the patient's parents, if a minor, or spouse, or next of kin, unmarried partner, or a personal representative chosen by the patient, if an adult, visit the facility, without restriction, if the patient is considered terminally ill by the physician responsible for the patient's care.
XIX. The patient shall be entitled to receive representatives of approved organizations as provided in RSA 151:28.
XX. The patient shall not be denied admission to the facility based on medicaid as a source of payment when there is an available space in the facility.

XXI. Subject to the terms and conditions of the patient's insurance plan, the patient shall have access to any provider in his or her insurance plan network and referral to a provider or facility within such network shall not be unreasonably withheld pursuant to RSA 420-J:8, XIV.
XXII. The patient shall not be denied admission, care, or services based solely on the patient's vaccination status.
XXIII. (a) In addition to the rights specified in paragraph XVIII, the patient shall be entitled to designate a spouse, family member, or caregiver who may visit the facility while the patient is receiving care. A patient who is a minor may have a parent, guardian, or person standing in loco parentis visit the facility while the minor patient is receiving care.
(b)(1) Notwithstanding subparagraph (a), a health care facility may establish visitation policies that limit or restrict visitation when:
(A) The presence of visitors would be medically or therapeutically contraindicated in the best clinical judgment of health care professionals;
(B) The presence of visitors would interfere with the care of or rights of any patient;
(C) Visitors are engaging in disruptive, threatening, or violent behavior toward any staff member, patient, or another visitor; or
(D) Visitors are noncompliant with written hospital policy.
(2) Upon request, the patient or patient's representative, if the patient is incapacitated, shall be provided the reason for denial or revocation of visitation rights under this paragraph.
(c) A health care facility may require visitors to wear personal protective equipment provided by the facility, or provided by the visitor and approved by the facility. A health care facility may require visitors to comply with reasonable safety protocols and rules of conduct. The health care facility may revoke visitation rights for failure to comply with this subparagraph.
(d) Nothing in this paragraph shall be construed to require a health care facility to allow a visitor to enter an operating room, isolation room, isolation unit, behavioral health setting or other typically restricted area or to remain present during the administration of emergency care in critical situations. Nothing in this paragraph shall be construed to require a health care facility to allow a visitor access beyond the rooms, units, or wards in which the patient is receiving care or beyond general common areas in the health care facility.
(e) The rights specified in this paragraph shall not be terminated, suspended, or waived by the health care facility, the department of health and human services, or any governmental entity, notwithstanding declarations of emergency declared by the governor or the legislature. No health care facility licensed pursuant to RSA 151:2 shall require a patient to waive the rights specified in this paragraph.
(f) Each health care facility licensed pursuant to RSA 151:2 shall post on its website:
(1) Informational materials explaining the rights specified in this paragraph;
(2) The patients' bill of rights which applies to the facility on its website; and
(3) Hospital visitation policy detailing the rights and responsibilities specified in this paragraph, and the limitations placed upon those rights by written hospital policy on its website.
(g) Unless expressly required by federal law or regulation, the department or any other state agency shall not take any action arising out of this paragraph against a health care facility for:
(1) Giving a visitor individual access to a property or location controlled by the health care facility;
(2) Failing to protect or otherwise ensure the safety or comfort of a visitor given access to a property or location controlled by the health care facility;

(3) The acts or omissions of any visitor who is given access to a property or location controlled by the health care facility.

Source. 1981, 453:1. 1989, 43:1. 1990, 18:1-6; 140:2, XI. 1991, 365:10. 1992, 78:1. 1997, 108:6; 331:3-8. 1998, 199:2; 388:5, 6. 2001, 85:1, eff. Aug. 18, 2001. 2009, 252:1, eff. Sept. 14, 2009. 2013, 265:3, eff. Jan. 1, 2014. 2019, 332:6, eff. Oct. 15, 2019. 2020, 39:61, 62, eff. Jan. 1, 2021. 2022, 52:1, eff. May 20, 2022. 2022, 304:2, eff. July 1, 2022.

Patients' Bill of Rights

Section 151:30

151:30 Equitable and Other Relief. –

I. Any person aggrieved by a facility's failure to abide by the provisions of this subdivision may seek equitable relief from the superior court, which shall have original jurisdiction over all proceedings under this subdivision.

II. Damages shall be assessed in a proceeding against a facility which violates this subdivision and the facility shall be liable for the sum of $50 for each violation per day or part of a day or for all damages proximately caused by the violations, whichever is greater. If a facility is found to be in contempt of a court order issued under this section the facility shall be liable for the plaintiff's reasonable attorney fees and costs.

III. Violations of this subdivision may be raised in any other proceedings for damages and by way of counterclaim, setoff, or recoupment.

This content is from the eCFR and is authoritative but unofficial.

Title 42 - Public Health

Chapter IV - Centers for Medicare & Medicaid Services, Department of Health and Human Services

Subchapter G - Standards and Certification

Part 482 - Conditions of Participation for Hospitals

Subpart B - Administration

Authority: 42 U.S.C. 1302, 1395hh, and 1395rr, unless otherwise noted.
Source: 51 FR 22042, June 17, 1986, unless otherwise noted.

§ 482.13 Condition of participation: Patient's rights.

A hospital must protect and promote each patient's rights.

(a) *Standard: Notice of rights.*

(1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.

(2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization. At a minimum:

(i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.

(ii) The grievance process must specify time frames for review of the grievance and the provision of a response.

(iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

(b) *Standard: Exercise of rights.*

(1) The patient has the right to participate in the development and implementation of his or her plan of care.

(2) The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate.

(3) The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives, in accordance with § 489.100 of this part (Definition), § 489.102 of this part (Requirements for providers), and § 489.104 of this part (Effective dates).

(4) The patient has the right to have a family member or representative of his or her choice and his or her own physician notified promptly of his or her admission to the hospital.

(c) *Standard: Privacy and safety.*

(1) The patient has the right to personal privacy.

(2) The patient has the right to receive care in a safe setting.

(3) The patient has the right to be free from all forms of abuse or harassment.

(d) *Standard: Confidentiality of patient records.*

(1) The patient has the right to the confidentiality of his or her clinical records.

(2) The patient has the right to access their medical records, including current medical records, upon an oral or written request, in the form and format requested by the individual, if it is readily producible in such form and format (including in an electronic form or format when such medical records are maintained electronically); or, if not, in a readable hard copy form or such other form and format as agreed to by the facility and the individual, and within a reasonable time frame. The hospital must not frustrate the legitimate efforts of individuals to gain access to their own medical records and must actively seek to meet these requests as quickly as its record keeping system permits.

(e) *Standard: Restraint or seclusion.* All patients have the right to be free from physical or mental abuse, and corporal punishment. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.

(1) *Definitions.*

(i) A *restraint* is -

(A) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or

(B) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.

(C) A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort).

(ii) *Seclusion* is the involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving. Seclusion may only be used for the management of violent or self-destructive behavior.

(2) Restraint or seclusion may only be used when less restrictive interventions have been determined to be ineffective to protect the patient a staff member or others from harm.

(3) The type or technique of restraint or seclusion used must be the least restrictive intervention that will be effective to protect the patient, a staff member, or others from harm.

(4) The use of restraint or seclusion must be—

(i) In accordance with a written modification to the patient's plan of care; and

(ii) Implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospital policy in accordance with State law.

(5) The use of restraint or seclusion must be in accordance with the order of a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy in accordance with State law.

(6) Orders for the use of restraint or seclusion must never be written as a standing order or on an as needed basis (PRN).

(7) The attending physician must be consulted as soon as possible if the attending physician did not order the restraint or seclusion.

(8) Unless superseded by State law that is more restrictive—

(i) Each order for restraint or seclusion used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others may only be renewed in accordance with the following limits for up to a total of 24 hours:

(A) 4 hours for adults 18 years of age or older;

(B) 2 hours for children and adolescents 9 to 17 years of age; or

(C) 1 hour for children under 9 years of age; and

(ii) After 24 hours, before writing a new order for the use of restraint or seclusion for the management of violent or self-destructive behavior, a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy in accordance with State law must see and assess the patient.

(iii) Each order for restraint used to ensure the physical safety of the non-violent or non-self-destructive patient may be renewed as authorized by hospital policy.

(9) Restraint or seclusion must be discontinued at the earliest possible time, regardless of the length of time identified in the order.

(10) The condition of the patient who is restrained or secluded must be monitored by a physician, other licensed practitioner, or trained staff that have completed the training criteria specified in paragraph (f) of this section at an interval determined by hospital policy.

(11) Physician and other licensed practitioner training requirements must be specified in hospital policy. At a minimum, physicians and other licensed practitioners authorized to order restraint or seclusion by hospital policy in accordance with State law must have a working knowledge of hospital policy regarding the use of restraint or seclusion.

(12) When restraint or seclusion is used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others, the patient must be seen face-to-face within 1 hour after the initiation of the intervention—

(i) By a—

(A) Physician or other licensed practitioner.

(B) Registered nurse who has been trained in accordance with the requirements specified in paragraph (f) of this section.

(ii) To evaluate—

(A) The patient's immediate situation;

(B) The patient's reaction to the intervention;

(C) The patient's medical and behavioral condition; and

(D) The need to continue or terminate the restraint or seclusion.

(13) States are free to have requirements by statute or regulation that are more restrictive than those contained in paragraph (e)(12)(i) of this section.

(14) If the face-to-face evaluation specified in paragraph (e)(12) of this section is conducted by a trained registered nurse, the trained registered nurse must consult the attending physician or other licensed practitioner who is responsible for the care of the patient as soon as possible after the completion of the 1-hour face-to-face evaluation.

(15) All requirements specified under this paragraph are applicable to the simultaneous use of restraint and seclusion. Simultaneous restraint and seclusion use is only permitted if the patient is continually monitored—

(i) Face-to-face by an assigned, trained staff member; or

(ii) By trained staff using both video and audio equipment. This monitoring must be in close proximity to the patient.

(16) When restraint or seclusion is used, there must be documentation in the patient's medical record of the following:

(i) The 1-hour face-to-face medical and behavioral evaluation if restraint or seclusion is used to manage violent or self-destructive behavior;

(ii) A description of the patient's behavior and the intervention used;

(iii) Alternatives or other less restrictive interventions attempted (as applicable);

(iv) The patient's condition or symptom(s) that warranted the use of the restraint or seclusion; and

(v) The patient's response to the intervention(s) used, including the rationale for continued use of the intervention.

(f) ***Standard: Restraint or seclusion: Staff training requirements.*** The patient has the right to safe implementation of restraint or seclusion by trained staff.

(1) *Training intervals.* Staff must be trained and able to demonstrate competency in the application of restraints, implementation of seclusion, monitoring, assessment, and providing care for a patient in restraint or seclusion—

(i) Before performing any of the actions specified in this paragraph;

(ii) As part of orientation; and

(iii) Subsequently on a periodic basis consistent with hospital policy.

(2) *Training content.* The hospital must require appropriate staff to have education, training, and demonstrated knowledge based on the specific needs of the patient population in at least the following:

(i) Techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion.

(ii) The use of nonphysical intervention skills.

(iii) Choosing the least restrictive intervention based on an individualized assessment of the patient's medical, or behavioral status or condition.

(iv) The safe application and use of all types of restraint or seclusion used in the hospital, including training in how to recognize and respond to signs of physical and psychological distress (for example, positional asphyxia);

(v) Clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary.

(vi) Monitoring the physical and psychological well-being of the patient who is restrained or secluded, including but not limited to, respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified by hospital policy associated with the 1-hour face-to-face evaluation.

(vii) The use of first aid techniques and certification in the use of cardiopulmonary resuscitation, including required periodic recertification.

(3) *Trainer requirements.* Individuals providing staff training must be qualified as evidenced by education, training, and experience in techniques used to address patients' behaviors.

(4) *Training documentation.* The hospital must document in the staff personnel records that the training and demonstration of competency were successfully completed.

(g) *Standard: Death reporting requirements:* Hospitals must report deaths associated with the use of seclusion or restraint.

(1) With the exception of deaths described under paragraph (g)(2) of this section, the hospital must report the following information to CMS by telephone, facsimile, or electronically, as determined by CMS, no later than the close of business on the next business day following knowledge of the patient's death:

(i) Each death that occurs while a patient is in restraint or seclusion.

(ii) Each death that occurs within 24 hours after the patient has been removed from restraint or seclusion.

(iii) Each death known to the hospital that occurs within 1 week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to a patient's death, regardless of the type(s) of restraint used on the patient during this time. "Reasonable to assume" in this context includes, but is not limited to, deaths related to restrictions of movement for prolonged periods of time, or death related to chest compression, restriction of breathing, or asphyxiation.

(2) When no seclusion has been used and when the only restraints used on the patient are those applied exclusively to the patient's wrist(s), and which are composed solely of soft, non-rigid, cloth-like materials, the hospital staff must record in an internal log or other system, the following information:

(i) Any death that occurs while a patient is in such restraints.

(ii) Any death that occurs within 24 hours after a patient has been removed from such restraints.

(3) The staff must document in the patient's medical record the date and time the death was:

(i) Reported to CMS for deaths described in paragraph (g)(1) of this section; or

(ii) Recorded in the internal log or other system for deaths described in paragraph (g)(2) of this section.

(4) For deaths described in paragraph (g)(2) of this section, entries into the internal log or other system must be documented as follows:

(i) Each entry must be made not later than seven days after the date of death of the patient.

(ii) Each entry must document the patient's name, date of birth, date of death, name of attending physician or other licensed practitioner who is responsible for the care of the patient, medical record number, and primary diagnosis(es).

(iii) The information must be made available in either written or electronic form to CMS immediately upon request.

(h) ***Standard: Patient visitation rights.*** A hospital must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights and the reasons for the clinical restriction or limitation. A hospital must meet the following requirements:

(1) Inform each patient (or support person, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, when he or she is informed of his or her other rights under this section.

(2) Inform each patient (or support person, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

(3) Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.

(4) Ensure that all visitors enjoy full and equal visitation privileges consistent with patient preferences.

[71 FR 71426, Dec. 8, 2006, as amended at 75 FR 70844, Nov. 19, 2010; 77 FR 29074, May 16, 2012; 84 FR 51817, 51882, Sept. 30, 2019]

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Roll Call Committee Registers Report

2023 SESSION

Criminal Justice and Public Safety

Bill #: SB 58 **Motion:** OTPA **AM #:** 1490h **Exec Session Date:** 5/2/23

Members	YEAS	Nays	NV
Roy, Terry Chairman	20		
Rhodes, Jennifer M. Vice Chairman	1		
~~Pratt, Kevin M.~~ Wallace	2		
Sytek, John	3		
Proulx, Mark L.	4		
~~Janvrin, Jason A.~~ Moffett	5		
Mannion, Dennis	6		
Reid, Karen A	7		
Stone, Jonathan F.	8		
Tenczar, Jeffrey	9		
Harriott-Gathright, Linda C.	10		
Meuse, David	11		
~~Bouldin, Amanda C.~~ Brennan	12		
~~Bradley, Amy~~ Newman	13		
~~Murphy, Nancy A.~~ Schultz	14		
Newman, Ray E.	15		
Murray, Alissandra Clerk	16		
Newell, Jodi K	17		
Selig, Loren	18		
Wheeler, Jonah O	19		
TOTAL VOTE:	20	0	

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2023 SESSION

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Roy, Terry Chairman	20		
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TOTAL VOTE:	20	0	